

Suppressed and marginalised

Systematic violence against civil society in Libya



محامون من أجل العدالة في ليبيا



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1. EXECUTIVE SUMMARY

“I face many challenges due to my civil society work. I was subjected to investigations twice by internal security. I was questioned about my sources of funding, foreign agencies that support our work, and the subject matter of our workshops. I was described during the investigation as a foreign agent and a spy.”

- Media activist interviewee

The 2011 popular uprising in Libya promised freedom, justice, and democracy after decades of oppressive rule under Muammar Gaddafi. Civil society organisations (CSOs) and human rights defenders (HRDs) in Libya played an indispensable role in achieving such a future – by documenting and exposing the heinous crimes committed by the Libyan state and its affiliated militias, participating in initiatives to ensure reparation for victims and affected communities, and working to create an environment where the rule of law prevails and impunity for perpetrators is no more. Yet today, the reality for CSOs and HRDs is much bleaker as they face escalating attacks by the Libyan state and an environment of enduring uncertainty.

Hundreds of those working in this sector have been subjected to harassment, arrests, indefinite detention, torture and enforced disappearances. Defamation and smear campaigns regularly attempt to paint CSOs and HRDs as traitors and enemies, rather than essential contributors to a free society. Women involved in this critical work are targeted by misogynistic attacks, designed to segregate public space along gendered lines. Laws that violate human rights and basic constitutional principles are being enforced to criminalise CSOs’ everyday activities.

This report details the impact of this environment on those with lived experiences of working in, and with, CSOs and on human rights in Libya. It draws on the views of 69 civil society actors and HRDs, from 20 interviews (interviewees) and 49 questionnaire/survey responses (respondents). The data reveals a shared narrative of systematic persecution. All respondents reported either being victims of human rights violations and serious international crimes or witnessing such violation of rights among their colleagues and peers.

The report presents a comprehensive account of the escalating hostility faced by civil society across Libya. It sheds light on the challenges people face, the impact of such adversities on their work, and the broader implications for Libya’s socio-political landscape. It documents that civil society is under significant threat, facing suppression and marginalisation to a troubling degree. These conditions call for urgent and concerted action to protect these people from further repression and to safeguard the critical role they play in Libya, today and for the future.

KEY FINDINGS

- **Arrests, abductions, and arbitrary detention**
 - Civil society actors widely report being, or at risk of being, unlawfully detained, arrested, abducted or killed by the state or its affiliated militias because of their human rights work and civil society activism. These arrests often occur without judicial warrants and are part of a targeted campaign to systematically harass civil society.
 - The legal grounds for arrests and detentions are frequently undisclosed to those detained, further exacerbating a climate of fear and uncertainty. Detainees are often denied legal representation or contact with family. Baseless or false allegations against those detained are regularly made after the arrest portraying them as traitors working to destroy the fabric of Libyan society.
 - Interrogations of detained HRDs and civil society actors often involve questions regarding work activities, funding, and connections to others in their field. Detainees commonly experience torture, inhumane conditions, and physical and verbal assault during arrests and detentions. Torture techniques include electric shocks, suspension in stress positions, and threats of rape. This usually takes place during interrogations and confessions are often obtained under duress and, in some instances, are recorded and shared on social media.
 - New laws, such as Law No. 5 of 2022 on Combatting Cybercrime, provide authorities additional powers with arbitrary justifications for arrests. This has had a severe effect on the right to freedom of expression online, with authorities arresting HRDs and torturing them for posting critical opinions on social media platforms.
 - Perpetrators identified in this research included the Internal Security Apparatus (ISA) in east and west Libya, RADA Special Deterrence Forces (SDF) in west Libya, Al-Nawasi Brigade in west Libya, Tarek Ben Ziad Brigade in east Libya, and battalions 306 and 128 in the south Libya.
- **Women face discriminatory barriers and gender-based violence for working with CSOs**
 - Respondents observed an alarming decline in the number of women activists in Libyan civil society

organisations and identifying as women human rights defenders. They point to a range of societal issues driving these difficulties, such as gender discrimination, sexism, denial of basic rights, and a lack of representation and acceptance of the women working in the sector.

- Women face numerous legal barriers when working in civil society, including restrictions on their freedom of movement. Policies and *fatwas* (formal interpretation of Shariaa law issued by Dar al-Ifta¹) that have barred or placed additional barriers to women travelling without a male chaperone significantly hamper their capacity to work in the sector. These measures feed the narrative against women's involvement, generating public sympathy by creating a perception of extreme danger for women in the field.
- Women involved in civil society in Libya are frequently negatively portrayed in defamation campaigns and accused of spreading debauchery and disregarding societal norms.
- Respondents and interviewees expressed concern that women working in civil society face heightened risks of domestic abuse, stemming from family members' beliefs and reactions to purported reputational damage.
- Women who work in civil society are disproportionately targeted by harassment, threats, and defamation campaigns, focusing on false claims of immorality, cultural and religious deviation, or involvement in espionage, atheism, and debauchery. As a result, in many instances women chose to self-censor and stop their activism.
- Respondents and interviewees agreed unanimously on the damaging impact of gender-based violence driven by Dar al-Ifta's *fatwas* on activists and women's rights more broadly.
- Corroborating what respondents and interviewees reported, the Special Rapporteur on Violence Against Women (SR VAW) during her visit to Libya in 2023, similarly found that the level of violence against women in Libya is widespread and systematic, including online, and that women working in the human rights field or in politics are at risk of harassment, kidnapping, sexual violence and killing.
- **Harassment through threats and defamation**
 - Those working in civil society in Libya frequently endure threats and harassment, including threats of death and sexual violence, including from ordinary citizens. This has considerably diminished civil society's ability in Libya to advocate for human rights, provide vital services, and hold power to account.

¹ Government religious body mandated to issue advisory religious opinions interpreting the Quraan and Shariaa Law; headed by the Mufti (Islamic jurist) of the state who is the highest religious authority in the country.

- Defamation campaigns are common. These aim to harm activists' reputations and safety through spreading false accusations, most often online. These false accusations often insinuate civil society workers are involved in crimes or activities that threaten the state or Islamic traditions, such as espionage, corruption, debauchery, atheism, or collusion with foreign powers.
- Libyan security agencies, such as the ISA, routinely practice spreading false accusations about civil society actors, often releasing videos of coerced confessions obtained under duress and/or torture to portray them to the Libyan public as traitors working with foreign agendas to destroy conservative Libyan traditions. Direct threats of violence from local security agencies to civil society actors are prevalent across the country.
- Statements by Dar al-Ifta on television have significantly influenced public sentiment, often portraying civil society actors who cooperate with international organisations as traitors working according to western agendas to destroy Libyan religious and cultural values. Such opinions have fuelled defamation campaigns against civil society actors including by ordinary citizens.
- The personal safety, mental health, and professional capacity of civil society actors have suffered significantly from this harassment. It has fostered a climate of fear and self-censorship. These threats have led civil society actors to withdraw from their roles, reduce their visibility, or cease activities.
- **Security agencies' surveillance of civil society work**
 - Several governmental regulatory bodies, including the Committee for the Support and Regulation of Civil Society (CSR) and the Civil Society Commission (CSC) with its two branches – one in the east and one in the west of Libya – have been afforded extensive discretionary powers by the two governing authorities in Libya, over CSOs. These powers have included the ability to arbitrarily deny registration, suspend an organisation's operations without providing reason, and limit sources of funding. The enforcement of extensive registration, registration renewals, reporting, and permission processes has severely obstructed the work of CSOs.
 - The appointments of security agency officials in these regulatory bodies have politicised the sector and hindered CSOs and HRDs ability to engage in national and international work.
 - All respondents raised serious concerns regarding surveillance and privacy violations, such as sensitive information being passed from regulatory bodies to security agencies. This information is often related to the complaints of victims against authorities' violations, therefore putting those victims at risk of arrest, torture and killings.

- **Legalising the crackdown on freedom of expression and association through repressive laws and decrees**

- Without legal authority, various actors from executive and state institutions have issued orders, decrees and regulations that restrict and control the work of CSOs. Despite the lack of legal authority to enact such measures and their violation of constitutional and international human rights law and standards, these regulations have been actively enforced. This has had a severe impact on the rights of freedom of association and expression since 2011.
- Various state actors have resorted to Gaddafi-era legislation to restrict the activities of civil society organisations. This includes Law No. 19 of 2001 and various provisions within the Penal Code that criminalise and impose severe penalties for everyday activities associated with human rights documentation and advocacy. These laws should be repealed, as they are in direct violation of Libya's Constitutional Declaration of 2011 and Law No. 29 of 2013 related to transitional justice, and Libya's international obligations to respect and protect the right to freedom of expression and association.
- Law No. 5 of 2022 on Combatting Cybercrime has introduced new repressive powers and severe restrictions to human rights in Libya. The Law's vague terms, such as prohibiting the use of the internet in a way that affronts 'public order and morality' and have been interpreted by the state to target CSOs and HRDs for expressing views critical of authorities online. Some HRDs have already been arrested and tortured based on the provisions of this law.

- **The silence of the international community has sent a clear message that abuses of international law can go unpunished**

- The international community has significant influence in Libya, yet it has shown a marked disinterest in proactively responding to the challenges faced by CSOs and HRDs. This apathy has been evident in major international initiatives like the Berlin conferences, which have not prioritised human rights and the situation of civil society in the country.
- The recent decision by the United Nations Human Rights Council to not extend the mandate of the Independent Fact-Finding Mission on Libya (FFM) in 2023 is a concerning indication of the international community's diminishing commitment to human rights oversight in Libya. The FFM documented widespread human rights violations, including against CSOs and HRDs. By ending the FFM's mandate, the international

community risks sending a message that these violations can go unpunished, feeding into the cycle of impunity, potentially emboldening perpetrators and further endangering Libya's civil society.

- The subdued international response to the treatment of CSOs and HRDs, who play a crucial role in ensuring free and fair elections, risks undermining the very essence of democratic legitimacy in Libya.
- This response of the international community has inadvertently bolstered local efforts to further isolate and restrict CSOs, preventing them from participating in international solidarity initiatives and accessing international funding.

2. BACKGROUND AND METHODOLOGY

In March 2023, Libyan authorities made the disturbing announcement that they intended to revert to oppressive Gaddafi-era laws to oversee the regulation of civil society organisations (CSOs).² This move emerged after years of sustained hostility from authorities towards CSOs. It validated longstanding concerns held by organisations, including Lawyers for Justice in Libya (LFJL), about the weakness of civil liberties and human rights protections within Libyan law. LFJL prepared this report to shed light on how this repressive environment has been experienced by those working in the sector. We believe that these first-hand accounts underscore the severity of the danger facing Libya's democratic future.

This report is primarily based on information gathered between March and October 2023 from 20 interviews with LFJL partners and experts who have wider knowledge of the civil society situation in the country (**interviewees**); and 49 detailed questionnaire responses conducted with civil society activists and human rights defenders (**HRDs**) working in, or on, Libya who have knowledge of the civil society situation in their specific geographical locations (**respondents**). The interviews and questionnaire were designed to gather first-hand accounts of human rights violations experienced by civil society actors, understand how these abuses affect the viability of their work, and gather recommendations on how to improve the future situation.

LFJL researchers and consultants conducted 20 interviews between March and October 2023. These interviews were carried out by telephone and online to ensure the safety and convenience of all parties. The research included interviewees from a diverse range of backgrounds and experiences to gather a spectrum of viewpoints and insights into the challenges, obstacles, and threats faced by civil society actors operating in different sectors and geographical locations. Those interviewed included actors working in different areas of civil society, such as human rights research, women rights and equality, minority rights, migration, legal and psychological support services, the rule of law, media activism, and journalism. Those we spoke to were based in different regions across Libya including east, west, central and the south, as well as internationally, in locations such as Tunis, London, and Brussels. Interviewees comprised both independent activists and those working within organisations. Thirteen men and seven women working in civil society were interviewed in total.

2 Lawyers for Justice in Libya, 'Libyan organisations call on authorities to stop draconian laws and civil society crackdown,' 6 April 2023, available at: <https://www.libyanjustice.org/news/libyan-organisations-call-on-authorities-to-stop-draconian-laws-and-civil-society-crackdown>.

All conversations involved a discussion about the influence of the environment on women in Libyan society and the specific activities women undertake working in the civil society sector.

All interviews took place under the express agreement that interviewees' and respondents' identities would be anonymised in the report. This ensured their safety and comfort in providing unreserved viewpoints.

The questionnaire surveys – completed between April and May 2023 – received responses from 49 civil society activists who were predominantly based in Libya. Questionnaire respondents from Libya were selected through six of LFJL's partner organisations who operate in the east, west, centre, and south of Libya. From east Libya, eight questionnaire respondents were identified (seven men, one woman); 27 from west Libya (21 men, six women); five from central Libya (three men; two women); eight from south Libya (five men, three women); and one from Tunisia (one woman). Specific localities included: Al Bayda, Benghazi, Tobrok, and Shahat in the east; Az-Zāwiyah, Bani Waled, Gadamis, Garyan, Jabal al Gharbi, Mistrata, Msallata, Tawergha, Tripoli, Yefren, and Zliten in the west; Jufra and, Sirte in the centre; and Kufra and Sabha in the south.

As with the interviewees, respondents represented a diverse range of viewpoints on the specific challenges faced by activists working in different localities, from different backgrounds. Respondents included former detainees and survivors of prior violations, such as arbitrary detention, torture, and enforced disappearance. Respondents included activists working on issues related to democratic participation, economic and social rights, enforced disappearances, extrajudicial executions, gender equality, human rights education and documentation, journalism, legal aid, migration and human trafficking, psychological services, and violence against women. As with the interviews, given the sensitive nature of the subject matter and heightened risks facing such actors in Libya, responses from the questionnaires were also gathered and processed under the assurance of anonymity throughout reporting.

Significant efforts were made to seek gender parity among respondents, however, many women activists approached declined to take part because of severe fears that doing so may result in retaliation. This anxiety regrettably confirms the report's findings about the impact that gendered targeted harassment, restrictions to travel, abductions, and assassinations have had on women civil society activists.

The questionnaire followed the same thematic questions of the interviews, requesting respondents' views on the domestic legal framework and the political hostility towards their work in Libya. The questionnaire also asked for information about the identity of perpetrators of hostile actions towards civil society actors.

In addition to primary data, the report draws on open-source research, including laws, decrees, regulations, policies and government statements, as well as reports from the United Nations (UN), international and local organisations, media reports, audio-visual evidence, and social media platforms such as *Facebook* and *X* (formerly *Twitter*). These sources help contextualise and validate data gathered from interviewees and respondents. All sources are cited throughout the report and detailed in the bibliography.

The next chapter of this report documents the perceptions and experiences of the research respondents and interviewees. The subsequent chapter delves into the Libyan legal framework that frames these experiences. The report concludes with recommendations to address this dire situation.

3. VIOLATIONS, PERPETRATORS, AND CONSEQUENCES FOR CIVIL SOCIETY

“For four days, I was arbitrarily detained. Four days of torture: shaving my hair, psychological humiliation, and insulting my human dignity. There was torture by electric shocks, verbal torture, and it was done in periods starting from 1 am until 5 am in the morning. I was forced to leave my family, friends, and all my work in Libya. I received death threats. This has psychologically affected me. I live in exile away from everyone now, and I am suffering from depression and post-traumatic stress disorder.”

- Civil society interviewee

At the international and domestic level, Libya has legally committed to ensuring freedoms of expression and association — all of which are fundamental to a functioning civil society. Despite these commitments, there is a rapid backsliding of freedoms and an increasing number of laws and decrees that violate human rights, and curtail and criminalise CSOs’ everyday activities. For further discussion of the Libyan legal framework framing this environment, please refer to section four.

This section, however, first provides a comprehensive overview of the primary violations encountered by respondents and interviewees in their civil society engagements. Their testimonies indicate the widespread and consistent infringement of their rights in all regions of Libya. The following testimonies reveal that violations follow a similar systematic nature, designed by both rival governing authorities in the country to intimidate and silence HRDs and civil society actors, and send a clear message that dissent will not be tolerated.

3.1 ARRESTS AND ABDUCTIONS, ARBITRARY DETENTION, TORTURE AND INHUMANE AND DEGRADING TREATMENT

Fourteen respondents, which amounts to almost a third of all respondents from across Libya, recounted personal experiences of arrest, enforced disappearances, detention, and torture. The methods of torture included blindfolding, suspension in stress positions, electric shocks, beatings during interrogations by security agencies, and threats of killings. Some respondents stated that perpetrators directed guns to their heads and threatened to shoot to pressure them to disclose information. Respondents also mentioned that they faced threats of rape or threats of arrest of family members. Many stated they witnessed their colleagues and peers subjected to similar treatment. Respondents reported that they had been held under conditions of enforced disappearance by state actors without issuance of official orders or judicial warrants and were not informed of the charges against them or referred

to the judiciary to approve their detention and renewals. These patterns of abuses were observed and experienced across all regions surveyed for this report. Respondents’ experiences suggest that these tactics are employed as a harassment tactic, with a particularly alarming case highlighted by a respondent of being detained more than one time within a single year by the SDF in Tripoli.

Post-arrest, interrogations often involve inquiries into civil society activities and the details of organisations’ financial backing, contacts and addresses of other HRDs working with them. Respondents highlighted how these interrogations could be arbitrarily prolonged. Those detained are also denied any contact with family members or legal counsel. Respondents, particularly those from central and southern Libya, reported being denied any information about the reasons for their or their colleagues’ arrests and subsequent detention. Some respondents recounted being held for several weeks and tortured during interrogations without receiving any explanation about the charges against them. Several other respondents documented instances where detainees were subjected to unfounded allegations, including their involvement in promoting atheism or homosexuality.

Seventeen respondents located across Libya reported that they were subjected to arrests, detention, torture and inhumane conditions, abductions, sexual violence, and confinements at checkpoints. Respondents also reported verbal abuse and targeted harassment to be common features of arrests and detentions, noting threats of physical and sexual assault against them, their colleagues, and their family members. Some respondents stated that they would be arrested and taken into detention, while others stated that they would be arrested for a few hours at checkpoints, interrogated, and in a few instances, sexually harassed and intimidated. Other respondents stated that they had not faced the violations themselves but had documented the abuses faced by their peers. The violations reported are similar to the respondents with direct experiences and additionally include deprivation of food and being held in unsanitary conditions. Eight respondents noted the use

of these violations to coerce detainees to make confessions under conditions of duress.

In 2021, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) issued a decision stating that violence against women in Libya working in civil society took place through arrests and detention, as well as through impunity for perpetrators.³ The decision highlighted the case of human rights activist Magdolein Abaida, who was unlawfully arrested and tortured by armed non-state actors in 2012 because of her work. The Libyan state was found to have violated Abaida's right to non-discrimination due to its failure to investigate the crimes committed against her or to hold the known perpetrators accountable, on the basis of her sex.⁴

Respondent testimonies are also consistent with numerous media reports and documentation efforts undertaken by NGOs that detail incidents of arbitrary arrests, detentions and torture. For example, in 2018, media figures Suleiman Qashout, Mohamed Yaacoubi, and Ahmed Yaacoubi were held without charges for organising and participating in media award ceremonies.⁵ A coalition of civil society actors reported that, between September and December 2021, at least 16 journalists, bloggers, and media professionals were arbitrarily arrested or disappeared.⁶

HRDs have similarly been subject to arrests and false charges. Human Rights Watch reported the case of Abdelmoez Banoon, who was abducted and disappeared by unidentified perpetrators in July 2014.⁷ Two humanitarian workers, Mohamed al-Monsef Ali al-Sha'lali and Walid Ramadan Shalhub, from the Shaik Tahir Azzawy Charity Organization, were abducted in al-Shawryf in 2015.⁸ In 2018, Defender Centre for Human Rights (DCHR) documented 13 attempted abductions of human rights activists and nine instances of those arrested being detained or disappeared following their

abduction.⁹ In 2019, DCHR additionally reported six cases of enforced disappearance in Tripoli, Benghazi, and Zawiyah.¹⁰ Libya Crimes Watch (LCW) in their 2022 annual report recorded 62 cases of abductions and arbitrary detention of Libyan human rights activists, journalists and civil actors across the country.¹¹

Furthermore, in 2022, the SDF detained at least six human rights defenders under conditions of enforced disappearance in Mitiga, Tripoli and charged them with offences under Article 207 of the Penal Code which relates to the promotion of acts against state institutions and public order and holds sentences of up to life imprisonment and the death penalty.¹² In December 2022, four of the men were sentenced to between three and seven years in prison under the penal code provisions.¹³ In February 2023, the Ministry of Interior in east Libya arrested activists Haneen al-Abdely and Ahlam al-Yamani for posting videos on social media platform TikTok. The authorities stated that the videos violated the traditions and morals of Libyan society and violated Law No. 5 of 2022 on Combatting Cybercrime (the **Cybercrime Law of 2022**).¹⁴ They remain in detention.

A male interviewee from east Libya and founder of a human rights organisation stated:

"I was arrested under this so-called 'cybercrime law' which was enforced by the officials to protect themselves [from public criticism] and to restrict civil, human rights and journalistic work and repress voices that shed light on serious violations such as enforced disappearances, which I spoke about on social media and was punished by myself being disappeared".

3 Convention on the Elimination of All Forms of Discrimination against Women, 'Views adopted by the Committee under article 7 (3) of the Optional Protocol, concerning communication No. 130/2018,' 12 April 2021, available at: <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsnKIbGfsCt5nq0PhdiTF3%2BbluinfCqnrAcUvoCBiW3Ngw1ODkNVbV1wc7DHyluMAQ3I4YGZ0Ff-7hjn9Y3GBMxUXJx9syaCihvESXgyoXNLdhMU5iOpZZDtrpURH-v3sH58Xg%3D%3D>.

4 Ibid.

5 Human Rights Watch, 'Libya: Armed group detains media figures,' 5 July 2018, available at: <https://www.hrw.org/news/2018/05/07/libya-armed-group-detains-media-figures>.

6 Access Now, 'Social media companies must take urgent action to protect Libyan human rights defenders,' 22 March 2022, available at: <https://www.accessnow.org/press-release/libyan-human-rights-defenders>.

7 Human Rights Watch, 'Libya: Activists being silenced,' 27 July 2017, available at: <https://www.hrw.org/news/2017/07/27/libya-activists-being-silenced>.

8 Africa Renewal, 'Top UN humanitarian official in Libya calls for immediate release of abducted aid workers,' 11 April 2015, available at: <https://www.un.org/africarenewal/news/top-un-humanitarian-official-libya-calls-immediate-release-abducted-aid-workers>.

9 Defender Center for Human Rights, 'Human rights defenders in Libya lack of protection and absence of legislation: Nine years of repression,' 21 February 2020, available at: <https://www.defendercenter.org/wp-content/uploads/2020/02/Annual-Report-of-Defenders-Center-for-Human-Rights-2019-1.pdf>.

10 Ibid.

11 Libya Crimes Watch, 'LCW annual report for the year 2022: another year of injustice in Libya,' 22 March 2023, available at: <https://lcw.ngo/en/blog/lcw-annual-report-for-the-year-2022-another-year-of-injustice-in-libya>.

12 Cairo Institute for Human Rights Studies, 'Libya: Authorities in East and West Unite in Imposing Crackdown on Civil and Political Freedoms,' 5 December 2022, available at: <https://cihrs.org/libya-authorities-in-east-and-west-unite-in-imposing-crackdown-on-civil-and-political-freedoms/?lang=en>. See also discussion of Article 207 as incompatible with international human rights law in section 5.1 of this report.

13 UN Human Rights Council, 'Report of the Independent Fact-Finding Mission on Libya (A/HRC/52/83),' 20 March 2023, para 70, available at: https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session50/A_HRC_52_83_AdvanceEditedVersion-EN.docx.

14 Mahmoud Al-Qanashi, 'The Ministry of Interior arrests Ahlam Al-Yamani and Haneen Al-Abdali,' Libya Al-Yaum, 16 February 2023, available at: <https://libyaalyoum.com/7971/>.

3.2 DISCRIMINATORY BARRIERS TO WOMEN'S RIGHT TO FREEDOM OF MOVEMENT

In May 2023, the Internal Security Apparatus (ISA) in the west introduced a new procedure whereby Libyan women travelling without a male chaperone from Mitiga airport in west Libya are required to complete an official form that questions the reasons for travel, an explanation of why the woman is travelling alone, and detailed information about her travel history.¹⁵ All respondents noted this development as curtailing the right of freedom of movement of women in Libya.

These restrictions were incited mainly by religious edicts of Dar al-Ifta and governmental executive orders, as discussed further in section 4, as an attempt to limit women's travel abroad without the accompaniment of a male chaperone. This has hindered the capacity of women to attend events, training, seminars, and fundraising events and to advocate outside of Libya.

A woman HRD interviewee and lawyer from the west of Libya told LFJL,

"For ten years I've travelled on my own and was shocked when travelling recently from Mitiga airport by an officer giving me a form to fill in. He told me that the form has to be filled by all women travelling alone. I felt as if I am not a Libyan citizen or that I am a second class citizen... I was again shocked upon my return that I had to fill in this form again. The officer asked me in an aggressive way whether I was travelling on my own and when I said 'yes', he told me to go in the corner and fill in the form. The people around looked at me as if I had committed something shameful."

Many women respondents and interviewees emphasised that this form puts women at grave risk, especially those working in civil society and human rights. Women working in these sectors often travel for workshops, fundraising events, advocacy and meetings. Investigations at Libya's ports of entry and exit expose and make them vulnerable targets for security agencies' investigations and detention. As a result, many women have chosen not to travel for their safety and the safety of their families, which has affected their human rights work and opportunities for work.

A Libyan civil society activist interviewee from Tripoli told LFJL,

"For me, filling out the form is my biggest risk. I will be put under a microscope and monitored by the ISA and state authorities, my name will be flagged. After the first time, the second time...I am sure that the third time I will be put in an office and interrogated."

Such measures are not enforced against men and therefore it is clear that these policies are discriminatory.

3.3 SMEAR CAMPAIGNS, HARASSMENT AND DEFAMATION TO SILENCE HUMAN RIGHTS DEFENDERS AND CIVIL SOCIETY ORGANISATIONS

Respondents from all regions reported routinely receiving threats as a result of their work in, and with, CSOs. All respondents from western Libya relayed experiences of being subjected to and impacted by verbal harassment, insult, and threats of physical and sexual harm made against them. Other respondents from Al Bayda, Tobruk, and Shahat noted that they had received communications from local security agencies containing threats against them. In the south of Libya, respondents noted experiences with armed non-state actors who told them that their life would be 'in peril' if they continued their civil society work. An activist in the south of Libya reported being summoned by a governmental entity and threatened with death, following an accusation of receiving of funding from an international organisation.

Respondents widely reported that women activists were targeted by specific gendered forms of harassment, threats, and defamation online. False accusations against women often focused on their purported immorality, suggesting the accused women had deviated from cultural and religious norms, engaged in drinking or drug use, or undermined the honour of their families or tribes. Many women respondents recalled experiences of having their images posted on social media, accompanied with derogatory comments and allegations of being sex workers or sexually promiscuous or promoting atheism and debauchery. Other false allegations were frequently reported against women activists, alleging that they had participated in espionage on behalf of other nations. Four women respondents noted that their online accounts were subject to numerous hacking attempts.

Online violence against women (OVAV) in Libya has significant implications on the realisation of women's rights in post-2011 Libya. Its effects on victims are wide ranging and often cross from online to offline forums. In some cases, women engaging in online activism have suffered severe consequences, including enforced disappearances, kidnappings, online and offline harassment, threats, and acts which may amount to torture. These acts cause harm not only to the women against whom they are directed but also to

¹⁵ Lawyers for Justice in Libya, 'Crushing Liberty: relentless restrictions on Libyan women and enforced male guardianship,' 1 June 2023, available at: <https://www.libyanjustice.org/news/crushing-liberty-relentless-restrictions-on-libyan-women-and-enforced-male-guardianship>.

broader society. The silencing effect of online violence against women is not to be underestimated, especially in terms of undermining freedom of expression and the right to equal participation in public and political life.¹⁶

The Special Rapporteur on Violence Against Women (SR VAW) in her visit to Libya in 2023, similarly found that the level of violence against women in Libya is widespread and systematic, including online, and that women working in human rights and politics are at risk of harassment, kidnapping, sexual violence and killing.¹⁷

A prominent journalist interviewee from east Libya summarised the situation,

“There is a persistent distortion of women’s work in civil society that creates a specific stereotype against such women. This has been harmful in two ways: the first with regard to how society views her presence in civil society work and, more generally, in political work; and the second, it has resulted in the withdrawal of women from work for fear of how she, or her family, may be stereotyped. I see the second form as more dangerous because it contributes to a woman’s loss of her self-confidence and belief in her work, and her ability to participate in building a better society. These scenarios have led to online attacks against women working in civil society, politics and media, trying to direct public opinion against them, and using religious arguments as evidence and data to lessen their support”.

Threats and targeted harassment are compounded by the general security situation. Almost all respondents stated that the persistent armed conflict and unstable security situation in Libya had, at various points, caused them to be in a state of high alert and, at various points, stop activities. Interviewees stated that security agencies usually intensify their crackdown on CSOs in times of armed conflict and their level of tolerance to dissent shrinks. CSOs feel a heightened impact of armed conflicts and are forced to self-censor during such times.

All respondents across the various regions reported that false accusations portraying HRDs as traitors working in favour of foreign governments and intelligence were routinely levelled against them on social media or during arrests and interrogations.

16 For more information about online violence against women in Libya, see: Lawyers for Justice in Libya, ‘“We Will Not Be Silenced”: Online Violence Against Women in Libya,’ 2021, available at: <https://www.libyanjustice.org/news/urgent-action-needed-to-address-shocking-levels-of-online-violence-against-libyan-women>.

17 UN Human Rights Council, ‘Visit to Libya: Report of the Special Rapporteur on violence against women and girls, its causes and consequences, Reem Alsalem’ 4 May 2023, available at: <https://reliefweb.int/attachments/8bbdb21-1f79-46af-a56f-574afce95be5/EN.pdf>.

Confessions obtained through coercion and duress were also published online by security agencies.¹⁸ Such video confessions are published to defame activists and cause them reputational harm, as well as further endangering their safety and portraying to the public that HRDs are promoting ideas and beliefs that are not in line with the traditions and religion of Libya.

Allegations against civil society actors often include arbitrary and unfounded charges of involvement in criminal offences or endangering the state through their participation in espionage, corruption, collusion with foreign actors, or directly threatening national security. Other allegations were based on conservative cultural, religious, and political values, suggesting civil society actors were promoting atheism, LGBTQI+ rights, alternative political ideologies, or general unethical conduct.

Two of the civil society actors interviewed stated that Dar al-Ifta opinions and statements played an important role in these campaigns. Dar al-Ifta portrayed civil society actors, particularly those that cooperate with international organisations, as agents working with western ideologies and notions that are not in line with Islam, traditions or morals in Libya. These statements have contributed to smear campaigns against civil society and turned public opinion against civil society actors and the wider human rights agenda.

One civil society interviewee from east Libya commented,

“These institutions are not really religious institutions, they are politicised religious authorities that impose their guardianship on society in the name of religion. The fatwa issued by Dar al-ifta banning women from traveling without a male chaperon is the perfect example. These institutions have played a key role in the smear campaigns against civil society actors destroying their image and work in society.”

3.4 IMPOSING REPRESSIVE MEASURES TO SUPPRESS CIVIL SOCIETY ORGANISATIONS’ WORK

Several state institutions have been established by the state to regulate civil society activities and operations in Libya. These institutions have become deeply politicised. For instance, in 2013, the Civil Society Commission (CSC) was initially set up as a singular administrative body. However, its branches were *de facto* divided into separate operations in the east and west of Libya due to regional political divisions. Divided state authorities subsequently sought to make new appointments

18 Amnesty International, ‘Libya: the Internal Security Agency intensifies crackdown on freedom of expression,’ 23 March 2022, available at: <https://www.amnesty.org/en/latest/news/2022/03/libya-the-internal-security-agency-intensifies-crackdown-on-freedom-of-expression/>.

into governance roles within the CSC and adopt additional restrictions on CSOs' operations. These appointments ostensibly aspire to regulate the practices of all branches of the CSC, but in practice, they only govern the conduct of branches under the jurisdiction of the respective political authority.¹⁹

To avoid identifying information about complaints made by specific individuals, this section refers to violations committed by the two branches under the singular identifier of 'CSC'.

Irrespective of their location, all interviewees and respondents reported a severe impact on their activities as a result of legal and regulatory measures set by the CSC. Many of the challenges identified stem from concerns regarding registration requirements, arbitrary interference in legitimate activities, opening bank accounts, dissolution of CSOs without reasoning and prosecuting CSO staff. These prosecutions use the penal code that imposes hefty criminal sentences of up to life imprisonment or the death penalty, as outlined in section 4.1.

Ten respondents across different regions reported that their respective organisation had refrained from registering with any branch of the CSC. Their reasons include a lack of trust towards these institutions, as well as concerns regarding procedural and legal requirements imposed by these bodies. Only one respondent stated that they had registered with both branches of the CSC in eastern and western Libya. All remaining organisations had only registered with a single branch that was operating in their region. Respondents and interviewees explained that some CSOs in the west would register with the CSC in the east given the process is easier. This was explained as a means by which the authorities in the east would allow more CSOs operating in the west to uncover the violations committed by the rival government in the west, providing a political gain for the authorities in the east. It would appear that for these reasons, the eastern authorities initially simplified the registration process, however this process has now become challenging and complicated, offering no real incentive to CSOs.

A founder of a human rights CSO interviewee from the east told LFJL,

"We severely suffered in registering our human rights organisation with the CSC and we were only granted registration after unlawful investigations and interrogations by security agencies. We still face many obstacles and challenges in obtaining permissions for our activities from these agencies."

The majority of respondents, 46 out of 49, expressed the view that regional divisions had led to the politicisation of the CSC as an institution, regardless of which branch. Several respondents

observed that within both branches of the CSC in the east and west, appointments to posts were often made on the grounds of an individual's loyalty to relevant regional powers. The political nature of these appointments was viewed to have made collaborating with organisations operating in different regions of Libya increasingly difficult and potentially dangerous. For example, several respondents from Sirte and Bani Waled noted that they had direct experience of being restricted from travelling across Libya for work by local security forces. They refrained from providing additional details for fear of reprisals from the groups responsible. Eight other respondents also corroborated that they had been required to seek express approval from internal security agencies before engaging in work with organisations based in different regions.

One male and one female respondent also had first-hand experience of difficulties securing certificates and permission to attend international forums and workshops. They stated that this prevented them from accessing important opportunities to collaborate and form networks with similar organisations, share knowledge and best practices, and access international funding sources. The remaining respondents opted not to comment on restrictions on traveling to attend international forums, however one Interviewee stated that NGOs often attend these events without securing relevant permissions.

Twenty-three respondents identified statements and decrees issued by Dar al-Ifta as having impacted their freedom to collaborate with international organisations. In particular, several respondents expressed concern regarding a *fatwa*, issued by Dar al-Ifta, which prohibited direct communication with foreign organisations unless authorised by the Libyan government to do so.²⁰

As one media activist interviewee summarised,

"I faced many challenges due to my civil society work and carrying out activities and workshops. I was subjected to investigations twice by internal security for carrying out a workshop for youth in Benghazi and at an art gallery in Tawergha. I was questioned about my sources of funding, foreign agencies that support our work, and the topic of the training. During the investigation, I was described as a foreign agent who carried out acts of espionage."

Compliance with either of the CSC's extensive reporting and permission requirements was a struggle for many respondents. Six experienced difficulties with renewing their organisations' registration certificates, primarily due to obscure procedures and burdensome paperwork. Thirty-six respondents noted

¹⁹ For more information on the CSC, as well as the legality and effect of its regulations, see section 4.2.2 in this report.

²⁰ Sadek al-Gheriani, 'Western civil society organisations are the most malignant international organisations,' Dar al-Ifta, 10 August 2022, available at: <https://www.youtube.com/watch?v=nEz6gtlmtI8>.

that these difficulties had a severe impact on their capacity to carry out activities and reliably secure funding. This was particularly the case for organisations seeking to work with international donors.

Respondents also reported that the registration renewal processes had hindered their capacity to engage in wider responsive activities which they had not foreseen when registering their organisations with the relevant CSC branch. Respondents stated that in the restrictive environment they operate in, the CSC and security agencies will automatically block their registration should CSOs want to expand their mandate and cover activities that the authorities deem critical of them or uncovering violations committed in their respective region of Libya. Three respondents noted that this created a pressure on them to omit details of activities from their annual reporting documents, as they were concerned that declaring activities not listed in the initial registration process would be used to block their registration renewal or target them individually. Restrictions to work only on specific and predefined areas also reportedly prevented organisations from attending international forums or workshops.

Connected to these restrictions, respondents also widely reported that the regulatory framework had adverse impacts on the financial management of their organisations. Three respondents reported significant difficulties trying to open bank accounts due to the requirement for prior approval from the relevant branch of the CSC. Another three respondents also noted that securing funding from international donors and embassies located in Libya had become increasingly difficult given that prior government approvals are required by law and some international donors and embassies inside the country prefer not to break the law despite their contradictory nature. The rest of the respondents did not comment. However, they stated that the obstacles in obtaining funding have exacerbated financial struggles facing many civil society actors and activists. They stated that their ability to apply and receive funds in Libya could result in them being targeted individually for violating the penal code.²¹ This has affected their financial security and ability to have paid dedicated staff. As a result, some CSOs remain largely dependent on volunteers to carry out activities, which is not sustainable for the organisations concerned or wider civil society.

Respondents' concerns extended to both branches of the CSC and other internal security agencies' roles in monitoring civil society activities, especially considering politicised appointments in both branches, including – as was noted by some respondents and interviewees – appointments of members of security agencies to the branches of the CSCs governance structures. This politicisation of the CSC not only undermines

the independence of the CSC but also put CSOs under constant monitoring by security agencies. This has amplified the fear of surveillance and the sharing of information to hostile actors, including to perpetrators of human rights violations. Respondents highlighted that such surveillance endangers not only those working in human rights, but also victims, sources, and other beneficiaries to whom they owe a duty of care.

Two respondents mentioned they had experienced the use of certain decrees, namely Decree No. 286 of 2019, to violate privacy rights and to monitor the activities of organisations for political purposes. For example, one organisation in central Libya reported a security agency raiding their office and confiscating documents. The documents had information about beneficiaries with whom they work. In addition, multiple reports allege that security agencies have committed serious privacy violations against civil society actors, empowered by vaguely worded regulations that enable them to intercept 'information liable to compromise the country's safety, social peace or national security'.²²

A male interviewee from south Libya pointed out that in March 2023, criminal investigative authorities in southern Libya raided the offices of three organisations in Sabha, including the offices of international organisations. During these raids, five employees were arrested, and numerous documents and laptops were seized from their offices. Authorities attempted to justify these actions by asserting that the organisations had failed to submit requisite documents proving their compliance with relevant laws.

One female activist interviewee commented on these attacks saying,

“When we heard about the raid on NGOs in the south of Libya, I was in my office and I had less than ten minutes to evacuate the office. I got in my colleague's car to go home; these minutes were some of the most difficult and scary that I have experienced. We were terrified after we heard about the details of the armed raid on the other NGOs, as if they were criminals... We heard that the authorities had a list with our names and home addresses. We completely avoided travel in case our names were listed at airports, we stopped our field work, visible activities and meeting with victims to protect us and them as we were at risk of being arrested at any time”.

Most respondents expressed severe concerns regarding the laws and regulations being used by the state to restrict lawful

21 1953 Penal Code, article 206.

22 For example, see: Reporters Without Borders, 'Decree Gives Blank Cheque to Libyan Militiamen Who Persecute Journalists,' 15 May 2018, available at: <https://rsf.org/en/decreed-gives-blank-cheque-libyan-militiamen-who-persecute-journalists>.



activities and bring about arbitrary charges. Forty-three respondents identified concerns with the Cybercrime Law of 2022, noting that charges of working against the state, spreading discord, or disseminating false information could be arbitrarily applied to prosecute and arrest civil society actors working on human rights and democratic issues. One respondent stated they had been ordered by authorities to close their social media account and not to write or comment on the internet.

Most respondents perceived these developments to be part of a strategic attempt to politicise and control CSOs along the territorial fault lines of the ongoing conflict and to eradicate any independent CSOs that could be critical of the authorities. These restrictive measures have further impeded many CSOs from documenting human rights abuses and other unlawful activities committed by various actors across regions.

These findings were confirmed in the final report of the Independent Fact-Finding Mission on Libya (FFM) published in March 2023 which stated that: ‘Attacks against, inter alia, human rights defenders, women’s rights activists, journalists

and civil society associations have created an atmosphere of fear that has sent persons into self-censorship, hiding or exile.’²³ Despite this report, and the urgent need for further investigation and action on the FFM’s findings, the FFM’s mandate was not renewed. Instead, the UN Human Rights Council adopted resolution 52/L.33 on ‘technical assistance and capacity-building to improve human rights in Libya’ which failed to clearly lay out vetting criteria for beneficiaries of this assistance, despite state institutions often being implicated in committing human rights violations against HRDs, as mentioned in this section. The lack of any monitoring or accountability mechanism for this resolution and the closure of the FFM clearly signal to the lack of will by the Council and its Member States to uphold their commitment to accountability and ending impunity.

²³ UN Human Rights Council, ‘Report of the Independent Fact-Finding Mission on Libya,’ 3 March 2023, available at: https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session50/A_HRC_52_83_AdvanceEditedVersion-EN.docx.

4. THE LIBYAN LEGAL FRAMEWORK

“Our organisation collected testimonies where activists were arrested for violating public morals and other accusations under the Cybercrime law for merely expressing their views or writing blogs or posting videos on social media.”

- Male civil society actor and head of a Libyan NGO interviewee from the east

As stated in section three, Libya is a party to numerous international legal and human rights treaties, and has committed to ensuring freedoms of expression, assembly, and association — all of which are fundamental to the functioning of civil society.²⁴ These provisions stipulate that Libya's authorities may only legitimately and legally restrict these rights under extremely limited circumstances. Namely, such restrictions must: (a) be formally established in law; (b) pursue a legitimate aim; and (c) be necessary and proportionate in the pursuit of such aims. The Libyan Supreme Court affirmed in Constitutional Appeal No. 57/01 from 23 December 2013, that Libya's ratified international conventions were ‘superior to national law’ and that in case of a conflict between national laws and international conventions, national courts should give precedence to the latter.²⁵ According to Article 31 of Law No. 6 of 1982, the decisions of the Supreme Court are binding on all other courts and entities in Libya.²⁶ This means that the principle of international legal supremacy should be enforceable and adhered to by public actors in Libya.

Domestically, the rights to freedom of expression, assembly and association have also received guarantees from the Constitutional Declaration of 2011, albeit in a more limited form than under international human rights law.²⁷ The General National Congress also passed Law No. 29 of 2013 on Transitional Justice, which in Article 6 explicitly protects constitutional rights and prevents the use of ‘legislation issued by the former regime... against established rights.’²⁸

The rights conferred in the Constitutional Declaration that are most important for the content of this report are Article 14, which concerns freedom of expression and assembly, and Article 15, which concerns freedom of association. The protections stipulated under Article 14 state that restrictions

to freedom of expression and assembly must be ‘stated in statute’ but fails to require explicitly that such laws must be proportionate and necessary in pursuit of legitimate aims.²⁹ Article 15, likewise, fails to fully adhere to international standards when offering protections to freedom of association. It also provides a somewhat ambiguous prohibition of organisations that threaten ‘public order or of public morals’ and others which may be ‘detrimental to the State or the unity of national territory’.³⁰ The article further stipulates that CSOs will be regulated through the adoption of ‘a statute.’³¹

As a result, the extent of protections afforded to fundamental human rights is inconsistent in Libya. As discussed in detail below, this ambiguity is aggravated by the fact that several laws, which violate international human rights law and standards, have yet to be expressly repealed. This includes numerous laws passed by the Gaddafi regime that prevented the existence of any independent CSO in Libya before 2011. The failure to repeal such laws has allowed actors to resort to authoritarian legal measures to suppress critical civil society voices and politicise the sector. As a result, many basic freedoms continue to be *de facto* criminalised, attracting severe penalties including life imprisonment and the death penalty.

In addition, government bodies and state institutions have issued multiple decrees and regulations that grossly exceed their lawful authority and mandates. These forms of secondary legislation have attempted to impose prohibitive registration requirements on CSOs, restrict freedom of movement and travel, dictate organisational conduct, require prior approval for funding and specific activities including carrying out research and advocacy, and require the renewal of registration licences for those CSOs already registered since 2011. Despite these measures being unlawful, they have been enforced, which has led to a situation where many organisations feel coerced into compliance.

The following sections provide details of the key offending laws, decrees, and regulations that are being used to suppress civil society and impede human rights in Libya.

24 This includes Articles 19, 21, 22 of the International Covenant on Civil and Political Rights (1976), as well as regional treaties such as Articles 10 and 11 of the African Charter on Human and People's Rights (1981), Article 7 and 8 of the African Charter on the Rights and Welfare of the Child (1990), and Article 24 of the Arab Charter on Human Rights (2004).

25 The Supreme Court of Libya, ‘Constitutional Appeal No 57/1,’ 23 December 2013.

26 Law No. 6 of 1982 on Reorganising the Supreme Court 6, article 31.

27 The Constitutional Declaration of 2011 (Libya 2011).

28 Law No. 29 of 2013 on Transitional Justice 29, article 6.

29 The Constitutional Declaration of 2011, article 14.

30 Ibid, article 15.

31 Ibid.

4.1 FREEDOM OF EXPRESSION

Freedom of expression is crucial for the operation of CSOs. The ability to express dissenting views, criticise policies, and advocate for change without fear of reprisal, directly impacts the capacity of organisations to promote human rights and other social justice causes, and to advocate for a better society. Legal protection of freedom of expression – rather than criminalisation – is essential to safeguard these organisations' capacity to contribute to meaningful development and democratisation efforts.

The International Covenant on Civil and Political Rights (ICCPR) – ratified by Libya – stipulates that any legal restrictions to freedom of expression must pursue a legitimate aim and be proportionate in their application.³²

However, Libya's Penal Code, first adopted during the constitutional monarchy of King Idris in 1953 and amended as recently as 2014, contravenes the ICCPR standard.³³ It contains multiple provisions that use imprecise language which can cast almost all acts of expression as unlawful. Its provisions can be applied to prevent the legitimate discussion of people and human rights activism. The Penal Code allows for severe prison sentences and the death penalty for expression that is deemed unlawful, in disregard of General Recommendations issued by the United Nations Human Rights Committee.³⁴

The Penal Code also criminalises a wide array of legitimate expression. Article 438, for example, criminalises insulting expressions that harm the reputation or honour of another person.³⁵ Article 439 increases the associated penalty if the alleged act is made against a 'political, administrative, or judicial body' or in the presence of an audience.³⁶ Both articles do not clearly define these offences but prescribe potential detention sentences. Article 245 similarly prescribes punishment by detention for those found to have insulted or disparaged the dignity of public officials.³⁷ Article 195 further extends the criminalisation of expression, requiring the imprisonment of up to 15 years for those found guilty of insulting the '17 February revolution', 'the legislative, executive or judicial bodies or any of their members', or 'the emblem or flag' of Libya.³⁸

These articles have been used to target civil society actors and HRDs critical of state officials including in the media and on social media platforms. For example, in 2020, the sitting prime minister Abdulhamid Al-Dbeibeh filed a complaint to the judiciary against political commentator Mohamed al-Jareh based on a television interview in which the latter participated, in which he alleged that the prime minister bribed members of the Libyan Political Dialogue Forum to secure votes for the prime ministerial appointment.³⁹

Article 178 of the Penal Code also criminalises legitimate expression and establishes a punishment of 'life imprisonment' for ambiguously defined forms of expression carried out by Libyan nationals outside of Libya.⁴⁰ Any Libyan who 'disseminates or reports rumours or information which is false, exaggerated, or provokes concern' about the internal condition of the state and which diminishes the state's reputation, is potentially liable to such a sentence.⁴¹ This article also criminalises any Libyan national who 'acts in such a manner as to injure national interests'.⁴² Article 196 provides that 'attempts to modify the constitution or form of government shall be punished by death'.⁴³ Article 207 similarly provides the death penalty for anyone who distributes 'views or principles' that aim to alter fundamental principles or structures of the state by 'unlawful means'.⁴⁴

As a result, exactly what constitutes offensive expression within the Libyan Penal Code is open to interpretation. These deficiencies of the Penal Code have resulted in the criminalisation of legitimate and truth-based positions and critical voices, vital to the operation of civil society actors and HRDs and necessary for a democratic society.

There is a notable lack of meaningful defences within the Penal Code's provisions. For example, no defences are expressly provided for the crimes stipulated under Articles 195, 196, 207, or 245. Articles 438 and 439 do have some limited defences stated in article 443, such as possible protection if the defamation offence is made in a 'state of rage' following an 'unjust attack'.⁴⁵ However, the truthfulness of a statement is not a means of proving one's innocence against charges under Articles 438 or 439, except in limited scenarios, such as when it involves a public official who is exercising their public duty, a candidate during a general election, or a party involved in

32 International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), article 19.

33 The Penal Code 1953.

34 United Nations Human Rights Committee, 'General Comment No34, Art 19: Freedoms of Opinion and Expression,' para 47, available at: <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no34-article-19-freedoms-opinion-and>.

35 Penal Code, article 438.

36 Ibid, article 439.

37 Ibid, article 245.

38 Ibid, article 195.

39 United Libya (Facebook post), 'Mohamed Al-Jareh legal correspondence,' 23 November 2020, available at: https://www.facebook.com/unitedlibyan/photos/p.2747863185453098/2747863185453098/?type=3&source=47&locale2=ms_MY&paipv=0&eav=AfaqGuEj66xHm4AnfG7vi3F3Qk4VxtGYD6p6L8ai6hh0mxoY8Zi-2Z8ykNk0MLznsMM&_rdr.

40 Penal Code, article 178.

41 Ibid.

42 Ibid.

43 Ibid, article 196.

44 Ibid, article 207.

45 Ibid, article 443.

criminal proceedings.⁴⁶ As a result, the Penal Code fails to provide a robust framework to ensure the protection of those making statements that are true, in the public interest, or reflect a speaker's genuine beliefs or opinions. This lack of defences leaves civil society actors and HRDs incredibly exposed to prosecution and liable to severe punishments. By way of example, the Penal Code could be erroneously weaponised to sentence activists to death for distributing reports on the human rights situation in Libya to European states, UN Fact-Finding Missions, or the International Criminal Court.

These laws have had a devastating impact on CSOs and those working in the media. There are numerous well-documented examples of their misuse. One is the case of Amara al-Khatibi, the editor of the daily newspaper *al-Ummah*, who was arrested in December 2012.⁴⁷ After his newspaper published a list of allegedly corrupt judges and prosecutors, he spent six months in pretrial detention for 'insulting' and 'slandering' members of the judiciary. Al-Khatibi was subsequently sentenced in absentia to five years in prison and prohibited from practicing journalism during his sentence. Similarly, in August 2020, Sami al-Sharif, a radio presenter at *al-Jawhara Radio*, was arrested and detained for covering anti-government protests in Libya.⁴⁸ In 2013, Youssef al-Gharyani, an actor and television presenter, was sentenced to five years in prison for his 'anti-February 17 revolution' stance.⁴⁹ Also in 2013, Jamal al-Hajji, a political commentator was similarly sentenced to a fine and an eight-month prison sentence with hard labour for 'defaming' members of Libya's parliament, a cabinet minister, and a businessman.⁵⁰ In 2016, blogger and activist Jabir Zain was arrested in September 2016 for being a guest speaker at an event in Tripoli on women's rights and because of his work with *Tanweer Movement* – a grassroots movement promoting culture and arts activities.⁵¹ More recently, Khaled al-Merghany, an active civil society member of the *Barqa Mawteny for Human Rights* organisation was arrested in May 2023 in east Libya because of his civil society work and critical commentary, expressed on social media platform *Clubhouse*,

regarding kidnappings in east Libya.⁵²

Worryingly, laws have also been recently introduced that severely restrict freedom of expression in Libya, for example as previously noted, Law No. 5 of 2022 on Combatting Cybercrime.⁵³ This law grants far-reaching powers to the National Information and Security and Safety Authority (NISSA), including the power to conduct both targeted and mass surveillance of online activities and communications without the need to secure judicial authorisation or comply with stipulated procedural safeguards.⁵⁴ The Law further criminalises the use or development of encryption tools, and requires service providers to store users' data for easier access by authorities.⁵⁵

These measures gravely undermine privacy rights enshrined in Articles 11 and 13 of the Constitutional Declaration and have serious consequences for CSOs and HRDs, including on their ability to conduct confidential research, communicate sensitive information, or engage in private conversations. The Law bans basic digital safety measures that are vital to protect data, including sensitive information related to human rights violations or ongoing legal cases. This means that CSOs investigating potential abuses of power are faced with a stark choice: risk imprisonment for employing necessary safeguards or resort to less secure technologies, which may be monitored by the very parties they are investigating.

The Cybercrime Law of 2022 also broadly prohibits 'any use of the internet' that violates the vaguely defined terms of 'public order and morality'.⁵⁶ This lack of precise, accessible, or predictable legal drafting has already resulted in draconian applications. For example, the Interior Ministry of the Government of National Stability in the east of Libya in February 2023, announced the arrest of singer Ahlam al-Yamani and online content creator Haneen al-Abdali under the Cybercrime Law of 2022 'for insulting the status of the chaste and dignified Libyan woman in our conservative society with acts and behaviours that are foreign to us and offend our customs, traditions, and true religion'.⁵⁷ These arrests also highlight the gendered application of such measures, where societal norms which enable discrimination against women have facilitated a wide reading of this legislation that puts women at higher risk of being targeted by it.

46 Ibid, article 440.

47 Human Rights Watch, 'Libya: Release ailing newspaper editor,' 4 December 2013, available at: <https://www.hrw.org/news/2013/04/12/libya-release-ailing-newspaper-editor>.

48 AllAfrica.com, 'Libya: Radio journalist Sami Al-Sharif detained while covering protests,' 9 February 2020, available at: <https://allafrica.com/stories/202009020970.html>.

49 Al-Ahram, 'The Court of Appeal in Al-Zawiya issues a 5-year prison sentence against Libyan actor Youssef Al-Gharyani,' 20 March 2013, available at: <https://gate.ahram.org.eg/News/323668.aspx>.

50 Hanan Salah, 'War on the Media,' Human Rights Watch, 2 September 2015, available at: <https://www.hrw.org/report/2015/02/09/war-media/journalists-under-attack-libya>.

51 Amnesty International, 'Libya: Activist tortured and at risk of expulsion: Jabir Zain,' 10 January 2017, available at: <https://www.amnesty.org/en/documents/mde19/5426/2017/en/>.

52 Libya Crimes Watch, 'Internal Security abducts an activist in Benghazi,' 12 May 2023, available at: <https://lcw.ngo/%D8%A7%D9%84%D8%A3%D9%85%D9%86-%D8%A7%D9%84%D8%AF%D8%A7%D8%AE%D9%84%D9%8A-%D9%8A%D8%AE%D8%AA%D8%B7%D9%81-%D9%86%D8%A7%D8%B4%D8%B7-%D9%85%D9%86-%D8%A8%D9%86%D8%BA%D8%A7%D8%B2%D9%8A-2/>.

53 Law No. 5 of 2022 on Combatting Cybercrime.

54 Ibid, article 7.

55 Ibid, article 9.

56 Ibid, article 4.

57 Human Rights Watch, 'Libya: Revoke Repressive Anti-Cybercrime Law,' 4 March 2023, available at: <https://www.hrw.org/news/2023/04/03/libya-revoke-repressive-anti-cybercrime-law>.



The Cybercrime law further grants NISSA the power to block or censor access to information that is deemed to ‘undermine the security and stability of society’⁵⁸ or that is ‘contrary to public morality.’⁵⁹ The ambiguous nature of this language, coupled with the high degree of discretion awarded to NISSA, has a significant potential for abuse, including preventing the Libyan public from accessing information that contains views critical of Libyan authorities. In doing so, it obstructs democratic engagement, civil society reporting, and wider societal knowledge-sharing.

A male civil society actor and head of a Libyan NGO interviewee from the east told LFJL,

“Our organisation collected testimonies where activists were arrested for violating public morals and other accusations under this law for merely expressing their views or writing blogs or posting videos on social media.”

All these provisions discourage many from stating opinions or making statements they know to be true for fear of punitive repercussions. This has cultivated an environment of fear and self-censorship that hinders civil society from contributing to matters of societal importance, impeding their ability to effectively scrutinise the actions of government, advocate for policy reforms, or mobilise citizen participation in political and social affairs. Such restrictive legal provisions are detrimental to the democratic fabric of Libyan society as a whole.

⁵⁸ Law No. 5 of 2022 on Combatting Cybercrime, article 7.

⁵⁹ Ibid, article 8.

4.2 FREEDOM OF ASSOCIATION

Freedom of association – the cornerstone of any democratic society, serving as a vehicle for the expression of diverse views, fostering citizen participation, and enabling collective action for shared objectives – was also unlawfully restricted during the Gaddafi regime through a series of laws and regulations. Since 2011, rather than expressly repealing these Gaddafi-era laws, several Libyan authorities have been seeking to use these provisions to curtail the freedom of CSOs, and in doing so attempt to reintroduce and apply these oppressive laws.⁶⁰

4.2.1 Gaddafi-era legislation

The Gaddafi administration introduced Law No. 71 of 1972 which criminalised ‘partisanship’ as an act of treason that carried the death penalty.⁶¹ The law defined partisanship widely to include ‘any assembly, organisation, or formation, of any form or number of members’ that was deemed to be ‘based on a political ideology that is contrary to the principles of the 1 September 1969 Revolution’.⁶² This law further criminalised an extremely broad range of associated activities including founding, organising, managing, financing, and providing space for an organisation’s meetings to take place.⁶³ Taking part in any of these activities was subject to the death penalty without any qualification as to the severity of the offence.⁶⁴ The law also excluded any distinction being made when issuing sentences on the basis of superiority or rank of the offending person within the organisation deemed unlawful.⁶⁵ The law further included a mandatory reporting provision that required those not involved in such associations to report on others for their activities or face prison sentences of ten years.⁶⁶

The Gaddafi regime also passed Law No. 80 of 1975 that introduced multiple amendments to the Penal Code which further increased the severity and extent of penalties for participating in associations that were not formally approved by the state.⁶⁷ For example, it amended Article 206 to stipulate the death penalty for anyone found guilty of promoting, founding, organising, funding, directing meetings, joining or encouraging others to join, or providing assistance to ‘unlawful associations’.⁶⁸ Article 208 of the Penal Code was also amended by Law No. 80 to stipulate that criminal penalties

for staff of ‘organisations of a non-political international character’ that operate without having secured a licence from the state can be punished by up to three years in prison.⁶⁹

Twenty-six years later, Law No. 19 of 2001 was introduced by the Gaddafi regime to provide new regulations to manage the administration of certain government-endorsed NGOs in Libya.⁷⁰ The law limits these endorsed organisations to those which seek to provide ‘social, cultural, sports, charity or humanitarian services.’⁷¹ The law further requires express approval from the state to form such organisations to provide non-political services,⁷² and allows for the suspension of any organisation for the ambiguously defined reason of an ‘event of urgency’.⁷³ It limited the way that such organisations could obtain funding or collaborate with international partners without express state approval.⁷⁴ The law also introduced extensive administrative and reporting requirements for registered organisations.

The above laws were used by the Gaddafi regime for increased surveillance through security agencies, primarily composed of *Revolutionary Committees*⁷⁵ in collaboration with other intelligence forces.⁷⁶ These measures collectively formed part of a clear strategy to silence political dissent, exert control, and restrict the sharing of ideas in public discourse. The creation of poorly defined crimes with excessive punishments effectively prevented public activities that were not expressly affiliated with, and endorsed by, the state.

The impact of such legislation is evident in the fact that respondents have no recollection of any CSOs operating in Libya before 2011, other than unions and a limited number of organisations administered by Gaddafi’s sons who were given positions of authority.

The legacy of Gaddafi’s state-sanctioned restrictions and surveillance on freedoms of association have cast a

60 Lawyers for Justice in Libya, ‘Libyan organisations call on authorities to stop draconian laws and civil society crackdown,’ 6 April 2023, available at: <https://www.libyanjustice.org/news/libyan-organisations-call-on-authorities-to-stop-draconian-laws-and-civil-society-crackdown>.

61 Law No. 71 of 1972 on Criminalising Partisanship, article 3.

62 Ibid, article 2.

63 Ibid, article 3.

64 Ibid.

65 Ibid.

66 Ibid, article 4.

67 Law No. 80 of 1975 amending and repealing certain provisions of the Penal Code.

68 Ibid, article 206.

69 Ibid, article 208.

70 Law No. 19 of 2001 on the Reorganisation of Non-Governmental Organisations.

71 Ibid, article 1.

72 Ibid, article 2.

73 Ibid, article 30.

74 Ibid, article 14.

75 In 1977, Gaddafi introduced ‘revolutionary committees’ assigned the task of absolute revolutionary supervision of people’s powers to raise the general level of political consciousness and devotion to revolutionary ideas. The Gaddafi regime used these committees to hold an iron grip of the country, given they were reporting to the revolutionary council headed by Gaddafi.

76 Revolutionary committees primarily consisted of civilian loyalists and trusted supporters of the Gaddafi administration who worked in parallel to other state and military institutions. Under the guise of direct participatory democracy and a means for the grassroots to protect the 1969 revolution, revolutionary committees were in practice involved in surveillance, intelligence gathering, and suppressing political dissent. They were legally designated roles within schools, workplaces, and neighbourhoods and wielded a wide range of disciplinary powers,

shadow over Libya's society and politics today. Despite the Constitutional Declaration, Article 6 of Law No. 29 of 2013, and the supremacy of international law in Libya effectively causing an implicit repeal of such measures,⁷⁷ Libyan authorities have made alarming recent attempts to revive and misuse Gaddafi-era legislation. Specifically, efforts have been made to revive Law No. 19 of 2001, as discussed further below. This worrying trend risks a return to a period where the operation of independent CSOs in Libya is untenable.

4.2.2 Post-2011 civil society regulations

After the 2011 uprising, Libyan authorities were hesitant to rely on Gaddafi-era laws to restrict the activities of civil society. Instead, they resorted to secondary legislation, such as executive decrees, as a means of introducing regulations that restrict the activities of CSOs. However, these efforts have been unlawful, due to their issuance by entities who lack the legal authority conferred by primary legislation to introduce such measures. Additionally, these executive orders violate Article 15 of the Constitutional Declaration, which clearly states that associations must be regulated by the passage of a 'statute' – a form of primary legislation.⁷⁸ Nevertheless, state agencies have unlawfully applied and enforced such provisions and executive decrees, requiring the *de facto* compliance of many civil society actors and HRDs operating in Libya.

The history of these restrictive measures begins with Decree No. 12 of 2012 which was passed by the National Transitional Council to incorporate a new governmental institution, the Civil Society Support Centre in Benghazi, with branches across Libya.⁷⁹ The Council of Ministers, affiliated with the General National Congress, then issued Decree No. 649 of 2013 which restructured and renamed the Civil Society Support Centre as the Libyan Civil Society Commission. The Civil Society Commission was granted an independent budget and mandate to regulate the activities of both national and international CSOs working in Libya. Falling within the remit of the Ministry of Culture and Civil Society, this body was headquartered in Benghazi, and subsequently reported additional branches in Jadu, Tripoli, Misrata, Sabha and Bayda.⁸⁰

Following the escalation of political unrest and the formation of rival governments in Libya in 2014, whilst never formally divided, the administration of the CSC has *de facto* been divided along political lines. As elaborated in the previous section and below, these divisions result in a complicated scenario where different governing bodies have attempted to

pass their own regulations and decrees, creating a significant degree of legal uncertainty.

For example, in 2016, the eastern branch of the CSC issued regulations that conferred upon themselves additional restrictive powers over CSOs' operations and activities. They issued two key regulatory directives: the first regulated the work of local CSOs;⁸¹ the second regulated the work and operation of international organisations.⁸² These regulations introduced various new restrictions and arbitrary administrative requirements, such as compulsory registration and the need to seek that branch's prior approval for the appointment of members, opening of a bank account, or fundraising. In direct violation of the rights to freedom of assembly and association, these regulations also required organisations to provide the that branch with prior notice if they wish to host an event. Ultimately, as a result of these powers, the eastern branch of the CSC is able to dissolve or suspend an organisation without the need for court judgement.

In the west, the Presidential Council, affiliated with the Government of National Accord (GNA) in Tripoli, established a new board which affected the governance of the western branch of the CSC through Decree No. 1605 of 2018.⁸³ Following the establishment of this new board, respondents note that the commission sought to hold meetings with CSOs in the west and south, in which it pressured them for information about their operations.

Additional restrictions were subsequently issued by the Presidential Council, including Decree No. 286 of 2019, which mandated that organisations acquire licences from the CSC to operate and achieve legal personality.⁸⁴ This decree granted the western branch of the CSC full discretion to approve or deny such licences. The decree further required CSOs to secure permission from the CSC before carrying out research, opening a bank account, or receiving any form of funding, including donations and grants. International organisations were also required to obtain a license before carrying out any activity in Libya. The CSC also declared the ability to dissolve any organisation without judicial approval.

In November 2019, the western branch of the CSC further instructed all international and local organisations, including those already registered, to renew their registrations. It issued a stern warning that any non-compliant organisations would be held accountable.⁸⁵ However, respondents reported that

⁷⁷ Discussed on p. 9 of this report.

⁷⁸ The Constitutional Declaration of 2011, article 15.

⁷⁹ Decree No. 12 of 2012 (National Transitional Council 2012).

⁸⁰ UN Human Rights Council, 'National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: Libya (A/HRC/WG.6/22/LBY/1),' 5 May 2015, para. 41.

⁸¹ Regulation No. 1 of 2016 (Civil Society Commission 2016).

⁸² Regulation No. 2 of 2016 (Civil Society Commission 2016).

⁸³ Decree No. 1605 of 2018 (Government of National Accord 2018).

⁸⁴ Decree No. 286 of 2019 286 (Government of National Accord 2019).

⁸⁵ Alwasat News, 'CSC calls on civil society organisations to renew its registration,' 14 November 2019, available at: <https://alwasat.ly/news/libya/263979>.



the CSC employed vague and arbitrary methods to obstruct the renewal of CSO registrations. In 2021, LFJL documented instances where civil society actors encountered difficulties when trying to renew their registrations and some actors were even threatened with referrals to security agencies for arrest and detention.⁸⁶ In other cases, according to respondents, CSC officials from the western branch would often reject renewal applications based on spurious grounds, such as an NGO having 'Libya' or 'Libyan' in its name, which they claimed could lead to public confusion, perceiving it as a government entity. In other cases, they would insist that an NGO's name should precisely reflect the nature of its work.

4.2.3 The legal validity of decrees and the return of Gaddafi-era Law No. 19 of 2001

The legal validity of decrees adopted to regulate civil society came under scrutiny in July 2022 when a Benghazi court of first instance ruled that Decree No. 286 of 2019 should be 'temporarily suspended'.⁸⁷ This ruling prompted the CSC branch in the west to seek further clarification from the Supreme Judicial Council (SJC) in November 2022. Responding in March 2023, the SJC gave the non-binding opinion that Article 15 of the Constitutional Declaration requires the passage of primary legislation in order to regulate CSOs.⁸⁸ In the absence of such primary legislation, it stated that Decree No. 286 of 2019 and all regulations established through secondary legislation, such as decrees issued by

⁸⁶ Interview with a civil society activist on 12 March 2021.

⁸⁷ Court of First Instance, Southern Benghazi, ruling number 581/2022.
⁸⁸ Supreme Judicial Council *Opinion, regarding request from the President of the Board of Directors of the Civil Society Commission* 2/6/37 (2023).

executive authorities, are to be considered invalid. It further stated that Law No. 19 of 2001 should be the only valid law to regulate the work of CSOs. The SJC interpreted the Constitutional Declaration as preventing the establishment of any CSOs until such primary legislation is passed, stating that these organisations are ‘categorically prohibited’.⁸⁹

In the wake of the SJC opinion, in March 2023, the Director of the Department of Foreign Affairs and International Cooperation at the Office of the Prime Minister for the GNU issued Circular No. 5803.⁹⁰ The circular asserted that the SJC’s legal opinion meant that in the absence of primary legislation to regulate CSOs, the Gaddafi administration’s Law No. 19 of 2001 remained in effect. This decision drew severe backlash, including a statement from LFJL and 21 other signatory organisations criticising this circular and pointing out its contravention of Libya’s guarantees of freedom of association as provided by the Constitutional Declaration and international human rights law.⁹¹

In response to mounting criticism, the GNU partially reconsidered its stance and issued Circular No. 7 on 21 March 2023.⁹² This revised circular stated that CSOs can continue their operations as long as they pursue regularising their status according to Law No. 19 of 2001. In May 2023, the GNU further issued Decree No. 312 of 2023, forming the Committee for Support and Regulation of Civil Society Organisations (CSR).⁹³ The CSR is mandated to create a registry for CSOs and a database that contains their information.⁹⁴ The Decree states that the CSR should examine applications for registrations and make recommendations as to which organisations should be permitted to operate. These recommendations would then be evaluated by the Secretary for Cabinet Ministers.⁹⁵ However, the decree did not abolish the CSC and both branches of the CSC operated in parallel to the CSR, resulting in further confusion over which entity has the authority to regulate the work of CSOs, especially as they have similar powers.

The efforts of the GNU in Decree No. 312 and No. 7 of 2023 to establish the CSR, and in Circular No. 5803 to apply Law No. 19 of 2001, are based on paradoxical legal logic. The GNU is attempting to address the unlawfulness of previous decrees, due to their lack of statutory authority, through passing new decrees, despite still lacking any such statutory authority to

pass such regulations. To that effect, on 4 December 2023, the first instance civil court of al-Bayda – a city in eastern Libya, issued a decision repealing Decree No. 7 of 2023 and Decree No. 312 of 2023 stating in its reasoning that the GNU does not have the authority to issue such decrees, which is in contravention to the Constitutional Declaration. It stated that the work of civil society must be regulated by a law issued by a legislative authority.⁹⁶

Several respondents noted that security agencies are using these unclear and contradictory legal decisions to further entrench their unlawful interference in CSOs’ operations in Libya. As one respondent highlighted, officials from the intelligence services such as the ISA are routinely appointed to bodies like the CSC and CSR to monitor the activities of CSOs. A leaked communication from the western branch of the CSC to the ISA includes a request for the ISA to nominate a representative from its ranks to join the commission.⁹⁷

On 23 May 2023, the Presidential Council proposed a new draft law to the House of Representatives to regulate the work of CSOs in Libya.⁹⁸ The draft law repeals Law No. 19 of 2001,⁹⁹ however, it imposes its own severe restrictions. For example, the draft law states that CSOs’ goals must not violate public order and morals,¹⁰⁰ that CSOs must obtain approval for registration,¹⁰¹ that they must not communicate with embassies, international organisations or diplomatic bodies without prior approval from the authorities,¹⁰² and must not carry out activities that can harm national security.¹⁰³ The draft law also contains vague terms such as “national security and public order” which are similar to those previously used in other laws and decrees to target, arrest, detain, harass, and torture staff members of CSOs and HRDs for their work that is critical of the authorities. If adopted in its current form, this draft law will do little more than recodify Law No. 19 of 2001 and the problematic decrees detailed in this section.

89 Ibid.

90 Government of National Unity *Circular No 5803* (2023).

91 Lawyers for Justice in Libya, ‘*Libyan organisations call on authorities to stop draconian laws and crackdown on civil society*’, 6 April 2023, available at: <https://www.libyanjustice.org/news/libyan-organisations-call-on-authorities-to-stop-draconian-laws-and-civil-society-crackdown>.

92 Government of National Unity, *Circular No. 7*, 2023.

93 Government of National Unity, Decree No. 312 of 2023 (2013).

94 Ibid, article 2(2).

95 Ibid, article 2(1).

96 Cairo Institute for Human Rights Studies, ‘*Libya: Revoking restrictive decrees first step towards freedom of association*’, 13 December 2023, available at: <https://cihrs.org/libya-revoking-restrictive-decrees-first-step-towards-freedom-of-association/?lang=en>.

97 This was accessed, seen and reviewed by LFJL.

98 Civil Society Commission (Facebook post), 23 May 2023, available at: <https://www.facebook.com/ccs.gov.ly/posts/pfbid02583AzUBfV6p-kuZDd2K1HATFA5dQng6RHrE33YkTVNCsX6AustB1nB7uTN-9m2Zc4KL>.

99 Article 32 of the 2023 draft law.

100 Ibid, article 13.

101 Ibid, article 7.

102 Ibid, article 24.

103 Civil Society Commission (Facebook post), 23 May 2023, available at: <https://www.facebook.com/ccs.gov.ly/posts/pfbid02583AzUBfV6p-kuZDd2K1HATFA5dQng6RHrE33YkTVNCsX6AustB1nB7uTN-9m2Zc4KL>.

5.2.4 Gendered restrictions to freedom of association

As many interviewees and respondents raised in the previous section, limiting the capacity of women to move freely and independently has been a significant target of several discriminatory legal restrictions and *fatwas* of Dar al-Ifta.

Dar al-Ifta has issued numerous *fatwas* asserting that women should only be permitted to travel with male chaperones.¹⁰⁴ Although these religious opinions hold no binding effect on state actors, they influence a significant segment of Libyan society and have reportedly been enforced by security forces and affiliated militias.¹⁰⁵

As mentioned, Libyan state authorities have also attempted to enforce similar, illegitimate restrictions through the issuance of decrees and regulations. For instance, the Chief of Staff of the Libyan Arab Armed Forces in eastern Libya promulgated Decree No. 6 of 2017, barring Libyan women under the age of 60 from traveling abroad unaccompanied by a male guardian.¹⁰⁶ Following critiques of the decree's discriminatory nature, it was rescinded and superseded by Decree No. 7 of 2017, which instituted 'security approval' prerequisites for both men and women aged between 18-45 intending to travel abroad.¹⁰⁷

In May 2023, the ISA, affiliated with the GNU, implemented new travel protocols mandating women travelling from airports in the west of Libya complete forms detailing the reasons for their travel without chaperone and to disclose information about their travel history – as also discussed in the previous chapter of this report.¹⁰⁸

One woman civil society interviewee in the west said “These procedures stem from discriminatory notions requiring intensified supervision over Libyan women's actions. Such visible surveillance is purposefully conspicuous; it is designed to make women self-aware that information is being kept about their conduct, intimidating them to self-police and avoid travelling alone for fear of future repercussions.”

These decrees are in clear violation of Libya's Constitutional Declaration, which guarantees equal rights and the right to freedom of movement under Articles 6, 8, 14 and 15.¹⁰⁹ They also violate Libya's international legal obligations under

the ICCPR, namely Article 3 on equality and Article 12 concerning freedom of movement,¹¹⁰ the Convention on the Elimination of All Forms of Discrimination against Women, which guarantees equality and freedom of movement for women,¹¹¹ as well as Libya's obligations under the Universal Declaration of Human Rights.¹¹²

The SR VAW also mentioned during her 2023 visit to Libya that the Libyan legal framework lacks the safeguards to protect women from these attacks and that the officials' ideology is to shame and blame women for the attacks they face.¹¹³ In 2021, a new draft law on violence against women was introduced by a group of Libyan experts sponsored by the UN Support Mission in Libya (UNSMIL) to the House of Representatives (HoR), but this has been on hold. The draft law provides definitions of the crimes of online violence against women and incitement to hatred – crimes that were not recognised before in Libyan law. It also provides for access to shelter for victims and the establishment of special circuits within the judicial system to investigate violence against women. If this law were to come in effect in its current form, it would represent a landmark in safeguarding and upholding women's rights in Libya. However, it is feared that the HoR may water down the draft law and remove key provisions for women's rights under the pretext of religion and traditions.

104 Human Rights Watch, 'Libya: Discriminatory Restriction on Women,' 23 February 2017, available at: <https://www.hrw.org/news/2017/02/23/libya-discriminatory-restriction-women>.

105 Ibid.

106 Decree No. 6 of 2017 (Libyan Arab Armed Forces 2017).

107 Decree No. 7 of 2017 (Libyan Arab Armed Forces 2017).

108 Lawyers for Justice in Libya, 'Crushing Liberty: Relentless restrictions on Libyan women and enforced male guardianship,' 1 June 2023, available at: <https://www.libyanjustice.org/news/crushing-liberty-relentless-restrictions-on-libyan-women-and-enforced-male-guardianship>.

109 The Constitutional Declaration of 2011.

110 The International Covenant on Civil and Political Rights, articles 3 and 12.

111 Convention on the Elimination of All Forms of Discrimination Against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13.

112 Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III)

113 UN Human Rights Council, 'A/HRC/53/36/Add.2' page 28, <https://www.ohchr.org/en/documents/country-reports/ahrc5336add2-visit-libya-report-special-rapporteur-violence-against-women>.

5. RECOMMENDATIONS

The crackdown on civil society has significant implications for people in Libya's fundamental human rights, including the right to freedom of expression, association and assembly, as well women's rights in Libya. Civil society actors have suffered severe consequences for taking part in civic space, including arbitrary detention, enforced disappearances, online and offline harassment and threats. These acts cause harm – not only to the victims but also to wider society.

LFJL aspire for a future where civil society in Libya can freely operate, fostering a culture of democracy, human rights, and respect for the rule of law in the country. In light of this report's findings and the reflections and experiences of Libyan civil society, implementing the following recommendations will ensure progress towards overcoming the regulatory, societal, and gender-related barriers that currently threaten the existence of a free civil society in Libya.

RECOMMENDATIONS TO THE LIBYAN STATE

The Libyan authorities must uphold their constitutional obligations under the Constitutional Declaration and their obligations under international law and standards without delay, including to:

- Immediately release all individuals detained for exercising their rights, including those to freedom of association and expression.
- Ensure all detainees can exercise their rights to due process, including access to healthcare, sanitation, legal representation, and family visits.
- End all arbitrary arrests, torture and enforced disappearances, including those of HRDs and civil society actors for critical dissent; and open effective and sound investigations to hold those responsible for such violations against HRDs to account and provide reparations to the victims and their families.
- Overturn all sentences that stem from exercising rights to freedom of expression and association and provide reparation for any harm caused as a result of sentencing.
- Ensure that women can participate in civic space without the fear of being targeted or harassed – including online – by immediately suspending and abolishing any decrees, policies, or regulations restricting women's right to freedom

of movement and by investigating reports of violence against women and holding those responsible to account; and provide reparations for any harm caused as a result.

- Investigate all state institutions for their role in targeting and inciting violence against civil society actors, especially women, and particularly Dar al-Ifta, given its perceived religious and moral authority, and hold those responsible for targeting and inciting violence to account and provide reparation for victims for any harm caused as a result.
- Repeal all laws, decrees and regulations that illegitimately interfere or criminalise acts of freedom of expression and/or association and peaceful assembly. This includes Law No. 19 of 2001, Presidential Council Decree No. 286 of 2019, and Law No. 5 of 2022 related to Combatting Cybercrime. Provisions that provide vague undefined terms or disproportionate penalties in the Libyan Penal Code, including capital punishment, must be abolished. These include articles 178, 195, 196, 207, 245, 438, 439, and 443 of the code.
- Abolish policies designed by state institutions – in particular state-affiliated militias – to repress, deter or politicise civil society organisations, that allow for the abduction, detention, humiliation, torture or orchestrated defamatory campaigns against civil society actors. Any actor that engages in these activities must be investigated and held to account and reparations provided for any harm caused.
- Dissolve the CSC and establish an independent, facilitating body with an independent budget that is free of armed group members, state security and intelligence personnel.

To ensure a more conducive environment for civil society, the Libyan authorities should:

- Publicly acknowledge the systematic and widespread crackdown on civil society, including by state institutions, and commit to preventing, investigating, combatting and punishing violations committed against civil society actors, including by raising awareness, through public campaigns or otherwise, about the crucial and valuable contributions of civil society, including women. This must send a clear message that those responsible for attacking or inciting violence, including online, against civil society actors, including women, will be held to account, whether the perpetrators are state institutions or individuals.
- Maintain its ongoing standing invitation for country visits for all requesting Special Rapporteurs, including those

on torture, freedom of expression, peaceful assembly and association and violence against women; and facilitate access to information and prisons, and allow them to meet affected communities in a safe manner and prevent any acts of retaliation against such persons as a result of their meetings.

RECOMMENDATIONS TO THE UNITED NATIONS AND ITS MEMBER STATES

Work towards the protection of civic space in Libya and the promotion of civil society work by:

- Publicly calling on the Libyan authorities to respect and protect civic space and to end the ongoing crackdown on civil society.
- Calling on Libya to reform its legal framework to remove limits on freedom of expression, association and assembly to make sure that Libyan civil society can work effectively and safely.
- Support the work of independent Libyan civil society organisations by providing funding, capacity-building, networking and expertise through flexible approaches that are tailored to the specific operating context in Libya.
- Guarantee that civil society and HRDs have access to adequate protection mechanisms if they are threatened as a consequence of their work.
- Facilitate the integration of a free civil society into all political processes as one of the areas to be monitored by such processes.

To the UN Security Council:

- Promote genuine and meaningful consultation with, and inclusion of, civil society in any political process facilitated by the UN, including through UNSMIL, in line with best practices and the council's Women, Peace and Security agenda, including by facilitating access to civil society actors to brief the council on its mandate in Libya and ensuring appropriate safeguarding of the actors who do so.
- Oversee and ensure full implementation of the recommendations of the 2021 independent strategic review of UNSMIL.¹¹⁴

¹¹⁴ UN Security Council, 'United Nations Support Mission in Libya – Report of the Secretary-General (S/2023/967)', 7 December 2023, available at: https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session50/A_HRC_52_83_AdvanceEditedVersion-EN.docx.

To the United Nations Human Rights Council:

- Establish without delay an independent, international investigative mechanism to ensure independent investigations, monitoring and reporting, and the maintenance of evidence on the human rights situation in Libya, including in relation to civil society, to pave the way for future accountability and justice, thereby contributing to a peaceful and democratic transition.

To the Special Rapporteurs on freedom of expression, peaceful assembly and association, torture, situation of HRDs and violence against women, and the working groups on enforced disappearances and arbitrary detention:

- Prioritise Libya, including by requesting country visits, sending official communications, integrating Libya into thematic reviews, and fully examining and publicly reporting, including to the Human Rights Council, on the human rights situation in Libya, in particular the ongoing targeting of activists, journalists, HRDs, lawyers and other civil society actors.

To UNSMIL:

- Ensure proper consultation with Libyan experts and civil society actors on necessary legislative and institutional reforms, including on combatting violence against women, with the aim of ensuring the safety, respect and independence of civil society.
- Ensure that any political process, including any leading to national elections, is genuinely and meaningfully inclusive and provides for a safe, fair and secure environment for everyone to participate, and ensures that civil society can carry out its work without fear of reprisal.

RECOMMENDATIONS TO SOCIAL MEDIA PLATFORMS

- Commit to eradicating online violence against civil society actors, considering the gendered element, by adopting a human rights-based approach to regulation and responsibilities and making sure that data evidencing these online attacks is made available for use in investigative and legal proceedings aimed at establishing accountability for perpetrators.
- Noting the targeting of women online, publish an annual audit containing gender disaggregated data on responses to reports of gender-based abusive conduct, including OVAW, occurring on the given platform, namely *Meta*, *X* (formerly *Twitter*) and *Clubhouse*. This information should include the number of reports that are found to be in breach of the

platform's guidelines and policies, the number of reports to which the platform failed to respond, and the average time it takes for the platform to respond to reports of gender-based abuse.

- Improve reporting mechanisms, including by making sure that gender-based abuse, including OVAW, can be reported as such.
- Improve the quality of content moderation, ensuring that it is language and content specific.
- Carry out public awareness campaigns in Arabic explaining what online violence, and in particular OVAW, is, its types and how to report it.
- Make reporting systems easily accessible and available in Arabic.

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