



***TARHUNA - MASS GRAVES AND RELATED
HUMAN RIGHTS VIOLATIONS AND
ABUSES IN LIBYA***

AUGUST 2024

“On 14 August 2021, I was informed that bodies were exhumed from mass graves in Tarhuna. I had a feeling that I may find my sister and her husband amongst the bodies. They were civilians living peacefully in the Al-Hadhba area in Tripoli. God have mercy on them. We only ask for justice.”

- Brother of victim, interviewed by UNSMIL, who learned that his sister and her husband were among the exhumed.

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Glossary

AVT	Association of Victims of Tarhuna
DACOT	Deterrence Apparatus for Combating Organized Crime and Terrorism
EUBAM	European Union Border Assistance Mission in Libya
FFM	Independent Fact-Finding Mission on Libya
GASIMP	General Authority for the Search and Identification of Missing Persons
GNA	Government of National Accord
GNC	General National Congress
GNU	Government of National Unity
ICC	International Criminal Court
ICMP	International Commission on Missing Persons
ICPPED	International Convention for the Protection of All Persons from Enforced Disappearance
JERC	Judicial Expertise and Research Centre of the Ministry of Justice
LIGF	Libya Islamic Group Fighters
LNA	Libyan National Army
MoJ	Ministry of Justice
OHCHR	Office of the United Nations High Commissioner for Human Rights
OPCAT	Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
SASG	Special Adviser to the Secretary-General on Libya
SDF	Special Deterrence Force
UNODC	United Nations Office on Drugs and Crime
UNSMIL	United Nations Support Mission in Libya
UNSMIL HRS	Human Rights, Rule of Law and Transitional Justice Service of the United Nations Support Mission in Libya
UNOSAT	United Nations Satellite Centre
WGEID	Working Group on Enforced or Involuntary Disappearances

Executive summary

During the 2019-2020 civil war in western Libya, the city of Tarhuna, 90 kilometers southeast from the capital, Tripoli, served as a base for the attack of the Libyan National Army (LNA) on Tripoli. Integrated into the LNA's ranks as its 9th Brigade and headed by members of the al-Kani family, an armed element known as al-Kaniyat, with its base in Tarhuna, played a strategic role in the attack. Like many armed elements in Libya, al-Kaniyat emerged following the 2011 conflict in Libya and switched allegiances as political dynamics in the country evolved. Its members grew more powerful amid a power vacuum in Tarhuna, and it exercised effective control over the city from 2015 to 2020.

In June 2020, following the recapture of Tarhuna by the former Government of National Accord (GNA) and al-Kaniyat's withdrawal from the area, reports increasingly pointed to large-scale, serious violations of international humanitarian law and gross violations and abuses of international human rights law committed by al-Kaniyat and its allies. Several mass graves were discovered on the outskirts of Tarhuna in mid-2020, with more uncovered over time containing hundreds of victims' remains.

This joint report of the United Nations Support Mission in Libya (UNSMIL) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) provides findings on gross human rights violations and abuses committed in and around Tarhuna from 2013 to 2022, including after the entry of GNA-aligned forces in 2020 until 2022. Based on site visits in Tarhuna and interviews with more than 50 victims, survivors, and their families, UNSMIL identified a pattern of widespread and systematic human rights violations and abuses committed by al-Kaniyat from 2013 to 2020, as well as numerous human rights violations and abuses committed by GNA-aligned armed elements from 2020 to 2022. The information documented by UNSMIL indicates that al-Kaniyat members are responsible for serious violations of international humanitarian law and gross violations and abuses of international human rights law, including unlawful killings, acts tantamount to enforced disappearances, abductions, arbitrary detention, torture and ill-treatment, forced displacement, and looting. In the context of successive armed conflicts in Libya since 2011 giving rise to repeated allegations of grave human rights violations and abuses, the crimes committed in Tarhuna warrant special attention given their widespread and systematic nature, the level of victimization and continuing impact on victims and their families in Tarhuna and throughout Libya, and near absence of justice and accountability for such crimes.

There are two Libyan authorities responsible for the excavation of mass graves and identification processes: the General Authority for the Search and Identification of Missing Persons (GASIMP) and the Judicial Expertise and Research Centre of the Ministry of Justice (JERC). As of January 2024,

GASIMP reported having excavated 353 bodies from mass grave sites in and around Tarhuna, 235 of which have been identified. In February 2024, JERC reported that it had collected and preserved 262 bodies from the mass graves in Tarhuna, 88 of which had been identified. Given the intersecting mandates of JERC and GASIMP as well as their separate responsibilities for various stages of the excavation and identification processes, there is likely a significant degree of overlap in the cited figures. Areas suspected of containing additional mass burial sites continue to be found, with satellite imagery indicating up to 100 further uncovered mass graves.

The situation in Tarhuna has been under investigation by several other actors. While a Special Prosecution team was formed to lead investigations in Tarhuna, the Office of the Attorney-General has issued several arrest warrants targeting al-Kaniyat's leadership, including for crimes related to the mass graves. Investigation efforts to ensure accountability also continue at the international level. These include the investigation of the International Criminal Court (ICC) into alleged crimes committed in Tarhuna as part of its mandate pursuant to the Security Council's 2011 referral of the situation in Libya.¹ Moreover, the Independent Fact-Finding Mission on Libya (FFM), which was established by the United Nations Human Rights Council, investigated mass graves in Tarhuna during its mandate. It identified three locations that may have undiscovered mass graves,² and found reasonable grounds to believe that members of al-Kaniyat committed crimes against humanity and war crimes in Tarhuna.³

Despite national efforts, accountability for crimes committed in Tarhuna remains elusive, partly due to long-standing political allegiances and alliances between the alleged perpetrators, some of whom were able to flee to neighboring countries, and powerful stakeholders in eastern- and western-based Libyan political and security institutions. Victims and witnesses interviewed have been disappointed by the slow progress of excavation and identification efforts, the lack of communication and outreach from the relevant authorities, and the absence of meaningful outcomes from truth-seeking and accountability efforts. The lack of truth and justice, including accountability for the countless crimes committed, has in some instances led to renewed violence and repeated violations fomenting further grievances in Tarhuna and surrounding areas.

With the above elements in mind, this report seeks to give a voice to victims and their families, and to provide key recommendations to address the documented violations and abuses, as well as the

¹ See the Twenty-Third Report of the Prosecutor of the International Criminal Court to the UNSC Pursuant to Resolution 1970 (2011), 21 April 2022: www.icc-cpi.int/sites/default/files/2022-04/2022-04-28-otp-report-unsclibya-eng.pdf. For information on the ICC's investigation into Libya, see also <https://www.icc-cpi.int/libya>.

² Independent Fact-Finding Mission on Libya (FFM), "Detailed findings on the situation in Tarhuna", 1 July 2022, para. 143. All FFM reports are available at: <https://www.ohchr.org/en/hr-bodies/hrc/libya/index>.

³ Independent Fact-Finding Mission on Libya (FFM), "Detailed findings on the situation in Tarhuna", 1 July 2022, para. 147.

persistent cycle of impunity in Tarhuna, with the aim of promoting accountability, truth, reparations, and guarantees of non-repetition. UNSMIL/OHCHR emphasize the critical need for enhanced efforts by relevant Libyan authorities, with the support of international partners, to strengthen forensic capacities, initiate further investigations, and increase measures to hold perpetrators accountable as part of a comprehensive transitional justice and reconciliation process. It is equally important to provide essential support services and other measures for victims and their families, including specialized mental health and psycho-social assistance, legal aid, administrative support and financial reparations.

Effective remedies, including truth and justice for individuals killed and disappeared during years of conflict across the country, are among the most urgent issues facing the Libyan state. Addressing the issue of missing and disappeared persons beyond the situation in Tarhuna, including through a fair, transparent truth-seeking process, can contribute to national reconciliation and form a cornerstone of any future comprehensive, human-rights based transitional justice process in Libya.

UNSMIL and OHCHR express their gratitude to all the victims, survivors, and families who provided accounts of their suffering and traumatic experiences in their quest for truth, justice, accountability, and reparations. This report is dedicated to them and to the memory of the hundreds of people – children, women, and men – who were brutally murdered, tortured and ill-treated, and otherwise subjected to violations and abuses of their human rights in and around Tarhuna.





Mass graves, Tarhuna, June 2020 © UNSMIL

II. Methodology

This report is published jointly by UNSMIL’s Human Rights, Rule of Law and Transitional Justice Service (UNSMIL HRS) and the Office of the United Nations High Commissioner for Human Rights (OHCHR), pursuant to the human rights monitoring and reporting mandate articulated in United Nations Security Council resolution 2656 (2022) and the High Commissioner’s general mandate from the UN General Assembly (A/48/141).

Between 2017 and 2021, UNSMIL/OHCHR conducted interviews with more than 50 survivors, relatives of victims and eyewitnesses of human rights violations and abuses committed in and around Tarhuna. In February 2021, UNSMIL/OHCHR conducted a mission to Tarhuna, jointly with forensic experts from the Ministry of Justice. The team gathered first-hand accounts from victims and eyewitnesses and visited the sites of mass graves and former detention facilities where systematic and widespread torture and ill-treatment were perpetrated. In May 2022, the then Special Adviser to the Secretary-General on Libya, Stephanie Williams, accompanied by colleagues from UNSMIL/OHCHR, visited two mass graves and two former detention centres in Tarhuna. With the support of the Tarhuna Victims’ Association, the team also met with survivors and victims’ families. UNSMIL/OHCHR further examined available documentary evidence, such as forensic and medical reports, and consulted secondary sources, such as reports from victims’ groups and other civil society organizations, to corroborate information. The forensic data presented in this report was provided by the Ministry of Justice’s Judicial Expertise and Research Centre (JERC) and the General Authority for the Search and Identification of Missing Persons (GASIMP), with consent to use it for the purposes of this report.

In this report, UNSMIL/OHCHR employed the ‘reasonable grounds to believe’ evidentiary standard in making factual and legal determinations as to gross human rights violations and abuses and serious violations of international humanitarian law. The standard of proof was applied with respect to the totality of information collected in order to determine: (a) that a violation or abuse occurred, and, as far as possible, (b) that a particular entity or individual was responsible for the violation or abuse. Unless specifically stated, all information in the report has been verified using multiple independent, credible, and reliable sources. In accordance with OHCHR’s human rights monitoring and investigation methodology, designed to investigate human rights violations and abuses rather than crimes under international law, this report aims to document and make findings on such violations and abuses. It also provides background information for accountability purposes by documenting the scale of violence and identifying trends and patterns.

Some eyewitnesses and victims of violations and abuses in Tarhuna, including former prisoners, often still severely traumatized, expressed hesitancy to provide details of what they experienced while imprisoned, due to fears of reprisals. In accordance with the principles of “do no harm”, informed consent, voluntary participation and confidentiality, any information that could identify concerned individuals, notably victims, has been removed, throughout this report. Names of alleged perpetrators of the gross human rights violations and abuses and serious violations of international humanitarian law documented in this report are held in UNSMIL/OHCHR records.

III. Background to al-Kaniyat

During the 2011 conflict, as well as in the wake of successive outbreaks of armed hostilities and further political division in the ensuing years, a plethora of armed elements emerged throughout Libya. It is in this context that members of the al-Kani family⁴ initially became active and took advantage of the power vacuum in Tarhuna, a city of 150,000 inhabitants located 90 kilometers southeast from the capital, Tripoli, that was long known to be loyal to the former Head of State, Muammar Gaddafi. The al-Kani family gained so-called ‘revolutionary credentials’ after the death of Gaddafi, and slowly deepened its grip on Tarhuna. Initially, most members of al-Kaniyat were recruited from the al-Kani family, but later included members from tribes and fighters from other areas.

Al-Kaniyat's violence in Tarhuna began in 2013, when one member of the al-Kani family was killed and other family members retaliated by killing entire families deemed to have participated in the murder, especially from the al-Hibshi, al-Na’aji and Basbousa tribes, communities who were consistently targeted by the al-Kani violence throughout the following years. Bodies of these victims were publicly displayed to spread terror in the city. Due to high unemployment and

⁴ The names of members of al-Kaniyat and suspected perpetrators are maintained in UNSMIL/OHCHR records.

marginalization in the city, several young men joined al-Kaniyat during that period to receive material benefits. By 2015, several members of the al-Kani family led a group estimated to number in the thousands.⁵

Between 2013 and 2020, al-Kaniyat switched allegiances from the former General National Congress (GNC) and former Government of National Accord (GNA) to the Libyan National Army (LNA), as political dynamics in the country evolved. In 2013, the GNC created the Tarhuna Security Operations Room through Cabinet Resolution No. 857 of 2013, with a mandate to “participate in maintaining security in the region of Tarhuna and its surrounding areas” (see Annex 2). From 2014 to 2016, al-Kaniyat were allied with the revolutionary hardliners and Islamists of the *Fajr Libya* (‘Libya Dawn’) coalition in Tripoli, which supported the former GNC against LNA-aligned Zintani forces.⁶ The coalition received financial support from the GNC to fight the interim eastern-based government of Abdallah al-Theni.

By 2015, al-Kaniyat exercised effective control over Tarhuna. It enriched itself through smuggling and raising taxes in exchange for providing public services, rendered possible through its control of police and military units, the municipal council, and the judicial system. According to experts, the Tarhuna Security Operations Room was in practice controlled by al-Kaniyat by this time, although the Room was officially, as per Cabinet Resolution No. 857 of 2013, placed under the command of the Chief of Staff of the Libyan Army and headed by an army officer “whose rank is no lower than colonel”.

Al-Kaniyat also controlled and extracted profits from the city’s cement factory and a water facility, with the latter referred to locally as the ‘Water Factory’. It was seized from a private individual and eventually used as a prison.⁷ During this period, al-Kaniyat members continued to brutally attack entire families and anyone who could be perceived as a threat to their power, including specific tribes, particularly the Na’aji and Marghana tribes. Testimonies from various victims show that al-Kaniyat targeted individuals and families because of their perceived opposition to al-Kaniyat, for being members of an “opponent” family or tribe, or simply because they were deemed to be wealthy.

When the GNA was formed in December 2015 following the signing of the Libyan Political Agreement, the Tarhuna Security Operations Room remained in place and affiliated to the military command in the West. In 2017, al-Kaniyat was formally integrated into the GNA’s 7th Brigade

⁵ FFM, ‘Detailed findings on the situation in Tarhuna’, 1 July 2022, para. 49.

⁶ The Libya Dawn coalition, of which al-Kaniyat was part, also included the Abu Salim security force, the Forsan Brigade, and the Soumoud Brigade.

⁷ FFM, ‘Detailed findings on the situation in Tarhuna’, 1 July 2022, para. 99.

through Decrees 13 and 149 (see Annex 2),⁸ which placed al-Kaniyat directly under the newly established Presidential Guard of the Ministry of Defense. Following al-Kaniyat's formal integration into the 7th Brigade, it was placed on the GNA's official payroll until the Brigade's dissolution in February 2018. During that period, al-Kaniyat played a key role for the GNA in controlling the southern gateway to Tripoli.

However, al-Kaniyat's affiliation with the GNA was fragile, and rendered more complex by the historical tensions and longstanding grievances between Tripoli and Tarhuna, partly due to Tarhuna's tribal composition, including the presence of the LNA commander's Ferjani tribe, as well as its former allegiance to Gaddafi. In 2017, al-Kaniyat sought to extend its influence beyond Tarhuna's administrative borders and took control of the Qasr Ben Ghashir neighborhood, south of Tripoli. The schism between Tarhuna and Tripoli grew further when they signed a reconciliation agreement with armed elements in Misrata and Zintan and took part in an attempt to enter Tripoli, with support from Misratan armed elements, in particular the Soumoud Brigade, as well as from the LNA-aligned 22nd Brigade.

This coalition, which included several other armed elements,⁹ launched a wide-scale offensive on Tripoli in August 2018. With support from auxiliary fighters from Western cities, it made significant advances south of Tripoli by September 2018. Through the offensive, Misrata's armed elements gained several key positions of political and military advantage in the capital, but al-Kaniyat did not, which led to growing frustrations in Tarhuna.

Al-Kaniyat eventually agreed to an UN-backed ceasefire in September 2018, and in return the GNA promised to invest significantly in developing and securing Tarhuna, but these funds were never disbursed. This situation culminated in the GNA's Presidential Guard denying, on 28 August 2018, that it had any connection with the 7th Brigade, reiterating that it had been dissolved by Decision No. 79 of the GNA's General Commander on 2 February 2018, and that the 7th Brigade did not wear any military badge or bear any weapons of the GNA (see Annex 2). Despite the Presidential

⁸ FFM, "Detailed findings on the situation in Tarhuna", 1 July 2022, para. 42. See, in Annex 2, Decree 13 of 2017, issued by the GNA on 29 January 2017, by which it created seven different battalions in the western region, including Tarhuna's 7th Brigade, and placed them under the command of the Presidential Guard, and Decree 149 of 2017, issued on 2 July 2017 by the Minister of Defense in application of Decree 13 of 2017, establishing the 7th Brigade under the direct command of the General Chief of Staff, stationed at the 10th Infantry Battalion in Souk al-Khamis, and appointing Colonel Muhamed Ahmed Bashir as its Commander.

⁹ These included al-Kaniyat's own militias, the 'Tarhuna Revolutionary Battalion' and 'Tarhuna Security Battalion'; the GNA's 7th Brigade, which included the al-Kaniyat and elements recruited from Gaddafi-era security apparatuses and others who joined for material benefits or due to threats; the Tarhuna and al-Nawahi al-Arbaa branches of the Central Support Department; and the Salah al-Burki Battalion, which sought refuge in Tarhuna when he was expelled from Abu Salim, Tripoli in 2017.

Guard's statement, al-Kaniyat continued to be involved in the operation of the GNA's Tarhuna Security Operations Room.

This perceived betrayal by Misrata and the GNA may have contributed to al-Kaniyat switching allegiance to the LNA. By April 2019, LNA commander Khalifa Haftar turned the al-Kaniyat into a key military ally, giving it money and weapons to support his own assault on Tripoli. He formed the 9th Brigade with al-Kaniyat, and remaining members of the 7th Brigade and the 22nd Brigade. The 9th Brigade was added to the LNA's payroll and placed under its military command. A member of the al-Kani family was then appointed the head of the 9th Brigade and was granted a rank within the LNA. Following Gharyan's fall in June 2019, Tarhuna's strategic importance grew even more, as it became the main LNA command centre in western Libya. It is reported, during that same period, that the LNA received intelligence and military support from foreign powers.¹⁰

While the LNA's assault on Tripoli was ultimately unsuccessful, al-Kaniyat persisted in perpetrating violations and abuses of international human rights law and violations of international humanitarian law in and around Tarhuna. In fact, reports show that the killings and disappearances during the period in which al-Kaniyat was formally integrated into the LNA as its 9th Brigade, from April 2019 to June 2020, escalated dramatically, with satellite imagery showing that this is also when most of Tarhuna's mass graves were dug.

The body of the elected mayor of Qasr Ben Ghashir municipality in Tripoli district was found on 1 March 2023 in a mass grave discovered in Tarhuna and identified by DNA analysis on 8 March 2023. He was shot several times in the head.

"On 12 June 2019, Mr. Ajaj [the mayor of Qasr Ben Ghashir municipality in Tripoli district] was kidnapped in broad daylight. We do not know what happened to him. He refused to hand over the Qasr Ben Ghashir municipality to someone who was assigned by the LNA through al-Kaniyat. His wife died one week before the kidnapping...A witness assured that he saw Mr. Ajaj detained by the Tariq Bin Zayed Brigade [affiliated to the LNA] in the eastern region of Libya. Please do something, we lost all means to rescue him."

– A relative of the mayor of Qasr Ben Ghashir municipality, interviewed by UNSMIL.

¹⁰ See, e.g., Le Monde, 'L'embarras de Paris après la découverte de missiles sur une base d'Haftar en Libye', 10 July 2019; New York Times, 'U.S. Missiles Found in Libyan Rebel Camp Were First Sold to France', 9 July 2019; Mediapart, 'Violation de l'embargo sur les armes en Libye : le contrat secret avec Haftar qui embarrasse la France', 6 October 2023.

In the months after GNA “Volcano of Anger” (VoA) forces recaptured Tarhuna in June 2020, the cycle of violence continued, and some acts of violence were perpetrated as retaliation against individuals perceived to be loyal to al-Kaniyat or its LNA-affiliates. GNA forces and their affiliates carried out revenge killings against perceived al-Kaniyat affiliates, including extra-judicial killings, looted stores, and burned buildings. They also destroyed properties linked to the al-Kaniyat, such as houses, villas, and a commercial mall. A new cycle of revenge killings and violations thus occurred, leading to the displacement of hundreds of families. At that time, UNSMIL/OHCHR reported that GNA military actions in the greater Tripoli and Tarhuna regions had led to the displacement of 16,000 people in early June 2020, as well as the destruction of public and private property in “acts of retribution and revenge that risk further fraying Libya’s social fabric.”¹¹

Armed clashes between rival battalions continued in the months that followed.¹² In response, a security force affiliated with the Government of National Unity (GNU), the 444 Brigade, was deployed to Tarhuna to secure the area,¹³ while a new Security Directorate was also installed in the city. Internally displaced persons (IDPs) who had fled Tarhuna slowly started to return to the city after years of conflict, but many reported a lack of resources to be able to rebuild their lives. Others have not returned due to continuing insecurity, fears of revenge, and their properties and houses being destroyed.¹⁴ The 9th Brigade was dissolved, and most of its members fled to the East, while others were arrested by GNA forces. Reports show that several key al-Kaniyat leaders were also in the South, fighting in the 676th Brigade, part of the LNA’s Tariq bin Ziyad Battalion. Others were among the 166th Battalion in Sirte. Several victims interviewed by UNSMIL/OHCHR also stated that many al-Kaniyat perpetrators remained within Tarhuna’s administration and security bodies until the present and had not faced any criminal charges.

IV. Violations and abuses perpetrated by al-Kaniyat (2013-2020)

Violations and abuses perpetrated by al-Kaniyat from 2013 until 2015

Violations and abuses perpetrated by al-Kaniyat between 2013 and 2015 included killings, abductions, and forced displacement of individuals belonging to rival tribes. During this period, al-Kaniyat members were motivated by aims of securing effective control over Tarhuna, as well as

¹¹ UNSMIL, “Statement on Recent Developments in Libya”, June 7, 2020, <https://unsmil.unmissions.org/unsmil-statement-recent-developments-libya>

¹² “Exams Suspended in Libya’s Tarhuna Due to Armed Clashes”, Libyan Review, November 5, 2020. <https://libyareview.com/7841/exams-suspended-in-libyas-tarhuna-due-to-armed-clashes/>

¹³ “The 444th Combat Brigade deployed on the main streets in the city of Tarhouna”, Libyan Express, April 27, 2021, <https://www.libyanexpress.com/the-444th-combat-brigade-e-deployed-on-the-main-streets-in-the-city-of-tarhouna/>

¹⁴ IOM, “Libya IDP and Returnee Report”. Round 35. January-February 2021, https://migration.iom.int/system/tdf/reports/DTM_R35_IDP_Returnee_Report_Final_0.pdf?file=1&type=node&id=11325

enriching themselves. Violations and abuses were carried out in the context of armed clashes linked to tribal disputes, including over property and business interests, or as acts of revenge.

Specific tribes and families appear to have been targeted in this violence. The al-Na'aji tribe, which at the time led the al-Awfiyaa Battalion and emerged as one of the leading armed elements in Tarhuna after 2012, was systematically targeted, as well as the Marghana tribe. For instance, two members of the al-Na'aji tribe were killed in Tarhuna in November 2014, and their bodies found on the side of the road. After the killing of a member of the al-Kani family by the al-Na'aji tribe in 2013, remaining al-Kani family members started to take revenge against all alleged perpetrators, who were either killed, abducted, or had their homes destroyed and their families expelled from Tarhuna.

Reports show that al-Kaniyat, which at this time was on the cusp of assuming effective control over Tarhuna, executed opponents publicly to intimidate the population, including at the roundabout known as *Jazeera Al-Dawaran*, in front of the police station in the centre of Tarhuna. Al-Kaniyat was initially supported by the city's municipal and social councils, as it was seen as targeting pro-revolutionary groups in a largely Gaddafist environment. It is only after these violations and abuses began to affect the public perception of al-Kaniyat that it started to bury its victims' bodies in mass graves in and around the city, in order to conceal its crimes.

Violations perpetrated by al-Kaniyat from 2015 to 2018, including during its integration in the GNA as its 7th Brigade

By 2015, the al-Kaniyat exercised effective control over Tarhuna and its inhabitants. Reports from victims and witnesses related to the period from December 2015 to 2018, including when al-Kaniyat was formally integrated into the GNA as its 7th Brigade from 2017 to February 2018, indicate that al-Kaniyat members often targeted entire families in their homes, killing and forcibly disappearing several members of the same household, with survivors fleeing the town and many unable to return until now.

As noted above, al-Kaniyat continued to target specific tribes and families in this violence. In total, for instance, according to witnesses, more than 60 men, women, and children from the al-Na'aji tribe were killed between 2015 and 2019. Bodies were sometimes burnt and showed signs of torture and ill-treatment. Entire families from this tribe were sometimes killed together.

On 17 April 2017, 11 family members, including a child and an elderly man with disabilities, living in al-Gharib neighborhood in Tarhuna, at the time under al-Kaniyat's effective control, were killed by al-Kaniyat, while three others were injured, including a teenager, allegedly over land and property disputes. Witnesses said al-Kaniyat used heavy weapons to target the family's farms and

prevented anyone from burying the dead bodies after. It was only after women demonstrated at the hospital that the bodies were handed over to the families and were buried. Extended family members who survived sought refuge in another town. UNSMIL/OHCHR received evidence of similar incidents of violence against entire family groups between 2015 and 2017, including against influential other tribes and families in Tarhuna that opposed al-Kaniyat.

On 11 May 2018, two brothers were abducted by al-Kaniyat in Qasr Bin Ghashir and taken separately to Tarhuna. One of the brothers, according to witnesses, was taken to an al-Kaniyat controlled detention centre. Both brothers remain missing until now. In a separate incident a few days later, al-Kaniyat members shot and killed a man while he was receiving treatment at the Tarhuna hospital, and later executed at least seven other men from the same family. This violent dispute was reported to have originated when al-Kaniyat seized land belonging to the family.¹⁵ Through such violent actions al-Kaniyat waged a campaign of violence against perceived opponents, including civilians, and their families, engaging in widespread abductions and extrajudicial killings.

Persecution of targeted families continued even after these incidents and when the victims were already internally displaced. For instance, on 24 February 2018, a member of a prominent family, who had fled to Tripoli after an al-Kaniyat member targeted members of his tribe, was shot 18 times while driving to his farm in Wadi al-Rabi neighborhood in Tripoli. That same day, his brother and other family members, who were displaced in Tripoli, sought refuge in another town.

Al-Kaniyat also used checkpoints to stop and abduct individuals. In July 2018, a young man from Qasr Bin Ghashir was stopped at a checkpoint in Tarhuna controlled by Tarhuna Central Support, a local group allied with al-Kaniyat. The man's family approached a representative of al-Kaniyat, who said that he had been detained on suspicion of posting messages opposing al-Kaniyat on social media. Prisoners released from a detention facility controlled by the Tarhuna Central Support later confirmed having seen the victim, stating he had been tortured and had sustained severe injuries. The fate and whereabouts of the man remain unknown, although unconfirmed reports indicated that he may have been transferred to prisons in Ajdabiya and Ghernada in north-eastern Libya. Access to the prison in Ghernada has been denied to UNSMIL/OHCHR for monitoring visits.

At various periods during 2017 and 2018, al-Kaniyat conducted military incursions against the areas southeast of Tripoli, attempting to wrest control from Tripoli-based pro-GNA armed elements under the guise of anti-crime operations. Al-Kaniyat thereby gained temporary control

¹⁵ In a public statement issued on 19 April 2017, UNSMIL condemned the killings, and called for members of al-Kaniyat to be held to account.

over some localities, including areas around Qasr Bin Ghashir, where several bodies were subsequently found. When residents opposed al-Kaniyat's presence and organized a demonstration against them in early 2018, al-Kaniyat responded by opening fire, killing several of them. Several victims from Qasr Bin Ghashir were abducted, and later found in mass graves.

As noted above, while the Presidential Guard of the GNA released a public statement on 28 August 2018, denying its affiliation with the 7th Brigade, al-Kaniyat continued to exert the effective control over Tarhuna, including through the Tarhuna Security Operations Room, until the LNA's takeover in March 2019.

Violations and abuses by al-Kaniyat from March 2019 to June 2020, including during its integration in the LNA as its 9th Brigade

In March 2019, al-Kaniyat joined LNA forces and became formally recognized as its 9th Brigade.¹⁶ As such, al-Kaniyat was subsequently on the LNA's official payroll. As detailed above, when the LNA entered Tarhuna, it used the city as a base to launch its military operation against Tripoli. From April 2019 to June 2020, violations in Tarhuna became systematic and widespread, with analysis of satellite imagery revealing that most of the mass graves since discovered were dug during this period.

Abductions, acts tantamount to enforced disappearances, extrajudicial killings and other unlawful killings

"I heard shooting and hysterical crying. I saw a child stood still, without moving. I begged ... to let him go. He answered: 'the child will grow older and become my enemy'. Somehow, I succeeded in taking the child home."

- A witness of an extrajudicial killing, interviewed by UNSMIL, who helped a 7-year-old child to survive, while the child's father and three brothers were killed in April 2020. The child and his mother continue to suffer from serious mental health issues.

Extrajudicial killings were a key component of al-Kaniyat's campaign of control and terror. During the period of al-Kaniyat's effective control over Tarhuna, including more systematically after April 2019, al-Kaniyat, according to witness accounts, allegedly killed people in the streets, in their homes, at checkpoints and in prisons and other places of detention. In many of these incidents,

¹⁶ The GNA's 7th Brigade was formed by a decision of the GNA's Minister of Defense in 2017, and formally affiliated to the Western Command until its dissolution in 2018 by a decision of the Presidential Guard. Some elements of the 7th Brigade formed another group, called the 22nd Brigade, which received financial support from the LNA. With the creation of the 9th Brigade in 2019, the LNA effectively brought together the al-Kaniyat, the 22nd Brigade, and the remnants of the 7th Brigade under a single command.

al-Kaniyat targeted entire families, including women, older persons, and children. According to FFM, the killings attributed to al-Kaniyat were committed as part of a policy to eliminate all opposition.¹⁷

As of February 2024, hundreds of individuals from Tarhuna remain missing, while mass graves continue to be identified and the process of identifying human remains continues, enabling some families to finally know the fate of their loved ones. In the case of enforced disappearance or acts tantamount to it, the person subject to disappearance and those who have suffered harm owing to the disappearance are both victims of enforced disappearance.¹⁸ The continuous nature of the offence results in ongoing suffering for relatives of the disappeared person, which can entail multiple rights violations as the situation continues.¹⁹

Victims' families, many of whom displayed visible signs of trauma, consistently shared with UNSMIL/OHCHR that the victims were first abducted or detained by members of al-Kaniyat, and that they were unable to confirm the fate and whereabouts of their loved ones until a body was identified. UNSMIL/OHCHR also reviewed medical reports and photographs of several of the victims' remains, which in many instances revealed that victims had been tortured and ill-treated. Others bore injuries, indicating that the cause of death was likely gunshot to the head. In some cases, the body of the victim also appeared to have been desecrated after death.

Cases of extrajudicial killings, other unlawful killings and disappearances listed below illustrate the scale of the violence that took place during the period of al-Kaniyat's integration into the LNA as its 9th Brigade:

March – December 2019

- On 19 March 2019, al-Kaniyat abducted a sheep dealer from Zletan, who remains missing.
- Al-Kaniyat abducted three women, along with several other family members, from Dawoon area in Tarhuna in April 2019, reportedly on account of their loyalty to the GNA. On 9 January 2021, their bodies were recovered from a mass grave site outside Tarhuna and identified by relatives. The forensic report concluded that all three women, who were sisters and one of whom was pregnant, were killed by gunshots to the head. UNSMIL/OHCHR had previously documented their disappearances.
- A man, whose body was found in a mass grave and later identified by GASIMP through a DNA sample, was disappeared in June 2019. According to the victim's father, the young man was a civilian who worked in a private company. While the father had obtained

¹⁷ FFM, "Detailed findings on the situation in Tarhuna", 1 July 2022, para. 166.

¹⁸ See Report of the Working Group on Enforced or Involuntary Disappearances (WGEID), Addendum, Study on enforced or involuntary disappearances and economic, social and cultural rights, A/HRC/30/38/Add.5, paras. 20-23.

¹⁹ Ibid, paras. 23-32.

information that his son had been killed by al-Kaniyat, his fate was only determined when his body was recovered from a mass grave and identified.

- The targeted killing of two al-Kani brothers, Mohsen and Abdel Hakeem, in Tarhuna, on 16 September 2019, led to new cycles of revenge, in particular against the al-Na'aji tribe as well as against detainees. Three tribe members were killed shortly after, in the so-called "Oil Triangle" of the city. Others were taken to prison and remain missing. The tribe members considered they could not submit official complaints to police or the General Prosecutor's Office, out of fear of retaliation. That same day, members of al-Kaniyat attacked the house of another civilian and opened fire against his entire family, killing 16 of them, allegedly in revenge for the death of the two al-Kani brothers.
- In August 2021, the bodies of a married couple were recovered from a mass grave in Tarhuna and identified through DNA samples. According to information provided by relatives, the man had been detained by al-Kaniyat in December 2019 in Qasr Bin Ghashir, along with two other civilians, on the pretext of failing to produce valid identification papers. His wife disappeared one week later, after she received a call from a member of al-Kaniyat requesting that she present herself at an unknown location to visit her detained husband. Her remains indicated that she had been shot at least ten times.
- On 21 December 2019, nine civilian men were reportedly killed in separate incidents. One of them was shot and killed in front of a shop. The same day, members of al-Kaniyat broke into a family home and shot and killed all but one male family member. In another incident, a woman survivor reportedly attempted to commit suicide after being forced to watch almost all her relatives, including several of her sons, being killed. Several children reportedly witnessed the incident. After the killings, members of al-Kaniyat removed the bodies from the house. Two of the victims were later found and recovered from Tarhuna hospital, but the family, to date, has not been able to recover the other bodies.
- Another victim, whose family members had shared a photograph of him on social media, was identified after being found in a mass grave. He had been abducted in December 2019 by al-Kaniyat in Tarhuna. His brother, who was abducted outside his house in early June 2020, one day before al-Kaniyat's retreat from the city, is still unaccounted for.
- In another case, a body was found in a water well near a base of Tarhuna Central Support, an al-Kaniyat-affiliated local group. When found, it had been in the water well for at least three months. According to the victim's brother, the man had been abducted from his house in Tarhuna by al-Kaniyat on 12 December 2019. The family received the forensic report on 2 July 2020, which concluded that his death was likely caused by gunfire. He had been shot seven times in the head.

January – June 2020

- A 60-year-old man was abducted by al-Kaniyat on 5 January 2020 while driving on the Tripoli airport road. After 3 months, the family learnt from a former prisoner detained by al-Kaniyat that the man had been exposed to severe torture and ill-treatment but was still alive. Two months later, his body was found in a garbage container in Tarhuna, among other bodies. His family received the body following DNA analysis in Tripoli. The forensic reports stated that the body had been exposed to severe torture, including incisions to his genitals.
- Three bodies were found in Garabulli in front of a mosque, after the victims were detained at a gas station by al-Kaniyat, in February 2020. The victims, two brothers from Misrata and a Syrian man, were brought to the local hospital and buried the same day. The father, who identified the two brothers' bodies in the morgue, said that they had sustained severe beating and several gunshots, including in the chest, neck, mouth, and leg. A doctor said that two of them had also been mutilated, with their testicles cut off and nails plucked out, indicating severe torture and ill-treatment.²⁰
- Several bodies found at Tarhuna hospital were identified and confirmed to be civilians from the city. At the mortuary in Tarhuna hospital, family members identified one victim, who had last been seen on 29 February 2020, when he was abducted from a checkpoint in Dawoon. According to a forensic report, his death was determined to have occurred in late April 2020. The body displayed signs of injuries consistent with exposure to severe beatings and other forms of torture and ill-treatment.
- On 5 April 2020, seven women and three children were abducted from Tarhuna, when al-Kaniyat broke into houses belonging to the same extended family. Several men from these houses were reportedly shot and killed. The fate of the abducted women and children is still unknown. Private residences belonging to the family were later demolished by members of al-Kaniyat.
- On 5 April 2020, al-Kaniyat captured a 59-year-old man and his nephew in their house, in the area of Awlad Khalifa in Tarhuna. A third member of the family was captured later in the night. All three were taken to an unknown location and only identified in October 2020, after having been found in one of the city's mass graves. The autopsy showed that they had been shot several times in the head, mouth, neck, and torso. The victims' family filed a complaint before the tribunal of Misalata, but to date no one has been arrested.
- On 5 June 2020, the bodies of 32 victims – all members of two families from Qasr Bin Ghashir – were returned to their remaining family members by the Libyan Red Crescent.

²⁰ A video showing the capture of these men was circulated on social media: <https://www.facebook.com/1977991222306670/posts/2401056940000094/?vh=e>

According to information provided by their relatives, the victims had been abducted by al-Kaniyat at various times between April 2019 and June 2020 and had previously been reported as disappeared. The victims included eighteen men, three women, and eleven children, including nine boys and two girls. Some of the victims had been arrested and detained in the custody of various LNA units stationed in the vicinity of Tarhuna, including those of al-Kaniyat, before being killed. Bodies showed signs of torture and ill-treatment. They were handed over to the Libyan Red Crescent as part of an exchange with the LNA.

These cases indicate that al-Kaniyat systematically targeted civilians, including its opponents, either by executing entire families or killing only their male relatives. In several instances, all the men within one household were killed, with women and children forced to watch. In other incidents, women and children were also killed or abducted. This violence resulted in severe trauma for surviving family members and, where men were the main providers, also left these families impoverished. Women and child survivors, in particular, continue to suffer from long-term psychological and economic consequences of these serious violations.

In the days prior to the GNA's recapture of Tarhuna and the LNA's retreat from the city in June 2020, eyewitnesses reported that hundreds of detainees incarcerated in al-Kaniyat-controlled detention facilities in Tarhuna were transported to areas controlled by the LNA in eastern Libya, while others were subjected to torture and ill-treatment and/or killed in those facilities. The whereabouts of many of these detainees have not been verified, but reports indicate that detainees transferred from al-Kaniyat custody in Tarhuna remain detained in the East, revealing a level of coordination between the al-Kaniyat and the LNA. While civilians and pro-GNA fighters, from Tarhuna and elsewhere, appear to have been transferred in this way, many do not appear in any prison record, leaving their families in an ongoing state of crippling uncertainty about their loved ones' fate.

Violations against persons hors de combat

Apart from civilians who were subjected to gross human rights violations and serious violations of international humanitarian law, there are credible reports of pro-GNA fighters captured during armed hostilities and taken to detention facilities run by al-Kaniyat. In some cases, they were subjected to torture and ill-treatment or summarily executed, while the fate of many other individuals remains unknown.

In one case, the body of an injured fighter, captured in April 2019 by al-Kaniyat, was later recovered from Tarhuna by the Libyan Red Crescent and then identified by the victim's wife. A medical report concluded that the victim had been tortured, and all his teeth had been removed. A forensic report established that he was killed by a gunshot fired directly to the head.

In May 2019, a fighter from Zintan was captured along with twelve other pro-GNA fighters in the area between Tariq al-Matar and al-Sbeia'a, when the group was ambushed by al-Kaniyat fighters. A friend of the family later recognized the victim at the mortuary in Tarhuna hospital, and the family contacted the hospital requesting the body. As al-Kaniyat controlled the institutions in Tarhuna, including hospitals, they initially refused the family's request, stating that they wanted to use the body to exchange it for pro-LNA captured fighters. Following pressure by tribal elders, the body was returned to the family, revealing that the man had been shot in the head.

In August 2019, two men fighting with the pro-GNA Khilat al-Firjan militia near Tarhuna were injured and captured by al-Kaniyat. In the same month, the Libyan Red Crescent facilitated the handover of their bodies in Misrata. Forensic reports indicated that their skulls were fractured, and their bodies had sustained burns.

Violations at al-Kaniyat-controlled places of deprivation of liberty

Several places of deprivation of liberty operated in Tarhuna until June 2020, controlled by al-Kaniyat or associated armed elements. What can be identified as 'official' facilities included: (1) the Tarhuna Judicial Prison; (2) the "Boxes Prison", where victims were held in metal boxes smaller than a cubic meter; and (3) the Central Support Prison. All facilities were nominally placed under the control of the al-Khoms Branch of the Judicial Police. However, al-Kaniyat directly operated unofficial and 'secret' places of deprivation of liberty, including locations referred to as Salem al-Saket and Al-Khodor.²¹ They also used farms, private houses, and public buildings to arbitrarily deprive persons of their liberty, subject them to torture and ill-treatment, and to carry out extrajudicial killings. Some of the al-Kaniyat leaders in charge of these facilities have been identified by the FFM, former detainees, and local victims' associations.²²

²¹ This prison was located inside Tarhuna's water factory. See FFM, "Detailed findings on the situation in Tarhuna", 1 July 2022, para. 89.

²² Names of alleged perpetrators of the serious violations and abuses documented in this report are held in UNSMIL HRS records.



Former places of deprivation of Liberty in Tarhuna, February 2021 © UNSMIL. This detention centre is among those that were managed by the Judicial Police and the Ministry of Justice.

Torture, cruel and inhuman treatment in detention

Detainees in these facilities included civilians perceived to oppose al-Kaniyat, as well as captured enemy fighters. Each of al-Kaniyat-controlled places of deprivation of liberty has been linked with cases of torture and ill-treatment, extrajudicial killings, and summary executions. Al-Khodor prison in Tarhuna’s Water Factory and the “Boxes Prison” were particularly feared as they included small metal boxes which were heated and used for torture and ill-treatment. Detainees were forced to crouch into these boxes in claustrophobic, airless conditions, unable to move, and with hot ashes piled on top of the box to generate heat. Three to four people were placed in these ‘ovens’, often for hours at a time. Overall, the conditions of detention in these overcrowded prisons amounted to torture or cruel, inhumane treatment, with detainees reporting limited access to water, food, toilets, and sanitation.

A former prisoner held in the Tarhuna Judicial prison in June 2020, stated that he was tortured and beaten with sharp sticks. He was not informed of any formal charges, but was accused of posting pro-GNA messages on social media. Methods of torture included prolonged solitary confinement, suspension in stress position for hours, foot whipping, as well as sleep deprivation, death threats, and witnessing the killing of other inmates.

Unlawful killings in detention

Several reports also point to unlawful killings taking place in al-Kaniyat-controlled prisons, either following torture, or as direct retaliation. On 13 September 2019, 37 prisoners were killed by al-Kaniyat in the Tarhuna Judicial Prison in retaliation for the killing of Mohsen al-Kani, commander of the 9th Brigade, and his brother, Abdel Hakeem al-Kani, in the fighting in Tripoli. One former

detainee witnessed al-Kaniyat fighters enter the prison and order prisoners to leave their cells and lie on the ground in the prison yard. The fighters then proceeded to shoot and kill all the detainees over the course of several hours. Victims also included men from other areas, such as Misrata and Bani Walid. The bodies of the victims were transported in a truck to an unknown location, and were later found in the city's dumpster, although not all could be identified. Revenge killings continued for several days after.



Visit to the “Boxes Prison” at the agricultural site, May 2022, © UNSMIL

The body of one victim, who was arrested by al-Kaniyat in April 2019 and killed in a prison controlled by them, was found in the Tarhuna hospital on 6 June 2019. His wife insisted on a forensic medical examination of her husband's body:

“Although I recognized him when he was moved to Misrata with twelve other bodies, I wanted a forensic examination. The doctor told me that my husband was killed by a gun bullet, which entered his ear and went through his head. He was subjected to torture. His teeth were removed.”

– Wife of victim, interviewed by UNSMIL.

A man who was detained in Tarhuna Judicial Prison between November 2019 and January 2020 spoke of how a fellow detainee was tortured and forced to watch al-Kaniyat prison guards killing

his brother, an act which may itself amount to torture or cruel, inhuman, and degrading treatment.²³

“I saw one of the brothers. He was covered in blood, and it was obvious that he had been tortured. He screamed hysterically and cried out that he was forced to see his own brother being killed in the prison.”

– Witness and former detainee in Tarhuna Judicial Prison, interviewed by UNSMIL. He was later told by a prison guard that both brothers had been killed that same day. In 2021, the brothers’ bodies were identified after being found in a mass grave.

Former detainees in Tarhuna Prison helped document violations that took place inside Tarhuna’s prisons, including torture, ill-treatment, and extrajudicial killings. However, collecting testimonies from former detainees proved difficult due to fears of reprisals and continued threats against them, including on social media. Other prisoners, considered to be potentially valuable for future exchanges due to their alleged wealth, were reportedly taken by al-Kaniyat from Tarhuna to the East when they retreated. Furthermore, victims’ associations reported that boxes in the Water Factory were destroyed when al-Kaniyat fled Tarhuna, destroying key evidence for future investigations and memorialization.²⁴



²³ International jurisprudence has recognized that the mental suffering of relatives that are forced to watch severe mistreatment can amount to torture: *cf.* International Criminal Tribunal for the Former Yugoslavia (ICTY), *Prosecutor vs. Moinina Fofana and Allieu Kondewa*, 2 August 2007, Trial Judgment, para. 153. See also UNVFVT, “Interpretation of Torture in the Light of the Practice and Jurisprudence of International Bodies”, pp. 23-24.

²⁴ The ‘Boxes Prison’ of the agricultural site, however, remains in place. Several videos circulated describing the conditions of detention. See, for instance: <https://fb.watch/jl-cQ6GRLY/?mibextid=6aamW6>



Former place of detention in Tarhuna, May 2022, © UNSMIL.

Looting and destruction of property

During incidents where families were killed or abducted, interviewees also reported that their homes and businesses were looted and destroyed during the various phases of the conflict.

“I have lost many family members, including three nieces who were found in a mass grave in Tarhuna. My house, my factory and stores have been demolished and my valuables and equipment looted. Since October 2019, my whole tribe and I have lived displaced in Tripoli or fled abroad. We lost so much with no mercy. Even mothers left their children behind.”

– Man from Tarhuna, interviewed by UNSMIL. His three nieces were found in a mass grave together with seven persons from another family, including three children.

On 20 December 2019, in the Dawoon neighbourhood of Tarhuna, 19 houses belonging to the same extended family were targeted by al-Kaniyat fighters. They also shot and killed several family members, looted and set on fire several properties belonging to the family who was regarded as pro-GNA. The family had previously been targeted by al-Kaniyat.

Forced displacement of civilians

Displacement often occurred after family members were killed or threatened, and through fear of retaliation. In one case, in late 2019, following al-Kaniyat’s abduction of six men from the same family, 28 relatives fled the area, fearing further violence and revenge.

In another case, in December 2019, in al-Dawoon neighbourhood, al-Kaniyat conducted a series of extrajudicial killings, looting and destruction of civilian property, forcing surviving family members to flee to other cities. Witnesses reported that IDPs continued to face harassment and threats, and in some cases were even killed in areas to which they had been displaced.

Sexual violence

Sexual violence is widely underreported across Libya, in part due to patriarchal and religious traditions and tribal culture, which frequently lead to fear of rejection, stigmatization, shame, and revictimization of survivors. The stigma attached to reporting sexual violence is compounded by the limited forensic expertise of Libyan authorities to verify allegations of sexual violence. Sexual violence against men is particularly under-reported; it is, however, evident among the gross human rights violations that al-Kaniyat committed in Tarhuna, notably examples of genital mutilations on several men's bodies found in mass graves.

Nevertheless, UNSMIL/OHCHR was able to collect reports of rape and other forms of sexual violence from men and women allegedly committed by al-Kaniyat, including forced nudity, sexual torture, and mutilation of genitals. Similarly, the FFM also received allegations of sexual violence against women and men, including against men in al-Kaniyat's detention facilities and against women in the al-Kaniyat-controlled city mall, as a threat to their male family members.²⁵

V. Violations in Tarhuna after the entry of GNA-aligned forces in June 2020

Background

The situation remained insecure for months after the LNA's retreat from Tarhuna in June 2020 due to the continued perpetration of human rights violations, including torture, enforced disappearance, arbitrary detentions and looting and destruction of properties, by the GNA's "Volcano of Anger" (VoA) forces.

Consisting of armed elements from different areas in Western Libya, including Misrata forces, the Nasawi Brigade, and the Special Deterrence Force (SDF), the VoA forces were combined to defend Tripoli and counter LNA advances. They also included various local armed elements, including a coalition of Tarhuna-based GNA supporters, known as the "Tarhuna Protection Force" (TPF), allied in retribution for violations committed by al-Kaniyat and the LNA. Formed in 2019, the TPF was initially a minority of al-Kaniyat supporters who refused to ally with the LNA and instead joined the

²⁵ FFM, 'Detailed findings on the situation in Tarhuna', 1 July 2022, paras. 73 and 109.

GNA coalition in Tripoli. It was progressively joined by other al-Kaniyat opponents, including the al-Na'aji, Ferjani and Maraghna tribes, and the Salah al-Burki Battalion.²⁶

The TPF was backed by other armed elements from the GNA's VoA forces in its takeover of Tarhuna. However, this fragile coalition quickly dissolved after the LNA's retreat. At this point, the GNA installed the 444 Brigade and the Tarhuna Security Directorate, placing them under the umbrella of the Ministry of Interior, to stabilise the city. As of August 2024, the 444 Brigade is still in place, and some victims have asserted that former al-Kaniyat leaders are operating within it:²⁷

"The criminals are still inside Tarhuna, the families of perpetrators are still harassing the victims... They are threatening us until now, at the police station, at the internal security, no one can do anything to protect us. In fact, if we go to claim our rights, they may take us instead of taking the perpetrators."

– Participant in a Tarhuna victims' consultation in Tripoli, conducted by UNSMIL.

Furthermore, witnesses in Tarhuna have revealed that no measures were implemented to vet local security forces, and that alleged perpetrators of violations against entire families held positions within the local police or internal security directorate, with the ability to threaten them if they attempted to seek justice. One victim warned:

"I cannot continue to see the killer of my son in front of me. If this continues, you will force me to do the same as his crime... If we don't bring justice, our society will become a criminal society. We don't want to reach this point. If there is no justice, we will all be criminals."

– Participant in a Tarhuna victims' consultation in Tripoli, conducted by UNSMIL.

²⁶ The al-Na'aji tribe played a prominent role in the TPF coalition, seeking revenge for al-Kaniyat persecution. After the LNA retreated, it formed an armed element within the TPF, the al-Na'aji Martyrs Battalion, which claimed to be Tarhuna's leading security actor. The Salah al-Burki Battalion, an armed element initially based in Abu Salim, was mainly composed of Tarhuna fighters. In 2017, it was driven out of Abu Salim by the Abu Salim Central Security Force and found refuge in Tarhuna. It joined al-Kaniyat fighting against the Abu Salim Central Security Force in 2018 but, following the al-Kaniyat's integration into the LNA, it shifted alignment to the TPF. The Maraghna tribe from Qasr Ben Ghashir opposed both the LNA and al-Kaniyat, and had been forcefully displaced by al-Kaniyat in November 2017. Meanwhile, the Ferjani tribe joined the TPF after being displaced by the al-Kaniyat from Daoun, a city neighbouring Tarhuna. It was not opposed to the LNA's commander, who is from the same Ferjani tribe.

²⁷ Consultation with Tarhuna victims, March 2023.

Enforced disappearances, torture and ill-treatment and unlawful killing

UNSMIL/OHCHR received reports of several LNA fighters who were disappeared by GNA-aligned armed elements, after being captured in Tarhuna in June 2020. Several detainees were said to have been taken to Mitiga Prison in Tripoli, controlled by the SDF, but do not appear in any records. UNSMIL/OHCHR documented cases of prisoners being released by the SDF from Mitiga Prison, as part of prisoner exchanges supported by the Libyan Red Crescent, and allegedly sent to the East where they would not face prosecutions.

UNSMIL/OHCHR have also documented numerous reprisal attacks by the GNA VoA forces and, later, the 444 Brigade and the Tarhuna Security Directorate against families perceived to have supported the LNA or al-Kaniyat. For example, on 21 October 2020, two male civilians were kidnapped in front of Tarhuna police station by unknown armed men. A few weeks later, one of the men's family was told that he was at the Tripoli Medical Hospital being treated for wounds inflicted by torture. His family was only allowed a short visit. The two men had been in secret detention, allegedly deprived of their liberty by the al-Na'aji Martyrs Battalion.

On 2 November 2020, the al-Na'aji Martyrs Battalion arbitrarily killed a 32-year-old civilian whose brother was allegedly an al-Kaniyat fighter. The victim was not a member of any armed element, but was considered guilty by association and killed in detention following being subjected to torture. His death is an example of revenge and retaliation that took place in Tarhuna with impunity following the LNA's retreat. The family of the victim fled to Benghazi after this attack.

A man, who was kidnapped by SDF in December 2020, was released in January 2021 from an SDF-run detention facility in Tripoli, on the condition that he would not press charges. He reported severe ill-treatment and torture taking place in the facility, and that detainees from Tarhuna did not have access to fair trial and due process guarantees. His property had been stolen by al-Kaniyat and later occupied by SDF after the LNA's retreat.

Looting and destruction of public and private properties

Looting and destruction of houses, properties and farms continued in Tarhuna for days after the GNA and TPF took control of the city. On 7 June 2020, UNSMIL/OHCHR reported that it had *“received numerous reports of the looting and destruction of public and private property in Tarhuna and Alasabaa which in some cases appear to be acts of retribution and revenge that risk further fraying Libya's social fabric.”*²⁸

²⁸ UNSMIL, UNSMIL statement of recent developments in Libya, 7 June 2020, at <https://unsmil.unmissions.org/unsmil-statement-recent-developments-libya>.

Witnesses reported that money and gold were stolen in addition to the looting and destruction of properties, including in the Ayoun Dogha area, inhabited by the al-Shefetra tribe, leading to the displacement of a large segment of this population. Fleeing women were forced to relinquish their jewelry to be able to leave. Houses were burnt, while 200 shops inside the city's commercial mall were looted and damaged before being set on fire. Specific areas such as the Khat al-Dawaim neighborhood were also targeted during this wave of destruction, due to the real or perceived tribal and political allegiances of the inhabitants of those areas.

Witnesses reported that the al-Na'aja Matyrs Battalion took part in these acts of retribution along with other GNA-aligned armed elements. *Sidi M'amer*, a Sufi shrine, was also hit by rockets and destroyed during these attacks, in June 2020. The local branch of the High National Elections Commission (HNEC) in Tarhuna was looted during that same period.

On 23 January 2021, a demonstration took place in Tarhuna led by families of victims, following the burial of 14 bodies exhumed from a mass grave the day before. The demonstration turned violent, with some of the protestors looting and burning houses belonging to alleged supporters of the LNA and al-Kaniyat (9th Brigade). Properties belonging to the city's mayor and a local representative of the Tripoli-based House of Representatives, who had escaped the city when LNA forces withdrew in June 2020 due to fear of reprisals, were also looted and burnt by the demonstrators.

Forced displacement

According to the International Organization for Migration (IOM), in December 2019, 5,181 individuals from Tarhuna were displaced, increasing to 35,389 individuals by June 2020,²⁹ after the GNA and its aligned armed elements took over the city. New waves of forced displacement occurred after the takeover of Tarhuna in June 2020, due to GNA forces, including the TPF, targeting inhabitants perceived to be associated with al-Kaniyat, as a form of collective attribution of guilt. Civilians who fled reported having witnessed the destruction of their properties.

IDPs from Tarhuna who arrived in Tripoli faced threats and harassment due to suspicions of their support for al-Kaniyat or the LNA, with little prospects of returning to their homes in the absence of sufficient security guarantees and with continued impunity. The majority of those displaced moved to the eastern part of the country and reported being harassed and threatened in other areas, especially in Tripoli. Some IDPs reported suffering from discrimination, threats, and daily harassment by certain local militias because of their perceived support for the LNA or al-Kaniyat.

As of September 2020, a small number of those who fled to the West had returned to Tarhuna, while most of those displaced in the East were unwilling to return due to perceived political or tribal affiliations, and fear of reprisals. The few IDPs who have returned to Tarhuna since 2020

²⁹ For IOM data on IDPs in Libya, see: <https://displacement.iom.int/libya>.

have found their homes destroyed. This dynamic of revenge highlights the critical need to support local reconciliation and social cohesion efforts in Tarhuna and to provide support services to returnees.

VI. The discovery of mass graves in Tarhuna (2020-2023)

Following the recapture of Tarhuna by the GNA on 5 June 2020, and the withdrawal of al-Kaniyat and LNA forces from the area, reports increasingly pointed to large-scale, gross human rights violations and abuses committed by al-Kaniyat and its allies. As mass burial sites were discovered and bodies started to be identified, a clearer picture began to emerge of widespread killings and other alleged violations in the territory then controlled by al-Kaniyat. Four mass graves³⁰ were discovered in and around Tarhuna, referred to as “the Landfill”, Al Rabt Project, Gabina, and 5 km Agricultural site.

According to GASIMP, by January 2024, 353 bodies have been excavated from mass burial sites in and near Tarhuna, out of which 235 were identified, including through matching DNA samples, collected from relatives.³¹ As of February 2024, JERC reports having collected and preserved 262 bodies, 88 of which have been identified. As noted above, given the at times intersecting mandates of JERC and GASIMP as well as their separate responsibilities for various stages of the excavation and identification processes, there is likely a significant degree of overlap in the cited figures.

The United Nations Satellite Centre (UNOSAT) conducted satellite imagery analysis in Tarhuna, which was provided to UNSMIL and other entities. These images revealed soil disturbances consistent with mass burial activity occurring between April 2019 and June 2020 in seven locations where bodies and human remains were later found. UNOSAT concluded that burials likely took place within this timeframe, when al-Kaniyat was affiliated to the LNA and had effective control over the city.³² According to various reports, there may be up to 100 further undiscovered mass graves.³³ As authorities continued examining the area, mass burial sites were discovered in several other locations, including in Maktab Qammama al-Aam, and near Tariq al Abd (Abd

³⁰ The definition of mass graves used in this report is based on the definition contained in the Bournemouth Protocol, which states: “[t]he term mass grave is used here to mean ‘a site or defined area containing a multitude (more than one) of buried, submerged or surface scattered human remains (including skeletonized, commingled and fragmented remains), where the circumstances surrounding the death and/or the body- disposal method warrant an investigation as to their lawfulness” such as indications of extrajudicial, summary or arbitrary executions. See General Assembly resolution 60/147; E/CN.4/2005/102/Add.1; Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016), Revised, Glossary, “Commingled remains”.

³¹ See GASIMP’s Facebook page for regular updates: <https://www.facebook.com/profile.php?id=100063680854390>

³² FFM, “Detailed findings on the situation in Tarhuna”, 1 July 2022, para. 56.

³³ See e.g., FFM, “Detailed findings on the situation in Tarhuna”, para. 142.

Highway). The FFM also identified three locations that may have undiscovered mass graves.³⁴ In March 2023, GASIMP discovered two additional new grave sites on Salim Bin Ali Road, and Al Saqia Road in Tarhuna, containing 3 bodies.³⁵

According to Libyan forensic investigators, many of the bodies recovered from the mass graves and other locations displayed signs of injuries consistent with torture and/or indicative of summary executions. GASIMP’s investigations have revealed that all recovered bodies had gunshot wounds and over 90 per cent of them had their hands tied and were blindfolded.³⁶ Children and women were also among the victims identified.

“On 5 April 2021, they started exhuming bodies from a new mass grave outside Tarhuna. They found two bodies. I thought that one of them could be my brother, who had been abducted by al-Kaniyat. On 18 July 2021, I received the DNA results. No words can explain my grief. I want al-Kaniyat and whoever supported them in jail.”

– Victim from Tarhuna, interviewed by UNSMIL, confirming that his brother was identified as one of the dead.



Map of mass grave sites, September 2021 © UNOSAT

³⁴ Independent Fact-Finding Mission on Libya (FFM), “Detailed findings on the situation in Tarhuna”, 1 July 2022, para. 143. All FFM reports are available at: <https://www.ohchr.org/en/hr-bodies/hrc/libya/index>.

³⁵ See the Facebook page of GASIMP: <https://www.facebook.com/profile.php?id=100063680854390>

³⁶ FFM, “Detailed findings on the situation in Tarhuna”, 1 July 2022, para. 135.

Discovery of bodies in other locations around Tarhuna and in Qasr Bin Ghashir municipality

In addition to the human remains found in mass graves, nearly 200 bodies were found in other locations in and around Tarhuna, often in garbage containers. Several of these bodies also displayed signs of torture or summary execution.

Libyan authorities reported that the bodies of more than 100 male victims were found at the Tarhuna hospital. The remains of another 30 individuals were also discovered in a trash container nearby. While the bodies were in an advanced stage of decomposition, some of them had their hands tied behind their backs, indicating summary execution. Most of this group of victims were confirmed to be male. Human remains were also recovered from water wells near Tarhuna, and the grounds near the Tarhuna Prison. At the time of writing, several other areas, including those adjacent to known places of detention, were still being examined by forensic experts.

Bodies of victims of unlawful executions were also found in the nearby Qasr Bin Ghashir municipality, an area controlled by al-Kaniyat at various points from 2017 onwards. For instance, the remains of 60 such individuals were recovered from trash containers in Qasr Bin Ghashir in June 2021, some of them partly burned. While most of the victims were believed to be men, the gender of the victims could not be ascertained in all cases due to the degree of decomposition of and injuries to the bodies.

VII. Accountability for violations and abuses of international human rights law and violations of international humanitarian law

All parties to armed conflicts in Libya, including the 2019-2020 civil war, have been bound by international humanitarian law, which prohibits torture, abductions, arbitrary detention of civilians, and killings in custody, among other violations. Likewise, international human rights law continues to apply in situations of armed conflict. In certain circumstances, non-state actors may have human rights responsibilities especially where they exercise control over a territory and government-like functions.³⁷ Individuals may also have criminal responsibility for crimes under international law committed in Libya and may be prosecuted by domestic courts of competent jurisdiction, applying international standards, or the International Criminal Court, which has jurisdiction over crimes listed in the Rome Statute alleged to have been committed in Libya since 15 February 2011, further to the Security Council's referral of the situation in Libya to the ICC in its resolution 1970 (2011) (see Annex 1 for legal background).

³⁷ OHCHR, 'International Legal Protection of Human Rights in Armed Conflict', 2011, pp. 22-25.

Since the recapture of Tarhuna in June 2020, the alleged violations and abuses committed by al-Kaniyat, including while it exercised effective control over Tarhuna and during its integration in the GNA as its 7th Brigade and later in the LNA as its 9th Brigade, have increasingly come to light. While some measures have been taken to investigate and prosecute these crimes, they have had little lasting impact in terms of justice, truth, accountability or reparations for the countless victims. There has also been no justice or accountability for alleged crimes committed by the GNA and aligned armed elements after the LNA's retreat from Tarhuna, including arbitrary detention, extrajudicial killings, forced displacement, and looting and destruction of properties.

1. Responses by Libyan authorities

Libyan authorities have taken some initial steps to investigate alleged crimes committed in Tarhuna and to hold perpetrators to account. These efforts should be further supported as part of a wider Libyan-led transitional justice and reconciliation process to effectively ensure victims' right to truth, justice, reparations and guarantee non-recurrence.

a) Criminal accountability

On 14 June 2020, the Libyan Attorney-General stated that he had issued arrest warrants for 110 individuals in relations to crimes committed in Tarhuna. On 27 February 2021, the Military Prosecutor issued arrest warrants against three individuals affiliated with al-Kaniyat, in connection with crimes perpetrated in Tarhuna. As of June 2023, none of the arrest warrants or sentences have been enforced, as many of the alleged perpetrators fled to areas in eastern and southern Libya under the control of armed groups affiliated to the LNA, where western-based authorities have no practical ability to enforce arrest warrants or court decisions, or even to other countries, while some of those who had been arrested were subsequently released.³⁸

On 7 February 2022, the Attorney-General announced the arrest of several individuals in connection with crimes committed in Tarhuna, as well as violations by al-Kaniyat that occurred in Garabulli and other areas near Tripoli.

On 13 February 2022, the Deterrence Apparatus for Combating Organized Crime and Terrorism (DACOT) announced the arrest of the former head of police in Tarhuna, known to be loyal to al-Kaniyat. To date, no prosecution has been initiated against him. In February 2023, 40 arrest warrants were issued against al-Kaniyat members by the Military Tribunal in Tripoli, which initially had jurisdiction over the crimes committed in Tarhuna before such jurisdiction was shifted to

³⁸ Article 358 of the Libyan Code of Criminal Procedure provides that: "If a person who has been convicted in absentia makes himself available or if he is arrested, before the extinction of the penalty with the lapse of time, the prior verdict shall automatically be annulled, either with regards to penalty or compensation, and the case shall be heard again before the court."

civilian criminal courts. It sentenced 16 individuals *in absentia* to death and another eight individuals *in absentia* to life imprisonment in relation to al-Kaniyat crimes, in circumstances raising fair trial and due process concerns.

In late 2020, a Special Prosecution team was formed by the Attorney-General to handle complaints related to armed elements in Tarhuna before civilian courts. As of January 2024, this team was composed of eight prosecutors from four criminal courts in Tripoli, Misrata, Khoms, and Tarhuna. The team reported to UNSMIL in March 2023 having received 333 files, out of which 49 had been sent to criminal courts. 39 persons against whom arrest warrants were issued were detained in pre-trial detention pending investigation, while approximately 250 other arrest warrants remained active.³⁹

In a press conference held in Tripoli on 3 January 2024, the Attorney General reported that 51 defendants are pending investigation, including foreigners, for their involvement in Tarhuna crimes, and that 400 local arrest warrants have been issued for suspected perpetrators in the Tarhuna mass graves cases. He also added that another eight suspects were arrested in Benghazi by competent security services in the last two weeks of December 2023, and that they were being placed under the custody of the Attorney General Office.⁴⁰ These 8 suspects had been missing ever since the killing of Mohamed al-Kani in Benghazi in 2021. Of the 9 red notices issued to accused persons in Egypt, six were reported to have led to arrests.⁴¹ However, the suspects were released after a few days. The Victims' Family Association believes that they have remained in Egypt, while others are said to be currently in Tunisia. Others are located in Eastern Libya, which is under the control of the LNA and where arrest warrants of the Tripoli-based Attorney General are harder to implement.

While families of missing persons, including victims of enforced disappearance, have welcomed arrests made, they have complained about a lack of transparency and communication on the progress made by investigating and prosecuting authorities. The Association of Families of Victims repeatedly sought for the UN and the international community to call for neighboring countries to cooperate with the arrests of alleged perpetrators. They also report lacking trust in the justice system, due to the absence of effective witness protection measures, and have called for the support of the United Nations and international community in urging authorities to execute arrest warrants, expedite prosecutions, and undertake comprehensive vetting to remove alleged perpetrators from security institutions.

b) Truth-seeking

³⁹ HRS meeting with the Special Prosecution Team, March 2023.

⁴⁰ <https://lana.gov.ly/post.php?lang=ar&id=298934>

⁴¹ Ibid

Pursuant to the Prime Minister’s Decision 411 of 2020 and its amendment, and Decision 901 of 2020 of the Ministry of Justice, JERC is mandated to: *“open the mass graves, exhume the remains of the victims and identify their location, determine the cause of death, identify the victims, and temporarily preserve the unidentified bodies until identified through ways and means established by the law”*. As part of its mandate, JERC carries out a secondary identification process to identify victims using ‘secondary sources’, such as belongings, scars and teeth.

Meanwhile, GASIMP, created by Law 1 of 2014, is mandated to exhume bodies, identify missing persons, and liaise with families and relevant institutions. It has no criminal investigation mandate; rather, this lies with JERC. As a result, GASIMP can only start an excavation after receiving authorization from the Attorney-General’s Office and works in close collaboration with the Office of the Prosecutor General and the Ministry of Health.⁴² GASIMP conducts DNA-related work in laboratory facilities for the purpose of identifying exhumed bodies.

To increase coordination between GASIMP and JERC, a Forensic Medicine Committee, better known as the Mass Graves Committee, was formed by the Prime Minister’s Decision 411 of 2020 and Ministry of Justice’s Decision 901 of 2020, operating under the supervision of the Office of the Attorney-General and composed of representatives from the Ministry of Health, GASIMP, and JERC. The Committee is responsible for exhuming human remains using forensic methods in accordance with recognized international protocols, determining the cause and time of death, and identifying bodies using primary and secondary methods in line with the Interpol Disaster Victim Identification (DVI) approach, a protocol to identify disaster victims. Its activities include scene examination and supervision of exhumation, human remains conservation, post-mortem examination, forensic examination and data analysis, identification and data reconciliation, identification of the cause of death, issuance of identification certificates, and preparation of integrated forensic reports.

Despite efforts to increase coordination and reduce competition between the various institutions, challenges continue to slow the process of excavation and forensics identification. Furthermore, although the GASIMP and JERC engage with families of victims, they are not involved in administering benefits to victims’ families, such as reparations.

Furthermore, neither GASIMP nor JERC are a comprehensive truth-seeking body mandated to investigate and uncover the truth about the nature, causes, the circumstances, patterns, and effects of violations and abuses committed in Tarhuna between 2015 and 2020. Victims interviewed by UNSMIL HRS repeatedly demanded such a truth-seeking body *“to uncover the truth about what happened, to connect events together.”*

⁴² See legal background in Annex 1.

They further expressed the need to identify responsibilities for violations and abuses at a wider institutional level in Tarhuna, including the responsibility of local authorities and tribal organizations. There is a feeling among victims that several institutions in Tarhuna contributed to fostering a *“feeling of impunity [which] encouraged al-Kaniyat to continue”*. One witness further expressed: *“We need to ask them about their role, how they could let this happen. All officials should be held accountable.”*

c) Reparations

Several decrees have been issued in Libya since 2011 to provide for certain reparations, usually in the form of financial compensation, to “martyrs” and victims of the Libyan revolutionary period. These have not benefited Tarhuna victims to date, as the categories of persons eligible for compensation rely on a narrow, political understanding of “beneficiaries” (see Annex 1). In 2021, however, during a visit to Tarhuna, the GNU’s Prime Minister, Abdelhamid Dabaiba, promised to declare Tarhuna’s mass graves victims as “national martyrs”, thereby making affected families eligible to receive financial compensation.

In 2022, Resolution no. 9 widened the scope of “victims” in previous decrees and laws, including Law 1/2014 (see Annex), to include “all martyrs and disabled civilians who were martyred or injured due to bombing, gunfire, mines or explosives during the past years,” thereby opening the door for victims of the Tarhuna mass graves to be included in this list. Nonetheless, victims and families reported to OHCHR/UNSMIL that they were yet to be compensated, since financial authorization to disburse these compensations was never issued, and the Ministry of Social Affairs, which was tasked with collecting names and bank account details of victims’ families in order to issue reparations, was yet to start this process. Furthermore, the executive regulations for Resolution 9/2022 were considered by interlocutors to be temporally limited in that they only apply to victims of violations committed after 4 April 2019, corresponding to the launch of the LNA’s offensive on Tripoli, thus failing to include victims of the al-Kaniyat between 2015 and 2019.

Victims and survivors interviewed by UNSMIL/OHCHR expressed concern that reparations alone as measures cannot replace or otherwise substitute for meaningful truth-seeking measures and criminal accountability. As one survivor whose son was killed by al-Kaniyat expressed, “there is no compensation for a mother who lost her child, what I want is justice”. While victims accepted financial compensation as an appropriate measure for forced displacement and damage to property, they conveyed to UNSMIL/OHCHR that reparations would not suffice for the death of their loved ones, since “no amount will ever compensate us and what we have been through”. Additionally, some voiced concerns that accepting reparations might be seen as a relinquishment of their distinct rights to seek justice and accountability. Victims, however, regarded symbolic

reparations, including in the form of memorialization, as appropriate and necessary, alongside other measures.

d) Guarantees of non-repetition

Against this background of impunity, former al-Kaniyat combatants have been allowed to reintegrate in armed elements throughout the country, both under the command of the LNA and GNU. While their presence among the Tarik Ben-Ziyad battalion and other LNA units have been widely reported in Benghazi, Sebha, and Sirt, in January 2024 a new armed element was formed in Tripoli under the Stability Support Authority (SSA), which includes former al-Kaniyat members against which the Public Prosecutor has issued arrest warrants. The SSA is under the command of the Ministry of Defense of the GNU. The presence of former al-Kaniyat members was also reported within the 444 Battalion. While additional investigations are required to know the exact role of these combatants in the Tarhuna mass graves crimes, this demonstrates the knock-on effects of the absence of accountability, as well as the importance of transitional justice and DDR for guaranteeing non-recurrence of violations in Libya.

2. Responses at the international level

a) *Accountability efforts*

On 26 February 2011, the Security Council, in its resolution 1970 (2011), unanimously referred the situation in Libya to the ICC.⁴³ The referral followed Muammar Gaddafi's repression of pro-democracy protesters, and established the jurisdiction of the ICC over crimes listed in the Rome Statute committed on the territory of Libya or by its nationals from 15 February 2011 onwards.⁴⁴

On 17 May 2021, the then ICC Prosecutor, Fatou Bensouda, stated that members of her office had travelled to Libya and visited mass graves in Tarhuna. Following his own visit to the mass graves in Tarhuna in November 2022, the ICC Prosecutor, Karim Khan, briefed the Security Council on the situation in Libya, stating that new applications for arrest warrants on Libya were being submitted to ICC judges.⁴⁵

In addition, the FFM, mandated from June 2020 to March 2023 by the United Nations Human Rights Council to investigate human rights abuses and violations in Libya since 2016, published

⁴³ Security Council Resolution 1970 (2011).

⁴⁴ <https://www.icc-cpi.int/libya>

⁴⁵ Statement of ICC Prosecutor to the UNSC on the Situation in Libya, pursuant to Resolution 1970 (2011), at: <https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-khan-kc-United-nations-security-council-situation-libya>

several reports with findings on violations and crimes committed in and around Tarhuna. In its July 2022 report to the Human Rights Council, the FFM found reasonable grounds to believe that members of the al-Kaniyat committed crimes against humanity, including imprisonment, enforced disappearances, murder, extermination, torture, and persecution. It considered that the crimes were committed as part of a widespread and systematic attack on al-Kaniyat's perceived opponents and their relatives.⁴⁶

In response to the reports of human rights violations and abuses in Tarhuna, a number of States and a regional organization have imposed sanctions on al-Kaniyat and members of the Al-Kani family.⁴⁷ In November 2021, one State imposed measures on Mohamed al-Kani and the al-Kaniyat militia for sanctions for *"the murder of civilians recently discovered in numerous mass graves in Tarhuna, as well as torture, forced disappearances, and displacement of civilians."*⁴⁸

Following the discovery of mass burial sites in Tarhuna, UNSMIL/OHCHR, in partnership with Libyan authorities, have consistently advocated for national and international actors to increase coordinated support to Libyan authorities to preserve evidence and identify victims. In collaboration with victims' associations, as well as victims and families, UNSMIL/OHCHR continued to gather information to clarify the circumstances of the death of the victims found in mass graves, as they were progressively identified.

To expand coordination among key stakeholders, a joint programme of the European Union Border Assistance Mission in Libya (EUBAM) and the United Nations Office on Drugs and Crime (UNODC) has been established to bring together JERC, other parts of the Ministry of Justice, Ministry of Interior, Ministry of Health, GASIMP and the Prosecutor's Office to work towards a harmonized and coordinated system of forensic evidence collection, preservation, and analysis. In support of these stakeholders, EUBAM has performed trainings on discovery and excavation, non-invasive and invasive techniques, forensics, identification by anthropology, and communication, and provided radar technology that can assist to exhume mass graves. In addition, EUBAM has convened an international technical coordination meeting on forensics, aimed at increasing coordination among international organizations focusing on missing persons in Libya.

⁴⁶ FFM, "Detailed findings on the situation in Tarhuna", 1 July 2022, paras. 172, 216.

⁴⁷ *Treasury Sanctions Militia and Its Leader in Connection with Serious Human Rights Abuse in Libya*, US Department of Treasury, November 25, 2020, at: <https://home.treasury.gov/news/press-releases/sm1192>; and *UK sanctions Libyan al-Kaniyat militia and its leaders: Minister's statement*, Foreign Commonwealth & Development Office, 13 May 2021, at: <https://www.gov.uk/government/news/uk-sanctions-libyan-al-kaniyat-militia-and-its-leaders-ministers-statement>. See also the Council of The European Union Decision (CFSP) 2021/481, 22 March 2021, at: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32021D0481&from=EN>

⁴⁸ See Executive Order 13818, <https://home.treasury.gov/news/press-releases/sm1192>

International organizations and INGOs are also engaged in advancing accountability and justice in Tarhuna by supporting local organizations in documenting enforced disappearances, including through capacity building on the use of documentation tools and advocacy to bring the cases before national and international judicial mechanisms. In March 2022, a Libyan Expert Group on Missing and Disappeared Persons was established to strengthen coordination among competent stakeholders, supported by the International Commission on Missing Persons (ICMP) and with representatives from the Ministry of Justice, the Ministry of Interior, GASIMP, and other Libyan forensic, judicial and law enforcement experts. The expert group focuses on strengthening the forensic capacities of relevant stakeholders and the legal and institutional framework in Libya. However, more coordinated capacity-building and technical assistance are required to effectively support the search and identification processes and the Libyan institutions' efforts to push for justice and accountability, including providing GASIMP and JERC additional material resources to excavate the remaining graves, train staff on trauma-informed support to families of victims, enhance tools for victims and witness protection, and share best practices on caseload management and preservation of evidence.

b) Support for survivors and witnesses

UNSMIL/OHCHR has also actively referred several survivors and witnesses of al-Kaniyat's violations and abuses to Tunis-based organizations for psycho-social support. There is, however, a dire need for increased support and specialized care and services for civilians impacted by the violence of al-Kaniyat, particularly for children and women who directly witnessed the killings and other violations. Victims have repeatedly demanded the provision of psychosocial services, as part of a broader reparations process.

3. Challenges to accountability

Despite local and international efforts to address gross violations and abuses of international human rights law and violations of international humanitarian law in Tarhuna, significant challenges to accountability remain ahead.

Thorough, independent investigations are needed to establish also the potential individual criminal responsibility of commanders of the GNA and the LNA over crimes, including possible crimes under international law, committed by al-Kaniyat members, including where committed pursuant to the orders of such commanders or as a result of the failure to exercise control properly over al-Kaniyat elements. Given the widespread nature and scale of the violations of international human rights law and international humanitarian law perpetrated by al-Kaniyat in Tarhuna while

integrated into the GNA as its 7th Brigade, and later into the LNA as its 9th Brigade, it is likely that commanders of the LNA and GNA knew or ought to have known about these violations.

Victims interviewed by UNSMIL/OHCHR claim that they had reported violations and abuses committed by al-Kaniyat following its integration into the GNA as its 7th Brigade to multiple authorities. In their view, the GNA was aware of the crimes being committed against the population of Tarhuna but had turned a blind eye to them, partly due to the perceived political allegiances of Tarhuna's inhabitants with the LNA and al-Kaniyat's role in securing the south of Tripoli. In response to accusations of having directly supported and commanded al-Kaniyat, the Presidential Guard on 28 August 2018 issued a statement denying any connection with the 7th Brigade, reiterating that it had been dissolved by Decision no. 79 of the GNA's General Commander on 2 February 2018, and that the 7th Brigade did not wear any military badge or bear any weapons of the GNA (see Annex 2). Despite this statement, al-Kaniyat maintained a central role in the operations of the Tarhuna Security Operations Room until the LNA entered Tarhuna in April 2019.

In relation to the period when al-Kaniyat was aligned with the LNA and integrated into its ranks at its 9th Brigade, tribal organizations in Tarhuna, including the Tarhuna Council of Elders and the Supreme Council of Libyan Tribes and Cities, were also instrumental in sustaining the alliance between al-Kaniyat and the LNA.

Based on the foregoing, it is reasonable to conclude that barriers to seeking accountability for crimes committed by the Al-Kaniyat have been particularly high, due to the al-Kaniyat's integration into the GNA and the LNA at various phases of the conflict from 2015 and 2020, and the interests of the GNA and LNA and their commanders in avoiding responsibility for crimes committed by al-Kaniyat. According to victims' groups, this has been a key reason for continued impunity and lack of accountability in Tarhuna, making residents hesitant to become involved in investigations and report crimes for fear of reprisals.

Lack of capacity of Libyan judicial system

Further reasons for the lack of accountability in Tarhuna lie with the Libyan judicial system itself, which since the 2011 revolutionary period has failed to prosecute related crimes, including possible crimes under international law. Ongoing insecurity in the country, lack of protection for judicial personnel, witnesses, and victims, and an inadequate legal framework for prosecuting crimes under international law, partially explain this situation. The Special Prosecution Team formed within the Office of the Attorney-General to investigate al-Kaniyat crimes has faced delays due to an excessive caseload, given that these responsibilities were added to their existing regular

tasks.⁴⁹ The Chief Prosecutor has reported that the number of cases brought forward was too great for his team's limited capacities, especially as the 333 cases so far relate to multiple and complex crimes which may amount to war crimes and crimes against humanity, with a total of more than 1,000 defendants.⁵⁰

Supporting the prosecution team on caseload management and prioritization is therefore essential. Considerations when adopting a prioritization strategy could, *inter alia*, include gravity of the violations, including seriousness of the offence and responsibility of the alleged perpetrator; pursuing emblematic cases addressing the most serious violations and/or representative of the overall victimisation; and policy and practical considerations, including evidence and witness availability, arrest potential, and potential legal impediments to prosecution.

Members of the judiciary in both civilian and military courts also stated that they lacked the national legal framework as well as the required knowledge to investigate crimes under international law, while the lack of coordination between prosecutors and forensic entities, GASIMP and JERC, has also prevented due progress. Capacity building and technical assistance has also been requested in the following areas: methods for building cases for crimes under international law, tools for interviewing vulnerable witnesses as part of survivor-centered practice, analysis of mass crime evidence to discover patterns and advance investigations, as well as invoking mutual support treaties, including on arrests and extraditions.

Prospects for delivering justice to the victims of Tarhuna therefore remain dim, compounded by the absence of a comprehensive rights-based and victim-centred transitional justice process in Libya. The case of Tarhuna, with its continuous cycles of violence and revenge, illustrates that impunity for gross violations and abuses and the absence of a transitional justice process, directly risks more instability and violence in Libya.⁵¹

⁴⁹ UNSMIL meeting with the Head of the Special Prosecution Team for Tarhuna, Tripoli, 21 March, 2023.

⁵⁰ UNSMIL meeting with the Head of the Special Prosecution Team for Tarhuna, Tripoli, 21 March, 2023.

⁵¹ The 1996 Abu Salim prison massacre, where some 1,200 detainees were killed, is a case in point. In December 2020, all Abu Salim defendants were acquitted based on a statute of limitations. In a positive legal development in May 2021, the judgement was overturned by the Libyan Supreme Court which stated crimes against humanity were not subject to a statute of limitations. The Supreme Court ordered a retrial. Then, in June 2022 the criminal court ruled that it had no jurisdiction and transferred the case to the military judiciary. Pursuant to Libyan law, the ruling will be reviewed by the Supreme Court. The time that has elapsed in the proceedings without substantive assessment of the underlying conduct indicates an inability or unwillingness of the Libyan criminal justice system to prosecute gross violations of human rights. In February 2023, Mohamed Mansour, one of the accused of the Abu Salim case, was acquitted on procedural grounds and released from prison.

Lack of protection for victims, witnesses and investigators

Another major challenge to accountability in Tarhuna is the lack of effective protection for victims, witnesses, and those investigating crimes. Against a context of generalized impunity, insecurity, and armed group mobilization in Libya, and in the absence of a comprehensive legal framework for witness and victim protection, victims and witnesses are frequently afraid to come forward to report and file complaints. Victims interviewed by UNSMIL/OHCHR also indicated that their lawyers often stopped working on their cases after a few months, either due to reprisals or heavy caseload. One victim stressed that they feared reporting cases at the police station, due to the continued presence of al-Kaniyat-affiliated personnel, presenting the risk that victims may themselves be arrested.

There is thus a need for a comprehensive victim and witness protection system, including safety measures to protect individuals at risk of reprisals. Such measures can include non-disclosure of witness identities, allowing testimony and parts of proceedings by electronic or other means, and use of pseudonyms. Specific protection measures and psychosocial support should also be adopted for vulnerable victims and witnesses, including children.

Insecurity is also a problematic issue for judicial personnel, GASIMP and JERC staff, especially when securing mass graves sites in Tarhuna for excavation purposes. At times, GASIMP has reported using DACOT for that purpose, which can affect the integrity of the investigations since some former al-Kaniyat members have reportedly been reintegrated in DACOT (formerly SDF), raising due-diligence issues, including for international organisations supporting GASIMP. The involvement of security forces in securing mass grave sites also impacts prospects for justice, as tensions between the 444th Brigade and DACOT could impede the excavation process.

Lack of coordination and cooperation between Libyan investigative bodies

Part of the challenge in the recovery and identification of bodies from mass graves in Tarhuna is the existence of two key national bodies, JERC and GASIMP, with sometimes overlapping mandates as described above. Difficulties in identifying human remains have slowed the course of justice, even as victims' groups reported a lack of coordination between these two bodies.

JERC lacks funds and resources, compared to GASIMP, which has led to some tensions between the two bodies and delayed the identification process, with JERC claiming that GASIMP encroaches on its own mandate. Lack of outreach has also prevented some families from registering their cases and providing DNA samples. This will continue to prove challenging as more mass graves need to be excavated around Tarhuna, including in the area referred to as the "triangle of death" and in the zones identified by the FFM in its July 2022 report on the situation in Tarhuna.⁵²

⁵² FFM, 'Detailed findings on the situation in Tarhuna', 1 July 2022, para. 143.

According to the FFM, approximately 271 people were executed by al-Kaniyat; however, the number of disappeared and killed may be closer to 500-600.⁵³

The creation of the Mass Graves Committee (Forensic Medicine Committee) is a positive step to increase coordination between GASIMP and JERC. However, more efforts are needed to ensure that all forensic material is collected and preserved in line with international standards and protocols and can be used as evidence in criminal proceedings, as well as to enable identification of all missing persons. Victims have often complained that the excavation process is too slow, while GASIMP has stated that it lacks human resources and psychosocial support for its own team members. One victim stated:

“We gave them information about the mass graves in the triangle of death, and they did not open them until now... It takes them too long to identify the bodies, even when we provide all the details”.

– Participant in a Tarhuna victims’ consultation in Janzour, conducted by UNSMIL.

Effective outreach is essential to the human identification process, as families need to trust the integrity of forensic bodies sufficiently to provide them with DNA samples. Such outreach can be facilitated by a victims-led forensic anthropology process, with measures that actively involve and empower participation of families of disappeared and missing persons in the exhumation process, keep families informed, and support dignified inhumation and burial practices.

Furthermore, both GASIMP and JERC are strictly forensic bodies and, while both institutions have a pivotal role to play, they cannot replace the work of truth-seeking mechanisms, mandated to fully uncover the truth of what happened in Tarhuna, identify the root causes and those bearing responsibility, hear victims’ views and demands, and recommend concrete measures to prevent these violations and abuses from recurring.

Challenges enforcing intra-Libyan and international arrest warrants

As noted, arrests warrants issued by the Tripoli-based Attorney-General’s Office for alleged al-Kaniyat perpetrators now residing in the East and South of Libya cannot be implemented due to the control of the LNA and other armed groups over these territories. Furthermore, neighbouring countries are yet to cooperate with the arrests of alleged perpetrators, despite the slow progress reported by the Attorney General in his January 2024 Press Conference. Victims’ families are actively demanding international cooperation, so that suspected perpetrators against whom arrest warrants have been issued can be either face trial in Libya or be extradited to third countries

⁵³ FFM, ‘Detailed findings on the situation in Tarhuna’, 1 July 2022, para. 54.

with jurisdiction. Close cooperation between states is essential to ensure the successful extradition and prosecution abroad of alleged perpetrators, where appropriate.



Al-Rabt Project area in Tarhuna, used as a garbage site close to one of the city's uncovered mass grave, © UNSMIL

VIII. Conclusions

Over a period of more than eight years, members of al-Kaniyat perpetrated gross human rights violations and abuses as described in this report, and violations of international humanitarian law, when applicable, including while it exercised effective control over Tarhuna from 2015 to 2020 and during its formal integration into the GNA as its 7th Brigade and later into the LNA as its 9th Brigade.

Based on verified information and consistent with the findings of the FFM, UNSMIL/OHCHR have reasonable grounds to believe that the acts perpetrated by al-Kaniyat during this period amounted to gross violations and abuses of international human rights law, and serious violations of international humanitarian law, including unlawful killings, arbitrary arrests and detention, enforced disappearances and abductions, torture and ill-treatment destruction of property, and forced displacement. There are reasonable grounds to believe that al-Kaniyat committed these violations and abuses, some of which may also amount to crimes under international law, as part of a campaign aimed at persecuting and silencing opposition, perceived opposition and critics, and maintaining effective control over Tarhuna and surrounding areas. This includes while al-Kaniyat was formally integrated into the GNA playing a key role controlling the southern gateway to Tripoli and, later, into the LNA while it employed Tarhuna as a base to launch its military operation against the GNA in Tripoli.

Given the widespread and systematic nature of the violations committed by al-Kaniyat while integrated into these forces, UNSMIL/OHCHR considers that the GNA and LNA likely knew or ought

to have known about the perpetration of such acts. As a result, further investigations are needed to ascertain whether command responsibility can be established for possible crimes under international law allegedly committed by al-Kaniyat. The investigation and prosecutions of those responsible would contribute in significant measure to ending the culture of impunity in Libya for gross violations of human rights.

There are also reasonable grounds to believe that, following the retreat of the LNA and al-Kaniyat from Tarhuna in June 2020, the GNA “Volcano of Anger” forces, including the Tarhuna Protection Force and other aligned armed elements, committed serious violations of international humanitarian law and gross violations of international human rights law against LNA and al-Kaniyat fighters and the civilian population of Tarhuna, including multiple acts of enforced disappearance, torture and ill-treatment, unlawful killing, and looting and destruction of properties.

Despite the human rights violations and abuses and violations of international humanitarian law committed in Tarhuna being well-documented, with mass graves revealing the scale of the violence, the perpetrators remain unpunished and justice for the countless victims is still elusive. National and international mechanisms should redouble pursuit of truth, justice and accountability, effective and prompt reparations for victims, protection of victims and witnesses, and a broad set of accompanying measures that respond to the root causes of the violence and thereby contribute to the prevention of further violations.

Leaving root causes and drivers of conflict unaddressed, including Tarhuna’s history of marginalization, partly due to its perceived historic loyalty to the former Gaddafi regime and tensions among the city’s more than 60 tribes and clans, will serve to fuel toxic cycles of violence and revenge between communities. In post-revolutionary Libya, Tarhuna’s legacy of allegiance to the former regime, in addition to its tribal rivalries and power struggles, continue to act as drivers of conflict, violence and instability, triggering competition for control and resources. The presence of known perpetrators of human rights violations and abuses in local security and governance institutions further undermines the ability of these institutions to govern by calling their integrity and legitimacy into question, deepening divisions among actors and risking parallel structures.

All reconciliation efforts, such as those currently led by the Libyan Presidency Council and other entities, should place addressing victims’ grievances at the centre. No reconciliation process, however conceived, can be at the expense of justice and accountability for victims. Dealing with legacies of past human rights violations and abuses to end impunity and deliver justice to victims is also critical to a comprehensive rights-based and victim-centered national reconciliation process based on the principles of transitional justice. Reconciliation requires knowledge of facts,

acknowledgement of experiences, recognition of responsibilities, reparation of harm, and guarantees of non-recurrence.

The violations and abuses documented in this report demonstrate the risks and responsibilities associated with continued impunity and lending legitimacy and support to armed elements who are known perpetrators of violations and abuses. The situation in Libya, where in many instances armed elements have been legitimized and operate under a veneer of legality, yet perpetrate gross human rights violations and abuses and violations of international humanitarian law with impunity, points to the critical need for security sector reform that builds institutions where all personnel are accountable for their actions, operate within the parameters of the law, and protect human rights. Providing justice to victims of such violations and abuses, and possible crimes under international law, committed in Tarhuna is a moral and legal duty to ensure that they do not happen again, and to facilitate transition to a more peaceful, stable, and democratic Libya.

IX. Recommendations

The Libyan authorities should take concrete measures to give practical effect to their international and domestic legal obligations and take inclusive, victim-centered, and rights-based efforts to address violations and abuses perpetrated in Tarhuna, as part of national transitional justice and reconciliation processes. Due to the scale of violations committed in Tarhuna, sustainable and meaningful reconciliation will not be possible in the absence of justice and truth, and without the provision of reparations as well as guarantees of non-repetition. Victims emphasized that any discussion on reconciliation at the national or local level should involve the families of victims and be supported by local mechanisms.

Recommendations to the Libyan authorities

Accountability

- Ensure that all alleged violations of international human rights and humanitarian law are promptly, effectively, impartially, transparently and thoroughly investigated so that alleged perpetrators, including any responsible members of al-Kaniyat, the LNA, the GNA and aligned armed elements, are held accountable, in accordance with international standards of due process and fair trial.
- Enhance the capacity of the Special Prosecution Team within the Attorney General's Office and the Military Prosecutor, to address effectively crimes committed in Tarhuna, including through caseload reduction of the team's regular tasks, and capacity-building

and technical assistance on caseload management and prioritization and mass grave investigations.

- Establish and implement a comprehensive victim and witness protection system, including through enacting a law for the protection of victims, witnesses, judicial authorities, and investigators, implementing safety measures to protect individuals at risk of reprisals, and creating a communication mechanism to regularly update victims, families and their legal representatives on progress related to investigations and prosecutions.
- Enhance cooperation with the ICC in support of its investigation into the situation in Libya, including by facilitating visits, sharing information, and implementing relevant arrest warrants.
- Ensure that any national reconciliation process or transitional justice law does not allow amnesties for gross violations of international human rights law and serious violations of international humanitarian law, war crimes and crimes against humanity perpetrated in Libya, recognize the centrality of victims, and consistently include them in all phases of its development and implementation.

Truth

- Facilitate truth-seeking initiatives for crimes committed in Tarhuna, as part of comprehensive transitional justice and national reconciliation processes.
- Ensure effective coordination and cooperation among the technical bodies charged with excavating and investigating mass graves in Tarhuna as well as other authorities whose cooperation is needed for excavations and investigations to be effective, exhaustive and prompt, including through reinforcing the Mass Graves Committee and clarifying the duties and responsibilities of JERC and GASIMP.
- Support the continued search for and excavation of mass graves, and exhumation of bodies and their identification, by creating simplified processes for excavation, investigation, recovery, analysis and identification, and supporting a victim-led forensics process, with access to information on search and identification processes for community and victims' groups.
- Provide additional resources and technical assistance to GASIMP's family outreach unit in the areas of psychosocial support, outreach and trust-building, in order to encourage more case registrations and DNA sample analysis.
- Create a national mechanism to clarify cases of, or tantamount to, enforced disappearances and maintain a comprehensive database of missing and disappeared persons, and foster dialogue, coordination and cooperation between the mechanism, the United Nations Working Group on Enforced or Involuntary Disappearances (WGEID), families, and their representatives.

Reparations

- Ensure prompt payment of reparations through executive regulations issued pursuant to Resolution no. 9 of 2022, implementing the former GNU's pledge to declare victims of al-Kaniyat violations national martyrs, and widen the scope of those regulations to apply to violations in Tarhuna throughout al-Kaniyat's effective control from 2015 to 2020 as well as after the entry of GNA-aligned forces in June 2020.
- Develop national legislation to harmonize the various decrees and decisions on reparations and create a comprehensive national programme for reparations, including compensation and other material and symbolic remedies for victims and their families, in consultation with victims' groups. Reparations should be gender-responsive, accessible to all, recognize harm suffered by victims, and should not substitute for truth and justice processes.
- Establish "one-stop shop" centres in Tarhuna and other areas affected by gross human rights violations and abuses providing comprehensive in-house services to victims and their families, including legal aid, administrative, mental and psycho-social support, physical rehabilitation, and support or referral services to ensure access to, *inter alia*, reparations, including compensations, documentation, and housing.
- Respond to victims' demands for memorialization projects, including through creating a day of remembrance, the naming of public places, and turning former places of detention into museums or places of memory.

Guarantees of non-recurrence

- Conduct a full and comprehensive vetting process of all state officials, notably members of security forces, as part of a comprehensive nationwide security sector and governance reform, to ensure that individuals have not been involved in the commission of any violation or abuse of international human rights law or violation of international humanitarian law or other serious criminal activities.
- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).
- Amend the penal code and relevant domestic criminal legislation, including to adequately criminalize enforced disappearance and torture,⁵⁴ to criminalize conduct that amounts to crimes under international law, and to ensure victim and witness protection, in line with international standards.

⁵⁴ See Annex 1 for areas in which Law No. 10 of 2013 falls short of international standards.

- Provide the Municipal Council of Tarhuna with the necessary resources to enable the delivery of comprehensive public services, including a fund for reconstruction, local agricultural and industrial projects, support for small businesses and youth.

Recommendations to States and the international community

- Support Libyan authorities in the implementation of the above recommendations, including through the provision of technical assistance and capacity-building to all relevant bodies.
- Support criminal accountability and the fight against impunity for torture and possible crimes under international law through national proceedings based on accepted principles of extraterritorial and universal jurisdiction as relevant.⁵⁵
- Cooperate in criminal matters relating to the prosecution of alleged perpetrators of possible crimes under international law committed in Tarhuna, including via extradition of accused for prosecution in third States, and enhancing cooperation with the ICC in support of its investigation into the situation in Libya, including with respect to supporting due execution of arrest warrants.
- In response to serious human rights violations, there may be an appropriate place for considering targeted actions against individuals who have been credibly identified as perpetrators, as part of a broader set of accountability measures. Any imposition of sanctions should adhere strictly to international law, ensuring fair process and access to effective review and remedies. The implementation of any coercive measures should undergo regular evaluations to assess their actual impact on human rights. These measures should have defined time limits and be accompanied by appropriate human rights safeguards, such as impact assessments and independent monitoring.

⁵⁵ See Articles 4 and 5 of the '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', 15 December 2005, UNGA resolution 60/147.

Annex 1 - Legal Background

International humanitarian law and international human rights law

Several non-international armed conflicts have taken place in the territory of Libya, since at least early March 2011, between governmental forces and different organized armed groups, as well as among various such armed groups.⁵⁶ Parties to non-international armed conflicts in Libya are bound by Common Article 3 to the Geneva Conventions, Additional Protocol II to the Geneva Conventions (when applicable), and relevant customary international humanitarian law.⁵⁷ International humanitarian law provides that persons taking no active part in the hostilities and members of armed forces who have laid down their arms or who have been placed hors de combat by sickness, wounds, detention, or any other cause, must in all circumstances be treated humanely.⁵⁸ It prohibits violence to life and person, including murder, torture and cruel, inhuman or degrading treatment.⁵⁹ Libya is party to eight core human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). The protection offered by international human rights law does not cease in case of armed conflict,⁶⁰ but continues to apply concurrently in situations to which the rules of international humanitarian law are also applicable.⁶¹

Both international human rights law and international humanitarian law prohibit arbitrary detention⁶² and impose clear obligations with regard to the treatment and protection of anyone deprived of their liberty. All detainees must be treated humanely, and be protected from torture, cruel, inhuman or degrading treatment, rape or other forms of sexual and gender-based violence, killing or any other form of violence. While States remain primarily responsible for respecting, protecting and fulfilling human rights, non-state actors that exercise control over a territory and

⁵⁶ See, for example, *The Prosecutor v. Mahmoud Mustafa Busayf al-Werfalli*, Public Warrant of Arrest, paragraph 25, ICC Pre-Trial Chamber 1, No.: ICC-01/11-01/17, 15 August 2017.

⁵⁷ Protocol Additional to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), adopted on 8 June 1977 by the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law applicable in Armed Conflicts Entry into force: 7 December 1978, in accordance with Article 23.

⁵⁸ Common Article 3 to the Geneva Conventions, Article 4(1) of Additional Protocol II, Article 4(1), and ICRC Study on Customary International Humanitarian Law, Rule 87.

⁵⁹ Common Article 3 to the Geneva Conventions, Article 4(2) of Additional Protocol II, and ICRC Study on Customary International Humanitarian Law, Rules 89 and 90.

⁶⁰ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, I.C.J. Reports 2004, p. 178, paras. 105-106, “[t]he protection offered by human rights conventions does not cease in case of armed conflict.” See also *ICJ nuclear weapons*, para. 25.

⁶¹ Human Rights Committee, General Comment 31.

⁶² Article 9(1) of the International Covenant on Civil and Political Rights, Article 37 of the Convention on the Rights of the Child, ICRC Study on Customary International Humanitarian Law, Rule 99.

government-like functions must respect human rights standards when their conduct affects the human rights of individuals under their control.⁶³

Libya is under the obligation to undertake prompt and impartial investigations of allegations of violations of international humanitarian law and international human rights law by State agents and entities authorised to act on its behalf, as well as by non-State actors, and to provide victims of violations with an effective remedy, including reparation.⁶⁴ A failure effectively to investigate and, where appropriate, prosecute such violations is in itself a breach of the norms of human rights treaties.⁶⁵ Impunity for such violations can be an important risk factor for their future recurrence.

The prohibition on enforced disappearances

An enforced disappearance is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.⁶⁶ Libya is not a State party to the International Convention for the Protection of all Persons from Enforced Disappearance (ICPPED). Nevertheless, enforced disappearance results in a violation of several substantive and procedural provisions of the ICCPR, to which Libya is a party,⁶⁷ as well as conduct in breach of international humanitarian law.⁶⁸ Enforced disappearance can constitute a particularly aggravated form of arbitrary detention.⁶⁹

Under international humanitarian law, each party to the conflict must take all feasible measures to account for persons reported missing as a result of armed conflict and must provide their family members with any information it has on their fate. Parties to an armed conflict are obliged to take

⁶³ A/HRC/8/17, para 9; A/HRC/12/37, para. 7, A/HRC/49/72, para 11; Office of the High Commissioner for Human Rights, *International Legal Protection of Human Rights in Armed Conflicts* (UN 2011), pp. 23-25.

⁶⁴ Human Rights Committee, general comments No. 31 (CCPR/C/21/Rev.1/Add.13) and 36 (CCPR/C/GC/36); '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', 15 December 2005, UNGA resolution 60/147.

⁶⁵ Human Rights Committee, General Comment No. 31 (CCPR/C/21/Rev.1/Add.13), paras. 15, 18.

⁶⁶ International Convention for the Protection of all Persons from Enforced disappearance, article 2; and Declaration on the Protection of All Persons from Enforced Disappearance.

⁶⁷ UN Human Rights Committee, General Comment 36 (Article 6 of the International Covenant on Civil and Political Rights on the Right to Life), paras. 57-58.

⁶⁸ Rule 98, *Customary International Humanitarian Law* (3 vols.), by Jean-Marie Henckaerts and Louise Doswald-Beck for the International Committee of the Red Cross, (Cambridge, Cambridge University Press, 2005).

⁶⁹ Human Rights Committee, General Comment No. 35, paras. 17 and 55.

steps to prevent disappearances and account for the missing, including through registration of everyone deprived of their liberty.⁷⁰

States must take adequate measures to prevent the enforced disappearance of individuals and conduct an effective and timely inquiry to establish the fate and whereabouts of persons who may have been forcibly disappeared. States should also ensure that the enforced disappearance of persons is punished with appropriate criminal sanctions and introduce prompt and effective procedures for cases of disappearance to be investigated thoroughly by independent and impartial bodies that operate, as a rule, within the ordinary criminal justice system. They should bring to justice the perpetrators of such acts and omissions and ensure that victims of enforced disappearance and their relatives must be informed about the outcome of the investigation and be provided with full reparation.⁷¹ Furthermore, the State has an obligation to provide full access to archives for the purpose of clarifying the fate of the victim, as well as a duty to provide full protection to witnesses and other participants in any investigation. There is an absolute obligation to take all the necessary steps to find the person.⁷² Under no circumstances should families of victims of enforced disappearance be obliged to declare them dead in order to be eligible for reparations. States parties should also provide families of victims of disappeared persons with the means to regularize their legal status in relation to the disappeared persons after an appropriate period of time.⁷³ Similarly, a legal declaration of death of a person who is a victim of enforced disappearance does not absolve the State of the responsibility to clarify the whereabouts of the person, nor of responsibility for a violation to the right of life.

Victims' rights to truth, justice, reparations and guarantees of non-recurrence

International human rights instruments recognize that victims of human rights violations have the right to effective remedies and redress. Among others, article 14 of CAT, to which Libya is a party, provides for the right to redress and to fair and adequate compensation, including for the victim's dependents in the event of the victim's death due to an act of torture. Article 2 of the ICCPR, to which Libya is also a party, further provides that States must adopt measures to ensure that

⁷⁰ Rules 98, 117 and 123, Customary International Humanitarian Law (3 vols.), by Jean-Marie Henckaerts and Louise Doswald-Beck for the International Committee of the Red Cross, (Cambridge, Cambridge University Press, 2005)

⁷¹ Rules 98, 117 and 123, Customary International Humanitarian Law (3 vols.), by Jean-Marie Henckaerts and Louise Doswald-Beck for the International Committee of the Red Cross, (Cambridge, Cambridge University Press, 2005). Human Rights Committee, General Comment 36, paragraph 58.

⁷² Working Group on Enforced Disappearances, General Comment on the right to truth in relation to enforced disappearances.

⁷³ Human Rights Committee, General Comment 36, paragraph 58.

persons whose rights or freedoms are violated have an effective remedy, including the right to truth, justice and reparations.⁷⁴

The right to truth

The right to know the truth about gross violations of human rights and serious violations of international humanitarian law flows from the State's duty to protect human rights, investigate and prosecute those responsible for gross violations of international human rights law and serious violations of international humanitarian law and grant effective remedies, including reparation for the victims. The right to know the truth is recognized under various provisions of international law.⁷⁵ This entails the right to know about the progress and results of an investigation, the fate of a disappeared person, the circumstances of the act of disappearance, and the identity of perpetrators.⁷⁶ The principles for the protection and promotion of human rights through action to combat impunity state that "the full and effective exercise of the right to the truth provides a vital safeguard against the recurrence of violations".⁷⁷

Families of forcibly disappeared persons are also regarded as victims under the ICPPED, which provides that 'victim' means the disappeared person and any individual who has suffered harm as the direct result of an enforced disappearance.⁷⁸ States have an obligation to provide full access to information about the whereabouts of the disappeared person and the investigation procedure to any interested party, primarily to family and relatives.⁷⁹

The failure to provide information on the fate and whereabouts of disappeared persons and an attitude of official indifference of authorities in the face of the relatives' suffering may amount to a form of ill-treatment, in breach of article 7 of the ICCPR, read alone and in conjunction, with article 2(3).⁸⁰ The impossibility to obtain the remains of a loved one and to perform the last rituals and mourn and obstructions to seek and receive information amount to a violation of the right to

⁷⁴ 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', 15 December 2005, UNGA resolution 60/147.

⁷⁵ International Convention for the Protection of all Persons from Enforced Disappearances, art. 24(2); Principles for the protection and promotion of human rights through action to combat impunity (E/CN.4/2005/102/Add.1). Working Group on Enforced Disappearances, General Comment on the Right to the Truth in Relation to Enforced Disappearances. Report of the OHCHR, Study on the right to the truth", E/CN.4/2006/91, 8 February 2006.

⁷⁶ Report of the OHCHR, Study on the right to the truth", E/CN.4/2006/91, 8 February 2006.

⁷⁷ The principles for the protection and promotion of human rights through action to combat impunity, principle 2, (E/CN.4/2005/102/Add.1).

⁷⁸ International Convention for the Protection of all Persons from Enforced Disappearances, art. 24(2)

⁷⁹ Working Group on Enforced Disappearances, General Comment on the Right to the Truth in Relation to Enforced Disappearances, A/HRC/16/48.

⁸⁰ See Human Rights Committee, Communication No. 107/1981, *María del Carmen Almeida de Quinteros et al. v. Uruguay*, 21 July 1983.

privacy and family life and the right to freedom to seek information enshrined in article 17 and 19 of the ICCPR, respectively.⁸¹

The right to reparation

In line with article 2(3) of the ICCPR, States should provide reparations to individuals whose rights under the ICCPR have been violated. The 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 state that victims of gross violations of human rights and serious violations of international humanitarian law have the right to adequate, effective and prompt reparations reflecting the gravity of the harm suffered. Reparations may include measures that provide material and symbolic benefits to victims, their families, and affected communities. Reparations measures identified by international norms and standards include the following forms: restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition.⁸² The ICPPED provides a comprehensive definition of reparations in the disappearances context in articles 24(4) and 5.⁸³

The right to justice

Several international human rights instruments, including the ICCPR, obligate states to take measures to investigate, prosecute and punish those responsible for enforced disappearance, arbitrary detention and other gross violations of human rights and serious violations of international humanitarian law. States' obligation to investigate and prosecute is also contained in Principle 9 of the updated set of principles for the protection and promotion of human rights through action to combat impunity. The 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, also state that the right to justice entails, *inter alia*, providing proper assistance to victims seeking access to justice.⁸⁴

International criminal law

On 26 February 2011, the United Nations Security Council referred the situation in Libya since 15 February 2011 to the International Criminal Court through resolution 1970 (2011), pursuant to which individuals may be held criminally responsible for crimes under the Rome Statute.

⁸¹ See Working Group on Enforced or Involuntary Disappearances, AL IND 6/2022, 29 July 2022.

⁸² 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" principle 18,

⁸³ Article 24(4), 5 state: "Each State Party shall ensure in its legal system that the victims of enforced disappearance have the right to obtain reparation and prompt, fair and adequate compensation." The right to obtain reparation ... covers material and moral damages and, where appropriate, other forms of reparation, such as: (a) restitution, (b) *rehabilitation*, (c) satisfaction, including restoration of dignity and reputation; (d) guarantees of non-repetition.

⁸⁴ 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" principle 12,

Violence to life and person, in particular murder, mutilation, cruel treatment and torture, against persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention or any other cause,⁸⁵ among other conduct, constitute war crimes when committed in the context of a non-international armed conflict.⁸⁶

Under the Rome Statute of the International Criminal Court, acts such as murder, torture, and enforced disappearance of persons, among others, constitute crimes against humanity, when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.⁸⁷ According to the Rome Statute, an enforced disappearance of persons means ‘the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organisation, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.’⁸⁸

A person who commits, orders, solicits or induces the commission of one of the above-mentioned crimes attracts criminal responsibility.⁸⁹ This includes civilian superiors and military commanders who order subordinates’ commission of crimes. Furthermore, superiors or military commanders who fail to take all necessary and reasonable measures within their power to prevent or repress their commission by subordinates under their effective command/authority and control or fail to submit the matter to the competent authorities for investigation and prosecution may be criminally liable.⁹⁰

National law

Libyan law contains certain safeguards against arbitrary detention, enforced disappearances and torture.⁹¹ The Code of Criminal Procedures requires an arrest warrant to be issued by the competent judicial authority before a person can be detained, unless the person is caught in

⁸⁵ See e.g., International Criminal Tribunal for the former Yugoslavia, *Prosecutor v. Duško Tadić* (IT-94-1), Appeals Chamber, Interlocutory Appeal, paras. 96-134.

⁸⁶ Article 8(2)(c)(i) of the Rome Statute; see also Rule 156, Customary International Humanitarian Law (3 vols.), by Jean-Marie Henckaerts and Louise Doswald-Beck for the International Committee of the Red Cross, (Cambridge, Cambridge University Press, 2005) (ICRC Study).

⁸⁷ Article 7 (i), Rome Statute of the International Criminal Court. See also International Criminal Tribunal for the former Yugoslavia, *Prosecutor v. Kupreškić et al.* (IT-95-16) Judgment, 2000, paragraph 2437.

⁸⁸ Article 7(2)(i), Rome Statute of the International Criminal Court.

⁸⁹ For these and other modes of individual criminal responsibility in accordance with the Rome Statute, see Article 25.

⁹⁰ See also Article 28, Rome Statute of the International Criminal Court.

⁹¹ For additional information on relevant Libyan laws, see UNSMIL/OHCR, Report on the trial of 37 members of the Qhadafi regime, 21 February 2017 available at: http://www.ohchr.org/Documents/Countries/LY/Trial37FormerMembersQaddafhiRegime_EN.pdf

flagrant délit.⁹² It further stipulates that detainees shall only be held in ‘prisons designed for that purpose.’⁹³ Furthermore, only law enforcement officials with powers of police officers as mandated by the law can carry out arrests, investigate certain types of criminal offences and gather evidence.⁹⁴

While Libyan law criminalizes torture and enforced disappearances, the definitions fall short of those found in CAT and ICPPED and the Declaration on the Protection of All Persons from Enforced Disappearance.⁹⁵ Law No. 10 of 2013 criminalizes ordering, committing or acquiescing to torture, defined as “any act that inflicts physical or mental suffering for the purpose of extracting a confession for any act that a detainee has or has not committed, or because of discrimination, regardless of its type, or revenge, regardless of its motive.” It does not criminalize torture for other purposes prescribed by article 1 of CAT, including obtaining information, punishing a person for an act that has been or is suspected to have been committed, or intimidating or coercing both or either the victim and/or a third person. Furthermore, the definition of “forced disappearance” in article 1 of Law No. 10 also does not include two elements in the international definition of enforced disappearance under article 2 of the ICPPED, namely the involvement of governmental officials, directly or by acquiescence, and the refusal to disclose the fate or whereabouts of the person concerned or to acknowledge the deprivation of liberty. Law No. 10 does not criminalize either the war crime of torture or the crimes against humanity of torture and enforced disappearance.

In line with Interpol’s Disaster Victims Identification guide, JERC’s regulations state that a “mass grave” must consist of a minimum of three bodies found in the same spot.

Main decrees relating to enforced disappearances and reparations for families of missing persons

In 2012, the Libyan Transitional Government issued Decision No. 16 of 2012 dissolving the previous Committee for the Search of Missing Persons, and creating the Ministry of Martyrs and Missing Persons. The Council of Ministers on 17 January 2012 issued Decision No. 89 of 2013 on the Establishment of the General Commission for the Search and Identification of Missing Persons, placing it under the Council of Ministers. Its main competences were to search for and identify missing persons in Libya since 1969, to establish their fate, and create a database of all names. This decision was never implemented.

In 2014, based on a proposal by the Libyan Interim Government, Law No. 1 of 2014 on Providing

⁹² Articles 27 and 30 of the Code of Criminal Procedures.

⁹³ Article 31 of the Code of Criminal Procedures.

⁹⁴ 49 Article 13 of the Code of Criminal Procedures.

⁹⁵ Article 435 of the Libyan Penal Code and Law No. 10 of 2013 Criminalizing Torture, Forced Disappearance and Discrimination.

Care for Families of Martyrs and Missing Persons during 17 February Revolution was enacted. The law establishes a special commission for missing persons named “General Commission for the Search and Identification of Missing Persons”, to be placed under the Ministry of Martyrs and Missing Persons. It defines missing persons as *“anyone absent whom we do not know if he is alive or deceased during the war of liberation.”* Families of the martyr or missing person include the first-degree relatives of the “martyr”, who are entitled to material benefits. Under the provisions of this law, a public authority called “Public Authority for the Search and Identification of Missing Persons” shall be established, reporting to the Council of Ministers.

The Libyan Political Agreement of December 2015 also refers to the need, for the former Government of National Accord (GNA), to form an independent body for missing persons within 60 days of commencing its tasks. In the confidence building measures, article 26 states that: *“all parties to this Agreement shall commit to collecting complete information on abductees and missing persons and submit it to the Government of National Accord.”* The agreement further adds that: *“All parties to the conflict shall, within thirty (30) days of the Government commencing the performance of its tasks, release persons held in their custody without legal basis or hand them over to the judicial authorities, which will determine within the following sixty (60) days whether they should be brought before the judiciary or released on the basis of Libyan legislations in force and international standards.”* These measures are yet to be implemented.

In 2018, the former GNA issued Decree 525 on the Establishment of the General Authority for the Search and Identification of Missing Persons (GASIMP), to implement the provisions of Article 4 of Law No. 1 of 2014 on the Welfare of the Families of Martyrs and Missing Persons in the wake of the 17th February Revolution. It created GASIMP providing it with corporate personality and financial independence, while affiliating it to the Council of Ministers. GASIMP is mandated to undertake the process of searching for and identifying missing persons, regardless of the causes of their disappearance. It may cooperate with all authorities, as required by legislation in force. This is a significant development compared to Law No. 1 of 2014, which narrowly defined martyrs as *“any person killed in the course of fighting against the former regime”* and defined *“missing persons”* as *“any person who went missing during the War of Liberation and whose death or survival is not known for certain”*. Law No. 1 of 2014 also provided for reparations for families of martyrs and missing persons, including public commemorations, covering costs of *Hajj*, free medical care, study opportunities abroad, and lifelong salary of the highest military rank for all first-degree relatives. However, the multiplicity of decrees and bodies set out above has created a state of institutional confusion that has prevented progress on the search and identification of missing persons in Libya, as well as on the provision of reparations.

While Law No. 1 of 2014 remains in effect, several other laws and decisions concerned with reparations have been issued after it for specific groups and beneficiaries. In 2015, Law No. 7

issued specific provisions for victims and wounded of the 2014 civil war, while Resolution no. 9 was issued in 2022 to apply the provisions and benefits set out in Law No. 1 of 2014 to “all martyrs and disabled civilians who were martyred or injured due to bombing, gunfire, mines or explosives during the past years”, thereby including victims of the 2019-2020 LNA offensive in Tripoli. Executive regulations were also issued under this resolution in 2022, following a visit of the Prime Minister Abdelhamid Dabaiba to Tarhuna, to explicitly include Tarhuna victims from the launch of the LNA offensive on 4 April 2019 in the list of “martyrs”. Resolution No. 9 states that it does not annul previous laws and decisions on reparations, except those that contradict its provisions.⁹⁶

Other previous relevant laws and decrees still in effect include:

- a) Council of Ministers’ Decision No. 28 of 2012: Concerning the Regulation of the Administrative body of the Ministry for the Affairs of Families of Martyrs and Missing Persons

This decision allows the Ministry to implement existing laws and decisions related to martyrs and missing persons, including Decision No. 62 of 2011 of the National Transitional Council’s Executive Office to re-organize the Fund of the Families of the Martyrs, Wounded, and Missing.⁹⁷ The Department of Martyrs’ Affairs created by the latter decision has the power to collect data on martyrs and their families; provide moral support, education, health care and training; and establish mechanisms for distributing reparations. It is also mandated to collect data on the missing, including through DNA analysis and the search and opening of mass graves.

- b) Resolution of the Cabinet of Ministers No. (85) of 2012 regarding the Care and Honouring the Families of the Missing

This decision defines the amounts payable to families of the martyrs and the missing, as well as the forms of moral and symbolic support to be provided. Article 1 provides that a monthly gratuity of 1000 Libyan Dinars (LYD) is to be distributed to each family of a martyr, plus an additional 100 LYD to each dependent of the family. In the case of a missing person, a monthly payment of 500 LYD is to be distributed to each family.

Article 2 sets out the other forms of moral support to be provided to martyrs’ families, namely the creation of a Martyr’s Day on 17 February each year to commemorate them, or the erection of a

⁹⁶ Article 1, Resolution No. 9 of 2022.

⁹⁷ Decision No. 28 of 2012 also allows the implementation of Law No. 19 of 1989 pertaining to the declaration of benefits for those killed, missing and imprisoned as a result of military operations and its amendments; Law No. 12 of 1991 deciding the rights and benefits of the military and civilians who lost their lives on duty; Decision No. 128 of 2005 of the General People’s Committee to set the foundations, rules, and provisions for deciding the rights and benefits of those who lost their lives on duty.

monument in their memory. No such provision is made for missing persons. Under Articles 3 and 4, the Ministry for the Affairs of Martyrs and Missing is responsible for identifying the relevant beneficiaries and arranging the payments.

- c) Resolution of the Minister for the Affairs of Families of Martyrs and Missing Persons No. (32) of 2012 regarding payment of financial gratuities to families of the missing

Article 1 provides that each family of the missing for the year 2011 shall receive a payment of 2,000 LYD. However, article 2 states that this amount is to be deducted from the other amounts provided under Cabinet Resolution 85 of 2012 described above.

Annex 2 – Relevant decrees and documents

ديوان رئاسة الوزراء



الحكومة الليبية المؤقتة

قرار مجلس الوزراء رقم (857) لسنة 2013 ميلادي بإنشاء غرفة للعمليات الأمنية المشتركة بمدينة ترهونة

مجلس الوزراء ،

- بعد الإطلاع على الإعلان الدستوري وتعديلاته .
- وعلى القانون رقم (40) لسنة 1974 ميلادي ، بشأن الخدمة في القوات المسلحة وتعديلاته .
- وعلى القانون رقم (10) لسنة 1992 ميلادي ، بشأن إصدار قانون الأمن والشرطة .
- وعلى القانون رقم (11) لسنة 2012 ميلادي ، بتقرير بعض الأحكام في شأن صلاحيات المستويات القيادية بالجيش الليبي .
- وعلى قرار المؤتمر الوطني العام رقم (10) لسنة 2012 ميلادي ، في شأن منح الثقة للحكومة المؤقتة .
- وعلى قرار مجلس الوزراء رقم (644) لسنة 2013 ميلادي ، بشأن تعديل قراره رقم (345) لسنة 2013 ميلادي ، بتفويض رئيسه في اختصاصاته .

قـرـر

مادة (1)

تنشأ غرفة أمنية تسمى " غرفة العمليات الأمنية المشتركة " للحفاظ على الأمن بمنطقة ترهونة والمناطق المحيطة بها تتبع لرئاسة الأركان العامة وتعمل تحت إشراف رئيس الأركان .

مادة (2)

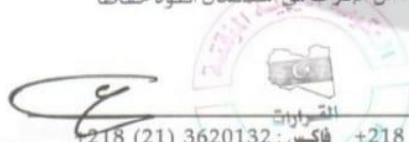
تشكل غرفة العمليات المشار إليها في المادة السابقة برئاسة ضابط بالجيش لا تقل رتبته عن عقيد ومساعد له من أحد الضباط يصدر بتكليفهما قرار من رئيس مجلس الوزراء وتضم مندوبين عن الجهات التي يحددها رئيس الغرفة ويصدر بها قرار من مجلس الوزراء .

مادة (3)

تتولى غرفة العمليات الأمنية المشتركة ممارسة المهام التي تضعها الغرفة من خلال التنسيق بين كافة مكوناتها .

ويكون للغرفة في سبيل أداء مهامها ما يلي :-

- أ. الحق في استخدام كافة الوسائل الفنية والتقنية التي تراها لازمة لأداء مهامها وعلى جميع الجهات الأمنية ذات العلاقة بعمل الغرفة اتخاذ الإجراءات العاجلة بما يمكن الغرفة من تحقيق أهدافها ذات الطابع الأمني .
- ب. التنسيق مع الوزارات والجهات العامة بما يكفل أداء الغرفة لمهامها على الوجه المطلوب ووفقا للبرنامج الذي تعدده الغرفة بالخصوص .
- ج. التنسيق مع مؤسسات المجتمع المدني وأعيان ووجهاء المناطق المستهدفة وطلب معوناتهم وإدماجهم في الخطة الأمنية بما يتناسب وطبيعة هذه المهام وبما يحذر من الإفراط في استعمال القوة حفاظا على الأرواح والممتلكات .



طرابلس . طريق السكة - هاتف : 3344210 - 3620117 (21) 218 + فاكس : 3620132 (21) 218 +

ديوان رئاسة الوزراء



الحكومة الليبية المؤقتة

د. تشكيل فريق إعلامي بالغرفة مهمته توثيق الإختراقات التي يتم ضبطها في الحال كما يكون لها ناطق إعلامي للتواصل مع وسائل الإعلام لتوضيح مهام الخطة الأمنية وأهدافها .
هـ. للغرفة حق الاستعانة بمن ترى لزوم الاستعانة به تنفيذاً لمهامها .

مادة (4)

يخضع منتسبو الغرفة من الناحية الفنية لإشراف رئيس الغرفة ومساعدته .

مادة (5)

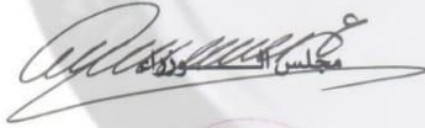
تتولى كل جهة يتبعها منتسبو الغرفة دفع المرتبات وسائر العلاوات والمزايا المالية والمكافآت لمنتسبيها كل فيما يخصه . وفقاً للتشريعات النافذة .

مادة (6)

يكون للغرفة حدود إدارية تعمل في نطاقها يتم تحديدها من قبل رئاسة الأركان العامة كما يكون لها عدد من التقسيمات التنظيمية يصدر بتحديدها قرار من رئيس الغرفة .

مادة (7)

يعمل بهذا القرار من تاريخ صدوره ، ويلغى كل حكم يخالف أحكامه ، وعلى الجهات المختصة تنفيذه ، وينشر في الجريدة الرسمية .


مجلس الوزراء



صدر في: 26 / 12 / 2013 هـ
العدد: 12 / 29 / 2013 م
موقع: أبو عاشة

طرابلس . طريق السكة - هاتف : +218 (21) 3620117 - فاكس : +218 (21) 3620132

Go to website

Cabinet Resolution No. 857 of 2013 of the former GNC establishing the Tarhuna Security Operations Room



قرار القائد الأعلى للجيش الليبي
رقم (13) لسنة 2017 ميلادية
بشأن تشكيل ألوية حرس رئاسي بالمنطقة الغربية

القائد الأعلى للجيش الليبي:

- بعد الاطلاع على الاعلان الدستوري الصادر بتاريخ 3 أغسطس 2011م، وتعديلاته.
- وعلى الاتفاق السياسي الليبي الموقع بتاريخ 17 ديسمبر 2015م.
- وعلى القانون رقم (40) لسنة 1974 م ، بشأن الخدمة العسكرية وتعديلاته .
- وعلى القانون رقم (43) لسنة 1974 م ، بشأن تقاعد العسكريين وتعديلاته .
- وعلى القانون رقم (35) لسنة 1977 م ، بإعادة تنظيم الجيش الليبي (القوات المسلحة سابقا) .
- وعلى القانون رقم (19) لسنة 2015 م ، بتقرير بعض الأحكام في شأن صلاحيات المستويات القيادية بالجيش الليبي ز
- وعلى قرار القائد الأعلى للجيش الليبي رقم (2) لسنة 2016 م ، بشأن إنشاء الحرس الرئاسي .
- وعلى قرار القائد الأعلى للجيش الليبي رقم (7) لسنة 2016 م ، بشأن تعيين أمر الحرس الرئاسي ومعاونيه .
- وعلى قرار القائد الأعلى للجيش الليبي رقم (35) لسنة 2016 م ، بشأن اعتماد الهيكل التنظيمي للحرس الرئاسي .
- وعلى ما تقتضيه المصلحة العامة .

قـرـر

مادة (1)

- تشكيل ألوية حرس رئاسي بالمنطقة الغربية ذات مهام محددة تكون تبعيتها مباشرة إلى أمر الحرس الرئاسي على النحو الآتي :-
- اللواء الأول حرس رئاسي - منطقة طرابلس .
 - اللواء الثاني حرس رئاسي - المنطقة الغربية الفرعية الأولى .
 - اللواء الثالث حرس رئاسي - المنطقة الغربية الفرعية الثانية .
 - اللواء الرابع حرس رئاسي - منطقة جبل نفوسة الأولى .
 - اللواء الخامس حرس رئاسي - منطقة جبل نفوسة الثانية .
 - اللواء السادس حرس رئاسي - المنطقة الوسطى الأولى .
 - اللواء السابع حرس رئاسي - المنطقة الوسطى الثانية .

مادة (2)

يخول أمر الحرس الرئاسي بإعداد مقترح بأماكن ومقر تمرکز ألوية الحرس الرئاسي ونطاق عملها .

مادة (3)

يعمل بهذا القرار من تاريخ صدوره ، ويلغى كل حكم يخالفه ، وعلى الجهات المختصة تنفيذه



صدر في 26 جمادى الأولى 1438 هـ
الواحدة 26، 2، 2017 ميلادي
(26، 1 شباط 2017)

Decree 13 of 2017 of the Government of National Accord establishing the 7th Brigade as part of the Presidential Guard

رقم 149 لسنة 2017 م
التاريخ 1438 هـ
العدد 257
الرقم الإشاري: 2 /



بنيينا
مكتب الوزير
وزارة الدفاع

القرارات

قرار وزير الدفاع رقم (149) لسنة 2017 م
بشأن إنشاء لواء مشاة

وزير الدفاع

بعد الاطلاع على:-

- الاعلان الدستوري لثورة 17 فبراير وتعديلاته
- واستنادا الي الصلاحيات المقررة بالقوانين والقرارات:-
- قانون (40) لسنة 1974م بشأن الخدمة بالجيش التبيي وتعديلاته.
- قانون (19) لسنة 2015 م بشأن صلاحيات المستويات القيادية بالجيش.
- قرار (12) لسنة 2016 م بشأن منح تفويض مهام وزير الدفاع
- وبالاطلاع على ما عرضه رئيس الأركان العامة بمقترح مدير إدارة العمليات بالجيش.

مقرر

مادة (1)

يُنشأ بموجب هذا القرار لواء مشاة تحت اسم " اللواء السابع مستقل " بنوع رئاسة الأركان العامة مباشرة ، وتتمركز قيادته بمعسكر الكتيبة العاشرة مشاة بمنطقة سوق الخميس مسجل.

مادة (2)

يضم اللواء تحت قيادته (الكتيبة العاشرة مشاة - الكتيبة 113 مشاة - الكتيبة 311 مدفعية) .

مادة (3)

يعين 14710 عقيد ركن/ محمد أحمد البشير بادي أمراً للواء السابع مستقل.

مادة (4)

يعمل بهذا القرار من تاريخ صدوره وعلى الجهات المعنية تنفيذه كل فيما يخصه.

المهدي أبراهيم البرغثي

وزير الدفاع

مكرر مرجع 2017/02/10

Decree 149 of 2017 of the Ministry of Defence forming the 7th Brigade



بسم الله الرحمن الرحيم

(يَا أَيُّهَا الَّذِينَ آمَنُوا إِن جَاءَكُمْ فَاسِقٌ بِنَبَأٍ فَتَبَيَّنُوا أَن تُصِيبُوا قَوْمًا بِجَهَالَةٍ فَتُصْبِحُوا عَلَىٰ مَا
فَعَلْتُمْ نَادِمِينَ)

توضيحا لادعاءات تبعية اللواء السابع مشاة للحرس الرئاسي

بداية نعلن أسفنا وانزعاجنا وقلقنا ونحن نتابع تطورات وتبعات العدوان على العاصمة
طرابلس وتعرض أمنها وحياة وممتلكات المواطنين للخطر وترويع الأمنين بذرائع وحجج
واهية .

ونؤكد للجميع تبعيتنا لحكومة الوفاق الوطني وانحيازنا التام لخياراتها الوطنية ودعمنا للعملية
السلمية والتعايش السلمية والجهود الرامية لبسط الأمن والاستقرار ومباركتنا لكل مسعى خير
لرأب الصدع وواد الفتن ونشر السلام وبناء الدولة ورفيها وتقديمها .

وإننا إذ نؤكد على التزامنا التام بتعهداتنا وفقا للقيم والمضامين المهنية العسكرية النظامية
واحترامنا للعهود والمواثيق الدولية ولحقوق الإنسان ونضمن كل المواطنين والمسؤولين وكل
من وضع ثقته في أبناء هذه المؤسسة العسكرية بأننا لن نخذل بلادنا ولن نكون شوكة في
خاصرة الحكومة وإننا بحكم القانون وقرار الإنشاء نتحمل مسؤولية وطنية أخلاقية سنلتزم
بها كما نضمن شركاؤنا في تأمين طرابلس من كافة المكونات الأمنية والعسكرية بأننا مددا
وسندا لجهودهم الوطنية

أما فيما يتعلق بما نُشر عبر مواقع التواصل الاجتماعي حول تبعية اللواء السابع مشاة
للحرس الرئاسي فإننا نجدد التأكيد بنفي تبعيته إلينا وفقا للحقائق التالية:

اللواء السابع مشاة تشكل بموجب القرار رقم (149) بتاريخ 2017/02/07م الصادر عن
وزير الدفاع وتعيين أمرا له وقد تم حله بموجب قرار القائد الأعلى للجيش الليبي رقم (79)
بتاريخ 2018/04/02م وعليه فهو لا يتبع الحرس الرئاسي أساسا كما أن شعاره وملصقاته
لا تمت بأي صلة للحرس الرئاسي. ونفيد بان القرار رقم (13) لسنة 2017م والذي يتم تداوله



عبر وسائط التواصل الاجتماعي والصادر عن القائد الأعلى للجيش الليبي بنص على تشكيل عددًا من الألوية تتبع الحرس الرئاسي ومن ضمنها اللواء السابع بالمنطقة الوسطى الثانية وتم حل هذه الألوية بتاريخ 2018/02/11م بموجب القرار رقم (20) لسنة 2018م والصادر عن القائد الأعلى للجيش الليبي علما بأن هذا اللواء لم يتم تكوينه أو تسليحه ولا يمتلك أسلحة من أي نوع ضمن ملاكه.

ختامًا

فإن الحرس الرئاسي لا يتحمل مسؤولية ما يُنشر في وسائط التواصل الاجتماعي إلا عن طريق صفحته الرسمية عبر شبكة التواصل الاجتماعي أو الموقع الإلكتروني الرسمي للحرس الرئاسي

مجددًا فإننا نستنكر وندين العدوان المسلح على طرابلس ونجدد تمسكنا بالثوابت الوطنية والنزاعنا بتنفيذ التعليمات والأوامر الصادرة عن القائد الأعلى للجيش الليبي وإن محاولات شق الصف وبتش الفرقة بين الحرس الرئاسي والمكونات الأمنية والعسكرية في طرابلس لن تُفلح ولن يُكتب لها النجاح فنحن في الحرس الرئاسي حريصون أشد الحرص على رص الصفوف وتوحيد الجهود.

حفظ الله ليبيا



خُرر بتاريخ 28 أغسطس 2018م

Statement of the Presidential Guard of the GNA on 28 August 2018 denying its affiliation with the 7th Brigade