

Summary - November 2021

With only one month to go until the elections scheduled on 24 December, Libya is far from ready to ensure free, transparent and fair elections. In November, some progress was made to ensure increased transparency and the rights of information (goal 6) with some of the national officials providing full financial disclosure to the Libyan authorities.

However, in many other areas, the Libyan Government of National Unity (GNU) has failed to comply with democratic standards. Aside from the announcement of presidential debates open to most media broadcasters, the promotion of free media (goal 1) is declining in many other aspects, with attempts to make legislative changes concerning the media. The GNU has also failed to take measures to protect women (goal 5), human rights defenders and civil society in general (goal 3). Additionally, the GNU has failed to secure independent polling monitoring, protect the judiciary from attacks and guarantee free and safe voting (goal 7). This is reflected by the recent military attempts to obstruct the Court's procedures and to interfere with the right to equal participation in political and public affairs (goal 4).

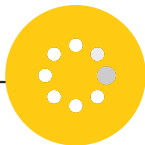
For a more detailed review of what happened in Libya this November, check out LFJL's report card on the things to do in 7 months below.

Key



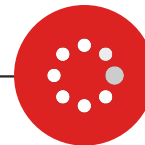
ACHIEVED

The executive authority took some measures to address and implement the goals successfully.



SOME PROGRESS

The executive authority took some measures to address and implement the goals partially.



FAILED

No measure was taken to address the recommendation, or some measures were taken that went against the recommendation.

1

GUARANTEE EVERYONE'S FREEDOM OF EXPRESSION AND PROMOTE FREE MEDIA

● FAILED

● FAILED

- **Repealing all regulations and decrees that provide disproportionate and illegitimate restrictions on freedom of expression and the press;**

During the plenary session held on 26 October 2021, the Libyan House of Representatives (HoR) unanimously adopted the Anti-Cybercrime Law. As explained by the media advisor of the House of Representatives the law aims to “tackle crimes or the wrongful use of electronic technology in relation to the State, the person, or any other entity, including counterfeiting and spreading rumors.” The law, however, contains broad language that provides the Libyan authorities extensive discretion to limit freedom of expression. For instance, Article 4 stipulates that the use of the internet and new technologies is considered “legal” provided that “public order and morality” are respected. The unclear terms such as ‘public order’ and ‘morality’ leave space for arbitrary interpretation of the law. This is not a new practice to the Libyan authorities which have used in the past “violations to public order and morality” as a pretext to target, imprison, torture, and kill journalists and human rights defenders. The cybercrime law will also grant Libyan authorities the power to monitor and censor content published on social media “and any other technical platform”, and to block websites without judicial orders. Additionally, the law introduces heavy fines and prison sentences for a period of up to fifteen years for those who would violate its provisions. These provisions will significantly limit freedom of expression and freedom of the press online and grant Libyan authorities the liberty to target and suppress human rights activists and defenders. On 10 November, more than 30 human rights organisations, including LFJL, signed and published an open letter highlighting these issues and calling on Libyan authorities to rescind the new cybercrime law. This law was introduced at a crucial time and is particularly concerning in the context of the upcoming elections. The GNU should refrain from implementing the anti-cybercrime law and the HoR should repeal such restrictive legislation in order to guarantee freedom of expression in the upcoming electoral process.

● FAILED

- **Ensuring that attacks and threats against those who speak out publicly are investigated and those responsible are held accountable;**

1

GUARANTEE EVERYONE'S FREEDOM OF EXPRESSION AND PROMOTE FREE MEDIA

● FAILED



SOME PROGRESS

- **Ensuring the media have access to politicians, including through briefings to the media on the progress made, and are able to comment on public issues without censorship or restraint and to inform public opinion.**

This November, the Foreign Media Department (FMD) of the Libya's Ministry of Foreign Affairs and International Cooperation responded to claims that Libyan authorities were preventing the accreditation of international journalists and media professionals from media coverage of the elections' and characterised these statements as "baseless rumours and misleading news, which seek to disrupt the course of the elections". However, local and international media have reported difficulties in gaining access to cover political events. There has also been a number of complaints from local media that the GNU favours some media outlets over others for granting access to events. Additionally, many international media are complaining about facing excessive bureaucracy requirements in order to enter Libya and report on the elections. This puts into question the access of the media to the polling stations, which is an essential component to supporting free and fair elections.

However, in a positive development, on 12 November, it was announced that Libya will hold its first-ever presidential debates shortly before the upcoming elections. The debates are sponsored by the Libyan Commission on Presidential Debates, a group of civil society organisations, and will be technically supported by several local and regional organisations. The debates will be held under the banner 'Libya Decides' and will be open to all broadcasters. The organisation of such presidential debates is a welcome step to raise awareness of the candidates running for the elections and their manifestos, a necessity to guarantee informed votes and free and fair elections. Such a debate would increase the level of transparency of the electoral process.

2

FOSTER PEACE BY PROTECTING THE RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

● FAILED

⦿ FAILED

- Ensure that any restrictions on public gatherings are legitimate and strictly limited to protecting public order, and that peaceful assemblies are able to take place in a safe manner;

⦿ FAILED

- Guarantee the freedom to engage freely in political activity individually or through political parties and other organisations and refrain from obstructing the formation of political parties in the lead up to the elections;

⦿ FAILED

- Investigate and hold accountable those responsible for attacks aiming to infringe the right to freedom of peaceful assembly and association.

3

SUPPORT AND FACILITATE THE WORK OF CIVIL SOCIETY

● FAILED

⦿ FAILED

- **Repealing repressive regulations, intended to impede civil society organisations and their activities in Libya, including Decree 286 of 2019;**

Following the announcement of his resignation, Jan Kubis, the Special Envoy of the Secretary General for Libya presented his final remarks to the UN Security Council on 24 November. Among other things, Kubis addressed the rights to freedom of peaceful assembly and association. Supporting the call from civil society, he expressed concerns about the requirements imposed on civil organisations by the national authorities to report any interaction with UN officials. Kubis also highlighted how civil society can be denied registration, or be dissolved by the Executive authority, on overly broad grounds. These regulations are inconsistent with Libya's international legal obligations and restrict the rights to freedom of expression, assembly, and association and risk impeding the free and fair electoral process.

In a recent development, on 24 November the Libyan Ministry of Foreign Affairs also sent a letter to Libyan delegations in The Hague preventing anyone from engaging with the International Criminal Court without informing the Ministry first. This measure, which aims to prevent victims and civil society from coming forward, constitutes a serious impediment to the work of the Court and to accountability for international crimes.

The GNU must lift these restrictions and ensure respect for the freedom of association and peaceful assembly.

⦿ FAILED

- **Ensuring all forms of abuse including threats and reprisals against CSOs and human rights defenders are investigated and that those responsible for such abuses are held accountable;**

3

SUPPORT AND FACILITATE THE WORK OF CIVIL SOCIETY

 FAILED

 FAILED

- Ensuring that the CSC is a separate body operating independently with its own budget and guaranteeing that its work will not be subject to interference from political authorities, central intelligence forces or the security sector, including armed groups and militias.

4

GUARANTEE ACCESS AND RIGHT TO POLITICAL PARTICIPATION FOR ALL

 **FAILED**

 **FAILED**

- **Guarantee the participation of minority groups by making information available in all indigenous languages, including Tamazight, Tuareg and Tebu, in order to reach all communities;**

 **FAILED**

- **Ensure that information, for example on how to vote, is available in formats that are accessible to all, including persons with disabilities such as those with visual impairments and people with learning difficulties;**

4

GUARANTEE ACCESS AND RIGHT TO POLITICAL PARTICIPATION FOR ALL

● FAILED

⚙️ SOME PROGRESS

- **Ensure that voter registration is inclusive, accessible, and that the largest number of eligible Libyans inside and outside the country can register. Special adjustments should be made for displaced persons who are not in their usual place of residence and may not have access to the civil registry;**

On 7 November, the head of Libya's High National Elections Commission (HNEC), Emad Alsayeh, announced the opening of polling stations. HNEC set a goal to distribute more than 2.8 million voter cards through 1,906 polling centres spread all over the country. The voters were able to get a voter card only if they could present an identification document to prevent potential frauds in the elections. HNEC decided to extend the daily working hours of voter card distribution centres to allow people to have easier access to voting cards. On 27 November, HNEC also extended the deadline for registered voters to collect their voting cards until Wednesday 1 December due to the high interest of Libyan citizens to participate in the upcoming elections.

On 20 November, the Benghazi IDPs Organization called on the president and members of the Supreme Judicial Council to develop specific laws that guarantee their rights to challenge the electoral process in their temporary residence in the western region. The organisation explained that the IDPs have registered in the defined locations in preparation for their participation in the electoral process. No information has been distributed so far on whether the Supreme Judicial Council has taken actions to answer the IDPs needs.

⚙️ FAILED

- **Facilitate the return of displaced persons in a secure, safe and dignified manner, allowing them to register and vote in their hometown;**

4

GUARANTEE ACCESS AND RIGHT TO POLITICAL PARTICIPATION FOR ALL

● FAILED



- **Ensure that election rules do not discriminate or arbitrarily exclude potential voters or candidates;**

On 23 November, HNEC announced that a total of 98 candidates have submitted their candidacy for the upcoming presidential elections. Amongst the 98 candidates, only two of them are women. Most of the candidates registered in the west, with 73 of them registered at HNEC's Tripoli office, while 12 of them registered in Benghazi and 13 candidates registered in Sabha.

The pool of candidates generated controversy and criticisms at the national and international levels as some of the candidates, including Saif al-Islam Gaddafi and Khalifa Haftar are currently under national and/or international investigation for human rights violations and war crimes. Khalifa Haftar who is still a US citizen, is currently being prosecuted in Virginia for allegedly committing war crimes and crimes against humanity in Tripoli, Benghazi, Derna, and elsewhere in Libya. In light of these events, the Libyan Military Prosecutor called on HNEC to stop Haftar and Saif Al-Gaddafi's electoral registration until they undergo interrogation for accusations of crimes filed against them. The following day, on 26 November, the chief of the Libyan Criminal Investigation Agency (LCIA), Mahmoud Al-Ajili, confirmed to HNEC that there are existing criminal records and security restrictions regarding Khalifa Haftar.

On 21 November, Libya's interim Prime Minister Dbeibah announced his candidacy to the Libyan presidential elections although he had previously committed not to run. This also goes against the election law which bars the interim Prime Minister from running for presidency. According to the election law (Article 12), in order to be eligible, Dbeibah should have resigned from governmental duties at least three months before the polling date.

4

GUARANTEE ACCESS AND RIGHT TO POLITICAL PARTICIPATION FOR ALL

● FAILED

● FAILED

- **Ensure that election rules do not discriminate or arbitrarily exclude potential voters or candidates;**

On 24 November, HNEC disqualified 25 applicants from participating in the country's presidential elections – including Saif Al-Islam Gaddafi. Gaddafi was disqualified pursuant to Article 10 of the presidential election law, for having a previous final conviction of a crime, and Article 17(5) for failing to obtain a certificate demonstrating that he was not the object of previous judgements. Most of the disqualified candidates failed to comply with the rule of non-conviction. Other prominent names that were disqualified include former head of the General National Congress (GNC) Nuri Abusahmain, and Gaddafi's chief of staff Bashir Saleh. On 28 November, the Tripoli Court of Appeal also accepted two appeals against Dbeibah's presidential candidacy. However, the court rejected the three of them on 1 December, allowing Dbeibah to run. Likewise, the Sabha Court of Appeals also reinstated Saif al-Islam Gaddafi as presidential candidate on 2 December.

HNEC's initial decision to disqualify individuals suspected of being responsible for gross human rights violations or failing to comply with the election legal framework from running for the elections was a positive development demonstrating a willingness to uphold the rule of law and to fight against impunity. HNEC's decision should have been upheld by the courts in line with the rule of law and reinstatement of these candidates is likely to erode the population's trust in the electoral process. Those responsible for or suspected of such gross violations must be held accountable and should not be allowed to hold high level positions or to run for elections.

● FAILED

- **Promptly provide financial support to the High National Elections Commission (HNEC) and state institutions concerned with electoral process, to enable them to carry out their duties, as per the Roadmap (article 4.4) including awareness-raising and education campaigns on the importance of the inclusion of the vulnerable groups in the political process;**

4

GUARANTEE ACCESS AND RIGHT TO POLITICAL PARTICIPATION FOR ALL

● FAILED

⋯ FAILED

- **Prepare polling stations to allow people with disabilities to participate in the electoral process.**

Civil society organisations have raised concerns about the lack of preparation of the polling stations to facilitate access to persons with disabilities. An evaluation study conducted by the National Democratic Institute has found that despite some efforts to prepare polling stations, access remains limited for persons with disabilities. The assessment showed that significant difficulties and obstacles in reaching the electoral centres remain, as a result of poor centre selection and a lack of sufficient measures to adapt the facilities to persons with disabilities. This is so while some facilities which are adequately equipped have not been selected or approved as polling stations by HNEC. The study also highlighted the lack of interest in the participation of people with disabilities in the electoral process, resulting in their exclusion from the process.

5

SUPPORT AND PROMOTE THE RIGHTS OF WOMEN IN POLITICS

● FAILED

⦿ FAILED

- **Ensure voter registration is accessible to all women, regardless of their social status, including their marital status;**

⦿ FAILED

- **Promote an enabling public and political environment that is free from threats, harassment and reprisals for all women, to ensure their full and equal capacity to hold and take part in political campaigns ahead of the elections;**

On 6 November, the Presidency Council suspended the country's Foreign Minister Najla Mangoush from her post and barred her from travelling outside the country. The suspension has been made on grounds of administrative violations, after Mangoush told the BBC about the possible extradition of a new Libyan suspect wanted by the US over the Lockerbie bombing. However, the GNU rejected the disciplinary action, exposing once again the fragile political situation in Libya. Submitting members of the government to administrative actions a month prior to the elections does not provide a fruitful environment for women's participation into Libyan politics. Moreover, this is not the first time Mangoush is the object of political harassment. In May she came under pressure to resign and was subjected to personal abuse, after she called for Turkish troops and mercenaries to leave the country. In order to achieve safe and fair elections, the GNU must take measures to support women and create an environment that is free of threats or reprisals and conducive to their participation in political and public life.

In his remarks to the Security Council, the Special Envoy of the Secretary General for Libya, Jan Kubis, also stressed that it is crucial for Libya to promote women's rights and empowerment together with their protection, particularly in the current political context. Furthermore, he expressed deep concerns about the environment of impunity in Libya when it comes to use of hate speech and incitement to violence, including sexual violence, against civil society activists and human rights defenders, particularly against politically active women.

5

SUPPORT AND PROMOTE THE RIGHTS OF WOMEN IN POLITICS

● FAILED

⦿ FAILED

- **Ensure the minimum quota of 30% for women as set out in the roadmap is implemented immediately;**

⦿ FAILED

- **Ensure that crimes of sexual and gender-based violence, including online violence against women, are investigated and those responsible are held accountable**

This November marked the one-year anniversary of the murder of political activist and prominent female lawyer Hanan Al-Barassi. Al-Barassi was known as a critic of the politics of the Libyan Arab Armed Forces and affiliated militias. She worked to challenge abuses against women and to fight corruption in Libya. Al-Barassi was shot in her car in Benghazi on 10 November 2020 shortly after she had voiced criticisms against Haftar's military operations. Investigations for the purpose of holding those accountable have yet to be initiated. The anniversary of Al Barassi's murder is a reminder of the concerning pattern of violence against women who raise their voices to support justice and accountability over the past seven years. Moreover, the persistent lack of accountability in Libya enhances the climate of impunity in relation to violence against women and sends a message to other women in the public space to deter their political participation. For example, the whereabouts of parliamentarian Seham Sergewa, who was forcibly disappeared in July 2019, still remain unknown and her disappearance has yet to be investigated.

6

PROMOTE AND COMMIT TO TRANSPARENCY AND THE RIGHT TO INFORMATION AS A CORNERSTONE OF DEMOCRACY AND GOOD GOVERNANCE

● FAILED



SOME PROGRESS

- **Release your full financial disclosure, as per your commitment;**

On 18 November, Prime Minister Dbeibah filled out a financial disclosure at the Anti-Corruption Authority in Tripoli. The submission was made ahead of submitting his candidacy for the upcoming presidential elections. Although this is a positive step towards promoting transparency and the right to information, this was long overdue as the Prime Minister was expected to release his full financial disclosure upon taking office.



SOME PROGRESS

- **Report to the Libyan people on your objectives and the efforts made throughout the whole period leading to the elections to guarantee transparency and free and fair elections;**

As mentioned above (goal 1), Libya is expected to hold its first ever presidential debates. This will help increasing the transparency of the process as well as the level of information provided to the voters regarding the candidates' objectives.



FAILED

- **Publish monthly updates on the progress made to comply with the Roadmap in the lead up to the elections.**

7

CREATE A SAFE SPACE AT POLLING STATIONS AND ENSURE THE SECURITY OF VOTERS

● FAILED

⚙️ FAILED

- **Ensure the respect of the 'Agreement for a Complete and Permanent Ceasefire in Libya' and adopt a plan to mitigate the risk of escalating violence, identifying concrete and practical measures aiming to prevent further violations in the lead up to the elections;**

The High Council of State (HCS) expressed concerns about violations in the registration and distribution of voter cards, claiming that the Head of HNEC, Alsayeh is responsible for such violations. The HCS also denounced the attack on the former member of the General National Congress, Mahmoud Abdelaziz Al-Werfalli who revealed illegal activities conducted in relation to the registration and distribution of voter cards. Werfalli was attacked on 27 November by a gunman wearing a police uniform from the Ministry of Interior at Abu Salim voter card registration centre in Tripoli after trying to highlight fraud with the registration cards.

To secure fair elections, the GNU must stop the use of violent attacks. Targeting high-level individuals in the face of the upcoming election could lead to a risk of escalating violence and undermine the election process.

⚙️ FAILED

- **Ensure that independent monitors have access to polling places and prevent attacks from militias and armed groups;**

On 28 November, HNEC announced that it had observed illegal monitoring activities where individuals were monitoring the election process without legal or official capacity. This undermines the process of fair and independent monitoring. As such, HNEC published a clarification note on the practice of monitoring duties on the electoral process and election centres.

7

CREATE A SAFE SPACE AT POLLING STATIONS AND ENSURE THE SECURITY OF VOTERS

● FAILED

⚙️ FAILED

- **Ensure that those responsible for attacks and those attempting to obstruct the democratic electoral process, access to polls and freedoms of expression, peaceful assembly and association are held accountable;**

Khaled Mishri, the head of the High State Council (HSC), plans to challenge the holding of elections in the Constitutional Chamber of the Supreme Court for not being in accordance with the national law. Critics fear that behind these 'legal concerns' there might be an attempt to obstruct the democratic electoral process. According to them, changing the law is a long-term process and requires consensus with Tebu, Tuareg and Amazigh minorities in country. This ultimately will lead to imposing barriers which will obstruct the elections.

⚙️ FAILED

- **Refrain from impeding the work of the judiciary and ensure its places of work are safe so that it can do its work.**

On 28 November, the Sabha Court of Appeal postponed the hearing for Saif al-Islam Gaddafi's appeal against HNEC's decision to exclude him from the presidential elections. The decision was made due to the absence of a judge required to proceed with the hearing. This was as a result of the violent obstruction of the work of the Sabha Court of Appeals by an armed group allegedly affiliated to the Libyan Arab Armed Forces. The reports also indicate that judges were physically prevented from conducting their legally mandated duties, directly impeding the electoral process.

Previously, on 16 November, the Chief of Sabha Security Directorate, Mohammed Beshar, said that pro-Haftar Operation Dignity Room issued an arrest warrant against him after appearing with Gaddafi on the day he submitted his elections candidacy in Sabha. Beshar denied the accusations that he is a private security to Gaddafi, saying that his job only entails security of the polling stations in Sabha.