

General allegation

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Lybia

89. The Working Group has received information from credible sources concerning reported obstacles encountered in the implementation of the Declaration in Libya.

90. Specifically, the Working Group has received reports that, after the conflict in the country, mostly in 2011 and 2012, many Tawarghas (a long-standing community of black Libyans) were disappeared and/or were kidnapped. Allegedly, Tawarghas were taken from checkpoints, camps, streets, homes and even hospitals by anti-Gaddafi armed militia who accused them of being supporters of the Gaddafi Government and of having committed war crimes. According to the source, the persons abducted were transferred to detention facilities in Misrata, where they were reportedly subjected to torture and other ill-treatment. Many of the Tawarghas abducted remain missing and unaccounted for.

91. Representatives of the Tawarghan community reportedly estimate that over 1,300 Tawargha detainees are either missing or detained. Many of the Tawarghan detainees are allegedly held in State prisons and in facilities not overseen by the State, without charge or trial. Many of the abductees reported not having been questioned since the moment they were captured. Allegedly, there are also persons below the age of 18 among the detainees and information has been received that at least nine persons below the age of 18 were held for up to 20 months without referral to the prosecution and without family visits in spring 2013.

92. Even though visits to State prisons and unofficial detention centres in Misrata are in principle permitted, relatives of Tawarghas are allegedly very reluctant to visit them owing to a fear of reprisals by Misratan militias.

93. According to the information received, the Local Council of Tawargha has repeatedly requested a list of all Tawarghan detainees from the judicial authorities, but has not received a satisfactory answer so far; many relatives are therefore without any information on the fate or whereabouts of their loved ones since they went missing in 2011.

94. It was also reported that the situation had a serious impact on the economic situation of many Tawargha families, as the person unaccounted for was in many cases their main breadwinner. Furthermore, the relatives of the disappeared were reported to face obstacles when attempting to register with the Ministry for the Affairs of Families of Martyrs and Missing Persons to receive financial assistance, given the lack of death certificates. In January 2013, Tawargha leaders received photographs from undisclosed sources of bodies of Tawarghas who died in unclear circumstances. However, even the 93 families that were able to identify their loved ones from the photographs remain unable to obtain death certificates, or any clarification of the circumstances of their deaths.

95. In his report to the Security Council on the United Nations Support Mission in Libya (S/2014/131), the Secretary-General notes that the Ministry of Justice estimates that approximately 7,000 people continue to be detained in relation to the 2011 conflict and are awaiting judicial processes (para. 33). Reportedly, those detainees, who include persons below the age of 18, are held mostly by armed brigades over whom the Government does not have effective authority. The law on transitional justice, adopted on 2 December 2013, specifically requires that those detainees be released or handed over to the judiciary within 90 days. According to the Secretary-General's report, that aspect of the law faces challenges in its implementation given the lack of State control of the majority of detention facilities and the absence of a safe environment in which the judiciary can operate (*ibid.*, para. 35).

96. The Working Group understands that it remains to be established whether all of the above-mentioned persons became victims of an enforced disappearance in accordance with the definition of the Declaration. However, the Working Group recalls that it is not possible to rule out that those persons have become the victims of an enforced disappearance, if proper investigations are not conducted.