

**Mandates of the Special Rapporteur on the situation of human rights defenders; the Working Group on Arbitrary Detention and the Special Rapporteur on the human rights of migrants**

Ref.: AL LBY 6/2022  
(Please use this reference in your reply)

17 August 2022

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Working Group on Arbitrary Detention and Special Rapporteur on the human rights of migrants, pursuant to Human Rights Council resolutions 43/16, 42/22 and 43/6.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **alleged attacks, detention and ill-treatment of human rights defenders who provide humanitarian assistance to migrants, asylum seekers and refugees and support their rights.**

According to UN reports, including of the Independent Fact-Finding Mission on Libya,<sup>1</sup> migrants and asylum seekers in Libya have for years been subjected to acts of murder, brutal attacks, enforced disappearance, arbitrary detention, torture, and enslavement among other human rights violations across the country. Armed groups and human traffickers are responsible for these violations, often with the collusion or participation of security agents and some State authorities. These violations are also directly perpetrated by state actors, including the Libyan Coast Guard and Directorate for Combatting Illegal Migration. Activities of human rights defenders to uncover these atrocities have put them at risk of retaliation. In order to protect those human rights defenders, we have chosen to preserve their confidentiality.

According to the information received:

During the past few months, a number of migrant rights defenders have come to our attention; they suffered arbitrary arrest, detention in official centres and secret detention facilities, torture for several months, and continuous intimidation, including by online smears and forced confessions.

Some of the defenders worked on highlighting human rights violations suffered by fellow migrants and perpetrated by State and non-State actors in Libya, including killings, arbitrary arrests, detention under inhumane conditions and abuses committed by the Libyan Coast Guards among other state actors. Others have assisted migrant women and children in need of shelter, and helped them gain access to UNHCR or to medical care.

They have all faced threats from State-sponsored armed groups as a result of their activism. More recently, they became online victims of defamation and incitement to hatred and violence on security agencies' social media pages.

Among the migrant rights defenders were Libyan nationals who said they have been accused of conspiring against the stability of their country and of trying to "colonize it with foreign migrants." Others said the government had

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<sup>1</sup> A/HRC/50/63, paras. 69-78.

prevented them from visiting detained migrants, and that they were exposed to abuse at detention centres, and threats by human trafficking gangs.

Also included were defenders from their own migrant community, who suffered as activists in addition to the dangers they faced across Libya as migrants, asylum seekers and refugees. Women migrant rights defenders faced gender-based intimidation and threats by militia and, in some cases, by local residents of their neighborhood.

As a result, those migrant rights defenders working in Libya live mostly in hiding, evicted from rental accommodation, unable to engage in paid work, and forced to rely on other fellow migrants for shelter and food.

Without prejudging the accuracy of the information received, we wish to express our serious concern for the physical and psychological safety of migrant rights defenders we believe to be at risk of retaliation in direct connection with their work promoting and defending the rights of migrants, refugees and asylum seekers in Libya. We further wish to highlight our grave concern regarding state forces and state-supported armed groups alleged backing of and collaboration with human traffickers.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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 the observations of your Excellency's Government on the following matters:

1. Please provide any additional information and/or any comments(s) you may have on the above-mentioned allegations.
2. Please provide information as to concrete steps that have been taken or may be in the process of being taken to protect human rights defenders advocating for the rights of migrants, refugees and asylum seekers in Libya. If no such steps have been taken on either of these points, please indicate a manner in which we may be able to engage with your Government as to the development and implementation of such measures.
3. Please provide details, and where available the results, of any investigation, which may have been carried out in relation to the allegations above. If no investigation has taken place, or if it has been inconclusive, please explain why and how this is compatible with your Excellency's Government's obligations under international human rights law.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be

presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which a press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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

Mary Lawlor  
Special Rapporteur on the situation of human rights defenders

Mumba Malila  
Vice-Chair of the Working Group on Arbitrary Detention

Felipe González Morales  
Special Rapporteur on the human rights of migrants

## **Annex**

### **Reference to international human rights law**

In connection with the above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the following human rights standards.

The Human Rights Committee, in its General Comment No. 36 (CCPR/C/GC/36), stressed that the obligations upon States parties to the International Covenant on Civil and Political Rights (ICCPR), acceded to by your Excellency's Government on 15 May 1970, arising from article 6(1) include a duty to take positive measures to protect the right to life (para. 21). The Committee further emphasized that the duty to protect the right to life requires States parties to take special measures to protect persons in vulnerable situations whose lives have been placed at particular risk because of specific threats or pre-existing patterns of violence, including human rights defenders, displaced persons, asylum seekers, refugees and stateless persons (para. 23).

We wish to draw your Excellency's attention to article 9 of the UDHR, prohibiting arbitrary detentions, and article 9 of the ICCPR, enshrining the right to liberty and security of person. The latter establishes, in particular, that no one shall be deprived of his or her liberty except on such grounds and in accordance with such procedure as are established by law. As per the jurisprudence of the Working Group on Arbitrary Detention, and as reiterated in the Human Rights Committee's General Comment No. 35 (CCPR/C/GC/35), arrest or detention as punishment for the legitimate exercise of the rights guaranteed in the ICCPR, including freedom of opinion and expression (article 19), freedom of assembly (article 21) and freedom of association (article 22), is to be considered arbitrary (para. 17). In addition, article 22 requires States parties to take positive measures to create an enabling environment for associations. It is crucial that individuals exercising this right are able to operate freely without fear that they may be subjected to, for example, any threats, acts of intimidation or violence. States additionally have a negative obligation not to unduly obstruct the exercise of the right. (A/HRC/20/27, para. 63).

Furthermore, the Working Group on Arbitrary Detention has reiterated that a deprivation of liberty is arbitrary when it constitutes a violation of international law on the grounds of discrimination, and it has found that human rights defenders are a protected group entitled to equal protection of the law under article 26 of the Covenant. The Working Group has consistently stated that detaining individuals on the basis of their activities as human rights defenders violates their right to equality before the law and equal protection of the law under articles 2 and 7 of the Universal Declaration of Human Rights and articles 2 (1) and 26 of the Covenant.<sup>2</sup>

We would also like to refer your Excellency's Government to the absolute and non-derogable prohibition of torture and other cruel, inhuman, or degrading treatment or punishment, as enshrined in Article 7 of the ICCPR and Articles 2 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified by Libya on 16 May 1989. In this regard, we would also like to recall that the Committee against Torture and the Human Rights Committee have consistently found that conditions of detention can amount to inhuman and degrading

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<sup>2</sup> A/HRC/48/55.

treatment. In addition, we draw your Government's attention to article 12 of CAT, which requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 of CAT, which requires State parties to prosecute suspected perpetrators of torture.

Furthermore, we would like to refer 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 Recognised Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to Articles 1 and 2 of the Declaration, which state that everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation 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.

Likewise, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- Article 12 (2) and (3), which provides that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure, or any other arbitrary action as a consequence of their 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, and acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

We would also like to draw the attention of your Excellency's Government to the report of the Special Rapporteur on the human rights of migrants on the right to freedom of association of migrants and their defenders (A/HRC/44/42), in which the Special Rapporteur expressed concern on the troubling reports that migrant leaders of civil society organisations that work with migrants have been targeted for detention as a way of interfering with the work of their organisation and dissuading other migrants from organising.