



**JOINT STAKEHOLDER REPORT FOR THE THIRD UNIVERSAL  
PERIODIC REVIEW OF**

**LIBYA**

**36<sup>th</sup> session of the UPR Working Group**

**October 2019**

## **AUTHORS OF THE REPORT**

The Coalition of Libyan Human Rights Organisations (the **Coalition**) is a diverse network of Libyan civil society organisations from different geographical areas working on a wide range of human rights issues. It was brought together in 2014 in order to engage in Libya's second universal periodic review (**UPR**), marking the first engagement of Libyan civil society in Libya's UPR. Following the adoption of UPR recommendations in 2015, the Coalition monitored the state's compliance with, and implementation of, the recommendations accepted.

The Coalition monitors and reports on the human rights on which each member focuses. The Coalition develops joint strategies for outreach and advocacy through events, campaigns and engagement with human rights mechanisms based on the priority concerns of diverse groups of Libyan grassroots stakeholders.

For the purpose of this report, the Coalition includes the following seven organisations:

- Lawyers for Justice in Libya
- Libyan Centre for Freedom of Press
- Libyan Association for Tebu Culture
- Libyan National Organisation for Handicaps Development
- Libyan Woman but My Child is a foreigner Organisation
- The Independent Organisation For Human Rights
- Youth Gathering for Tawergha

## INTRODUCTION

1. During its second UPR in May 2015 (the **second UPR**), Libya accepted 171 out of the 212 recommendations made by Member States. In November 2017, Libya was due to provide an update on the status of implementation of the recommendations it received during the second UPR but failed to do so. On this occasion, the Coalition of Libyan Human Rights Organisations presented a report assessing Libya's implementation of the recommendations.<sup>1</sup> It was found that Libya had made no significant efforts to implement most of the recommendations it had accepted.<sup>2</sup>
2. This report is a joint submission by the Coalition of Libyan Human Rights Organisations to the upcoming 36<sup>th</sup> session of the UPR Working Group on Libya, in May 2020. This submission provides an overview of key human rights issues that remain of concern, by addressing seven areas on which the Coalition is working: migration, freedom of expression, freedom of association, women's rights, minorities, internally displaced persons and the rights of persons with disabilities. The Coalition also makes recommendations to be addressed to Libya during its review.

## RIGHTS OF MIGRANTS, ASYLUM SEEKERS AND REFUGEES

3. Since Libya's second UPR in 2015, the situation of migrants, asylum seekers and refugees has not improved, and Libya has failed to adhere to the international standards which guarantee the rights of migrants, refugees and asylum-seekers. The International Organization for Migration (**IOM**) estimated that, as of 2019, there are 655,144 migrants in Libya, 8% of whom are children.<sup>3</sup>
4. Despite accepting recommendations to end the arbitrary detention of migrants,<sup>4</sup> Libya maintains its system of automatic detention. Automatic detention refers to the process whereby migrants intercepted at sea are immediately transferred to detention centres, with no special attention given to women or children. Detention centres still host around 7,000 migrants and refugees.<sup>5</sup> The detention centres in the east are controlled by armed groups affiliated to the east-based Interim Government. Although the centres in the west are nominally under the control of the Government of National Accord (**GNA**)'s Directorate for Combatting Illegal Migration (**DCIM**), which falls under the Ministry of Interior, they are controlled by GNA-affiliated armed groups operating with practical autonomy. In 2018, the DCIM ordered the closure of nine detention centres,<sup>6</sup> however some remain open as armed groups are unwilling to handover detainees. For example, the Shuhada al-Nasr detention centre in al-Zawiya remains operational at the time of writing, despite an order from the head of the DCIM to shut it down on 18 April 2018.<sup>7</sup>

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<sup>1</sup> Coalition of Libyan Human Rights Organisations, *UPRna Mid-Term Monitoring Report: An Assessment of Libya's Second Universal Periodic Review*, 2017, available at [https://www.upr-info.org/sites/default/files/document/libya/session\\_22\\_-\\_may\\_2015/upr\\_mid-term\\_report\\_libya\\_en.pdf](https://www.upr-info.org/sites/default/files/document/libya/session_22_-_may_2015/upr_mid-term_report_libya_en.pdf).

<sup>2</sup> Ibid, page 3.

<sup>3</sup> IOM, *Libya's Migrant Report, Round 26*, June-July 2019, available at [https://migration.iom.int/system/tdf/reports/Libya\\_Migrant%20Report\\_R26.pdf?file=1&type=node&id=6579](https://migration.iom.int/system/tdf/reports/Libya_Migrant%20Report_R26.pdf?file=1&type=node&id=6579).

<sup>4</sup> *Report of the Working Group of the Universal Periodic Review on Libya*, A/HRC/30/16, July 2015, para. 137.129, recommendation by Chile, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/162/91/PDF/G1516291.pdf?OpenElement>.

<sup>5</sup> IOM, *Libya's Migrant Report, Round 26*, June-July 2019, available at [https://migration.iom.int/system/tdf/reports/Libya\\_Migrant%20Report\\_R26.pdf?file=1&type=node&id=6579](https://migration.iom.int/system/tdf/reports/Libya_Migrant%20Report_R26.pdf?file=1&type=node&id=6579).

<sup>6</sup> OHCHR, *Desperate and Dangerous: Report on the Human Rights Situation of Migrants and Refugees in Libya*, 20 December 2018, available at: <https://www.ohchr.org/Documents/Countries/LY/LibyaMigrationReport.pdf>

<sup>7</sup> Ibid, p. 39.

5. Despite committing to improving conditions for all migrants and refugees and ending torture and ill-treatment of detainees,<sup>8</sup> Libya made limited progress in improving dire detention conditions. The Independent Organisation for Human Rights (IOHR) has reported that detained migrants and refugees suffer malnutrition and lack access to adequate food supplies.<sup>9</sup> Médecins Sans Frontières (MSF) has also documented over-crowdedness and a lack of hygiene in the centres,<sup>10</sup> resulting in rapid spreading of disease. Between September 2018 and June 2019, at least 22 detainees have died from diseases in the Zintan and Gharyan detention centres.<sup>11</sup> MSF has also reported skin infections and acute diarrhoea, symptomatic of severe malnourishment and dehydration in these centres.<sup>12</sup>
6. In 2017, the Independent Organisation for Human Rights visited Karareem detention centre in Misrata, Zliten detention centre in Zliten, and Al Khums detention centre in Al Khums, between January 2017 and August 2017. The evidence collected suggests that detainees were subjected to human rights abuses including arbitrary detention, torture, sexual exploitation and forced labour. Researchers at the Independent Organisation for Human Rights received testimonies from female detainees detailing sexual harassment by armed men at night. In further visits, they also found that only one toilet was serving 180 people in Souk Al Khamis detention centre. In the Bab Zaitoun detention centre in Tobruk, migrants and refugees reported being tortured by smugglers and being forced to call their families for ransom in exchange for their release. These acts caused the detainees severe psychological distress. In 2018, four detainees in the Souk Al Khamis centre reportedly attempted suicide.<sup>13</sup>
7. Since the resumption of conflict in April 2019 following the launch of the Libyan Armed Arab Forces' (LAAF) offensive to take over Tripoli, conditions for migrants and refugees have deteriorated. On 3 July 2019, the Tajoura detention centre near Tripoli was bombed by airstrikes, killing 53 people.<sup>14</sup>

#### **Recommendations to Libya:**

- Guarantee the rights of migrants, asylum seekers and refugees in Libya, end their automatic detention, and immediately and unconditionally release them;
- Prosecute and hold accountable those responsible for crimes against migrants, asylum seekers and refugees;
- Implement obligations under the 1969 OAU Convention Governing the specific Aspects of Refugee Problems in Africa, which Libya has signed and ratified;
- Ratify the 1951 Convention on the status of Refugees and its 1967 Protocol.

#### **FREEDOM OF EXPRESSION**

8. During its second UPR, Libya accepted nine recommendations regarding freedom of expression with specific reference to the press, including ensuring that the “constitutional framework protects

<sup>8</sup> *Report of the Working Group of the Universal Periodic Review on Libya*, A/HRC/30/16, July 2015, para.137.109, 137.123, 137.124, 137.126, 137.128 137.129, recommendation by Germany, Slovenia, Luxembourg, Ireland, Switzerland, Chile, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/162/91/PDF/G1516291.pdf?OpenElement>.

<sup>9</sup> Information collected by the International Organisation for Human Rights since 2017.

<sup>10</sup> Médecins Sans Frontières, *Providing Care to People Trapped in Libyan Detention Centers*, 2 April 2019, available at: <https://www.msf.org/providing-care-people-trapped-libyan-detention-centres-migration-libya>

<sup>11</sup> Médecins Sans Frontières, *Catastrophic Medical Situation in Libyan Detention Centers*, 21 June 2019, available at : <https://www.msf.org/catastrophic-medical-situation-libyan-detention-centres>

<sup>12</sup> Médecins Sans Frontières, *Libya: Providing healthcare to detained refugees and migrants*, 14 December 2016, available at: <https://www.msf.org/libya-providing-healthcare-detained-refugees-and-migrants>

<sup>13</sup> Information collected on the ground by the Independent Organisation for Human Rights in 2018.

<sup>14</sup> World Health Organisation in Libya, on Twitter, 5 July 2019, available at: <https://twitter.com/WHOLIBYA/status/1147078120215928832>.

journalists,”<sup>15</sup> investigating attacks against journalists, and ensuring that perpetrators are brought to justice.<sup>16</sup>

9. According to the World Press Freedom Index from Reporters Without Borders, freedom of the press in Libya has deteriorated since Libya’s last UPR with its global ranking falling from 131 in 2013 to 162 in 2019.<sup>17</sup> Journalists in Libya continue to experience threats, intimidation and violence, primarily in connection with their reporting on the conflict. For example, on 31 July 2018, reporter and photojournalist Musa Abdul Kareem who worked in the southern city of Sebha, was abducted and found dead later that day with his body bearing signs of torture.<sup>18</sup>
10. Since 2015, the Libyan Center for Freedom of Press documented 328 attacks on journalists, including killing, enforced disappearances, torture, and arbitrary detention.<sup>19</sup> For example, on 2 May 2019, two journalists working for Libya Al-Ahrar TV were abducted, with their whereabouts unknown until release on 25 May 2019. To date, there has not been any investigation into their case. The state’s inability to control the activities of armed groups has left journalists vulnerable and without accountability for the attacks against them.
11. During its second UPR, Libya accepted six recommendations regarding the protection of freedom of expression,<sup>20</sup> including ensuring that “any restrictions on freedom of expression are in line with the International Covenant on Civil and Political Rights”<sup>21</sup> and reviewing the “Penal Code to ensure the effective exercise of freedom of opinion and expression without fear of reprisals.”<sup>22</sup> However, Libya has continued to limit freedom of expression and fails to protect those raising their voices from intimidation, threats, and assaults.
12. For example, in August 2017, Libya invoked the Publications Act of 1972 (the **Publications Act**) against 27 Libyan writers of a book entitled *Sun on Closed Windows*. The writers experienced threats, persecution and intimidation by the public and religious authorities, including on social media platforms.<sup>23</sup> The Book is a collection of short stories written by 25 young Libyan writers, 11 of whom are female writers. The Book was edited by two well-known literaries: Mr Khaled Muttawa and Ms Laila Moghrabi. On 26 August 2017, a launch event took place at a Public Library (*Dar Al Kitab*) in Zawiya, Libya. On 29 August 2017, an individual from the public who attended the event in Zawiya posted on social media an excerpt from one of the short stories in the Book entitled *Kashan* by Ahmed Boukhary. He stated that the language used in the excerpt was too obscene and profane and against Muslim and Arab values. Following his post, the Book sparked a strong reaction from the Libyan public on social media. The writers and editors of the Book have since been the target of a campaign of threats against them on social media, including death threats and insults. Most of the threats were directed towards the female writers.
13. On 29 August 2017, the Head of the GNA’s General Authority of Culture released a statement condemning the content of the book, describing it as “dangerous for public morality and

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<sup>15</sup> *Report of the Working Group of the Universal Periodic Review on Libya*, A/HRC/30/16, July 2015, para 137.37, recommendation by Denmark.

<sup>16</sup> *Ibid.* para 137.151, recommendation by the United Kingdom.

<sup>17</sup> Reporters without Borders, *Libya*, available at: <https://rsf.org/en/libya>.

<sup>18</sup> Committee to Protect Journalists, ‘Journalist abducted in Libya found bound and shot dead’, 1 August 2018, available at: <https://cpj.org/2018/08/journalist-abducted-in-libya-found-bound-and-shot-18.php>

<sup>19</sup> The Libyan Center for Freedom of Press obtained this figure by compiling the numbers of attacks documented in their annual reports from 2015-2019 inclusive. The following link directs you to a page with all of the reports authored by the Libyan Center for Freedom of Press: <https://lcfp.org.ly/violations/periodic-reports/>.

<sup>20</sup> *Report of the Working Group of the Universal Periodic Review on Libya*, A/HRC/30/16, July 2015, para 137.172–137.177, recommendations by Lithuania, Latvia, Luxembourg, USA, France and Estonia.

<sup>21</sup> *Ibid.* para 137.173, recommendation by Latvia.

<sup>22</sup> *Ibid.* para 137.174, recommendation by Luxembourg.

<sup>23</sup> LFJL’s interview with several of the writers on 14 September 2017.

threatening to the integrity of Islam.”<sup>24</sup> The GNA banned the book and ordered the confiscation of all copies based on the Publications Act.<sup>25</sup> Some of the writers as well as the editors have been in hiding with their families and others fled the country since.

14. Libya failed to protect the rights of the writers to freedom of expression. Libya may have further endangered them by legitimising the actions of their attackers by invoking the Publications Act to ban the book. Article 1 of the Publications Act allows limited freedom of expression, insofar as such expression falls “within the framework of the principles, values and objectives of society.”<sup>26</sup> Such a provision limits the right to freedom of expression guaranteed by Article 19 of the ICCPR, as highlighted by the Human Rights Committee which called on Libya to revise it on several occasions.<sup>27</sup>
15. During its first UPR in 2011, Libya accepted the recommendation to “repeal laws restricting the formation of a free and independent press, including Law 76 of 1972.”<sup>28</sup> Although no such recommendation was reiterated in 2015, no progress has been made and Libya is yet to repeal the Publications Act.

#### **Recommendations to Libya:**

- Guarantee freedom of expression by creating an environment in which journalists, writers, human rights defenders and activists can operate freely, without discrimination, fear of retribution, or arbitrary punishment;
- Investigate and prosecute attacks and threats against those who publicly speak out;
- Repeal all legal measures that provide disproportionate penalties for crimes linked to freedom of expression, including the Publications Act of 1972, which infringe upon Libya’s international obligations under international human rights law.

#### **FREEDOM OF ASSOCIATION: RESTRICTIONS ON CIVIL SOCIETY**

16. During its last UPR, Libya accepted the recommendation to “respect freedom of association and peaceful demonstration, in particular for rights defenders.”<sup>29</sup> Since then however, Libya has adopted restrictive regulations impeding the ability of civil society to work in Libya.
17. In 2016, the Civil Society Commission (CSC) introduced two decisions regarding civil society organisations (CSOs).<sup>30</sup> Decision 1 of 2016 established rules governing national CSOs in Libya. Decision 1 granted the CSC power to request CSOs to provide information on their activities on “national security” grounds and introduced demanding notification, authorisation and reporting obligations for CSOs. For example, they are required to inform the CSC of their intentions two weeks prior to conducting any activity including forums and workshops or producing materials. Decision 2 of 2016, which established rules governing foreign CSOs in Libya, granted the CSC discretionary powers to refuse work permits for foreign CSOs seeking to operate or fund projects

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<sup>24</sup> General Authority for Culture’s Facebook Page, available at: <https://www.facebook.com/Culture.libya/photos/a.1776716085896689.1073741829.1753075678260730/1967240620177567/?type=3&theater>.

<sup>25</sup> Ibid.

<sup>26</sup> Publications Act, 1972, Article 1.

<sup>27</sup> Human Rights Committee, *Concluding Observations of the Human Rights Committee: Libyan Arab Jamahiriya*, 6 November 1998, CCPR/C/79/Add.101, para. 15; Human Rights Committee, *Concluding Observations of the Human Rights Committee: Libyan Arab Jamahiriya*, 15 November 2007, CCPR/C/LBY/CO/4, para. 23.

<sup>28</sup> *Report of the Working Group on the Universal Periodic Review, Libyan Arab Jamahiriya*, 4 January 2011, A/HRC/16/15, p. 20, para. 95.29, recommendation by the United States.

<sup>29</sup> *Report of the Working Group of the Universal Periodic Review on Libya*, A/HRC/30/16, July 2015, para. 137.176, recommendation by France.

<sup>30</sup> The Civil Society Commission is a body that was mandated in 2013 to regulate the work of national and foreign CSOs in Libya. The mandate of the CSC was established by the Ministerial Council of the Libyan Interim Government by Decision 649 of 2013. Decision 649 of 2013 is available at: <http://kenanaonline.com/files/0075/75575/649.pdf>. Its establishment predates the existence of more than one government authority.

in Libya, and the power to access and inspect offices where foreign CSOs are required to keep all files relating to their activities in Libya.<sup>31</sup>

18. More recently, on 7 March 2019, the GNA issued Decree 286 of 2019 which poses obstacles to freedom of association in Libya and harms the ability of CSOs to carry out their work.<sup>32</sup>
19. The Decree imposes unjustifiable constraints on CSOs' abilities to register and obtain legal status. The CSC can arbitrarily accept or reject a Libyan CSO's registration as the Decree does not specify the grounds on which to base its decision. It also includes strict requirements on funding and requires that CSOs notify the CSC ten days before they accept any funding "from any entity" whether domestic or foreign,<sup>33</sup> and prohibits CSOs from receiving funds in the absence of "permission" from the CSC.<sup>34</sup> Non-compliance with the CSC's funding decision is grounds for suspending the CSO's activities.<sup>35</sup>
20. For foreign CSOs, the regulations impose burdensome registration and notification requirements, including that all documents must be inspected by the CSC and grants the CSC discretion to cancel the registration of an organisation. Further, the Decree requires international CSOs (ICSOs) to obtain prior permission to work from the CSC before it may "exercise any work or activity" in Libya.<sup>36</sup> This contravenes international law and standards for the freedom of association that only requires NGOs to notify the authorities. Under this Decree, the process of securing a permit is intentionally heavy and burdensome. The Decree permits the CSC to cancel the work permit of an ICSO for numerous reasons, while restricting ICSOs from receiving funds from in and outside of Libya. ICSOs are also prohibited from fundraising both locally and internationally. Article 66 of the Decree restricts activities of ICSOs by using vague language, which can be subject to broad interpretation and used to arbitrarily target organisations and NGO workers for their work.<sup>37</sup> These stipulations illegitimately restrict the activities of CSOs and breach Libya's international human right obligations regarding freedom of association.<sup>38</sup>
21. In addition to restrictions by the GNA, Libyan civil society continues to be impeded by the conflict. Whilst some CSOs have returned to Benghazi after relative security was re-established there in 2016, an ICSO employee observed that from the six hundred CSOs registered in the aftermath of the revolution, around two hundred only were still present in March 2017.<sup>39</sup> This is due to limitations imposed by security authorities and armed groups still present in the city.
22. In an incident on 27 December 2018, which came to be known as the 'Twitter Girls incident', a group of women organised a gathering in 'Casa Café' in Benghazi where they had planned to share ideas. Shortly into the meeting, armed men raided the cafe, forced all women to leave, and arrested all the male workers for acts of indecency. UNSMIL called for the immediate release of the

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<sup>31</sup> LFJL, *On the Fifth Anniversary of the 17 February Revolution LFJL Highlights Ongoing Threats to Libyan Civil Society's Existence*, available at: <https://www.libyanjustice.org/news/229-on-the-fifth-anniversary-of-the-17-february-revolution-lfjl-highlights-ongoing-threats-to-libyan-civil-society-as-existence>.

<sup>32</sup> Decree 286 of 2019, available at: <https://ccslibya.com/%D8%A7%D9%84%D9%84%D8%A7%D8%A6%D8%AD%D8%A9-%D8%A7%D9%84%D8%AA%D9%86%D8%B8%D9%8A%D9%85%D9%8A%D8%A9-%D9%84%D8%B9%D9%85%D9%84-%D9%85%D9%81%D9%88%D8%B6%D9%8A%D8%A9-%D8%A7%D9%84%D9%85%D8%AC%D8%AA%D9%85/>.

<sup>33</sup> Decree 286 of 2019, Article 37.

<sup>34</sup> Ibid, Article 27(4).

<sup>35</sup> The International Center for Not-for-Profit Law, *Comments on Libya's Decree 286 of 2019 to Regulate Civil Society Organisations*, 18 April 2019.

<sup>36</sup> Decree 286 of 2019, Article 45

<sup>37</sup> Ibid, Article 67(5)-(6).

<sup>38</sup> ICCPR, Article 22

<sup>39</sup> British Council, *Enduring Social Institutions and Civil Society Peacebuilding in Libya and Syria*, 2017, available at: [https://www.britishcouncil.org/sites/default/files/h101\\_enduring\\_social\\_institutions\\_and\\_civil\\_society\\_peacebuilding\\_in\\_libya\\_and\\_syria\\_final\\_web.pdf](https://www.britishcouncil.org/sites/default/files/h101_enduring_social_institutions_and_civil_society_peacebuilding_in_libya_and_syria_final_web.pdf).

detainees and the protection of the right to assemble in public spaces. It further commented that this incident is a “dangerous indicator of the degradation of individual freedoms.”<sup>40</sup> This indicates Libya’s failure to respect freedom of association.

### **Recommendations to Libya:**

- Lift the restrictions intended to impede CSOs and their activities in Libya, including by amending Decree 286 of 2019 in order to comply with international standards;
- Protect civil society and activists from threats and reprisals and investigate and prosecute those responsible for attacks against them.

### **RIGHTS OF WOMEN AND GENDER EQUALITY**

23. In its second UPR, Libya accepted 31 recommendations to prohibit “discrimination against women.”<sup>46</sup> However, no progress has been made in implementing them.
24. The state’s inability to control the activities of armed groups and militias has left women vulnerable, with no accountability for attacks against them. In the absence of a central state authority, women have been forced to ensure their safety by adhering to a specific dress code, traveling with a male guardian, or restricting movements to daytime. This has resulted in profound limitations on their freedom of movement and their ability to engage fully in public life. For example, the aforementioned ‘Twitter Girls incident’ highlights the fact that Libyan women have been systematically targeted for their participation in civil society and the public life with limitations imposed on their freedom of association.
25. On 16 February 2017, the LAAF chief of staff, Abdel Razik Al-Nadori, issued Decision 6 of 2017 banning Libyan women under 60 from travelling abroad without a male chaperone or “Mahram” (**Decision 6**), allegedly for reasons of national security. In a televised interview on 19 February 2017, Al-Nadori claimed that women who frequently travel abroad for work to represent civil society groups were being used by foreign intelligence services to disclose information against the national interest.<sup>41</sup> Decision 6, affecting anyone transiting through the east, also required authorities to implement the decision immediately and repeal any laws inconsistent with it. Decision 6 was frozen five days after its adoption amidst protests from civil society. On 23 February 2017, Decision 6 was repealed but replaced with the “gender neutral” Decision 7 of 2017 (**Decision 7**). Decision 7 bans all Libyan men and women between the ages of 18 and 45 from travelling abroad without a security permit from Libya’s security services. Given the continued discrimination against women in Libya, Decision 7 may be implemented discriminately to restrict unlawfully the right of women to freedom of movement. On 30 April 2017, a woman was arrested in Al-Abraq airport in eastern Libya for trying to travel to France without security approval. She was detained and interrogated in prison for violating Decision 7.<sup>42</sup>
26. Given the gendered impact of the conflict on Libyan women, it is critical that women are meaningfully included in efforts to bring peace to Libya. Unfortunately, women remain absent from national dialogue. As of 30 September 2019, there are only three female ministers in the GNA government. Law 59 of 2012 on the local administration system in Libya grants at least one seat to women in the Municipal Council.<sup>43</sup> Despite this minimal requirement, some municipalities fail to meet it.

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<sup>40</sup> UNSMIL on Twitter, available at: <https://twitter.com/unsmilibya/status/1079013143530127360>.

<sup>41</sup> Libya’s Channel, 19 February 2017, available at: <https://www.facebook.com/libyaschannel/videos/693783580801511/?pnref=story&qsefr=1>.

<sup>42</sup> <http://ewanlibya.ly/news/news.aspx?id=106705>.

<sup>43</sup> Law 59 of 2012, Article 11: “The provincial council shall consist of [...]: Members of municipalities located in the province, to be elected by direct secret ballot, with at least one member for women...”, available at: <https://security-legislation.ly/node/31807>.



## *Libyan Women Nationality Rights*

27. During its second UPR, Libya accepted recommendations to ensure that Libyan women can transfer their nationality to their children, regardless of the nationality of their father.<sup>44</sup> Under Law 24 of 2010 on provisions on Libyan nationality (**Law 24 of 2010**), Libyan nationality<sup>45</sup> is granted to children from two Libyan parents, or to children of a Libyan father and a non-Libyan mother. However, it is not automatically granted to children of a Libyan mother and a non-Libyan father. As a result, the nationality rights of Libyan women married to non-Libyan men are limited compared to Libyan men married to non-Libyan women.
28. Children born to a Libyan mother and a non-Libyan father do not automatically have the right to access the free education provided to Libyans. Having said that, we note that the east-based interim government passed Decree 346 of 2018, which states that children born to a Libyan mother and a non-Libyan father shall be treated like Libyan nationals and be exempt from university fees. However, at time of writing, it is unclear whether this Decree is enacted, and it does not apply to primary or secondary education. Importantly, the Decree was issued by the east-based interim government and may be disregarded by the GNA in the west.

### **Recommendations to Libya:**

- Protect female human rights defenders and ensure the full and equal participation of women in public and political life, free from reprisals.
- Amend the legislative framework to promote gender equality, particularly Law 24 of 2010, to allow Libyan women married to non-Libyan men to transfer Libyan citizenship to their children, in order to remedy the inequality in the application of the Law between men and women.

## **RIGHTS OF MINORITIES**

29. During its second UPR, Libya accepted five recommendations regarding the rights of minorities, including ensuring their “full and complete political representation,”<sup>46</sup> and combatting discrimination based on nationality, ethnicity, or religion.<sup>47</sup> Libya also committed to implementing a constitutional process which “safeguards the human rights of all on an equal footing, including women, minorities, and vulnerable groups.”<sup>48</sup> Despite these pledges, little progress has been made in improving the rights of minorities.
30. In 2014, the failure to adopt the principle of consensus for the elections of the Constitutional Drafting Assembly (**CDA**) led to the Amazigh minority boycotting the election. In 2016, the Amazigh Higher Council and members of the Constitutional Drafting Assembly of the Tuareg and Tebu established the Minorities Commission and agreed not to recognise the new constitution unless it was agreed upon by all Libyan people.<sup>49</sup> The Tebu, the Amazigh, and the Tuareg have continued to boycott the CDA since then. In July 2017, the Tebu representatives announced their rejection of the Constitutional Draft put forward, stating that it did not sufficiently recognise the rights of ethnic minorities.<sup>50</sup> The CDA approved the latest draft of the constitution proposal (**Constitutional Draft**) and passed it to the House of Representatives (**HoR**) in July 2018 in order

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<sup>44</sup> *Report of the Working Group of the Universal Periodic Review on Libya*, A/HRC/30/16, July 2015, para. 137.85-137.87, recommendation by Kenya, Argentina and Poland.

<sup>45</sup> In this context, “Nationality” refers to the “Original Nationality” as described in Arabic in Law 24 of 2010.

<sup>46</sup> *Report of the Working Group of the Universal Periodic Review on Libya*, A/HRC/30/16, July 2015, para 137.183, recommendation by Chad.

<sup>47</sup> *Ibid*, para 137.90, recommendation by France.

<sup>48</sup> *Ibid*, para. 137.35, recommendation by Cyprus.

<sup>49</sup> Statement by the Higher Council of Amazigh, Tebu and Tuareg, 30 January 2016, available at <http://archive2.libya-al-mostakbal.org/news/clicked/90250>.

<sup>50</sup> Libya Herald, ‘CDA calls on election commission to prepare referendum on draft constitution as Tebu representatives reject it’, 31 July 2017, available at: <https://www.libyaherald.com/2017/07/31/cda-calls-on-election-commission-to-prepare-referendum-on-draft-constitution-as-tebu-representatives-reject-it/>.

to issue a referendum on it. However, the HoR failed to issue the referendum law and a debate remains in the HoR on whether to approve the Constitutional Draft.

31. The Constitutional Draft of July 2017<sup>51</sup> enshrines direct and indirect barriers to political participation and fails to provide measures guaranteeing the representation of ethnic minorities in government. For example, it introduces strict requirements for holding or running for high public office positions, such as a rule that both of a candidate's parents must be Libyan.<sup>52</sup> This requirement impacts ethnic minorities, particularly the Tebu, who face barriers to obtaining Libyan citizenship.<sup>53</sup> In 1996, Libya issued Decree 13, revoking the Libyan citizenship of all persons born in Aouzou. Although the 1996 Decree was annulled in 2001, the nationality status of Aouzou document holders remains contested.
32. The recognition of languages of minorities remains limited in Libya. The Constitutional Draft states that Arabic, Amazigh, Tuareg, and Tebu are considered "cultural and linguistic heritage as well as a common asset for all Libyans", but it asserts that Arabic will be the only official language of the State.<sup>54</sup>
33. The Constitutional Draft does provide some positive measures though. For example, Article 160 promotes the establishment of a National Council for the Protection of Cultural and Linguistic Heritage, responsible for protecting all languages spoken in Libya to preserve the diverse cultural and linguistic heritage of the Libyan people.<sup>55</sup> Further, the GNA has implemented some measures to give more space to languages of the minorities. For instance, although the Ministry of Education failed to meet the Tebu demands for a new institute for Tebu language to qualify new teachers in the language, in February 2019 it added Tebu and Tuareg languages to the school curriculum in the minorities' towns. The Ministry also printed an estimated 5,000 books in Tebu languages.<sup>56</sup> These books were later destroyed during the renewed fighting in Tripoli in April 2019, when a bomb hit the storage unit where they were kept on 15 April.<sup>57</sup>
34. Libya has failed to protect Tebu civilians during the armed conflict which reignited in April 2019. For example, on 4 August 2019, air strikes reportedly carried out by the LAAF on the town of Murzug left 43 civilians from the Tebu tribe dead and 51 wounded.<sup>58</sup>

### **Recommendations to Libya:**

- Ensure the rights of minorities, particularly with regard to their full and complete political representation, including within the constitutional process;
- Ensure full recognition of languages of minorities, including Amazigh, Tuareg, and Tebu, as official languages, including in Libya's Constitution.

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<sup>51</sup> Constitutional Draft, 29 July 2017, available at: <https://www.temehu.com/CDA/final-draft-libya-constitution-29-july-2017-english-translation.pdf>.

<sup>52</sup> Constitutional Draft, July 2017, Articles 68, 69, 75, 99.

<sup>53</sup> This is due to the fact that after a prolonged border conflict between Libya and Chad over the 'Aouzou strip', the International Court of Justice ruled in 1994 that the Aouzou strip was Chadian territory. The dispute led to questions about the nationality status of residents in, or associated with, this area.

<sup>54</sup> Constitutional Draft, July 2017, Article 2.

<sup>55</sup> Constitutional Draft, July 2017, Article 160.

<sup>56</sup> Information collected by the Libyan Association for Tebu Culture.

<sup>57</sup> Reuters, 'Millions of school books destroyed during fighting in Tripoli', 15 April 2019, available at: <https://af.reuters.com/article/libyaNews/idAFL5N21X1CP?feedType=RSS&feedName=libyaNews>.

<sup>58</sup> Action on Armed Violence, *Airstrike in Libya kills more than 40*, 5 August 2019, available at: <https://reliefweb.int/report/libya/airstrike-libya-kills-more-40>.

## INTERNALLY DISPLACED PERSONS: THE CASE OF TAWERGHANS

35. During its second UPR, Libya supported eight recommendations regarding the plight of internally displaced persons (IDPs). These included ensuring better protection of the human rights of IDPs,<sup>59</sup> devising a strategy to allow IDPs to return to their homes,<sup>60</sup> and “giving them access to safe areas, as well as health, social and educational services without discrimination.”<sup>61</sup> Although some limited progress has been made in improving the rights and return of IDPs from Tawergha, a population entirely displaced during the conflict in August 2011, their situation remains precarious.
36. For the purposes of this report, we focused our analysis on IDPs from Tawergha due to our work as a coalition. However, the issue of IDPs in Libya extends beyond the case of Tawergha. The IOM Displacement Tracking Matrix (DTM) reported that there are 301,407 IDPs in Libya as of July 2019.
37. Since their displacement, an estimated 2,820 Tawerghans have been living in IDP camps with dire conditions.<sup>62</sup> Others live in privately rented accommodation across Libya or have returned to Tawergha. The camps lack most basic services, have limited shared toilets and overcrowded infrastructure resulting in the spread of several diseases.<sup>63</sup> Most of the medical clinics servicing these camps lack fundamental medical equipment and supplies. Over the years, the camps have been subjected to both attacks by armed groups and indiscriminate shelling.<sup>64</sup>
38. In June 2018, the Tawergha Local Council and Misrata Municipal Council signed the Misrata-Tawergha Reconciliation Charter, which sought to facilitate the return of Tawerghan people to their hometown.<sup>65</sup> However, the Charter features violations of fundamental human rights that are inconsistent with international standards, such as restrictions to Tawerghans’ cultural and political rights. The Charter is heavily one-sided and assigns responsibilities for past crimes solely to Tawergha, further stating that Tawergha committed “crimes against humanity” in 2011. While some constituencies in Tawergha have endorsed the Charter, the Council of Elders and Shura Council of Tawergha issued a statement denouncing the actions of the Local Council of Tawergha, stating that they do not represent the vision of the people of Tawergha.<sup>66</sup>
39. Despite allocating funds for the reconstruction of the city in February 2018, including improvements in the power supply, schools and hospitals, the GNA has completed merely a fraction of the necessary work. The GNA’s efforts were obstructed by armed groups from Misrata on several occasions. For example, on 7 February 2019, an armed group led by Salim Abu Shhma, a member of the Reconciliation Agreement Committee, which is a body mandated to implement the Reconciliation Charter between Misrata and Tawergha, closed the headquarters of the Local Council of Tawergha, attacked a staff member and beat an elderly man and a woman.<sup>67</sup> The elderly man went to report the attack at the recently opened police station but the armed group closed the

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<sup>59</sup> *Report of the Working Group of the Universal Periodic Review on Libya*, A/HRC/30/16, July 2015 para 137.190, recommendation by Kazakhstan.

<sup>60</sup> *Ibid.* para 137.196, recommendation by Austria.

<sup>61</sup> *Ibid.* para 137.198, recommendation by Germany.

<sup>62</sup> Information collected by Youth Gathering for Tawergha in 2019.

<sup>63</sup> *Ibid.*

<sup>64</sup> Amnesty International, *Libya: Tawergha IDP Camp Attacked by Militia in Danger of Further Attack and Demolition*, August 2018, available at: <https://www.amnesty.org/en/latest/news/2018/08/libya-tawergha-idp-camp-attacked-by-militia-in-danger-of-further-attack-and-demolition/>.

<sup>65</sup> Misrata and Tawergha Reconciliation Charter, 2018, available at: https://libyanpressagency.net/%D8%A7%D9%84%D9%86%D8%B5-%D8%A7%D9%84%D8%B1%D8%.

<sup>66</sup> The Elders and Shura Council of Tawergha Statement on the Reconciliation Charter, 2018, available in Arabic at: <https://almarsad.co/2018/05/30/%D9%85%D8%AC%D9%84%D8%B3-%D8%AD%D9%83%D9%85%D8%A7%D8%A1-%D8%AA%D8%A7%D9%88%D8%B1%D8%BA%D8%A7%D8%A1-%D9%8A%D8%B9%D9%84%D9%86-%D8%B1%D9%81%D8%B6%D9%87-%D9%84%D9%85%D8%B3%D9%88%D8%AF%D8%A9-%D9%85%D9%8A/>.

<sup>67</sup> Information collected by Youth Gathering for Tawergha on the ground in 2019 through interviews with the families who have returned to Tawergha.

police station the following day.<sup>68</sup> This incident violated the Charter and created a sense of insecurity among the Tawerghans that had returned to their city. It also highlighted the GNA's lack of capacity to guarantee the implementation of the Charter.<sup>69</sup>

40. To date, approximately 250 families have returned permanently to Tawergha. Families who have returned have struggled to repair their houses and lack access to water and electricity. According to the Agricultural and Environmental Sanitation Office of the Ministry of Agriculture, sewage, industrial, medical and human waste continue to be deposited six kilometres west of the entrance to the town of Tawergha. The poor living conditions and the lack of health facilities in Tawergha have led to a proliferation of skin diseases, particularly Leishmania caused by the sand fly. The Ministry of Health has failed to provide adequate treatment to civilians falling ill. Further, it remains unclear as to who is responsible for providing services to those families returning to Tawergha. While further, it is unclear who is in fact supervising the return process and dealing with the increasing number of families arriving.

#### **Recommendations to Libya:**

- Adopt a national plan offering a durable solution for IDPs, which grants them the choice between voluntary return in safety and dignity, local integration or settlement elsewhere in the country;
- Ensure the rights of IDPs, including equal access to drinking water and sanitation, food, health services and education;
- Take measures to guarantee the protection IDPs against attacks, including those living in camps and those who have returned to Tawergha;
- Continue its efforts to address the issue of internal displacement and take measures to facilitate the full voluntary return of Tawerghan IDPs to their hometown.

#### **RIGHTS OF PERSONS WITH DISABILITIES**

41. During its second UPR, Libya accepted three recommendations regarding the protection of persons with disabilities, including commitments to accede to the Convention on the Rights of Persons with Disabilities (CRPD)<sup>70</sup> and to intensify “national efforts to integrate rights of persons with disabilities within the framework of the legal system.”<sup>71</sup>
42. Ten years after signing the CRPD, Libya formally ratified it on 13 May 2018.<sup>72</sup> The Coalition welcomes this positive step. However, upon ratification, Libya declared a reservation that it interprets Article 25(a) of the CRPD, concerning the provision of health-care services without discrimination on disability, “in a manner that does not contravene the Islamic sharia and national legislation.”<sup>73</sup> On 27 February 2019 and 5 March 2019, Denmark and Greece, respectively, sent a communication to the UN Secretary-General highlighting that this declaration amounts to a broad reservation as it fails to clearly define the extent to which Libya has accepted the obligations of the CRPD and therefore may be incompatible with the object and purpose of the CRPD.<sup>74</sup>
43. To date, Libya is yet to make significant progress on protecting and promoting the rights of persons with disabilities and enforcing the provisions detailed in the CRPD, notably Article 11 which

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<sup>68</sup> Ibid.

<sup>69</sup> Ibid.

<sup>70</sup> *Report of the Working Group of the Universal Periodic Review on Libya*, A/HRC/30/16, July 2015, para. 137.1 and 137.8, recommendations by Uganda and Sierra Leone.

<sup>71</sup> Ibid. para 137.182, recommendation by Bahrain.

<sup>72</sup> UN Treaty Collection, *Convention on the rights of persons with disabilities*, available at:

[https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-15&chapter=4&clang=en#10](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-15&chapter=4&clang=en#10)

<sup>73</sup> Ibid.

<sup>74</sup> Ibid.

specifies that measures should be undertaken to ensure the safety of persons with disabilities in situations of risk, including armed conflict.

44. The Coalition acknowledges the step taken by the House of Representatives (**HoR**) in January 2017 to amend Article 4 of Law 16 of 1985 relating to the Basic Pension. According to Law 16 of 1985, the Basic Pension is a monetary benefit guaranteed by the social security to the beneficiaries under the conditions prescribed in Law 16 of 1985. The amendment allows married women with disabilities to receive the Basic Pension, whereas previously only single women were eligible.
45. The Constitutional Draft shows another positive development as it recognises the state's responsibility to guarantee "the health, social, educational, economic, political, sports and entertainment rights of persons with disabilities on equal footing with others."<sup>75</sup> It also requires the state to ensure that public and private facilities enable persons with disabilities to integrate into society.<sup>76</sup>
46. The High National Elections Commission (**HNEC**) has undertaken positive measures to support the political participation of persons with disabilities. In December 2015, HNEC stated that it is keen to support persons with disabilities in their participation in the electoral process and to facilitate the voting process for them.<sup>77</sup> Since then, HNEC, in collaboration with the International Foundation for Electoral Systems, organised several workshops for CSOs working on promoting the rights of persons with disabilities to discuss the challenges of political participation facing this group.
47. In 2016, a new state-run primary school was founded for persons with disabilities in the city of Zintan.<sup>78</sup> However, this school is not yet equipped with sufficient learning resources for persons with disabilities. Public school classrooms in Libya rarely accommodate students with disabilities. An assessment conducted by the United Nations Children's Fund (**UNICEF**) and the Ministry of Education of the GNA, found that only 1% of public schools are equipped with toilets suitable for students with disabilities, less than 5% provide any classroom equipment for children with special needs, and 50% of schools are in need of additional books and audio-visual aids. Students with disabilities are often unable to access school buildings, which obstructs their right to education.
48. Law 4 of 2013<sup>79</sup> on the issuance of provisions relating to War of Liberation victims with permanent disability has remained in force and provides a restricted definition of persons with disabilities based on how they obtained their condition. Under the law, only those who were injured fighting against the Gaddafi regime during the February 2011 uprising or those who were civilian victims of Gaddafi's regime fall under the definition of persons with disabilities.<sup>80</sup> Such a distinction unfairly discriminates between persons with disabilities based on their political affiliation. It also contravenes Article 5 of the CRPD which promotes equality and non-discrimination between persons with disabilities.
49. Resolution 161 of 2013 designates one seat for persons with disabilities in each municipal council. However, it considers persons with disabilities to be only those who fought during the 17 February uprising. Again, such a distinction discriminates between persons with disabilities based on political affiliation such that some are not granted equal opportunities to participate politically.

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<sup>75</sup> Constitutional Draft, July 2017, Article 60.

<sup>76</sup> Ibid.

<sup>77</sup> HNEC, *HNEC participates in the Libyan forum for the rights of persons with disabilities*, 15 December 2015, available at: <https://h nec.ly/en/?p=7889>.

<sup>78</sup> Ibid.

<sup>79</sup> Law 4 of 2013 is available at: <https://security-legislation.ly/node/31653>.

<sup>80</sup> Law 4 of 2013 on the issuance of provisions relating to War of Liberation victims with permanent disability, Article 1.

**Recommendations to Libya:**

- Adopt domestic legislation that implement the CRPD and ratify the Optional Protocol to the CRPD;
- Provide all students with disabilities access to state-funded education, in line with Article 13 of the International Covenant on Economic, Social and Cultural Rights;
- Amend Law 4 of 2013 to comply with international standards and safeguard the human rights of all persons with disabilities on an equal footing.