

## AMNESTY INTERNATIONAL PUBLIC STATEMENT

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# LIBYA: ELECTIONS DELAYED AMID A CLIMATE OF REPRESSION

The postponement of first-ever Libyan presidential elections originally scheduled for 24 December should be used as an opportunity by the internationally recognized Government of National Unity (GNU) and those with *de facto* control of Libyan territory to urgently address barriers to the exercise of the rights to freedom of expression, association, peaceful assembly and participation in public affairs, Amnesty International said. In the run up to the now postponed elections, militias and armed groups across the country ramped up their repression on dissenting voices, restricted civic space and attacked elections officials and infrastructure, amid the failure of the GNU and those with *de facto* control of territory to guarantee the right to participation in public affairs and protect all those involved in elections from violence, coercion and threats.

In March 2021, the GNU was sworn in with the mandate of preparing for elections. These preparations have been taking place against the backdrop of deep political divisions as the Libyan Arab Armed Forces (LAAF), an armed group, continued to exercise effective control over large swaths of eastern and southern Libya. In the months leading up to the now postponed elections, disputes over the validity of electoral laws and the eligibility of candidates intensified, while human rights abuses by armed groups and militias continued unabated in a climate of impunity. On 26 November, Emad al-Sayeh, the head of the High National Elections Commission (HNEC), the state body responsible for organizing elections, expressed concerns over the security of HNEC staff and operations, after armed men raided and forced the closure of at least four of its regional offices, disrupted voter registration processes and looted voting cards.

The Libyan authorities and those in *de facto* control of territory failed to uphold the rights to freedom of expression, association and peaceful assembly and create an environment that is free of attacks, threats, coercion and discrimination against those involved in the elections, including electoral officials, candidates, judges and activists. Several HNEC and ministry of interior officials responsible for providing election security reported being threatened by members of militias and armed groups. In Sabha, armed men surrounded the city's courthouse with the apparent aim of halting the judicial review of a candidate's eligibility and threatened judges. Militias and armed groups also abducted tens of protesters, journalists and activists merely for expressing support for specific candidates or views on the electoral framework or timing of the elections. The effective exercise of the right of all Libyans to participate in public affairs has been further undermined by severe restrictions on civil society in law and in practice.

The GNU and the LAAF have further failed to protect women politicians from attacks on their lives, physical integrity or to take measures against gendered attacks on women politicians and activists online. Impunity for such crimes and human rights abuses have had a chilling effect on women's participation in political and public affairs across Libya.

Rampant impunity for crimes under international law committed by militias and armed groups represents a serious barrier for holding elections in an environment free from coercion and intimidation. Instead of holding those responsible for crimes accountable, successive Libyan governments have integrated militias and armed groups with alarming human rights records into state institutions, without vetting.

A number of frontrunners in the presidential elections are controversial figures within Libya, including due to their involvement in the 2011 uprising and subsequent armed conflict. The GNU, Libya's parliament, international backers of rival entities in Libya, HNEC, and the United Nations Support Mission in Libya (UNSMIL), which provides electoral support to Libyan institutions, did not take any effective steps to ensure that those reasonably suspected of committing crimes under international law were excluded from positions where they could carry out further violations or which would allow them to interfere with investigations into or conceal crimes or which would grant them immunity from prosecution.

The postponement of elections should be used as an opportunity by Libyan authorities and those in *de facto* control of territory to ensure that candidates and other politicians, voters, activists and journalists are protected from violence and intimidation; instruct affiliated militias and armed groups under their respective command to stop attacking, threatening and harassing judges and electoral and security officials responsible for managing the electoral process; ensure the release all those unlawfully deprived of their liberty in relation to their views and/or activism around elections; cease the harassment of civil society actors; and protect women politicians from sexual and gender based violence including online harassment.

The international community must also play its role in facilitating the holding of elections in a context free of coercion and intimidation and where the right to public participation is fully upheld. As a start, UN member states should enforce the arms embargo in place in Libya since 2011, ensure the withdrawal of all foreign fighters, and cooperate with the International Criminal Court (ICC). Members of the international community and UNSMIL must also support efforts to ensure that those reasonably suspected of committing crimes under international law face investigations and are not in positions where they could carry out further crimes, conceal crimes or that would grant them immunity from prosecution, pending effective investigations.

## **POLIRIZED CLIMATE OVERSHADOWS ELECTIONS PROCESS**

Libya has been fragmented between two entities competing for legitimacy and territorial control since 2014. As part of a UN-mediated process, the 75 members of the Libyan Political Dialogue Forum (LPDF), representing various political groups in Libya, agreed on a roadmap to bring an end to the political crisis. They appointed the GNU in February 2021 tasked with preparing for presidential and parliamentary elections set to begin on 24 December 2021. Since then, the GNU has been struggling to exercise effective control, as armed groups continue to control large swathes of Libyan territory and political divisions persist.

The run-up to the now postponed elections was characterized by persistent disagreements over the electoral framework, the process for challenging candidates' eligibility and the candidacies of controversial and divisive figures.

Abdullah Belhaq, the spokesperson for House of Representatives (HoR), Libya's parliament, publicly announced that the HoR passed the presidential and parliamentary elections laws, respectively on 9 September and 4 October. A number of parliamentarians and other politicians and officials claimed that both laws were invalid, citing the absence of a parliamentary vote, other procedural irregularities and violations of the roadmap endorsed by the LPDF.

Of the 96 men and two women who submitted their candidacy for presidential elections to the HNEC, 25 were initially disqualified by the HNEC on the grounds that they had prior convictions, failed to collect the minimum number of required signatures of registered voters, held dual nationality or were physically unfit. Several of the disqualified candidates appealed HNEC's decisions in court. On 15 December, HNEC submitted its final report on the eligibility of candidates for the presidential elections to a committee established by the HoR. A final list of the candidates for presidential elections was not published at the time of writing. The date for parliamentary elections has yet to be set by the HoR.

The candidacies of three of the frontrunners in the presidential elections, Khalifa Heftar, Saif al-Islam al-Gaddafi and Abdelhamid Debeiba were appealed in court and continue to face fierce opposition from various political constituencies.

On 15 November, Saif al-Islam al-Gaddafi, the son of the late ruler Muammar al-Gaddafi, submitted his candidacy in the presidential elections to the HNEC office in Sabha. He has been subject to an arrest warrant by the ICC since June 2011 for his role in the violent suppression of protests against his father in 2011. In 2015, a Tripoli court sentenced him to death for his role in the 2011 uprising and armed conflict following a grossly unfair trial, before a higher court overturned the verdict in May 2021 and ordered a retrial. On 24 November, HNEC announced his ineligibility, citing the former conviction and failure to provide a financial statement. On 2 December, following delays of his appeal hearing (see below) a Sabha court accepted his appeal and reinstated him as a candidate.

On 16 November, Khalifa Heftar, whose LAAF forces unsuccessfully sought to take over Tripoli and the rest of western Libya in a year-long offensive thwarted in June 2020, submitted his candidacy in Benghazi, following months of speculation on his intention to run after he named Abdulrazek al-Nadoori as Acting Commander of the LAAF until 24 December 2021.<sup>1</sup> Less than 10 days later, on 25 November, a document began circulating online, purportedly signed by a military prosecutor in Misratah, a city 200km east of Tripoli, instructing the military police to apprehend Khalifa Heftar, in connection to a conviction and death sentence by a Misratah court. On 30 November, a court based in the city of al-Zawiya, 50km west of Tripoli, announced that it annulled his candidacy due to a previous criminal conviction, as per eligibility criteria set in the elections law. On 6 December, a higher court in Tripoli accepted his appeal against the decision on the grounds that the al-Zawiya court did not have jurisdiction, clearing him to run. Amnesty International and others have extensively documented crimes under international law including war crimes committed by the LAAF and affiliated armed groups. There are reasonable grounds therefore to investigate whether, as commander of the LAAF, Khalifa Heftar, at least, knew or should have known of crimes committed by forces under his command, and failed to take all reasonable and necessary measures in his power to prevent, punish or redress them. Further, the LAAF failed to hand

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<sup>1</sup> The aforementioned presidential elections law required all candidates to vacate their official or military posts three months ahead of the elections.

over al-Saiqa commander Major Mahmoud al-Warfalli, who was wanted by the ICC since August 2017 for the murder of 33 people in Benghazi and surrounding areas. He was shot dead by unidentified armed men in Benghazi on 24 March 2021 without facing justice.

On 21 November, Abdelhamid Debiba, the Prime Minister of the GNU, entered the race. His candidacy was challenged in two courts on the grounds that he signed a pledge not to run for president, when he accepted the prime minister appointment, and that he did not resign from his post three months prior to the elections, as per electoral law. By 1 December he was cleared to run on both counts. Amnesty International documented various crimes under international law, particularly against migrants and refugees, committed by forces under the GNU, while he was in power. Like its predecessors, the GNU has continued to appoint and provide legitimacy to individuals reasonably suspected of committing crimes under international law. For example, in April, the GNU released Abdelrahman Milad, also known as Bidja, following a decision by the public prosecutor citing lack of evidence. He remained under UN Security Council (UNSC) sanctions, imposed in June 2018, over his alleged involvement in human trafficking. Osama al-Kuni also remained the head of the Department of Combatting Illegal Migration detention centre in al-Zawiya, despite being sanctioned by the UNSC in October 2021 for his alleged role in crimes against migrants and refugees.

## ATTACKS ON ELECTION INFRASTRUCTURE AND OFFICIALS

Militias and armed groups raided and forced the closure of HNEC offices and subjected elections officials, judges and ministry of interior personnel responsible for providing election security to threats and intimidation. HNEC's head Emad al-Sayeh said in an interview on 26 November 2021 that HNEC may request to postpone the presidential elections due to instability and insecurity. On 12 December, Emad al-Sayeh added that it ultimately was the HoR's decision whether presidential elections would take place as scheduled or postponed.

In mid-November, armed men attacked and forced the temporary closure of four HNEC offices in western Libya. According to informed sources and a video, shared by residents and examined by Amnesty International, on the night of 14 November, armed men fired at the HNEC office in Gharyan, a city 100km southwest of Tripoli, causing damage to the building. The next morning, the armed men closed the office and barred access. Amnesty International also learned from local sources that on 15 November armed men surrounded HNEC's office in al-Khums, a city 120km east of Tripoli, and forced its employees to leave the building. Amnesty International examined photos showing staff exiting the building in a single file, surrounded by large crowds, corroborating the account. On the same day, armed men prevented access to HNEC's offices in Zliten, 180km east of Tripoli, while a number of the city's notables announced the closure of HNEC's office until their demands to replace HNEC's senior management, a constitutional referendum ahead of elections, and changes to electoral laws are met. In the city of al-Zawiya, Rashed al-Walani, a local HNEC official, announced the closure of its voters' registration office over security threats. These attacks followed a call on 10 November by Khaled al-Mishri, head of Libya's High Council of State, an advisory body to the government and HoR based in Tripoli<sup>2</sup>, for peaceful protests in front of HNEC offices, in opposition to the elections laws and the then expected candidacies of Saif al-Islam al-Gaddafi and Khalifa Heftar for presidential elections. By 18 November, the four offices were re-opened following negotiations between various political and armed actors.

Despite the reopening of the HNEC offices, further attacks and disruption to HNEC's work was documented. According to a statement by HNEC on 1 December, unidentified armed men raided five polling offices in Tripoli, taking hundreds of voting cards. Libyan and regional media also reported the abduction of an HNEC staff member by unidentified armed men, citing HNEC sources. A video examined by Amnesty International, which was circulated online on 8 December, showed armed men entering HNEC's premises in al-Zawiya for a sit-in demanding to postpone elections until a constitution is adopted. The men are heard self-identifying as being affiliated with the al-Zawiya-based Counterterrorism Force and other militias from the cities of al-Zawya, Tripoli and Misratah. They vacated the premises the following morning.

In the southwestern city of Sabha, armed groups surrounded the Sabha courthouse from 29 November to 2 December, preventing judges from entering and examining an appeal submitted by Saif al-Islam al-Gaddafi's lawyer against his exclusion from running in elections. A local source with direct information on the court's functioning told Amnesty International that men who did not identify themselves threatened several Sabha judges via phone calls and ordered them not to attend the appeal hearing. Saif al-Islam al-Gaddafi's lawyer also told media that armed groups prevented his team from entering the courthouse. Amnesty International examined photos showing armed men in military dress bearing the

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<sup>2</sup> The High Council of State was established through the UN-mediated Libyan Political Agreement signed in Skhirat in 2015 with a mandate of advising on laws, politics and government appointments. Its members were drawn from the General National Congress, the country's first parliament elected in 2012.

logo of the Tariq Ibn Zeyad Brigade, an armed group affiliated with the LAAF, surrounding the courthouse. The Sabha Security Directorate, nominally under the GNU ministry of interior, issued a statement on 29 November, accusing Tariq Ibn Zeyad brigade of surrounding the courthouse. The appeal hearing took place after the armed men withdrew on 2 December.

During a [press conference](#) held on 30 November, Khaled Mazen, the GNU minister of interior reported several incidents of harassment and intimidation of ministry of interior officials responsible for securing elections. He gave examples of unidentified men looting equipment intended for use in securing the elections in Ajdabiya, a city 780km east of Tripoli, and threats to security officials after they had attended a training related to preparations for elections.

## RESTRICTIONS ON FREEDOM OF EXPRESSION AND PEACEFUL ASSEMBLY

Throughout 2021, militias and armed groups across Libya arrested tens of individuals for peacefully expressing their views about the timing and legal framework of the elections or their support for specific candidates. Amnesty International documented such incidents in the cities of Ajdabiya, Benghazi, Misrata, Sirte and Tripoli .

In Tripoli, on 26 September 2021, unidentified armed men in military clothes abducted Imad al-Harati, the director of the National Youth League, a state institution, and held him incommunicado in undisclosed location in conditions amounting to enforced disappearance until 5 October, according to informed sources. Shortly before his arrest, the National Youth League posted [a call](#) on its Facebook account for a protest in support of holding the elections as scheduled, reiterating a message made in [a public statement](#) three days prior. According to information received by Amnesty International, Imad al-Harati was being investigated by the public prosecutor on corruption charges, but the timing of his arrest raises concerns about its politically-motivated nature.

In Sirte, a city 450km east of Tripoli and hometown of former ruler Muammar al-Gaddafi, armed men from the Internal Security Agency, an armed group affiliated to LAAF, arrested at least 13 men over their alleged involvement in a rally held on 14 November 2021 in support of Saif al-Islam al-Gaddafi's candidacy. All those detained were released on 19 November.

On 7 December 2021, members of the Combined Force, a Misratah-based militia, arrested Hamza al-Treki, after he uploaded a video insulting a businessman close to Prime Minister Abdelhamid Debiba. He has been vocal on his social media account about allegations of corruption by Abdelhamid Debiba, his family and close associates, and [published](#) content mocking the prime minister. Prior to Hamza al-Treki's arrest, the aforementioned businessman published videos threatening him with unspecified dire consequences. Amnesty International also learned that the prosecution in Misratah had issued a warrant for Hamza al-Treki's arrest for defamation.

These arrests come against the backdrop of militias, [armed groups](#) and security forces [abducting](#) and [torturing](#) scores of journalists, activists and others for peacefully expressing their views on social media or over their real or perceived political or tribal allegiances [since 2014](#).

In November 2021, the HoR adopted a new cybercrime law that criminalizes free expression online on overly vague and broad "national security" grounds, allows for government surveillance and censorship and punishes with imprisonment the dissemination of content deemed "immoral".

## RESTRICTIONS ON MEDIA

A restrictive environment for journalists and media workers, coupled with a deeply polarized media landscape, has led to self-censorship among journalists, particularly refraining from criticizing those in *de facto* control of areas where journalists are based.

The National Press Agency, a body responsible for state press, reported that on 22 November 2021, armed men in civilian clothes broke into [a local Benghazi newspaper](#) office, insulted journalists and staff members, before forcibly taking away journalist Serag Abdelhafiz al-Maqsabi. His whereabouts remain unknown.

In Sirte, the ISA held two journalists for several days, after arresting them on 14 November along with other alleged supporters of Saif al-Islam al-Gaddafi (see above).

Amnesty International has long [documented](#) how militias and armed groups subject [journalists](#) to arbitrary arrest and detention, torture and other ill-treatment merely for doing their media work or for expressing critical opinions. For

instance, on 23 November, unidentified armed men abducted 31-year-old journalist Saddam al-Saket during his coverage of a sit-in by refugees and migrants in Tripoli; his whereabouts remain unknown at the time of writing. Such attacks on media have led to self-censorship, for fear of retaliation by militias and armed groups, limiting access to information for all Libyans.

## RESTRICTIVE ENVIRONMENT FOR CIVIL SOCIETY

Restrictive legislation undermines the right to freedom of association, while militias and armed groups continue to attack civil society workers and other activists through unlawful deprivation of liberty, physical violence, threats and other intimidation. These attacks and restrictions constrain the ability of the Libyan civil society to engage with the electoral process meaningfully and safely.

Armed men abducted [Mansour Atti](#), a journalist, blogger and head of the Red Crescent Committee and the Civil Society Commission in Ajdabiya, on 3 June 2021 near his workplace in Ajdabiya. Since then, his family have received no information about his fate and whereabouts, amid credible reports that he is being held by an armed group in eastern Libya. Prior to his abduction, Mansour Attia had been subjected to repeated questioning about his activism by the ISA in Ajdabiya. Mansour Atti was involved in efforts to ensure that the parliamentary and presidential elections take place in an environment free of repression and coercion.

Draconian decrees no.1605/2018 and no.286/2019 regulating the work of the Civil Society Commission give the authorities wide powers over the registration, funding and activities of NGOs. NGOs must provide advance notice to the Civil Society Commission of their activities, including with any international organizations – a requirement which in practice amounts to the need to seek approval. The Civil Society Commission also retains the power to revoke the registration and work permits of national and international organizations.

According to information received by Amnesty International, members of civil society organizations in eastern Libya who sought authorization from HNEC to monitor the elections were told to report first to the ISA armed group for approval.

Politicians in Benghazi and Derna, a city 250km east of Benghazi, told Amnesty International about being instructed by phone by callers who identified themselves as ISA members to seek their approval prior to registering political parties or submitting their candidacy for parliamentary elections.

## FAILURE TO PROTECT WOMEN POLITICIANS

Since 2014, women politicians and activists have increasingly been subjected to enforced disappearance, assassinations and other violent attacks, and online gendered harassment, amid failure by the authorities and those in *de facto* control of territory to provide protection and redress. This chilling environment undermines women's right to political participation and has deterred women from public engagement.

The abduction of parliamentarian Siham Sergiwa from her home in Benghazi on 17 July 2019 and her ongoing enforced disappearance has had a detrimental impact on Libyan women's participation in public affairs. The night before her abduction, Siham Sergiwa had publicly called for an end to the LAAF offensive on Tripoli. Eyewitnesses to [Siham Sergiwa's](#) abduction and photos examined by Amnesty International point to graffiti on the wall of her house as evidence that Awliya al-Dam, an armed group affiliated with the LAAF, was responsible. Moreover, the presence of several military police checkpoints around her house and witness testimonies describing how the attackers arrived in cars branded "military police" suggest the LAAF was complicit or directly responsible. The LAAF denies responsibility, but has failed to open a full, impartial and independent investigation or secure her release. Authorities have also failed to order investigations into the fatal gunning down of lawyer Hanan al-Barassi on a busy street in Benghazi on 10 November 2020. Prior to her assassination, Hanan al-Barassi had been vocal in criticizing several individuals affiliated to powerful armed groups in eastern Libya and reported receiving death threats

Women politicians and activists including senior political figures have been subjected to online harassment and gender-based threats in connection to their participation in public affairs. Laila Ben Khalifa and Huneida al-Mahdi, the two women who submitted their candidacies for the presidency, publicly reported being subjected to gender-based online mockery and harassment, centering around their physical appearances, lack of competencies and "place in the kitchen". Likewise, Najla Mangoush, Libya's foreign minister, was subjected to an online harassment campaign, characterized by the use of derogatory and pejorative language and gender-based incitement to violence. A March 2021 report by the Libyan organization Libyan Lawyers for Peace and Justice [found](#) that online violence against women has had a severe silencing effect on women.