

Background

1. Libya witnessed dramatic changes over the last four years. Shortly after mass demonstrations erupted in Libya on 17 February 2011, the situation turned into an armed conflict between opposition and government forces.

2. The National Transitional Council (NTC) established on 27 February 2011 issued a constitutional declaration on 3 August 2011 which guaranteed freedom of speech, expression, assembly and association. Despite some effort by the Libyan authorities to incorporate legal reforms, human rights defenders (HRDs) are at severe risk. The deterioration of security and the spread of armed conflict across Libya opposing the state and rival militias made human rights defenders a target for abuses. Moreover, human rights activism is constrained by limitations on freedom of association, peaceful assembly and expression.

3. On 7 July 2012, the first parliamentary elections in 42 years were held. On 8 August 2012, the NTC officially handed power over to the newly elected General National Congress, which was tasked with the formation of an interim government and the drafting of a new Constitution, to be approved in a general referendum.

4. On 22 September 2013, a law on Transitional Justice was adopted by the General National Congress. The law was seen as crucial to help Libya deliver justice for past abuses and proceed with national reconciliation. However, the volatile security environment affected the implementation of the law.

Summary of key concerns regarding human rights defenders in Libya

5. The **legal framework** applicable to civil society organisations remains uncertain. NGOs have been allowed to form and operate, however a comprehensive NGO law has not been adopted and certain restrictive pieces of legislation from the Qaddafi era remain in force.

6. There exist grave **security concerns** for HRDs stemming from the insecure environment in war-torn Libya. Frequent assassinations, kidnappings and bombings form a threat to human rights defenders and hinder their work. The situation has deteriorated recently after armed groups took control of cities, airports and vital state institutions, as well as in connection with the withdrawal of ambassadors of numerous foreign countries, which has affected the support network available to HRDs at risk.

7. Armed militant groups have also specifically **targeted** human rights defenders, including through unlawful and incommunicado detentions, ill treatment, torture and killing. The State remains unable to control armed militant groups and human rights violations, including against HRDs, are committed with **impunity**.

Legal framework

8. Front Line Defenders welcomes the repealing of Law No. 71/1972, which banned any group or activity opposing the ideology of the 1969 revolution. Although the law did not ban the formation of NGOs, very few existed. Law for Reorganising NGOs No. 19/2001 was also particularly restrictive: under the law, organisations were required to obtain approval from the security apparatus and

include government representative in their leadership positions. The registration process was long and burdensome and registration was seldom granted. Under this law, only twenty-two NGOs were registered in the country.

9. While Law 19/2001 has not been formally repealed, it is not currently enforced. As a result, the current legal framework is unclear. In the post Qaddafi era, several hundreds organisations were formed. NGOs have been allowed to exist and operate as long as they do not interfere with the national security or cross the lines drawn by the Penal Code. In February 2012, Libyan civil society proposed a draft NGO law to the Ministry of Culture and Civil Society. The draft law however remains pending before the General National Congress.

10. While a revised legal framework for regulating NGOs is still lacking, the Ministry of Culture and Civil Society issued an order to regulate the activities of international organisations supporting civil society in Libya. The order allows foreign organisations to acquire a license, which is subject to annual renewal, and allows the competent authorities to withdraw registration if “the organisation has violated Libyan law, the registration conditions, or the commitments of the organisation [...]”. The order also imposes restrictions on foreign funding.

11. Other pieces of legislation from the Qaddafi era continue to remain in force. The 1953 Penal Code imposes the death penalty in relation to a number of crimes including the establishment of “prohibited groups” according to Article 206, and the promotion of theories and principle that aim to “change the fundamental rules of social structure” by “unlawful means” in Article 207.

12. Restrictions were introduced by Law No. 5/2014, which amended the penal code. The amendments imposed prison sentences on any individual "undermining the February 17 revolution" or "publicly insulting one of the legislative, executive or judicial authorities". The ambiguity of the law and the absence of specific criteria for its implementation constitute a potential threat to freedom of speech.

Extra-judicial killings

13. On 26 July 2013, **Mr Abdelsalam Al-Mosmary**, a prominent lawyer and human rights defender was shot and killed by unidentified gunmen. In regular television appearances, Al-Mosmary criticised the presence of armed militias on Libya's streets.

14. On 26 June 2014, human rights lawyer **Ms Salwa Bugaighis** was shot dead inside her home in Benghazi by a group of unidentified men wearing military uniforms. Five gunmen arrived to the human rights defender's home, asked about her son, then shot her security guard in the leg before storming the house. Salwa Bugaighis was shot and stabbed multiple times and died of her wounds. During a television appearance earlier that day, Salwa Bugaighis spoke about clashes in her neighbourhood between militants and members of the military who were guarding the polling station.

Threats, intimidation and detention

15. On 28 May 2013, human rights defender, photographer and citizen-journalist **Mr Mohamed Abu Janah** was arbitrarily detained and interrogated for several hours at the Benghazi headquarters of “Libya Shield No. 7”, an armed unit formed by revolutionary militiamen. During

interrogation, Mohamed Abu Janah was threatened and insulted. In light of these events as well as regular death threats, the human rights defender was forced to stop his peaceful human rights work.

16. On 20 February 2011, **Mr Mohamed Radwan Raheel**, a human rights defender advocating against torture, was abducted and tortured by members of Libya Freemen Brigade for working on torture cases in Tawergha.

Impunity

17. Libyan authorities have limited control over the security forces and no control over armed militias. This, coupled with the weakness of state institutions, including the judicial system, results in widespread impunity for human rights violations, including against HRDs. In all cases mentioned in this report, the authorities failed to hold the perpetrators to account.

18. Furthermore, Law No. 38 granted amnesty to acts made to “promote or protect the revolution”. The law stipulates that no penalty will be imposed on “military, security, or civil actions dictated by the February 17 Revolution that were performed by revolutionaries with the goal of promoting or protecting the revolution”.

Recommendations

19. Front Line Defenders calls upon the member states of the UN Human Rights Council to urge the Libyan authorities to prioritise the protection of human rights defenders and in doing so to:

- (a) Prioritise the adoption of a comprehensive NGO Law with the aim of facilitating human rights work and ensuring an enabling environment. In particular, ensure that human rights groups are free to operate without registration should they wish to do so and that they can do so without hindrance;
- (b) Review the Ministry of Culture and Civil Society's order on 'Controls on the Activities of International Organizations Supporting Civil Society In Libya' with a view to lifting restrictions, including on funding as well as the requirement of annual renewal of registration;
- (c) Modify the 1953 Penal Code and domestic legislation and bring it fully into compliance with the standards and requirements contained in the international human rights instruments.
- (d) Promptly provide human rights defenders particularly at risk with adequate protective measures with the aim of preventing attacks;
- (e) Ensure that an immediate, thorough and impartial investigations into all reported cases of attacks against human rights defenders is carried out, with a view to publishing the results and bringing those responsible to justice in accordance with international standards;
- (f) Implement recommendations adopted in 2010, on the occasion of the previous UPR cycle, and related to human rights defenders, including the recommendation to promote the creation of an adequate environment for the full enjoyment of freedom of association,

including the creation of labour unions and organizations independent from government; and initiate a review of the relevant provisions to ensure that the restrictions on freedom of association are only those provided for in the Covenant on Civil and Political Rights;

- (g) Fully implement the adopted UPR recommendations on human rights defenders in a transparent and participatory manner with full involvement of human rights defenders at all levels.
- (h) Guarantee in all circumstances that all human rights defenders in Libya are able to carry out their legitimate human rights activities without fear of reprisals and free of all undue restrictions in accordance with the UN Declaration on Human Rights Defenders;