



MONITORING REPORT | 2017

INTRODUCTION

In December 2016, Lawyers for Justice in Libya (**LFJL**) launched its Human Rights Archive project (the **Project**) to establish a digital archive (the **Archive**) of evidence of human rights violations in Libya. In establishing the Archive, LFJL sought to ensure that documentation and evidence of human rights violations in Libya are protected. Whilst political and armed actors continue to vie for control, there is a serious risk that evidence of human rights violations may be lost, stolen or damaged. The Archive seeks to mitigate this by ensuring that a digital backup of the information is available in the event that the original document is not. The Archive provides a centralised platform where organisations share information on human rights abuses, building towards the establishment of a national archive of human rights violations to support future transitional justice processes in Libya.

This monitoring report (the **Report**) is divided into four sections. The first section sets out how LFJL set up the Project and established a network of Libyan organisations working on human rights monitoring and documentation. The second section details how LFJL created and selected the Archive infrastructure. The third section provides an overview and analysis of the documents contained in the Archive, identifying patterns of human rights abuses where possible. Finally, the fourth section of the report sets out the steps by which LFJL and SHIRA will take to develop the Project over the course of 2018.

1. ESTABLISHMENT OF SHIRA – THE ARCHIVE NETWORK

LFJL established the Archive with a small group of Libyan NGOs, together with whom it founded 'The Network for Monitoring and Archiving for Justice' (SHIRA).¹ The participation of these organisations began in 2016 when LFJL launched the Project with a workshop. After interviewing more than 25 people, each representing a different Libyan organisation, 15 participants were selected for the workshop. The participants were chosen based on their engagement documenting human rights violations, the quality of their documentation and their willingness to become long-term stakeholders.

The workshop provided a forum for LFJL and the selected organisations to develop a shared vision and action plan for the Archive. In addition, it was an opportunity to train participants on transitional justice, archiving and documentation to ensure that the Archive conforms to international standards. The training was carried out by LFJL and swisspeace with contributions from the Centre for International Justice and Accountability (**CIJA**). The workshop included training on international documentation standards and protocols, including the Istanbul Protocol (Manual on the Effective Investigation and

¹ شبكة الرصد والأرشيف من أجل العدالة (شراع)

Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment)² for documenting human rights abuses, as well as an introduction to digital and physical security.

From the 14 organisations represented at the workshop, five showed continued commitment to the Project and have supported and collaborated with LFJL in the establishment of the Archive. These five organisations along with LFJL founded SHIRA.

Since the workshop LFJL has provided SHIRA organisations with technical support and training on how to use the Archive and assisted them in uploading documentation. LFJL has also created a training manual and video tutorial for organisations to use as a guide as they continue to contribute to the Archive.

2. ESTABLISHMENT OF THE ARCHIVE

Following the workshop in December 2016, LFJL carried out an assessment of available and open-source technologies to determine their functionality and to identify the programme that best suits the needs of the Archive. The assessment was carried out based on criteria including security, scalability, usability, cost and available languages, most importantly Arabic. LFJL chose to use two separate programmes for the Archive. The first programme enables SHIRA organisations to share and upload human rights documentation securely, while another programme is used to provide analytics, enabling LFJL to map and identify patterns of human rights violations.

Finally, a key element of the Archive was that the information could be exported from the programme in readable format. This ensures that information contained within the Archive is protected in the unlikely event that support for the software programme or the Project is withdrawn.

² Istanbul Protocol 'Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment', Office of the United Nations High Commissioner for Human Rights (2004) <<http://www.ohchr.org/Documents/Publications/training8Rev1en.pdf>>

3. DATA ANALYSIS

Overview

The Archive has received 97 case submissions which cover a range of human rights violations and date from the uprising in February 2011 to October 2017.

TYPES OF HUMAN RIGHTS VIOLATIONS MAPPED ACROSS LIBYA

- | | |
|---|--|
|  Right to life |  Right to freedom from forced labour |
|  Right to freedom of assembly |  Right to physical and mental health |
|  Right to freedom from arbitrary arrest or detention |  Economic, social and cultural rights |
|  Right to freedom from torture |  Right to be free from hunger |
|  Right to freedom of expression |  Right to education |
|  Right to adequate food |  Right to freedom from slavery |
|  Right to adequate medical services |  Right to freedom of association |
|  Right to adequate accommodation |  Right to freedom of thought, conscience and religion |
|  Right to information |  Right to legal assistance |
|  Right to child health |  Other |
|  Rights of women | |

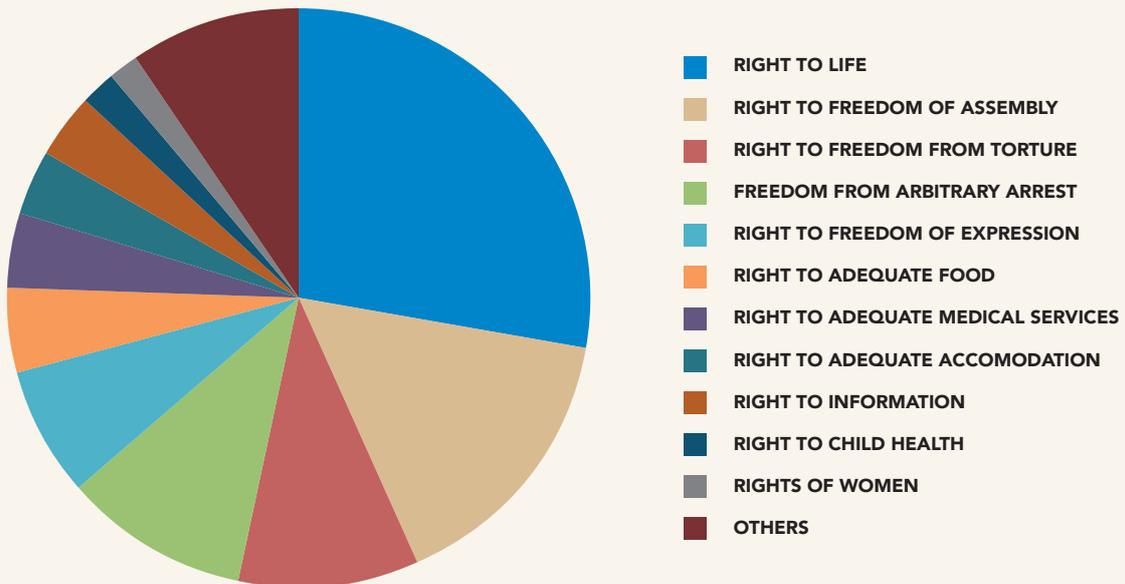


The violations documented in the Archive cover civil and political rights; economic, social and cultural rights; children’s rights; women’s rights and rights of those in detention. Over a third of cases (39%) evidence more than one human rights violation.

The most common human rights violations recorded in the Archive were:

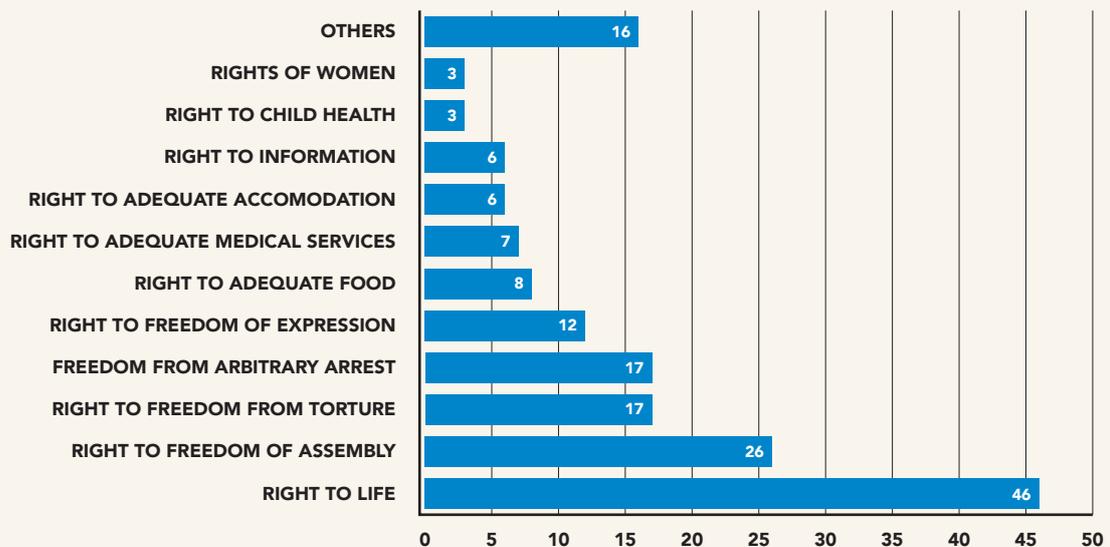
- Right to life (28%)
- Right to freedom of assembly (16%)
- Right to freedom from torture and cruel, inhuman or degrading treatment or punishment (10%)
- Right to freedom from arbitrary arrest or detention (10%)
- Right to freedom of expression (7%)

HUMAN RIGHTS VIOLATIONS



The table below sets out a more comprehensive overview of the different types and numbers of human rights violations.

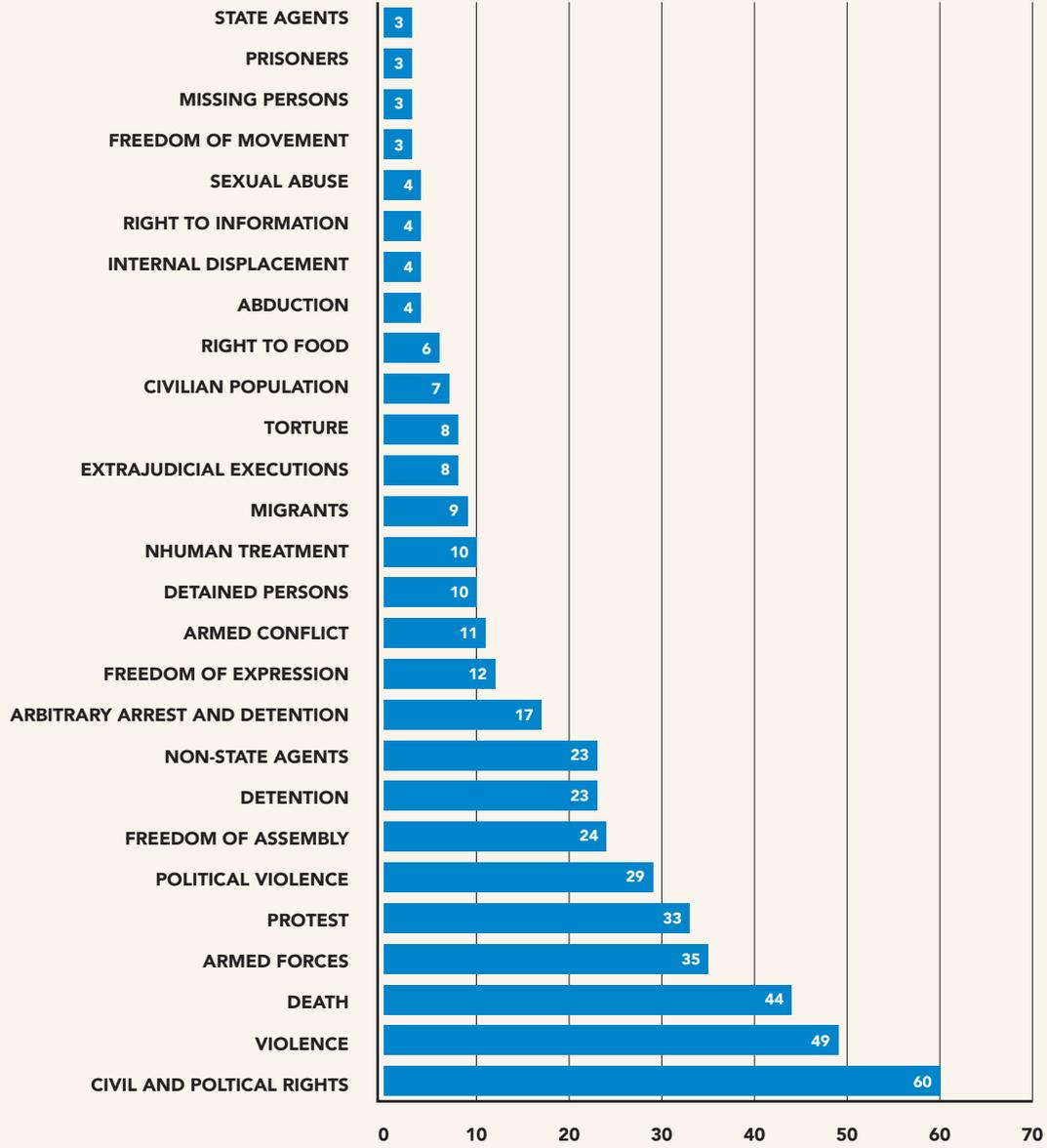
HUMAN RIGHTS VIOLATIONS



In addition to noting the human rights violations, LFJL has identified several key terms from the cases uploaded to the Archive. These key terms provide an insight into the context of the cases, without disclosing the individual facts of the case, and help identify prevalent themes. The most common terms included civil and political rights, violence, death, armed forces and protest as illustrated in the chart below.



CONTEXTUAL TERMS



Specific types of violations

Right to life and freedom of assembly

Almost a third of cases within the Archive relate to demonstrations and protests. The vast majority of the documented cases took place on and around 17th February 2011 in key cities including Al Bayda, Shahhat and Labraq and detail clashes between protesters and Gaddafi forces. Out of the 33 cases which reference protests, 17 of them also refer to death. It therefore follows that human rights violations which were particularly prevalent in these cases included the right to life and the right to freedom of assembly, which represent 28% and 16%, respectively, of all violations documented in the Archive. The actions documented in the Archive contravene the right to life which is protected under Article 4 of Law No. 20 of 1991 on the promotion of freedom and Article 6 of the International Covenant on Civil and Political Rights (**ICCPR**). The right to freedom of assembly is guaranteed under Article 21 of the ICCPR and, for protests taking place after 3 August 2011, Article 14 of the Libyan Constitutional Declaration would also apply.

Freedom of expression

The violations of freedom expression span from August 2012 to August 2017 and account for 7% of cases in the Archive. Those subjected to violations of their right to freedom of expression were writers, publicists, broadcasters and activists. Some cases involved attacks on property, notably TV stations, whilst others cases involved arbitrary arrest, abduction and assassination. In addition to contravening Article 14 of the Constitutional Declaration and Article 19 of ICCPR on freedom of expression, these actions also violate the right to life, personal integrity and freedom from arbitrary arrest.

Rights of migrants

A notable number of the cases within the Archive relate to the treatment of migrants in detention centres and detail the appalling treatment of migrants and detainees. Almost 80% of cases in the Archive relating to detention centres noted inadequate accommodation and living conditions, as well as inadequate food and nutrition. Of particular concern was the inability of new mothers to access milk for their babies despite consistent requests by detainees and the human rights activists documenting these cases. Those responsible for the migrant detention centres are in breach of Article 11 of the International Covenant on Economic, Social and Cultural Rights (**ICESCR**) which establishes the right to adequate standard of living, including the right to adequate food, clothing and housing. Furthermore, Law No. 5 of 2005 on correction and rehabilitation institutions sets the standards for conditions in prisons and detention centres. Articles 21 and 26 establish the right to food, with Article 26 specifically creating an obligation on institutions to ensure pregnant and new mothers receive medical treatment including in terms of food. Chapter 7 of the law stipulates the level medical care required for institutions, including access to the resident doctor, which is not being respected in detention centres.

Arbitrary arrest and torture in detention

Ten percent (10%) of cases in the Archive document violations of the right to freedom from arbitrary arrest or detention. In the majority of cases individuals were picked up at checkpoints on the basis of the colour of their skin or their accent, not on the basis of any outstanding warrant or investigation. Furthermore the individuals did not receive information on the reason for their detention. These actions contravene Article 30 of the Code of Criminal Procedure, Article 14 of Law No. 20 of 1991 and Article 9 of the ICCPR. Under these provisions no individual shall be subject to arrest or detention without an order from the legally competent authority and the accused person must be informed of the charges against them. Furthermore, these cases also evidence the ill treatment of detainees, which in some cases amounts to torture. This contravenes both Article 17 of Law No. 20 of 1991 which prohibits torture and any cruel or humiliating treatment that violates human dignity and Article 2 of Law No. 10 of 2013 which criminalises torture of detainees. It also contravenes Article 7 of the ICCPR.

Protection of children

A small number of the cases in the Archive document violations of children's rights including their right to freedom from ill treatment, which in the majority of cases has occurred in detention centres, contrary to Article 19 of the Convention of the Right of the Child (**CRC**). Under Article 5 of the Constitutional Declaration, the Libyan state shall guarantee the protection of childhood. One of the cases within the Archive details the lack of protection for unaccompanied minors, contrary to Article 22 of the CRC, where the detention centre was unaware of the presence of an unaccompanied minor.

4. NEXT STEPS

To build upon the success of the initial phase of the Project and expand people's understanding of the human rights violations in Libya, LFJL and SHIRA will seek to achieve the following during the next phase of the project:

Increase the representation of Libyan NGOs working in the South

LFJL, with support from SHIRA, will engage with NGOs, lawyers and activists working on human rights violations and documentation in the southern region. As there are few recorded human rights violations in the Archive from the South, LFJL and SHIRA will engage with organisations working in the area to gain a better understanding of the human rights situation and ensure violations are documented and represented in the Archive.

Increase the thematic diversity of human rights issues submitted to the Archive

LFJL and SHIRA will encourage organisations working on issues which are underrepresented in the Archive to join SHIRA. In particular, LFJL will seek to partner with organisations working on women's rights, the rights of internally displaced people and minority rights.

Encourage international organisations to collaborate on the Project

LFJL will develop its relationships with international organisations that have documented human rights violations in Libya. The aim of the collaboration is to incorporate important information in the Archive, ensuring its availability to national stakeholders in the transitional justice process in Libya.