



Human Rights Defenders in Libya
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Defender Center for Human Rights (DCHR) is an independent regional non-governmental organisation founded in 2016 – Registered in France and Tunisia. DCHR is a Libyan HRD's network; working on supporting, empowering and protecting Libyan HRDs inside and outside Libya. DCHR aims at promoting rights of Human rights Defenders and vulnerable population, analysing the difficulties facing the application of International Human Rights Law and disseminating Human Rights Culture in the Arab Region as well as engaging in a dialogue between cultures. A crucial part of DCHR' mandate is to help shape the understanding of the most pressing human rights defenders concerns within the region and then to coordinate and mobilise the key players and NGOs from across the Arab world to work together towards solutions. DCHR is a member of the Platform (Coalition of 13 Libyan organizations).

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Overall situation of human rights defenders.

1. During the 2015 UPR, Libya received several recommendations to improve the status of human rights defenders (HRDs): for example by: ensuring their safety, promoting and respecting the freedoms necessary for their work (primarily freedom of opinion, expression, association and peaceful assembly) and reforming national legislation used to undermine HRD's work.
2. Since, various authorities have shown active hostility towards HRDs, who monitor and report on human rights violations and call for the accountability of those involved. Authorities have attempted to silence HRDs by placing arbitrary restrictions on their ability to exercise their right to organise.
3. Libyan HRDs face enormous challenges, and attacks on HRDs increased for various reasons: political fragmentation, the spread of armed and militant groups throughout the country, the relative inability of the judiciary to perform its role, and the absence of a protective legal framework.
4. Conditions have not improved since the December 2015 signing of the Libyan Political Agreement ("Skhirat Agreement"), which established the Presidential Council (PC) of the UNSMIL-backed Government of National Accord (GNA). Conflict continued between competing authorities—namely the GNA in the west and the Interim Government in eastern Libya, and their affiliates (including armed militias or regular paramilitary or military groups). The political struggle over the selection of executive and legislative representatives, and the deterioration in humanitarian conditions, in general, made political agreement more difficult.
5. Although judicial institutions have been reinstated, the judiciary has been unable to hold accountable the perpetrators of grave abuses. Furthermore, courts and investigating authorities have been unable to provide reparation or remedy to victims of human rights violations, or bring those suspected of criminal responsibility to justice. As a result, perpetrators continue to operate without fear of being held accountable.
6. On 16 January 2019, renewed fighting took place in Tripoli, resulting in dozens of dead and wounded. The previous day, Libyan National Army (LNA) commander-in-chief Khalifa Haftar¹ conducted a military operation in southwest Libya. This involved confrontations with various armed groups, including forces believed to be affiliated or allied with the Islamic State (IS) group and Al-Qaeda in the Maghreb (AQIM). Haftar also announced the end of military operations in Darnah after fierce battles with the Darnah Shura Council (Darnah Protection Force).
7. In March 2018, the Office of the High Commissioner for Human Rights (OHCHR) published a report on Libya describing a "near-complete state of lawlessness throughout the country, with almost complete impunity even for the most serious crimes."²

Pervasive impunity and the lack of a unified security sector since 2014 has allowed warlords in eastern, western and southern Libya to continue to obstruct the implementation of local reconciliation agreements, for example in Tawergha and Misrata, as well as attempts to find a peaceful solution concerning the previous siege of Darnah. Militias and warlords also undermined reconciliation between the Tabu tribes and Awlad Suleiman.

Legislation against human rights defenders

¹ The Commander-in-Chief of the Armed Forces appointed by the House of Representatives in eastern Libya, Khalifa Haftar,

² 37th Session of the Human Rights Council, Item 2: Annual Report and Oral Briefing of the High Commissioner for Human Rights, 7 March 2018. <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=22772>

- 1- In January 2016, the Civil Society Commission of Benghazi issued two decrees governing the work of local³ and foreign organisations.⁴ By preventing the work of these organisations through executive decision-making rather than by law, the 2016 decrees stand in contravention of the 2011⁵ Constitutional Declaration. Through these insurmountable restrictions, the Commission gave itself unlimited powers to control the work of these organisations and to impose penalties—including dissolution.
- 2- Regarding local organisations, the decrees grant the Commission total discretion to refuse registration without specifying the reasons for refusal. In the event of a rejection, the organisation has the right to appeal before the Commission in a manner that makes the latter both adversary and arbiter. The Commission also requires approval before the organisation can receive funds (Article 23), and the decrees also allow for interference in the activities of organisations by controlling their funding and fundraising. Organisations are prohibited from opening bank accounts without the Commission's permission, with the latter having the power to close or freeze accounts (Article 24).
- 3- The decree provides imprecise grounds for the dissolution of local organisations, such as violations of national legislation (Article 15).
- 4- The decrees impose compulsory registration for foreign organisations including a one-month waiting period for approval (Article 3). The Commission is not required to specify the reasons for refusal of a license (Article 7). An applicant organisation must notify the Commission concerning implementation of any activity including information about its activities, goals and publications (Article 13). These requirements represent unjustified interference into the activities of organisations.
- 5- In February 2017, the military ruler of Darnah-Bin Jawad issued Decree No. 6 prohibiting Libyan women from travel without a male custodian [Mahram]. It was quickly retracted due to pressure to issue Decree No. 7, which prohibits Libyans between the ages of 18 and 45 from travelling abroad without security approval from the intelligence service (Article 2). Although the rationale was to prevent individuals from joining terrorist organisations and protect national security (Article 1), this decree risks restricting the freedom of movement of HRDs. It also fails to mention the grounds for rejecting a travel permit, leaving the decision to the discretion of the intelligence services, thereby allowing authorities to monitor HRDs' reasons for travel and the activities they conduct abroad. This level of access can amount to violating HRDs' right to travel, by forcing HRDs to answer inquiries or else not be granted a travel permit.
- 6- In late 2017, the Commission finalised a draft law concerning organisations⁶. In March 2019, the Presidential Council (PC) of the Government of National Accord (GNA) issued Decree No. 286 to regulate the work of organisations. A system of prior authorisation for registration of local and foreign organisations was introduced (Article 3, para. 45) with local organisations required to give ten days', and foreign organisations required to give one month's, notice.
- 7- Decree 268 prohibits local organisations from receiving funds from any party without the prior permission of the Commission (Articles 28, 29, 37). Organisations found to be in contravention of those provisions can face administrative dissolution (Article 32/5). Local organisations must obtain the permission of the Commission to open a bank account (Article 38), which hinders access to a juridical personality until permission is granted. Organisations cannot conduct activities without the use of a bank account since they require disbursement

³ Decision (1) of 2016 approving the Regulation of the Work of Civil Organizations, January 3, 2016.

⁴ Decision (2) of 2016 approving the Regulation of the work of civil organisations, January 3, 2016.

⁵ Article 15

⁶ Comments by Daam Center on CSOs drafted law in Libya <http://daamdh.org/archives/2778>

of funds. The decree grants authority to the Commission to request competent authorities close or freeze an organisations' accounts.

- 8- Foreign organisations are prohibited from receiving or sending funds, opening bank accounts, giving grants to national organisations or concluding employment contracts with third parties without the Commission's prior approval (Article 58). They are also prohibited from conducting activities contrary to public order and morals or participating in activities related to political, military and security matters (Article 67).
- 9- The decree expands the possible justifications for administrative dissolution of both local and foreign organisations, including violations of pre-existing legislation or an organisation's inability to achieve its stated objectives (Articles 32, 67).
- 10- Libya has not undertaken legislative reforms guaranteeing safe working environments for HRDs—instead, maintaining unlawful restrictions on freedom of expression through the Penal Code. They include provisions criminalising the dissemination of false news about the internal affairs of the state in a way that could damage its reputation, which carries a penalty of life in imprisonment (Article 178). The Libyan Center for Press Freedom recorded three such prosecutions: two defamation cases and another case related to the alleged disclosure of state secrets concerning two journalists and a Libyan newspaper. The Penal Code sets out prison sentences for: insulting the February 17th Revolution; insulting the judiciary, the Armed Forces or the Libyan people; or insulting the emblem or flag of the state (Article 195); as well as a host of other crimes including a one-year prison term for defamation (Article 439).
- 11- Libya maintained the Terrorism Act (3/2014), which contains broad definitions of what constitutes a terrorist act, thereby allowing for the punishment of all forms of dissent—including the work of HRDs. The Terrorism Act criminalises acts that do not cause serious bodily injury or death, a key pillar recommended by international experts when defining terrorism⁷.
- 12- Libya continues to apply the Publications Act (76/1972), which can restrict the freedom of the press and publication. It requires that these freedoms be exercised within the framework of the principles, values and objectives of the community (Article 1)—an ambiguous terminology that does not define acts deemed to contravene that framework. The legislation includes prison terms and fines of up to 1,000 dinars. Authorities can also prevent the publication of an item (Article 29).
- 13- Libya also maintains restrictions stipulated in the Demonstration Act (65/2012), which can prevent assemblies that impede the functioning of public utilities (Article 2, 3), and hold demonstration organisers responsible for maintaining order as well as preventing any speech at the demonstration that violates public order or morals or represents incitement (Article 2). This is in contravention of international standards that determine that the State is responsible for these actions. The legislation also grants absolute powers to security bodies to postpone and prevent demonstrations as well as disperse them. It is also possible to prevent demonstrations if they are likely to disturb public security (Article 7). The legislation also permits dispersal of a demonstration if it exceeds the limits set out in the notification, or if riots or other crimes take place that disturb public order and impede the authorities from carrying out their duties (Article 8) while neglecting the regulation of the use of force by security forces.
- 14- The law stipulates a maximum term of six months' imprisonment and a fine of up to 5,000 dinars for holding a demonstration without giving prior notice to the authorities, or not

⁷ Law No. 3 of 2014, issued by the House of Representatives, in the city of Tobruk, on September 19, 2014

cancelling a demonstration following an official order. This effectively means that authorities do not recognise spontaneous assemblies or the innate right to free assembly.

State and Non-State Practice with respect to HRDs in Libya

1. The pervasive targeting of HRDs by non-State actors and armed groups continues. Over the past four years, numerous abuses have been perpetrated against HRDs with near-total impunity. The climate of intimidation and persistent threats, kidnappings and cases of arbitrary detention have left HRDs unable to conduct their work.
2. The Libyan authorities have consistently failed to protect women HRDs, journalists and activists from instances of gender-based violence committed by both state and non-state actors. Women who have spoken out against the Libyan National Army (LNA) and other armed groups have been subjected to violence, threats and enforced disappearance. They have also become the subject of defamatory allegations on social media, including accusations of adultery and prostitution. Negative gender stereotypes associated with women's activism have resulted in the normalisation of such abuses, forcing many women to withdraw from the public sphere⁸.
3. On 27 December 2018, security forces conducted a raid on a café in Benghazi, where a group of young women were attending a get-together and proceeded to arrest its employees for "immoral behaviour"⁹.
4. On 22 July 2018, in retaliation for the arrest of two people charged with smuggling, an armed group kidnapped Judge Abdulsalam Senussi, Prosecutor Ismail Abdulrahman and two security officers from a courthouse in Weddan, southern Libya. They were released two days later¹⁰.
5. On 25 March 2017, intelligence officers in Benghazi questioned and detained two men for comments they posted on social media relating to human rights abuses allegedly perpetrated by the Libyan National Army (LNA)¹¹. On 31 July 2018, the Nouasi Battalion, which operates under the Government of National Accord (GNA), arrested four journalists including Reuters correspondent Ahmed al-Amami, Reuters photojournalist Hani Amara as well as two AFP photojournalists, brothers Mahmoud and Hamza Turki, who were researching a migration story at the Tripoli naval base in Abu Sitta. They were released 10 hours later¹².
6. Authorities have not only restricted the work of HRDs but have also tended to give those restrictions a religious character to further restrict HRDs' work. In May 2018, the Libyan Fatwa House in Tripoli issued a fatwa (an Islamic ruling) banning national organisations or individuals from communicating with any foreign organisation¹³—except according to the law. It also made implicit threats towards HRDs using accusations of espionage and betraying the country¹³.
7. During 2018, the Defender Center for Human Rights monitored multiple instances of violations against HRDs—including nine cases of enforced disappearance and arbitrary detention of HRDs, 10 cases of death threats and enforced disappearance, 13 cases of threats and attempted abduction, 41 cases of verbal abuse, and two cases of physical assault. Meanwhile, in 2019, and after the beginning of hostilities on the outskirts of Tripoli, HRDs were threatened with death and detention. Four were kidnapped, three subjected to torture, one forcibly displaced and another forcibly disappeared.

⁸ Amnesty International, Libya 2018, <https://www.amnesty.org/countries/middle-east-and-north-africa/libya/report-libya/>

⁹ Reference

¹⁰ Reference

¹¹ Reference, Page No. 18.

¹² Amnesty International, Libya 2018, <https://www.amnesty.org/countries/middle-east-and-north-africa/libya/report-libya/>

¹³ Fatwa No. 3584, dated 15 May 2018.

8. The deteriorating and precarious security situation has left more than 83 Libyan journalists unable to work in Libya¹⁴.
9. Activists, medical workers and local officials from the city of Derna have been held in solitary confinement for several months without trial, in facilities manned by the Libyan National Army (LNA) including the *Qurnada* and *al-Bayda* prisons¹⁵.
10. On 16 December 2018, the Civil Society Commission in Derna issued a letter to civil society organisations requesting they regularise their status within a month or cancel the registration. In February 2019, the Civil Society Commission in Benghazi issued a decree to stop the work of 37 organisations registered in Benghazi until further notice, without stating any specific reason for the decree. In August 2019, the Civil Society Commission, affiliated with the Government of National Accord (GNA) in Tripoli, sent a letter to local organisations instructing them not to engage in activities with international organisations, in Libya or abroad, unless the Commission was informed of the activity at least two weeks in advance. The letter further stipulated that international organisations would be held liable for activities conducted without the Commission's consent.

Upon its review of systematic violations against HRDs in Libya, the Defender Center for Human Rights recommends that the Libyan authorities, including both legislative and executive authorities, implement the following measure with immediate effect:

- Disband armed groups in order to reduce repeated violations of international human rights law and international humanitarian law;
- Reform the criminal justice system by enhancing the capacity of criminal justice actors to effectively investigate and prosecute human rights violations and ensure victims' access to justice.
- Legislative authorities should review legislation impeding the work of HRDs in Libya and remove restrictions on fundamental freedoms that enable them to carry out their work effectively.
- Legislative authorities and the Civil Society Commission should, in consultation with local civil society organisations, enact a law governing the work of organisations in line with Libya's international obligations under the ICCPR and abolish other pieces of legislation related to the work of civil society organisations.
- The executive branch should take urgent measures to stop media practices that incite hate speech and violence against HRDs.
- The executive branch should end the use of religious edicts restricting the working environment of HRDs.
- Activate the United Nations Declaration on HRDs to protect them from all forms of abuse, and ensure that they enjoy the necessary rights to practice their work.
- Conduct urgent investigations into allegations of violations of international human rights law—including arbitrary detention, extrajudicial killings and torture.

¹⁴ Libyan Center for Press Freedom, Annual Report 2018-2019, p. 3

¹⁵ Security Council, S / 2019/19, Paragraph No. 29