

**Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the human rights of internally displaced persons and the Special Rapporteur on the human rights of migrants**

Ref.: AL LBY 7/2022  
(Please use this reference in your reply)

23 September 2022

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on extrajudicial, summary or arbitrary executions; Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the human rights of internally displaced persons and Special Rapporteur on the human rights of migrants, pursuant to Human Rights Council resolutions 44/5, 42/22, 45/3, 50/L4 and 43/6.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the failure to conduct effective investigations into the potentially unlawful deaths of Mr. [REDACTED] on 20 November 2013, Mr. [REDACTED] on 17 November 2014, and Mr. [REDACTED] on 11 June 2014 in Tarhuna, among other alleged cases of unlawful deaths occurring in this town while it was under the control of the [REDACTED] militia; as well as into the disappearance, torture and subsequent death in custody of Mr. [REDACTED] on 13 August 2021; and into the alleged killing of Mr. [REDACTED] on 12 August 2021, in the course of an interception at sea off the Libyan coast, by unidentified armed men believed to belong to the Stabilisation Support Agency.**

These cases appear to reflect a broader pattern of serious allegations of violations of international human rights law and international humanitarian law, including extrajudicial and arbitrary executions, torture, arbitrary and incommunicado detention, abductions and enforced disappearances, that have been allegedly committed with impunity in Libya in recent years, some of which have been documented by the United Nations Independent Fact-Finding Mission on Libya since the beginning of its mandate in 2016.<sup>1</sup>

According to the information received:

*Circumstances surrounding the potentially unlawful deaths of Mr. [REDACTED]  
[REDACTED] Mr. [REDACTED] and Mr. [REDACTED]*

On 6 November 2012, one of the leaders of the [REDACTED] militia (also known as al-Kani), an armed group from Tarhuna, was reportedly killed in unclear circumstances. Following the incident, Mr. [REDACTED], who was part of a faction led by [REDACTED] against the [REDACTED], was allegedly accused of this killing and detained for a year in a Government-run detention centre in Al-Ruwaimi without an arrest warrant or the initiation of legal proceedings.

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<sup>1</sup> A/HRC/50/63.

On 20 November 2013, during the trial proceedings against Mr. [REDACTED] which were conducted without him having access to legal counsel, he was taken out of the detention facility by members of the [REDACTED] and allegedly executed in front of local residents in an area of Tarhuna known as the “triangle of death”, where numerous killings are said to have taken place. Subsequent to this event, the [REDACTED] militia reportedly escalated their attacks on members of the [REDACTED] family, including forcing the closure of the family’s shops in Tarhuna. The alleged perpetrators were reportedly acting under the command of Mr. [REDACTED]. The militia also threatened persons associated with Mr. [REDACTED] in an attempt to prevent them from carrying out his funeral. Although they filed a complaint with the Attorney General over the killing of Mr. [REDACTED], no Government-led investigation was reportedly launched. In response to the complaint, members of the [REDACTED] militia attacked the [REDACTED] family’s homes.

On 11 June 2014, Mr. [REDACTED], at the time a student at Zaytouna University in Tarhuna, was reportedly shot below the abdomen by a member of the [REDACTED] in Tarhuna. He died at the scene of the attack due to severe bleeding as members of the militia allegedly prevented any medical assistance by third parties. Following the incident, a further complaint in relation to this killing was filed with the local police, although reportedly no investigation or prosecution of those responsible was undertaken by the authorities. Persons associated with Mr. [REDACTED] and Mr. [REDACTED] were placed with relatives in other areas of Libya for their protection.

On 17 November 2014, members of the [REDACTED] reportedly surrounded the home of persons associated with Mr. [REDACTED] and Mr. [REDACTED] in an attack with heavy weaponry, resulting in the destruction of the homes and the death of Mr. [REDACTED], who was allegedly hit by shrapnel. He was a senior employee of Zaytouna University in Tarhuna who had reportedly refused to leave his home despite threats posed by the [REDACTED]. The alleged perpetrators of the killings comprise Mr. [REDACTED], Mr. [REDACTED] and Mr. [REDACTED].

The ongoing attacks by the [REDACTED] in Tarhuna reportedly resulted in the displacement of several dozen persons associated with those allegedly killed, who lived as internally displaced persons throughout Libya for several years. One person associated with Mr. [REDACTED] and [REDACTED] initially sought refuge in Tunisia and later returned to Libya, moving across the country, while continuing to receive threats from the [REDACTED] via text (SMS) message. The displacement resulted in the loss of employment at the University of Tarhuna and the related income, interruption of education and adverse psychological effects as a consequence of the violent attacks and shelling of homes.

In the years following the displacement, the [REDACTED] took control of Tarhuna until June 2020. In August 2018, the militia moved to support [REDACTED] following clashes over territory with militias affiliated with the Government of National Accord (GNA) such as Tripoli Revolutionaries Brigades and Nawassi Brigade. Reportedly, under the [REDACTED] control of the area, there occurred widespread abductions, torture,

disappearances and killings of residents of Tarhuna due to their real or perceived opposition to the militia or as part of a complex pattern of local revenge killings. Mass graves would also have been discovered in Tarhuna since 2020, some of which were opened and the bodies removed and identified.

In 2020, the [REDACTED] were driven out of Tarhuna by forces of the then GNA, which led to the return of persons associated with Mr. [REDACTED] [REDACTED] and [REDACTED] to Tarhuna, who could not, however, return to their houses, which were destroyed or rendered uninhabitable. They also lost their food shops in Tarhuna, which had been destroyed by the [REDACTED], and a piece of land with fruit trees that had been left unattended during the six years of displacement. The Government authorities have reportedly made no effort to assist the return of the displaced families and provide compensation for their loss.

Persons associated with Mr. [REDACTED] [REDACTED] and [REDACTED] filed complaints for murder charges with the Public Prosecutor's Office, but no investigations have reportedly been initiated as a result and those responsible for the deaths remain at large benefitting from impunity.

*Circumstances surrounding the alleged disappearance, and subsequent death in custody of Mr. [REDACTED]*

On 1 November 2020, approximately between 4:00 and 5:00 p.m., Mr. [REDACTED] was abducted in front of his store in the so-called "Dollar" neighborhood in Benghazi by three unidentified masked men dressed in military uniforms who were reportedly carrying Kalashnikov weapons and driving a white military vehicle without license plates but marked with a military logo. The abduction was reportedly recorded by the store's CCTV cameras. According to witnesses, the masked men did not interact with Mr. [REDACTED] nor did they present an arrest warrant or any papers indicating their identity or the agency to which they belonged.

On 3 November 2020, individuals associated with Mr. [REDACTED] reported the incident to the Benghazi police station and to the Benghazi branch of the Internal Security Agency, reporting to the Libyan National Army (LNA). The head of that branch confirmed that no charges had been filed against Mr. [REDACTED] and that he had no criminal record. Persons associated with Mr. [REDACTED] also contacted several prisons and armed formations and factions affiliated with the Libyan Arab Armed Forces (LAAF) in Benghazi. All of them reportedly denied Mr. [REDACTED] custody, their knowledge of the reason for his abduction, or which agency abducted him. Persons associated with Mr. [REDACTED] also approached leaders of the Al-Awajilah tribe, to which they belong, as well as public figures in the city with whom they have personal relationships, but received no information as to Mr. [REDACTED] fate and whereabouts. They were eventually informed by an acquaintance who worked in a prison in Benghazi that Mr. [REDACTED] was being held in the branch for political prisoners at Al-Kuwifiya prison near Benghazi, which is supervised by the military police along with the Benghazi branch of the Internal Security Agency. Since Mr. [REDACTED] was allegedly detained in a political section, it is suggested that he was arrested and possibly tortured for his real or perceived

political views, as he allegedly criticized ██████████ throughout his life.

A person allegedly arbitrarily detained in the same detention centre subsequently testified that Mr. ██████████ was severely beaten by prison guards on several occasions, and that in mid-March 2021 he was transferred to the unofficial detention center Tariq bin Ziyad, located inside Garnada Prison in eastern Libya, led by the LNA. Whilst detained there, Mr. ██████████ was reportedly subjected to verbal abuse, further beatings and ill-treatment, including being placed in stress positions for several hours which reportedly led to his mental and nervous breakdown due to his pre-existing heart condition.

On 19 August 2021, persons associated with Mr. ██████████ were informed by hospital staff belonging to the Al-Awajilah tribe of the presence of Mr. ██████████ body at Al-Jalaa Hospital in Benghazi, whereupon they proceeded with its identification. His death certificate states that he died on 13 August 2021. Although it was disclosed that the body would have been brought by members of the Benghazi Military Police, a group affiliated with the LAAF, on the same day, hospital staff did not provide more specific details about their identity. Mr. ██████████ body showed no signs of torture or injury, but two marks resembling the marks of hypodermic needles were reportedly found on his right and left forearms. Prior to his abduction, he was dependent on oral heart medication, but no injections were required for his condition. Concerns were raised that Mr. ██████████ may have been tortured and/or otherwise mistreated and denied necessary medical care for his heart condition, which may have led to his death.

The forensic medical report of Al-Abiar Ministry of Justice, dated 19 August 2021, indicates that there were no injuries of a criminal nature that led to Mr. ██████████ death and that the cause of death was due to internal complications of disease (lymphadenopathy). However, the forensic experts emphasized that no internal examination in the form of an autopsy of the corpse was performed and therefore forensic examination remained incomplete. Moreover, the cause of the attested lymphadenopathy was not stated, so the conclusion that the death was caused by lymphoma could not be reasonably drawn without a biopsy, which was not performed in Mr. ██████████ case. As a result, the cause of Mr. ██████████ death in custody would remain undetermined according to the experts.

The “Dollar” neighborhood, where Mr. ██████████ was abducted, has reportedly been the scene of several arbitrary arrests, abductions and enforced disappearances in recent years. It is controlled by the Special Forces Battalion, which was led by Mr. ██████████ until his assassination in March 2021. The Special Forces Battalion and the Benghazi Military Police are both security forces affiliated with the LAAF, known to work closely together, such as through joint security patrols in Benghazi. Al-Jalaa Hospital is located in this neighborhood, and several bodies of civilians allegedly abducted by forces in Benghazi have been found there. No prompt identification measures are reportedly being taken with respect to other unidentified bodies that remain at Al-Jalaa Hospital.

*Circumstances surrounding the reportedly unlawful death of Mr. ██████████*

During the night of 12 August 2021, Mr. ██████████ a Libyan national and university student from Zawiyah, boarded a smuggling boat in Zawiyah with a group of Libyan nationals allegedly with the intention of migrating to Italy. About an hour after leaving off the coast of Zawiyah, the boat was intercepted by a large patrol boat with at least five unidentified armed men in uniforms. The gunmen reportedly opened fire on the small boat, killing Mr. ██████████ who fell into the water during the attack. The armed men removed Mr. ██████████ body to their boat and headed back toward the shoreline, ordering the remaining individuals on the small boat to continue their journey to Italy after reportedly having realized that those individuals were Libyan nationals. However, after the killing of Mr. ██████████ the Libyan nationals went back to the port, where they informed persons associated with Mr. ██████████ about the incident requesting them to go to the port to observe the arrival of the patrol boat. They located Mr. ██████████ body in the port of Zawiyah, which had allegedly been abandoned by the patrol boat's forces, and took him to the hospital in Zawiyah.

On 13 August 2021, a forensic medical report from the Judicial Expertise and Research Centre in Zawiyah confirmed Mr. ██████████ death as a result of a gunshot.

It is alleged that the Stabilisation Support Agency, a security force created by the then GNA in 2021, would have been responsible for Mr. ██████████'s killing.

On 13 August 2021, the head of the Zawiyah police, asked persons associated with Mr. ██████████ to collect his body from the Zawiyah hospital. Persons associated with Mr. ██████████ were informed by officials of the Stabilisation Support Agency that the persons believed to be responsible for Mr. ██████████ murder had been arrested, although no official investigation has reportedly been launched. When the suspects were presented to them, they found that they did not fit the description of the witnesses who were on the boat with Mr. ██████████. Suspicions arose that these arrests were an attempt to shield the actual perpetrators.

On 15 August 2021, the individuals who were travelling with Mr. ██████████ filed a complaint about the incident with the Zawiyah police station. They were reportedly not informed of the progress of the complaint, and took no further action for fear of reprisals. It is believed that since the Stabilisation Support Agency apparatus controls the town of Zawiyah, the case would not have been forwarded to the prosecutor's office.

It is submitted that the incident reflects the general pattern of systematic violations by Libyan government agencies against migrants and asylum seekers, including the use of force by the Libyan government in intercepting and returning migrants and asylum seekers at sea. The reason for this would be that many armed groups and militias, along with traffickers, have been integrated into the state security apparatus, including migration management structures, and as a result, state functions and resources have become intertwined with criminal networks. In particular, the Department for Combating Illegal Migration (DCIM), established in 2012 in the Ministry of

Interior to monitor “illegal” migration in the country, and the Libyan Coast Guard, under the Ministry of Defense, have reportedly been implicated in criminal activities and serious human rights violations against migrants and refugees.

While we do not wish to prejudge the accuracy of these allegations, we are gravely concerned that there seems to have been no serious efforts to promptly, independently, impartially, thoroughly and effectively investigate the circumstances surrounding the deaths of Mr. [REDACTED], Mr. [REDACTED], Mr. [REDACTED], Mr. [REDACTED], and Mr. [REDACTED] and to hold to account potential perpetrators.

If the above-mentioned allegations prove to be accurate, they would indicate violations of various rights enshrined in the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESC), both of which Libya ratified on 15 May 1970, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ratified by Libya on 16 May of 1989 and the 1992 Declaration on the Protection of all Persons from Enforced Disappearance (Declaration).

In relation to the events in Tarhuna, we would like to highlight that Common Article 3 to the 1949 Geneva Conventions prohibits “violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture” in respect of all persons not taking an active part in the hostilities, the 1977 Additional Protocol (II) to the Geneva Conventions, ratified by Libya on 7 June 1978, as well as Rules 89, 90, 98, and 112-117 of the International Committee of the Red Cross study on customary international humanitarian law which establishes the prohibition of murder in non-international armed conflicts, the prohibition of enforced disappearances, and the respectful handling of mortal remains.

In light of the grave allegations of killings by state actors, non-state armed groups as well as armed militias, we recall that the right to life constitutes an international customary and *jus cogens* norm, universally binding at all times. Under article 6 of the ICCPR, your Excellency’s Government has an obligation to protect the non-derogable right to life of all persons within its jurisdiction. Similarly, we wish to recall that the prohibition of enforced disappearance and the corresponding obligations to investigate and punish perpetrators has attained the status of *jus cogens*. Moreover, we would like to highlight that the enjoyment of the rights guaranteed in the ICCPR is not limited to citizens of States parties but “must also be available to all individuals, regardless of their nationality or statelessness, such as asylum seekers, refugees, migrant workers and other persons, who may find themselves in the territory or subject to the jurisdiction of the State Party” (ICCPR/C/21/Rev.1/Add. 13 (2004), Para. 10). States Parties to the ICCPR also hold positive obligations to ensure protection of Covenant rights of individuals against violations by its agents and by private persons or entities. We further stress that the Working Group on Arbitrary Detention has recognised the responsibility of the Government of Libya for LNA actions though, in any case, even if treated as a non-state actor, the LNA is bound under international law to respect core human rights obligations, such as the right to life.<sup>2</sup>

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<sup>2</sup> A/HRC/38/44, para. 8.



Finally, we are deeply concerned about the impunity with which serious human rights violations appear to continue to be committed on a large scale in Libya, including extrajudicial and arbitrary executions, torture and other ill-treatment, arbitrary arrests and detentions, and disappearances, including enforced disappearances. We emphasize that in the context of the reported high levels of impunity for these crimes - underscored by the failure to identify perpetrators - the failure to initiate investigations and bring the perpetrators of such violations to justice may encourage a repetition of the crimes by others in subsequent incidents.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international law** attached to this letter which cites international human rights instruments and standards and norms of international humanitarian law relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide detailed information on any investigations carried out in the alleged killings of Mr. ██████████, Mr. ██████████, Mr. ██████████, among other cases of executions, disappearance, and torture occurring in Tarhuna when the region was reportedly under the control of the ██████████, and of Mr. ██████████, and in the disappearance, torture and subsequent death in custody of Mr. ██████████. Please include information on the identification of potential perpetrators, and if identified, on the steps taken to ensure that they are prosecuted and, where applicable, at what stage are the criminal proceedings against them. Please include information on the extent to which these investigations complied with international standards including the Revised United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (the Minnesota Protocol on the Investigation of a Potentially Unlawful Death (2016)). If no investigations have been carried out, please provide the reason thereof.
3. Please explain the factual and legal grounds for the arrest and detention of Mr. ██████████ and details of the charges and the judicial proceedings initiated against him, including the measures taken to ensure his right to legal representation, immediately upon his arrest and throughout any following judicial procedure, and the conditions of detention in which he was held. Please include information on how they are compatible with Libya's international human rights obligations.
4. Please provide detailed information on the alleged connection between the unidentified armed men allegedly responsible for the killing of Mr. ██████████ and the Stabilisation Support Agency in general and in relation to the specific incident on 12 August 2021.

5. Please provide any information on the steps taken or envisioned to be taken in order to safeguard the right to life, to be free from torture and other cruel, inhuman or degrading treatment or punishment and to be protected against enforced disappearance in light of the reported pattern and seemingly widespread scale of these crimes which appear to have been met with impunity to date.
6. Please provide detailed information on the situation of persons allegedly internally displaced by violence, including arbitrary detention, disappearances torture and arbitrary and extrajudicial killings carried out by non-state actors in Libya and on the measures that have been taken or are planned to protect their rights as internally displaced persons during their displacement and to achieve durable solutions in their cases.

We would like to inform your Excellency's Government that having transmitted an allegation letter to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please note that a copy of this letter will be transmitted to the Libyan National Army (LNA). Please also note that this letter does not in any way imply the expression of any opinion concerning the legal status of any country, territory, city or area, or of its authorities.

Please accept, Excellency, the assurances of our highest consideration.

Morris Tidball-Binz

Special Rapporteur on extrajudicial, summary or arbitrary executions

Mumba Malila

Vice-Chair of the Working Group on Arbitrary Detention

Luciano Hazan

Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Cecilia Jimenez-Damary

Special Rapporteur on the human rights of internally displaced persons

Felipe González Morales

Special Rapporteur on the human rights of migrants

## **Annex**

### **Reference to international law**

In connection with above alleged facts and concerns, we would like to draw your attention to the following:

At the outset, we would like to reiterate that international human rights law continues to apply in times of armed conflict, alongside international humanitarian law, and that both bodies of law are intended to be complementary, rather than mutually exclusive. This has been acknowledged, *inter alia*, by the International Court of Justice (Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996, paras.24-25) and the Human Rights Committee (General Comment 29, States of Emergency, para. 3). In its General Comments 31 (CCPR/C/21/Rev.1/Add.13, para 11) the Human Rights Committee has affirmed the applicability of the ICCPR and international human rights law more generally to situations of armed conflict.

Bearing in mind this framework, we would like to refer your Excellency's Government to articles 3, 5, 6, 9, 10 and 12 of the Universal Declaration of Human Rights and articles 2 (3), 6 (1), 7, 9, 10, 14, 16, 17 and 19 (2) of the International Covenant on Civil and Political Rights (ICCPR) and article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESC), both acceded by Libya on 15 May 1970, which provides that every individual has the right to an effective remedy, the right to life, the right not to and that no person shall be arbitrarily deprived of his or her life, the right to be free from torture or cruel, inhuman or degrading treatment or punishment, the right to liberty and security of a person, the right to recognition everywhere as a person before the law, the right to be free from arbitrary or unlawful interference into family life, the right to seek information and the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. We further refer to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ratified by Libya on 16 May of 1989, and, in relation to the alleged killings occurred in Tarhuna, to the Geneva Conventions of 1949, the 1977 Additional Protocol (II) to the Geneva Conventions, ratified by Libya on 7 June 1978, and the Customary Rules of International Humanitarian Law identified in the study of the International Committee of the Red Cross ("Customary Rules"). Rules of customary international law are universally binding at all times.

We also recall the absolute prohibition of torture, which is a jus cogens norm of international law as well as of the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 6 and the UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), Rule 1.

With regard to the alleged broader pattern of enforced disappearances, these would amount to violations of articles 6, 7, 9 and 16 of the ICCPR, read alone and in conjunction with article 2(3). Moreover, it would entail a violation of article 7, read alone and in conjunction with article 2(3) of the ICCPR with regard to the relatives of the disappeared person. In this respect, we also make reference to General comment No. 36 (2018) on article 6 of the ICCPR, which states, *inter alia*, that extreme forms of arbitrary detention that are themselves life-threatening, in particular enforced

disappearances, violate the right to personal liberty and personal security and are incompatible with the right to life (para. 57), and that enforced disappearance constitutes a unique and integrated series of acts and omissions representing a grave threat to life, and States parties must take adequate measures to prevent the enforced disappearance of individuals, and conduct an effective and speedy inquiry to establish the fate and whereabouts of persons who may have been subject to enforced disappearance (para. 58). Moreover, enforced disappearance is prohibited under customary international law and, in general, the prohibition of enforced disappearance and the corresponding obligation to investigate and punish perpetrators, have attained the status of *jus cogens*.

We also wish to remind your Government that article 14 of the ICCPR guarantees individuals' right to a fair trial and public hearing by a competent, independent and impartial tribunal established by law. Article 14(3) specifically protects one's right to be informed promptly and in detail of the charges against them, the right to have adequate time and facilities for the preparation of their defence, and the right to communicate with counsel of their choosing. The right to have assistance of a legal counsel and to communicate and consult with such counsel is also enshrined in Principles 17 and 18 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment ("the Body of Principles"), and Principles 7 and 8 of the Basic Principles on the Role of Lawyers.

General Comment No. 36. also states that the right to life is "the supreme right from which no derogation is permitted even in situations of armed conflict and other public emergencies that threaten the life of the nation. (...) It is most precious for its own sake as a right that inheres in every human being, but it also constitutes a fundamental right whose effective protection is the prerequisite for the enjoyment of all other human rights and whose content can be informed by other human rights" (CCPR/C/GC/36, para. 2). The right to life further entitles all individuals "to be free from acts or omissions that are intended or may be expected to cause their unnatural or premature death" (ibid., para. 3). The General Comment also indicates that an important element of the protection afforded to the right to life by the Covenant is the obligation on the States Parties, where they know or should have known of potentially unlawful deprivations of life, to investigate and, where appropriate, prosecute the perpetrators of such incidents. This obligation is heightened vis-à-vis deaths in custody (para. 29).

In this connection, we refer to the *Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions* (Prevention and Investigation Principles), in particular principle 9, indicating that there must be thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions. The Principles recall that exceptional circumstances including a state of war or threat of war, internal political instability or any other public emergency may not be invoked as a justification of extra-legal, arbitrary and summary executions, and that it is States' duty to conduct thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions, and bring to justice all persons identified by the investigation as having participated in those executions. The families and dependents of victims of extra-legal, arbitrary or summary executions shall be entitled to fair and adequate compensation within a reasonable period of time.

According to paragraph 27 and 28 of General Comment 36, investigations and prosecutions of potentially unlawful deprivations of life should be undertaken in accordance with relevant international standards, including the *Revised United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (the Minnesota Protocol on the Investigation of a Potentially Unlawful Death (2016))*, and must be aimed at ensuring that those responsible are brought to justice, at promoting accountability and preventing impunity, at avoiding denial of justice and at drawing necessary lessons for revising practices and policies with a view to avoiding repeated violations. Investigations must always be independent, impartial, prompt, thorough, effective, credible and transparent. According to the Minnesota Protocol, “investigators and investigative mechanisms must be, and must be seen to be, independent of undue influence” at all stages and must be “independent of any suspected perpetrators and the units, institutions or agencies to which they belong” (para. 28). An autopsy should be performed, and if it is not done, the reason should be justified in writing and subject to judicial review (para. 25). In performing this autopsy, the Minnesota Protocol’s detailed guidelines on autopsies should be followed (paras. 73-250). In addition to an autopsy, an effective and thorough investigation would require the collection of “all testimonial, documentary and physical evidence” (para. 24). Moreover, investigations must “seek to identify not only direct perpetrators but also all others who were responsible for the death, including, for example, officials in the chain of command who were complicit in the death. The investigation should seek to identify any failure to take reasonable measures which could have had a real prospect of preventing the death. It should also seek to identify policies and systemic failures that may have contributed to a death, and identify patterns where they exist” (para. 26). In the event that a violation is found, full reparation must be provided, including, in view of the particular circumstances of the case, adequate measures of compensation, rehabilitation and satisfaction. The failure to investigate violations of the Covenant and to bring perpetrators of such violations to justice could in and of itself give rise to a separate breach of the ICCPR (CCPR /C/21/Rev.1/Add.13, paras. 15).

In the context of the extent of impunity for crimes that violated the right to life, highlighted by the lack of identification of perpetrators, we recall that the failure to initiate investigations and bring the perpetrators of such violations to justice may lead to impunity that may encourage repetition of the crimes by others in subsequent incidents (para. 15, General Comment No. 31). We note that the “consequences of non-investigation are extremely serious, including the violation of the right to life; the continuation of policies and practices which may impact on the right to life; and the perpetuation of a range of violations and bad practices because of the veil of ignorance or secrecy surrounding them” (A/HRC/41/CRP.1, para. 261).

In connection with the above alleged arbitrary detention, disappearance, incommunicado detention and death of Mr. ██████████ reportedly when held in custody by the LNA, we wish to remind your Excellency’s Government of article 9 of the UDHR, prohibiting arbitrary detentions, and article 9 of the ICCPR, enshrining the right to liberty and security of person. The latter establishes, in particular, that no one shall be deprived of his or her liberty except on such grounds and in accordance with such procedure as are established by law. As reiterated in the Working Group on Arbitrary Detention’s jurisprudence and in the Human Rights Committee’s General Comment No. 35, enforced disappearance constitutes a particularly aggravated form of arbitrary detention. We also wish to refer to the report to the Human Rights Council, in which the Special Rapporteur on extrajudicial, summary or arbitrary

executions considered that, while States have a central role in upholding human rights law, the same may also apply to other actors depending on a context-dependent assessment based, in particular, on three interlinked indicators: (i) the nature and extent of armed non-State actors' (ANSAs) control; (ii) the level of ANSAs' governance and (iii) consequently, the extent of their capacity (A/HRC/38/44, para. 52.) Armed non-State actors that have displaced the de jure government and established (exclusive) territorial control are responsible for the protection (and accountable for violations) of human rights in areas under their control (para. 19 (d)) The Special Rapporteur understands de facto authorities are armed non-State actors exercising exclusive control over a specific territory (para. 46).

In the present case, the LNA, as armed non-State actor, has, at a minimum, certain obligations to respect fundamental human rights recognized in customary international law, such as the right to life, and is therefore under the obligation to comply with the Universal Declaration of Human Rights as well as the obligations to investigate, protect, prevent and punish and to fulfill positive obligations, related to minimum survival requirements, including the right to health, when the right to life is concerned (A/HRC/38/44, paras 68, 74, 76 and 77).

In addition, we would like to remind your Excellency's Government of its obligations in relation to violations committed by non-state actors. In its General Comment No. 31, the Human Rights Committee recalls the responsibility of State parties to exercise due diligence to prevent, punish, investigate and bring perpetrators to justice or redress the harm caused by non-state actors (CCPR/C/21/Rev.1/Add.13, paras. 8 and 18). In this regard, the Special Rapporteur on extrajudicial, summary or arbitrary executions indicated that "the State may be held responsible for the conduct of non-State actors when it can be shown that it has failed to exercise due diligence to prevent, investigate and respond to such conduct" (A/HRC/38/44, para. 22). In addition to this, the report provides in its recommendations that States should "fully implement their obligation to protect against killings by armed non-State actors and evaluate current due diligence mechanisms in light of these actors' activities and strengthen their implementation, in full respect of international human rights law", as well as the duty to "hold individual members of armed non-State actors to account under international human rights law and international criminal law, when applicable" (para. 97). The State also carries a responsibility to address "attitudes or conditions within society which encourage or facilitate" violence or killings committed by non-State actors (see E/CN.4/2005/7, para. 71).

We also refer to the Report of the Working Group on Enforced or Involuntary Disappearances on standards and public policies for an effective investigation of enforced disappearances (A/HRC/45/13/Add.3), which indicates that States hold an obligation to investigate all disappearances committed by non-state actors (para. 91), which is also outlined in article 3 of the International Convention for the Protection of All Persons from Enforced Disappearance.

In light of the allegations of death in custody, the General Comment No. 36 highlights that when the State detains an individual, it has "a heightened duty of care to take any necessary measures to protect the lives of individuals deprived of their liberty by the State, since by arresting, detaining, imprisoning or otherwise depriving individuals of their liberty, States parties assume the responsibility to care for their life and bodily integrity, and they may not rely on lack of financial resources or other logistical problems to reduce this responsibility." Furthermore, the duty to

protect the life of all detained individuals includes providing detainees with the necessary medical care and appropriately regular monitoring of their health (CCPR/C/GC/36, para. 25). If the deprivation of life of persons results from acts or omissions that violate provisions of the Covenant other than article 6, it should be considered arbitrary. Following considerations by the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/HRC/38/44), these obligations in relation to the right to life also apply to the entity which has territorial control over the area where these violations occurred.

We would also like to refer your Excellency's Government to the 1998 Guiding Principles on Internal Displacement, which reflect international human rights and humanitarian law. Principle 5 states that all authorities shall respect their obligations under international law, including human rights and humanitarian law, to prevent and avoid conditions that might lead to displacement. Principle 6 states that every human being shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence. Authorities also have the obligation to protect internally displaced persons (Principles 10 to 23), including to protect their right to life (Principle 10) and their right to physical, mental and moral integrity (Principle 11), to provide humanitarian assistance during their displacement (Principles 24 to 30), and to support durable solutions to their displacement (Principles 28 to 30).

In light of the attacks against Libyan nationals that reportedly sought to migrate to Italy and related alleged violations against migrants by entities affiliated to or acting in collusion with Libyan State authorities and non-state actors, we refer to the aforementioned General Comment 36, which indicates that the obligation to protect the right to life requires States Parties to take special measures to protect persons in vulnerable situations whose lives have been placed at particular risk by specific threats or pre-existing patterns of violence, including migrants, asylum seekers and refugees (para. 23). In addition, we would also like to draw your Excellency's Government's attention to the thematic report of the Special Rapporteur on the human rights of migrants on means to address the human rights impact of pushbacks of migrants on land and at sea (A/HRC/47/30). In this report, the Special Rapporteur urged States to cooperate internationally to protect the lives and safety of migrants at land and at sea; protect and fulfil the rights of migrants who have suffered human rights violations or abuses as a result of border governance measures and provide effective access to mechanisms for migrants to seek remedies and redress, including by establishing accessible and adequate complaint and reparation procedures. Furthermore, the Special Rapporteur recalled that States are required to take all reasonable precautionary steps to protect life and prevent excessive violence, and that under the Global Compact for Safe, Orderly and Regular Migration (GCM) States have committed to cooperate internationally to save lives and prevent migrant deaths and injuries, in accordance with international law.

In relation to the alleged killings occurred in Tarhuna and the mass graves discovered in the vicinity of the region, we note that all parties to non-international armed conflicts are subject to Common Article 3 of the Geneva Conventions, which establishes the minimum rules relating to the treatment and protection of civilians, of those no longer taking an active part in hostilities. They are also bound by the rules of customary law. In this regard, we would like to refer to the relevant rules of the International Committee of the Red Cross study on customary international humanitarian law (IHL), including:

Rule 89: Murder is prohibited.

Rule 98: Enforced disappearance is prohibited.

Rule 90: Torture, cruel or inhuman treatment and outrages upon personal dignity, in particular humiliating and degrading treatment, are prohibited;

Rule 112: Whenever circumstances permit, and particularly after an engagement, each party to the conflict must, without delay, take all possible measures to search for, collect and evacuate the dead without adverse distinction.

Rule 113: Each party to the conflict must take all possible measures to prevent the dead from being despoiled.

Rule 114: Parties to the conflict must endeavour to facilitate the return of the remains of the deceased upon request of the party to which they belong or upon the request of their next of kin. They must return their personal effects to them

Rule 115: The dead must be disposed of in a respectful manner and their graves respected and properly maintained.

Rule 116: With a view to the identification of the dead, each party to the conflict must record all available information prior to disposal and mark the location of the graves.

Rule 117: 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.

Finally, we would like to draw the attention of your Excellency's Government to States' obligations to provide victims of human rights violations with effective remedies. 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, adopted by the General Assembly in 2006, provide that victims of a gross violation of international human rights law or of a serious violation of international humanitarian law must be guaranteed of: equal and effective access to justice; adequate, effective and prompt reparation for harm suffered; and access to relevant information concerning violations and reparation mechanisms.