

Libya

Mid-term Implementation Assessment



Promoting and strengthening
the Universal Periodic Review
<http://www.upr-info.org>



Introduction

1. Purpose of the follow-up programme

The second and subsequent cycles of the review should focus on, inter alia, the implementation of the accepted recommendations and the development of the human rights situation in the State under review.

A/HRC/RES/16/21, 12 April 2011 (Annex I C § 6)

The Universal Periodic Review (UPR) process takes place every four and half years; however, some recommendations can be implemented immediately. In order to reduce this interval, we have created an update process to evaluate the human rights situation two years after the examination at the UPR.

Broadly speaking, *UPR Info* seeks to ensure the respect of commitments made in the UPR, but also, more specifically, to give stakeholders the opportunity to share their opinion on the commitments. To this end, about two years after the review, *UPR Info* invites States, NGOs, and National Institutions for Human Rights (NHRI) to share their comments on the implementation (or lack thereof) of recommendations adopted at the Human Rights Council (HRC) plenary session.

For this purpose, *UPR Info* publishes a Mid-term Implementation Assessment (MIA) including responses from each stakeholder. The MIA is meant to show how all stakeholders are disposed to follow through on, and implement their commitments. States should implement the recommendations that they have accepted, and civil society should monitor that implementation.

While the follow-up's importance has been highlighted by the HRC, no precise directives regarding the follow-up procedure have been set until now. Therefore, *UPR Info* is willing to share good practices as soon as possible, and to strengthen the collaboration pattern between States and stakeholders. Unless the UPR's follow-up is seriously considered, the UPR mechanism as a whole could be adversely affected.

The methodology used by UPR Info to collect data and to calculate index is described at the end of this document.

Geneva, 29 May 2013
(full English version: 12 June 2013)



Follow-up Outcomes

1. Sources and results

All data are available at the following address:

<http://followup.upr-info.org/index/country/libya>

We invite the reader to consult that webpage since all recommendations, all stakeholders' reports, as well as the unedited comments can be found at the same internet address.

9 stakeholders' reports were submitted for the UPR. 5 NGOs were contacted. 1 UN agencies was contacted. The Permanent Mission to the UN was contacted. No National Human Rights Institution (NHRI) does exist.

2 NGOs responded to our enquiry. The UN agency did not respond. The State under Review did not respond to our enquiry.

The following stakeholders took part in the report:

1. **NGOs:** (1) Global Initiative to End All Corporal Punishment of Children (GIEACPC) (2) Reporters without Borders (RSF)

IRI: 8 recommendations are not implemented, 1 recommendations are partially implemented, and 0 recommendation is fully implemented. No answer was received for 114 out of 124 recommendations and voluntary pledges.

2. Feedbacks on recommendations

CP Rights

Recommendation n°41: *Comply with international obligations, and ensure full and unhampered enjoyment of freedom of expression* (Recommended by Czech Republic)

IRI: *not implemented*

Reporters sans Frontières (RSF) response:

Since the election of the Libyan National Congress on 7 July 2012, Libyan journalists work in an increasingly unsafe environment. Freedom of expression is deteriorating. Violence and threats targeting journalists are frequent and often – but not exclusively – stem from unofficial armed gangs and/or religious groups.

Some journalists have reported difficulties in obtaining visas, particularly after the attack against the US consulate in Benghazi on 11 September 2012. Those who managed to enter the country have encountered many problems from militiae while taking photos or filming peaceful demonstrations against the death of the American Ambassador, Chris Stevens. Arbitrary arrests of journalists and human rights defenders are increasingly frequent with a consequent negative effect on freedom of expression.

Recommendation n°42: *Abrogate all provisions criminalizing freedom of expression* (Recommended by Switzerland)

IRI: -

RSF response:

On 14 June 2012, the Libyan Supreme Court found Law 37 adopted by the Transitional National Council (TNC) on 2 May 2012 'unconstitutional'. The law in question targeted specially any 'insult against the Libyan people and its institutions' and punished any statement glorifying the regime and the person of Mouammar Kadhafi. Those who dared criticize the 17 February Libyan Revolution or offended the Libyan people, its flag and Islam also risked being brought to justice. The application of a Legal sanction for what is considered a negative opinion represents a violation of the right to fully exercise freedom of opinion and expression and impart information.

Recommendation n°43: *Provide for free, independent media in accordance with the Libyan Arab Jamahiriya's international obligations* (Recommended by Slovakia)

IRI: *not implemented*

RSF response:

Since the 7 July 2012 election of the National Libyan Council freedom of information in Libya has been deteriorating. Libyan and foreign journalists face a situation



marked by increasing violence and threats. On 1 February 2013, in Tripoli, a team from the private satellite chain Al-Assima was carrying out a reportage in front of the National Libyan Congress when members of the security services firmly banned their filming. Congress agents then assaulted 3 members of the team. Such actions represent a serious violation of press freedom.

Recommendation n°95: *Repeal laws restricting the formation of a free and independent press, including Law No. 76 of 1972, Law No. 120 of 1972 and Law No. 75 of 1973 (Recommended by United States)*

IRI: *not implemented*

RSF response:

Laws N° 76 and N° 120 of 1973 as well as Law N° 75 of 1973 have not been abrogated to this day

Recommendation n°96: *Enhance freedom of expression, association and assembly (Recommended by Brazil)*

IRI: *partially implemented*

RSF response:

Right after the Benghazi insurrection, some medias appeared in the liberated areas of the country. Their number literally exploded within 6 months. As of July 2011 over 130 written publications are already registered by the Transitional National Council, many radio stations are created and satellite chains proliferate. There is a definite liberation of the spoken word and yet the state of freedom of expression remains worrisome in Libya.

Recommendation n°112: *Take measures to protect freedom of expression and association, by pursuing its reforms of the law on the press and of the Penal Code to bring them into conformity with its fundamental law and international standards, by putting an end to the restrictions on Internet access, and by allowing the free establishment of associations (Recommended by France)*

IRI: *not implemented*

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Recommendation n°114: *Consider greater provision for the protection of freedom of association, freedom of speech and rights to judicial appeal, including by aligning all articles of the Penal Code and other relevant laws with international standards (Recommended by Australia)*

IRI: *not implemented*

RSF response:

The state of freedom of expression in Libya remains worrisome. Freedom of information is seriously hampered. The Supreme Committee for National Security is severely limiting the work of Libyan and foreign journalists, namely through a large number of arbitrary arrests. No reform of the penal code has been undertaken.

Recommendation n°115: *Repeal laws which criminalize expression of the rights of freedom of expression, of association and of assembly, and ensure that individuals detained for the peaceful exercise of these rights are released (Recommended by Canada)*

IRI: *not implemented*

RSF response:

To this date, no law criminalizing freedom of expression has been abrogated. The journalist Amara Abdallah Al-Khitabi is being sued following her publication of a list of judges and public prosecutors accused of corruption and embezzlement in November 2012., for 'defamation' and 'insulting the judiciary system', the latter accusation being punishable by 3 to 15 years in jail according to Article 195 of the Libyan penal code still in force.

Recommendation n°116: *Repeal Law No. 71 of 1972 and relevant articles of the Penal Code that criminalize free association, and ensure that individuals seeking to establish associations are spared from any harassment or prosecution* (Recommended by Slovakia)

IRI: *not implemented*

RSF response:

Law N° 71 of 1972 is still operative as well as all the other articles of the penal code criminalizing freedom of association.

Justice

Recommendation n°90: *Revoke provisions of the national law enabling the use of corporal punishment* (Recommended by Czech Republic)

IRI: *not implemented*

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Recommendation n°91: *Abolish corporal punishment, both in law and in practice* (Recommended by Switzerland)

IRI: *not implemented*

Global Initiative to End All Corporal Punishment of Children (GIEACPC) response:

During the first cycle review of Libya, the Government stated an intention to repeal the provisions for corporal punishment in the context of reviewing the Penal Code (Report of the working group, para. 88); subsequently it was asserted that there were no provisions for corporal punishment in the Penal Code (Report of the working group: addendum, para. 7). There have been revisions to criminal law - most recently Law No. 10 of 2013 Concerning the Criminalization of Torture, Forced Abduction and Discrimination, and in 2012 the enactment of Law No. 37 and Law No. 38 - but the law continues to provide for corporal punishment in the form of flogging, amputation and beating. For example, Law No. 70 of 1973 on Adultery authorises "severe beating" an offender aged between 15 and 18. Corporal punishment of children remains lawful in the home, penal institutions and alternative care settings.



Methodology

A. First contact

Although the methodology has to consider the specificities of each country, we applied the same procedure for data collection about all States:

1. We contacted the Permanent Mission to the UN either in Geneva (when it does exist) or New York;
2. We contacted all NGOs which took part in the process. Whenever NGOs were part of coalitions, each NGO was individually contacted;
3. The National Institution for Human Rights was contacted whenever one existed.
4. UN Agencies which sent information for the UPR were contacted.

We posted our requests to the States and NHRI, and sent emails to NGOs and UN Agencies.

The purpose of the UPR is to discuss issues and share concrete suggestions to improve human rights on the ground. Therefore, stakeholders whose objective is not to improve the human rights situation were not contacted, and those stakeholders' submissions were not taken into account.

However, since the UPR is meant to be a process which aims at sharing best practices among States and stakeholders, we take into account positive feedbacks from the latter.

B. Processing recommendations and voluntary pledges

Stakeholders we contact are encouraged to use an Excel sheet we provide which includes all recommendations received and voluntary pledges taken by the State reviewed.

Each submission is processed, whether the stakeholder has or has not used the Excel sheet. In the latter case, the submission is split up among recommendations we think it belongs to. Since such a task is more prone to misinterpretation, we strongly encourage stakeholders to use the Excel sheet.

If the stakeholder does not clearly mention neither that the recommendation was “fully implemented” nor that it was “not implemented”, UPR Info usually considers the recommendation as “partially implemented”, unless the implementation level is obvious.



UPR Info retains the right to edit comments that are considered not to directly address the recommendation in question, when comments are too lengthy or when comments are defamatory or inappropriate. While we do not mention the recommendations which were not addressed, they can be accessed unedited on the follow-up webpage.

C. Implementation Recommendation Index (IRI)

UPR Info developed an index showing the implementation level achieved by the State for both recommendations received and voluntary pledges taken at the UPR.

The **Implementation Recommendation Index (IRI)** is an individual recommendation index. Its purpose is to show an average of stakeholders' responses.

The *IRI* is meant to take into account stakeholders disputing the implementation of a recommendation. Whenever a stakeholder claims nothing has been implemented at all, the index score is 0. At the opposite, whenever a stakeholder claims a recommendation has been fully implemented, the *IRI* score is 1.

An average is calculated to fully reflect the many sources of information. If the State under Review claims that the recommendation has been fully implemented, and a stakeholder says it has been partially implemented, the score is 0.75.

Then the score is transformed into an implementation level, according to the table below:

Percentage:	Implementation level:
0 – 0.32	Not implemented
0.33 – 0.65	Partially implemented
0.66 – 1	Fully implemented

Example: On one side, a stakeholder comments on a recommendation requesting the establishment of a National Human Rights Institute (NHRI). On the other side, the State under review claims having partially set up the NHRI. As a result of this, the recommendation will be given an *IRI* score of 0.25, and thus the recommendation is considered as “not implemented”.

Disclaimer

The comments made by the authors (stakeholders) are theirs alone, and do not necessarily reflect the views, and opinions at UPR Info. Every attempt has been made to ensure that information provided on this page is accurate and not abusive. UPR Info cannot be held responsible for information provided in this document.

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