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مركز القاهرة لدراسات حقوق الإنسان



Ongoing Human Rights Situation in Libya

The UN Human Rights Council (HRC) Resolution for assistance to Libya in the field of human rights (A/HRC/19/L.39/Rev.1) (the Resolution) that was adopted at the 19th session of the UN Human Rights Council provides only technical assistance to Libya, but failed to include any mechanism for monitoring or reporting on the human rights situation in Libya.

The Resolution will be up for review at the UN HRC 22nd Session this March. In anticipation of the review of the Resolution, LFJL and CIHRS are providing a status report to encourage the Member States of the UN to demonstrate their continued commitment to the promotion of human rights and accountability for both past and present abuses in Libya by adopting effective measures to monitor the ongoing human rights situation in Libya, including violations committed by both government and non-government actors. The following human rights challenges remain of concern within the country:

1. Legislation that Contradicts Human Rights Standards:

- **Infringement on Freedom of Assembly**

Law no. 65/2012, recently passed by the Libyan General National Congress (GNC), regulates citizens' right to peaceful protest. Several provisions of Law 65 fail to uphold international human rights standards.¹ The law imposes undue restrictions, such as requiring government approval before demonstrations are held without providing a clear and fair procedure for obtaining such approval. Most notably, Article 10 of the law provides criminal sanctions for demonstrations which fail to meet all stipulations of the law. Maintaining such sanctions will deter citizens from exercising their basic right to freedom of assembly. Legislation should always be guided by the recognition that the right to assembly is one of the most fundamental civil and political rights and that promoting and protecting this right is a primary responsibility of the government.

- **Political Isolation Law (Draft)**

The 'Political Isolation' Draft Law currently being considered by the GNC aims to prohibit Gaddafi-era officials from holding public office and senior posts in government. This law presents a grave risk, and if not clearly limited, it could be used as a political tool to discriminate and arbitrarily prevent certain groups, ethnic minorities, parties, and other individuals from participating in government without due process of the law. Any law prohibiting specific individuals from participating in public office must not be used to circumvent proper accountability processes or judicial mechanisms and must provide for a fair and independent procedure to rebut such decisions.

¹ For more information, see: Cairo Institute for Human Rights Studies, Lawyers for Justice in Libya. *Lack of Accountability behind Serious Rights Abuses in Libya*. N.p., 14 Sept. 2012. Web. <<http://www.cihrs.org/?p=3978=en>>.

2. Collective Punishment

- **Siege of Bani Walid² – October 2012**

Members of the Libyan army, Libya Shield Forces and armed militias engaged in armed combat in Bani Walid for three consecutive weeks in an attempt to arrest the perpetrators of the killing of Omran Shaaban, the individual credited with Gaddafi's death. During this time, citizens of Bani Walid were denied food supply, medical personnel, fuel, and water. Several dozen fighters and civilians were killed and hundreds wounded. In the aftermath of the fighting, the Defence Minister and the International Red Cross individually reported that between 25,000-40,000 people were displaced as a result of the conflict. Refugees returning to their homes and journalists looking to enter the city were reportedly prohibited from entering Bani Walid by militias operating the checkpoints on the outskirts of the city, in defiance of official orders.

- **Tawergha³ – August 2012**

In August 2012, Misratan militias drove out nearly 35,000 inhabitants of the neighbouring city of Tawergha. This was a result of Tawergha's alleged support of the Gaddafi regime and attacks on the city of Misrata during the conflict in 2011. The International Commission of Inquiry on Libya cited that the militias declared that Tawergha deserved "to be wiped off the face of the planet."⁴ The forced displacement was followed by arbitrary arrests of Tawerghans, the looting and destruction of Tawergha homes, torture, and extrajudicial killings. Due to Law 38, which grants blanket amnesty to any crimes committed in the name of the revolution, no concrete action has been taken by the government to bring these militias to justice or to return the displaced population to Tawergha.⁵

Tawerghans have been driven to camps throughout the country where they survive with limited resources and in meagre conditions. The camps have also been the targets of violent attacks. In February 2012, the camp located in Janzour was raided by militias, resulting in seven Tawergha deaths, including three children. According to the UN Human Rights Council's Commission of Inquiry on Libya, published in March, the treatment of the Tawerghans by militias amounted to "a crime against humanity".⁶

3. Violations of Freedom of Religion, Expression, and Assembly

- **Attacks on holy sites of religious minorities**

Shortly following the inauguration of the GNC in August, a series of attacks on Sufi shrines and historical religious sites took place.⁷ On 24 August 2012, Sidi Abdul-Salam al-Asmar al-Fituri, one of Libya's most important Sufi shrines, was attacked using

2 For more information, see: Lawyers for Justice in Libya. *Lawyers for Justice in Libya Condemns the Use of Disproportionate Measures That Have Resulted in Civilian Casualties in Bani Walid*. N.p., 12 Oct. 2012. Web. <<http://www.libyanjustice.org/news/news/post/44-lawyers-for-justice-in-libya-condemns-the-use-of-disproportionate-measures-that-have-resulted-in-civilian-casualties-in-bani-walid>>.

3 For more information, see: Lawyers for Justice in Libya. *LFJL Condemns Continued Attacks against the Tawergha People*. 24 July 2012. Web. <<http://us2.campaign-archive1.com/?u=3b8835ce1b379ddb1ffffdf8>>.

4 *Report of the International Commission of Inquiry on Libya*. Rep. United Nations, 2 Mar. 2012. Section III, Part E, Par. 4 (point 59).

5 For more information, see: Lawyers for Justice in Libya. *LFJL Strongly Condemns New Laws Breaching Human Rights and Undermining the Rule of Law*, 7 May 2012. Web. <<http://www.libyanjustice.org/news/news/post/23-lfjl-strongly-condemns-new-laws-breaching-human-rights-and-undermining-the-rule-of-law>>.

6 *Report of the International Commission of Inquiry on Libya*, Rep. United Nations, 2 Mar. 2012. Web. Section III, Part E, Par. 6 (point 63).

7 For more information, see: CIHRS and LJFL Joint Appeal regarding Violations of Freedom of Religion, Expression and Assembly and Alleged Acts of Torture in the Context of Attacks against Places of Worship of a Minority Religious Group. Web. <http://www.cihrs.org/wp-content/uploads/2012/09/LFJL.CIHR.S_Urgent-Appeal-Libya.pdf>.

explosives and then demolished with a bulldozer and jackhammers. The library and the mosque, which formed part of the complex, were also destroyed with the library burnt, allegedly using grenades.

On 25 August 2012, a number of armed militias bulldozed and demolished al-Sha'ab Mosque in central Tripoli which contains Sufi Muslim graves. Whilst the demolition was taking place, Supreme Security Council (SSC) vehicles surrounded the site and cordoned off the streets surrounding the mosque, preventing people from approaching it or intervening to stop the destruction. A journalist from the Libyan television station Alassema, Nabil Shebani, was detained by the SSC whilst attempting to report on the destruction of the al-Sha'ab mosque. On 26 August 2012, during a peaceful protest against the demolition of the mosque, protesters were prevented from protesting by armed men, intimidated, and threatened with death. The perpetrators of the demolitions have yet to be held accountable for these violations.

Three United Nations independent experts - the Special Rapporteur on Freedom of Religion and Belief, the Special Rapporteur on Cultural Rights, and the Independent Expert on Minority Issues - strongly condemned the destruction of Sufi religious and historic sites in various parts of Libya and the intimidation and excessive use of force against unarmed protesters opposing the destruction.⁸ “The attacks on Sufi religious sites require a swift and rigorous response by the authorities, without which they are likely to continue and spread,” they warned.

4. Abuse of Foreign Nationals, Refugees and Migrants

Foreign nationals face a higher risk of abuse in post-conflict Libya due to the increased proliferation of weapons and overall lack of accountability. *No distinction is made between migrants, asylum seekers, and refugees*; thus, foreign nationals have been subjected to widespread inhumane treatment, including arbitrary arrest and severe forms of torture. Thousands of foreign nationals, including women and children, are being held indefinitely in detention centers or by militiamen in makeshift prisons, where they face inadequate living conditions and are denied access to judicial processes or avenues for redress for improper treatment. Libyan law permits indefinite detention for violators of visa and migration regulations, yet most detainees have not been given an opportunity to challenge their detention.

5. Torture and Ill-Treatment of Prisoners

While most of Libya's prison facilities are controlled by military or other governmental entities, others are under the control of independent armed militia groups. The lack of central oversight and accountability of these facilities has allowed for the widespread use of torture against prisoners, including with whips, metal chains, and electro-shock weapons, which has led to frequent deaths in detention. Recently, the Interior of Minister announced a new initiative to investigate abuses committed by police. No similar accountability efforts have been made for military personnel or non-state perpetrators of torture, such as militias.

⁸ United Nations Office at Geneva. *Libya: United Nations Experts Call for a Swift and Rigorous Response to the Destruction of Sufi Sites*. N.p., 10 Sept. 2012. Web. <[http://www.unog.ch/80256EEDD006B9C2E/\(httpNewsByYear_en\)/1B94DD981A4BF8DBC1257A75002FF03C?OpenDocument](http://www.unog.ch/80256EEDD006B9C2E/(httpNewsByYear_en)/1B94DD981A4BF8DBC1257A75002FF03C?OpenDocument)>.

Recommendations:

The Libyan government and other members of the UN Human Rights Council should put forward and adopt a resolution on Libya at the 22nd Session (February-March 2013) that requests the Office of the High Commissioner for Human Rights to monitor and report to the Human Rights Council on the situation of human rights within Libya, including ongoing challenges to ensuring respect for human rights within the country.