

## Report: Protection from Violence and Discrimination Based on Sexual Orientation and Gender Identity Regarding Human Rights in Freedom of Expression and the Formation of Associations and Assemblies in Libya

**To:** The Independent Expert on Protection from Violence and Discrimination based on Sexual Orientation and Gender Identity (IE SOGI) - the 56<sup>th</sup> session of the United Nations Human Rights Council.

**Submitted by:** Libya Crimes Watch (LCW)

---

### Introduction:

Sexual violence and gender-based violence refer to any act committed against an individual's will, based on criteria related to gender and unequal power relations. This type of violence encompasses physical, emotional, psychological, and sexual dimensions, as well as depriving individuals of resources or opportunities to access services.

Since the outbreak of armed conflict in 2011, the human rights situation has deteriorated significantly in Libya due to the noticeable spread of armed violence and the widespread practice of torture and mistreatment against civilians. Libya continues to be a stage for armed groups supported by the two current governments, whose control is influenced by Islamic currents. For instance, there are large numbers of civilians and activists who are investigated and tortured by elements of the security forces affiliated with the Ministry of Interior and Defense for reasons related to religious or sexual orientation. Many assert that numerous elements of the eastern Libyan armed forces belong to the Salafi-jihadi currents. Meanwhile, elements of the Ministry of Interior in western Libya, such as the Al Radaa and Support for Stability and Internal Security currents, are associated with what is known as the "Mufti's current." This current is influenced by the opinions and statements of Libya's sincere Mufti, Sadiq Al-Ghariani<sup>1</sup>.

---

<sup>1</sup> Sadiq Al-Ghariani was a member of the Muslim Brotherhood until 2014. However, due to the failure of the Muslim Brotherhood in Libya after the group supported extremist groups in eastern Libya, the Libyan Mufti's orientations became Salafi-jihadi. Check [الإسلام السياسي في ليبيا من الصعود إلى التراجع](#) and also check [Libya's Factional Struggle for the Authority of the Islamic Endowments](#)

These influential groups naturally engage in various forms of oppressive and violent practices against civil society, particularly towards women, girls, and other vulnerable groups, including those with diverse gender identities. Social gender has become a powerful factor in Libya for discrimination, used by these groups to 'regulate' practices of intimidation and detention. Activists defending human rights have become victims of smear campaigns, defamation, arbitrary arrests, torture, and even killings at the hands of armed groups with various orientations. Dominant Islamic currents in Libya have contributed to inciting and directing public opinion to attack different segments of society. This is evident in a recent explicit statement from the Libyan Mufti that prohibits the use of the word 'gender' and criminalizes dealing with social gender issues in all its forms<sup>2</sup>.

Libya has not witnessed political stability or the existence of a strong unified government or a consensus constitution since 2011. As a result, Libya suffers from the impact of extremist Islamic ideology against many groups protected under international law and human rights, such as women and other diverse gender identities.

Thus, the Libya Crimes Watch in Libya<sup>3</sup> seeks to participate in inviting the Independent Expert specialized in the protection of individuals from violence and discrimination based on sexual orientation and gender identity to assess the current situation in Libya. The organization aims to engage in serious dialogue with the Libyan government regarding the protection of these individuals, regulating humanitarian interactions with them, and ending the phenomenon of violence directly targeting Libyan citizens who suffer from violence and discrimination based on sexual orientation and gender identity. The organization also strives to provide comprehensive information about the current situation in Libya through this report, focusing on the restrictions imposed on human rights, freedom of expression, assembly, and the formation of associations for the LGBTQ+ community.

---

<sup>2</sup> Check [قرار مجلس البحوث والدراسات الشرعية التابع لدار الإفتاء رقم \(02\) لسنة 1445 هـ بتحريم استعمال مصطلح النوع الاجتماعي](#).

<sup>3</sup> It is an independent non-governmental human rights organization established in 2019, registered in the United Kingdom. The organization operates throughout Libya through a network of monitors, primarily specializing in monitoring, documenting, and reporting crimes and human rights violations against civilians in Libya. Its goal is to promote a culture of human rights, hold perpetrators accountable, and reduce the phenomenon of impunity. You can visit the organization's official website through this link. <https://lcw.ngo/en/>

## Firstly: The Legislative and Legal Context in Libya:

In the legislative and legal context in Libya, and concerning the questions of the Independent Expert on Protection from Violence and Discrimination based on Sexual Orientation and Gender Identity, with regards to freedom of expression and the right to form associations and assemblies, the Libyan Penal Code<sup>4</sup> imposes severe penalties, including the death penalty, on individuals wishing to establish civil and non-governmental associations, including movements advocating for the protection of diverse gender identities within society.

The Penal Code, in its articles 206, 207, and 208, prohibits Libyan citizens from joining organizations or even organizing gatherings and assemblies that discuss topics deemed criminal by law. This means that the right of Libyan citizens to form civil entities that address issues contrary to the views of the Libyan legislator, who legislates based on fatwas and statements of the Libyan Mufti, has been criminalized. This also implies that individuals with diverse gender identities cannot engage in civil activities or organize gatherings to discuss their issues.

The Libyan government has demonstrated its full readiness to support this type of systematic institutional repression. The government took steps to issue Presidential Decree No. 286 regarding the regulation of civil society. This decree was issued in 2019<sup>5</sup> by the Presidential Council of the Government of National Accord. However, this decree is considered illegal and suppresses the right of civil society to establish and operate freely<sup>6</sup>.

In contrast, they have established the working regulations of the Civil Society Commission<sup>7</sup>, based in Tripoli, which holds extensive powers to register and accept civil organizations. It has the authority to examine

---

<sup>4</sup> Check [mohamah.net](https://mohamah.net) (mohamah.net) نصوص و مواد قانون العقوبات الليبي طبقا لاحدث التعديلات 2023

<sup>5</sup> Check [lawsociety.ly](https://lawsociety.ly) (lawsociety.ly) قرار رقم 286 لسنة 2019 م بشأن اعتماد اللائحة التنظيمية لعمل مفوضية المجتمع المدني

<sup>6</sup> It is worth noting that this directly contradicts the guaranteed right under Article 22 of the International Covenant on Civil and Political Rights. The decree forces operating organizations to re-register under the threat of dissolution. Since October 2020, organizations are compelled, as part of the registration process, to sign a commitment not to communicate with any embassy or international entity without prior permission from the executive authorities. This practice was also adopted and emphasized in the directive issued on April 6. Check [lawsociety.ly](https://lawsociety.ly) (lawsociety.ly) قرار رقم 286 لسنة 2019 م بشأن اعتماد اللائحة التنظيمية لعمل مفوضية المجتمع المدني

<sup>7</sup> Check [lawsociety.ly](https://lawsociety.ly) (lawsociety.ly) قرار رقم 286 لسنة 2019 م بشأن اعتماد اللائحة التنظيمية لعمل مفوضية المجتمع المدني

documents and revoke the registration and work permits of both local and international organizations. In March 2023, the legal department affiliated with the Supreme Judicial Council<sup>8</sup> issued a fatwa indicating that all non-governmental civil organizations registered after 2011 are illegal. This raises questions about the compatibility of this fatwa with the 2011 Constitutional Declaration. While it is not legally binding, it contributes to undermining public trust in civil society.

Despite the issuance of Law No. 7 for the year 2023, allowing registered organizations to continue their work, activists in Libya face significant complications due to these measures. These procedures lead to tarnishing the reputation of associations and civil institutions, reflecting a clear division between the civil society commissions in Benghazi and Tripoli. This division mirrors the impact of the political situation in Libya on human rights activities.

Furthermore, in 2021<sup>9</sup>, the Libyan House of Representatives approved a draft law on combating cybercrimes with vague and imprecise definitions. This grants Libyan judicial authorities' broad powers to restrict freedom of expression online, posing a significant threat to diverse gender identities and prohibiting the dissemination of content related to the rights of individuals with various identities and social genders. These laws conflict with international human rights standards and violate the Libyan constitution, which commits to guaranteeing freedom of opinion and expression without discrimination against specific groups' rights to express, organize, and be protected.

These developments are in conflict with Article 15 of the Libyan Constitutional Declaration of 2011 and Article 22 of the International Covenant on Civil and Political Rights, to which Libya acceded in 1970. This restricts the rights of LGBTQ+ individuals. Additionally, Libyan Penal Code<sup>10</sup> prohibits all sexual activities outside the legal framework of marriage. Article 410 imposes imprisonment for up to five years for same-sex relationships. Article 407 (4)<sup>11</sup> criminalizes sexual contact, punishing

---

<sup>8</sup> Check [lawsociety.ly](https://lawsociety.ly) قرار رقم 286 لسنة 2019 م بشأن اعتماد اللائحة التنظيمية لعمل مفوضية المجتمع المدني

<sup>9</sup> Check [IFEX](https://ifex.org) - ليبيا: قانون الجرائم الإلكترونية الجديد يهدد بتقييد حرية التعبير

<sup>10</sup> Check [mohamah.net](https://mohamah.net) نصوص و مواد قانون الإجراءات الجنائية الليبي و القوانين المكتملة له 2023

<sup>11</sup> Check [mohamah.net](https://mohamah.net) نصوص و مواد قانون الإجراءات الجنائية الليبي و القوانين المكتملة له 2023

the offender with imprisonment, isolating the LGBTQ+ community in Libya and conflicting with international human rights standards.

Therefore, national laws and political developments in Libya pose significant challenges to human rights and freedom of expression for the LGBTQ+ community in Libya. This situation requires international monitoring and efforts to advocate for the rights of individuals and civil society in this context.

### **Secondly: Sexual Minorities and Women in Libya**

Libya's judicial system has remained dysfunctional and ineffective, with courts and public prosecutors failing to provide avenues for redress to victims of human rights violations. They have been unable to hold suspects accountable for their criminal responsibility in such violations before a court of justice. Perpetrators of serious human rights violations continue to act with impunity, posing significant challenges to sexual minorities and women who may face killings, rape, physical assaults, torture, arbitrary detention, and deprivation of the right to assembly and expression. In each case, victims are targeted based on their sexual orientation, whether they are lesbians, gays, bisexuals, or transgender individuals.

In the scope of our fieldwork and in response to the questions of the Independent Expert on Protection from Violence and Discrimination based on Sexual Orientation and Gender Identity, regarding human rights in freedom of expression and the formation of associations, between November 2021 and March 2022, our organization documented the arrest by the Internal Security Agency in Tripoli of seven (7) individuals, including human rights defenders, in what became known as the 'Enlightenment Case<sup>12</sup>.' The authorities accused the detainees of spreading 'immoral' values within Libyan society, sparking hate speech, defamation, and incitement to violence against them and against civil society as a whole on the internet.

On March 10, 2022, the Internal Security Agency announced what it referred to as a 'conspiracy against Libya<sup>13</sup>,' organized by the detained

<sup>12</sup> Check [رصةف22 \(raseef22.net\)](https://raseef22.net) حركة تنوير الليبية: مواجهة الرصاص بالعمل الثقافي - رصةف22

<sup>13</sup> Check [marsad.ly](https://marsad.ly) كشف أممي « لتجاوزات جهازى الأمن الداخلى فى طرابلس وبنغازى - مرصد ليبيا»

individuals and their organizations, in collaboration with the international community. Later, on March 26, the Public Prosecutor's Office in Tripoli issued a statement confirming the initiation of an investigation by the Internal Security Agency into members of the Enlightenment movement, accusing them of 'promoting atheism' and attempting to destroy a fundamental structure of the social system. Since then, at least 6 detainees have undergone interrogation, facing charges under Article 207 of the Penal Code, with potential penalties including the death penalty. According to reports, they are currently held in the Mitiga detention center, managed by the State of Libya Al Radaa for Countering Terrorism & Organized Crime.

Between February and May 2022, forces from the Deterrence Against Terrorism and Organized Crime Agency arrested at least 26 individuals in the cities of Tripoli, Misrata, and Zliten for wearing clothing associated with the opposite gender. Most of them were released after approximately 30 days without charges being filed against them<sup>14</sup>.

**LCW** emphasizes the significant difficulty in documenting information about the Meme community within Libya due to the aforementioned pressures. The documentation process has become complex, compounded by the lack of documentation of cases involving women and girls. This is attributed to the restrictions imposed on them regarding civil engagement, given the deliberate targeting of Libyan female activists in recent years. Generally, there is a noticeable decline in female participation among those working on Meme community issues in the civil space due to various social factors. These include systematic targeting through reputation-damaging campaigns and statements from the Libyan Fatwa House that question the legality of women's engagement and the ethics of female activists working in women's rights and feminist activism.

---

<sup>14</sup>Check [cairo24.com](https://cairo24.com) بعد فضيحة الشذوذ الجنسي... هل تتبع قناة سلام الليبية حكومة عبد الحميد الدبيبة؟

### Recommendations:

Based on the previous analysis of the impact of the legislative and legal context on the rights of sexual minorities and women in Libya, the **Libya Crimes Watch** recommends the following:

- Strongly condemn the negligence of the Public Prosecutor's Office and the Libyan Presidential Council in Tripoli in investigating and holding accountable for the violations committed in Libya by armed groups and security forces under their supervision. We also demand the independence of the judicial system in Libya by improving its structure and enhancing its capabilities.
- Recommend the Government of National Unity in Western Libya and the Libyan Government approved by the Parliament in the East amend legal and legislative procedures affecting the rights of citizens and organizations.
- Also, urge the Libyan Government of National Unity to repeal legislative provisions that discriminate against women and criminalize homosexuality, ensuring the development of legislation that promotes women's rights and LGBTQ+ rights with equal treatment in all fields.
- We Call upon the Government of National Unity in Western Libya and the Libyan government approved by the parliament in the east to repeal the law on combating cybercrimes to ensure it does not unjustifiably restrict freedom of expression online. Additionally, urge them to work on updating legislation to guarantee the protection of the right to express opinions in accordance with the International Covenant on Civil and Political Rights.

- Urge the Government of National Unity in Western Libya and the Libyan government approved by the parliament in the east to ensure non-discrimination in allowing every individual to exercise all human rights, regardless of sexual orientation or gender identity. Consider this commitment immediate and comprehensive in accordance with international laws related to human rights.
- Countries should enact comprehensive legislation that prohibits discrimination based on sexual orientation and gender identity in all aspects of public and private life. This legislation should include the establishment of corrective measures to compensate victims of discrimination. Additionally, countries should work on raising awareness and implementing training programs to prevent discrimination by addressing social biases.