

Her Excellency Ms. Stephanie T. Williams
Acting Special Representative of the
Secretary-General and Head of Mission
United Nations Support Mission in Libya (UNSMIL)

Subject: The Libyan Political Dialogue Forum

Your Excellency,

While we support the efforts of the UNSMIL to broker a political solution to the crisis in Libya, we have several reservations on the UNSMIL's handling of the process. We hope that you be gracious enough to consider them constructively.

Your statementⁱ of September 10, in which you "*warmly welcomed*" the outcome of the consultative meeting, without any conditions is of great concern. The participants reportedly considered the "*implementation of the Parliament-approved Amnesty Law*" as one of the "*necessary steps for much-needed national reconciliation*", is not acceptable and violates International Humanitarian Law (IHL) and International Human Rights Law (IHRL). There cannot be national reconciliation without justice, without holding those suspected of committing grave violations, amounting to war crimes and crimes against humanity, accountable for their crimes.

The Amnesty Lawⁱⁱ, issued by the House of Representatives (HoR), grants general amnesty to "*all Libyans who committed crimes during the period from February 15, 2011 to the date of issuance of this law*"ⁱⁱⁱ. That includes the war crimes and crimes against humanity committed by the Gaddafi regime^{iv}. Accepting the application of this law means accepting impunity for serious crimes in Libya.

The UNSMIL must uphold the principles of IHL and IHRL and reject the proposal to include HoR's "amnesty" law in the process. The UNSMIL's endorsement of the application of HoR's "Amnesty Law" without conditions is unbecoming of a UN mission. It undermines the work of the International Court and the Rule of Law, and thus further aggravates impunity in Libya.

Transparency, and inclusiveness in selecting delegates to the Libyan Political Dialogue Forum (LPDF) are of the utmost importance for the process to succeed. Without transparency, the process will not get the trust and confidence. Lack of inclusiveness not only puts the process in jeopardy, but it also rewards the aggressors and is a betrayal to the victims.

The UNSMIL's claims, in its announcement^v of the "resumption" of the LPDF, of "inclusivity, fair geographic, ethnic, political, tribal, and social representation" and "throughout this process, the UNSMIL will ensure transparency and a rights-based approach" could not be further from the truth.

We have not seen any transparency in the process, nor have the criterion of selecting the delegates been revealed. The ambiguity of the UNSMIL's process has led to people, concerned people, to draw all sorts of conclusions and alienate others. This is a recipe for failure not a resolution of the crisis.

The UNSMIL's LPDF list of participants^{vi} does not support its claim of inclusiveness and fairness. The list has excluded all those who do not support renegade Major General Khalifa Haftar. It is a known fact that dissent is not tolerated in areas controlled by the renegade Maj General. The enforced disappearance of HoR Member, Dr. Siham Sergiwa is one example of the fate of countless people who dared to express their opinion of his project. None of the members of HoR from the East, who are invited to the LPDF, has ever expressed their concern over or demanded investigation into the violent abduction and disappearance of their colleague.

Thousands of families have been displaced from areas controlled by Haftar's militias. Those forcibly displaced from Benghazi, the majority of them have been displaced from their homes over six years now. We have not seen any effort by the UNSMIL to resolve their situation, throughout these past six years^{vii}. And now, the UNSMIL has chosen to exclude them from the process. Regardless of the intentions and reasons behind the UNSMIL's decision, this exclusion of representatives from the areas under Haftar's control, who do not subscribe to his quest for power, sends them a message that "there is no place for you in the process to decide Libya's future". Perceptions do matter.

Considering the above, the UNSMIL's claims of transparency, fairness, inclusivity, and a rights-based approach, are baseless. Facts expose the fallacies of these claims. We strongly advise UNSMIL to correct its position. The UNSMIL's role is a facilitator of the dialogue not the owner of it.

We also call on the UNSMIL to set the record clear, on its position vis-à-vis the attempt to grant amnesty to perpetrators of grave violations in Libya. We expect the UNSMIL to uphold the principles of International Humanitarian Law and International Human Rights Law. War crimes and crimes against humanity are not subject to any statute of limitations and cannot be dropped by general or special amnesties.

Sincerely,

Giumma Elomami

President of Human Rights Solidarity

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- ⁱ UNSMIL: "[Statement on the HD-Organised Libyan Consultative Meeting of 7-9 September 2020 in Montreux, Switzerland](#)", September 10, 2020.
- ⁱⁱ Libyan House of Representatives: Law No. 6 of 2015 "[On the General Amnesty](#)", September 7, 2015.
- ⁱⁱⁱ Article (1) of Law No. 6 of 2015.
- ^{iv} The lawyers of the fugitive Saif al-Islam Gaddafi tried to use Law 6 (2015) to stop the proceedings against him before the ICC, but the court rejected their appeal. ICC: "[Saif Al-Islam Gaddafi case: ICC Appeals Chamber confirms case is admissible before the ICC](#)", March 9, 2020.
- ^v UNSMIL: "[Acting Special Representative of the Secretary-General for Libya Stephanie Williams announces the Launch of the Libyan Political Dialogue Forum Process](#)", October 25, 2020.
- ^{vi} UNSMIL: "[Final List of LPDF Participants](#)", October 25, 2020.
- ^{vii} Last month, after almost 5 years in Tripoli, the GNA has turned its attention to their plight. The Ministry of Education issued several decrees to transfer the workplace of over 600 faculty members and teachers from universities and schools in East Libya to research centers and schools in Misrata and Tripoli, among them ~160 Assistant Professors and Professors. Committee for the Affairs of the Internally Displaced People from the Eastern Region - Education Sector ([link](#)).