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**AUX DROITS DE L'HOMME**

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**OFFICE OF THE UNITED NATIONS**  
**HIGH COMMISSIONER FOR HUMAN RIGHTS**

**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

**Mandates of the Special Rapporteur in the field of cultural rights ; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on the situation of human rights defenders; the Independent Expert on minority issues; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE: UA Cultural rights (2009) G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (56-23) G/SO 214 (107-9) Minorities (2005-4) G/SO 214 (53-24)  
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Excellency,

We have the honour to address you in our capacities as Special Rapporteur in the field of cultural rights; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on freedom of religion or belief; Special Rapporteur on the situation of human rights defenders; Independent Expert on minority issues; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 19/6, 16/4, 15/21, 14/11, 16/5, 16/6, and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the **destruction of Sufi religious and historic sites, including the desecration of graves in Tripoli, Misurata, Derna and Zliten; and serious allegations of intimidation and excessive use of force against unarmed protesters opposing these destructions.**

According to the information received:

*Destruction of religious and culturally historic sites and desecration of graves*

Attacks on Sufi sites in Tripoli reportedly began in October 2011 on the Al-Masry shrine, from which the assailants removed the remains of two Muslim scholars, Abdul-Rahman al-Masri and Salem Abu Seif. In November 2011, attackers vandalized the Girgaresh cemetery and damaged the Sidi Nasr shrine. The Sidi Obaid cemetery in Benghazi was attacked by an armed group in January 2012 and

damaged the tomb of Sidi Obeid, a figure revered by Sufis, as well as other tombs. In July 2012, the assailants bombed the Sahaba Mosque in Derna.

On 24 August 2012, one of Libya's most important Sufi shrines- Sidi Abdul-Salam al-Asmar al-Fituri, which is part of the 15th Century Asmariya Islamic University complex in Zliten, was attacked using explosives and then demolished with a bulldozer and jackhammers. Within the university complex, the library was allegedly burnt using grenades and the mosque was also attacked, inflicting heavy damage and destroying 700-year-old texts.

It has been reported that on 25 August 2012, some armed militias carrying medium and heavy weapons arrived at the al-Sha'ab Mosque in central Tripoli and proceeded to bulldoze the mosque which contains Sufi Muslim graves. Allegedly, the Ministry of the Interior had "authorised" the operation following allegations that people had been worshipping at the tomb buried beneath the shrine and practicing "black magic." The Ministry of the Interior maintained that the Supreme Security Council (SSC) forces did not seek to stop the demolition in order to "maintain order" and to avoid violence. It was also reported that the police were present but did not do anything to stop the demolition while the SSC vehicles surrounded the site, preventing people from approaching the mosque or intervening to stop the destruction.

Over six other Sufi religious sites have allegedly been targeted, including the shrine of Sheik Ahmad Zaruq in Misrata, Gurgi Mosque in Tripoli and, on the night of 28 August 2012, Uthman Pasha Madrassa in Tripoli. Reportedly, armed assailants forcibly entered the historic site, which serves as a madrassa, a school of religious learning, and dug up 30 graves using heavy drills. The library was looted and books were confiscated. Staff at the school and passers-by were intimidated. One staff member indicated that the insults were targeted at their faith.

#### *Arrest, detention and intimidation of journalists and peaceful protestors*

According to some reports, Nabil Shebani, a journalist from the Libyan television station, Alassema, was detained by the SSC whilst attempting to report on the destruction of the Al-Sha'ab mosque. He was taken into custody by the SSC and interrogated for 10 hours.

On 26 August 2012, a peaceful protest against the demolition of the Al-Sha'ab mosque took place. Protestors were obstructed from protesting by armed men who reportedly intended to continue the demolition of the mosque while several demonstrators were physically threatened and intimidated by man a allegedly dressed in SSC uniform. It was also reported that the driver of one of the bulldozers demolishing the mosque drove towards the protesters, and came "within inches" of running over at least two people.

An imam of a Tripoli mosque, Ashraf Jerbi, took part in the protest and was physically threatened by people involved in the destruction of the shrine. A female protester and her brother, who attempted to assist the imam, together with the imam were reportedly forcibly removed and subsequently beaten in the police car. The imam was allegedly subjected to cruel, inhumane and degrading treatment by Libyan security forces after being detained. He described how he had been “blindfolded” by the Crime Prevention Unit (“CPU”) of the Ministry of the Interior. On his arrival at a CPU building, he was reportedly tied up and left in a bathroom for hours without anything to drink or eat, and subjected to verbal abuse.

Concern is expressed that these acts are in violation of the rights of Libyans to freedom of religion or belief, and of their rights to enjoy and access cultural heritage. Concerns are also expressed at the lack of actions or measures taken to protect the cultural and religious sites in Libya. Further concern is expressed at the violations of rights to freedom of peaceful assembly, freedom of expression, as well as intimidation and arbitrary detention of journalists and protestors in this context.

While we do not wish to prejudge the accuracy of these allegations, we wish to appeal to your Excellency’s Government to seek clarification on the information drawn to our attention and share our concerns in relation to present circumstances in light of the applicable international human rights norms and standards.

*Binding international standards and human rights resolutions*

We would like to appeal to your Excellency's Government to ensure the right to freedom of religion or belief in accordance with article 18 of the Universal Declaration on Human Rights (UDHR) and article 18 of the International Covenant on Civil and Political Rights (ICCPR) that your Excellency’s Government acceded on 15 May 1970.

Concerning article 18 of the ICCPR, the Human Rights Committee emphasized in its General Comment 22 Para.4 of the importance in recognizing the places of worship as an essential element of the manifestation of the right to freedom of religion or belief to the extent that the great majority of religious communities or communities of belief need the existence of a place of worship where their members can manifest their faith.

We would also like to draw your attention to the Human Rights Council resolution 6/37, paragraph 9 (e) which urges States, "To exert the utmost efforts, in accordance with their national legislation and in conformity with international human rights and humanitarian law, to ensure that religious places, sites, shrines and symbols are fully respected and protected and to take additional measures in cases where they are vulnerable to desecration or destruction. In the cases where non-State actors interfere with the right to "have or adopt a religion or belief of [one's] choice", the requirements of article 18 of the Covenant and other relevant international instruments also entail a positive obligation for the State to protect persons from such interference.

Furthermore, we would like to recall that the General Assembly, in its resolution 63/181, urges “(j) To ensure that all public officials and civil servants, including members of law enforcement bodies, the military and educators, in the course of fulfilling their official duties, respect all religions or beliefs and do not discriminate for reasons based on religion or belief, [...]”.

We would also like to stress that in accordance with article 27 of the UDHR and article 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which your Excellency’s Government also acceded on 15 May 1970, everyone has the right to take part in cultural life. As stated by the Special Rapporteur in the field of cultural rights, this includes for all “the right of access to and enjoyment of cultural heritage”. Furthermore, States “should recognize and value the diversity of cultural heritages present in their territories and under their jurisdiction”. They have the duty “not to destroy, damage or alter cultural heritage ... and to take measures to preserve/safeguard cultural heritage from destruction or damage by third parties” (A/HRC/17/38, in particular paras.78 and 80 a and b).

In addition we draw the attention of your Excellency’s Government to international standards relevant to the protection and promotion of the rights of minorities. Article 27 of the ICCPR establishes that “In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.” The 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities requires under Article 1.1 that “States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity.” Article 2 (1) states that “[p]ersons belonging to national or ethnic, religious and linguistic minorities have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination.” In addition, Article 4.1 of the Declaration establishes that: “States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law.”

Similarly, we would like to kindly request your Excellency’s Government to take all necessary measures to protect places of cultural and religious significance that may also be threatened.

In this connection, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" and that “each State has a prime

responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice”.

Furthermore, we would like to bring to the attention of your Excellency’s Government the following provisions of the Declaration, and in particular to the article 12 paragraphs 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

In addition, we should like to appeal to your Excellency’s Government to seek clarification of the circumstances regarding the case of an imam of a Tripoli mosque, Ashraf Jerbi, who was physically intimidated and subjected to torture by Libyan security forces after being detained. We would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

In this context, we would like to draw the attention of your Excellency’s Government to paragraph 1 of Human Rights Council Resolution 16/23 which “Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.”

We also deem it appropriate to make reference to Resolution 2005/38 of the Commission on Human Rights which refers to the right to freedom of thought, conscience or religion as an intrinsically linked right to freedom of opinion and expression, and in this context, calls on States to take all necessary measures to put an end to violations of these rights and to create conditions to prevent their recurrence.

We would further like to appeal to your Excellency's Government to take all necessary steps to ensure the right of peaceful assembly as recognized in article 21 of the ICCPR, which provides that "The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interest of

national security of public safety, public order (ordre public), the protection of public health or morals of the protection of the rights and freedoms of others.

We would also like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the ICCPR, which provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

Moreover, it is our responsibility under the mandate provided to us by the Human Rights Council to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the summary of the cases accurate?
2. Have complaints been lodged with regard to the forementioned incidents?
3. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries which may have been carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please indicate which measures your Excellency's Government has implemented to protect places of religious and cultural significance in the country.
5. Please provide details of any legislation and policy that exists to protect and promote the rights of persons belonging to religious minorities.
6. Please indicate the legal basis of the arrest and detention of journalists and protestors. Please also provide measures taken to prevent torture or cruel, inhumane and degrading treatment, especially in places of detention, in the country.
7. Please indicate whether compensation shall be provided to the victim who was allegedly physically intimidated and subjected to cruel, inhumane and degrading treatment by Libyan security forces following his detention.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration. We wish to draw your attention to the fact that a press statement will be released on this issue in the coming days, a copy of which will be provided to you in advance of its dissemination to the media.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the above-mentioned rights and freedoms are

respected and, in the event that your investigations support or suggest the above allegations to be correct, to ensure the accountability of any person responsible of the alleged violations. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Excellency, the assurances of our highest consideration.

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