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Libya: Freedom of Expression under the Law

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Libya's basic legal documents affirm the right of every individual to freedom of thought, innovation, and creativity, and aim to support the flourishing of science and the spread of arts and literature among the masses, not only the elite. Articles 19-26 of the 1988 Green Charter on Human Rights and Law 20 of 1991 on Enhancing Freedom enshrine these rights. Other laws, however, sometimes contradict such principles.

Press Law 76 of 1972, for example, states that the press is free and that every person has the right to express his or her view freely and to broadcast opinions and news by various means. The law also stipulates, however, that such expression must not "contradict the values and goals of society," a vague formulation open to interpretation. Article 21 of the law bans prepublication censorship of printed materials, including newspapers, although this is contradicted by the practices of the Department of Publications, which imposes restrictions on all that is published. Works by authors and intellectuals, for example, may not be printed or distributed without the Department's permission. Article 4 of the law gives the private sector the right to own printing houses and publish materials. In practice, this right is legally restricted to specific designated agencies that are granted the right to express the opinions of their members. The result is that only state-issued newspapers and publications praising the government are printed.

Law 9 of 1968 regarding the rights of authors (modeled on the 1967 Berne Convention before it was amended) has not been updated to take account of international developments in this field, for example regarding literary works incorporating modern technology, data, or confidential information. Article 32 of the law also infringes upon the rights of those who inherit copyright, giving the minister of culture and information the ability to authorize publication for reasons of national interest sixty days after the submission of a publishing request, even if the copyright inheritors withhold permission or do not give a response.

The penal code extends its protection to intellectual property, criminalizing any offense that violates the rights of others or oversteps certain bounds. Such offenses include promoting

theories or principles that oppose the Libyan state, for example calling for regime change, overthrow of the Libyan political, social, and economic systems, or destroying one of the essential components of society. If the offender uses violence in the service of such goals, the punishment may be the death penalty or life in prison. While the punishment of individuals who commit violent acts is legitimate, prison sentences for non-violent offenses, such as possession of books, pamphlets, drawings, poetry, or any other items expressing such views, is not justified, because these acts do not threaten social peace.

Another unclear area related to expression is the penal code's criminalization of insulting foreign heads of state [Article 220] and representatives of missions accredited by the Libyan government [Article 221]. Does "insulting" mean slander and libel, which falls under Article 438 criminalizing the violation of a person's honor, or Article 439, which criminalizes defamation? While there are justifiable and realistic limits to these rights, "insulting" can also be interpreted to include pointed, objective criticism of policies. In practice it is acceptable for Libyans to demonstrate against policies of other countries, but not to criticize other leaders from the region.

States impose conditions on intellectuals with the intent of shackling their activities, by making them acquire permits if they want to use any means of expression and by limiting permits for means of expression to those who do not challenge the authorities. There is a pressing need for thinkers who are free from fear of the other—whether that other is an official establishment, cultural customs and traditions, religious authorities, or the economically and financially powerful.

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