

Mandates of the Special Rapporteur in the field of cultural rights; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

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Dear Mr. Shaltut,

We have the honour to address you in our capacity as Special Rapporteur in the field of cultural rights; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, pursuant to Human Rights Council resolutions 28/9, 34/19, 34/18 and 33/9.

In this connection, we would like to bring to the attention of your Government information we have received concerning the **alleged shut-down of a comic book exhibition in Tripoli, and the detention and torture of its organisers, as well as alleged threats and intimidation of authors of the book “Sun on Closed Windows”**.

According to the information received:

Shut-down, arrest and detentions in connection to Comic Con in Tripoli

On 3 November 2017, Libya’s Special Deterrence Force (SDF), shut down a comic book convention, *Comic Con*, which was being held in Tripoli. The SDF established under the Ministry of Interior reportedly saw the event as a “violation of public morality”.

Over 20 people were arrested at the event, including its organizers as well as attendees who were wearing badges of the event and were mistaken as organisers. It is alleged that most of those arrested were beaten and released on the same evening, while seven of the organisers remained under arrest and were reportedly subjected to torture. The detainees were held under numerous charges, including “violating morality and Islam”, and “incitement to violence”, in relation to some of the artwork which featured “violent scenes and weapons”. Part of the convention’s artwork was confiscated during the raid.

On the same day, SDF published a statement explaining that photos participants had published on social media had caused “a widespread public outpouring of criticism”, which led SDF to shut it down. The statement further noted that: “It is

necessary to address these destructive phenomena and fight them because these famous cartoons encourage the dissemination of pornography, influence teenagers and motivate them to kill and use sharp tools. Such festivals, inspired from abroad, exploit the weakness of religious faith and their fascination with foreign cultures. The organisers and supervisors of this festival have been arrested and will be presented to the Public Prosecution for their acts of dishonesty and violation of public morality.”

On 18 November 2017, SDF released two of the detainees, Mr. [REDACTED] and Mr. [REDACTED]. On 30 November 2017, Mr. [REDACTED] was also released. Four others, including Mr. [REDACTED], Mr. [REDACTED] and Mr. [REDACTED], remained in SDF detention facility located in in Mi'tiga.

It is reported that Mr. [REDACTED] and Mr. [REDACTED], who are diabetics, have received their medications but did not get the correct dosage. It is feared that Mr. [REDACTED], who remains in detention, is in a critical health condition.

Intimidation in connection to the book “Sun on Closed Windows”

In May 2017, the book *Sun on Closed Windows*- a collection of short stories and poems by 25 young Libyan writers and two essays by Libyan literary critics- was released in Egypt. In July 2017, the book was released in Libya and launch events were held in Tripoli and Benghazi on 4 and 17 July 2017. Another launch event, featuring several contributors to the book, took place on 26 August 2017 at a public library in al-Zawiya.

On 29 August 2017, an individual who attended the event in al-Zawiya posted an excerpt from one of the short stories in the book to an online social media platform. The post reportedly sparked strong reactions on social media claiming the story to be “obscene”, “profane”, and “against Muslim and Arab values”. The same story had previously been published in 2012 after receiving approval from the General Authority for Printing and Artistic Works.

On 29 August 2017, the Head of the General Authority for Printing and Publications under the General Authority of Culture of the Government of National Accord (GNA), released a statement condemning the content of the book. He described the book as “dangerous for public morality and threatening to the integrity of Islam”. The GNA banned the book and ordered the confiscation of all copies. In the statement it was claimed that the book was printed outside Libya, and was therefore not subject to the Publications Act of 1972. The statement also indicated that copies of the book were smuggled into Libya illegally.

On the same day, a video published by the Salafist Call – a salafi organization in Egypt – displayed photos of the authors and quotes of an Egyptian imam, Mohamed Raslan, qualifying selling “western” as “spreading corruption”. The imam also called for the “punishment” of anyone who sells such books. *Sun on Closed Windows* was given as an example of such “western” books, and consequently the video called for the punishment of its authors.

On 5 September 2017, a published voice recording of an imam at the Aisha Um Almomineen Mosque, Majdi Hafala, known as affiliated to the Salafist groups in Libya, described the authors as “criminals” and “secularists”, and stated that “they will be punished by the Salafis”. He added that “they are corrupting this Muslim country” and that they should be met with an “iron fist”.

Since the launch event, the authors have been targets of violent threats, intimidation, and harassment on social media. Some of them are in hiding with their families, while others have fled the country.

We express our concern that the shutdown of *Comic Con* in Tripoli, the threats and intimidation of the authors of the book *Sun on Closed Windows*, and the arrest and detention of the organizers and participants of *Comic Con* may be related to the peaceful exercise of their right to freedom of artistic expression and creativity, resulting in undue restrictions on the right of all persons in Libya to take part in cultural life and to enjoy and have access to the arts, and to freedom of expression.. These examples suggest that a rising fundamentalist ideology risks shrinking the space for cultural and artistic expression and for the enjoyment of the right to take part in cultural life in Libya. We also express serious concern about the alleged beating of persons detained in connection with Tripoli’s *Comic Con* and the torture inflicted against Messres. [REDACTED]

[REDACTED], and a seventh individual whose identity we were not able to ascertain. We are further concerned about the inadequate access to medical care of Mr. [REDACTED] and Mr. [REDACTED] and the potential resulting impact on their physical and mental integrity.

While we do not wish to prejudge the accuracy of these allegations, we would like to appeal to your Government to take all necessary steps to secure the right of everyone to take part in cultural life in accordance with article 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which Libya acceded on 15 May 1970. In this connection, we would like to draw the attention of your Government to General Comment 21 of the Committee on Economic, Social and Cultural Rights which stipulates that States must refrain from interfering in the enjoyment and development of cultural practices. It further recalls the right of everyone “to have access to, and to participate in, varied information exchanges, and to have access to cultural goods and services, understood as vectors of identity, values and meaning”; as well as the right to “enjoy the

freedom to create, individually, in association with others, or within a community or group, which implies that States parties must abolish censorship of cultural activities in the arts and other forms of expression”(E/C.12/GC/21, paragraphs 44, 48 and 49).

The Special Rapporteur in the field of cultural rights has stressed that all persons enjoy the right to freedom of artistic expression and creativity, which includes the right to freely experience and contribute to artistic expressions and creations, through individual or joint practice, to have access to and enjoy the arts, and to disseminate their expressions and creations. In particular, decision makers, including judges, when resorting to possible limitations to artistic freedoms, should take into consideration the nature of artistic creativity (as opposed to its value or merit), as well as the right of artists to dissent, to use political, religious and economic symbols as a counter-discourse to dominant powers, and to express their own belief and world vision. The use of the imaginary and fiction must be understood and respected as a crucial element of the freedom indispensable for creative activities (A/HRC/23/34, paras. 37, 85 and 89 d).

States should resort to limitations of artistic freedoms only when absolutely necessary (A/HRC/23/34, paras. 3 and 32). Regarding the imposition of sanctions, including criminal sanctions, deprivation of liberty and the closing of public space, the Special Rapporteur on freedom of opinion and expression and the Special Rapporteur in the field of cultural rights recommended to distinguish between a) expression that constitutes a criminal offence; (b) expression that is not criminally punishable but may justify a civil suit or administrative sanctions; and (c) expression that does not give rise to criminal, civil or administrative sanctions but still raises a concern in terms of tolerance, civility and respect for the rights of others (A/66/290, para. 18; A/HRC/23/34, para. 31). What may be morally objectionable (from one point of view) may not necessarily be legally inadmissible or condemnable. Criminal sanctions should be the very last resort measures only, to be applied in strictly justifiable situations. In this regard, we would like to draw your Government attention to a particularly useful suggestion in the Rabat Plan of Action, to use a six-part threshold test for those expressions that are criminally prohibited (A/HRC/22/17/Add.4).

The Special Rapporteur in the field of cultural rights presented to the Human Rights Council in March 2017 a report on the grave impact of diverse forms of fundamentalism and extremism on cultural rights around the world (A/HRC/34/56), a report which she was gratified received the support of Libya on the floor of the Council. During the interactive dialogue, the Organization of Islamic Cooperation called for a “culture of enlightenment.” In the report, the Special Rapporteur noted that “Arts, education, science and culture are among the best ways to fight fundamentalism and extremism. They are not luxuries, but critical to creating alternatives, making space for peaceful contestation, promoting inclusion and protecting youth from radicalization.” (para. 22) She further noted that “Governments must ensure there is a counterweight to fundamentalist and extremist discourses by publicly challenging them...” (para. 24) In the face of fundamentalism and extremism, she underscored that “States must respect,

protect and fulfil human rights, in particular cultural rights, meaning that they must: (a) stop supporting directly or indirectly fundamentalist ideologies; (b) protect all persons from any act of fundamentalist or extremist groups aimed at coercing them into specific identities, beliefs or practices; and (c) design programmes aimed at creating conditions allowing all people to access, participate in and contribute to cultural life, without discrimination.” (para. 27)

We would also like to appeal to your 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 and 21 of the ICCPR, acceded to by Libya on 15 May 1970. Any restrictions to freedom of expression must meet the strict requirements set out in article 19(3), that is, be provided by law and be necessary and proportionate in order to accomplish the enlisted objectives in the provision.

The Publication Act, invoked by the GNA to condemn the book, continues to regulate press and media in Libya. Article 1 of the Publications Act allows the press to exercise freedom of expression, but only insofar as they fall “within the framework of the principles, values and objectives of society”. The Publications Act further states that “[t]he Director of Publications or his deputy shall have the right to prohibit the distribution of any edition of any foreign publication if its content is found to be prejudicial to national or Arab unity or religious beliefs, incompatible with the principles and objectives of the [1969] Revolution or public morals, detrimental to public security or fallacious to such an extent as to confuse public opinion.” Although the Publications Act is formally enacted legislation, there are serious doubts as to whether the restrictions on freedom of expression imposed by the Act meets the other requirements of article 19(3) of the ICCPR. Namely, the broad language used in the text renders predictability in the enforcement of the Act highly unlikely. Furthermore, the grounds that the Act applies to justify restrictions go beyond the legitimate objectives enlisted in article 19(3). In this connection, we also refer to the recommendations made by the Human Rights Committee in 1998 and repeated in 2007, to “urgently revise its legislation, including the Publication Act”, and to “repeal laws restricting the formation of a free and independent press, including Law No.76 of 1972).

We would also like to bring the attention of your Government to article 12 of the ICESCR which establishes the right to the highest attainable standard of physical and mental health. In this context, General Comment 14 of the Committee on Economic, Social and Cultural Rights, indicates that States are under the obligation to respect the right to health by, inter alia, refraining from denying or limiting equal access for all persons, including prisoners or detainees to preventive, curative and palliative health services. Furthermore, Rule 25 of the Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) state that the physical and mental health of any prisoner to whom his/her attention is specially directed shall be taken care of by a medical officer on a daily basis.

Moreover, we would like to remind your Government of the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment as codified in **articles 2 and 16 of the Convention against Torture** and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Libya acceded to on 16 May 1989, and **Article 7 of the International Covenant on Civil and Political Rights**, which provides that “[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Government to safeguard the rights of the above-mentioned person(s) in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above mentioned allegations.
2. Please inform about the reasons for shutting down the comic book convention and explain how these are compatible with the international norms and standards on the right to freedom of opinion and expression, to the right to freedom of peaceful assembly and to the right to take part in cultural life and the freedom indispensable for creative activities.
3. Please provide the details of the proceedings against the individuals detained in connection to Tripoli's *Comic Con* and Zawiya book launch, and the legal basis upon which they are detained, and explain how these are compatible with the international norms and standards mentioned above.
4. Please inform us if adequate safeguards against torture and other ill-treatment are ensured in legislation and practice in Libya. In this connection, please indicate if the detainees have been granted access to family visits and to a lawyer since their arrest. If not, please explain why.
5. Please provide information of any measures taken to ensure the wellbeing and physical health of the individuals suffering from diabetes, including allegations that the detainees did not receive the correct dose of their medication and may be in bad health condition.

6. Please provide information of any measures adopted to challenge the negative depictions of the book and its authors made by non-state actors, and the call to meet them with an 'iron fist.'
7. Please provide information on any measures taken to ensure prompt and independent investigations into the public calls made by non-state actors that may constitute incitement to violence against the book authors, as well as into the threats made against the authors on social media.
8. Please provide information of any measures taken to protect and ensure the safety and physical and mental integrity of the book authors.
9. Please provide information on the measures taken to revise legislation, including the Publication Act, to ensure that any limitations on the right to freedom of opinion and expression are in compliance with the ICCPR, as recommended by the Human Rights Committee.
10. Please provide information concerning the national legislation related to freedom of association, and how it is in conformity with the international norms and standards mentioned above.

While waiting for your response, we urge your Government to take all necessary measures to guarantee that the rights and freedoms of the aforementioned individuals are respected and, in the event that your investigations support or suggest the above allegations to be correct, we request that your Government adopt effective measures to prevent the recurrence of these acts.

Your Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Mr. Shaltut, the assurances of our highest consideration.

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