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INTERNATIONAL SERVICE
FOR HUMAN RIGHTS



THE SITUATION OF HUMAN RIGHTS DEFENDERS

LIBYA

UPR Briefing Paper - August 2014

During its latest Universal Periodic Review (UPR) in November 2010, Libya received 14 recommendations relating to civil society, freedom of expression, freedom of the press, and freedom of assembly and association. Three recommendations concerning the repeal of repressive legislation were rejected.

Some progress has been made since 2012 after the fall of the Gaddafi regime, with an increase in the number of NGOs and media professionals. However, vague and restrictive legislation continues to stifle the work of human rights defenders (HRDs), whilst ongoing insecurity, armed militia activity and challenges to the rule of law imply elevated risks for activists, journalists and legal professionals, thus threatening Libya's democratic transition.

RISKS FACED BY HUMAN RIGHTS DEFENDERS

- Persecution against HRDs, dissidents and journalists can take the form of: confiscation of passports, arbitrary detention, torture during interrogation, prosecution on false charges, denial of access to lawyers and prolonged imprisonment. Human rights organisations are prevented from working openly.¹
- Attacks and murders of activists and legal professionals have been common since the fall of the Gaddafi regime, reflecting the challenges facing the transitional authorities in ensuring security, particularly in Benghazi.²
- In June 2014, Salwa Bugaighis, a human rights advocate and member of the Preparatory Committee for National Dialogue, was assassinated by hooded aggressors.³
- Three activists speaking out against political Islam forces, militia groups and the displacement of Tawerghan people, have been subject to threats. A number of defenders have faced prosecution under charges of blasphemy in relation to their activities.⁴ Abdul-Muiz Banoon, an activist and organiser of demonstrations in Tripoli, was abducted on 24 July 2014 by armed militias. His whereabouts is still unknown.⁵

- Deadly clashes took place in June and November 2013 between protesters and militias, during which almost 80 people died and hundreds were injured. No thorough investigations were conducted and there has been no accountability for the death of protesters.⁶
- In July 2013, five human rights activists were illegally arrested by members of Katibas (revolutionary groups) in Tripoli.⁷

OFFICIAL RESTRICTIONS ON THE SPACE FOR HUMAN RIGHTS DEFENDERS

- In November 2012, the General National Congress passed Law 65/2012 aimed at regulating peaceful assembly. At the time, the Special Rapporteur on HRDs expressed concern about the incompatibility of the law with international human rights standards, including in relation to requirements of authorisation and the imposition of criminal sanctions for failure to obtain authorisation or abide by other protest conditions. The Government did not respond to the Special Rapporteur's letter of concern.⁸

- Defamation laws, media regulation, and provisions of the Libyan penal code concerning ‘crimes against the State’, put limitations on the right to freedom of expression.⁹ Freedom of association and the right to peaceful assembly are also undermined by several penal code provisions regarding the establishment of ‘unlawful organisations and formations’, which can be punished by the death penalty (Article 206).¹⁰
- Judges and lawyers face attacks and retaliation, which hinder the establishment of the rule of law and discourage law professionals from working on sensitive cases. There has been an increase in the number of acts of violence against them. In 2013, judges Mohammed Naguib Huwaidi, Murad Alarouby and Gumma Aljawi were assassinated. Some courts have been suspended and judges who received death threats chose to leave the country.¹³ Whilst legal professionals are under-protected, the impunity for threats and attacks against HRDs will be exacerbated, leaving perpetrators likely to reoffend.

INTIMIDATION AND REPRISALS AGAINST HUMAN RIGHTS DEFENDERS ACCESSING INTERNATIONAL MECHANISMS

- There were no reported cases of reprisals against Libyan HRDs for cooperation with the UN cited in the Secretary General’s reports on the subject. However it is possible that HRDs are refraining from cooperating with international human rights mechanisms due to the broader risks they face in Libya.

HUMAN RIGHTS DEFENDERS FACING PARTICULAR RISKS

- Journalists are particularly vulnerable due to their reporting. They risk assassination attempts, abductions, recurrent death threats and ill-treatment by non-state actors. Some offices have been attacked and vandalised. Those risks can result in journalists choosing self-censorship, hiding, leaving the country, and even abandoning their profession, due to fear of attack. According to the Libyan Centre for Freedom of Press, since the beginning of 2014, at least ten journalists have survived assassination attempts. During the first two months of 2014, there were more than 20 acts of intimidation against media workers. Recent cases of murders include the killings of Muftah Abu Zeid and Naseed Miloud Karfana.¹¹
- Despite the increasingly important roles that women have been holding in Libya since the revolution, especially in the political sphere and in NGOs, they are also victims of attacks. Some women activists have received death threats. Traditional and conservative views regarding women’s rights remain strong, threatening their rights and freedoms.¹²

THE RESPONSE OF THE STATE REGARDING THE PROTECTION OF HUMAN RIGHTS DEFENDERS

- The Libyan authorities have apparently been unable to control militias which commit acts of violence or even murders. The lack of reform of the justice system, the scarcity of resources, and the failure to strengthen the army and the police has contributed to the impunity with which the militias operate.
- Authorities have often failed to conclude investigations concerning attacks and murders against protesters, journalists and HRDs who suffered human rights violations and are therefore prevented from accessing remedies. The justice system remains unable to deal with the numerous pending cases. No reform of the judiciary has been undertaken.¹⁴
- The government has been unable to sufficiently strengthen the rule of law, with consequences for the security of HRDs, journalists and legal professions. The Transitional justice law (Law 29/2013) passed in December 2013 still hasn’t been implemented. The fact-finding commission requested by the law hasn’t been set up yet. The Judicial Police, in charge of protecting judges, lack equipment and training.¹⁵

ABOUT THIS BRIEFING PAPER

ISHR encourages States to consult UPR submissions by local activists and make recommendations to Libya regarding the protection of HRDs. Excellent local sources of information on the situation facing HRDs, journalists, judges and lawyers are Libyan Justice (info@libyanjustice.org) and the Libyan Centre for Freedom of Press (info@lcfp.org.ly). For further information on this briefing paper, contact Ben Leather (b.leather@ishr.ch).

RECOMMENDATIONS TO THE GOVERNMENT OF LIBYA

- Reform repressive laws which restrict the rights and activities of HRDs and journalists; in particular, remove restrictions in the penal code on freedom of expression and peaceful assembly, and decriminalise defamation.
- Revise Law 65/2012 in order to comply with international human rights standards and replace requirements as to the authorisation of protests with provisions pertaining to notification.
- Implement protective measures and develop and enact specific laws and policies to recognise the work of HRDs, protect them from attacks by both State and non-State actors, and give full force and effect to the international Declaration on Human Rights Defenders at the national level.
- Demonstrate strong, high-level political support for HRDs, especially women HRDs, through public statements by State officials which recognise their important and legitimate work.
- Combat impunity by ensuring the prompt, thorough and impartial investigation of all violations against HRDs, the prosecution of perpetrators, and access to effective remedies for victims.
- Ensure a safe environment for judges and prosecutors, including through protective measures and the prompt and thorough investigation and prosecution of threats or attacks against them.
- Strengthen the capacity of the Judicial Police and the Libyan National Council for Civil Liberties and Human Rights, which is Libya's NHRI, and which should include a focal point on HRDs.
- Reaffirm the standing invitation to all Special Procedures and respond promptly and substantively to communications from Special Procedures.

In June 2014, Libyan citizens elected a new assembly which will replace the General National Congress. This is an opportunity to develop and strengthen State institutions and the rule of law in the country, in a context of instability and insecurity. However, lasting peace and human rights progress will only be attainable if specific steps are taken to protect human rights defenders, journalists and legal professionals and ensure their involvement in this democratic transition.

1. <http://www.frontlinedefenders.org/Libya>
2. <http://www.amnesty.org/en/library/asset/MDE19/004/2014/en/1e2f7763-2426-4456-9570-52b437e5c7f0/mde190042014en.html>
3. <http://www.un.org/apps/news/story.asp?NewsID=48148#.U85dSldNF6Y>
4. Preliminary Research on the state of Libyan civil society, August 2014, Sahar Mediha Al-Naas (Consultant in Gender Based Violence, bmesahar@yahoo.co.uk)
5. <http://www.alwasat.ly/ar/news/libya/28734/>
6. http://www.ifex.org/libya/2013/12/09/militias_protester_killings/
7. <http://fr.alkarama.org/libye/86-communicu/1314-lybie-cinq-militants-des-droits-de-lhomme-enlevés-par-deux-katibas-a-tripoli>
8. http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Documents/A-HRC-25-55-Add3_en.doc ; <http://www.cihrs.org/wp-content/uploads/2013/02/Ongoing-Human-Rights-Situation-in-Libya.pdf>
9. Article 205 on the insult to the Nation, Article 195 on the insult to the constitutional or popular authorities and Article 245 on the insult to public servants and judicial and official personnel, provide for prison sentences. Article 207 on the promotion of any act against the State orders provides for the death penalty for such a crime.
10. http://www.hrw.org/sites/default/files/reports/libya0114ForUpload_0.pdf ; <http://www.hrw.org/news/2014/01/21/libya-end-impunity-reform-repressive-laws>
11. <http://www.amnesty.org/en/library/asset/MDE19/004/2014/en/1e2f7763-2426-4456-9570-52b437e5c7f0/mde190042014en.html> ; http://www.ifex.org/libya/2014/02/24/attacks_on_media/ ; http://www.ifex.org/libya/2014/06/02/woman_journalist_found_dead/
12. <http://www.wluml.org/sites/wluml.org/files/ICAN-Libya-Brief-Dec-013.pdf>
13. <http://www.libyanjustice.org/news/news/post/92-lawyers-for-justice-in-libya-concerned-of-attacks-on-judges-and-lawyers-in-libya> ; <http://www.hrw.org/news/2014/04/14/libyas-justice-pandemonium>
14. <http://www.hrw.org/news/2014/01/21/libya-end-impunity-reform-repressive-laws> ; <http://www.hrw.org/world-report/2014/country-chapters/libya>
15. <http://www.hrw.org/news/2014/04/14/libyas-justice-pandemonium>

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