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WAR ON THE MEDIA

Journalists under Attack in Libya



War on the Media

Journalists under Attack in Libya

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Summary

The revolution that toppled Muammar Gaddafi's dictatorship in 2011 following a popular uprising and civil war, transformed Libya's media landscape. Libyan journalists started to report the news, express opinions, and criticize politicians like never before.

In the first year after the 2011 uprising, private newspapers and magazines proliferated in a climate of newly found freedom. The number of Libyan satellite TV stations broadcasting from inside and outside Libya increased from two at the end of the Gaddafi era to more than 50. The number of publications rose from four daily newspapers and a few specialized publications to dozens of publications. Suddenly journalists were publicly debating substantive political issues that hitherto few had dared to discuss even in whispers.

However this flourishing media now finds its new freedoms under threat as heavily armed militias have brought the post-Gaddafi state to its knees. Key institutions, including the judiciary, police and army, have collapsed in some major cities including Benghazi and Derna. Officials are powerless to maintain security, or to apprehend or prosecute those who commit crimes, including murders and assassinations. Militia members have benefited from near immunity against prosecution since 2011, and very few cases have gone to court.

The impact of the deteriorating political and security situation on Libya's media has been profound. The media landscape has become polarized, chaotic, politicized, and violent.

This report documents attacks against journalists and the offices and facilities of media outlets since the 2011 uprising, including threats, assaults, kidnappings, and killings and addresses the failure of the government to protect journalists and the media, and hold perpetrators of attacks on them accountable. Human Rights Watch is not aware of a single instance in which officials prosecuted a perpetrator of an attack against a journalist or media outlet since 2011. The report also documents criminal prosecutions of journalists for defamation and libel, on the basis of problematic laws that continue to unduly restrict freedom of expression.

Between mid-2012 and November 2014, Human Rights Watch documented at least 91 cases of threats and assaults against journalists, including against at least 14 female

journalists and media workers. This figure includes 30 cases of kidnappings or short-term arbitrary detentions of journalists, mainly by militias, and eight killings of reporters. In a few cases, the journalists may have been unintentionally injured or killed while reporting on violent incidents. But in most cases documented by Human Rights Watch it was clear that armed groups targeted journalists to punish or censor their reporting. In the same period at least ten journalists fled the country after being attacked or threatened. Human Rights Watch also documented 26 cases of armed attacks against the offices of television and radio stations.

Journalists also continue to face legal hazards not only because sweeping Gaddafi-era laws restricting press freedom have not been repealed but also on account of newer laws restricting freedom of expression promulgated by Libya's interim authorities since the end of 2011. Prosecutors have pressed criminal charges against journalists and civilians have pursued lawsuits against them for slander, insult, and libel.

The shaky security situation in Libya has deteriorated dramatically since May 2014. Retired general Khalifa Hiftar, reinstated by the government in November and allied with the newly elected House of Representatives based in Tobruk, has pledged to "eradicate terrorism" by leading a military campaign, known as Libya Dignity, against Ansar al-Sharia and other affiliated Islamist militias in the eastern region. The clashes there have morphed into a full-blown armed conflict which has now spread to western Libya, including the capital, Tripoli.

Journalists have not been immune from the violence as militias have attacked media headquarters and homes of journalists and forced several journalists and media professionals to flee the country.

Although the work of prosecutors and judicial authorities is hindered by the near-breakdown of law and order, and ongoing conflicts, they can still play an important role in holding to account perpetrators of crimes, including attacks against journalists and should continue to investigate, where possible, attacks against journalists.

Legislators, particularly members of a future permanent parliament, should repeal articles of the Libyan Penal Code and other laws that provide criminal penalties for defamation and insults to religion and ensure that all laws that impact free expression retain only those limitations that are necessary and proportionate. Members of the Constitution Drafting

Assembly (CDA) have a historical opportunity to enshrine a strong protection of human rights, including freedom of expression, in the draft constitution to ensure that speech cannot be criminalized in future legislation. The elected government of Libya as well as non-state actors and members of militias are bound by international law obligations to protect journalists, as much as they are bound to protect civilians, during armed conflicts.

Human Rights Council member states need to ensure that an international investigative mechanism is established to document serious human rights violations including those that may amount to war crimes and crimes against humanity, such as politically motivated assassinations and attacks on journalists, in view of the Libyan judiciary's limited ability to conduct investigations and prosecute perpetrators. Members of the International Criminal Court (ICC) and the UN Security Council, which unanimously referred the Libya situation to the court in 2011, should ensure that the ICC has sufficient resources and support to be in a position to pursue investigations into ongoing serious crimes.

Methodology

This report is based on research Human Rights Watch conducted in Libya, mainly between March and May 2014, and updated in November 2014.

Human Rights Watch interviewed 40 people, including victims of attacks and assaults, witnesses to threats and attacks, journalists, media activists, lawyers, and political commentators. Interviews were conducted in person in Arabic or English.

Researchers carried out follow-up interviews by telephone and email. Human Rights Watch informed all interviewees of the purpose of its research and offered no payment or other inducements to those who provided information for this report. While most interviewees were alone during the interview, some were accompanied by friends.

Human Rights Watch also reviewed a range of public materials, including relevant Libyan legislation, reports by non-governmental organizations, media reports, postings on Facebook and other Internet and social media sites, and video clips relating to attacks on journalists.

Human Rights Watch attempted to meet with the minister of information on two occasions in March 2014 in Tripoli. Due to changes in government and the break out of armed conflict in July in Tripoli and environs, Human Rights Watch researchers were not able to meet with meet with government representatives and discuss the findings of the report.

I. Background: Libya's Media Landscape

During his 42 years in power, Muammar Gaddafi used the media to propagate his political and social views, which he codified in the mid-1970s in the Green Book. That manifesto included a set of basic principles to govern citizens' rights and responsibilities and the basic functioning of the state.¹

In the Green Book chapter on the media, Gaddafi dismissed the notion of press freedom as a byproduct of the "problem of democracy," and laid out the framework that shaped Libya's repressive media policies for more than three decades. His premise was that the media is a tool to advance a group's ideas, pushing aside any individual right to free speech and opinion.

The press is a means of expression for society: it is not a means of expression for private individuals or corporate bodies. Therefore, logically and democratically, it should not belong to either one of them.
[...] The democratic press is that which is issued by a People's Committee, comprising all the groups of society. Only in this case, and not otherwise, will the press or any other information medium be democratic, expressing the viewpoints of the whole society, and representing all its groups.²

The Gaddafi government owned most of Libya's print and broadcast media and imposed strict controls on them. The government also tightly controlled its official state news agency, Jamahiriya News Agency (JANA).

Journalists were precariously situated during the Gaddafi years. They could only report information and express views permitted by Gaddafi's information office. Otherwise they risked being summoned for questioning by agents of one of the much-feared intelligence

¹ The Green Book was published in three parts in 1975: Part I: The Solution of the Problem of Democracy; Part II: The Solution of the Economic Problem; and Part III: The Social Basis of the Third Economic Theory: Muammar Al-Qaddafi, *The Green Book part 1/2/3*, <http://www.mathaba.net/gci/theory/gb.htm> (accessed December 13, 2012).

² Ibid.

apparatuses and sometimes arrested. The JANA news agency, the sole distributor of news, operated directly under the authority of Gaddafi's information office. Journalists exercised strict self-censorship in order to avoid trouble. Some media outlets did not even dare to correct factual and grammatical errors when they reprinted official statements. Journalists had very little latitude to conduct independent research. Officials rebuked and punished them when they deviated from specific terminology to describe events or personalities.³

Even after the general public gained access to the Internet in Libya in the late 1990s, the Gaddafi government used various tactics to tightly control the free flow of information. Authorities blocked websites, particularly those of opposition groups abroad, and installed surveillance systems to monitor dissent. At the onset of the 2011 uprising, the government went so far as to cut off Internet service in many regions, and only fully restored it in late August after Gaddafi had been ousted.⁴

Since the 2011 uprising regulatory mechanisms and state media institutions have evolved, but have not kept pace with the transformed media environment in the post-Gaddafi era.

Interim authorities, post 2011, have created new institutions with the stated aims of supporting and regulating the media. In May 2012, the National Transitional Council (NTC), which governed Libya from the end of the civil war until August 2012, established the Supreme Media Council as an independent body mandated to regulate and support the media.⁵ Due to conflicting expectations and lack of agreement among media players, the council never became operational.

In November 2012, the General National Congress (GNC), Libya's first post 2011 elected legislative authority, replaced the Supreme Media Council with the Ministry of Information, causing an outcry among journalists and media workers who considered the move an attempt

³ Human Rights Watch interview with Abdelbasset Boudiyya, General Director Libya State News Agency (WAL), Tripoli, January 27, 2014.

⁴ Freedom House, "Libya: Freedom on the Net 2012", 2012, <https://www.freedomhouse.org/sites/default/files/Libya%202012.pdf> (accessed May 11, 2014).

⁵ Doha Center for Media Freedom, "Libyan journalists reject NTC media laws," May 28, 2012, <http://www.dc4mf.org/en/content/libyan-journalists-reject-ntc-media-laws> (accessed August 14, 2014).

to control the media.⁶ On establishing the ministry in November 2012, the GNC stipulated that it should remain under parliamentary supervision to ensure a free and independent press and “non-direction and non-dominance” of any party over this sector.⁷ The Ministry of Information remains, in theory at least, the government authority in charge of media affairs. It is responsible for funding the public media sector and organizing the media sector.

Affiliated to the ministry, the Commission for the Support and Encouragement of the Press is in charge of publishing several magazines and newspapers. The Foreign Media Department (FMD), which is also affiliated with the ministry, is in charge of accrediting foreign journalists and processing their visa requests. The media committee of the GNC reviewed media related regulations and laws until the dissolving of the GNC in July 2014.⁸

Despite several attempts and drafts, the GNC during its two-year mandate did not actually pass any new laws on media regulation. The new legislature, the Libyan House of Representatives elected in a popular vote in June 2014, has yet to establish regulatory mechanisms for the media including broadcasting licenses.

On February 20, 2014, Libyans elected a Constitution Drafting Assembly (CDA) tasked with drawing up Libya’s first constitution since the abrogation of the 1951 constitution. The CDA, elected in a process marred by boycotts and security incidents, released an initial draft of the constitution in December 2014, before subjecting it to a public referendum.⁹ Until legislators promulgate a new constitution, Libya’s main legislative framework remains the Constitutional Declaration of August 3, 2011, a manifesto riddled with gaps, and issued by the National Transitional Council (NTC), the then de facto government, in the final weeks of the armed conflict that culminated with Gaddafi’s downfall.¹⁰

⁶ George Grant, “Libyan media to be regulated by new Ministry of Information”, *Libya Herald*, November 26, 2014, <http://www.libyaherald.com/2012/11/26/national-congress-votes-to-create-new-ministry-of-information/> (accessed January 15, 2015).

⁷ General National Congress news section, “Establishment of Ministry of information,” November 25, 2012, http://www.gnc.gov.ly/news_det_page.aspx?news_id=167 (accessed May 12, 2014).

⁸ Human Rights Watch interview with Rida Abdelhamid Bin Moussa, deputy director of Commission for the Support and Encouragement of the Press, Tripoli, March 22, 2014.

⁹ Constitutionnet, “Libya - Initial draft constitution 2014 (English),” <http://www.constitutionnet.org/vl/item/libya-initial-draft-constitution-2014-english> (accessed February 4, 2015).

¹⁰ Human Rights Watch, “Priorities for Legislative Reform. A Human Rights Roadmap for a New Libya,” January 2014,

In a country where authorities had banned all civil society organizations, journalists have found it challenging since 2011 to organize themselves and advocate jointly for better work conditions, safety standards and contractual rights. There are two competing press associations but neither has many members. The Libyan Center for Freedom of the Press, a non-governmental organization, was established in May 2014, to monitor violations against journalists and defend press freedom and independence.

Libya's current media landscape is polarized, chaotic, and politicized.¹¹ Sudden freedom after 42 years of repression has unleashed pent-up vitriol, one leading journalist told Human Rights Watch.¹² "Many journalists lack professionalism and engage in insults and slander," said another, Mohamed al-Houni, the former managing director of private satellite channel Alassema TV.¹³

According to Mahmoud al-Misrati, editor-in-chief of *Libya al-Jadeeda*, an independent daily newspaper, "Media, which is a fundamental component of this transitional phase, is also Libya's biggest problem: there is a lot of incitement in the media."¹⁴

There has been a boom in new private and public satellite television stations, radio stations, and online as well as print newspapers since 2011, yet media outlets are finding it easier to launch than to survive. Hundreds of newspapers are registered with the Ministry of Information, yet many only published several issues and then closed for lack of funding or trained staff.¹⁵

<http://www.hrw.org/es/node/120427>.

¹¹ Human Rights Watch interview with Rida Abdelhamid Bin Moussa, Deputy Director of the Directorate for the Support & Encouragement of the Press, Tripoli, on March 22, 2014.

¹² Human Rights Watch interview with Mahmoud al-Misrati, editor-in-chief of *Libya al-Jadeeda* independent daily newspaper, Tripoli, March 19, 2014.

¹³ Human Rights Watch interview with Mohamed al-Houni, former managing director of Alassema private satellite channel, Tripoli, March 18, 2014.

¹⁴ *Libya al-Jadeeda* is independent in terms of content, yet printing costs are borne by the Directorate for the support and encouragement of the press.

¹⁵ Freedom House, "Freedom in the World-Libya 2013", 2013, <https://www.freedomhouse.org/report/freedom-world/2013/libya#.VMAW0E10yUk> (accessed January 21, 2014).

Freedom House estimated that in 2014 there were approximately 50 television channels, dozens of radio stations, several daily newspapers, and nearly a dozen private weekly and monthly publications published in Libya.¹⁶ The Libyan Radio and Television Company operates the three main public radio stations in addition to various others funded by local councils and over a dozen private stations. As for television stations, the state operates two, including Libya al-Wataniya, the official state TV channel, which broadcasts news, discussion shows as well as live broadcasting of parliament sessions and press conferences. Several local councils, including the local council of Misrata, fund their own channels. Numerous private television news stations include Libya al-Hurrah, Libya al-Ahrar, Alassema TV, Libya Awalan and al-Nabaa' though ownership and funding of some remain unclear.¹⁷

Political divisions exacerbated by ongoing armed conflicts, which broke out in May 2014 in eastern Libya and spread to the west in July, have had a negative impact on the media landscape in Libya. The establishment of a self-declared government in Tripoli in August 2014, supported by factions of the Libya Dawn alliance, also saw rising competition between Libya Dawn and its rival, the Libya Dignity alliance, led by Khalifa Hiftar, for control of the state-owned media corporation and its channels, as well as the state news agency. Depending on their funding sources and political affiliations, most privately-owned Libyan TV stations have openly supported either Libya Dawn or Libya Dignity in the conflict, often with incendiary language, contributing to the political polarization that has engulfed the country.

After the Libya Dawn alliance seized control of Tripoli in August it took over all state-owned media institutions, including the Information Ministry headquarters, the ministry's Foreign Media Department and the Directorate for the Support Encouragement of the Press, as well as headquarters of state-owned TV and public radio. On November 2, 2014, a statement issued in the name of the Directorate for Support and Encouragement of the Press condemned the takeover of the directorate's headquarters by the Tripoli-based authorities

¹⁶ Freedom House, "Libya Draft Country Report 2013", 2014
<http://freedomhouse.org/sites/default/files/Libya%20FOTP2014%20draft.pdf> (accessed May 11, 2014).

¹⁷ Freedom House, "Freedom in the World-Libya 2013", 2013, <https://www.freedomhouse.org/report/freedom-world/2013/libya#.VMAW0E10yUk> (accessed January 21, 2014).

and absolved the directorate from any legal or financial responsibilities that could arise after the takeover date.¹⁸

The Libya Dawn backed self-declared government in Tripoli also took over the state news agency LANA (also known as WAL), prompting the elected al-Baida-based government in November 2014, to establish a parallel state news agency using the same name.¹⁹ For its part the elected government established a new national TV station broadcast out of al-Baida and named it al-Wataniyah, using the same name as the original state TV currently under control by the Tripoli-based authorities.²⁰

¹⁸ Bawabat Alwasat, "Directorate for Media Support Issues Statement Rejecting Takeover of its headquarters in Tripoli," November 2, 2014, <http://www.alwasat.ly/ar/news/libya/45202/> (accessed December 3, 2014).

¹⁹ Human Rights Watch interview with Abdelbasset Boudiya, General Director Libya State News Agency (WAL), Tripoli, January 27, 2014.

²⁰ Reda Fhelboom, "Journalism under Siege," *correspondents.org*, November 25, 2014, <http://www.correspondents.org/node/5938> (accessed December 2, 2014).

II. Attack on the Media since 2011

The volatile security climate in the country and the control militias exert over many regions negatively affects the security of journalists and their ability to work. Human Rights Watch recorded, between September 2012 and November 2014, at least 91 cases of threats and assaults against journalists, including at least 14 cases of threats against female journalists. Among these 91 cases were at least 26 armed attacks against the offices of television and radio stations including some attacks in which assailants used heavy weapons; 30 kidnappings or short-term arbitrary detentions mostly by militias; and eight fatal attacks against members of the press.²¹

All journalists interviewed for this report told Human Rights Watch they resorted to self-censorship in their reporting as a consequence of attacks, threats, and other forms of intimidation. Ten journalists told Human Rights Watch they felt compelled to leave Libya after repeated attacks against them. Human Rights Watch knows of tens of other journalists now living outside of Libya after repeated threats.²²

All but one of the 40 journalists and media workers interviewed said they had been threatened, harassed, or intimidated by armed groups or militias at least once. All complained about a lack of professionalism, increased politicization, and what they saw as an increase in hate speech and incitement to violence by supporters of various opposing factions.

According to Reporters Without Borders, a non-governmental organization that monitors the “negative impact of conflicts on freedom of information and its protagonists,” Libya slipped six positions in 2013, from 131 down to 137 out of 180 countries.²³ The group also says

²¹ Human Rights Watch documented the killing of a total of 4 persons who are journalists, media, yet the circumstances of death of 2 of the victims do not conclusive that they killed because of their journalistic work.

²² In a press statement from May 7, 2014, “Freedom of information under Constant Attack,” the NGO Reporters Without Borders (RWB) says it has “came to the aid” of 3 journalists who came under duress, to leave Libya. <http://en.rsf.org/libye-freedom-of-information-under-07-05-2014,46238.html> (accessed May 15, 2014).

²³ Reporters Without Borders (RWB), “World Press Freedom Index 2014,” <http://rsf.org/index2014/en-index2014.php> (accessed May 14, 2014).

journalists in Libya are “censoring themselves again” because they are exposed to multiple threats, including “repeated arrests, intimidation, arbitrary detention, and torture.”²⁴

In their 2014 round-up, Reporters Without Borders considered Eastern Libya among the five most dangerous areas for journalists worldwide. The NGO reported that throughout the country in 2014, 97 journalists had been threatened or attacked; 43 had fled the country; 29 had been kidnapped, and four had been killed.²⁵

The Committee to Protect Journalists, another non-governmental organization that monitors attacks on journalists worldwide, said the Libyan government has not been willing or able to control the militias that attack journalists, and states “the greatest threats to journalists came from the government's inability to protect them.”²⁶

Of the journalists interviewed for this report who said they had received threats or suffered attacks only a few said they had ever filed a complaint with the police or the prosecutor’s office. None thought that the institutions of government would or could protect them and hold perpetrators accountable. Most preferred not to report the incident at all, as they did not believe the authorities to be capable of responding effectively and they believed that filing a complaint could put them at risk of retribution.

Human Rights Watch did not learn of a single arrest, much less a prosecution, for any of the attacks on journalists discussed in this report, including those which resulted in deaths.

Successive interim Libyan governments have failed to protect journalists from violence and punish those who perpetrate crimes against journalists as an extrajudicial method of censorship. Their failure has cultivated the culture of impunity prevalent in Libya, and journalists often find themselves on the forefront of these attacks.

²⁴ Reporters Without Borders (RWB), “World Press Freedom Index 2014,” Middle East and North Africa, *NON-STATE GROUPS WITH NO LEGITIMACY IMPOSE REIGN OF FEAR*, <http://rsf.org/index2014/en-middle-east.php> (accessed May 14, 2014).

²⁵ Reporters Without Borders (RWB), “2014 Round-up of Violence against Journalists,” December 16, 2014, <http://en.rsf.org/rwb-publishes-2014-round-up-of-16-12-2014,47388.html> (accessed December 17, 2014).

²⁶ Committee to Protect Journalists (CPJ), “Attacks on the press in 2013,” February 2014, <https://www.cpj.org/2014/02/attacks-on-the-press-in-2013-libya.php> (accessed May 13, 2014).

Killings and Attempted Killings

Human Rights Watch recorded eight killings of journalists, photojournalists, and other media workers between August 2013 and October 2014, in Tripoli, Benghazi, and Sebha. In four of the cases, Human Rights Watch was unable to determine if groups had targeted the victims because of their journalism or because reporting on violent clashes put them in harm's way or because they were victims of common criminals. To Human Rights Watch's knowledge, authorities have not initiated any active investigation into any of these eight incidents.

Libya has been plagued with unlawful killings since the end of the 2011 uprising. Unknown perpetrators killed approximately 250 people in seemingly targeted killings in the eastern cities of Derna and Benghazi alone between January and September 2014. Those killed included judges, members of the security forces, sheikhs, and activists as well as journalists. Some of the 250 killings were common law crimes, and others were apparently revenge killings. But the majority of the killings appear to have been politically motivated. Victims' families and activists point to Islamist and other militias as the likely perpetrators of these crimes.²⁷

Al-Mutassim al-Warfalli, was a radio presenter for Libya al-Watan radio station in Benghazi. Unknown assailants shot him dead on October 8, 2014 in the Salmani neighborhood of Benghazi. The killers fled the scene after the killing.²⁸ Al-Warfalli was a supporter of Ansar al-Sharia, an armed Islamist militia, according to Reporters Without Borders.²⁹

Altayyeb Issa Ihmouda, was the founder and Director of Finance at Toumsat TV, an independent Satellite TV Station in Southern Libya, which broadcasts programs in Arabic, French and Tamachek languages. Unknown assailants killed him on October 5, 2014, while

²⁷ "Libya: Assassinations May Be Crimes Against Humanity," Human Rights Watch news release, September 24, 2014, <http://www.hrw.org/news/2014/09/23/libya-assassinations-may-be-crimes-against-humanity>.

²⁸ Ahmed al-Eneizi, "Assassination of Libya Al-Watan Radio Presenter," *Al-Wasat*, October 9, 2014, <http://www.alwasat.ly/ar/news/libya/40843/> (accessed October 13, 2014).

²⁹ "Libya Still Extremely Dangerous For Journalists," Reporters Without Borders news release, October 14, 2014... Reporters Without Border news release, "Libya Still Extremely Dangerous For Journalists," October 14, 2014, <http://en.rsf.org/libya-libya-still-extremely-dangerous-14-10-2014,47108.html> (accessed, December 2, 2014).

he was traveling between the cities of Ubari and Ghat in southern Libya. Ihmouda's TV station said members of the Tebu minority, inhabitants of southern Libya, were responsible for his killing and demanded an investigation. The reasons behind his killing remain unknown.³⁰

Miftah Bouzeid, 50, was the editor-in-chief of *Burniq* newspaper, an independent paper issued three times a week in Benghazi. Unknown assailants shot him dead on May 26, 2014, in Benghazi. Bouzeid was a prominent critic of Islamist militias and political parties in Libya, and had criticized them frequently.³¹

A person who said he witnessed the attack told Human Rights Watch that a man wearing civilian clothes shot Bouzeid at around 10 a.m. while he was in his parked car on the way to deliver newspapers at the end of Istiklal Street [formerly Jamal Abdelnasser Street]. The witness said he saw the assailant get out of the back seat of a vehicle parked three or four meters away and fire between five and seven rounds from what the witness believed to be an assault rifle, based on the sound of the shots. The killer then got back into the car and fled. He said there were three other men in the car.

I saw the shooter, whom I did not recognize, lift his arm and fire off a round of shots at the car. He looked like any other young guy in Benghazi; he was unmasked, wearing civilian clothes, and shaven. I remember he did not have a beard like the Islamists usually do. It was all over very fast; it seemed to me it only took 10 seconds. Immediately after the shooting, I approached Miftah's car together with others. Somehow, I did not expect anyone to be in the car, so I was shocked when I saw him lying there with blood on his head. It was too late by then; he was already dead.³²

³⁰ Tomsat TV official Facebook page, October 5, 2014, <https://www.facebook.com/toumastTV/photos/a.1487766181464171.1073741828.1486832541557535/1526564640917658/?type=1&theater> (accessed October 13, 2014).

³¹ "Libya: Investigate Killing of Benghazi Editor," Human Rights Watch news release, May 27, 2014, <http://www.hrw.org/news/2014/05/27/libya-investigate-killing-benghazi-editor>.

³² Human Rights Watch telephone interview, name withheld, May 26, 2014.

The witness said he did not see or could not remember if there were any shots to the rest of Bouzaid's body. He said that neighbors covered Bouzaid and brought him to al-Jalaa' Hospital in Benghazi. The witness said he believes the killers were "professional" because the shooter and his three companions committed the crime on a busy street, and in broad daylight.

Mohamed al-Sheikhi, an independent photojournalist and friend of Bouzeid, said that the polarization in the media and society had created an environment in which "there is frequent incitement to sedition."³³ Al-Sheikhi said the night before his murder, Bouzeid appeared on a show of a local TV station, *Libya al-Ahrar*, in which criticized the then parliament, the General National Congress (GNC), for its "failures," blamed the GNC's dysfunction on political infighting, and spoke favorably about the military campaign of former General Khalifa Hiftar in Benghazi to combat Islamist militia "terrorists."³⁴

Idriss al-Mesmary, head of the Directorate for the Support Encouragement of the Press, within the Information Ministry, told Human Rights Watch that Bouzeid had earlier told him that he had received multiple death threats in the days preceding his killing. "All journalists are now targeted," al-Mesmary said. "There is a liquidation campaign going on."³⁵

Abdullah Bin Nuzha, was a reporter for *Fassania*, a state-run newspaper. He was killed on January 19, 2014 in Sebha in southern Libya, according to a press statement by a group calling itself the Libyan Journalists Union, while covering deadly clashes in the south of the country.³⁶ Human Rights Watch was unable to speak with any witnesses or obtain further information about the incident.

³³ Human Rights Watch telephone interview with Mohamed al-Sheikhi, May 26, 2014.

³⁴ News show with last interview of Miftah Bouzeid, *Libya al-Ahrar*, May 25, 2014, <http://www.youtube.com/watch?v=tdg42lfEBU8>.

³⁵ Human Rights Watch telephone interview with Idriss al-Mesmary, May 25, 2014.

³⁶ Reporters Without Borders (RWB), "World Press Freedom Index 2014," <http://rsf.org/index2014/en-index2014.php> <http://rsf.org/index2014/en-index2014.php> (accessed May 14, 2014). Reporters Without Borders (RWB), "World Press Freedom Index 2014," Middle East and North Africa, *NON-STATE GROUPS WITH NO LEGITIMACY IMPOSE REIGN OF FEAR*, <http://rsf.org/index2014/en-middle-east.php> (accessed May 14, 2014).

Saleh Ayyad Hafyana, was a photographer for the independent Fassato News Agency based in Jadu, in the western Nafussa mountains. He died from injuries sustained while covering militia attacks on protesters in the Gharghour neighborhood of Tripoli on November 15, 2013, according to the Fassato news agency. The agency said in the last phone call they had with Hafyana was immediately he reported that a young woman had just died from head injuries she sustained as militias fired heavy weapons at protesters. Hafyana was seen among those who tried to carry the dead young woman out of the danger zone. When the agency called Hafyana soon after this incident, another person answered Hafyana's phone and told the agency that Hafyana had sustained shrapnel injuries and was being treated at Abu Saleem Trauma hospital. Hafyana succumbed to his injuries soon after.³⁷

On November 15, largely peaceful protesters participated in a Friday demonstration in Tripoli calling on militias to disband. Militias, largely from Misrata, shot at protesters, killing and injuring some. In ensuing clashes, at least 48 people died. Two journalists were injured and one was detained for several hours and interrogated by a militia.³⁸

Whether Hafyana was deliberately targeted as a journalist remains unknown. The general prosecutor's office announced an investigation into the November 2013 clashes, but one year later Human Rights Watch has been unable to determine its status.

Ezzedine Qusad, a young doctor and imam turned television presenter, had a popular show called *Let's Try Together* on the Al-Hurra TV channel that dealt with social and contemporary issues. Unknown assailants killed him on August 9, 2013 in Benghazi, according to Al-Hurra.³⁹

³⁷ Statement on killing of Saleh Hafyaneh, on the official Facebook page of Fassato News Agency <https://www.facebook.com/photo.php?fbid=637241006320779&set=a.269405803104303.65819.259293627448854&type=1&permPage=1> (accessed July 7, 2014).

³⁸ "Libya: militias kill unarmed protesters," Human Rights Watch news release, November 17, 2013, <http://www.hrw.org/news/2013/11/17/libya-militias-kill-unarmed-protesters>.

³⁹ News report on life of Ezzedine Qusad, Libya al-Hurra TV, Benghazi, August 9, 2013, <https://www.youtube.com/watch?v=a3u2azR2ifw> (accessed, July 7, 2014).

Of Palestinian origin, born in Libya, Qusad was killed after leaving the Sawda' Bint Soma'a Mosque in the Sidi Hussein neighborhood, where he was the imam and led Friday prayers, according to the Libyan state news agency. The news agency reported that unknown people had sent death threats to Qusad's mobile phone in the days preceding his death, but no group has claimed responsibility for his killing.⁴⁰

During a televised interview, Qusad's mother said he had received death threats during the two weeks before he was killed. She said the government had done "nothing," although it was unclear if he had informed the authorities before his death.⁴¹

To date, to the knowledge of Human Rights Watch, authorities have not launched any investigation into this case or made any arrests.

Radwan Ali Mohamed al-Gharyani, 38, was the owner of the popular private radio station Tripoli FM. Unknown assailants killed him in Tripoli on December 3, 2013.

Human Rights Watch spoke with two of al-Gharyani's colleagues. One told Human Rights Watch that he received a call from al-Gharyani's wife on December 2, when he had not yet arrived home at 1:30 a.m.⁴² He said that he started to make the rounds of Tripoli hospitals at around 2 a.m., and at around 4 a.m. he found al-Gharyani at the Tajoura Cardiac Hospital, dead from gunshot wounds. The colleague said he identified the body and then went to the police station in Tajoura to file a police report on the incident. He said that police officers told him forces under the Libyan National Army, which was patrolling the area, had found al-Gharyani shot to death in his car.⁴³ The colleague said he found al-Gharyani's car together with his personal belongings at the police station, most of which were returned to the family with the exception of his Ipad.⁴⁴

⁴⁰ News report on assassination of Ezzedine Qusad, Libyan state news agency WAL, August 9, 2013, <http://www.lana-news.ly/ara/news/view/28516/موسم> (accessed May 15, 2014).

⁴¹ Interview with mother and sister of Ezzedine Qusad, during his funeral, Al-Hurra TV, Benghazi, August 10, 2013, <https://www.youtube.com/watch?v=VAwhhTD4hpg> (accessed July 7, 2014).

⁴² Human Rights Watch is withholding the names of the interviewees for security reasons, Tripoli FM station headquarters, Tripoli, March 17, 2014.

⁴³ The National Army is Libya's regular military forces, which is under the Defense Ministry.

⁴⁴ Human Rights Watch interview with co-workers, name withheld, Tripoli, March 17, 2014.

The next day the colleague visited the morgue, where the medical examiner told him that al-Gharyani had died from three gunshot wounds, fired at close range: one penetrated the back of his head, one struck his neck, and the third hit his chest.⁴⁵

Al-Gharyani's colleagues said they were puzzled about the incident and did not believe it was related to his work as a journalist. The police told al-Gharyani's colleagues they found none of his personal belongings missing after he was shot, suggesting that the motive was not theft. His colleagues said they were unaware of any threat against al-Gharyani for his work as radio station head. No one claimed responsibility for the killing.

According to one of the managers of Tripoli FM, the station's show hosts have clear instructions not to discuss politics on air, given the high level of violence in the country and the violence media outlets are exposed to. "We avoid arguments, and our show hosts do not express an opinion on air. That's a red line."⁴⁶

Al-Gharyani's colleagues told Human Rights Watch that after the initial police report, no one followed up to investigate the incident, as far as they knew. They said that the Criminal Investigation Directorate at the National Security Directorate, which carries out criminal investigations and evidence gathering, conducted no investigations and they understand the case remains unresolved at the prosecutor's office.

Nusib Miloud Karnafa, was the program director at the Sebha branch of Libya al-Wataniya, the official state TV channel. She was found dead together with her fiancée Mohamed Abu Azzum on May 30, 2014 in Sebha. Their killers had slit their throats. They had been kidnaped the day before, according to Reporters Without Borders. While there has been no official investigation and the reason for her killing remains unknown, Karnafa and her fiancée apparently received death threats in the days preceding their killing.⁴⁷ There is no evidence to suggest Karnafa was killed because of her profession as a journalist, and information on social media soon after her death indicated she was killed because of a family matter.

⁴⁵ A copy of the medical report is on file with Human Rights Watch.

⁴⁶ Human Rights Watch interview with two colleagues of Gharyani, Tripoli FM station headquarters, Tripoli, March 17, 2014.

⁴⁷ Reporters Without Borders, "Woman journalist found with throat cut," June 2, 2014, <http://en.rsf.org/libye-woman-journalist-found-with-throat-02-06-2014,46373.html> (accessed July 7, 2014).

In addition to these eight killings of journalists, Human Rights Watch is aware of two attempted killings:

Hassan al-Bakush, was the Benghazi correspondent for the private satellite channel Libya al-Ahrar. He told Human Rights Watch that unknown men tried to assassinate him on May 5 and again on May 7, 2014, in drive by-shootings in Benghazi.⁴⁸ In April 2013, al-Bakush had been kidnapped after leaving the Benghazi University compound, blindfolded, and forced into a car by armed men in military uniforms after two cars with the Army Chief of Staff emblem closed in on him. Bakush said the men insulted and beat him, threatened to kill him, if he “showed his face again on TV.”⁴⁹ Soon after the May 2014 incidents, al-Bakush left Libya and his position at the TV station.

Khadija al-Ammami, the Benghazi bureau chief of Libya al-Ahrar, survived an assassination attempt by unknown assailants on August 12, 2013, according to the state news agency. The agency quoted al-Ammami as saying that her assailants shot at her several times as she was getting out of her car in Benghazi. She hid between parked cars and was not hit, she said. According to the same news report, after the attempted assassination, al-Ammami received several death threats from unknown sources.⁵⁰

Attacks on Media Offices and Facilities

Over the past two years, journalists have reported numerous attacks on the facilities and offices of media outlets. Human Rights Watch documented 26 separate attacks on radio and television stations in Tripoli, Benghazi, Mizdah, Zawiyah, and Derna between March 2013 and August 2014.

⁴⁸ Human Rights Watch confirmed dates of alleged attempted targeted killings during a chat [viber chat, not phone call] with Hassan al-Bakush on May 8, 2014.

⁴⁹ Interview with Hassan al-Bakush, Libya Al-Ahrar TV, April 29, 2013, <https://www.youtube.com/watch?v=tNqleC8oF5c> (accessed July 7, 2014).

⁵⁰ “Libya Al-Ahrar Benghazi Office Director Escapes Assassination Attempt,” Libyanstate news agency WAL, about assassination attempt against Khadija al-Ammami in Benghazi, August 13, 2013 <http://www.lana-news.ly/ara/news/view/28660/> (accessed May 15, 2014).

Fawziya Balaazi, executive director of a privately-owned satellite station, Alassema TV, in Tripoli, told Human Rights Watch that the station was attacked twice, on August 23 and 24, 2014, by a group of militias operating under the Libya Dawn alliance who earlier accused the station of bias towards their main rival, the Libya Dignity alliance. The attack occurred as Libya Dawn aligned militias wrested control of Tripoli and its airport from forces aligned with Zintan.⁵¹

Balaazi told Human Rights Watch that the first attack on the station, at around 3 a.m. on August 23, caused extensive damage to the principal control room, which had “melted,” and the technical department containing cameras and other equipment, which were mostly damaged or stolen.⁵² Balaazi said the Libya Dawn attackers seized three station employees during a second attack on August 24. Hussam Mirae, an IT technician was detained in Misrata and released on August 31. Saad Zagoub, in charge of montage, and Tareq al-Drissi, a graphics department worker, were released in a prisoner exchange operation between militias in the towns of Misrata and Zintan on October 2.⁵³

Balaazi left Libya shortly after the second incident because an unidentified person threatened to hang her publicly to “teach others who refused to apologize a lesson.” She said she was afraid to return to Libya as her name was associated with the TV channel and she risked being attacked or even killed.⁵⁴

Mohamed al-Houni, 28, former managing director of the Tripoli based private satellite television channel Alassema TV, told Human Rights Watch that in 2013 armed men gave chase to him while he was driving. Subsequently, in March 2013 an armed group which he declined to identify briefly kidnapped him. He also said armed groups carried out five separate attacks, at times using heavy weapons, causing extensive damage to the station. Prior to these attacks, al-Houni said, there had been hostile demonstrations and skirmishes in front of the station on different issues. He recalled one instance when

⁵¹ Human Rights Watch telephone interview with Fawziya Balaazi, August 28, 2014.

⁵² Ibid.

⁵³ Human Rights Watch telephone interview with Fawziya Balaazi, October 14, 2014.

⁵⁴ Human Rights Watch telephone interview with Fawziya Balaazi, October 14, 2014.

people protested perceived criticism by the channel of Libya's Grand Mufti, the country's leading religious authority.⁵⁵

In the first major attack on the station on March 8, 2013, al-Houni said several groups of armed men, some of whom seemed more organized than others, forced their way into the station around 2:30 p.m.⁵⁶

When I heard the news, I went to the station and it was already surrounded and infiltrated by armed men who had already kidnapped Jomaa Alost, one of the owners. I remember there was shooting outside, breaking of furniture in the station, and some looting of computer screens. There was confusion all around, and we had to stop transmission. I was kidnapped by some of the armed men, who put me in a car full of weapons and drove me around Tripoli until 10 p.m. before letting me go.⁵⁷

Al-Houni said he was not ill-treated throughout his ordeal. He said the men who abducted him accused him and the channel of being "pro-Gaddafi," citing what they said was the station's "negative stance" toward the political isolation law which bars Gaddafi-era officials from holding public office.⁵⁸

Al-Houni said other groups involved in the same attack kidnapped other colleagues, including the assistant of Alost, former executive director Nabil al-Shibani and reporter Mahmoud al-Sharkassi, and then released them at different times that same day and the next day. Al-Houni said his captors made him sign a statement before releasing him promising he would not work with the network again or else risk being killed. He signed the statement, but returned to his job.

⁵⁵ Human Rights Watch interview with Mohamed al-Houni, former managing director Alassema TV channel, Tripoli, March 18, 2014.

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ "Libya: reject political isolation law," Human Rights Watch news release, May 4, 2013, <http://www.hrw.org/news/2013/05/04/libya-reject-political-isolation-law> (accessed January 15, 2015).

On February 11, 2014, al-Houni said, armed men attacked Alassema TV again and then again on February 17. In the February 11 incident, armed men entered the station and caused minor damage, but did not stop transmission. The events of February 17, he said, were more serious.

We did not expect another attack so soon. It was a surprise when a large convoy of 17 to 20 cars with masked armed men tried to force their way into the compound in the middle of the day. But they were not successful this time, they were not able to enter the compound, because we had taken precautions; after the last attack on our station [on February 11], we hired armed guards. At one point, they started to shoot RPGs [rocket propelled grenades] at the compound. They caused a lot of material damage, especially after they hit a storage facility with new equipment worth millions. One of our guards was injured as well.⁵⁹

In the early morning of February 19, at least one man attacked the house of Jomaa Alostta, the station owner, with an explosive device, according to al-Houni. The attack damaged the annex of the house, which was adjacent to the station and being used as a guest house by foreign reporters, injuring one of them. Al-Houni says surveillance video from the house showed an unidentified man throwing an explosive over the fence.

According to al-Houni, authorities launched no investigations into any of the attacks. He said he knew of no arrests in any of the cases. He suspected the motivation was political and directed at Alassema's support for a block in parliament, the National Forces Alliance, headed by Mahmoud Jibril, which opposes Islamist parties on many issues. Al-Houni said he is now "vigilant" and that for a time he looked under his car for explosive devices before getting in. "We cannot rely on the police or the army. Everyone has competing agendas and there is confusion all around."

⁵⁹ Human Rights Watch interview with Mohamed al-Houni, former managing director Alassema TV channel, Tripoli, March 18, 2014.

Mahmoud al-Misrati, 45, is editor-in-chief of *Libya al-Jadeeda*, an independent daily published in Tripoli that started as an online news site and became a weekly paper in September 2011 and then a daily in October 2012. He told Human Rights Watch that after he had received threats for months, starting around August 2012, armed men attacked the office of the newspaper on August 23, 2013 and later his house. Al-Misrati said the threats started after his paper reported that Qatar was supporting certain political factions and criticized Libya's branch of the Muslim Brotherhood as well as the increasing number of political assassinations in eastern Libya.

The death threats started with phone calls and text messages to his mobile phone, both from within Libya and from abroad, and then through social media sites such as Facebook. The threats usually included religious language, for example: "Those you are attacking will implement God's will upon you." Some accused him of "immorality" and called him an "infidel." He said his son started to get similar threats on his mobile phone. Al-Misrati said, at one point he received up to 20 threatening calls and text messages a day, particularly after he accused Islamists in connection with a December 2013 incident about 30 kilometers from Benghazi, when, reportedly, suicide bomber killed at least 13 people at the checkpoint.⁶⁰ He said the threats became so severe that he became concerned for the 60 staff members of *Libya al-Jadeeda*, and they felt compelled to relocate to a more secure location. He also said his name was on a "hit list" of journalists and others on social media.⁶¹

Al-Misrati said an armed group attacked his newspaper's headquarters at around 5 a.m. on August 23, 2013 and stole equipment, documents, and around 16,000 LYD (US\$12,000) in cash. He said the Criminal Investigation Department came an hour later and collected evidence, including fingerprints, but he said prosecutors have not launched an investigation. Al-Misrati said the perpetrators' faces are clearly visible in a surveillance video staff members obtained from the medical center opposite the newspaper office. Al-Misrati said he was not even sure if the prosecutor's office ever issued an arrest warrant.⁶²

⁶⁰ Mohamed Juma, "Libya: Suicide bombing near Benghazi kills at least 13," *LA Times*, December 22, 2014, <http://articles.latimes.com/2013/dec/22/world/la-fg-wn-libya-suicide-bombing-benghazi-20131222> (accessed, July 8, 2014)

⁶¹ Human Rights Watch cannot verify the existence or contents of this alleged hit-list.

⁶² Human Rights Watch interview with Mahmoud al-Misrati, editor-in-chief of Libya al-Jadeeda independent daily newspaper, Tripoli, March 19, 2014.

Al-Misrati said that early in the morning of January 15, 2014, he was awakened at 3 a.m. by a powerful blast from an RPG fired at his home. Al-Misrati said the attack came after an interview in which he criticized a militia formation called, the Libya Revolutionaries' Operations Room.⁶³ Al-Misrati said he filed a police report the next day and that police interviewed his neighbors, but he was not aware of any investigation or arrests.⁶⁴

Al-Misrati told Human Rights Watch that he felt compelled to leave the country following what he said was an attempt on his life the night of May 28, 2014.⁶⁵ This was the day after he criticized the Islamist armed group Ansar al-Sharia in an interview. Two cars chased him in Tripoli, yet he managed to get away. Al-Misrati later returned to Libya and was based in Tripoli at time of writing.⁶⁶

On August 18, 2014, al-Misrati told local media sources that unknown assailants raided his home in Salaheddin area in Tripoli the night before. Al-Misrati said the attackers took his work documents including digital files.⁶⁷ Al-Misrati also reported the attack on his Facebook page.

Sami al-Sharif, the host of a popular talk show on Radio al-Jawhara, told Human Rights Watch that on July 3, 2013, a group of three men in civilian clothes, one of whom was armed, forced their way into the station's office in Tripoli's Suq al-Jumaa area in the middle of the day and tried to kidnap him. He said he does not know who they were and that he resisted when the men tried to force him go with them. In the ensuing scuffle, one pulled a gun. He said he managed to get away when two of the men fell down the stairs after he pushed one of them. He managed to lock himself and his colleagues in their office. After a crowd gathered outside the three attackers fled.

⁶³ LROR is a controversial group of militias which was mandated by the former parliament (GNC) to provide security to Tripoli and its surroundings. Commanders of the group are Islamist-leaning.

⁶⁴ Ibid.

⁶⁵ Human Rights Watch chat with Mahmoud al-Misrati, Facebook chat, June 8, 2014.

⁶⁶ Human Rights Watch chat with Mahmoud al-Misrati, Facebook chat, June 8, 2014.

⁶⁷ "Breaking into house of Mahmoud al-Misrati," Alwasat, August 18, 2014, <http://www.alwasat.ly/ar/news/libya/31885/> (accessed August 22, 2014).

Al-Sharif said he filed a complaint at a local police station. “The police did nothing, they never followed up or investigated the case,” he told Human Rights Watch. “But really, what can they do? They are powerless.” He said that men who fought against Gaddafi in 2011, offered to serve as bodyguards after the incident, but he declined.⁶⁸

Threats, Harassment, Assaults, and Kidnappings

Human Rights Watch documented 39 cases in which journalists said they had been threatened, intimidated, or harassed between January 2013 and November 2014. Thirty journalists and political commentators told Human Rights Watch that militias kidnapped or briefly apprehended them between March 2013 and October 2014.

Jomaa Alost, owner of Alassema TV, told Human Rights Watch that armed men from the Libya Dawn alliance had attacked his home and the home of his brother, Hassan Ali Alost, in Tripoli’s Gurji area early on August 25, 2014. The attack occurred as Libya Dawn aligned militias fought against those militias aligned with Zintan to wrest control of the capital. He said that militiamen, wielding heavy weapons, beat the family’s housekeeper, fired shots in the house and broke into a safe, and took personal documents and photographs. Alost, currently residing abroad with his family, said he feared returning to Libya for fear of further retribution against him and his family.⁶⁹

He said militias seized his nephew, Wissam Alost, and Mohamed al-Hafnawi, an Alassema TV employee. According to Alost, both men remained detained at Al-Nawasi Brigade in Tripoli.⁷⁰

Hussam el-Din al-Tayeb, a journalist with Alassema TV from Misrata, told Human Rights Watch unidentified militiamen looted and set fire to his house on Crown Prince Street in Tripoli on August 25, 2014. At the time of the incident, al-Tayeb was outside of Libya as he had left two weeks earlier after receiving death threats from unidentified people who

⁶⁸ Human Rights Watch interview with Sami al Sharif, journalist, Tripoli, March 17, 2014.

⁶⁹ Human Rights Watch telephone interview with Jomaa Alost. Owner of Alassema TV, August 27, 2014.

⁷⁰ Human Rights Watch telephone interview with Jomaa Alost, October 14, 2014.

accused him of biased reporting against Libya Dawn. Al-Tayeb remains outside of Libya for fear of further retribution if he returns.⁷¹

Ibrahim Abdelgader Radi, is a reporter for Libya al-Wataniya radio, **Saddam Hussein al-Rashidi**, is a cameraman at al-Wataniya TV, and **Ibrahim Abdeldayem**, is a freelancer who works with al-Wataniya TV in Sebha. Armed men kidnapped all three journalists along with two children aged 12 and 13 on February 10, 2014 as they were driving into Tripoli to seek medical treatment for one of the children. Ali al-Mabrouk, director of the Sebha office of Libya al-Wataniya, the official state TV channel, told Human Rights Watch the kidnappers held them for 28 days without releasing any information about their fate. He said the respective tribes of the kidnappers and their victims resolved the situation and the families of the victims refused to make a public statement as a condition for the release. In the absence of any investigation, the reason for the kidnapping remains unknown, although one person familiar with the incident said that it may have stemmed from tribal resentment of press coverage of tribal-militia clashes.⁷²

Zeidan al-Mahdi, **Adel al-Sharif**, and **Abdullah Abu Athba** are reporters from Fezzan TV, a private television channel based in the south. On January 18, 2014, according to Ali al-Mabrouk, armed men abducted the three as they were driving from Sebha to Tamenhint to cover escalating violence in the southern region, where forces apparently loyal to Muammar Gaddafi were clashing with other armed groups. Armed men then controlling the Tamenhint army base and allegedly loyal to Gaddafi abducted the journalists from their car and held them for one day. Al-Mabrouk said all three abductees alleged on Fezzan TV that their captors beat them.

Hind Ammar, a reporter and producer at Libya al-Wataniya, told Human Rights Watch that Islamists frequently use her Facebook page to send her death threats, accusing her of “immorality” and being an “infidel,” serious allegations in a conservative country like Libya, where people have been killed on the basis of such allegations.⁷³

⁷¹ Human Rights Watch telephone interview with Hussam el-Din al-Tayeb, August 29, 2014.

⁷² Human Rights Watch interview with Ali al-Mabrouk, head of Al-Wataniya Sebha branch, Tripoli, March 20, 2014.

⁷³ Human Rights Watch interviews and calls with Hind Ammar, September 29, 2013, March 19 and 20, 2014.

Issam al-Fitouri, a reporter and photographer at Aroos al-Bahr press agency, told Human Rights Watch that an armed group from the Gharghour area in Tripoli abducted him on May 9, 2013, while he was covering protests against the controversial law on political isolation.⁷⁴ Al-Fitouri said he had followed protesters from Algeria Square to the Ministry of Foreign Affairs until about 9:45 p.m. when someone started firing weapons in front of the ministry. After al-Fitouri began filming, five men in civilian clothes, apparently unarmed, made him go with them to a building behind the ministry. He said two journalists and three residents who had been filing with Ipads had been “apprehended” earlier by the same group. In the building 10 or 15 young men surrounded him aggressively, took his camera, and approached him threateningly. The men who had apprehended him on the street were calmer, and shielded him. Al-Fitouri said the men interrogated him until 2 a.m., and checked his social media pages for his “political orientation.” They examined documents and images on his laptop and camera, and became irritated when they saw he had referred to the armed groups which had attacked the Foreign Ministry as “militias” and not “revolutionaries.”⁷⁵ Al-Fitouri believes the group that kidnapped him wanted to silence journalism that criticized the political isolation law.⁷⁶ He said the militiamen did not hurt him, which he attributed to an acquaintance’s intervention.

Al-Fitouri told Human Rights Watch he had received threats on several other occasions, through his Facebook page and in telephone calls. Strangers accused him of being “secular” and an “infidel,” and threatened to hurt him with electric shocks.

Al-Fitouri told Human Rights Watch he chose not to file a formal complaint against the men who had apprehended him. “Even if I file a report, there is no law and order, there is no justice,” he said. “I am afraid if I go to the police and file a complaint that the perpetrators would react strongly and I could be hurt.” Journalists like him now censor themselves for fear of retribution, he said.⁷⁷

⁷⁴ After parliament passed the political isolation law on May 5, 2013, the law’s opponents staged several mass demonstrations against its passage, and against the militias that people believed forced parliament to pass the law.

⁷⁵ Human Rights Watch interview with Issam al-Fitouri, journalist and photographer, Tripoli, March 20, 2014.

⁷⁶ Ibid.

⁷⁷ Ibid.

Nada Ahmed al-Shalhi, 26, a reporter at Alassema TV, told Human Rights Watch that a man attacked her on March 18, 2014, in the middle of the day, while she and her crew were interviewing people on the street for a show called *Morning Breeze*. Al-Shalhi said the man came up behind her, grabbed her arms as if he wanted to take her microphone, and ripped the microphone cover as he shouted, “You dogs, you filth, you have ruined this country, wait and see—we will show you!” and then spat in her face. The man followed her and her cameraman and driver to their car and tried to drag her out of the car. Al-Shalhi said he acted as though he was “insane,” yet none of the bystanders or the two men in her crew helped her. On the contrary, a passer-by shouted, “Go to Zintan and film there!” alluding to the perception that factions from Zintan backed the TV station. Al-Shalhi said that her cameraman was Sudanese, and she was worried that he was most vulnerable to attacks.⁷⁸

Al-Shalhi said she did not report the incident to the police because she did not believe they would do anything to help her. “There is no authority in this country, no state, no law,” she said. “We talk a lot about freedom and democracy but we do not talk about how it’s applied. As a reporter in Tripoli today, you deliver yourself to the mercy of God.”⁷⁹

Heba al-Shibani, a journalist, television host and producer, told Human Rights Watch that she received repeated threats in 2012 when she was working for a private TV station because of she raised sensitive human rights issues. On one occasion, al-Shibani said, after she aired photos of torture victims in Ain Zara Prison in Tripoli, she received furious text and Facebook messages accusing her of being pro-Gaddafi. She said some people also expressed anger about her appearance on TV without hijab, telling her she must “cover up.”⁸⁰

Al-Shibani recalled one instance in which a woman approached her in a shop and said, “You should be raped so you know how families and women feel when it happens to them—why do you defend the [pro-Gaddafi] loyalists?” Al-Shibani told Human Rights Watch that one evening in 2012, as she was driving home, men with long beards who appeared to be Islamists in military style clothes tried to corner her with their car and got out of their car

⁷⁸ Human Rights Watch interview with Nada Ahmed al-Shalhi, reporter, Tripoli, March 22, 2014.

⁷⁹ Ibid.

⁸⁰ Human Rights Watch interview with Heba al-Shibani, journalist, Tripoli, March 22, 2014.

carrying machine guns and shooting them into the air. She said she managed to drive off, and believes they intimidated her because were unhappy with her reporting. Al-Shibani said she did not file a police report about any of the incidents because she said the police would be ineffective.⁸¹

Human Rights Watch met with al-Shibani outside of Libya in August 2014 after she left the country for fear of attacks against her and her family during the armed conflict. At time of writing, she was a correspondent for an international wire agency.

Naeima al-Misrati, a reporter, photographer, and editor for publications including *al-Watan al-Libyyeh* and *Bawabet Ifriqiya*, told Human Rights Watch that on June 20, 2012, guards at the High National Elections Commission (HNEC), the body mandated to organize parliamentary elections in July 2012, attacked and pushed her as she tried to cover protests within the elections commission. Despite a formal statement by *al-Watan* condemning the interference and manhandling of a journalist, there was never any inquiry in to the incident.⁸²

Earlier, in September 2011, al-Misrati said, “revolutionaries” pushed her against a wall for trying to report on a fire in the building of the Tajoura Local Council on the outskirts of Tripoli. She said the men attacked her physically and verbally, accusing her of being a “fifth column.” Despite her employer’s request for a formal inquiry, police never launched an investigation she said.⁸³

Al-Misrati said that on October 2, 2013, when she attempted to attend the second pre-trial chamber session in ongoing proceedings against former officials of the Gaddafi government, guards at the court, which was in the al-Hadhba Prison compound, prevented her, telling her and two other female reporters they had “orders not to let women into the trial sessions.”⁸⁴

⁸¹ Ibid.

⁸² Human Rights Watch interview with Naima al-Misrati, journalist, Tripoli, April 14, 2014.

⁸³ Ibid.

⁸⁴ Ibid.

Al-Misrati says she frequently receives threats because she uses strong terminology to describe militias, such as “armed gangs,” especially on her Facebook page.⁸⁵

Razan al-Moghrabi, a fiction writer, activist, and media commentator, told Human Rights Watch that she first received threats in September 2012 after she spoke against the parliament’s ordering military operations against the town of Bani Walid, perceived by some to be pro-Gaddafi.⁸⁶ Al-Moghrabi said most of the threats came as phone calls or Facebook messages. She said she has also received threats about her appearance, telling her to cover her hair. Al-Moghrabi said she was also threatened in mid-2013 during debate over the political isolation law, and after she criticized a fatwa from Libya’s Grand Mufti banning women from traveling without a male guardian. She said she has started to censor her own writings, especially about Islamist political entities and militias.⁸⁷

In July 2014, al-Moghrabi left Libya to seek refuge with her family in a neighboring country for fear of reprisal attacks against herself or her family if she remains in Libya.

Tarek al-Houni, the former general director of Libya al-Wataniya, told Human Rights Watch that militia members in charge of security at the station, on the payroll of the channel, attacked him after he tried to stop them from assaulting Mohamed al-Toumi, a parliamentarian visiting the station on September 4, 2013. A guard first verbally abused then struck al-Toumi.⁸⁸ A week earlier, al-Houni had met with al-Toumi and four other members of parliament to discuss a show about a secret session of parliament in which it approved a payment of 950 million Libyan Dinars (US\$780 million) to a controversial militia group, the Libya Revolutionaries Operations Room, for providing security in Tripoli and surroundings. This alleged payment sparked outrage and triggered the anger of the guards. Al-Toumi, the member of parliament, tried to defend himself and engaged the militia member. Al-Houni said that when he arrived, al-Toumi had already clearly been beaten, his shirt ripped. Al-Houni went to call a local militia commander for help while al-

⁸⁵ Ibid.

⁸⁶ “Libya: Residents of Bani Walid at Risk,” Human Rights Watch news release, October 24, 2012, <http://www.hrw.org/news/2012/10/24/libya-residents-bani-walid-risk>.

⁸⁷ Human Rights Watch phone interview with Razan al-Moghrabi, journalist, May 5, 2014.

⁸⁸ Al-Wataniya State Broadcasting company includes Al-Wataniya Channel, Al-Shababiya, Al-Hidaya (Qoranic channel), Al-Rasmiyyah (official channel), Al-Riyadiyah (2 sports channels), 2 radio stations and 24 local channels.

Toumi hid in a room and asked a cameraman to document what had happened to him. Al-Houni said, when militias who were at the station heard about what happened, four or five members joined and started to beat al-Toumi, a cameraman, a graphic designer and a producer, who were all with him in the room. Al-Houni said he tried to protect the lawmaker and get him out of the station safely, and in the process was himself beaten by the guard who initiated the fight. “The guard head-butted me and tore at my clothes,” he said. “He was like a madman.”

Al-Houni told Human Rights Watch that two or three police officers present at the station stood by and did not intervene. Al-Houni said he and the lawmaker reported the incident to the police the next day, and he filed a witness statement on the attack against al-Toumi. The other three journalists who were also beaten made no report, for fear of retribution. Al-Houni said that a few weeks after the incident, a militia commander in Tripoli who was formerly aligned with the Supreme Security Committee, a body created by the National Transitional Council (NTC) to support the police in maintaining order in the transitional phase, apprehended some of the guards involved in the attack on the lawmaker.⁸⁹ Al-Houni said he does not believe the police conducted any investigation into the incident despite the formal complaints.⁹⁰

Al-Houni told Human Rights Watch that militiamen briefly arrested him while he was covering clashes in Tripoli in November 2013 when demonstrations turned violent and at least 48 people were killed.⁹¹ He said that he was at the Zawiyah Street Trauma Hospital conducting interviews and filming the arrival of the wounded when four or five armed men who fought against Gaddafi in 2011, in uniforms bearing the insignia of the military police, apprehended him and took him to a nearby building once used by the internal security

⁸⁹ SSC: Supreme Security Committee, is a security body created by the National Transitional Council after the end of the 2011 uprising, to take over policing, arrest, detentions and security operations in the absence of a functioning police apparatus. At the onset, the SSC was made up mainly of former “revolutionaries,” who had participated in the uprising, yet throughout 2012 expanded into a major, and controversial, force. The SSC was formally dissolved via a decree in 2013, yet not all commanders have given up their positions and some remain in the bases they took over in Tripoli at Mitiga military base and in Abu Salim and in Misrata.

⁹⁰ Human Rights Watch interview with Tarek al-Houni, former managing director of Al-Wataniya state TV channel, Tripoli, December 12, 2013.

⁹¹ “Libya: Militias Kill Unarmed Protesters,” Human Rights Watch news release, November 17, 2013, <http://www.hrw.org/news/2013/11/17/libya-militias-kill-unarmed-protesters>.

apparatus. They said they were unhappy with the channel's reporting and deleted his video footage. They kept al-Houni for five hours before releasing him. Al-Houni said the men also apprehended another reporter from a local newspaper whom they detained for about an hour.⁹²

Al-Houni said he filed a complaint at a police station about the detention, but the police failed to launch an investigation.

On August 16, 2014, al-Houni resigned from his post as general director of Libya al-Wataniya according to a news report citing a militia takeover of the station.⁹³

Safwan Saleh Abu Sahmain, 19, a correspondent for Al-Nabaa TV, a private satellite channel, told Human Rights Watch that a mob attacked the parliament building on March 2, 2014 while he was covering events there. One group chased and beat him and held him for some hours.⁹⁴ Abu Sahmain said that people were burning tires in front of the building to protest the extension of the parliament's mandate.⁹⁵

Abu Sahmain said he was inside the parliament when protesters came crashing in around 7:30 or 8 p.m., breaking windows. He fled with a cameraman, Mahmoud Shoban, and several parliament members. "We are all known faces, so we were afraid the protesters would recognize us," he said. Abu Sahmain became separated from the parliamentarians, and some in the crowd apparently mistakenly thought he was the son of Nuri Abu Sahmain, the president of parliament. Abu Sahmain managed to call the news desk manager at his network, and told him he was being attacked by men armed with knives and sticks. The attackers threw him face down to the ground, and beat him on the back of his neck and back. They also stole his watch, two phones, his jacket, his work identity card, and a tripod, he said. "I was terrified I would be killed by them, I can't forget what happened."

⁹² Human Rights Watch researchers who were documenting the casualties and were visiting the morgues during the clashes, met with Tarek al-Houni at the Zawiyah street hospital before the militia apprehended him.

⁹³ News report on Alwasat, August 21, 2014, <http://www.alwasat.ly/ar/news/libya/32414/> (accessed August 21, 2014).

⁹⁴ Human Rights Watch interview with Safwan Abu Sahmain, journalist, Tripoli, March 18, 2014.

⁹⁵ The General National Congress was elected with an 18-month mandate ending on February 7, 2014. By that date, it had not fulfilled its core task of organizing an election for a constitution drafting assembly, so decided to "extend" its own mandate until general elections could be organized.

The men went on beating him until the guards of a member of parliament, al-Sharif al-Wafi, fired three shots into the air to disperse the crowd. Abu Sahmain told Human Rights Watch that when he tried to flee the same men caught up with him, forced him into a car and drove away. As they drove around the city, Abu Sahmain said, they heard on the radio that his television station had announced he was missing, and the men released him after some hours. Abu Sahmain believes they were enraged with the GNC, and saw journalists as a voice of parliament.⁹⁶

Abu Sahmain said he now limits his work to press conferences and the news room. “There is polarization in the media, and the problem is that many journalists exaggerate,” he said. “I believe freedom of speech is in danger, and Libya’s media is in danger.”

Abu Sahmain said he did not report the incident to the police. “It was a chaotic situation,” he said. “This was a mob attack, all cameras at parliament were turned off, there was no recording of the incident, so what can the police do? I have no faith that the authorities will hold anyone accountable.”

Mahmoud al-Sharkassi, 33, a former reporter for Alassema TV, the private satellite channel, told Human Rights Watch he was kidnapped for three hours on March 7, 2013, during an attack on the TV station in Tripoli. The militiamen did not ill-treat him, he said, but interrogated him about why he worked at the channel and who decides content there.⁹⁷

Al-Sharkassi said that “Islamists” used to regularly threaten him on his Facebook page, especially after he took on a sensitive topic such as attacks on Sufi shrines or Ansar al-Sharia, a group of Islamist militias active in eastern Libya. “I have been threatened many times by unknown people who called me an ‘infidel’ after a show or after I post something and threaten to implement sharia law on me.”⁹⁸

⁹⁶ Human Rights Watch interview with Safwan Abu Sahmain, journalist, Tripoli, March 18, 2014.

⁹⁷ Human Rights Watch interview with Mahmood al-Sharkassi, journalist, Tripoli, March 18, 2014.

⁹⁸ Ansar al-Sharia, is an Islamist armed group with several branches in Libya, including in Benghazi, Derna, Ajdabiya and Sirte. The US government designated Ansar al-Sharia in Libya and some of its members a “terrorist organization,” in December 2013.

In addition to attacks on and harassment of Libyan journalists, foreign journalists have also been targeted. Since the Libya Dawn alliance seized control over Tripoli in August 2014, some foreign media outlets complained of harassment and intimidation by the Tripoli based Foreign Media Department, which is affiliated with the Information Ministry. Most recently, according to The Libyan Center for Freedom of Press, there were at least three incidents of intimidation and harassment in November 2014 against correspondents of international media agencies, including France 24, the German News Agency (DPA), and Reuters, and one incident of a physical attack by authorities on a correspondent for the Associated Press.⁹⁹

International Law

Despite the fragmentation of state authority and the absence of government control over all territories due to ongoing armed conflicts, Libya continues to have obligations under international human rights law. As a state party to the International Covenant on Civil and Political Rights, and the African Charter on Human and Peoples' Rights Libya is bound to respect, protect and fulfil the right to freedom of expression. Libya also has international humanitarian law obligations as a state party to the Geneva Conventions.

In its General Comment No. 34 concerning article 19 on freedom of expression, the UN Human Rights Committee reiterated the requirement that the treaty imposes on states to protect journalists and investigate attacks against them.

Nor, under any circumstance, can an attack on a person, because of the exercise of his or her freedom of opinion or expression, including such forms of attack as arbitrary arrest, torture, threats to life and killing, be compatible with article 19. Journalists are frequently subjected to such threats, intimidation and attacks because of their activities. So too are persons who engage in the gathering and analysis of information on the human rights situation and who publish human rights-related reports, including judges and lawyers. All such attacks should be vigorously

⁹⁹ The Libyan Center for Freedom of Press, "National Salvation Government Intimidates Correspondents of International News Agencies," press release, December 2, 2014.

investigated in a timely fashion, and the perpetrators prosecuted, and the victims, or, in the case of killings, their representatives, be in receipt of appropriate forms of redress.¹⁰⁰

At its 49th ordinary session, the African Commission on Human and Peoples' Rights passed a resolution on the "Safety of Journalists and Media Practitioners in Africa" that calls on states parties to the Commission to:

Implement the principles enshrined in the Declaration of Principles on Freedom of Expression in Africa;
Fulfil their obligation on preventing and investigating all crimes allegedly committed against journalists and media practitioners and also to bring the perpetrators to justice.¹⁰¹

¹⁰⁰ General Comment No. 34, para. 23.

¹⁰¹ ACHPR, resolution 185 on the safety of journalists and media practitioners in Africa, 49th Ordinary Session, Banjul, The Gambia, 28 April – 12 May 2011, <http://www.achpr.org/sessions/49th/resolutions/185/> (accessed July 6, 2014).

III. Journalists and Criminal Law

Besides physical attacks, journalists going about their work also have to navigate their way around provisions in the Gaddafi-era Penal Code, as well as decrees enacted by the National Transitional Council (NTC) and the General National Congress (GNC) that unduly restrict freedom of expression. Some of these articles and decrees provide prison terms and fines for peaceful expression, and prosecutors have invoked these laws to limit the free expression of journalists and in some cases to prosecute them for defamation.

Criminal Defamation Cases against Journalists

Libyan prosecutors have pursued defamation cases against at least three journalists, for speech-related offenses that unduly restrict freedom of expression.

Amara al-Khatabi, 67, the editor of *al-Ummah*, a daily newspaper, was arrested on December 19, 2012, and remained in pretrial detention for six months, for “insulting” and “slandering” members of the judiciary after his newspaper controversially published a list of 87 judges and prosecutors alleged to be corrupt. The article, “The Black List of the Judiciary,” which appeared on November 21, 2012, accused the judges and prosecutors of illicit earnings, accepting bribes, and loyalty to Muammar Gaddafi. The article stated that *al-Ummah* had received this list from an unnamed source and was reprinting it unchanged.¹⁰²

A prosecutor charged al-Khatabi on January 1, 2013 in the Fifth District Criminal Court with “insulting” authorities, making him the first journalist in Libya to face a criminal trial for “insults” since the 2011 uprising. If sentenced, al-Khatabi could face up to 15 years in jail. Al-Khatabi was at the time suffering from his fragile health situation, but authorities held him in pre-trial detention for at least four months. During that time, his lawyer was not allowed to visit.¹⁰³

¹⁰² “Libya: Drop Charges Against Politicians, Editor,” Human Rights Watch news release, December 13, 2013, <http://www.hrw.org/news/2013/12/13/libya-drop-charges-against-politicians-editor>

¹⁰³ “Libya: release ailing newspaper,” Human Rights Watch news release, April 12, 2013, <http://www.hrw.org/news/2013/04/12/libya-release-ailing-newspaper-editor>.

Former Justice Minister Salah al-Marghani on March 2, 2013 urged the prosecution to release al-Khatabi on bail due to his frail health, but officials waited another month to transfer him to a medical facility, where he remained detained under guard. On August 21, 2013, a specialized court within the Tripoli Appeals Court, which had previously ordered his release on bail, returned his passport to him to enable him to travel abroad for medical treatment.

Authorities are prosecuting al-Khatabi under article 195 of the Penal Code, which stipulates that “[..] any person who may launch what may be regarded as an attack against the Great Fateh Revolution [1969 revolution led by Muammar Gaddafi, which led to toppling of King Idriss al-Sanussi] or its leader shall be punishable by imprisonment The same penalty shall be levied against any person who insults the popular authority, a judicial, defense, or security body [...]”

Ramadan Salem Faraj, al-Khatabi’s lawyer, told Human Rights Watch that al-Khatabi contested the constitutionality of article 195 before the Supreme Court. In the meantime, the GNC passed Law 5/2014 amending article 195, meaning that al-Khatabi must resubmit his appeal on the unconstitutionality of article 195. At time of writing, al-Khatabi had yet to submit his Supreme Court appeal and the Criminal Court had not yet ruled on the criminal defamation case against al-Khatabi.¹⁰⁴

On November 17, 2014, al-Khatabi received a communiqué from the Tripoli Criminal Court informing him that he had been sentenced, in absentia, on August 17, 2014, to five years in prison and heavy damages to each of the five applicants who brought the case. The trial judge also ordered the withdrawal of his civil rights during his imprisonment and for a year after his release; and banned him from practicing journalism for the duration of his prison sentence.¹⁰⁵ Al-Khatabi told Human Rights Watch he was sentenced based on article 195 of the Penal Code among other laws. He said his lawyer would seek a re-trial.¹⁰⁶

¹⁰⁴ Human Rights Watch email exchanges with Ramadan Salem Farag, lawyer of al-Khatabi, on April 2, 2014.

¹⁰⁵ Human Rights Watch telephone interview with Amara al-Khatabi, editor of Al-Ummah, November 20, 2014.

¹⁰⁶ Libya: “Editor’s Harsh Conviction Blow to Free Speech,” Human Rights Watch news release, November 21, 2014. <http://www.hrw.org/news/2014/11/21/libya-editor-s-harsh-conviction-blow-free-speech>.

Sami al-Sharif, 43, a presenter at al-Jawhara Radio in Tripoli, was on April 6, 2014, charged with defaming an official from a local council in Tripoli after he publicly questioned the official's visits abroad. Al-Sharif told Human Rights Watch that he stopped working as a presenter after a prosecutor filed defamation charges against him, and on a separate occasion an armed militia attacked the radio station in an attempt to kidnap him, and individuals sent him multiple death threats.¹⁰⁷

The criminal defamation complaint came from Khalid Karra, former head of Suq al-Jumaa local council, who accused al-Sharif of "slandering" his reputation. Al-Sharif said he had during his radio shows characterized some of Karra's trips abroad as questionable, including a visit to Iran and another to Paris. Al-Sharif told Human Rights Watch he was surprised when he was summoned to answer the charges.¹⁰⁸ At this writing, the case was still ongoing.

Because of the lawsuit, al-Sharif said, he took his highly popular yet very critical show off the air for fear of further defamation charges. Al-Sharif worried in particular about a new law passed by the GNC which stipulates a prison term for "harming" the 2011 uprising against Gaddafi, or "insulting" public officials including the judiciary (Law No. 5/ 2014).¹⁰⁹

The biggest threat to my profession as a journalist right now is Law No. 5. This makes me be more careful with what I say ...What worries me most is the use of the word "insult" in the law... In Libya, it was Gaddafi who invented this notion of insults, which he used to punish dissent. What shall I do? I am a journalist and this is my job, I do this all the time.

Al-Sharif also said he worries about being accused of "sedition," a charge people frequently use, he says, to muzzle those who criticize the government since the 2011 uprising. Al-Sharif said Tripoli-based militias accused him of sedition after he cautioned Tripoli residents not to leave their homes during heavy clashes in Tripoli between militias from Misrata and Tripoli. Al-Sherif said he is also concerned about law 5/2014 which the

¹⁰⁷ Human Rights Watch interview with Sami al Sharif, journalist, Tripoli, March 17, 2014.

¹⁰⁸ Ibid.

¹⁰⁹ See III. Journalists and Criminal Law, Criminal Defamation Cases against Journalists, page48 , for details on Law 5/2014.

GNC passed on January 22, 2014 banning satellite television stations critical of the government and the 2011 uprising against Gaddafi.

There is a war on the media going on in Libya and the extremist factions are the main forces behind it. The issuing of this law [Law 5/2014], really, is the biggest threat to us and the end for the media. There is nothing left for us, as there are weapons everywhere.

Al-Sharif said he has received multiple death threats since July 2013, especially after he hosted a group of militia commanders on his show to encourage them and other armed groups to disband. He said the threats from Islamist extremists accused him of supporting Gaddafi “loyalists” and instigating “sedition,” and threatened to “cut off my head and put it between my legs.” Al-Sharif says he was an outspoken critic of militias, and says he frequently criticized militias particularly from Zintan and Misrata in his talk shows.¹¹⁰

Youssef al-Gharyani was an actor and TV presenter during the Gaddafi era. A court in Zawiyah in March 2013 sentenced him to five years in prison, according to the online news site Libya al-Mostakbal, for his “anti-February 17 revolution” stance in 2011.¹¹¹ According to media reports, he was granted early release from prison in January 2014.¹¹²

Others besides journalists have run afoul of Libyan laws that unreasonably restrict free expression. Prosecutors charged politicians **Ali Tekbali** and **Fathi Sager** with “blasphemy” and “instigating divisions” over posters their Libyan National Party used during a campaign for parliamentary elections in July 2012.¹¹³ On March 2, 2014, the Libyan Criminal Court acquitted both of blasphemy charges, but found them guilty of “sedition” and fined them each 100 dinars (US\$70).¹¹⁴

¹¹⁰ “Libya: Militias Kill Unarmed Protesters,” Human Rights Watch news release, November 17, 2013, <http://www.hrw.org/news/2013/11/17/libya-militias-kill-unarmed-protesters> (accessed January 15, 2015).

¹¹¹ News article on sentencing of al-Gharyani to 5 years in Zawiyah <http://www.libya-al-mostakbal.org/news/clicked/32159> (accessed on May 14, 2014).

¹¹² News article on release of al-Gharyani from prison <http://www.alrseefa.net/archives/7816> (accessed May 14, 2014) “Libya: Blasphemy Charges over Election Posters,” Human Rights Watch news release, June 20, 2013,

¹¹³ “Libya: Blasphemy Charges over Election Posters,” Human Rights Watch news release, June 20, 2013, <http://www.hrw.org/news/2013/06/20/libya-blasphemy-charges-over-election-posters-o>.

¹¹⁴ Human Rights Watch telephone interview with Abdelmajid Meyet, lawyer of Tekbali and Sager, March 2, 2014.

Jamal al-Hajji, 58, a political commentator on local TV and news sites, was sentenced on December 31, 2013, by the District City Court in Tripoli for “defaming” various parliamentarians, a cabinet minister, and a businessman after he accused them on Libya’s state television channel of being Gaddafi loyalists and “agents of the West” in February 2013.¹¹⁵ Soon after, four of them filed charges against al-Hajj for allegedly causing them “moral harm.” The judge imposed an eight-month prison sentence with hard labor and civil damages of 400,000 Libyan Dinars (US\$333,000). The ruling is currently under appeal.¹¹⁶

The applicants invoked article 166 of the civil code, which stipulates that “every error that causes harm to someone obliges the perpetrator to compensate [the victim],” and sought damages of 250,000 Libyan Dinars, (US\$200,000) each. They also invoked article 225 of the civil code which allows a person to sue for damages “for moral harm,” with no upper limit for damages.¹¹⁷

The general prosecutor added a criminal charge to the civil lawsuit, and the Tripoli District City Court merged the civil and criminal cases. The prosecutor invoked article 439 of the Penal Code, which bans “attacks against anyone’s reputation by defamation,” including public officials. Article 439 stipulates a minimum prison term of six months or a fine of no more than 100 Libyan Dinars (US\$80) if the act of defamation occurred by way of the media, or in public. According to the law, the punishments can be increased by one-third if the applicant is a public institution or official.¹¹⁸

Osama Abu Naji, one of al-Hajji’s defense lawyers, told Human Rights Watch that the judge denied the defense lawyers the right to review witness testimony and cross-examine witnesses, in this case the applicants, who did not attend the court sessions. The legal defense team did not attend a scheduled session on November 19, 2013, as they were mistakenly told by a court clerk the session had been adjourned until January 26, 2014. On

¹¹⁵“Libya: Drop Case Defaming Public Officials,” Human Rights Watch news release, January 22, 2014, <http://www.hrw.org/news/2014/01/22/libya-drop-case-defaming-public-officials>.

¹¹⁶ Human Rights Watch interview with Osama Abunaji, lawyer for Jamal al-Hajji, Tripoli, on January 9, 2014

¹¹⁷ “Libya: End Impunity, Reform Repressive Laws,” Human Rights Watch news release, January 21, 2014, <http://www.hrw.org/news/2014/01/21/libya-end-impunity-reform-repressive-laws>.

¹¹⁸ “Libya: Drop Case Defaming Public Officials,” Human Rights Watch news release, January 22, 2014, <http://www.hrw.org/news/2014/01/22/libya-drop-case-defaming-public-officials>.

December 31, 2013, Abu Naji said, the defense was surprised to learn from a media statement by the applicants' lawyer that the judge had pronounced the sentence against al-Hajji that day, without the defense team's presence or prior knowledge.¹¹⁹

Al-Hajji told Human Rights Watch that the Gaddafi government had detained him from February 2007 until April 2009, and then arrested him again in December 2009 and kept him in prison for four months on charges of "insulting judicial authorities." Al-Hajji said officials again detained him at the onset of the uprising in February 2011 and he had remained in detention until the end of the conflict. He was freed on August 24, 2011, he said.¹²⁰

Three members of parliament may face criminal defamation charges brought by lawmakers from the Justice and Construction Party (JCP), affiliated with the Muslim Brotherhood, who accused them of "defaming and slandering" the JCP lawmakers during television appearances. On September 17, 2013, the General National Congress (GNC) voted to lift their immunity, paving the way for the general prosecutor to investigate claims of defamation against them. At time of writing, no criminal charges had yet been filed against the three.¹²¹

Laws Unduly Restricting Freedom of Expression

Criminal defamation and other criminal charges against journalists practicing their profession are made possible by a host of articles in the Penal Code that stipulate imprisonment for insulting, defaming or slandering government officials including judges, civil servants and politicians. These articles overstep the restrictions on freedom of expression that international law permits and prosecutors have used them to file criminal charges against journalists.

International Law does not permit criminalizing defamation and encourages states to adopt civil defamation laws. Anyone whose reputation is impugned should have the possibility to seek redress through seeking damages rather than the state seeking imprisonment.

¹¹⁹ Human Rights Watch interview with Osama Abu Naji, lawyer of Jamal al-Hajji, Tripoli, January 9, 2014.

¹²⁰ Human Rights Watch phone interview with Jamal al-Hajji, political activist, on January 22, 2014.

¹²¹ Libya: Lawmakers Risk Defamation Charges," Human Rights Watch news release, September 24, 2013, <http://www.hrw.org/news/2013/09/24/libya-lawmakers-risk-defamation-charges>.

Criticism of state institutions should never be prohibited, and neither should insulting public figures. The law should also recognize the need to protect the right to criticize and comment on public figures, including by restricting their ability to use defamation laws.

Problematic laws and decrees include:¹²²

- **Resolution 5/2014** which the GNC passed on January 22, 2014 banning satellite television stations critical of the government and the 2011 uprising against Gaddafi.¹²³ The Law Concerning the Cessation and Ban on the Broadcasting of Certain Satellite Channels instructs the Ministries of Foreign Affairs and Telecommunications and Media to “take necessary steps required” to halt the transmission of all satellite television stations that are “hostile to the February 17 revolution and whose purpose is the destabilization of the country or creating divisions among Libyans.” It further instructs the government to “take all measures” against states or businesses in territories where the channels broadcast if they do not block the transmission of these stations.¹²⁴ The ban appears intended to block satellite stations that have taken pro-Gaddafi editorial positions and that transmit from outside of Libya, such as al-Khadra Channel, and al-Jamahiriya.¹²⁵
- **Articles 290 and 291** of the Penal Code which stipulate harsh punishments, including imprisonment, for perceived insults to or attacks on religion and thus restrict the right to free expression.
- **Article 13 of NTC Law 15/2012** which stipulates that all members of society must respect *fatwas* issued by Dar al-Ifta (the Office for Islamic Legal Opinion) and that *fatwas* may not be discussed in the media.¹²⁶ A blanket ban on any media discussion of fatwas does not fulfill any lawful purpose of limiting speech.¹²⁷

¹²² Other problematic speech related Penal Code articles include: Article 220 on criticism of foreign heads of state; Article 245 on insult to public servants and judicial and official personnel; Article 438 on insults, and Article 439 on defamation and libel

¹²³ General National Congress, Resolution 5/2014, January 22, 2014, http://www.gnc.gov.ly/legislation_files/635260814004403644.pdf (accessed May 13, 2014)

¹²⁴ Ibid

¹²⁵ Al-Jamahiriya channel and Al-Khadra channels are among several Libyan satellite TV channels that broadcast from outside of Libya, and which oppose in their editorial content the February 17 uprising and support the legacy of Muammar Gaddafi. The current financiers and supporters of these channels are not publicly known.

¹²⁶ The Dar al-Ifta was dissolved in 1993, during Gaddafi’s rule, and formally re-established by NTC decree on February 13, 2012. The NTC constituted the Dar al-Ifta as an independent institution that reports directly to the head of state. Its powers include issuing fatwas and the supervision of academic affairs in relation to issuing of legal edicts. Dar el-Ifta, Law 15, 2012,

- **Law 5/ 2014** “On amending article 195 of the Penal Code.” On February 5, 2014, the GNC promulgated Law 5/2014 criminalizing “harming” the February 17 revolution. The new law is a rewording of Penal Code article 195, which stipulated imprisonment for anyone who caused “damage to the great al-Fateh Revolution or its leader [Gaddafi].”¹²⁸
- **Law 37/2012**, also based on article 195 of the Penal Code and promulgated in May 2012 by the NTC, criminalizes a variety of types of political speech, including speech that “glorifies the tyrant [Muammar Gaddafi],” “damage[s] the February 17 Revolution,” or insults Libya’s institutions. Kamal Edhan, presiding judge at the Constitutional Chamber of the Supreme Court, in June 2012 declared the law unconstitutional in the first-ever Supreme Court review of a law promulgated by the NTC.¹²⁹ The case was litigated by a group of lawyers including Salah al-Marghani, who served as justice minister from November 14, 2012 to September 2014, and Giuma Attigha, who served as first deputy president of the NTC from August 10, 2012 to July 12, 2013.¹³⁰
- **Law 5/2014**, which the GNC promulgated despite the June 2012 Supreme Court ruling, merely changed the original text of article 195 from “[...]attack against the Great Fateh Revolution or its leader[...]” to “[...]anyone who has acted in such a way as to harm the February 17 Revolution [...].”¹³¹ Libya’s then-justice minister, Salah al-Marghani, announced on April 10, 2014, that his ministry would challenge the constitutionality of Law 5/2014 as a violation of free speech. At this writing, no case has been started to challenge the constitutionality of the law.

<http://ifta.ly/web/> Fatwas are a result of a consultation between a petitioner and a qualified licensed Islamic scholar, a mufti, usually concerning deeds, mistakes, and intra-personal situations, but not cases involving disputes or punishment which are brought before a court of law.

¹²⁷ ICCPR, C/GC/34.

¹²⁸ General National Congress, Law 5/2014, February 2, 2014, http://www.gnc.gov.ly/legislation_files/635272597678442556.pdf (accessed May 14, 2014).

¹²⁹ “Libya: Law Restricting Speech Ruled Unconstitutional”, Human Rights Watch news release, June 14 2012, <http://www.hrw.org/news/2012/06/14/libya-law-restricting-speech-ruled-unconstitutional>.

¹³⁰ “GNC Deputy President Ateega quits,” Libyan Embassy in London statement, July 16, 2013, <http://english.libyanembassy.org/?p=5385> (accessed August 17, 2014).

¹³¹ Libya: Editor’s Harsh Conviction Blow to Free Speech, Human Rights Watch news release, November 21, 2014, : <http://www.hrw.org/news/2014/11/21/libya-editor-s-harsh-conviction-blow-free-speech>

Other provisions in the Libyan Penal Code criminalize defamation or “offending” public officials, “insulting” state authorities, or “promoting acts against the state order,” serving to shield public officials from criticism. Article 220 on criticism of foreign heads of state, article 245 on insulting public servants and judicial and official personnel, article 438 on insults, and 439 on defamation and libel stipulate prison terms for such “crimes.” Article 439 also stipulates that imprisonment can be increased by one third if the alleged libel or defamation is directed against a public official.

International Law

International law strongly discourages the criminalizing of defamation. General Comment no. 34 of the Human Rights Committee stipulates:

States parties should consider the decriminalization of defamation and, in any case, the application of the criminal law should only be countenanced in the most serious of cases and imprisonment is never an appropriate penalty. It is impermissible for a State party to indict a person for criminal defamation but then not to proceed to trial expeditiously – such a practice has a chilling effect that may unduly restrict the exercise of freedom of expression of the person concerned and others.¹³²

Redress for defamation should come through civil remedies that focuses on reasonable and proportionate damages, rather than criminal imprisonment.

In one of its first rulings, in December 2014, in the case of Konate v. Burkina Faso, the African Court on Human and Peoples’ Rights ruled that imprisonment for defamation violated the African human rights’ charter and that Burkina Faso should change its laws accordingly.

International law specifically protects the right to criticize one’s government and its officials because it is precisely one of the rights governments are most likely to abuse. The insulation of public officials from criticism violates the fundamental principle of international human rights law; freedom of expression should be wider, not narrower, with

¹³² United Nations Human Rights Committee, No. 34, para 47

respect to speech about political leaders and government officials. Politicians and other public figures relinquish some of their rights to reputation and privacy by accepting their positions, and must tolerate greater scrutiny of their conduct.

Principle 7 of the Johannesburg Principles on National Security, Freedom of Expression and Access to Information (1995), based on international human rights law and standards, provides that “No one may be punished for criticizing or insulting the nation, the state or its symbols, the government, its agencies, or public officials, or a foreign nation, state or its symbols, government, agency.”¹³³

The Inter-American Commission on Human Rights elaborated on this principle in its report on *desacato* (contempt) laws: “[I]n democratic societies political and public figures must be more, not less, open to public scrutiny and criticism.... Since these persons are at the center of public debate, they knowingly expose themselves to public scrutiny and thus must display a greater degree of tolerance for criticism.”¹³⁴

The UN Human Rights Committee in its General Comment 34 observed:

In circumstances of public debate concerning public figures in the political domain and public institutions, the value placed by the Covenant upon uninhibited expression is particularly high. Thus, the mere fact that forms of expression are considered to be insulting to a public figure is not sufficient to justify the imposition of penalties, albeit public figures may also benefit from the provisions of the Covenant. Moreover, all public figures, including those exercising the highest political authority such as heads of state and government, are legitimately subject to criticism and political opposition. Accordingly, the Committee expresses concern

¹³³ Principle 7(b): Protected Expression, Johannesburg Principles. These Principles were adopted on 1 October 1995 by a group of experts in international law, national security, and human rights in Johannesburg and have been endorsed by Mr. Abid Hussain, the UN Special Rapporteur on Freedom of Opinion and Expression: *The Johannesburg Principles on National Security, Freedom of Expression and Access to Information*, 1 October 1995, <http://www.unhcr.org/refworld/category,LEGAL,ART19,,,4653fa1f2,o.html>.

¹³⁴ OAS » IACHR » Special Rapporteurship for Freedom of Expression » 6 - Chapter V - "Desacato" Laws and Criminal Defamation, <http://www.oas.org/en/iachr/expression/showarticle.asp?artID=310&IID=1> (accessed August 18, 2014)

regarding laws on such matters as, lese majesty, *desacato*, disrespect for authority, disrespect for flags and symbols, defamation of the head of state and the protection of the honour of public officials, and laws should not provide for more severe penalties solely on the basis of the identity of the person that may have been impugned. States parties should not prohibit criticism of institutions, such as the army or the administration.¹³⁵

¹³⁵ United Nations Human Rights Committee, General Comment No. 34, para. 38, <http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>.

Recommendations

To the Office of the General Prosecutor

- Carry out effective, impartial, and transparent investigations into all attacks on journalists and media outlets and prosecute those responsible, no matter who the perpetrator.
- Prosecute those responsible for attacks and harassment of journalists and media personnel, including members of the security forces and militias. Instruct all prosecutors not to invoke existing laws that criminalize free speech pending their abolition by the parliament.

To the House of Representatives and any Successive Legislatures

- Publicly condemn attacks on journalists.
- Ensure that no new laws that violate freedom of speech are promulgated.
- Repeal all provisions of the Libyan Penal Code that violate freedom of expression, and ensure that any legal limitations that are retained are necessary and proportionate and comport with Libya's international treaty obligations.
- Fully comply with the ruling of the Supreme Court on striking of Law 37/2012, which violates speech.
- Repeal Resolution 5/2104 banning satellite TV stations critical of the 2011 revolution.
- Revise articles 195, 203, 205, 207, 220, 245, 438 and 439 of the Penal Code to eliminate criminal penalties for defamation, libel and slander, and repeal Law 5/2014 which criminalizes "harming the February 17 revolution."
- Repeal articles 290 and 291 of the Penal Code which criminalize insults to religion.
- Revise articles 166, 176, 203, 205 and 207 of the Penal Code to narrow the definitions of "crimes against the state" and ensure the definitions exclude peaceful and legitimate exercise of basic rights, including freedom of expression, and remove all death penalty and life imprisonment stipulations.
- Allow discussion of fatwas in the media and repeal article 13 of NTC Law 15/2012.

To the Interim Government of Libya

- Publicly condemn all attacks on journalists and the media, no matter who the perpetrator, to make a point that such attacks will not be tolerated and will be punished.
- Uphold international humanitarian law obligations that protect journalists as civilians in non-international armed conflicts, as well as international human rights obligations concerning freedom of expression.

To All Non-State Actors, Members of Militias and other Armed Formations

- Publicly condemn all attacks on journalists and the media that occur in territories under their control, to make a point that such attacks will not be tolerated and will be punished.
- Ensure that prosecutors and members of the judiciary in areas under their control, can conduct investigations and prosecute perpetrators of serious crimes, including attacks against journalists.

To the Constitution Drafting Assembly (CDA)

- Enshrine free speech, freedom of opinion, freedom of the press, prohibition of censorship under all circumstances, and access to information as constitutional rights through provisions that mirror Libya's obligations as a state party to the International Covenant on Civil and Political Rights and African Charter on Human and Peoples' Rights.

To United Nations Mission for Libya

- Consistently condemn attacks against journalists and the media, and publicly report on violations against media professionals.
- Condemn and include in the SRSG's quarterly report to the UN Security Council, any issuing of legislation that violates freedom of speech.
- To the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression

- Pay particular attention to attacks against journalists and media professionals in Libya, and address a request for a country visit in order to investigate attacks against journalists and to make recommendations on how to better promote press freedom in Libya.

To the Human Rights Council Member States

- Convene a Special Session on accountability in Libya with a view to establishing a Commission of Inquiry or a similar mechanism to investigate grave and widespread human rights violations in Libya including those that may amount to war crimes and crimes against humanity, such as politically motivated assassinations and attacks against journalists. Establish a dedicated independent investigative mechanism to establish the facts, collect and conserve information related to abuses and violations, and identify those responsible for serious abuses and violations with a view to ensuring individual criminal responsibility and accountability.

Acknowledgments

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For forty-two years, journalists in Libya navigated a difficult terrain under the autocratic rule of Muammar Gaddafi. Many welcomed the freedom that followed Gaddafi's ouster, but since 2011 journalists and media activists have encountered an entirely new set of challenges. *War on the Media: Journalists under Attack in Libya*, documents attacks against journalists and the offices and facilities of media outlets since the 2011 uprising, including threats, assaults, kidnappings, and killings and addresses the failure of authorities to protect journalists and the media, and hold perpetrators of attacks on journalists accountable. Based on interviews with victims of attacks and assaults on journalists, witnesses to threats and attacks, journalists, media activists, lawyers, and political commentators the report shows how the problems journalists face in Libya are due in part to the volatile security climate in the country and the control militias exert over many regions. Libya is today one of the most perilous places for journalists. Notwithstanding the difficult security and political context the report argues that the Libyan authorities can and should do more to ensure investigations and accountability for attacks on journalists.

(above) The streets remained empty during fighting between Islamist militias and forces loyal to Libya's elected government in Benghazi, Libya in October 2014. In the past 3 years, activists, judges, journalists, policemen and army officers have been gunned down in a series of assassinations which have gone uninvestigated and unsolved.

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(front cover) Protesters hold a banner bearing the portrait of Miftah Bouzeid, editor of the weekly newspaper BURNIQ, during a rally in Tripoli's Martyrs' Square to protest against his assassination. Bouzeid, a critic of Libya's Islamist extremists, was shot dead in the centre of the Mediterranean city of Benghazi on May 26, 2014.

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