

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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HUMAN RIGHTS AGENDA FOR THE GOVERNMENT OF NATIONAL UNITY

Addressing the human rights crisis and re-establishing the rule of law in Libya should be key priorities of the new Government of National Unity (GNU), said Amnesty International.

The GNU formally took office on 16 March 2021, with Abdelhamid Dbeiba as Prime Minister and a three-member Presidential Council from Libya's three historic regions, Tripolitania, Barqa and Fezzan, headed by Mohamed al-Mnefi. Prime Minister Abdelhamid Dbeiba heads a cabinet of 35 ministers, five of whom are women, including the ministers of foreign affairs and justice for the first time in Libya's history. The GNU faces tremendous challenges, including unifying institutions in a deeply divided, conflict-torn country and setting the ground for presidential and parliamentary elections scheduled for 24 December 2021.

Since the end of Mu'ammār al-Gaddafi's repressive 42-year-rule in October 2011, Libya has been engulfed by lawlessness and impunity for war crimes and other crimes under international law committed by rival militias and armed groups, amid the failure of successive governments to rein them in. Following months of deepening political polarization, by mid-2014, Libya was again engulfed in full-fledged armed conflict, and has since remained fragmented between two rival entities competing for legitimacy, governance, and territorial control. By June 2020, the UN-recognized, Tripoli-based Government of National Accord (GNA), supported by Turkey, successfully repelled an offensive by the self-proclaimed Libyan Arab Armed Forces (LAAF) led by Khalifa Haftar and backed by the UAE, Egypt and Russia, pushing its forces back to Sirte in central Libya, ending 15 months of armed conflict in Tripoli and surrounding areas. A permanent ceasefire was declared in October 2020 and UN-sponsored talks led to the announcement of the GNU on 6 February 2021.

Civilians in Libya continue to bear the brunt of a decade of lawlessness and violence, as all parties to the conflict, and their foreign backers, committed violations of international humanitarian law, including war crimes, and serious violations of human rights.¹ Thousands of civilians were unlawfully killed or maimed, while nearly 270,000 remained forcibly displaced as of December 2020.² Thousands continue to be subjected to enforced disappearance, while thousands more are arbitrarily detained or otherwise unlawfully deprived of their liberty, with no opportunity to challenge the legality of their detention, in official and unofficial places of detention, where torture and other ill-treatment are rampant.³ Militias and armed groups target men, women and children on the basis of their family, tribal, and political affiliation or gender identities. The rights to freedom of expression, association and peaceful assembly are severely repressed. Activists, journalists and social media users face arbitrary arrest, detention and threats, simply for expressing critical views or carrying out their work.⁴ Civil society workers continue to face restrictions in law and in practice and many human rights defenders fled the country or have gone into hiding fearing assassinations and other reprisals for speaking out. Women and members of LGBTI community face discrimination in law and practice and are subjected to physical violence and other intimidation, amid the authorities' failure to provide them with protection and redress.⁵ Members of ethnic minorities such as the Tabu and Touareg have long faced discrimination including in their access to health care and other essential services. Refugees and migrants from Sub-Saharan African and other countries have been subjected to unlawful killings,

¹ Amnesty International, *"Between Life and Death": Refugees and migrants trapped in Libya's cycle of abuse*, (Index: MDE 19/3084/2020), www.amnesty.org/en/documents/mde19/1201/2019/en/

² International Organization for Migration, *Libya — IDP And Returnee Report 34 (November - December 2020)*, [in Arabic], <https://dtm.iom.int/reports/libya-%E2%80%94-idp-and-returnee-report-34-november-december-2020-arabic>

³ Amnesty International, *Libya: Abducted politician's fate remains unknown a year on amid ongoing disappearances*, (Press release, 17 July 2020), www.amnesty.org/en/latest/news/2020/07/libya-abducted-politicians-fate-remains-unknown-a-year-on-amid-ongoing-disappearances/ and *Libya: UN Rights Council members must address widespread torture during periodic review*, (Press release, 10 November 2020), www.amnesty.org/en/latest/news/2020/11/libya-un-rights-council-members-must-address-widespread-torture-during-periodic-review/

⁴ Amnesty International, *Libya: Heavy weaponry used to disperse peaceful protesters demanding economic rights*, (Press release, 26 August 2020), www.amnesty.org/en/latest/news/2020/08/libya-heavy-weaponry-used-to-disperse-peaceful-protesters-demanding-economic-rights/

⁵ Amnesty International, *Libya: Silenced voices: Libyan women human rights defenders under attack*, (Index: MDE 19/8657/2018), www.amnesty.org/en/documents/mde19/8657/2018/en/

indefinite arbitrary detention, abductions, forced labour, rape and other sexual violence and other horrific crimes against the backdrop of unchecked racism and xenophobia.⁶

Amnesty International welcomes the new government's stated commitment to protect and promote human rights. The organization notes the minister of interior's statement urging for the respect of the human rights of everyone in Libya, including internally displaced people and migrants.⁷ During its Universal Periodic Review at the 46th Session of the UN Human Rights Council in March 2021, the Libyan government has also accepted several recommendations to end enforced disappearances, torture including rape, arbitrary detention, inhumane conditions of detention and to hold those responsible accountable.⁸ Amnesty International urges the GNU to translate their declared commitments into concrete actions and to ensure that human rights are at the centre of the political transition process.

Members of the international community must also play their role, including by respecting and enforcing the UN arms embargo, withdrawing all foreign fighters, ending the containment of refugees and migrants in Libya and ensuring that cooperation with the Libyan authorities does not lead to or facilitate the commission of human rights violations.⁹

In its human rights agenda, Amnesty International calls on the GNU to:

REIN IN MILITIAS AND ARMED GROUPS AND COMBAT IMPUNITY:

- Publicly acknowledge the depth of the human rights crisis in Libya; condemn widespread violations of international humanitarian law and violations and abuses of international human rights law by militias and armed groups including extrajudicial executions and other unlawful killings, torture and other ill-treatment, arbitrary detention and other unlawful deprivation of liberty, and enforced disappearances; and make clear that such crimes will not be tolerated under any circumstances;
- Ensure that, pending criminal investigations, members of militias and armed groups reasonably suspected of crimes under international law and serious human rights violations and abuses do not remain, or are not placed, in positions where they could repeat such crimes;
- Order the public prosecution to take steps to investigate all crimes under international law and other serious human rights violations, and prosecute suspected perpetrators where there is sufficient admissible evidence in trials that meet international standards for fair trial, without resorting to the death penalty; and
- Take steps to ensure that victims of human rights violations are provided full and effective reparation – including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition – to address their suffering and help them to rebuild their lives.

CO-OPERATE WITH UN MECHANISMS:

- Co-operate fully and grant unfettered access to the Fact-Finding Mission established in June 2020 by the UN Human Rights Council with the mandate to investigate violations of international humanitarian law and violations and abuses of international human rights law committed in Libya since 2016; and support efforts to ensure that it has sufficient time and financial and human resources to complete its tasks, including by backing the extension of its mandate;
- Cooperate with the International Criminal Court in its investigations on the situation in Libya and in the arrest and surrender of Seif al-Islam al-Gaddafi, who has been charged with committing crimes against humanity; and
- Invite the Working Group on Enforced and Involuntary Disappearances and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression to visit Libya, as well as responding favourably, with no further delays, to requests made by the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Working Group on Arbitrary Detention; and the Special Rapporteur on the human rights of migrants to visit the country.

⁶Amnesty International, *"Between Life and Death": Refugees and migrants trapped in Libya's cycle of abuse*, (Index: MDE 19/3084/2020), www.amnesty.org/en/documents/mde19/3084/2020/en/

⁷ Ministry of Interior, *Communication by Minister of Interior of the Government of National Unity No. 1 of 2021*, 19 March 2021, www.facebook.com/109308940831918/photos/a.109313917498087/271500224612788/

⁸ Amnesty International, *Libya: HRC46 UPR adoption: Oral statement*, (Index: MDE 19/3826/2021), www.amnesty.org/en/documents/mde19/3826/2021/en/

⁹ The UN Security Council imposed a comprehensive arms embargo on arms supplies to and from Libya in February 2011 (Res 1970). Since June 2016 (Res 2292), the Security Council has authorized member states to inspect vessels on the high seas off Libya's coast believed to be in violation of the arms embargo. See www.un.org/securitycouncil/sanctions/1970

END ARBITRARY DETENTION, ENFORCED DISAPPEARANCE, TORTURE AND UNFAIR TRIALS:

- Release of all those arbitrarily detained, including in the context of the conflict, and ensure that arbitrary arrests and detentions cease immediately and that no one is deprived of their liberty except in accordance with procedures and on grounds prescribed by Libyan law in compliance with international law and standards;
- Ensure that no individuals are deprived of their liberty solely for the peaceful exercise of their rights to freedom of conscience, thought, opinion, expression, association or assembly;
- End the practices of enforced disappearance and incommunicado detention by ensuring that those lawfully deprived of their liberty are detained in a formal place of detention and have regular access to their families and lawyers and independent medical attention;
- Ensure that all prisons and detention facilities are brought under the effective control of the ministry of justice. Allow regular, independent, unannounced and unrestricted access to all places where persons are deprived of their liberty by independent mechanisms;
- Order the end of military trials for civilians and quash all verdicts issued by military courts against civilians; and
- Prioritize and put in place sufficient resources to ensure that judges and prosecutors are adequately protected from violence and other attacks by militias and armed groups.

RESPECT AND PROTECT FREEDOMS OF EXPRESSION, ASSOCIATION AND PEACEFUL ASSEMBLY:

- In the run-up to elections scheduled for 24 December 2021, take steps to ensure non-discrimination and equal rights to participate in political and public life for all Libyans and put in place measures to ensure that candidates and voters are protected from violence, coercion and intimidation;
- Ensure that all Libyans are able to freely form and join political parties without discrimination including on the grounds of sex, ethnicity, race and tribal origin;
- Protect freedom of the press by instructing officials and members of militias and armed groups to refrain from harassing, attacking or arbitrarily detaining media workers for doing their work; and ensure effective investigations of attacks against journalists and other media workers with a view of bringing those responsible to justice;
- Take action to ensure a safe and enabling environment for human rights defenders and other members of civil society including by instructing officials, militias and armed groups to cease attacks against and the intimidation of civil society workers; removing restrictions on the right to freedom of association that are not compatible with Libya's international obligations; and ensuring effective investigations into the killing of and any attacks against activists with a view of bringing all those responsible to justice;
- Amend or revoke Decree 286 of 2019 on Regulating Civil Society Organizations, issued by the Presidential Council of the Government of National Accord, which establishes severe restrictions for individuals to form and join organizations and allows the government to close down NGOs on vague grounds; and
- Protect the right to freedom of peaceful assembly by removing restrictions on the right to assembly that are not strictly necessary for protecting public health or order; and instruct those performing law enforcement functions during the policing of assemblies to respect international law and standards on the use of force and firearms.

PROTECT THE RIGHTS OF MIGRANTS AND REFUGEES:

- Promptly locate, register and release any foreign nationals arbitrarily detained in the Directorate of Combatting Illegal Migration (DCIM) detention centres and regular prisons or held captive by militias, armed groups or criminal gangs and provide them with adequate assistance and access to rights, including the ability to seek international protection in countries other than Libya;
- End the arbitrary arrest and detention of foreign nationals solely on the basis of their legal status and close all immigration detention centres including those run by the DCIM;
- Pending the release of all those detained arbitrarily and the closure of immigration detention centres, ensure that all those detained are provided with adequate food and access to health care and are protected from torture and other ill-treatment, sexual violence and exploitation and forced labour. Women should only be held in facilities with adequately trained women guards, while children should be held separately from unrelated adults;
- Allow humanitarian agencies unrestricted access to all places where refugees and migrants are being held or disembarked;
- Enable foreign nationals to lodge complaints with police and prosecution authorities without fear of arrest, detention or deportation due to their immigration status;
- Ensure scrupulous respect for the principle of non-refoulement and ensure that anyone facing deportation has access to due process, legal assistance and the right to challenge the expulsion order in front of judicial

authorities; and

- Take measures to combat racism and xenophobia, including by conducting awareness-raising campaigns. Address the use of racist language by officials including through disciplinary and penal measures. Integrate anti-racism programmes in the training of officials.

TAKE MEASURES TO FACILITATE THE RETURN OF INTERNALLY DISPLACED PEOPLE:

- Facilitate the voluntary, safe and dignified return of displaced people to their homes and help them recover their homes, property and possessions;
- Ensure that all displaced people are given the necessary information and resources that will enable them to make an informed and voluntary choice concerning local integration, the return to their place of origin or resettlement in other parts of Libya. Should displaced individuals, families or communities decide to return voluntarily to their hometowns, take the necessary measures to facilitate their safe return, including by providing the assistance they need to restore their lives;
- Protect all internally displaced people from threats and retaliatory attacks; and
- Remove arbitrary obstacles to the enjoyment of human rights for all internally displaced people, including by ensuring that they have equal access to education, health and an adequate standard of living.

COMBAT SEXUAL AND OTHER GENDER-BASED VIOLENCE AND DISCRIMINATION IN ALL FORMS:

- Ensure the full, equal and meaningful participation of women in public and political life, free from any forms of intimidation, attacks and other reprisals and publicly condemn all forms of sexual and other gender-based violence;
- Decriminalize sexual relations between consenting adults, including between same-sex partners, by instructing officials not to implement articles 407 and 408 of the Penal Code and Law No. 70 of 1973 on punishing *zina*, pending their repeal;¹⁰
- Instruct officials, and members of militias and armed groups to end the practice of policing and controlling women's dress and behaviours in public spaces and limiting their freedom of movement inside Libya, as well as their ability to leave the country without consent from a male relative;
- Take measures to combat violence against women and girls, including by carrying out investigations into allegations of rape and other sexual violence and exploitation and other gender-based violence, providing survivors with full reparation, and bringing those responsible to justice; and
- Take measures to combat all forms of violence against LGBTI individuals, including by ensuring effective investigations into homophobic attacks, with a view of bringing those responsible to justice; and instruct all officials and members of militias and armed groups to cease the practice of apprehending individuals on the basis of their real or perceived sexual orientation or gender identity.

GUARANTEE THE RIGHT TO HEALTH:

- Take measures to ensure that everyone in Libya has equal access to adequate health care, including diagnostics and treatment in relation to the COVID-19 pandemic, without discrimination on the grounds of ethnicity, sex, gender identity, religion, legal status, tribal origin or any other status; and
- Take measures to ensure universal and fair access to COVID-19 vaccines; develop and make public a national vaccine distribution plan that is inclusive and non-discriminatory, where those most at risk in Libya are prioritized, with specific consideration for groups who have faced historical discrimination and/or are at heightened risks of COVID-19 including detainees; refugees, asylum-seekers and migrants; members of ethnic minorities; and internally displaced people.

TAKE STEPS TOWARDS ABOLISHING THE DEATH PENALTY:

- Immediately establish an official moratorium on executions with a view to abolishing the death penalty in law and practice; and
- Commute all death sentences and refrain from issuing new death sentences.

¹⁰ The law defines *zina* as any sexual intercourse between a man and a woman out of wedlock.