



JUBILEE CAMPAIGN

ECOSOC Special Consultative Status (2003)

**United Nations Human Rights Council
Universal Periodic Review – THIRD CYCLE**

Submission to the 36th session of the Human Rights Council's Universal Periodic Review Working Group

October 2019, Geneva Switzerland

Libya

Submission by
Jubilee Campaign USA, Inc.

A Vital Voice for Those Suffering in Silence

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**United Nations Human Rights Council
Universal Periodic Review of the State of Libya**

I. Background

1. Jubilee Campaign, in special consultative status with ECOSOC, submits this analysis of religious freedom and human rights in the State of Libya as a contribution to the Universal Periodic Review of UNHRC member-state Libya.

II. Scope of international obligations and cooperation with international human rights mechanisms and bodies.

2. Libya has ratified the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment; the International Covenant on Civil and Political Rights; the Convention on the Elimination of All Forms of Discrimination against Women; the International Convention on the Elimination of All Forms of Racial Discrimination; the International Convention on Economic, Social and Cultural Rights; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the Convention on the Rights of the Child; and the Convention on the Rights of Persons with Disabilities.
3. Libya has not ratified the 1951 Convention on the Status of Refugees or the Rome Statute of the International Criminal Court.
4. The State of Libya during the Second Cycle supported seven recommendations to ratify the 1951 Convention on the Status of Refugees.

Recommendation(s)

Jubilee Campaign urges the State of Libya to:

5. Ratify the 1951 Convention on the Status of Refugees during the next reporting period to honor the commitment made by the State of Libya in the previous reporting cycle.
6. Support the recommendations made by 13 states to ratify the Rome Statute of the International Criminal Court;

III. Implementation of international human rights obligations, considering applicable international humanitarian law

A. Freedom of thought, conscience, and religion

1. Jubilee Campaign welcomes the acceptance of all six recommendations regarding freedom of religion by the State of Libya in the previous reporting cycle. Jubilee Campaign remains concerned, however, in the lack of implementation and urges Libya to implement its commitments and values.
2. The 2011 Constitutional Declaration of Libya replaced the 1951 Constitution as the superior law of the nation after the end of the Libyan Civil War and Muammar Gaddafi's reign. The 2011 Constitution states that Islam shall be the religion of Libya and Islamic Shari'a shall be the main source of legislation.
3. Article 291 of the Penal Code of Libya criminalizes actions that fall under "insulting the state religion" of Islam, stating that anyone who uses "expressions that are inappropriate for God, prophets, or messengers, shall be punished by a penalty of detention for a period not exceeding two years." Article 291 places a religious bias for Islam and goes against the supported recommendation 137.90 *to combat discrimination based on religion*. The article should be repealed in accordance with the supported recommendation 137.171 *to take practical and legislative measures, including in the Constitution, in order to eliminate incitement to violence and repetition of attacks against freedom of religion and religious cult*.
4. Article 207 in the Penal Code is also of concern. In light of the supported recommendations this Penal Code needs to be repealed, or amended thoroughly. The article stipulates the death penalty against, "*any person who promotes within the country theories or principles that aim to change the fundamental principles of the constitution or the fundamental rules...*" Further it imposes a term of life imprisonment against any one who, "*possesses books, publications, illustrations, slogans, or any other material with the intent to endorse the aforementioned acts or advocate them in any other way.*" As a result, the government of Libya has placed bans on the distribution or publication of information aimed at changing the 'social structure' of Libya, of which were used to prohibit circulation of non-Islamic religious materials, missionary activity, or speech considered 'offensive to Muslims.'" ¹ This law has resulted in the arrests of Christians, atheists and other individuals not holding the same Islamic teaching.

¹ United States Department of State, *2018 Report on International Religious Freedom - Libya*, 2019, available at: <https://ly.usembassy.gov/2018-report-on-international-religious-freedom-libya/> [accessed 3 October 2019].

5. Open Doors World Watch List ranks Libya as the fourth country with the most persecution of Christians.²
6. Radical Islamist militant groups target Christians and Christian converts from other countries in sub-Saharan Africa by kidnapping and killing them.³
7. During the Open Doors reporting period from November 1, 2017 to October 31, 2018, ten Christians were killed, 30 Christians were attacked, and four were arrested.⁴
8. Christian converts from Islam, in addition to being vulnerable to violence perpetrated by radical Islamic groups and also government officials, are particularly in danger from their own extended family members. Christian converts are therefore forced to hide their, as they can face violence and be shunned by peers and family members.⁵
9. Christian converts -men and women alike- are sometimes victim to “forced divorce and denial of custody of children.”⁶
10. Forced divorces have an even greater implication on the wives, who are often entirely financially dependent on their husbands and other men in their family.⁷
11. Christian converts are forbidden from marrying “in a Christian way,” and their children are forcibly registered as Muslims at the time of their birth.⁸
12. Family law for Muslims in Libya is regulated by Sharia laws. Muslim men are allowed to marry a non-Muslim, Christian or Jewish woman, however, a Muslim woman is not allowed to marry a non-Muslim man.⁹
13. Other religious minorities that are subject to persecution include Sufis and Ibadis, whose mosques and places of worship have been targets for attacks.¹⁰

² Open Doors, *Country Dossier: Libya*, January 2019, available at <http://opendoorsanalytical.org/wp-content/uploads/2019/01/Libya-WWR-COUNTRY-DOSSIER-January-2019-update.pdf> [accessed 3 October 2019].

³ Open Doors, *Country Dossier: Libya*, January 2019, *supra note 2*.

⁴ *ibid.*

⁵ *ibid.*

⁶ Open Doors, *WWL 2019 Gender-specific religious persecution: Analysis and Implications*, February 2019, available at: http://opendoorsanalytical.org/wp-content/uploads/2019/03/WWL-2019-Analysis-of-Gender-specific-religious-persecution_FINAL_WITH_policy_recommendations.pdf [accessed 3 October 2019]

⁷ *ibid.*

⁸ Open Doors, *Country Dossier: Libya*, January 2019, *supra note 2*.

⁹ United States Department of State, *2018 Report on International Religious Freedom - Libya*, 2019, *supra note 1*.

¹⁰ Human Rights Watch, *World Report 2019 - Libya*, January 2019, available at: <https://www.hrw.org/world-report/2019/country-chapters/libya> [accessed 3 October 2019]

14. There exists no law for protection of freedom of religion or belief including consensual conversion and public manifestation of belief outlined in Libya's Penal Code.¹¹
15. The United Nations Support Mission in Libya (UNSMIL) has recorded arbitrary and protracted detention of religious minorities and in areas controlled by the Government of National Accord, defendants continue to receive corporal punishment in accordance with its interpretation of sharia¹²
16. An unidentified group of militants set fire to a Sufi mosque in Tripoli, Libya, named Zawiyat Sheikha Radiya on November 28, 2017.¹³
17. In addition to mosques, other buildings that are important to the Sufi mystics such as libraries and tombs have been damaged.¹⁴

Recommendation(s)

Jubilee Campaign urges the State of Libya to, in accordance with the recommendations supported during the previous report cycle, take the following measures:

18. Draft in Article 18 of the Universal Declaration of Human Rights in the new Constitution of Libya.
19. Abolish the blasphemy laws present in the current Penal Code.
20. Remove bans on the production and dissemination of religious materials such as Article 207.
21. Remove vague terminology in Article 207 in accordance with human rights standards.
22. Publicly condemn acts of violence committed by radical Islamists toward religious minorities and their places of worship.
23. Eliminate the practices of forced divorces and custody refusal of Christian converts and others who leave Islam.

¹¹ United States Department of State, *2018 Report on International Religious Freedom - Libya*, 2019, *supra* note 1.

¹² UN Security Council, *United Nations Support Mission in Libya*, 26 August 2019, available at: https://unsmil.unmissions.org/sites/default/files/sg_report_on_unsmil_s_2019_628e.pdf [accessed 3 October 2019]

¹³ Human Rights Watch, *Libya: New Wave of Attacks Against Sufi Sites*, 7 December 2017, available at: <https://www.hrw.org/news/2017/12/07/libya-new-wave-attacks-against-sufi-sites> [accessed 3 October 2019]

¹⁴ *ibid.*

24. Include legislature protecting international freedom of religion or belief in its penal code.
25. Abolish the practice of arbitrary arrests and prolonged incarceration of religious minorities by providing an appeal mechanism and ensuring legal accountability.

B. Sexual Violence

26. Article 375 of the Penal Code of Libya grants a less severe criminal sentencing for perpetrators of so-called honor crimes and categorizes sexual violence “as a crime against, ‘a woman’s honour,’ rather than against her person.”¹⁵
27. Article 424 of the Penal code states that if the individual who committed an act of sexual violence, including rape, marries the victim; the crime, punishment, and criminal proceedings are suspended, both for the perpetrator and any accomplice.
28. Sexual violence, sexual assault, and rape are reported to be common in detention centers in Zawiya, Surman, Misrata, Zliten, Sbratha and Al Khums.¹⁶
29. Beside female converts, Christian Sub-Saharan migrant women are very vulnerable to sexual abuse, especially when they are separated from their male companions, for example in migrant detention centers.¹⁷

Recommendation(s)

Jubilee Campaign urges the State of Libya to:

30. Remove the clause in article 424 of the penal code exempting sexual violence perpetrators from legal repercussions in the event that they marry their victim.
31. Publicly condemn the act of sexual violence within and without detention centers immediately and introduce measures to reduce its practice by having female guards and providing an anonymous complaint mechanism for those detained.

¹⁵UPRna, *Mid-Term Monitoring Report:*

An Assessment of Libya’s Second Universal Periodic Review, 2017, available at: https://www.upr-info.org/sites/default/files/document/libya/session_22_-_may_2015/upr_mid-term_report_libya_en.pdf [accessed 3 October 2019]

¹⁶ *ibid.*

¹⁷ Open Doors, *Country Dossier: Libya*, January 2019, *supra note 2*.

32. Take action to eradicate vigilante groups that are committing acts of sexual violence against women.

C. Human Trafficking and Exploitation

33. The State of Libya only supported two out of the seven recommendations addressing trafficking, which is concerning given its prevalence in Libya.
34. While the penal code provides punishments outlined for perpetrators of human trafficking for sex purposes (article 418 and article 420), it does not address human trafficking for labor.¹⁸
35. Immigrants en route to Europe are often abducted, sold into slavery, or raped by vigilante groups.¹⁹
36. Libya is located along the Central Mediterranean migration route towards Europe, where almost 50% are predicted to experience higher likelihood of trafficking by the International Organization for Migration (IOM); the survey conducted by the IOM found that 71% had responded positively to one of the trafficking and other exploitative practices indicators, evidence that that scope of vulnerability is greater than predicted.²⁰
37. The IOM report concluded that for all migrants, both adults and children, “Libya- as a transit country or an initial destination- is the country where migrants are most vulnerable to potential human trafficking and other exploitative practices.”²¹
38. There is video evidence of auctions in Libya where individuals from other locations in Sub-Saharan Africa are sold to individuals as workers.²²
39. Jubilee Campaign welcomes the training provided by the Ministry of Interior Human Rights Office to police forces in Tripoli, Libya on human trafficking.²³

¹⁸ United States Department of State, *2018 Trafficking in Persons Report - Libya*, 28 June 2018, available at: <https://ly.usembassy.gov/2019-trafficking-in-persons-report-libya/> [accessed 3 October 2019].

¹⁹ Open Doors, *Country Dossier: Libya*, January 2019, *supra* note 2.

²⁰ Galos, E., L. Bartolini, H. Cook and N. Grant, *Migrant Vulnerability to Human Trafficking and Exploitation: Evidence from the Central and Eastern Mediterranean Migration Routes*. International Organization for Migration (IOM), 2017, available at https://migration.iom.int/docs/migrant_vulnerability_to_human_trafficking_and_exploitation_November_2017.pdf [accessed 3 October 2019]

²¹ *ibid*

²² Elbagir, Nima. “People for Sale: Where Lives Are Auctioned for \$400.” *CNN*, Cable News Network, 15 Nov. 2017, <https://www.cnn.com/2017/11/14/africa/libya-migrant-auctions/index.html>.

²³ United States Department of State, *2018 Trafficking in Persons Report - Libya*, *supra* note 18.

40. However, the Ministry of Justice and the Attorney General have investigated individuals suspected and accused of being involved in human trafficking schemes they have released little information on who was investigated and how many were officially prosecuted.²⁴

Recommendation(s)

Jubilee Campaign urges the State of Libya to:

41. Include in its penal code provisions for the illegality of those involved in human trafficking for labor purposes, and legal punishments therewith.
42. Include in its penal code provisions on the illegality of and legal punishments for trafficking of males, including adults and children.
43. Urge the Ministry of Interior Human Rights Office to further expand anti-trafficking training to other parts of Libya.
44. Urge the Ministry of Justice and the Attorney General to be more transparent about those that are investigated and prosecuted.

IV. Freedom of Expression and Assembly

A. Political Instability

45. The Libya Political Agreement, signed in 2015, aimed at ending the competition between the two opposing governments that were established at the end of the 2014 elections. The UN-supported GNA has failed, however, in stamping out the two other governments, so the competition has remained fervent.²⁵

Recommendation(s)

Jubilee Campaign urges the State of Libya to:

46. Promote the GNA's authority over its political competing governments to bring political stability and unity in law to the nation of Libya.

B. Political Underrepresentation

47. There were political coalitions reportedly active in 2017, but their activity has been overlooked due to the undertakings of armed groups.²⁶

²⁴ *ibid.*

²⁵ Freedom House, *Freedom in the World 2018 - Libya*, 28 May 2018, available at: <https://freedomhouse.org/report/freedom-world/2018/libya> [accessed 3 October 2019].

²⁶ *ibid.*

48. As of 2018, there was no structural framework on how to successfully hold fair and equal elections and “no opportunity for a democratic rotation of power.”²⁷
49. Minority groups such as religious minorities, LGBTQ individuals, as well as ethnic minorities, were unable to “exercise their basic political rights in 2018” due to “the ongoing political impasse and civil conflict.”²⁸

Recommendation(s)

Jubilee Campaign urges the State of Libya to:

50. Draft more concrete plans and instructions to ensure the practice of democratic elections.
51. Provide accessible channels of political activity and expression to all members of society, including minorities.

C. Political Oppression

52. Many television and media networks are biased in favor of one of the country’s governments or armed groups.²⁹
53. Many Libyan citizens are reluctant to express their political views publicly for fear of persecution by armed groups and leaders of the nation.³⁰
54. The proportion and relative activity of NGOs has decreased within the past few years.³¹
55. While there is a 2012 law allowing for freedom of assembly, many are disrupted by armed force or political opponents.³²

Recommendation(s)

Jubilee Campaign urges the State of Libya to:

56. Provide accessible channels of political activity and expression to all members of society, including minorities.
57. Protect its citizens’ right to peacefully assemble.

²⁷ *ibid.*

²⁸ *ibid.*

²⁹ Freedom House, *Freedom in the World 2018 - Libya*, *supra* note 25.

³⁰ *ibid.*

³¹ *ibid.*

³² *ibid.*

V. Rights of Children

58. Libya ratified the Convention on the Rights of the Child on April 15, 1993.
59. Libya ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict on October 29, 2004.
60. Children of Christian converts are registered as Muslim at birth in the country of Libya.
61. Children of Christians are often forced to attend schools that teach Islamic practices and curriculum, where they are “vulnerable to harassment.”³³
62. According to UNICEF, “nearly 1,800 children are among civilians who urgently need evacuation from areas under frontline fighting, while 7,300 children have already been displaced from their homes by the raging violence. Around 500,000 children are estimated to be affected by violence across western Libya.”³⁴
63. The UN Office of the Special Representative of the Secretary-General for Children and Armed Conflict reports that children were increasingly being recruited to participate in armed conflict in the year 2018.³⁵

Recommendation(s)

Jubilee Campaign urges the State of Libya to:

64. Stop automatically registering children of Christian couples as Muslim and coercing their attendance of Muslim schools in accordance with Article 14 of the Convention on the Rights of the Child, which states “States parties shall respect the right of the child to freedom of thought, conscience and religion.”³⁶
65. Make genuine efforts to eliminate conflict between armed groups to ensure that no child is vulnerable to the effects of communal violence and offer means of protection and relocation to children who are in locations and situations susceptible to the effects of violence.

³³ Open Doors, *Country Dossier: Libya*, January 2019, *supra note 2*.

³⁴ “Children’s Lives and Well-Being in Danger as Fighting Intensifies in Tripoli, Libya,” Unicef, 18 Apr. 2019, <https://www.unicef.org/press-releases/childrens-lives-and-well-being-danger-fighting-intensifies-tripoli-libya> [accessed 3 October 2019].

³⁵ UN Secretary-General (UNSG), *Children and armed conflict : report of the Secretary-General*, 20 June 2019, A/73/907–S/2019/509, available at: <https://www.ohchr.org/documents/professionalinterest/crc.pdf> [accessed 3 October 2019].

³⁶ UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, available at: <https://www.refworld.org/docid/3ae6b38f0.html> [accessed 3 October 2019]

66. Publicly condemn the attacks on schools, hospitals and clinics, and water provision locations, which children disproportionately fall victim to.³⁷

67. Call for an end to the recruitment of children in armed conflict, in accordance with Article 2 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

VI. Summary of Recommendations

Jubilee Campaign urges the State of Libya to:

68. Ratify the 1951 Convention on the Status of Refugees and the Rome Statute of the International Criminal Court.

69. Cease discriminatory practices and persecution of religious minorities, including converts from Islam.

70. Introduce legislature protecting international freedom of religion or belief in its penal code, by holding those who commit violent acts against Christian converts or others who are not considered followers of the main interpretation of Islam, such as Sufis; are held accountable.

71. Abolish the blasphemy laws.

72. Remove the clause in article 424 exempting sexual violence perpetrators from legal repercussions in the event that they marry their victim.

73. Include in its penal code provisions on the illegality of and legal punishments for those involved in human trafficking for labor purposes, as well as punishments for trafficking of males.

74. Further draft concrete plans and instructions to ensure the practice of democratic elections.

75. Provide accessible channels of political activity and expression to all members of society, including minorities.

76. Stop automatically registering children of Christian couples as Muslim.

77. Call for an end to the recruitment of children in armed conflict.

³⁷ UN Secretary-General (UNSG), *Children and armed conflict : report of the Secretary-General, supra note 36.*