

Human Rights Briefing (November – December 2020)

The Libya Platform and CIHRS¹

Addressing lack of accountability and rule of law remains a priority to protect fragile peace process achievements

Following the 23 October 2020 ceasefire declaration, the end of 2020 saw the continuation of United Nations-led consultations under the framework of the Libyan Political Dialogue Forum (LPDF). The peace process, in spite of continued belligerent rhetoric and military build-up², has made progress, eventually leading to the selection³ of a new transitional executive authority that should lead the country until parliamentary and presidential elections can be held on 24 December 2021.

Several obstacles remain however, which may impede the path to free and fair elections; first and foremost, the security situation, the power of armed groups throughout the country, and the impunity with which they continue to operate. Armed groups affiliated with the authorities on both sides, including extremist groups, continue to perpetrate grave violations while incapacitating the national judiciary. Authorities since 2014 have failed to take practical steps to end these abuses. The assassination of lawyer and political activist Hanan

1 The Libya Platform is a Libyan human rights coalition established in 2016 currently gathering 14 human rights organisations.

2 CNN, “Foreign fighters were meant to leave Libya this week. A huge trench being dug by Russian-backed mercenaries indicates they plan to stay”, January 22, 2021.

<https://edition.cnn.com/2021/01/22/africa/libya-trench-russia-intl/index.html>

3 UNSMIL, “Acting Special Representative of the Secretary-General for Libya Stephanie Williams Remarks Following the Closing of the Vote on the New Executive Authority – LPDF”, February 5, 2021.

<https://unsmil.unmissions.org/acting-special-representative-secretary-general-libya-stephanie-williams-remarks-following-closing>

al-Barassi⁴ in broad daylight in Benghazi on 10 November served as a painful reminder of that reality.

In addition to physical attacks, both administration and state security officials have continued to impede the work of civil society and restrict public freedoms, as shown by the Civil Society Commission's persistence⁵ in applying Presidential Council Decree No. 286 issued in 2019 despite its unlawful⁶ and repressive nature.

Despite their withdrawal being included in the October ceasefire agreement, foreign forces remain entrenched⁷ in the country, especially in the Al Jufra, Al Khadim, Al Watya airbases, maintaining⁸ the risk of a relapse into violent conflict or of an unofficial partition of the country even after a potential political and institutional reunification.

4 Cairo Institute for Human Rights Studies, "Libya must end systematic impunity and investigate the killing of lawyer and political activist Hanan al-Barassi", November 11, 2020.

<https://cihrs.org/libya-must-end-systematic-impunity-and-investigate-the-killing-of-lawyer-and-political-activist-hanan-al-barassi/?lang=en>

5 Commission of Civil Society – Libya, December 13, 2020.

<https://www.facebook.com/ccslibyacom/posts/1031637240652972>

6 Cairo Institute for Human Rights Studies, "Libya: CSOs must challenge executive authorities' denial of freedom of association", November 25, 2019.

<https://cihrs.org/libya-csos-must-challenge-executive-authorities-denial-of-freedom-of-association/?lang=en>

7 Foreign Policy, "The Conflict in Libya Is Getting Even Messier", February 4, 2021.

<https://foreignpolicy.com/2021/02/04/libya-conflict-un-report-uae-haftar/>

8 War on the Rocks, "The Pendulum: How Russia Sways its Way to More Influence in Libya", January 7, 2021.

<https://warontherocks.com/2021/01/the-pendulum-how-russia-sways-its-way-to-more-influence-in-libya/>

In order to safeguard the progress of the peace process, the Libya Platform reiterates⁹ its call to states to address the lack of accountability and rule of law and ensure that basic conditions are met for the organisation of free and fair elections. We call on states to:

- Ensure that the new transitional executive authority adheres to the Roadmap¹⁰ agreed upon by LPDF members in November, including the annexed Key Principles¹¹ for a Rights-Based Roadmap developed by Libyan civil society and human rights actors.
- Within this Roadmap, ensure that security sector reform is addressed as a priority to integrate, decommission, disarm, and rehabilitate members of existing militias and armed groups.
- Press Libyan authorities to ensure the organisation of free and fair elections by repealing arbitrary executive decisions and laws infringing on public freedoms, ending the arbitrary detention, prosecution and ill-treatment of members of civil society and the press, including in military courts, enabling international and Libyan civil society to monitor elections, and ensuring fair political representation for ethnic minorities and women.
- Place conditions on any financial support to Libyan authorities ahead of the elections, based on steps taken to adhere to these recommendations.

9 Cairo Institute for Human Rights Studies, “Libya: The Cairo Institute for Human Rights Studies and the Libya Platform coalition present an updated Libya Roadmap for Human Rights Reform and Restoring the Rule of Law”, September 29, 2020.

<https://cihrs.org/libya-the-cairo-institute-for-human-rights-studies-and-the-libya-platform-coalition-present-an-updated-libya-roadmap-for-human-rights-reform-and-restoring-the-rule-of-law/?lang=en>

10 UNSMIL, Statement by Acting Special Representative of the Secretary-General for Libya Stephanie Williams on the First Round of the Libyan Political Dialogue Forum”, November 16, 2020.

<https://unsmil.unmissions.org/statement-acting-special-representative-secretary-general-libya-stephanie-williams-first-round>

11 UNSMIL, “Key Principles for a Rights-based Roadmap Towards Sustainable Peace in Libya”, November 6, 2020.

https://unsmil.unmissions.org/sites/default/files/civil_society_principles_doc_for_lpdf_eng_-_7_nov_2020.pdf

- Support the United Nations in deploying an independent election observation mission;
- Ensure that the UN Independent Fact-Finding mission to Libya, currently the only mechanism able to investigate human rights violations in the country and support accountability, has sufficient resources to carry out its investigation in full and in time, and consider using the findings to sanction perpetrators of violations;
- Support the UN in deploying ceasefire monitors promptly and use all diplomatic means, including targeted sanctions, to deter spoilers of peace and pressure foreign actors into stopping unlawful military build-up and disengaging from the Libyan territory;
- Firmly denounce perpetrators of violations, including attacks on civilians and on fundamental freedoms;
- Re-evaluate arms transfers¹² – including post-sale services¹³ – and security cooperation to states present in Libya, in light of it potentially contributing to violating the UN arms embargo.

A non-exhaustive account of human rights and humanitarian law violations in November and December 2020 is given below.¹⁴

12 Cairo Institute for Human Rights Studies, “International Coalition of NGOs Calls on the United States to Immediately Halt Proposed Arms Sales to the UAE”, November 30, 2020.

<https://cihrs.org/international-coalition-of-ngos-calls-on-the-united-states-to-immediately-halt-proposed-arms-sales-to-the-uae/?lang=en>

13 EU Arms, “Exposing the dependency-relations between European arms-suppliers and abusive end-users”.

<https://euarms.com/landing>

14 Full names may be omitted or altered to protect the safety of individuals concerned.

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I. Extrajudicial and Summary Killings and Inhumane Treatment

On 2 November, Basem Muhammad Salem Al-Malti, 31 years old, was arrested by the Tarhuna Security Directorate support force on the order of Captain Mohamed Al-Wiyah. Hours after his arrest, Al-Malti died as a result of torture. His family was prevented from filing a report at the police station.

On 4 November, Khalifa Saleh al-Gaddafi was found dead inside his car, with a bullet to the head, in the Al-Sabri area in Benghazi.

On 10 November, lawyer and political activist Hanan Muhammad Al-Barassi was assassinated by masked gunmen on 20th Street in central Benghazi, one day after she criticized military figures close to General Khalifa Haftar and the Libyan Arab Armed Forces (LAAF) on social media.

On 22 November, an inmate at the Al-Kuwaifiyya Prison in Benghazi, Hani Abdel-Baset Al-Fakhry, died of a chronic disease after the prison failed to provide the necessary medical care.

On 30 November, two unidentified bodies were found, bound and shot dead in southern Benghazi.

On 4 December, the body of an Egyptian citizen was found in Bir al-Ashhab, east of Tobruk, bearing signs of torture.

On 24 December, Ayman Abdullah Abu Qasisa was killed in Hun by Janjaweed mercenaries of the 128th Battalion, affiliated with the Libyan National Army group (LNA).

On 28 December, an unidentified body bearing marks of torture was found on 20th Street in the centre of Benghazi.

On 29 December, Muhannad Shteivi Al-Tarshani, 28 years old, was shot dead by unidentified gunmen in Al-Sawani, south of Tripoli.

On 31 December, 65-year-old Ali Saad Khalifa al-Megrahi was shot and killed by unknown assailants in the Abd al-Kafi district in Sabha, southern Libya.

Search and recovery of mass graves and bodies in Tripoli and Tarhuna

The search and recovery of the bodies of deceased civilians and combatants in separate locations around Tripoli and Tarhuna continues. The search teams of the Public Authority for Search and Identification of Missing have recovered at least twenty-seven additional bodies in the period under review.

On 5 November 2020, twelve bodies, including four badly decomposed, were recovered in five mass graves in the Mashrou El Rabt neighbourhood in Tarhuna. One of these bodies was identified as that of a citizen, Al-Mabrouk Al-Khalif. Between 7 and 18 November, six other bodies were recovered in the same location.

On 23 November, two unidentified corpses were recovered in a mass grave in Area n°4 in Tarhuna.

On 24 November, two unidentified corpses were recovered in Khallet Al Furjan, south of Tripoli.

On 23 December, the search teams in the city of Tarhuna recovered four other unidentified bodies in two mass graves in the Mashrou El Rabt neighbourhood.

II. Indiscriminate Attacks

On 28 November, a child was wounded after the Tariq Bin Ziyad Brigade stormed the Sharb residential neighbourhood in Ubari, southwest Libya.

On 2 December, 16-year-old Musaab Jum'a Daw bin Masoud was shot and killed, and two other students were wounded as they were leaving school.

On 25 December, a stray bullet killed a civilian, Nadia Al-Duraibi, in her home in the Tajoura region.

On 26 December, a 15-year-old child, Muhammad Taher Al-Khafifi, was killed after being hit by a stray bullet near his house in the Dollar district of Benghazi.

On 29 December, the doctors' room in Al Jalaa Hospital in Benghazi was stormed by a gunman carrying a grenade, who took a doctor hostage to ensure his release. He was eventually arrested and no injuries were reported.

On 30 December, Yunus Sharaf al-Din al-Hasnawi, 26 years old, was killed after a mortar shell landed on the Mansheya neighborhood in Sabha, southern Libya, in the midst of clashes within the Qadhadfa tribe.

III. Enforced Disappearance and Arbitrary Detention

On 11 November, Issa Muhammad Al-Mahdi Qunun was kidnapped by unknown gunmen in Sabha, before local security services freed him on November 24.

On 22 November, Fatima Muhammad Ahmad Yahya, 21, and her infant, Alaa Khemna Mawya, from the Mashrou' district in Ubari, were kidnapped by unknown individuals. On 4 December, she was found dead in another neighbourhood of the city, her body was recovered by the local Red Crescent team. On 21 December, the body of the infant was found in a sewage well.

On 1 December, Dr. Al-Siddiq Bin Dallah was kidnapped from his home in Tripoli by unknown gunmen. On 6 December, he was freed by forces of the Ministry of Interior.

On 25 December, an unknown armed group in Brak Al-Shati, southern Libya, kidnapped four citizens from Ubari and took them to an unknown location.

On 25 December, activist and human rights defender Muhammad Radwan was arrested in Tawergha and transferred to Misrata without being informed of the reason of his arrest. He was eventually released on 26 December, but is under investigation from the security services of Misrata.

The Tripoli Special Deterrence Force militia is reported to be detaining a number of activists and bloggers, whom they accused of debauchery, immorality, communicating with international organizations and preaching Shiism or Christianity. In addition to being arbitrarily and unlawfully detained, they suffer from overcrowding and poor sanitary

conditions. Since the outbreak of the Covid-19 pandemic, detainees are also not allowed visits from their families and are confined in a cell. Similar cases of unlawful detentions, ill-treatment and torture are also prevalent in eastern Libya.

IV. Attacks on Public Freedoms

(1) Freedom of Peaceful Assembly and Association

The Civil Society Commission remains committed to implementing Executive Order 286 issued in 2019, which gives executive authorities arbitrary extensive powers to restrict, suspend and dissolve civil society organisations. The Commission sought the opinion of the Legal Unit within the Supreme Judicial Council, to enquire about the extent of the Commission's mandate to set controls for the work of local and foreign non-governmental civil society organisations, including by making them sign a pledge that they will not enter into communication with any embassy or international organisation without prior authorization from executive authorities.

On 4 November 2020, Counsellor Mahmoud Al-Kish, head of the Legal Unit, responded in support of the implementation of Executive Order 286, saying: “It is not permissible for public bodies and civil society groups to make any contact with foreign entities as specified in Article 27 of Law n°2 of 2001 [on organising political and consular work] except through the Ministry of Foreign Affairs.”

On 25 November 2020, the Tanarout Collective for Libyan Creativity in Benghazi issued a statement¹⁵ denouncing hate speech from the General Authority for Endowments (Awqaf) and Islamic Affairs in the eastern-based Libyan Interim Government, which they claim has misrepresented the Collective and incited against them and their members. According to the Collective, the General Authority has sent malicious reports and complaints to various security services in eastern Libya falsely accusing them of spreading Freemasonry,

¹⁵ Tanarout Collective for Libyan Creativity, November 25, 2020.

<https://www.facebook.com/TanaroutLy/posts/2800140610303104>

Christianity and Atheism, referring to the books and movies that the organisation has selected to use for its various cultural activities. The Authority has accused the Collective of moral decay based on their organised mixed-gender gatherings. As a result, fearing for the security of its members, the organisation suspended its activities on 3 December 2020 until further notice. Individual members of the organisation are also facing charges under Penal Code Article 500 “Offering or Trading in Indecent Items” and Article 501 “Indecent Acts and Obscene Language”.

(2) Freedom of Expression and Freedom of the Press

On 5 November, photojournalist Salah Munbeih al-Zway was released, after the Internal Security Agency in Ajdabiya arbitrarily arrested¹⁶ him on 27 October based on vague and unsupported charges of supporting terrorism, using Law n°3 of 2014 on Combatting Terrorism¹⁷ [3/2014] which employs an overly broad definition of the terrorist act.

Mohammed Bayou, head of the Government of National Accord's Media Office, was released on 10 November 2020, after he and his two sons were kidnapped by the Tripoli Revolutionary Brigade (TRB) in Tripoli on 20 October.

On 2nd December, activist and human rights defender Khadija ‘Andidi, coordinator of the “No Discrimination” movement in Ubari, was subjected to an assassination attempt, after she criticized online the storming of a neighbourhood in Ubari by the Tariq Bin Ziyad Brigade on 28 November.

On 26 December, the General Department of Central Support of Al-Qubbah, eastern Libya, confiscated an imported container of novels from renowned Egyptian writer Ahmed Tawfiq,

¹⁶ Libyan Organization for Independent Media, “The arrest of the photojournalist, Salah AL Zoui, is a new violation of the freedom of press in the east of Libya”, October 29, 2020.

<http://lofim.org.ly/archives/494>

¹⁷ Cairo Institute for Human Rights Studies, “Libya: Photojournalist Ismail Al-Zoui sentenced to 15 years of prison after unfair Trial”, August 3, 2020.

<https://cihrs.org/libya-photojournalist-ismail-al-zoui-sentenced-to-15-years-of-prison-after-unfair-trail/?lang=en>

on the basis that it promoted the worship of the devil and magic. The General Department of Central Support acted outside the bounds of its jurisdiction by confiscating the books.

V. Migrants, refugees and asylum-seekers

On 2 November, the Libyan Coast Guard forcibly returned 182 migrants from the Central Mediterranean, including eight children.

On 10 November, a 15-year-old Eritrean refugee was killed and another child wounded by a bullet after gunmen stormed their shelter in the Qarqarsh district in Tripoli and opened fire indiscriminately.

On 12 November, at least thirty bodies identified as migrants of different nationalities, among them children, were found washed up on a beach in Al Khums, east of Tripoli.

In November and December, the shelter and deportation centre in Kufra, southern Libya, unlawfully deported a total of 537 migrants, potential asylum-seekers, to Sudan.

On 2 December, an Egyptian migrant was killed and another wounded after security forces shot at them in Al-Marj, after allegedly pursuing a car they were in.

On 27 December, ten Somali migrants, most of them minors, were found in Tripoli after being held in captivity for several months in a human trafficking warehouse on the outskirts of Bani Walid.

According to the International Organization for Migration, in 2020, 11,891 migrants and asylum-seekers were forcibly returned to Libya from the Central Mediterranean, most of them to detention. A total of 381 drowned bodies were retrieved while 597 were reportedly missing at sea.

VI. Violations of International Humanitarian Law

Displaced individuals returning to Western Libya following the withdrawal of the Libyan National Army and affiliated forces in June 2020 have fallen victim to explosive devices and landmines, planted by LNA-affiliated groups as they left. The UN Office for the Coordination of Humanitarian Affairs (OCHA) reported 206 casualties (73 killed and 133 injured) in 2020 from these explosives.

In the period under review, on 24 November, a 7-year-old child, Ali Omar Al-Bahil, was killed, and another child was injured in a mine explosion in Wadi al-Rabi, south of Tripoli. On 23 December, 12-year-old Samiha Omar Al-Warfali was wounded as a result of an exploding remnant of a mortar shell from the warfare in her family's farm, west of Benghazi.