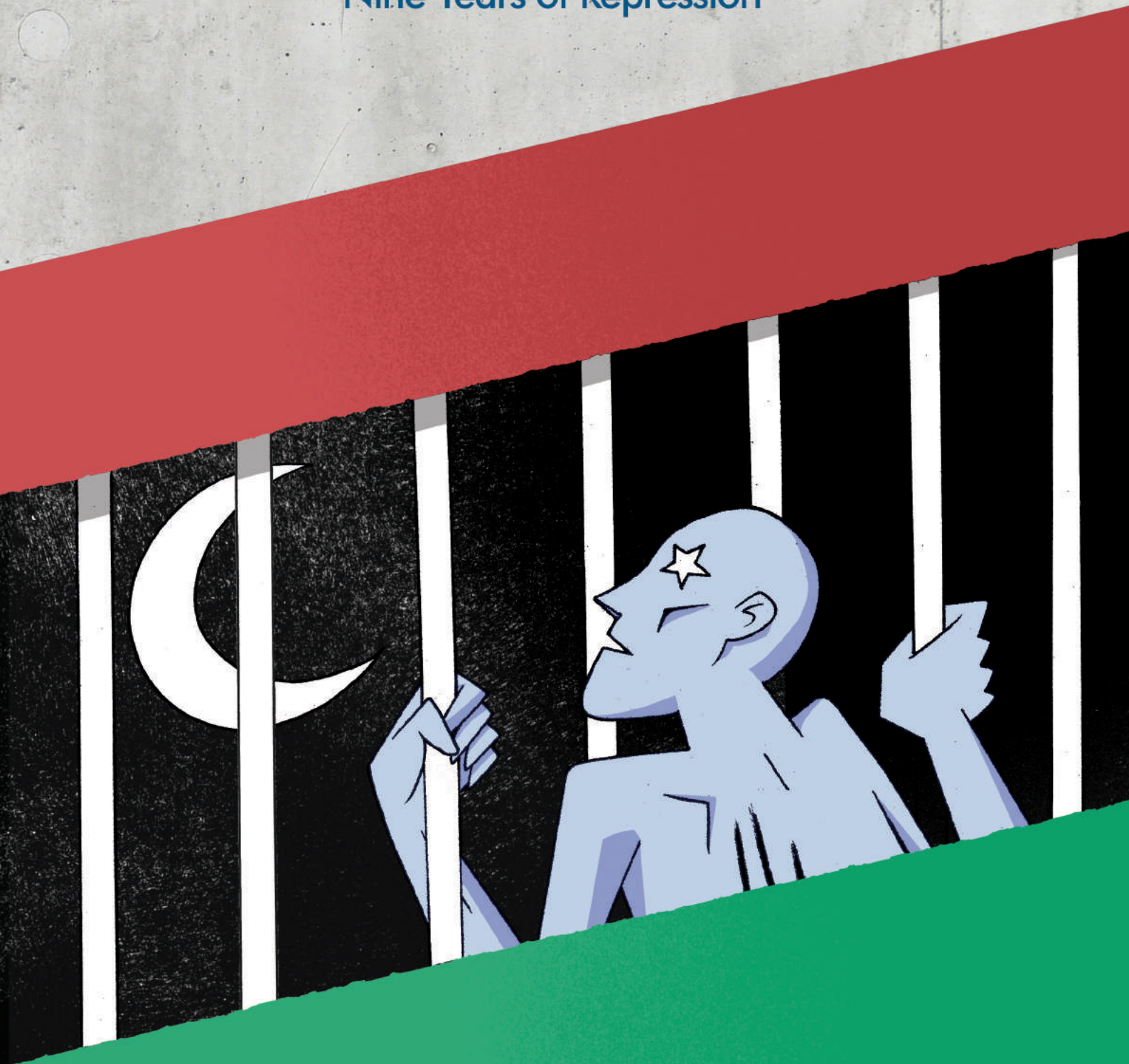




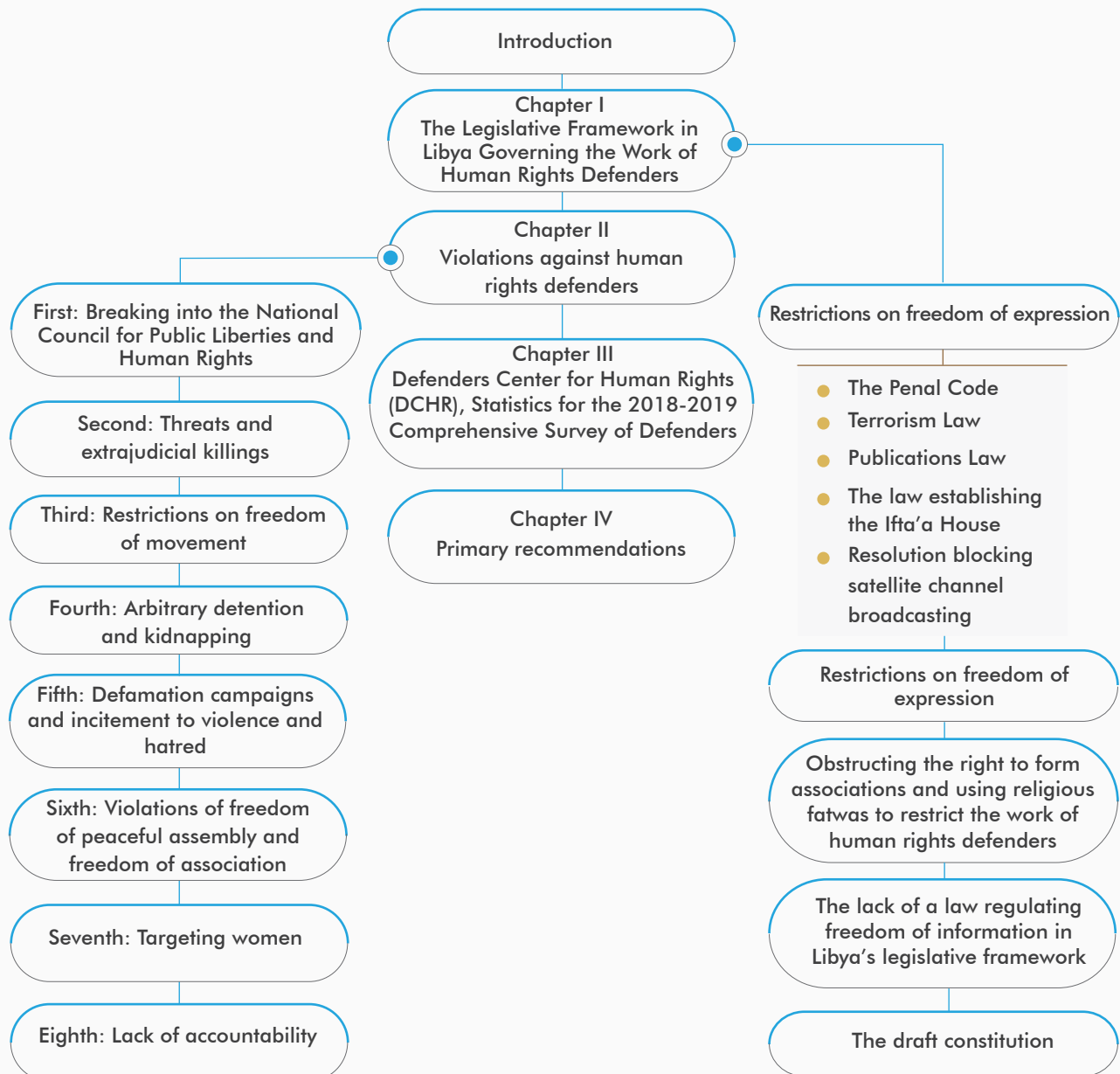
Human Rights Defenders in Libya Lack of Protection and Absence of Legislation — Nine Years of Repression —



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Translated version

Human Rights Defenders in Libya Lack of Protection and Absence of Legislation Nine Years of Repression





Center for Human Rights Defender Association (CHRDA) is an independent non-governmental organisation registered and founded in France in 2016. CHRDA aims at promoting rights of Human rights Defenders and vulnerable population, analysing the difficulties facing the application of International Human Rights Law and disseminating Human Rights Culture in the Region as well as engaging in a dialogue between cultures.

A crucial part of CHRDA's mandate is to help shape the understanding of the most pressing human rights defenders concerns within the region and then to coordinate and mobilise the key players and NGOs from across the MENA region to work together towards solutions.

Furthermore, CHRDA is a Libyan HRD's network; working on supporting, empowering and protecting Libyan HRDs inside and outside Libya. CHRDA is a member of the Platform (Coalition of 13 Libyan organisations).

CHRDA emerged from the need to find a space for Jurists outside their country, especially with the outbreak of armed conflict in several cities in Libya and targeting defenders and activists; attacks and abuses sometimes reached the limit of assassinations.

CHRDA main activities

Promoting the fight against impunity and supporting accountability mechanism

Advocacy campaigns aim to guarantee to apply the international standards of Human Rights concept in Libya

Focusing on the legislative structure related to the work of civil society

Empowering the right of freedom of expression and the right of freedom of assembly and association

Researches and studies on Human Rights situation and legal analysis

Promoting a culture of impunity and supporting accountability mechanisms

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Introduction

Murder, harassment and arbitrary detention are just a few of the many violations faced by human rights defenders (HRDs) throughout the world. Violations are perpetrated against HRDs by governments, armed groups and other actors engaged in human rights abuses, in order to silence, intimidate, and ultimately coerce defenders into curtailing or entirely ceasing their work of promoting and protecting human rights.

Human rights defenders in the Arab region face many challenges in defending persons exposed to human rights violations on essentially a daily basis. One of the foremost challenges is the restriction of human rights work by authoritarian governments hostile to fundamental human rights principles and those who defend them. These repressive governments seek to eliminate the human rights movement in a variety of ways; for example, by enacting unjust legislation reducing the scope of human rights work, and using mass media to slander and incite hatred against HRDs.

In Libya, the scope of the offensive against HRDs has widened. The reasons for this can be summarized as follows: political divisions and ongoing infighting; the proliferation of armed and extremist groups throughout the country; turmoil and a weak security sector and; the relative inability of the justice system to fulfil its role coupled with a lack of legislative protection for judicial officials.

Human rights defenders also face challenges related to temporary relocation to neighboring countries in order to ward off the peril they faced within Libya. In most cases, defenders relocate to Turkey or Tunisia, where they are allowed to stay for a maximum of three months, which means

they must return to Libya and once again, live in a dangerous environment. Furthermore, Libyans face continued difficulty in obtaining passports.

In the wake of the widespread violence and security turmoil that erupted after the armed clashes in 2014¹, there was a notable increase in violations targeting political, human rights and media activists in Tripoli, Benghazi and other cities. This led to an exodus of activists abroad, while activists who stayed in Libya had their work forcibly reduced or stopped.

In June of the same year, two HRDs, journalist and lawyer Moftah Abu Zeid, and human rights activist Salwa Bugaighis, were killed. Similarly, in September, two civil society activists Tawfik Bin Saud and Sami El-Kawafi, were killed. In October, lawyer Usama Al-Mansoury was killed for criticizing militias who had pledged their allegiance to ISIS².

In 2015, activist Entisar Al-Hassari was assassinated, and activists Dr. Aly Alasta and Dr. Hady Bin Talib were both kidnapped in Tripoli.

Throughout 2018, the Defender Center for Human Rights (DCHR) has monitored violations committed against HRDs in Libya, and recorded nine cases of enforced disappearance and arbitrary detention, 13 cases of threats and attempted kidnappings, and 41 cases of harassment, including two physical assaults, the majority of which occurred in Tripoli and Benghazi³. In 2019, the DCHR was in contact with 31 HRDs, 11 of whom were found to be at risk, five cases of threats and kidnappings, and six cases of enforced disappearance in Tripoli, Benghazi and Zawiya. Of 31 HRDs, 21 were men and 10 were women.

1 Libya Dawn (Tripoli) Operation and Alkarama Benghazi Operation.

2 News: United Nations High Commissioner for Human Rights Zaid condemns the attacks on Human Rights Defenders in Libya. Dated Oct 14th 2014, find it through the following link: <https://goo.gl/SFAcRW>

3 Defenders Center for Human Rights, Annual Report on the status of defenders in Libya 2018.

As part of the DCHR's pursuit to improve the situation of HRDs in Libya, this report will highlight the main challenges hindering their freedom of action. They include, among others, the failure of the Libyan legislature to ensure the protection of HRDs and the difficult circumstances in which defenders operate. The latter refers to the prevalence of risks and threats that emanate from the official authorities, armed groups and other actors; the incitement of hatred and violence against them by all types of media outlets; and the lack of accountability and solutions with respect to increasingly frequent violations committed against them. This report concludes with several recommendations that would decrease violations

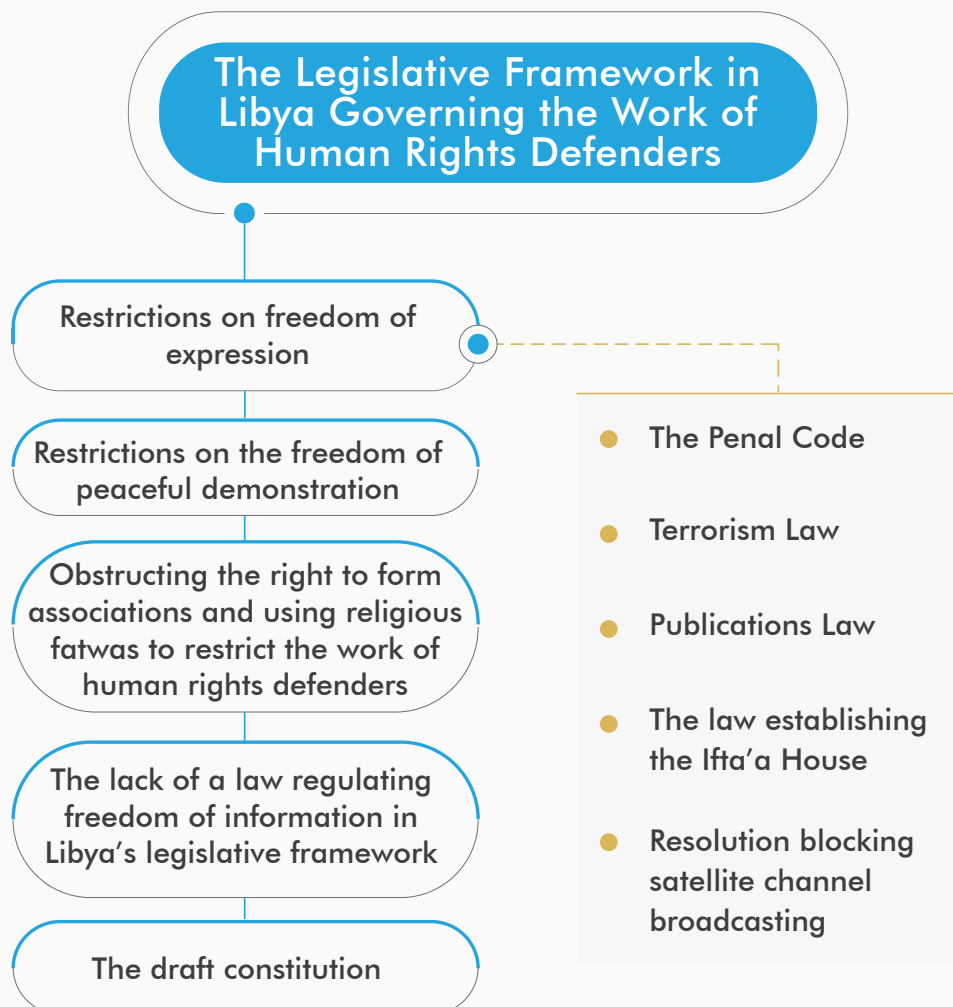
against HRDs and open the public space for their work.

This report is not limited to explaining the status of HRDs working at associations in Libya, rather, it extends to other individuals, groups and associations that combat and expose all forms of human rights violations and infringements on the fundamental freedoms of individuals, including all that relates to widespread, flagrant or systematic violations.



Chapter I

The legislative framework in Libya governing the work of human rights defenders



HRDs are entitled to basic rights and freedoms, such as the freedom of expression, association and peaceful assembly. However, upon examination of the legislative framework in Libya, there is no protection for the practice of such rights and freedoms. On the contrary, there are laws that impose arbitrary restrictions thereon, which, in turn, has increased the number of violations against HRDs in Libya.

Libya's 2011 Constitutional Declaration was issued in the wake of the 17 February Revolution. The declaration does not stipulate any significant or specific protection for the exercise of fundamental freedoms, but rather, only determined it in general terms. The constitutional declaration left the matter of protecting and regulating the practice of rights and freedoms to the legislative authority⁴, without placing restrictions that limit misinterpretation or breaches. For example, article 14 of the Constitutional Declaration designated the State as the guarantor of freedom of expression, communication, press, printing and publishing; and freedom of movement, peaceful assembly, demonstration and sit-in, in a manner that does not conflict with the law. Additionally, article 15 guarantees the freedom to form political parties, association, and other civil society organizations.

In this context, it is necessary to address, in some detail, the legislative framework regulating these freedoms, in order to determine the nature of the obstacles faced by HRDs in Libya. These obstacles were created by the Constitutional Declaration's failure to set minimum standards protecting rights and freedoms that cannot be breached by the legislative authority, thus ensuring that these rights and freedoms can be effectively exercised without governmental interference or restriction.

First: Restrictions on freedom of expression

Article 19 of the United Nations' Universal Declaration of Human Rights (UDHR), and article 19 of the International Covenant on Civil and Political Rights (ICCPR) guarantee the right of freedom of expression; the right of every person to hold opinions without interference⁵, including the "freedom to seek, receive and impart information and ideas regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice". It is permissible to place restrictions on freedom of expression provided that these restrictions are defined by law and are "necessary" in a "democratic society" to respect the rights or reputation of others, and to protect national security and the public order, public health or morals. The State must justify any restrictions based on any of the interests mentioned above.

When we examine legislation in Libya, we find that there are many arbitrary restrictions placed on the exercise of freedom of expression, which violates the international standards for restricting free expression set forth in the ICCPR. In this context, we review laws in Libya that hinder the effective practice of freedom of expression.

1. The Penal Code

Libya's Penal Code contains numerous articles criminalizing freedom of expression and imposing unlawful restrictions thereon. Article 178 penalizes the publication of false, exaggerated or disturbing news or rumors about the internal status of the State, in a way that destabilizes the State or undermines its reputation. This article may be applied to all civil society organizations that discuss – in their reports or elsewhere – Libya's human rights situation, and may be used

⁴ The National Transitional Council, at the time of the declaration of the constitution, had the power to legislate which was followed by the General National Congress, then the House of Representatives, and all of them had not issued any law in that particular.

⁵ Libya joined the International Covenant on Civil and Political Rights and ratified dated on 15-5-1970.

to penalize these organizations for insulting and undermining the country's reputation.

Article 195 of the Penal Code penalizes any prejudice towards Libya's 17 February Revolution; insulting the judicial authorities, the armed forces, or the Libyan people; or insulting the emblem of the State or its flag with imprisonment. Article 205 also carries a potential penalty of imprisonment for any insult to the nation and its rites. Establishing or joining an association without a license may also be penalized by imprisonment, according to article 208.

Article 245 stipulates that insulting a public official during the performance of his/her functions carries a penalty of imprisonment for a period not exceeding one year. The penalty shall be increased by no more than half if the insult was directed at a judge during a trial or against any member of a judicial or administrative body during the convening of that body. The penalty shall be imprisonment if the insult is directed against the honor or dignity of an administrative or judicial body while convening. Article 438 provides penalties for disgracing a person's honor and consideration, and article 439 stipulates that defamation is punishable by imprisonment for a maximum period of one year.

The restrictions set on freedom of expression by the above-mentioned articles of the Penal Code are not compliant with the principles of article 19 of the UDHR and the ICCPR, as the Penal Code articles use imprecise terms or phrases, such as "prejudice" "insult" and "disgracing a person's consideration". This ambiguous use of language is such that curtails the right to freedom of expression. For example, merely expressing an

opinion about the revolution, criticizing any of the State authorities or criticizing the Libyan people could be potentially interpreted as an "insult", with the opinion-holders then given custodial penalties.

It is worth noting that, in 2015, there were several recommendations in Libya's Universal Periodic Review (UPR) urging the Libyan state to review its Penal Code so as to ensure the effective practice of freedom of expression without fear of reprisal, in accordance with international law and standards. Thus far, however, the Libyan authorities have failed to adopt appropriate measures that address these shortcomings.

II. Counter-Terrorism Law

The Counter-Terrorism Law⁶, promulgated in 2014, broadened the definition of terrorism by criminalizing acts that do not seriously harm or lead to the death of an individual, which, according to the Security Council resolution no. 1566 (2004)⁷, are main prerequisites for the definition of terrorism. The acts of terrorism included in article 2 of the law are as follows: "Every use of force, violence, threat or promotion with the intention of gravely violating public order or endangering the safety, interests, or security of society whenever the purpose of this use is to harm persons, terrify them, endanger their lives, freedom, general rights or security, cause damage to, exploit or seize the environment, natural materials, monuments, property, buildings or public or public property, or to prevent or obstruct public authorities, government agencies, local units, or international or regional diplomatic or consular missions, organisations or entities in

⁶ Law no. 3 of 2014, issued by House of Representatives, in Tubruk, dated on 19th of Sept 2014.

⁷ S/RES/1566 (2004), Paragraph 3, "Recalls that criminal acts, including against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a government or an international organization to do or to abstain from doing any act, which constitute offences within the scope of and as defined in the international conventions and protocols relating to terrorism, are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature, and calls upon all States to prevent such acts and, if not prevented, to ensure that such acts are punished by penalties consistent with their grave nature".

Libya from undertaking all or some facets of their work, or to prevent or obstruct institutions, places of worship or scientific institutions and institutes from undertaking their activities, or to delay the application of any provisions of the constitution, laws or regulations, as well as any behaviour aimed at damaging communications, information systems, financial or banking systems, the national economy, energy reserves or security reserves of commodities, food products or water, or at damaging the integrity thereof if one of the crimes stipulated in this law is committed“.

When a definition of terrorism includes “harming the environment” and “preventing or obstructing public authorities, government interests, or local units from practicing their activities”, it permits, for example, charging demonstrators in front of government institutions or workers on strike with the crime of “terrorism”, which poses a direct threat to the freedom of peaceful assembly⁸.

The Terrorism Law carries a penalty of between five and ten years’ imprisonment for “whoever propagates, promotes or misleads



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⁸ Mohamed Alansary, Two counterterrorism support laws and a suspension of the demonstration law: a new upending of the constitution, page 7, issued by Cairo Institute for Human Rights Studies, available on the following link: <https://2u.pw/HclUN>

to carry out terrorist act, whether by saying or writing, or by any means of broadcasting or publishing, or through messages or websites”⁹.

This text violates international standards concerning freedom of expression, including the circulation of information, by stipulating penalties for promoting and publishing ideas that do not necessarily meet the conditions of impending violence, or the likelihood of it occurring, without a prerequisites of the direct and immediate relationship between that promotion and the occurrence of violence. In other words, the Terrorism Law constitutes a threat to the freedom to express, publish and transmit dissenting political opinion. It penalizes opinion-holders, politicians, journalists, media professionals and activists who use social media platforms, if they promote ideas that the authorities deem to be violent¹⁰.

Consequently, the law places numerous restrictions on the right of freedom of expression, tightens surveillance on websites and exposes citizens, who are not associated with or supportive of terrorist groups, to the danger of long-term imprisonment. The Terrorism Law’s expansive definition of terrorism reveals the law’s intended use as a tool of intimidation, aimed at stifling all forms of peaceful political opposition and independent voices, including those of HRDs.

Under the guise of countering terrorism, the Presidential Council of the Government of National Accord (GNA) issued a Decree, which establishes a deterrent force to combat organized crime and terrorism¹¹.

The force incorporates militias suspected of being involved in violations against civilians;

these militias are granted the authority of the judiciary in regards to tapping phone conversations and tracking social media sites. These sites frequently circulate information about their users that falls within the wide scope of compromising, tampering with, endangering, or threatening national security and social peace¹² in violation of articles 79¹³ and 180¹⁴ of the Criminal Procedures Code, which establish procedures and regulations for monitoring telephone conversations and correspondence. According to these articles, that procedures falls under the jurisdiction of the judiciary.

Additionally, the Terrorism Law breaches the Constitutional Declaration, which establishes telephone communication, correspondence and other means of communication as public rights and freedoms. In other words, the Constitutional Declaration stipulates that the freedom to engage in these forms of communication is an individual right protected by the Constitution. Accordingly, it may not be violated or derogated from, without justification or without necessity, and is conditional upon authorization from the judiciary.

The Constitutional Declaration also bolstered freedom of expression with protections that fully guarantee the right to exercise it. Among these protections were the prohibition on placing restrictions on freedom of expression, only as an exception and in the narrowest scope. Accordingly, it is impermissible to tap or spy on phone conversations and correspondence, except by an order that necessitates the investigation and

9 Terrorism Law, article 15.

10 Mohamed Al-Ansary, Ibid, p. 16.

11 Decree No. 555, issued on 7 July 2018.

12 Decree No. 555 of 2018, art. 4.

13 Article 79 states, «[t]he investigating judge is to seize at all post offices all letters, messages, newspapers, publications, and parcels, and at telegraph offices have all telegrams. He may also monitor telephone conversations whenever this has been useful in showing the truth”.

14 Article 180 states, “[t]he Public Prosecution may not in conducted investigation to search non-accused persons, or inspection of their homes, or seize letters and messages in the case referred to in Article 79, except upon the permission of the Magistrate».

maintenance of communications security. This order is to be issued by the judiciary¹⁵.

III. The Publications Act

The Publications Act¹⁶, issued in 1972, instituted number of obstacles to freedom of the press, despite its explicit objective to preserve and guarantee this right. The law stipulates that the right to obtain and publish information or opinions must be exercised within the framework of society's principles, values and goals, which are ambiguous and questionable notions. It is therefore infeasible to accurately determine wrongful actions according to the ill-defined text of the law. Interpretation of the law, therefore, is left to the discretion of State authorities responsible for its enforcement. These authorities determine the "precise" interpretation of the law, and bring to it their own understanding

The Dar Ifta'a Law immunization of Islamic fatwas from discussion and the expression of opinions on them is inconsistent with the justifications for restricting free speech



of its purposes and objectives, often manipulating the law in a manner that adversely affects innocent people.

The Publications Act further prohibits a range of acts, including: publishing decisions by the Revolutionary Command Council and the Cabinet without authorization; questioning the aims and principles of the revolution; calling for the rule of a group/class or an individual; insulting recognized religions and religious doctrines; violating morals or defaming the reputation of persons; ignoring the positive aspect(s) or spreading the negative aspect(s) of any issue or topic with the intention of misleading the masses and; publishing news that would reduce the value of the national currency or government bonds, or interfere with individual's trust in the State internally or abroad.

Any violation of the numerous prohibitions set forth in the Publications Act may result in a prison sentence, as well as a fine not exceeding 1000 Libyan Dinars and without prejudice to any other severe punishment stipulated in the Penal Code or any other law. The Act also grants Ministers the authority to stop or discontinue the dissemination of certain publications¹⁷.

Finally, the Act sets arbitrary criteria that must be met by the owner of the publication. The criteria stipulate that the owner must: (i) possess either Libyan citizenship or citizenship of a State of the Federation of Arab Republics (Syria, Egypt and Libya); believe in the Arab revolution and be committed to its goals and objectives, as well as those of the Arab Socialist Union and; not be the subject of any charges brought by the Office of the Public Prosecution at the time of authorization

¹⁵ Court of Appeal, Al-Bayda, Judgement Number 72 /2018, 15 April 2019. At this hearing, the judge revoked Decision Number. 555 of 2018.

¹⁶ Law No. 76, issued on 14 July 1972.

¹⁷ Publications Act, art. 29.

for the dissemination of the publication. The latter, completely disregards the accused's presumption of innocence throughout the investigation and trial stages, until the issuance of a final verdict¹⁸.

IV. The law establishing Dar Ifta'a

In 2012, the National Transitional Council (NTC)¹⁹ issued a law²⁰ that established Dar Al-Ifta'a. The law aims to strengthen the fatwas²¹ issued therefrom may not be discussed in the media. It also authorizes Dar Al- Ifta'a to establish the regulations concerning the Fatwa in accordance with Sharia law²².

Accordingly, Dar Al-Ifta'a assumed authority to issue regulations that could potentially lead to media censorship or the shutting down of media if they have engaged in discussions about fatwas. The law also contains several provisions that criminalize disruption of the public order and other vague or loosely interpretable actions, which could lead to the potential punishment of an individual or media outlet for simply expressing an opinion about a fatwa issued by the Dar Al-Ifta'a.

The blanket ban on any media discussion of fatwas is inconsistent with the justifications for restricting free speech included in the ICCPR. And therefore does not fulfill any lawful purpose of limiting speech. The NTC failed to explain why the restrictions on free speech imposed by the *Dar Al-Ifta'a* law were necessary or justified.

The law also paves the way for the imposition of

religion restricting restrict rights and freedoms. This is evident from the issuance of *fatwas* that aim to hinder the work of HRDs, as will be presented later.

V. Resolution blocking satellite channel broadcasting

Pursuant to the 2014 resolution²³, the GNC²⁴ provided the Ministries of Foreign Affairs, Communications and Media with a mandate to take "necessary steps required" to halt the transmission of all satellite television stations that are "hostile to the 17 February Revolution and whose purpose is the destabilization of the country or creating divisions among Libyans"²⁵. It also authorizes the government to to "take all measures" against states or businesses in territories where the channels broadcast if they fail to block the transmission of these stations²⁶.

The resolution contradicts the Constitutional Declaration, which explicitly imposes an obligation on the Libyan State to safeguard human rights and freedoms, including the right to freedom of expression and freedom of the press. In view of the fact that article 14 of the Constitutional Declaration preserves the right of "freedom of publication and mass media", it is unconstitutional for the State to interfere with and use its powers to curtail and censor the liberty of the press for merely opposing the revolution or inciting sedition. Such interference works to undermine

The blanket ban on any media discussion of fatwas is inconsistent with the justifications for restricting free speech included in the ICCPR

18 Publications Act, art. 5.

19 A non-elected political authority that has legislative powers after the revolution of 17th February 2011 «Duration from March 2011 – July 2012»

20 Law No. 15/ 2012, issued on 20 February 2012.

21 A nonbinding ruling on a point of Islamic law issued by a recognized authority or Islamic scholar.

22 Law No. 15/2012, art. 13.

23 Resolution No. 5/2014, on banning satellite television channels, adopted by the GNC on 22 January 2014.

24 The first elected legislative authority «July 2014».

25 Law No. 15/2012, art. 1.

26 Law No. 15/201, art. 2.

the legitimacy of the Constitutional Declaration.

The resolution further contravenes Libya's obligations under international law, and specifically those preserved in the ICCPR, which allow for restrictions on the right to freedom of expression in limited, conditioned circumstances. The restrictions contained in resolution no. 5/2014 disregard the principle of proportionality between the act and the penalty, particularly considering these restrictions are neither related to war propaganda nor to hate speech, which constitute discrimination or violence under international law.

Second: Restrictions on the right of peaceful assembly

The right of peaceful assembly, a means by which individuals can express opinions,



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is enshrined in international law²⁷.

Where restrictions are imposed on the exercising of this right, constitutes a means by which to express an opinion, and thus free expression loses its value if the right to demonstrate is subject to restrictions and obstacles limiting its exercise. At the inception of what became known as the Arab Spring, the right to peaceful assembly was exercised to denounce the practices of authoritarian regimes and eventually culminated in the overthrow of several autocratic leaders. Many Arab states, such as Egypt, have enacted unfair laws regulating the right to peaceful assembly, which reinforces the notion that the exercising of this right is viewed as a direct threat to their grip on power. In Libya, the GNC issued Law No. 65/2012, which explicitly of the regulation of the right to peaceful assembly, a fundamental human right guaranteed not only by Libya's Constitutional Declaration, but by international law and standards²⁸.

Upon examination of the law's provisions, it becomes apparent that the law imposes a number of restrictions that are wholly inconsistent with Libya's obligations under the ICCPR²⁹.

For example, the law authorizes the State to prevent gatherings that would hinder the functioning of public facilities, which, according to the ICCPR, cannot be used as a rationale to restrict the right to peaceful assembly³⁰.

The law also recognizes the responsibility of the "Demonstration Committee" to maintain order and inhibit speech that runs contrary to "public order" or "morals", or that which incites crime³¹.

This provision violates international standards, which specify that the State is responsible for

²⁷ ICCPR, art. 21.

²⁸ Assembly Law, ARTICLE 2A.

²⁹ Libya ratified the ICCPR on 15 May 1970.

³⁰ Assembly Law Articles (2 and 3).

³¹ Assembly Law Article (4).

maintaining order and for protecting protesters³².

Although the law adopted a notification for conducting demonstrations³³, it granted State security authorities unlimited powers to postpone, prevent and disperse protests. According to the law, State security authorities may amend the start and end date of the protests, the site of gathering and the protest's starting point and route, on the basis of security, public order and public safety considerations, which are terms that easily can be defined or interpreted liberally in order to restrict peaceful protests³⁴.

The law also stipulated that protests can be prevented if they "disturb public security", which is yet another vague notion that can be loosely interpreted to restrict the exercise of the right to peaceful assembly. The law empowers the Minister of Interior to arbitrate on grievances or appeals against an order prohibiting protests and can prevent appeals against such from being heard before a court.

In addition to giving the statewide powers to prevent protests, the law also grants the State vast powers to disperse protests. Protests may be dispersed if they exceed the limits prescribed by notification or if riots or crimes occurred during the protest that violate public order and prevent the authorities from exercising their functions³⁵.

Furthermore, the law does not regulate the use of force when dispersing protests, which may lead to the use of excessive force by law enforcement in violation of fundamental freedoms and protected

human rights. Permitting the use of excessive force has the potential to undermine the relationship between law enforcement and the people, and to cause widespread tension and turmoil.

Finally, imposing custodial penalties where protests are held without notification or despite the issuance of an official order prohibiting it³⁶ is a violation of international law. Punishing the organizers or participants of peaceful gatherings with harsh penalties constitutes a violation because it fails to recognize spontaneous assemblies.

Third: Obstructing the right to form associations and using fatwas to restrict the work of HRDs

The Civil Code, adopted in 1953³⁷, was the first piece of legislation to organize the work of civil society organizations in Libya³⁸.

The law remained in effect until the promulgation of Law 111/1970 on associations³⁹ during the Gaddafi era, which considered associations as part of the State's administrative apparatus, imposing restrictions on the registration of organizations, including a requirement to obtain security approval before engaging in any activity, or cooperating with, foreign organizations.

In 2001, NGOs in Libya were reorganized under Law 19/2001, which created number of obstacles, which, together, contravene Libya's obligations under the ICCPR. First, an association cannot be

32 The Special Rapporteur on freedom of peaceful assembly and the right to freedom of association stresses the need for organizers and participants of gatherings not to be held responsible (or hold them responsible) for the unlawful behavior of other people, as well as the need not to hold them responsible and the operators of gatherings for maintaining public order. United Nations Document (A / HRC / 20/27), paragraph 31, p. 12.

33 Assembly Law Article (5).

34 Assembly Law Article (6).

35 Assembly Law, Article (8).

36 Assembly Law, Article (10).

37 Published in the Official Gazette on February 20, 1954.

38 See articles 54 & 68.

39 Published in the Official Gazette, issue no 64 of 1970.

formed unless it has at least 50 founding members⁴⁰. Second, it prohibits any participation or affiliation with foreign associations and the acceptance of funds from foreign entities without authorization⁴¹ from the Secretariat of the General People's Committee⁴².

Third the law grants the General People's Committee the authority to close the headquarters of an association for a period of three month – a period of time subject to renewal - as a temporary measure in preparation for dissolving the association or merging it with another organization. Additionally, the law imposed a penalty of imprisonment not exceeding three months, for administrative violations. Examples of administrative violations include the association undertaking an activity before its official recognition or conducting an activity that exceeds the purpose for which the association was established.

Law 19 became null after the issuance of the Transitional Justice Law No. 29⁴³, the sixth article of which stated that:

“The obstruction of constitutional life in Libya is an injustice and an aggression. The legislation issued by the former regime as an expression of its desires and without any legal or constitutional basis is unjust and shall be considered invalid and unconstitutional as of its drafting. Such legislation may not be used against established rights. The negative effects of such legislation on individuals and on society must be addressed”.

The need for effective civil society organizations

emerged in the wake of Libya's 17 February Revolution. Civil society was urgently required to fill the void created by a virtual absence in state institutions as a result of political warfare coupled with the struggle between armed groups often linked to the vying political authorities “The Ministry of Culture and Civil Society” took over the process of establishing associations after Law 19 was suspended, organizations requesting to be

established were to submit documents related to the establishment record, statute, source of funding, and location. Organizations were also required to pledge not to use the association in violation of the law; and to ensure the mission of the association excludes violence, racism and discrimination. The establishment process was then transferred to the Ministry of Culture and Civil Society in October 2011⁴⁴,

which formed a committee to draft a new law, which was drafted in line with international standards for freedom of association; however, the law was not passed due to a lack of political will.

In mid-January 2012, the Cabinet created the “Center for Supporting Civil Society Organizations” to be affiliated with the Ministry of Culture. Its name was then changed to the “Civil Society Commission” according to Cabinet Resolution No. 649 of 2013⁴⁵.

Resolution No. 302 of 2014⁴⁶ was issued, which approved the commission's administrative structure as the dominant framework for all civil society organizations' work. The commission was tasked with

*Law 19
became null
after the
issuance of the
Transitional
Justice Law*

40 Article (2).

41 Article (14)

42 The General People's Committee, often abbreviated as the GPCO, was the executive branch of government during the era of the Libyan Arab Jamahiriya “Council of Ministers”.

43 Law no 29 of 2013, issued by the National General Congress dated in 2nd of December 2013.

44 To be revised, study titled: The reality of human rights associations in Libya: work difficulties and requirements for activity, issued by the Arab Institute for Human Rights, Seda Organization, Chapter Two, p. 41.

45 Issued in 29th of May 2013.

46 Issued in 4th of May 2014.

granting recognition to organizations, adopting organizations' statutes and monitoring their performance, and organizing the work of foreign organizations in coordination with the competent authorities.

HRDs in Libya are harmed by the absence of a law in the state's legislative framework that regulates the work of civil society organizations or associations. This harm is compounded by the exclusive authority of the Civil Society Commission to issue regulations governing the work of local⁴⁷ and foreign organizations⁴⁸.

The Civil Society Commission's regulation of associations violates the constitutional declaration issued in 2012, which stipulates that civil society be regulated by a law issued by the state legislative authority⁴⁹.

In other words, the commission has usurped the functions of Libya's legislature.

The regulations stipulated in Resolution No. 302 of 2014 on the Civil Society Commission blatantly violate or are inconsistent with the International Covenant on Civil and Political Rights and international standards for freedom of association. These violations and inconsistencies include the following: require authorization to establish associations rather than a notification; the failure to justify in case of denying an

organization's registration or rejecting funds received by an entity within Libya or abroad; the prohibition on political or quasi-political work, in a way that gives great flexibility to the commission to write off or suspend associations for a period not exceeding six months; and finally, the prohibition on opening bank accounts without the commission's authorization.

The Civil Society Commission has not only usurped the functions of Libya's legislature, but it has also been designated as a competent judicial authority to consider grievances related to denying an organization registration⁵⁰ or the receipt of funds within Libya⁵¹.

In addition, the commission is the sole authority permitted to impose administrative penalties on an organization, such as suspending its activities or writing it off without referral to the judiciary.

In response to this, the Defenders Center for Human Rights (DCHR), in cooperation with the center for Democratic Transition and Human Rights Support (DAAM), presented proposals in 2016 and 2017 to amend the regulations no. 1 and 2 of 2016. These amendments sought to improve the work environment for HRDs and proposed a draft law regulating the work of associations, in alignment with international standards for freedom of association⁵².

Human rights defenders in Libya are harmed by the absence of a law in the state's legislative framework that regulates the work of civil society organizations or associations.

47 Resolution no (1/2016) regard adopting regulation organizing the work civil society.

48 Resolution no (2/2016) regard adopting regulation organizing the work of international organization in Libya.

49 Article (15) of the constitutional declaration states that «the state guarantees the freedom to form political parties, associations, and other civil society organizations, and a law is issued to regulate them. It is not permissible to establish secret or armed societies or those that violate public order or public morals, and other things that harm the state and the unity of the national territory».

50 Article (3/6) of the Civil Society Organizational Regulations stipulates that: "The decision to refuse registration may be appealed to the CEO in a period of ten days from the date of the founders' agent's knowledge of the decision".

51 Article (12) of the Civil Society Organizational Regulations stipulates that «those concerned may file a grievance against the decision of rejection before the CEO, and he must decide on the grievance within a week of the date of its submission, otherwise the decision is deemed null and void by the force of the regulation».

52 A news titled «(Support) and (Defender) submits to the Civil Society Commission in Libya a proposal for amendments to the two resolutions related to organizing the work of local and foreign civil society organizations in Libya», available through the following link: <https://daamdh.org/archives/299>

However, these efforts did not come to fruition due to the lack of genuine political will from the parliament, which did not take any tangible step towards organizing and legalizing the work of associations in Libya.

In early 2019, as an initiative to revive the draft law, the DCHR, and DAAM, submitted the draft law with an explanatory memorandum to the Presidential Council of GNA via the Minister of State for Institutional Structuring, to identify a proper mechanism to issue the draft law. There were over a dozen local organizations that approved the draft law. However, there has been no official response from the Presidential Council or the GNA.

completed a draft law for associations, which constitutes a response to the 2012 proposal and the DCHR' and DAAM' proposal. The draft law created numerous obstacles to practice the freedom of association, in an attempt to codify the regulations as mentioned earlier. To further restrict human rights defenders, the commission instructed organisations operating in Benghazi to inform it when carrying out any activity with foreign or international organisations, whether inside or outside Libya and to inform the commission ten days before travelling for the purpose of coordinating with the security authorities and obtaining security approval⁵³.

However, governmental institutions in Libya



In late 2017, the Civil Society Commission

⁵³ Circular No. (1) for the year 2018, issued on March 19, 2018.

went even further, by imbuing legislation with a religious character to control/steer and restrict civil society work. In May 2018, the Libyan Dar Iftaa issued a fatwa prohibiting civil society organizations or individual from communicating with any foreign entity, except in accordance with the law; it considered this communication to be highly risky and subversive. The fatwa also contained several threats to charge HRDs with espionage and national treason⁵⁴.

The fragmentation of political authority – between the Interim Government and the Government of National Accord (GNA) - in Libya resulted in the duplication of the Civil Society Commission's board of directors, through the issuance of decisions for each of the governments to form its Board of Directors separately. Moreover, The prime minister of Interim Government⁵⁵ issued a decision to form the Board of Directors in 2016. During that same month, the Presidential Council of the Government of National Accord issued a decision to form another board of directors for the Civil Society Commission and to transfer the board's affiliation to the cabinet⁵⁶. This was followed by the decision to reorganize the commission and its work performance⁵⁷ in addition to giving the commission the exclusive right to authorize civil society organizations requesting to work in Libya. This authorization was to be granted through a decision of the cabinet, according to the regulations for giving associations permission to work in Libya.

The aforementioned acts repeatedly violated the constitutional declaration, the articles of which in regards to protecting civil society have long been

violated. To reiterate, these violations include the establishment of two board of directors for the Civil Society Commission, the first in Benghazi and the second in Tripoli, the latter formed by a decision of the Presidential Council. This confusion and fragmentation was reflected on the situation of HRDs in Libya.

As a result of the division of power, the PC of the GNA issued Resolution No. (286), regarding the adoption of regulations governing the work of the CSC⁵⁸.

The resolution included 70 articles codifying procedures and registration rules regarding the following: establishing local and foreign associations; defining the competences of associations' boards of directors; and validating the rules of associations' general assemblies and decision making processes. In addition, the resolution organized the commission's authority in regards to registration (and the denial thereof), recognition, writing off, dissolution and grievance procedures.

The Civil Society Commission adopted a system of prior authorization to register local and foreign organizations⁵⁹ in contradiction with international standards for freedom of association - when it required a waiting period of ten days for local or national organizations and one month for foreign or international organizations. During the waiting period, the commission was to verify the extent to which the association's objectives adhered to the international agreements and national legislation in force.

Local civil society organizations are also

⁵⁴ Revised on that Fatwa no. 3584, issued on 15th of May 2018.

⁵⁵ Libyan Interim Government, Cabinet, Resolution no. 442 of 2018 for renaming the Chairman of the Civil Society Commission Board, issued on August 26, 2018.

⁵⁶ The Presidential Council of the Government of National Accord, Resolution No. 1160 of 2018 appointment of the Chairman of the Board of Directors of the Civil Society Commission, issued on August 2, 2018.

⁵⁷ The Presidential Council of the Government of National Accord, Resolution No. 1605 of 2018 reorganizing the Civil Society Commission and indorsement of some provisions, issued on December 8, 2018.

⁵⁸ Issued in 7th of March 2019.

⁵⁹ Article 3, 45.

prohibited from receiving funds from within Libya or from abroad without obtaining permission from the Civil Society Commission. The commission is not required to provide reasons for rejecting funds⁶⁰, and administrative dissolution is proscribed as the penalty for receiving funds unauthorized by the commission⁶¹.

Associations are also prohibited from opening bank accounts without obtaining prior permission from the commission⁶².

This renders the matter of having a legal personality contingent upon an official letter allowing the association to open a bank account. This compels the association to hand over the implementation of its activities due to the requirement that it spend on its programs through these accounts. In addition, the commission can request for the competent authorities to close or freeze associations' accounts, without needing to provide justifications for the closure. There are no standardized procedures regulating the request to close or freeze bank accounts, giving the commission leeway to abuse its authority to do so.

In regards to foreign organizations, they are prohibited from receiving or sending funds to organizations; opening bank accounts; providing grants to national organizations; and concluding employment contracts with others to perform work or tasks related to the work of the organization without obtaining prior approval from the Civil Society Commission⁶³.

In addition, foreign organizations are prohibited taking any action deemed to violate public order or public morals, and are banned from practicing any unauthorized activity or activities related to political, military and security matters⁶⁴.

Significantly, all of the aforementioned restrictions preclude both national and foreign organizations from implementing much-needed projects in Libya, such as the restructuring of political, military, and security affairs. Furthermore, the Civil Society Commission increased the number of justifications for the administrative dissolution of both local and foreign associations. An association can be dissolved if it is deemed to have done any of the following: violated any of the legislation in force; failed to achieve its goals; and disposed of funds for purposes other than those intended for them⁶⁵.

Fourth: The lack of a law regulating freedom of information in Libya's legislative framework

The right to seek and receive information is vital to freedom of expression. Seeking and receiving information is a right in itself that encompasses both the general right of the public to obtain information of interest from a variety of sources, the right of the media to obtain information, and the right of individuals to seek and receive information of interest to the public - information concerning them that may affect their individual rights⁶⁶.

A special aspect of this right includes freedom to seek and access information related to human rights violations⁶⁷.

Currently, Libya's legal system is lacking a law that enshrines the right of individuals to access and circulate information. This inhibits the exercise of other freedoms, foremost of which is freedom of expression. It also leads to the non-implementation of public monitoring over state

60 Article 28, 29, 37.

61 Article 32/5.

62 Article 38.

63 Article (58).

64 Article (67).

65 Articles (32, 67).

66 United Nations Document (A / 68/362), paragraphe 19.

67 Previous Source, Paragraph 21.

institutions.

In this context, the DCHR points out that Article 46 of the draft constitution arbitrarily restricted the right to freedom of information when it stipulated that needs and administration of the military, public security, and justice should not be disturbed or compromised. This restriction violates the International Covenant on Civil and Political Rights as it is a life-long restriction. In many countries, military information is disclosed after a specified amount of years, which may increase or decrease depending on circumstances.

The Defenders Center also fears that when the draft constitution is approved, the state will use Article 46 to suppress and withhold information from the public that is of legitimate public interest and does not constitute a national security threat. Any journalist, researcher or human rights defender who publishes such information may be prosecuted under the article.

Fifth: The draft constitution

The Constitutional Drafting Assembly was not concerned with protecting essential rights and freedoms of Libyan HRDS. The relevant articles of the draft constitution did not provide minimum standards guaranteeing the practice of fundamental rights that would allow the Libya's legislature to interpret the constitution from its respective.

Article 37⁶⁸, for instance, limited freedom of expression and publication, precisely when it linked "genuineness" to freedom of expression

This lead to several restrictive interpretations, and the penalization of opinion-holders with charges such as "spreading false news" and "undermining the February 17 Revolution", or in general, for adopting views differing from the dominant societal perspective.

In addition, article 38 laid down several guarantees for the practice of freedom of the press and media, such as guaranteeing media pluralism and independence, and prohibiting the suspension or dissolution of media outlets - except by the judiciary. It also sets forth the inadmissibility of pre-trial detention in press cases.

However, Article 38 disregarded many other guarantees necessary for the practice of freedom of press and media. It asserted that it was a "best practice" for newspapers to be created under notification. It also failed to prohibit direct threats to free expression, such as media surveillance or confiscation, and allowed for executive interference in implementing the censorship of all means of expressing opinions. Furthermore, the article failed to prevent custodial penalties in publishing cases that do not involve incitement to violence, discrimination or violation of the sanctity of private life.

Only one article guaranteeing freedom of association has been stipulated by Article 41, which is to prohibit associations' suspension or dissolution except by the judiciary. Many other guarantees are disregarded, such as establishing associations by notification. The article also does not prohibit the interference of the executive authorities in associations' work, in a manner that guarantees their independence.

The Defenders Center also fears that when the draft constitution is approved, the state will use Article 46 to suppress and withhold information from the public

68 Article 37 of the draft constitution states that «the freedom of the word and its honesty are an inseparable title, expression and publication are protected rights, and the state shall take the necessary measures to protect private life and prohibit incitement to hatred, violence and racism, based on race, color, or language, Gender, birth, political opinion, disability, origin, geographical affiliation, or other reasons. It is also forbidden to atone and to impose ideas by force».

Article 43 did not include the necessary guarantees enabling the exercise freedom of peacefully assembly; it only restricted the use of force in breaking up assemblies, according to necessity and at a minimum. It should have included the right to assemble or demonstrate by notification, except for spontaneous gatherings or demonstrations.

Article 56 on freedom of association also does not guarantee any significant protection for trade unions. The article does not provide for unions' having its legal personality by notification while ensuring their independence. Article 56

further fails to establish the inadmissibility of state administrative interference in union affairs, and the inadmissibility of union suspension or dissolution except by the judiciary. These are all conditions necessary for the exercise of trade union freedoms as contained in Freedom of Association and Protection of the Right to Organise Convention (ILO No. 87), and Right to Organise and Collective Bargaining Convention (ILO No. 98).



Chapter II

Violations committed against HRDs



A combination of political turmoil and the proliferation of armed groups in Libya has resulted in a notable increase in violations of international humanitarian law and international human rights law. Since 2014, several HRDs have been targeted through assassinations, kidnappings, threats, arbitrary arrests and raids on their homes and workplaces, forcing some HRDs to work from abroad, and others to discontinue or limit their work owing to their fear of reprisal. The widespread phenomenon of violence, intimidation and impunity resulting from the virtual absence of a functional justice system in Libya has put all the country's HRDs at risk.

Even after the signing of the Libyan Political Agreement (LPA) in December 2015 between rival parliaments and their associated governments, the political and security landscapes in Libya remain precarious. The current armed conflict revolves around a struggle to secure power between the UN-backed government GNA, based in the West, and the Interim Government of the East, and their corresponding supporters, including armed militias, paramilitary and military units. These authorities have consistently failed to reach a consensus on representatives for Libya's executive and legislative branches, which, in addition to the deterioration of humanitarian conditions, has culminated in political paralysis.

On 16 January 2019, clashes resumed in Tripoli between a number of armed groups, killing and injuring dozens of people, one day after Field Marshall Khalifa Haftar, appointed Commander-in-Chief of the Libyan Armed Forces by the House of Representatives (HoR) in eastern Libya, announced a military operation in southwest Libya to confront armed groups, including suspect Islamic State (IS) and Al-Qaeda in the Maghreb affiliates.

Haftar also announced a cessation of military

operations in Derna following fierce clashes with the Derna Shura Council. These episodes of violence prompted a UN Security Council resolution that expressed "grave concern over ongoing hostilities in and around Tripoli and the targeting of civilian infrastructure... [and] the exploitation of the conflict by terrorist or violent extremist groups"⁶⁹.

The present report examines assaults perpetrated by State authorities and armed groups on HRDs. The DCHR sets out the Libyan legislative framework governing the work of HRDs, which, taken together imposes number of restrictions on the rights and freedoms necessary for HRDs to carry out their work, constituting a violation against HRDs by the legislative authorities. Against this backdrop of violence and legal restrictions, the situation of HRDs in Libya remains fraught with danger.

a. Breaking into the National Council for Public Liberties and Human Rights

In mid-October 2014, members and staff of the National Council for Public Liberties and Human Rights (National Council)⁷⁰ received threatening calls from persons claiming to be associated with the Fajr Libya Armed Group. Subsequently, another armed group, possibly affiliated to Fajr Libya, stormed the headquarters of the National Council and demanded that the employees hand over official keys and seals, who refused to comply. In November that year, the National Council's premises were forcibly shut down by force and staff members received threats, causing some to leave the country. Based on information obtained by the United Nations Support Mission in Libya (UNSMIL), members of Fajr Libya had proposed new members for

⁶⁹ Security Council, S / RES / 2486 (2019).

⁷⁰ Established by Law No. 5 of 2011, issued by the National Transitional Council on December 28, 2011, with the aim of promoting and defending public freedoms, monitoring and documenting violations, and supporting the promotion of civil society institutions.

the National Council to the General National Congress⁷¹.

b. Threats and extrajudicial killings

Following the outbreak of violence in Libya in 2014⁷², several HRDs were subjected to extrajudicial killings. Lawyer and human rights activist Salwa Bugaighis was killed in Benghazi on 25 June 2014 and her husband disappeared. The prosecutor, Nasser Al-Jurashi, charged with investigating the case, was kidnapped days later and remains missing. HRDs Tawfiq bin Saud and Sami Al-Kufi were shot dead on 19 September 2014.

The Human Rights Commission has received a total of eight cases, which document incidents of HRDs receiving threatening phone calls and text messages and being subjected to arbitrary arrest or assassination attempts⁷³.

In August 2014, journalist Fatima bin Khayyal was threatened several times, including death threats. These threats surfaced as a result of mounting accusations against her, which alleged that she was inciting against Fajr Libya operation and the battle of Tripoli Airport⁷⁴.

The High Commissioner for Human Rights conducted an investigation into seven assassinations that were found to have targeted opponents or critics of those exercising power, six of which were carried out in Benghazi. In most cases, the persons questioned attributed

responsibility for the assassinations to Ansar al-Sharia. Of those assassinated, four were HRDs, one was an official of the judiciary and two were allegedly supporters of the Gaddafi regime⁷⁵.

Throughout 2018, activists and families of victims of human rights violations who sought to express their grievances in public received threats via social media or by phone. In October, fighters aligned with the LNA warned civilians in Derna against organizing protests opposing the solitary confinement of their relatives held in military prison. It was also reported that an unknown armed group detained and beat activists residing in Tripoli for participating in protests, including protests calling for the disarmament and disbanding of armed groups in the city⁷⁶.

On 31 July 2018, the body of photojournalist Moussa Abdel Karim was found handcuffed, near the city center of Sabha with gunshot wounds and signs of torture. Abdel Karim and his colleagues received threats on a regular basis while covering the news in the volatile city. Abdel Karim had co-written an article three weeks before his death, which detailed kidnappings and theft in the city⁷⁷.

Activists and medical personnel have also been targeted by the official and de-facto authorities in Libya. A number of them have been held in solitary confinement in Derna for several months in facilities under the control of the LNA, including Qurnada prison in Al-Bayda, without referral to the judicial authorities.

71 Update on violations of international human rights and humanitarian law during the ongoing violence in Libya, issued by the United Nations Support Mission in Libya and the Office of the United Nations High Commissioner for Human Rights, December 23, 2014, p. 4, available on the following link: https://www.ohchr.org/Documents/Countries/LY/UNSMIL_OHCHRJointly_report_Libya_23.12.14.pdf

72 The prevalence of lawlessness and assassinations was followed by the start of the operation to defeat Libya in Tripoli, and then Operation Dignity in Benghazi.

73 United Nations Document (A / HRC / 31/47), paragraph 48.

74 Libyan Center for Freedom of the Press, previous source, page 9.

75 United Nations Document (A / HRC / 31/47), paragraph 16.

76 United Nations, (A / HRC / 40/46), paragraph 44.

77 Committee to Protect Journalists, a statement entitled «Finding a kidnapped journalist shot and killed in Libya, on August 1, 2018, available via the following link: <https://2u.pw/XcRwm>

Relatives who sought to protest against prison officials for preventing family visits were threatened with violence and possible detention⁷⁸.

Additionally, four doctors and a paramedic were killed in an airstrike on a field hospital south of Tripoli, where at least eight other medical personnel were injured⁷⁹.

There were at least 58 other attacks on medical personnel and health facilities during 2019⁸⁰.

c. Restrictions on freedom of movement

Official authorities and armed groups in Libya seek to limit the movement of HRDs through intimidation and harassment. These limitations were codified in law by in 2014, which designated several territories in the south of the country as “closed military zones”. The law obstructed the access of civilians to certain roads in an attempt to curb illegal trafficking to persons; in the areas around Ghadames, Ghat, Uribe, Alshtee, Sabha, Murzuq and Kufra. The law also temporarily closed southern border crossings.

Government forces and independent armed groups have imposed obstacles on the freedom of movement by placing checkpoints in the areas they want to control. Checkpoints set up by armed groups after the outbreak of violence in Tripoli in 2014, by the Islamic Youth Shura Council in Derna and by Ansar al-Sharia in Benghazi, have all impeded movement within the country. The LNA

has also set up checkpoints targeting extremist groups around Benghazi and Derna.

Following the launch of operations Dignity and Fajr Libya, armed groups maintained effective control over movement between provinces and imposed restrictions thereon through military checkpoints. The government no longer exercises control over movement across the country⁸¹.

In 2017, the Military Governor of the region extending from Derna to Bin Jawad issued a decision banning Libyan women under the age of sixty from traveling without a mahram or male guardian⁸².

The decision sparked widespread criticism and staunch opposition in Libya from human rights and civil society organizations. Human rights organizations called for the decision to be rescinded because of its incompatibility with the legislative framework.

In view of public outcry, Libyan General Abdul Razek al-Nador suspended the decision⁸³

and it was later annulled by the Military Governor, who subsequently imposed a security permit requirement, issued by the competent authorities, for Libyans between the ages 18 to 45 from leaving the country⁸⁴.

The decision was justified by the Military Governor as an organizational procedure aimed at establishing the necessary controls to address threats to national security, and to protect Libyan youth from the divisive tactics of terrorist organizations, without prejudice to the rights and freedoms guaranteed by the legislation in

78 Security Council (S / 2019/19), paragraph 29.

79 CNN News Agency, entitled «The killing of 4 doctors and paramedics in an air strike on a field hospital in Tripoli, Libya», available through the following link: <https://2u.pw/dpkFX>

80 The United Nations Support Mission in Libya, news entitled «The United Nations Mission strongly condemns the ongoing attacks on the health sector including field hospitals and medical teams; and denies that it has access to the coordinates of field hospitals or their participation with anyone», available via the following link: <https://2u.pw/JhGqa>

81 Embassy of the United States of America in Libya, Human Rights Report in Libya for the year 2014, is available through the following link: <https://2u.pw/YqCU6>

82 Military ruler of Derna-Bin Jawad Decision No. 6 of 2017 regarding a travel ban, issued on February 16, 2017.

83 Al-Arabi AlJaded website, news entitled «The Military Governor of Eastern Libya requires security approval for travel for both sexes», published on February 24, 2014, available via the following link: <https://2u.pw/tpDpw>

84 Military ruler Decision No. 7 of 2017 regarding the abolition and addition of a provision in Resolution No. 6 of 2017, issued on February 23, 2017.

force. However, article 3 of the decision disproves the Military Governor's contention that the law was merely procedural because it assigns the responsibility of granting security approval to civil society organizations to the General Intelligence Agency⁸⁵.

This decision has essentially empowered Libya's Intelligence Agency to investigate HRDs travelling abroad, including by, among others, questioning the purpose of their travel and the type of activities they engage in. These investigations constitute a violation in and of themselves, as they restrict the right to free movement and compel HRDs to provide answers to the inquiries in order to obtain travel permits. Additionally, the decision does not stipulate the duration of the travel restriction, which leads to the possibility that it can continue indefinitely. This places arbitrary restrictions on the freedom of movement of Libyan youth in general, and HRDs in particular.

In response to the decision, the Civil Society Commission issued Circular No. (1) for the year 2018, requesting organizations working in Benghazi to inform the Commission when carrying out any activity with international organizations, whether inside or outside Libya. The circular also requires organizations to give ten days' notice prior to travel to the Commission for the purported purpose of coordinating with the security authorities to obtain a security clearance⁸⁶.

Since the beginning of the 2014 armed conflict in Tripoli, militias allied to various government agencies and criminal gangs have kidnapped or forcibly disappeared dozens of persons in the capital

Armed groups, including those affiliated with State institutions, have systematically committed the crime of arbitrary or extrajudicial detention, based on the individual's identity or group to which they belong. The prevalence of extrajudicial detention poses a serious threat to all Libyans, including HRDs.

Since the beginning of the 2014-armed conflict in Tripoli, armed groups associated with various government and criminal gangs have kidnapped or forcibly disappeared dozens of persons in the capital either for political gain or ransom. The perpetrators of these crimes have yet to be held accountable. Statistics issued by the Criminal Investigation Unit at the Ministry of Interior record 189 kidnappings in March 2017, with 68 cases relating to men, women and children in Tripoli in April alone⁸⁷.

According to reports by OHCHR, armed groups have, outside the framework of the law, arrested their opponents or suspected opponents, including political figures, HRDs, journalists and media personnel. On 30 March 2016, an armed group in Tripoli arrested a journalist to interrogate him about his social media posts, who subsequently alleged that during his arrest he was beaten with sticks and attacked by dogs. In another case, on 8 October 2017, an armed group supporting the LNA arrested four journalists, their driver and a woman in the area of Hun. They were released two days after they were interrogated about their work and political affiliations⁸⁸.

d. Arbitrary detention and kidnapping

The LNA and its affiliated armed groups target

⁸⁵ It was established by Law No. 7 of 2012 of the National Transitional Council in Tripoli, on February 6, 2012.

⁸⁶ Issued on March 17, 2018.

⁸⁷ Human Rights Watch, Libya: Enforced disappearance of an activist in Tripoli, high kidnappings, in a climate of impunity, available through the following link: <https://2u.pw/8bfEL>

⁸⁸ Violations behind bars: Arbitrary and unlawful detention in Libya, issued by the Office of the United Nations High Commissioner for Human Rights in cooperation with the United Nations Support Mission in Libya, April 2018, p. 15.

media personnel, activists, and other perceived critics or individuals insufficiently loyal to them, through extrajudicial detention. On 25 March 2017, members of the General Investigation Unit in Benghazi detained two men for a short period of time to interrogate them regarding comments made on social media about human rights violations that they alleged were committed by the LNA in Benghazi⁸⁹.

The Libyan Center for Freedom of Press documented several cases of arbitrary detention in the first quarter of 2017, including the arrest of Operation Dignity personnel and of cameraman Wiam Bin Zabiye while he was filming in the city of Derna, who was detained for several weeks



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before being released. On 5 February, armed masked men kidnapped Ali Salem, a journalist

working at the Libyan National Channel in Tripoli, and released him after the payment of ransom. A photojournalist for Channel 218, Muhammad Al-Musali, was also kidnapped by members of an armed group, in retaliation for his coverage of the bloody events of Abu Salim in Tripoli, during which he was severely beaten⁹⁰.

HRD Reda Fhail Al-Boom was arrested at the Maatika airport on 14 December 2019 upon his return from Tunisia, where he had been participating in activities related to International Human Rights Day. He remained missing for two days and was not allowed to contact his family or a lawyer. In an official statement, the Ministry of the Interior denied its involvement in the arrest of Al-Boom, and instead assigned blame for the kidnapping to the intelligence branch of the GNA.

Following pressure from civil society campaigns, the intelligence services announced that Reda Fhail Al-Boom had been detained after an arrest warrant was issued against him in coordination with the Office of the Public Prosecution. On 21 December 2019, Al-Boom appeared before the Public Prosecutor, which issued a warrant for his arrest 14 days after he was charged with communicating with foreign organizations and receiving funds in the form of grants from foreign organizations. He was also charged with working as journalist without the necessary license to do so. Al-Boom was detained for 12 days until his release was ordered by the Public Prosecutor on 26 December 2019. His arrest was brought on by a widespread smear social media campaign against his report on the human rights situation in Libya, for which he received the Open Eye Award from the German organization Media in Cooperation and Transition (MICT) in 2017.

e. Defamation campaigns and incitement of violence and hatred

⁸⁹ Previous source, page 18.

⁹⁰ Libyan Center for Freedom of the Press, Libyan media hostage of bloody attacks, first periodic report for 2017.

Divisive politics, societal turmoil and the absence of a legal framework governing the media, has resulted in the prevalence of hate speech in the media. State and private media outlets are frequently exploited by armed groups, which is exacerbated by the fact that media personnel in Libya have insufficient knowledge of press and media conventions and international standards.

Media personnel who criticize armed groups or prepare reports on human rights issues or corruption are often targeted, such as, for example, journalist and blogger Mukhtar Al-Hallaq who was working on articles related to the corruption of local officials. On 22 October 2018, he appeared before the Public Prosecutor for defamation and spreading false information, but was subsequently released on bail. He had been detained since 11 October at the Al-Ajailat police station, where he was allegedly subjected to ill-treatment.

Armed groups have also targeted prominent media figures. Two organizers of an annual media award, Suleiman Qashout and Muhammad al-Yaqoubi, were arbitrarily detained from 29 April to 15 July at the Maitika detention facility in Tripoli, which is controlled by the Special Deterrence Force.⁴³²⁹¹

According to the Libyan Center for Freedom of Press, 113 cases of hate speech against political parties, State institutions and civil society organizations were recorded between 16 and 21 February 16th 2017. «The media was targeted by 1.97% while civil society organizations were targeted by 1.31% of the hate speeches»⁹². Between 15 and 21 March, 903 cases of hate speech were documented, at a rate of 128 cases of hate speech per day. «The media was targeted

on 27 occasions of hate speech by (2.52%), six instances targeted activists by (0.56%)»⁹³.

Intensified violence against journalists in Libya has led to the exodus of over 83 Libyan journalists from the country between 2014 and 2018 as it became impossible for them to work in their cities due to the lack of security. Journalists continue to operate in a deteriorating security environment, replete with hatred and incitement of violence, and are thus consistently at risk⁹⁴.

f. Violations of the right to peaceful assembly and freedom of association

The freedoms of peaceful assembly and association are consistently violated by the key actors in Libya. In late 2012 human rights NGOs were targeted in Derna, including the staff of the Legal Center for Human Rights, who reported that their office locks had been changed and their belongings dumped outside the premises. In 2013, the headquarters of the Civil Society Organizations network in central Derna was targeted in an explosion.

In October 2014, the organization Jurists without Chains was forced to close its office in Benghazi after it was raided twice, and computers and documents were stolen in June and July 2014. In November 2014, statements issued by operation Fajr Libya warned the public against organizing demonstrations to mark the one-year anniversary of the 15 November 2013 Gharghour clashes, when armed groups from Misrata shot demonstrators leaving some 50 dead and hundreds injured⁹⁵.

In addition to these violent assaults on the

91 United Nations, (A / HRC / 40/46), paragraph 43.

92 Libyan Center for Freedom of the Press, Ibid.

93 Libyan Center for Freedom of the Press, Second Report, 15 to 21 March 2017, Armed Conflict, Terrorism Issues, Domination and Incitement, p. 21.

94 Libyan Center for Freedom of the Press, Annual Report 2018-2019, «Libyan Journalists, A Road Filled With Dangers and Violence», p. 5.

95 Update on violations of international human rights and humanitarian law during the ongoing violence in Libya, previous source, p. 5.

freedoms of assembly and association, a decision from the director of the Civil Society Commission in Misurata suspend the registration of 19 local organisations for a duration of 6 months, in allegation of violating local organisation regulation no.1/2016. The Commission threatened to completely annul the organisation's registration if they failed to adjust their status during the suspension period⁹⁶.

In its continued targeting of HRDs, the Civil Society Commission in Derna issued a letter on 16 December 2018 requesting civil society organizations to adjust their status within approximately one month from the letter's date of issuance, or else their registration would be revoked. In February 2019, the Civil Society Commission of Benghazi issued a decision to freeze the work of 37 registered organizations until further notice, without any justification given.

In August 2019, the Civil Society Commission, which is affiliated to the GNA, sent a letter to local organizations warning them against engaging or participating in any activity with international organizations locally or abroad, unless they inform the Commission about the activity at least two weeks before it is scheduled to take place. It further stipulated that international organizations would be held to account if the Commission was not notified.

On 14 November 2019, the Civil Society Commission in Tripoli requested local associations to submit the previous documentation relating

to status and registration in order for it to be replaced with new documentation. They were also required to submit annual reports for 2019 no later than mid-December, for the ostensible purpose of organizing and reviewing files in a way that ensures the procedural validity and legality of their work. Additionally, the Commission imposed a requirement on associations to submit a complete original file, otherwise they would be subjected to write off or dissolve⁹⁷.

These requirements violated Presidential Council Decision No. 286/2019, and were not comply to the Constitutional Declaration, which stipulates the write-off and dissolve penalty only in specific cases, not including refraining from renewing an organization's registration⁹⁸. Additionally, the Constitutional Declaration establishes the fiscal year from 1 January until the end of December per annum. Accordingly, the Civil Society Commission's request for local associations to submit reports before the end of the fiscal year, and its demand for organizations to re-establish themselves, undoubtedly illustrates that executive bodies in Libya do not respect the legal framework. Rather, the executive authorities aim to increase the burdens on HRDs, through excessive write off.

g. Targeting women

The authorities in Libya have consistently failed to ensure that women, including journalists, bloggers and HRDs, can freely express themselves

⁹⁶ The Director of the Civil Society Commission "Misurata Branch" Decision No. 29 of 2018 regarding the suspension of civil society organizations, issued on May 31, 2018.

⁹⁷ Bawaba Al-Wasat, a report entitled «The Civil Society Commission demands the local organizations to renew its declaration», available through the following link: <https://2u.pw/7gtST>

⁹⁸ Article (32) states that «the Commission shall write off the registry of the organization, association or institution by a reasoned decision in the following cases:

1. Committing any violation of the provisions of the applicable legislation, and repeating breaches of its own statute.
2. If it is proven that it is unable to achieve the goals for which it was founded.
3. If it disposed the funds for purposes other than those designated for them.
4. If the general assembly of the organization, association or institution did not meet for two consecutive years.
5. If it received any funds or donations without obtaining permission from the Commission».

and are protected from gender-based violence perpetrated by armed groups. Women who have exposed corruption or violence by either armed groups or the LNA have been subjected to threats, kidnapping and violence by both parties. They have further been subjected to gender-related insults by armed groups and defamatory social media campaigns, including allegations of adultery and prostitution. Negative gender stereotypes and the social stigma associated with women's involvement in activism have played a significant role in normalizing these forms of abuse. As a result, women have been forced to permanently withdraw themselves from the public sphere⁹⁹.

On 27 December 2018, law enforcement operating under the authority of the Ministry of Interior in Benghazi broke into a café in the city, where a group of about twenty female Twitter activists, most of whom were accompanied by their mothers, gathered to meet. Law enforcement officers stormed the café and arrested the

manager and staff on the grounds of “immoral behaviour”¹⁰⁰.

Seham Sergewa, a member of the HoR, was also abducted by an armed group in military fatigues, after her house was raided on 17 July 2019. During the raid, her husband was shot in the leg and her 16-year-old son was severely beaten. The kidnapping and raid occurred after Sergewa criticized the LNA's recent armed offensive on Tripoli¹⁰¹.

h. Lack of accountability

Since 2011, a combination of the absence of the rule of law in Libya and a judiciary that is unable to effectively carry out its functions, has resulted in a lack of legal protection and remedies for victims of human rights violations. The absence of judicial accountability has, in turn, emboldened perpetrators of human rights violations to commit additional violations.

Libya's weakened judiciary is largely attributable to the targeting of judges, prosecutors and lawyers by armed groups. UNSMIL has received information concerning over 30 violent incidents targeting judicial officials and buildings throughout the country since mid-2012. These incidents have included attacks, death threats, kidnappings and assassinations, particularly in the eastern region by armed groups, in addition to the arson and the destruction of judicial facilities, including court buildings, offices of prosecutors and law enforcement officials, correction or



⁹⁹ Amnesty International, Libya 2018, <https://www.amnesty.org/en/countries/middle-east-and-north-africa/libya/report-libya/>

¹⁰⁰ Amnesty International, Libya: Fears mount for abducted woman politician a month since she went missing, <https://www.amnesty.org/en/latest/news/2019/08/libya-fears-mount-for-abducted-woman-politician-a-month-since-she-went-missing/>

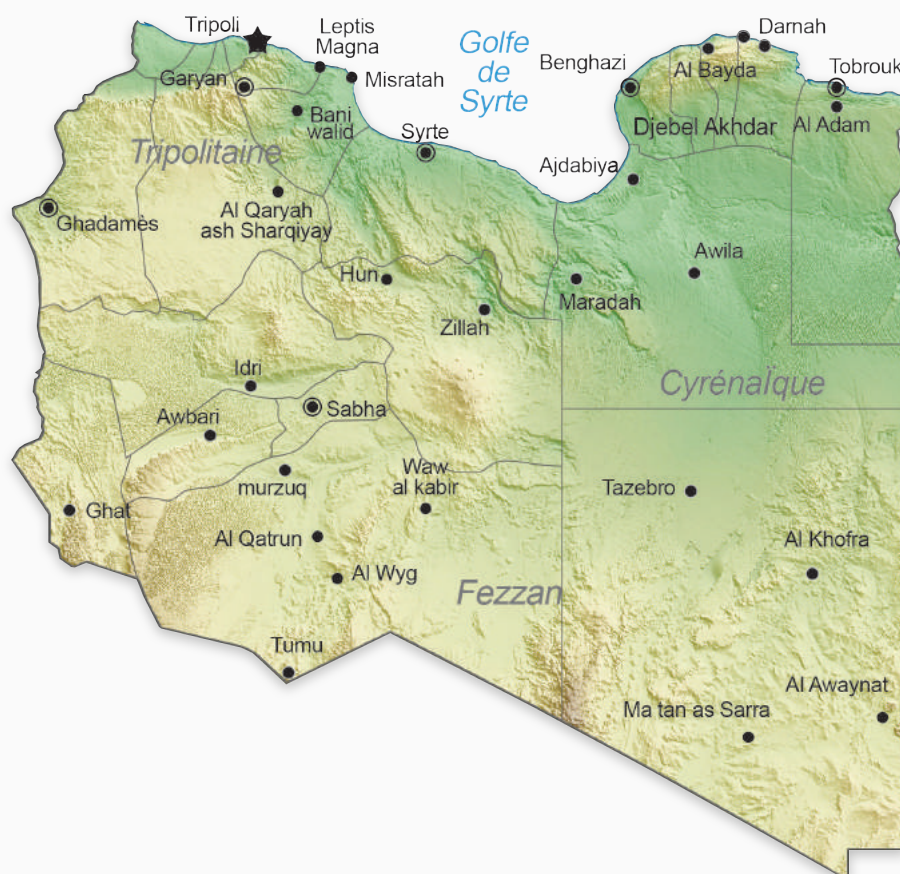
¹⁰¹ Amnesty International, Libya: Fears mount for abducted woman politician a month since she went missing, <https://www.amnesty.org/en/latest/news/2019/08/libya-fears-mount-for-abducted-woman-politician-a-month-since-she-went-missing/>

detention centers and prisons¹⁰².

Six judges were assassinated from 2013 to 2016 in Benghazi, Sirte, Derna and Tripoli, in addition to multiple assassination attempts, such as that against the head of the Ajdabiya Court of First Instance in Benghazi in 2014¹⁰³. In southern Libya, armed groups abducted judge Abdelsalam Al-Senoussi and prosecutor Ismail Abdelrahman, along with two security officers, from a courthouse in the town of Waddan on 22 July in retaliation for the detention of two people on smuggling charges. All the abducted men were

released after two days.¹⁰⁴

Although Libya's judiciary has resumed its work, it remains unable to hold perpetrators of grave violations to account. Neither the courts nor the investigative authorities have been able to provide reparations to victims of grave human rights violations, or to bring those suspected of criminal responsibility for the violations to justice. The perpetrators continue to operate without fear of being held accountable or charged for their crimes.



102 Human rights defenders in the attack, issued by the United Nations Support Mission in Libya and the Office of the United Nations High Commissioner for Human Rights, p. 4.

103 The Judiciary in Libya: An Authority Working at the Heart of Conflict, a research paper by Marwan Al-Tashani, published by the Cairo Institute for Human Rights Studies in 2019.

104 Amnesty International, Libya 2018. Available on the following link: <https://www.amnesty.org/en/countries/middle-east-and-north-africa/libya/report-libya/>

Chapter III

Defenders Center for Human Rights 2019-(DCHR), Statistics for the 2018 Comprehensive Survey of Defenders

Since 2016, the DCHR has been conducting a survey of HRDs working both inside Libya and abroad. The statistics included in this report are taken from the DCHR's database and have been attained through the comprehensive monitoring, documentation and surveying of HRDs in Libya.

These statistics do not reflect the situation of all HRDs in Libya, but, rather, the status of the HRDs with whom the DCHR has been able to establish contact. Nevertheless, the statistics give a general overview of the dangers facing HRDs in Libya. Since its establishment, the DCHR has monitored a total of 210 cases concerning HRDs, including 105 cases of male HRDs and 105 of female HRDs, 34 of whom are in immediate danger. The DCHR aspires to monitor an additional 150 HRDs by the

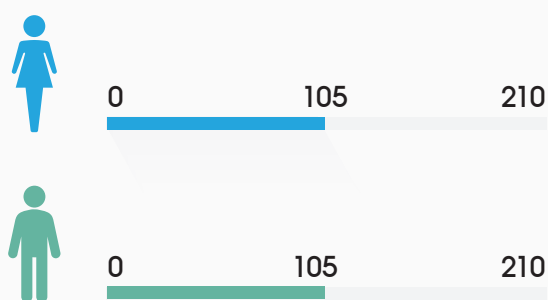
end of 2020.

While the majority of HRDs who were monitored were working in both local and international human rights organizations, others, worked independently.

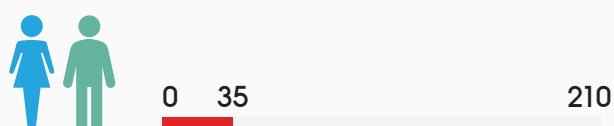
Through surveys and monitoring processes, the DCHR sheds light on the status of HRDs in Libya in 2018 and 2019. The data collection process focused on the types of violations committed, the geographical distribution of HRDs, and their by gender.

Note: All data and statistics derive from the DCHR's database.

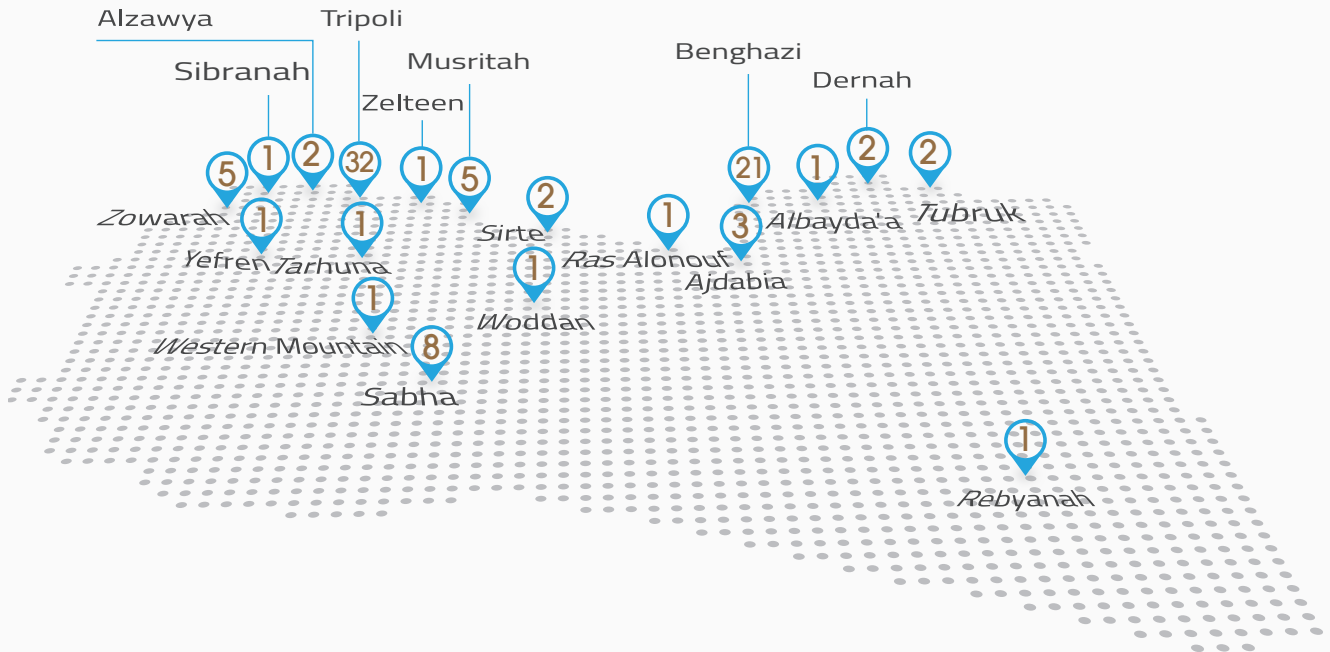
The number of recorded HRDs by gender; since the establishment of DCHR



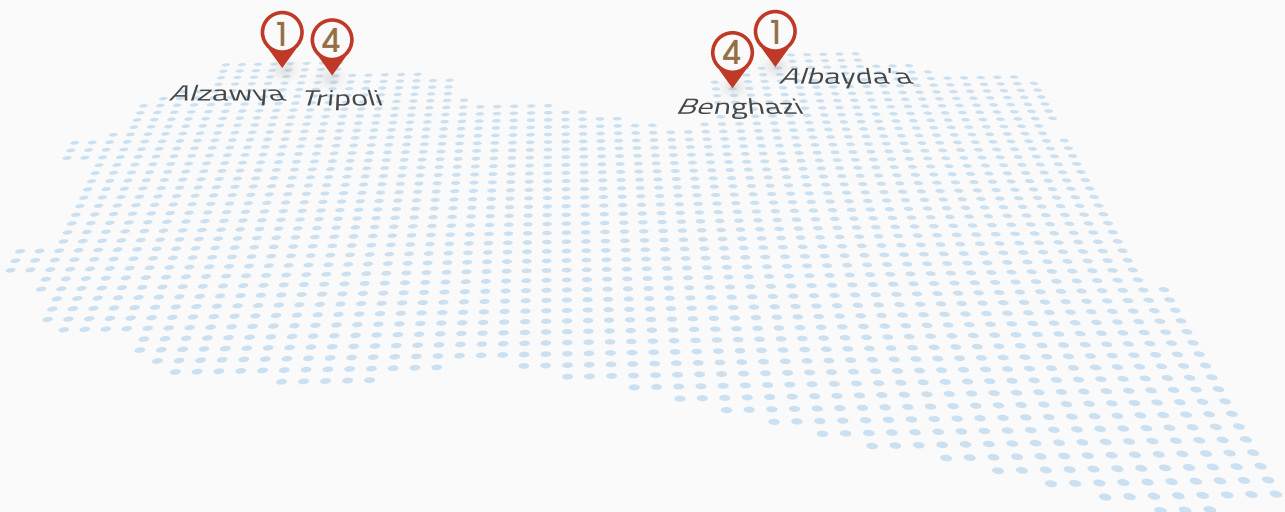
The number of recorded HRDs at risk since the establishment of DCHR



Distribution of defenders according to cities for the year 2018
- the sample of 91 defenders -

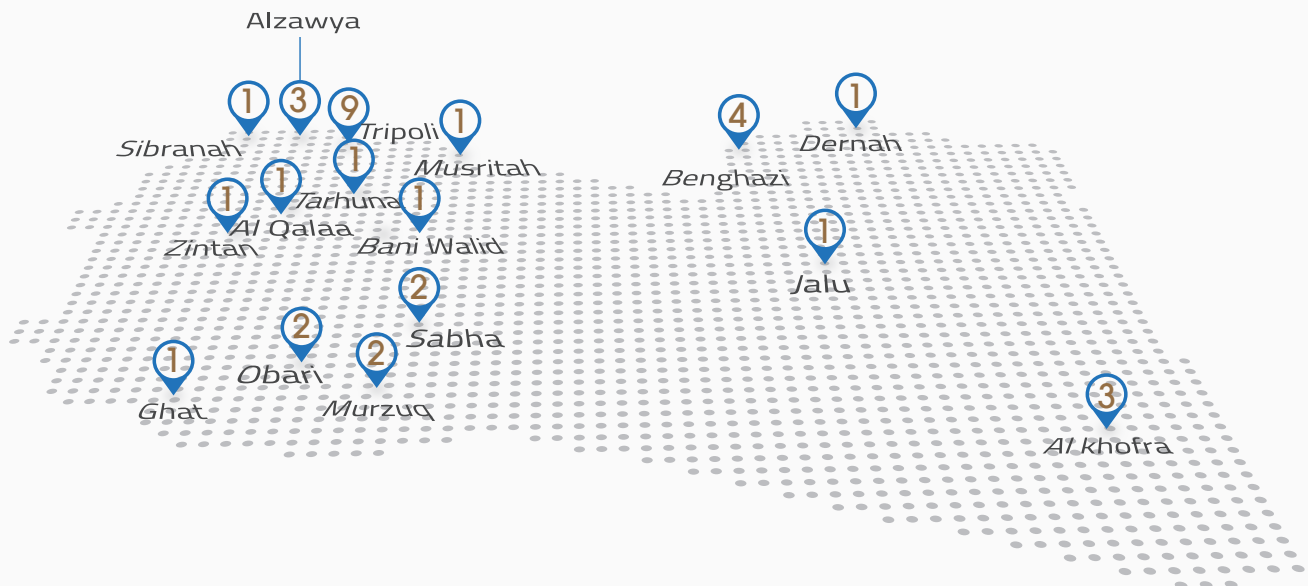


Distribution of defenders at risk by cities for the year 2018
- with a sample of 10 people -



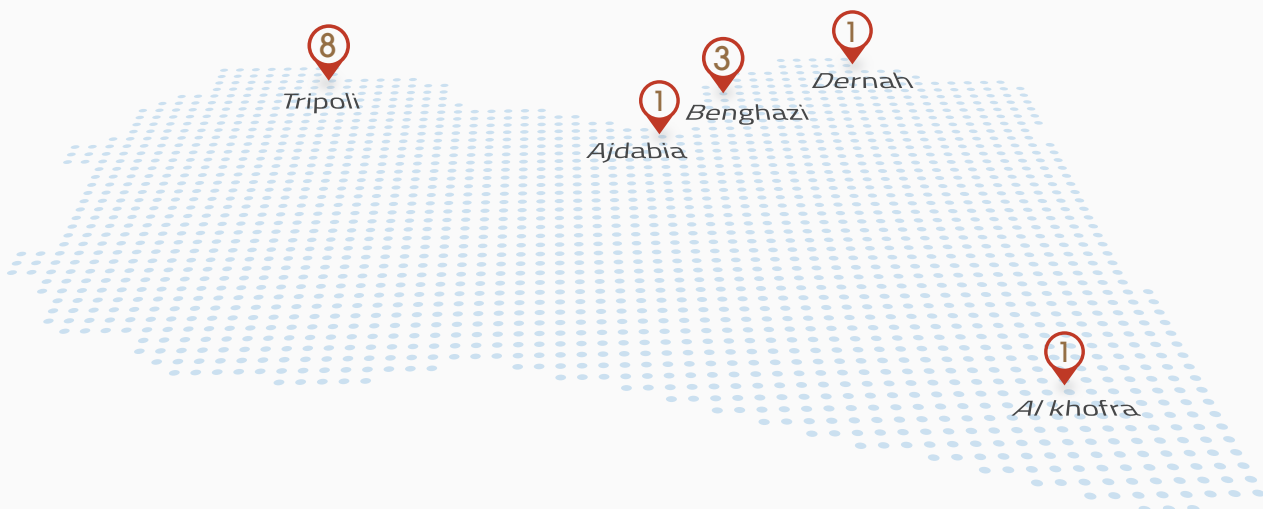
Distribution of defenders according to cities for the year 2019

- the sample of 34 defenders -

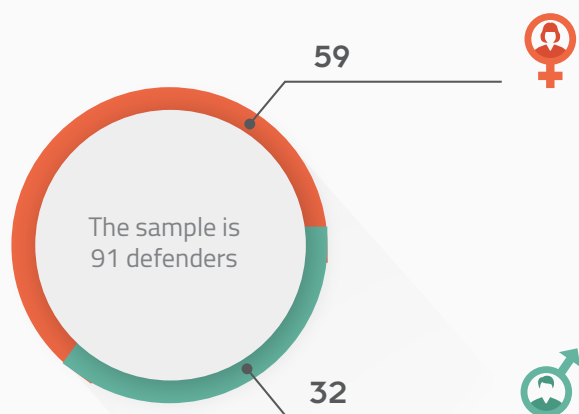


Distribution of defenders under threat by cities for the year 2019

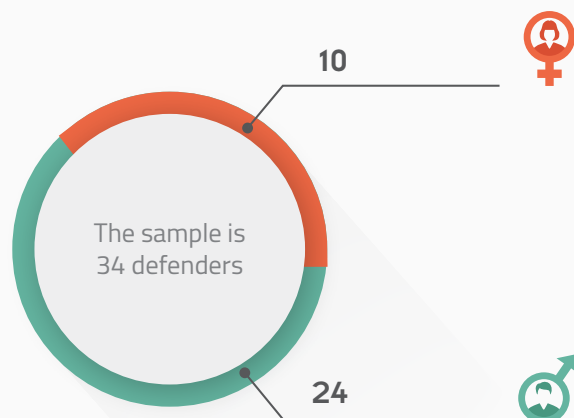
- the sample is from 14 persons -



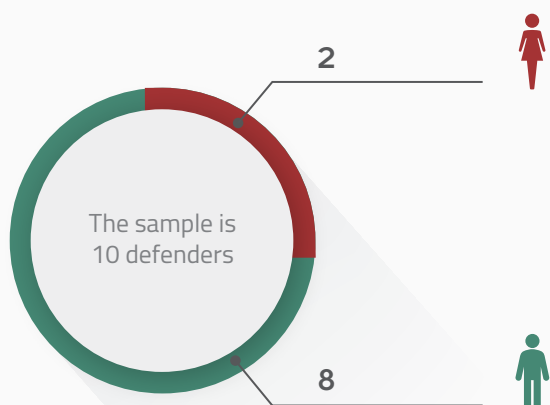
The number of defenders according to gender for the year 2018



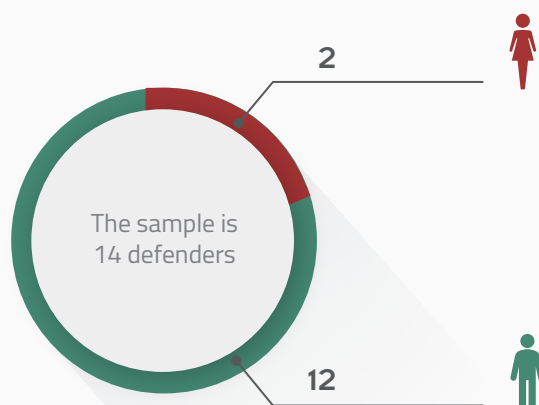
The number of defenders according to gender for the year 2019



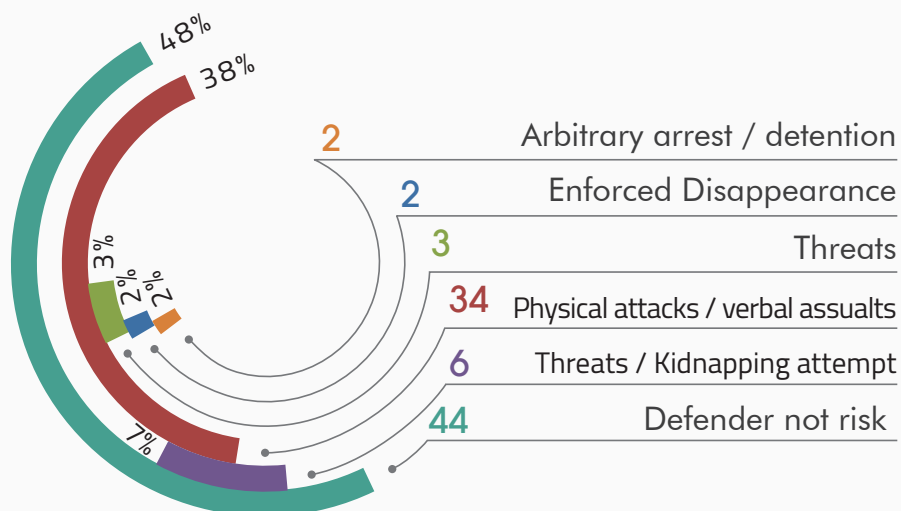
Number of defenders at risk for the year 2018 according to gender



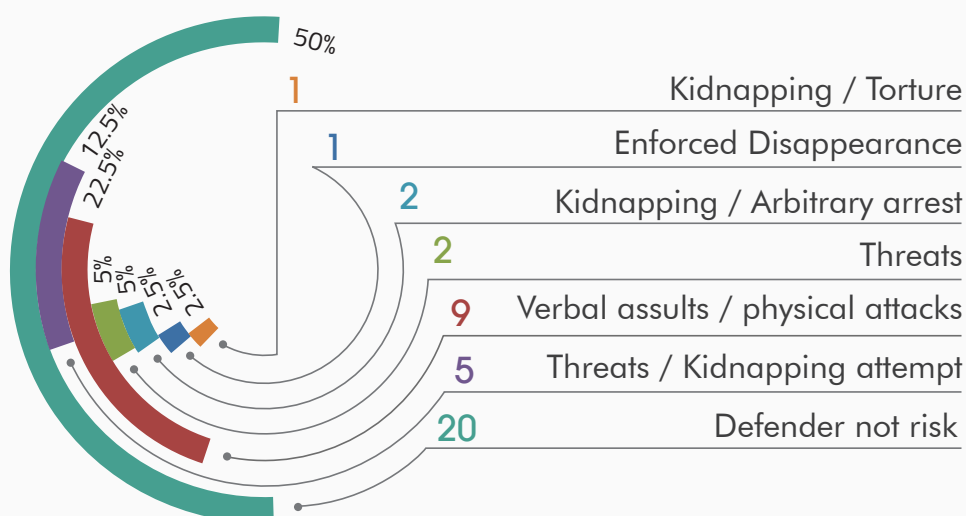
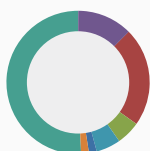
Number of defenders at risk for the year 2019 according to gender



The most prominent violations suffered by defenders during 2018
- The sample of 91 defenders -



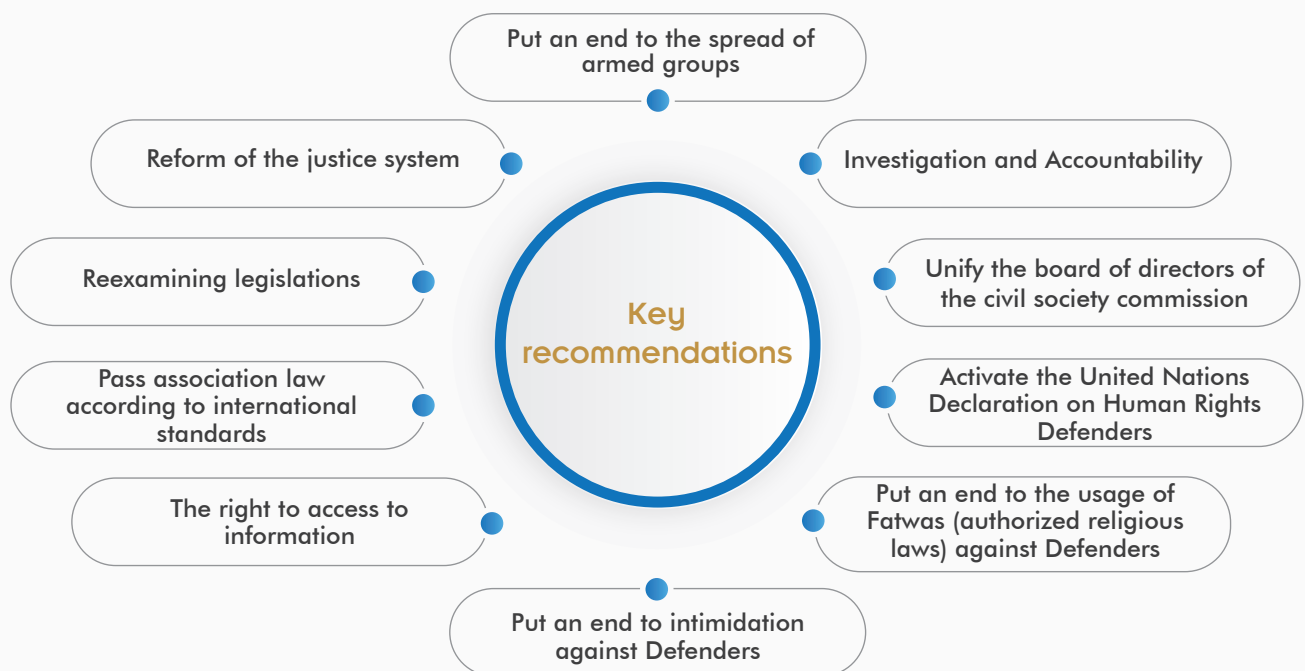
The most prominent violations suffered by defenders during 2019
-The sample of 33 defenders*-



*There have been HRDs who have been subjected to more than one type of violation

Chapter IV

Primary recommendations



After reviewing the legislative structure governing the work of human rights defenders in Libya, and the continued and repeated violations against these human rights defenders throughout the country, the DCHR recommends the following:

- Take urgent measures to stop the spread of armed groups in order to reduce their repeated violations of international human rights and humanitarian law.
- Take the necessary measures to reform the judiciary and enable its effective performance, including reforming the judicial police, to address threats preventing the administration of justice.
- Reconsider legislation impeding the work of human rights defenders in Libya, and remove restrictions on basic freedoms to enable them to carry out their work effectively.
- Enact a law regulating the work of associations in alignment with international standards on freedom of association and Libya's international obligations under the International Covenant on Civil and Political Rights, and repeal all contradicting regulations in force related to that matter.
- Issue a law that enshrines the right of individuals to obtain and circulate information, since the right to seek and receive information is indispensable to the application of the right to freedom of expression.
- Take urgent measures to stop media practices of inciting hatred against human rights defenders.
- Stop the use of religious fatwas that affect the work environment of human rights defenders.
- Activate the United Nations Declaration on Human Rights Defenders to ensure that they enjoy the rights necessary to carry out their work and protect them from all forms of abuse.
- Unify the boards of directors of the Civil Society Commission in order to achieve civil society objectives.
- Conduct urgent investigations into all alleged violations of international human rights law, including arbitrary detention and extrajudicial killings, while providing protection for defenders of refugee and migrant rights. Put an end to Libyan and European policies that have caused danger to, and the prohibition and obstruction of, humanitarian organizations carrying out shipwreck operations in the Mediterranean Sea.