



Photo Credit: Nazih Arebi

# A Guide to Freedom of Expression in Libya



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# EXECUTIVE SUMMARY

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Libya's legal framework is, at present, inconsistent and at times contradictory, reflecting the rapid changes in Libyan society's relationship with its state. This ambiguity has led to confusion as to the exact status of current freedom of expression rights and restrictions.

This guide examines the legal framework in an attempt to provide greater clarity on this topic. It looks at the protections available in Libya's domestic law, which laws can be used to restrict expression, the actions of those regulating the media and possible future constitutional developments.

It finds that the supremacy of the Constitutional Declaration<sup>1</sup>, the direct domestic applicability of international human rights treaties, and several Libyan Supreme Court decisions point towards a legal foundation to the right to freedom of expression. However, this foundation is highly at risk and regularly undermined. Representatives of the government have failed to repeal or amend restrictive provisions, instead passing new restrictive laws. Regulatory bodies have sought to introduce paternalistic and unpopular registration requirements for the media without the sufficient legal authority to do so. In addition, the limited functioning of the judicial system means many unlawful practices are able to continue unchallenged.

In the future, the prospect of a new Libyan constitution offers an opportunity for consolidated, clear and robust legal protections for freedom of expression. However, the current Constitutional Draft<sup>2</sup> contains significant legal loopholes and establishes institutions of uncertain power. The failure of the Constitutional Draft to adhere to international minimum standards, let alone seek to ensure best practices, means that it may ultimately further weaken human rights, including freedom of expression.

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## THE CURRENT CONSTITUTIONAL DRAFT CONTAINS SIGNIFICANT LEGAL LOOPHOLES AND ESTABLISHES INSTITUTIONS OF UNCERTAIN POWER.

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# PROTECTIONS AND GUARANTEES OF FREEDOM OF EXPRESSION

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**International and Regional Treaties** - The right to freedom of expression is guaranteed by a number of international and regional human rights treaties. The strongest protections, to which Libya is a party, are included in the International Covenant on Civil and Political Rights (ICCPR)<sup>3</sup> and the African Charter on Human and People's Rights (ACHPR)<sup>4</sup>.

The Libyan legal system makes international treaties that are ratified by the Libyan State (the **State**) and published in the Official Gazette directly binding and enforceable by the domestic judiciary. Any interested party may invoke their rights and petition the judiciary to implement the provisions of such international treaties and conventions<sup>5</sup>.

However, due to the current incapacity of the Libyan judiciary, the ability of individuals to secure accountability for violations of freedom of expression is principally limited to the complaints mechanisms established by human rights treaties. Most of these mechanisms are overburdened with communications or inadequately staffed, which leads to extremely long waiting periods (several years) for decisions.

**The Constitutional Declaration (2011)** - The Constitutional Declaration asserts itself as the supreme law of Libya, meaning that in the event that other laws, regulations or policies exist which are in contradiction to its provisions, those laws, regulations and policies are abrogated by it<sup>6</sup>. Article 14 of the Constitutional Declaration offers protection to various freedoms, including "Freedom of opinion for individuals and groups, freedom of scientific research, freedom of communication, liberty of the press, printing, publication and mass media..."<sup>7</sup>

Citing these protections, Libya's Supreme Court has ruled that certain laws and decrees passed by transitional governments are unconstitutional for undermining freedom of expression<sup>8</sup>. The Libyan State, in its international communications, has also supported the notion that "laws restricting freedom of the press and the media" were abrogated with immediate effect by the Constitutional Declaration<sup>9</sup>. The protections of Article 14 for freedom of press and the media are identical to those it provides for other forms of expression, suggesting that all laws which restrict free expression have also been abrogated by the Constitutional Declaration.

**The Promotion of Freedom Act - Law 20 of 1991**<sup>10</sup> - The Promotion of Freedom Act was enacted, ostensibly, to provide a domestic interpretation of Libya's civil and political human rights obligations under international law. In Article 8, it codifies the right of only Libyan citizens to express opinions and ideas with people's congresses and through the media<sup>11</sup>. As such, it is a limited recognition of a right to expression, empowering a particular class of individuals (citizens) within a limited number spaces (people's congresses/media). This limited conception conflicts with the character of freedom of expression, which is defined as an inalienable entitlement of all humans to impart and receive information of all kinds, regardless of frontier or form. In addition, as noted in the section below, the restrictions the Promotion of Freedom Act includes are wide ranging and ambiguous, making it unlikely to offer any real form of legal protection to expression.

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## THE LIBYAN LEGAL SYSTEM MAKES INTERNATIONAL TREATIES THAT ARE RATIFIED BY THE LIBYAN STATE AND PUBLISHED IN THE OFFICIAL GAZETTE DIRECTLY BINDING AND ENFORCEABLE BY THE DOMESTIC JUDICIARY.

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# LIMITATIONS TO EXPRESSION

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The right to freedom of expression is not absolute and under certain exceptional circumstances, detailed in the International and Regional Treaties section below, a state may justifiably introduce limitations to the right. These may include, for example, introducing legal measures designed to prevent incitement to violence or “hate speech”. This is pertinent in Libya where the media is alleged to be a tool used to propagate violence in the ongoing conflict<sup>12</sup>.

However, legal and regulatory responses to address legitimate concerns can become overbroad and subject to abuse by authorities. Libya’s legal framework contains many provisions that grant the State overly discretionary power to limit expression that is considered as legitimate in international treaties. For this reason, the measures highlighted below are considered not to be fit for the purpose of tackling expression such as hate speech. As a result, there is an urgent need for the State to amend or repeal existing laws which restrict expression in a manner that is inconsistent with the Constitutional Declaration and Libya’s international human rights obligations.

**International and Regional Treaties<sup>13</sup>** - The ICCPR provides a narrow set of conditions<sup>14</sup> which all need to be fulfilled for a state to limit expression legitimately. Restrictions must:

- Be stipulated in a law or regulation that meets reasonable standards of clarity and precision.
- Pursue a legitimate aim. Measures must intend to ensure respect for the rights and reputations of others, or the protection of national security, public order, public health or morals.
- Be a necessity, impairing expression as little as possible in pursuit of legitimate aims.

The International Convention on the Elimination of All Forms of Racial Discrimination<sup>15</sup> also obliges Libya to declare illegal, and prohibit, organisations and propaganda activities which promote and incite racial discrimination<sup>16</sup>.

**The Constitutional Declaration (2011)** - The Constitutional Declaration states that expression will be guaranteed in accordance with the law<sup>17</sup>. It does not, however, explicitly state the need for restrictions to expression to pursue a legitimate aim or necessity as required by international law.

However, the Libyan Supreme Court has ruled that some laws which restrict expression are unconstitutional<sup>18</sup>. In doing so, the Libyan Supreme Court demonstrates that providing for a restrictive measure in law is, in itself, insufficient to form a constitutionally compliant restriction. The Libyan Supreme Court referenced the need for laws that criminalise expression to be clearly defined to avoid additional acts, not intended by lawmakers, from being criminalised. This is consistent with the requirement of the ICCPR for laws to meet reasonable standards of clarity and precision<sup>19</sup>.

Beyond the need for specificity for criminal laws, it remains unclear whether other laws that restrict expression are consistent with the Constitutional Declaration. The State’s communications at the international level suggest that some laws have been immediately abrogated due to lack of compliance with the Constitutional Declaration<sup>20</sup>. One possible inference is that the Constitutional Declaration may only allow restrictions that adhere to Libya’s international human rights obligations.

The Constitutional Declaration does provide guarantees to other rights which may, on occasion, need to be balanced with the right to freedom of expression. These include the right of citizens to a private life<sup>21</sup>; to secrecy of correspondence<sup>22</sup>; and to intellectual property<sup>23</sup>.

**The Promotion of Freedom Act - Law 20 of 1991** - The Promotion of Freedom Act sets out ambiguous limitations on the State’s guarantees of free expression. For example, it states that expression “detracting from the people’s authority”<sup>24</sup> is not protected by the law. As a result, many types of expression that are vital for human dignity and good governance, such as joining political parties, being critical of government activities, or engaging in peaceful protest, potentially lack protection in the Promotion of Freedom Act.

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# THE LIBYAN PENAL CODE CRIMINALISES VARIOUS FORMS OF EXPRESSION IN A MANNER WHICH IS LARGELY INCONSISTENT WITH LIBYA'S INTERNATIONAL HUMAN RIGHTS OBLIGATIONS AND THE CONSTITUTIONAL DECLARATION.

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The Promotion of Freedom Act also expressly prohibits forms of expression, including secretly advocating ideas and attempting to impose thoughts through enticement, force, intimidation or fraud<sup>25</sup>. The prohibition of secretly advocating ideas does not seem to follow a legitimate aim, as required by Libya's international obligations, and seems to conflict with the protections of sanctity and secrecy of correspondence offered by the Constitutional Declaration. Limiting expression that seeks to use enticement, force, intimidation or fraud may be more consistent with meeting the required pursuit of a legitimate aim, as outlined in international law. However, the wording of the Promotion of Freedom Act fails to be consistent with the ICCPR's requirements as it does not provide sufficient legal detail or consider the necessity of stipulated sanctions.

***The Libyan Penal Code (1953)***<sup>26</sup> - The Libyan Penal Code criminalises various forms of expression in a manner which is largely inconsistent with Libya's international human rights obligations and the Constitutional Declaration.

Acts of expression criminalised include those which: insult public officials<sup>27</sup>, the Libyan nation<sup>28</sup>, or the Libyan flag<sup>29</sup>; initiate a civil war in the country, fragment national unity or cause discord<sup>30</sup>; aim to overthrow the political, social or economic system of the State<sup>31</sup>; offend or attack religions<sup>32</sup>; are indecent in nature<sup>33</sup>; insult a person's honour<sup>34</sup>; or, harm or prejudice the February 17 Revolution<sup>35</sup>.

The Libyan Penal Code fails to adhere to legitimate aims and necessity, whilst imposing severe penalties (including the death penalty<sup>36</sup>), meaning its provisions are highly inconsistent with international law and the Constitutional Declaration.

***The Publications Act - Law 76 of 1972***<sup>37</sup> - The activities of media within Libya were previously governed by the Publications Act. The Publications Act restricted expression, allowing only lawful publications that were considered to be within "the framework of the principles, values and objectives of society"<sup>38</sup>. This allowed the state to control Libya's media tightly. The Publications Act was, in turn, heavily criticised by the United Nations Human Rights Committee<sup>39</sup>. Although Libya stated its intention to amend the Publications Act<sup>40</sup> and superficially loosened some of its control over publication rights<sup>41</sup>, the law remains largely unchanged.

Independent media expanded rapidly after the 2011 uprising and the Publications Act's incompatibility with the Constitutional Declaration has led many, including the State<sup>42</sup>, to declare the act as abrogated. However, media authorities have recently sought to issue orders and decrees, including the banning of publications, on the basis of the Publications Act<sup>43</sup>. The interpretation of such authorities is likely to be unlawful, but the consequences are real and dangerous to free expression.

***National Transitional Council (NTC) Decree 15 of 2012*** - The decree placed a blanket ban on media discussion of religious opinions (*fatwas*) issued by the national council of Islamic Jurisprudence (*Dar Al-Iftaa*). The decree remains untested in relation to its compliance with the Constitutional Declaration and has largely been ignored by media organisations. There remains a danger that it will be used in the future to suppress legitimate debate.

***General National Congress (GNC) Decree 5 of 2014***<sup>44</sup> - The decree sought to prevent television and radio stations from broadcasting if they featured viewpoints that were considered "hostile to the February 17 Revolution and whose purpose is the destabilisation of the country or the creation of divisions amongst Libyans"<sup>45</sup>.



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## MEDIA AUTHORITIES HAVE RECENTLY SOUGHT TO ISSUE ORDERS AND DECREES, INCLUDING THE BANNING OF PUBLICATIONS, ON THE BASIS OF THE PUBLICATIONS ACT.

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### *House of Representatives “The Law on Combatting Terrorism”*

**Law 3 of 2014**<sup>46</sup> - The Law on Combatting Terrorism criminalises “terrorist acts” which include expression that “disrupts public order or endangers peace of the society”<sup>47</sup>. The law also criminalises the “disclosure of information directly or indirectly for the benefit of terrorist organisation or people that have ties to terrorist organisations”<sup>48</sup>. The law also makes it illegal to engage in advertising, promoting or misinforming anyone on committed terrorist acts in a manner which is publicly accessible.

The overly broad definition of terrorist acts leads to concern that the law could be used illegitimately to restrict freedom of expression, including participation in peaceful protests<sup>49</sup>. In addition, the disproportionate punishments, including life imprisonment for some acts, may exceed international requirements for necessity.

The law may, as a result, fail to adhere to the standard required by the Constitutional Declaration and Libya’s international human rights obligations. In addition, the legitimacy of the House of Representatives, whilst internationally recognised, remains the subject of contentious debate<sup>50</sup>. As result, many would consider the Law on Combatting Terrorism to be void and unenforceable.

**Restrictions on Online Content** - Prior to the 2011 Uprising, the General Postal and Telecommunications Company (**GPTC**), was the sole authority for domain name registration and issued “the **Terms of Service**” to govern the use of the Libyan “.ly” registry.

Transitional governments subsequently removed the GPTC and established the Libyan Post Telecommunications and Information Technology Company (**LPTIC**) and the General Authority of Telecommunications and Informatics (**GATI**)<sup>51</sup>. The LPTIC is a holding company for all telecommunications service providers in the country, whilst GATI is responsible for policymaking and regulations. Responsibility for Libya’s top level domain “.ly” is currently that of Libya Telecom and Technology (**LTT**)<sup>52</sup>, with Libyan Spider handling registration requests<sup>53</sup>.

LTT has continued to recognise the Terms of Service issued by the GPTC. The Terms of Service prohibit domain names that are “obscene, scandalous, indecent, or contrary to Libyan law or Islamic morality words, phrases or abbreviations”. The Terms of Service also do not permit the use of Libyan domains by sites which are “for any activities/purpose” not permitted under Libyan law. LTT may delete registered domains if they consider registrants to be in violation of any of the Terms of Service or if LTT receives an order from a Libyan court.

In February 2015, LTT blocked access to the the news site *Alwasat*, which published views critical of the General National Congress (**GNC**) and affiliated militias, in response to an apparent court order<sup>54</sup>. The LPTIC subsequently published a statement saying that the website blocking was unintended and the result of LTT facilities being taken over by “outlawed groups” acting illegitimately and issuing false statements<sup>55</sup>. The blocks placed on the *Alwasat* have since been lifted<sup>56</sup>.

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# MEDIA REGULATION

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The legality of current media regulatory institutions and authorities in Libya remains a highly contested subject. This section provides a chronological review of the institutions established following the conclusion of the 2011 uprising, providing context regarding their formation and information on the communications they have offered regarding media regulations.

**The Higher Media Council (HMC)** - NTC Decree 44 of 2012 established the HMC with the intent that it would regulate the media. The HMC's responsibilities included drafting laws regulating media operations; issuing a code of ethics to govern media conduct; granting necessary licenses to media institutions; and considering complaints against media institutions. The HMC was extremely unpopular, with criticism directed at the means by which members are appointed and the lack of safeguards to protect media diversity<sup>57</sup>. Subsequent resolutions were passed as a result, passing responsibility for media regulation to the GNC<sup>58</sup>.

**Ministry of Media** - GNC Resolution 13 of 2012 abolished the HMC and established a Ministry of Media, which the GNC was mandated to oversee through creating specialised committees. These failed to materialise in any meaningful way. Instead, the GNC continued to play a direct role in media regulation<sup>59</sup>.

## **The Government of National Accord (GNA) Ministry of Media**

- Currently, the GNA's media governance is mandated to be carried out by its Ministry of Media<sup>60</sup> (**MoM**). In 2016, the MoM made public several communications which it published on its Facebook page relating to media conduct. These communications have called on all media outlets to provide the MoM with their permissions, licenses, sources of funding and relevant audits<sup>61</sup> and to register with the MoM<sup>62</sup>. The MoM has issued public communications ordering individual agencies to comply with these orders, making reference to the Publications Act<sup>63</sup>. The MoM has also issued communications forbidding the broadcast of materials that depict the prophet Mohammed and his companions, seemingly complying with *fatwas* issued by *Dar Al-Ifta*<sup>64</sup>.

The legitimacy of the MoM communications is a contentious topic, not least due to the current political and legal fragmentation of the Libyan State<sup>65</sup>. In addition, the communications issued by the MoM may have exceeded its legal mandate and violated supreme law (including the Constitutional Declaration), but have not yet been considered by judicial review.



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# FUTURE DEVELOPMENTS - THE CONSTITUTIONAL DRAFT

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The most recently proposed Constitutional draft (the **Draft**)<sup>66</sup>, issued by several members of the Constitutional Consolidation Committee<sup>67</sup>, may indicate the treatment of freedom of expression within Libya's legal framework in the future.

The Draft offers safeguards for freedom of expression and freedom of publication, noting that the State shall take "necessary measures" to protect private life and prohibit incitement to hatred, violence, and racism based on ethnicity, colour, language, gender, birth, political opinion, disability, origin, geographic affiliation, or any other reason whatsoever<sup>68</sup>. It also prohibits a form of hate speech known as *takfir*<sup>69</sup> (declaring someone to be an unbeliever or apostate).

The Draft also attempts to offer protection for the right to information, stating that "the State shall develop the necessary measures for transparency and shall ensure the freedom of receiving, sending, exchanging, and examining information from multiple sources"<sup>70</sup>.

Whilst these are progressive steps and would likely strengthen the protection of freedom of expression, they unfortunately still fail to adhere to the standards required by international treaties. The Draft's provisions do not specify that the State's measures restricting the right to freedom of expression must be provided for in law.

In addition, the Draft fails to list the exhaustive legitimate aims provided in international law, instead providing specific examples of types of prohibited expression. This means that other types of expression that may have a severe adverse impact on the rights of individuals or the public well-being in general may, in fact, be protected in supreme law. For example, making fraudulent claims or producing child pornography would potentially be protected forms of expression within the current wording of the Draft.

The Draft's provisions which guarantee the freedom and independence of the press and media<sup>71</sup> are not consistent with international minimum standards. They potentially limit accessibility of this right to citizens, rather than all those within Libya's territory and jurisdiction. In addition, the Draft allows for judicial authorities to ban and revoke individuals access to the right, without reference to the requirements of international law for necessity of the restriction or pursuit of a legitimate aims. This creates a danger that, in the event the State passes restrictions that are not compliant with international standards, that the judiciary may erroneously implement them.

The Draft establishes the need for a law, to be passed by the Libyan government, that regulates "the Higher Council for Media and Press". The Draft stipulates that this law must adhere to the constitution's other provisions, but that the law will be free to determine the compositions, competences, and work systems of the Higher Council for Media and Press<sup>72</sup>.

By providing discretion to future governments to determine the character of the Higher Council for Media and Press, there is a significant concern that legislation will establish a centralised institution, inconsistent with Libyan media's demands for self-regulation. Libyan State practice since 2011 has demonstrated the dangers of centralised regulation, with multiple transitional governments imposing arduous restrictions on the media and introducing measures designed to shield authorities from criticism<sup>73</sup>.

The Draft provides for the supreme status of international law and the provisions of the constitution, above that of domestic law and regulations. This is fundamentally undermined, however, by the Draft stating that "Islamic Shariah shall be the source of legislation"<sup>74</sup> without reference to how this provision will be implemented in practice. This provides scope for challenges to the applicability of constitutional protections offered to freedom of expression or those provided in international law, on the grounds that they do not sufficiently stem from or comply with Shariah. This could be exploited to the extent that constitutional protections are ultimately rendered worthless, as they may not be able to offer any meaningful protection.

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# CONCLUSION

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Despite the initial hopes of many following the 2011 uprising, freedom of expression remains in a precarious position in Libya. Accessing legal protections, such as human rights, remains near impossible for individuals. However, as this report has identified, laws and regulations remain a core tool that Libyan authorities use in their efforts to limit expression.

Whilst the Constitutional Declaration offers theoretical protection, its provisions and its intentions have increasingly been disregarded at the domestic level. This guide has demonstrated that draconian laws such as the Publications Act, once believed to have been repealed, are being used once again to ban the sale of books. The guide has also noted that transitional governments have repeatedly attempted to introduce new measures that limit and criminalise expression, especially that which is critical of their authority. Further, despite repeated calls from Libya's nascent media, current drafts of the future constitution continue to enable the regulation of the media by central government.

Key stakeholders of freedom of expression, particularly the media, are strongly encouraged to resist these repressive initiatives. Failure to organise and mobilise to challenge efforts now will likely lead to greater losses of fundamental freedoms beyond freedom of expression in the future.

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# NOTES

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- 1 Draft Constitutional Charter for the Transitional Stage: The Constitutional Declaration (2011) The Interim National Transitional Council (NTC).
  - 2 Proposal of a Consolidated Draft Constitution (6 April 2017) Constitutional Consolidation Committee, Beida.
  - 3 The International Covenant on Civil and Political Rights (ICCPR) (1966) Article 19 states: "1. Everyone shall have the right to hold opinions without interference. 2. 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." The ICCPR also places an obligation on Libya to "respect and ensure all individuals within its territory and subject to its jurisdiction" to legislate where necessary to give effect to the rights recognised in the ICCPR; and to ensure individuals who have experienced a right violation have effective remedy.
  - 4 The African Charter on Human and Peoples' Rights (1981) Article 9 states: "1. Every individual shall have the right to receive information; 2. Every individual shall have the right to express and disseminate his opinions within the law." The African Commission on Human and Peoples' Rights held, in Communication 102/93 against Nigeria (1998) that authorities should not enact provisions which limit the exercise of the freedom guaranteed under Article 9 of the African Charter in a manner that breaches constitutional provisions or undermines the fundamental rights guaranteed by other international human rights documents, such as the ICCPR.
  - 5 Libya Country Report to the United Nations Human Rights Committee - (2007) CCPR/C/102/Add.1 Para 31.
  - 6 The Constitutional Declaration (2011) Article 35 states: "All the provisions prescribed in the existing legislations shall continue to be effective in so far as they are not inconsistent with the provisions hereof until they are amended or repealed".
  - 7 The Constitutional Declaration (2011), Article 14.
  - 8 Constitutional Challenge 59/5, The Libyan Supreme Court, 14 June 2012.
  - 9 Libya Universal Periodic Review Country Report to United Nations Human Rights Council (2015) A/HRC/WG.6/22/LBY/1 Para 82.
  - 10 Law 20 of 1991 "The Promotion of Freedom Act".
  - 11 The Promotion of Freedom Act, Article 8 states "Every citizen has the right to express and publicly proclaim his opinions and ideas to the people's congresses and the information media of the Jamahiriya. No citizen shall be answerable for his exercise of this right unless he exploits it with a view to detracting from the people's authority or for personal ends. It is prohibited to advocate ideas or opinions clandestinely or to attempt to disseminate or impose them on others through enticement, force, intimidation or fraud."
  - 12 Yasmine Ryan, "Libyan media fuelling violence", The New Arab (18 February 2015) - <https://www.alaraby.co.uk/english/features/2015/2/18/libyan-media-fuelling-violence> last accessed 28 September 2017.
  - 13 See citation 4. The African Commission on Human and Peoples' Rights has held that authorities should not enact provisions which limit the exercise of the freedom of expression in a manner that undermines the fundamental rights guaranteed by other international human rights documents, such as the ICCPR. As a result, the ICCPR restrictions shall be expressly considered in this section with the understanding that they are protected in the same manner by the ACHPR.
  - 14 ICCPR (1966), Article 19 (3) "the exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order (ordre public), or of public health or morals."
  - 15 International Convention on the Elimination of All Forms of Racial Discrimination (1965).
  - 16 International Convention on the Elimination of All Forms of Racial Discrimination (1965), Article 4(b).
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- 17 The Constitutional Declaration (2011) Article 14 makes reference to the right being guaranteed “in accordance with the law” which may be interpreted to allow the State to use law to restrict to freedom of expression rights without reference to legitimate aims or necessity.
- 18 See citation 8.
- 19 ICCPR (1966), Article 19 (3).
- 20 Libya Universal Periodic Review Country Report to United Nations Human Rights Council (2015) A/HRC/WG.6/22/LBY/1, Para 82.
- 21 The Constitutional Declaration (2011), Article 12.
- 22 The Constitutional Declaration (2011), Article 13.
- 23 The Constitutional Declaration (2011), Article 8.
- 24 The Promotion of Freedom Act (1991), Article 8.
- 25 The Promotion of Freedom Act (1991), Article 8.
- 26 The Libyan Penal Code (1953) consolidated with amendments (2014).
- 27 The Libyan Penal Code (1953), Article 178.
- 28 The Libyan Penal Code (1953), Article 205.
- 29 The Libyan Penal Code (1953), Article 245.
- 30 The Libyan Penal Code (1953), Article 203.
- 31 The Libyan Penal Code (1953), Article 207.
- 32 The Libyan Penal Code (1953), Article 290 and 291.
- 33 The Libyan Penal Code (1953), Article 421.
- 34 The Libyan Penal Code (1953), Article 438.
- 35 The Libyan Penal Code (1953), Article 195, amended by General National Congress Law 5 of 2014.
- 36 The Libyan Penal Code (1953), Articles 203 and 207.
- 37 Law No. 76 of 1972 on Publications (“the Publications Act”).
- 38 The Publications Act, Article 1.
- 39 For example, 15th Session Report of the Human Rights Committee (3 October 1995) A/50/40 Para 123-143, “the application of provisions of the Publications Act (1972) which are incompatible with article 19... should be immediately suspended and that steps should be taken for its revision”.
- 40 Libya Country Report to the ICCPR (2007) CCPR/C/LBY/4, Para 23.
- 41 Two private newspapers formed in Libya, however they remained closely affiliated with Saif al-Islam Gaddafi. Some foreign satellite television stations, such as al-Jazeera, were also allowed to be broadcast in Libya as part of the State’s modernisation efforts.
- 42 Libya Universal Periodic Review Country Report to United Nations Human Rights Council (2015) A/HRC/WG.6/22/LBY/1 Para 82.
- 43 Mat Nashed “Libya’s Banned Book”, Libya Chronicles (8 September 2017) - <https://magazine.zenith.me/en/culture/young-writers-speak-their-libya> (last accessed 28 September 2017).
- 44 GNC Decree 5 of 2014 “Concerning the Cessation and Ban on the Broadcasting of Certain Satellite Channels”.
- 45 There are unverified reports that this Decree has been the subject of legal challenge and deemed as unconstitutional by a judicial decision. An addendum to this report will follow if verified.
- 46 “Law on Combatting Terrorism” Law 3 of 2014.
- 47 Law on Combatting Terrorism (2014) Article 2.
- 48 Law on Combatting Terrorism (2014) Article 11.
- 49 “Libya: Amend Counterterrorism Law” Human Rights Watch (13 May 2015). <https://www.hrw.org/news/2015/05/13/libya-amend-counterterrorism-law> (last accessed 28 September 2017).
- 50 The Libyan Supreme Court issued a ruling on 6 November 2014, which may be interpreted to have invalidated the elections that resulted in the appointment of the House of Representatives. The merits of the debate are well beyond the ambit of this paper.
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- 51 "Freedom on the Net 2016", Freedom House (2016), page 7 - <https://www.justice.gov/eoir/page/file/916901/download> (last accessed 28 September 2017).
- 52 "Freedom on the Net 2016", Freedom House (2016), page 7 - <https://www.justice.gov/eoir/page/file/916901/download> (last accessed 28 September 2017).
- 53 Accessed through <http://register.ly/> (last accessed 28 September 2017).
- 54 "Organizations and media figures and human rights condemns blocking" [in Arabic] Alwasat News, April 8, 2015.
- 55 "Alwasat News" on LPTIC, Facebook Post, February 25, 2015, <http://on.fb.me/1GdNeGm>; (last accessed 28 September 2017).
- 56 "Freedom on the Net 2016", Freedom House (2016), page 7 - <https://www.justice.gov/eoir/page/file/916901/download> (last accessed 28 September 2017).
- 57 "Libyan journalists reject NTC media" - Doha Centre for Media Freedom (28 May 2012) <http://www.dc4mf.org/en/content/libyan-journalists-reject-ntc-media-laws> (last accessed 28 September 2017).
- 58 See NTC Resolution 58 of 2012 and NTC Decree 62 of 2012.
- 59 Notably, it passed GNC Decree 5 of 2014, as highlighted in the Limitations section above.
- 60 The MoM refers to itself as the Ministry for Information in English, but should not be confused with the other Ministry of Information which is concerned with providing data and statistics for public use.
- 61 Ministry of Media Communication 29/2016 - Referencing President of Council of Ministers Decision No 239 of 14 Jan 2016 (26 Jan 2016).
- 62 Ministry of Media Communication 11/156 2016 (28 July 2016).
- 63 Ministry of Media Communication 136/2016 (5 May 2016).
- 64 Ministry of Media Communication Communication 1708 (13 October 2015).
- 65 The Beida Based Government has established competing media regulatory bodies, currently represented by the Information and Culture Authority and The General Authority for Media, Culture and Civil Society. At present no full record is available of relevant regulations passed by these bodies, but an addendum will follow once the information has become available. They have, however, issued public comments, such as supporting the use of the Publications Act (1972) to ban "obscene" publications. See statement of 6 September 2016 by The General Authority for Media, Culture and Civil Society.
- 66 "Proposal of a Consolidated Draft Constitution" (6 April 2017), Constitutional Consolidation Committee, Beida.
- 67 For more information on the issues facing this please see "Constitutional Drafting Assembly to vote on dangerous constitutional draft without public consultation", Lawyers for Justice in Libya, 6 May 2017 <http://www.libyanjustice.org/news/news/post/276-constitutional-drafting-assembly-to-vote-on-dangerous-constitutional-draft-without-public-consultation>.
- 68 Proposal of a Consolidated Draft Constitution (2017), Article 38.
- 69 Proposal of a Consolidated Draft Constitution (2017), Article 38.
- 70 Proposal of a Consolidated Draft Constitution (2017), Article 47.
- 71 Proposal of a Consolidated Draft Constitution (2017), Article 39.
- 72 Proposal of a Consolidated Draft Constitution (2017), Article 164.
- 73 See Decree 5 of 2014, as detailed in the 'Limitations to Expression' section.
- 74 Proposal of a Consolidated Draft Constitution (2017), Article 6.
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