Immigration and Refugee Board of Canada

Responses to Information Requests (RIR) respond to focused Requests for Information that are submitted to the Research Directorate in the course of the refugee protection determination process. The database contains a seven-year archive of English and French RIRs. Earlier RIRs may be found on the UNHCR's Refworld website. Please note that some RIRs have attachments which are not electronically accessible. To obtain a PDF copy of an RIR attachment, please email the Knowledge and Information Management Unit.

1. Legislation

Sources report that same-sex relationships are illegal in Libya (IGHLRC 24 June 2014; US 27 Feb. 2014, 27; ILGA May 2014, 49) under the Libyan Penal Code of 1953 (amended 1973) (ibid.). According to the International Gay, Lesbian, Bisexual, Trans and Intersex Association (ILGA) world survey of laws, published in May 2014, in relation to same-sex activity, “the focus of the law is on determining whether the absolute legal ban on extramarital sexual relations has been violated,” under Articles 407 and 408 of the Penal Code:

Article 407
(4) Whoever has intercourse with a person with his consent will be punished with his partner by imprisonment of not more than five years.

Article 408
(4) Whoever commits an indecent act with a person with his consent will be punished with his partner with imprisonment. (ibid., 38)

The US Department of State's Country Reports on Human Rights Practices for 2013 indicates that the punishment for same-sex activity under the Penal Code is “three to five years” in prison and that both parties are punished (US 27 Feb. 2014, 27). Two sources indicate that the penalty is up to five years' imprisonment (IGHLRC 24 June 2014; Activist 1 July 2014). ILGA's webpage on Libya indicates the law applies to both male-to-male and female-to-female relationships (ILGA n.d.). Information on the implementation of the law could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Sources report that there is no legislation in place to protect the rights of sexual minorities (IGHLRC 24 June 2014; Activist 1 July 2014).

2. Treatment by Society

Country Reports 2012 and 2013 both indicate that "societal discrimination" against LGBT individuals persists (US 19 Apr. 2013, 25; ibid. 27 Feb. 2014, 27). According to Global Gayz, a "gay-owned charitable travel and culture website" (Global Gayz n.d.), Libyan social attitudes about sexual orientation and gender identity are "heavily influenced by Islamic mores and the homophobic whim of post-Gaddafi leaders," indicating that "homosexuality and cross-dressing are highly taboo" in society, and "when they are discussed,
it is always in a negative manner" (Global Gayz 19 Feb. 2012). In correspondence with the Research Directorate, an Libyan LGBT activist associated with ILGA stated that in Libya, LGBT people are perceived to be "against the law of God and Islam, because homosexuality is a forbidden taboo" (Activist 1 July 2014).

According to an article published by LGBT Asylum News, citing a young gay male, "gays are hated in Libya" (20 Sept. 2011). Country Reports 2013 indicates that citizens of Libya hold "negative views" of LGBT people and that homosexuality is socially stigmatized (US 27 Feb. 2014, 28).

Country Reports 2013 states that sexual orientation and gender identity have "occasionally constituted the basis for societal violence, harassment, blackmail, or other actions, generally on a local level," but that there were "no known reports during the year" (ibid.). In correspondence with the Research Directorate, a representative of the International Gay and Lesbian Human Rights Commission (IGLHRC) reported that the organization has received communications from gay men and trans individuals in Libya, indicating that they "faced harassment and violence from their family members and other members of their societies, due to their perceived sexual orientation and/or gender identity" (IGLHRC 24 June 2014). According to an article published by the Times, homosexual men "risk [being ostracized by] their families and wrath from the authorities" (1 Dec. 2012). According to the activist associated with ILGA, LGBT people are subject to verbal threats and threats of beatings, and for this reason, LGBT people hide their identity and do not speak out about their orientation and discrimination against them (Activist 1 July 2014).

LGBT Asylum News, a website that "document[s] the situations in countries from which LGBT people are fleeing" (LGBT Asylum News n.d.), reported on the beating of a young gay African man in Tripoli who was afraid to report the crime (ibid. 20 Sept. 2011). Corroborating information on this incident could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

3. Treatment by Authorities, Including Militia Groups

Country Reports 2013 states that there is "official" discrimination against LGBT individuals in Libya (27 Feb. 2014, 27). Sources report that the Libyan representative to the UN stated in a meeting with the UN Human Rights Council that "gays threaten the continuation of the human race" (UN Watch 13 Feb. 2012; ILGA 16 Feb. 2012).

According to a 2012 article on Pink News, a British gay news service (Pink News n.d.), an LGBT activist in Libya interviewed by the news source indicated that during the Gaddafi regime, the police had investigated and interrogated him because of online activity on a LGBT website, and that his e-mail had been hacked by authorities because of his participation in "liberal and secular discussions" on websites considered to be "anti-regime" (Pink News 8 Feb. 2012).

According to sources, in 2010, two men were arrested by Tripoli police for "indecent acts," including cross-dressing and homosexual conduct (MSMGF 25 Dec. 2010; Global Gayz 19 Feb. 2012). Further information on this incident could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Two sources report on a woman who was "arrested and raped" in 2010 for being lesbian (ANSAMed 25 Oct. 2010; US 8 Apr. 2011, 28). After she was returned home, her family reportedly attempted to force her into a marriage (ANSAMed 25 Oct. 2010; US 8 Apr. 2011, 28). A 2010 article on ANSAMed, a media partner of the European Commission (ANSAMed n.d.), reports that the woman was given a document by the Libyan police stating she had been arrested because of her homosexuality (ibid. 25 Oct. 2014).

According to the activist associated with ILGA, men who are gay have reportedly been raped in prison after police found out their orientation (Activist 1 July 2014). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

3.1 Militia Groups

Sources report that the government uses non-state armed militias to provide security and order in the country (US 8 May 2014, 11; Human Rights Watch 2014). Human Rights Watch reported in 2014 that such groups "operate with impunity" (2014), while Amnesty International (AI) reports similarly that militia groups operated "above the law" and carried out acts of arbitrary detention and torture (AI 2013, 2).

The Al Nawasi Brigade is reportedly a Tripoli militia group affiliated with the Ministry of the Interior (US 19 Apr. 2013, 25; The Times 1 Dec. 2012), and is one of the "largest" and "most powerful" Islamist brigades (ibid.).

According to Country Reports 2012, on November 22, members of the Nawasi Brigade ... arrested and detained 12 allegedly gay men who were at a private party. Members of the [Nawasi] group announced the arrest on Facebook, eliciting homophobic
commentary. The men were released a week after being detained, with bruises on their backs and legs and shaved heads. (19 April 2013, 25)

Similarly, the IGLHRC representative reported that in November 2012, the "state-sanctioned" militia group reportedly raided a private party and detained, beat and threatened to execute 12 attendees whom they referred to as "the third sex," referring to their sexual orientation (IGLHRC 24 June 2014). According to the Libya Herald, the men were released by the Nawasi Brigade after one week, and a senior member of the Brigade indicated that "the men would be handed over to the Ministry of Justice" (Libya Herald 29 Nov. 2012). Further information on this incident could not be found among the sources consulted by the Research Directorate within the time constraints of this Response. However, sources report that according to one of the men detained, such beatings are "common," and several other individuals were also previously beaten by the Nawasi Brigade (The Times 1 Dec. 2012; US 19 Apr. 2013, 25). Further information on other incidents could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

4. State Protection

Country Reports 2013 indicates there were "no reports of discrimination based on sexual orientation or gender identity in employment, housing, or access to education or health care," but that persons who reported such discrimination "could be subjected to additional violence or abuse" (27 Feb. 2014, 28). The IGLHRC representative similarly indicated that "LGBT individuals in Libya often feel they cannot report discrimination, out of fear of further abuse" (24 June 2014).

The activist associated with ILGA explained that LGBT people cannot turn to police for protection from violence due to the illegal nature of same-sex relationships and because police reportedly mistreat those they find out are LGBT (Activist 1 July 2014). According to the activist, since 2011, the security situation has deteriorated and due to the "absence of police," homosexual people have become more of a target by armed groups of Islamic militias (1 July 2014). Similarly, a gay activist interviewed in Gay Star News, an international LGBT news, entertainment and travel site (Gay Star News 15 Jan. 2012), said that "the police is largely absent" and that militias "often take the law into their own hands" (ibid. 25 Nov. 2012). He added that "many of us fear that some of the militias ... will focus on the LGBT community and hunt us down" (ibid.).

Both the IGLHRC representative and the activist associated with ILGA indicated that the judiciary is not effective in protecting the rights of sexual minorities (IGLHRC 24 June 2014; Activist 1 July 2014).

5. Support Services

According to Global Gayz, the government does not permit public advocacy of LGBT rights (19 Feb. 2012). Sources report that there are no government or non-government organizations active in protecting the rights of sexual minorities and providing support and emergency services to LGBT people in Libya (Activist 1 July 2014; IGLHRC 24 June 2014). Further information about support services for the LGBT community in Libya could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

References

Activist. 1 July 2014. Correspondence from a Libyan activist affiliated with the International Gay, Lesbian, Bisexual, Trans and Intersex Association (ILGA) to the Research Directorate.


The Times. 1 December 2012. George Grant. "'One Man Took Off His Dress, Then the Militia Beat and Arrested Us'; Libya." (Factiva)


**Oral sources:** Attempts to contact the following individuals and organizations were unsuccessful within the time constraints of this Response: Behind the Mask; Global Network of People Living with HIV/AIDS; Helem; two lawyers in Tripoli; Libyan League for Human Rights; Regional Arab Network Against AIDS; UNAIDS. The Fédération internationale des ligues des droits de l'homme was unable to provide information within the time constraints of this Response. CALEM and an independent scholar focusing on Libya could not provide information for this Response.

**Internet sites, including:** Aidsmap; Al Arabiya; Al Bawaba News; Al-Monitor; Arab Lesbian Women and Allies Network; Arc International; Cairo Institute for Human Rights; CALEM; eci.net; Fédération internationale des ligues des droits de l'homme; Global Network of People Living with HIV/AIDS; The Guardian; Helem; HIV Justice Network; HIVtravel.org; Human Rights Watch; International Commission of Jurists; International Day Against Homophobia and Transphobia; Lawyers for Justice in Libya; Libya – Ministry of the Interior, Ministry of Justice; Libyan League for Human Rights; Panapress; Regional Arab Network Against AIDS; Reuters; Safra Project; The Telegraph; The Tripoli Post; UN – Integrated Regional Information Networks, International Labour Organization, Office of the High Commissioner for Human Rights, Refworld, UNAIDS, ReliefWeb; Zawya.