

UNIVERSAL PERIODIC REVIEW 2020 FACTSHEET

TARGETING OF CIVILIANS

Key Facts

- During the conflict that took place between April 2019 and June 2020, all parties to the conflict have been responsible for indiscriminate attacks against civilians and civilian objects such as airports, schools, hospitals, and ambulances. Ground fighting, explosive remnants of war, and airstrikes are the leading causes of civilian casualties.
- As a result of the conflict, the United Nations Support Mission in Libya (UNSMIL) documented at least 1043 civilian casualties, including 462 deaths and 581 injured, between 1 April 2019 and 30 June 2020.
- UNSMIL estimated that at least 63 attacks have been carried out against health facilities, ambulances and health care workers since April 2019, resulting in 80 deaths and 61 injuries. Between 1 April and 30 June 2020 there were 9 attacks on schools.
- Such indiscriminate attacks constitute clear violations of international humanitarian law and may amount to war crimes. Libya has failed to abide by its obligations to protect civilians and civilian objects.

Recommendations to Libya

1. Cease immediately all acts of violence against civilians and take all necessary measures to guarantee the protection of all civilians and civilian objects from attacks.
2. Promptly investigate in a transparent and impartial manner violations of international humanitarian law and human rights law and ensure that those responsible for violations are held accountable.
3. Support investigations into possible war crimes and crimes against humanity, as required by UN Security Council Resolution 1970 (2011).
4. Offer the Fact-Finding Mission (FFM) established by the UNHRC by resolution A/HRC/43/L.40 unhindered access to the country to investigate war crimes and identify perpetrators to end the cycle of impunity.

ENFORCED DISAPPEARANCES

Key Facts

- Enforced disappearances are used as a tool to silence dissenting voices and to target individuals for a wide variety of reasons including, but not limited to, race, real or perceived political affiliations and tribal affiliations.
- The Libyan State, or militias affiliated to the Libyan State, routinely abduct individuals from their homes, streets, checkpoints, or places of work. Victims of enforced disappearance are then held in official and unofficial places of detention with no contact with their families and no access to lawyers or judicial oversight, which places them outside the protection of the law. While in arbitrary detention, victims are often subjected to torture and extrajudicial killings.
- To this date, thousands are estimated to be forcibly disappeared. However, the lack of reporting by the families of victims, partly due to fear of reprisals, makes it difficult to know the exact scale of the practice in the country.
- Reports of enforced disappearances of private individuals, state officials, captured fighters and civil society activists have increased since April 2019, following the launch of the offensive on Tripoli by the Libyan Arab Armed Forces (LAAF) led by Khalifa Haftar.

Recommendations to Libya

1. Immediately put an end to the widespread use of enforced disappearance; disclose the whereabouts and fate of those held under conditions of enforced disappearance and grant them full access to lawyers and their families.
2. Ratify without delay the International Convention for the Protection of All Persons from Enforced Disappearance and adopt a definition of enforced disappearances in domestic law that is consistent with the Convention's definition.
3. Amend articles in the Penal Code and the Code of Criminal Procedure that allow for committing the crime of enforced disappearance and torture including by allowing militias or government authorities to hold detainees beyond 48 hours without access to the judiciary.
4. Offer the FFM unhindered access to the country to investigate the pattern of enforced disappearances, unlawful detention and torture and other ill-treatment, including, but not limited to, the ability to interview victims, government officials and members of militias that carry out enforced disappearances.

RIGHTS OF WOMEN

Key Facts

- Libyan women face many restrictions to their rights in both the personal and public spheres.
- Libya has failed to implement a legal framework promoting gender equality. Many legislative provisions, such as the Penal Code, include discriminatory provisions against women, particularly regarding marital responsibilities, on the basis of gender.
- The Penal Code regards rape as a crime against honour, and not as a crime against the body of victim. Provisions from the Penal Code, such as Article 375, contain less severe criminal sentencing for perpetrators of so-called honour crimes.
- Several laws prescribe corporal punishment as opposed to criminal sentencing, including Law 70 of 1973, which orders 100 lashes as punishment for those convicted of *Zina* – defined in Libyan law as sexual relations between a man and a woman outside a lawful marriage. Under this law, punishment may be lifted by the perpetrator marrying the victim.
- Under Law 24 of 2010 on provisions on Libyan citizenship, the rights of Libyan women married to non-Libyan men to pass on citizenship to their children are limited compared to those of Libyan men married to non-Libyan women.
- Women activists have been subjected to sexual and gender-based violence, threats including physical assault, abduction, as well as gender-related slurs and smear campaigns, causing them reputational damage with the aim of undermining them and undercutting the legitimacy of their work.
- Systematic reputational attacks on women and the resulting social marginalisation and psychological trauma causes women and women's rights defenders to withdraw from activism and the public space. Therefore, voices raising the challenges faced by women are scarce and often go unheard.

Recommendations to Libya

1. Ensure an enabling public and political environment that is free from reprisals for all women, including women human rights defenders, peacebuilders, and political leaders, to ensure their full, equal and meaningful participation in public life and in all phases of the peace and reconciliation process.
2. Protect women and girls from all forms of sexual and gender-based violence.
3. Amend the legislative framework to promote gender equality, in particular, legislation on honour-based crimes enshrined in the Penal Code.
4. Guarantee the full implementation of UN Security Council Resolution 1325 on women, peace, and security.

RIGHTS OF MIGRANTS AND REFUGEES

Key Facts

- As of October 2020, there were some 600,000 refugees and migrants in Libya according to IOM's Displacement Tracking Matrix, with 46, 329 individuals registered with the UNHCR.
- As of 30 September 2020, 9448 refugees and migrants have been registered as rescued/intercepted at sea by the EU-supported Libyan Coast Guard and disembarked in Libya in 2020. Since 2017, that figure amounts to close to 40,000.
- Libyan law continues to criminalise irregular entry, stay and exit under Law 19 of 2010, and remains silent on the right to asylum and refugee protection, leaving asylum seekers and refugees subject to automatic and arbitrary detention as well as systematic ill-treatment in detention centres, including torture, forced labour, sexual exploitation and extortion.
- Many of those intercepted and returned to Libya are unaccounted for as they are systematically disappeared.
- UNHCR has reported that there are currently more than 2,400 refugees and migrants arbitrarily detained in eight official detention centres throughout Libya. This figure does not account for those detained in unofficial detention centres, including clandestine prisons and warehouses controlled by smugglers and traffickers.
- Migrants in detention centres are at further risk of being hit by targeted and indiscriminate shelling, as shown by the targeting of the migrant detention centres in Tarhuna that killed 44 people in July 2019. The ongoing COVID-19 pandemic has also worsened the conditions of detention in already overcrowded and unsanitary detention centres.

Recommendations to Libya

1. Immediately end the policy of arbitrary arrest and detention for migrants and refugees.
2. Investigate, prosecute and hold accountable those responsible for crimes against migrants and refugees.
3. Immediately end militia control over detention facilities, ensuring that their exclusive control is transferred to formal security institutions adhering to the rule of law and judicial oversight.
4. Ratify without delay the 1951 Convention on the Status of Refugees and its 1967 Protocol and adopt a national asylum law that recognises the right to asylum and is consistent with international standards.
5. Immediately repeal Law 19 of 2010 on Combating Irregular Migration and amend Law 6 of 1987 to decriminalise irregular migration.

FREEDOM OF ASSOCIATION AND PEACEFUL ASSEMBLY

Key Facts

- Civil society and human rights activists in Libya are regularly targeted for their work and face threats, abductions and enforced disappearances in addition to seeing their rights to freedom of association and assembly regularly violated.
- Since 2016, the Libyan authorities have issued a number of decrees and executive orders which impede the ability of local and international civil society to work in Libya, including by granting the Libyan Civil Society Commission discretionary and overly intrusive powers.
- Decree 286 of 2019 regulates the work of local and foreign associations with regard to their establishment, registration and structure in a detailed and restricted manner and provides the executive authority extensive powers to restrict, suspend, and dissolve associations.
- The Civil Society Commission has the power to enforce restrictions on work permits of employees and volunteers and is granted access to the offices and confidential information belonging to CSOs on "national security" grounds.
- The Civil Society Commission branch in Misrata issued decision No. 29 in May 2018, which dissolved nineteen local organizations. The branch in Benghazi suspended 37 local organizations under decision No. 3 issued on February 2019.

Recommendations to Libya

1. Respect the rights to freedom of association and peaceful assembly, particularly for human rights defenders and civil society organizations, and ensure that they enjoy the rights necessary to carry out their work and protect them from all forms of abuse including threats and reprisals.
2. Comply with international standards by promptly lifting restrictions and amending legislation intended to impede civil society organisations and their activities in Libya, including Decree 286 of 2019.