



**NGO: EUROPEAN CENTRE FOR LAW AND JUSTICE**

**UNIVERSAL PERIODIC REVIEW 2019**

**RELIGIOUS FREEDOM IN LIBYA**

# Religious Freedom in Libya

## Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organisation dedicated to promoting and protecting human rights around the world. The ECLJ holds Special Consultative Status before the United Nations Economic and Social Council. The purpose of this report is to raise concerns regarding human rights violations in Libya for the 2020 Universal Periodic Review (UPR).

## Background

2. In its 2019 World Watch List Report on religious freedom issues around the world, Open Doors ranked Libya as the 4th worst place to live for Christians. Christian refugees are particularly in danger and face harassment and abuse from the detention centre guards<sup>1</sup>. One 23-year old Ethiopian Christian reported that she had to hide her cross to avoid being abused, “We hid our crosses, because the Libyan police working in that place didn’t appreciate Christians”<sup>2</sup>.

3. In the previous UPR cycle for Libya, several countries, including France, Canada, and Colombia, recommended that Libya takes steps to address the lack of freedom of religion and belief religious communities in Libya have been experiencing. One country recommended that Libya “[t]ake practical and legislative measures, including in the Constitution, in order to eliminate incitement to violence and repetition of attacks against freedom of religion . . . ”<sup>3</sup>.

4. Libya is currently operating under an interim Constitution, which establishes Islam as its official religion and maintains that Sharia law will be the main source of all legislation<sup>4</sup>. However, Article 1 does provide that “[t]he State shall guarantee for non-Muslims the freedom to practice their religious rituals”<sup>5</sup>. Article 6 of the Constitution also establishes that all Libyans are to be treated equally before the law and they all enjoy “equal civil and political rights with, have the same opportunities in all areas and be subject to the same public duties and obligations, without distinction on the grounds of religion, belief . . . ”<sup>6</sup>.

5. Many countries called on Libya to draft a permanent Constitution that increased protections for human rights and was compliant with all international treaties to which Libya is a party, including the ICCPR<sup>7</sup>. They have also called for revisions to the Penal Code to remove laws that criminalise defamation, libel, slander, and infringe on people’s freedom of expression<sup>8</sup>. Under the current Penal Code, public activity that goes against the State religion, Islam, can be punishable

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<sup>1</sup> *Christian Refugees Held in Libyan Detention Centres Face Rape and Beatings*, BARNABAS FUND (July 3, 2019), <https://barnabasfund.org/en/news/christian-refugees-held-in-libyan-detention-centres-face-rape-and-beatings>.

<sup>2</sup> *Id.*

<sup>3</sup> UPR of Libya Second Cycle Thematic List of Recommendations A/HRC/30/16/Add.1.

<sup>4</sup> LIBYA’S CONST. OF 2011, *available at* [https://www.constituteproject.org/constitution/Libya\\_2011.pdf](https://www.constituteproject.org/constitution/Libya_2011.pdf).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> UPR of Libya Second Cycle Thematic List of Recommendations A/HRC/30/16/Add.1.

<sup>8</sup> *Id.*

with up to two years in prison<sup>9</sup>. Libya has noted that they support these recommendations, but no tangible actions have yet been taken to address them. This vague law is problematic because it can be used to target and restrict the activity of other religions.

6. Moreover, a 2017 proposed draft of a permanent Constitution offers no protections based on religious beliefs. Article 6 of the draft Constitution maintains that “Islam shall be the religion of the State and Islamic Sharia will be source of legislation”<sup>10</sup>. Additionally, the draft Constitution does not list religion as something that cannot be discriminated against. Article 7 states:

Male and female citizens shall be equal in and before the law. There shall be no discrimination there between. All forms of discrimination for any reason, such as ethnicity, color, language, gender, birth, political opinion, disability, origin, or geographical affiliation, shall be prohibited in accordance with the provisions of this Constitution<sup>11</sup>.

7. It is critical that Libya works to create a permanent Constitution that includes protections for all religions. Again, Libya is party to the ICCPR. Article 18 of the ICCPR states that:

Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance practice and teaching.

No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice<sup>12</sup>.

8. It is clear that both the interim and proposed draft constitutions fail to enact critical protections for peoples of all faiths.

### **Restrictions on Religious Freedom**

9. While Christians are *permitted* to practice their faith to some degree, the government imposes many limitations on *how* they are allowed to do so<sup>13</sup>. Under Article 291 of the Libyan Criminal Code, “Anyone who publicly attacks the Islamic religion, which is the official religion of the State according to the Constitution of Libya, through expressions that are inappropriate for God, prophets, or messengers, shall be punished by a penalty of detention for a period not exceeding two years”<sup>14</sup>.

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<sup>9</sup> Libya Penal Code, art. 291.

<sup>10</sup> PROPOSAL OF A CONSOLIDATED DRAFT CONSTITUTION, *available at* [https://security-legislation.ly/sites/default/files/lois/229-2017%20Draft%20Constitution\\_ENG.pdf](https://security-legislation.ly/sites/default/files/lois/229-2017%20Draft%20Constitution_ENG.pdf).

<sup>11</sup> *Id.*

<sup>12</sup> International Covenant on Civil and Political Rights, Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171, art 18.

<sup>13</sup> BUREAU OF DEMOCRACY, H.R. AND LAB., U.S. DEP’T OF STATE, LIBYA 2018 INTERNATIONAL RELIGIOUS FREEDOM REPORT [hereinafter LIBYA REPORT].

<sup>14</sup> Libya Penal Code, art. 291.

10. This type of vague and overly broad law can be used to target any minority religion for any reason. It also is a clear violation of Article 18 of the ICCPR, as it restricts one's ability "in public or private, to manifest his religion or belief in worship, observance, practice, and teaching"<sup>15</sup>.

11. The government also places restrictions on who is allowed to marry. Since Libya operates under Sharia law, a Christian woman is permitted to marry a Muslim man without converting, but a Christian man has to convert in order to marry a Muslim woman<sup>16</sup>. Marriages between a Muslim and a member of a non-Abrahamic faith are explicitly forbidden, and marriages will not be recognized even if the couple married abroad<sup>17</sup>. Furthermore, the Ministry of Endowments and Islamic Affairs, which manages family affairs for non-Muslims, does not have an established separate legal framework for doing so. Instead it relies on precedent set by neighboring countries to settle family law<sup>18</sup>.

### **Discrimination Against Christians**

12. Muslims who convert to Christianity also face extreme prejudice and discrimination from family members, society and even employers. Some reports indicate that these converts face being fired from their job if they do not renounce their Christian faith and return to Islam<sup>19</sup>. These prejudices keep people from being able to publicly express their deeply held religious beliefs.

### **Conclusion**

13. It is imperative that Libya's new Constitution better protects and guarantees the right to freedom of religion. This includes permitting religious groups to peacefully assemble, produce and distribute religious material, share religious views that may run contrary to Islam, and carry out missionary work. Libya must uphold the principles established in Article 18 of the ICCPR. Additionally, Libya must revise its family law to allow non-Muslims to marry Muslims without having to renounce their deeply held religious beliefs.

14. Finally, the government must also work to protect its citizens from discrimination on the basis of religion by their employer and others. By providing for these religious protections, people of all faiths will be able to freely and openly practice their religion without the fear of losing their jobs and suffering discrimination.

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<sup>15</sup> International Covenant on Civil and Political Rights, Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171, art 18.

<sup>16</sup> Qur'an 5:5.

<sup>17</sup> Quran 2:221.

<sup>18</sup> LIBYA REPORT, *supra* note 13.

<sup>19</sup> *Id.*