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Libya: Arbitrary military decree highlights precariousness of women's rights in Libya

On 16 February 2017, the military in eastern Libya issued Decree No. 6 of 2017 restricting Libyan women under the age of 60 from travelling abroad without a legal male guardian '*muhram*'. The decree was frozen five days later amidst ongoing calls from civil society for its removal, and ultimately replaced on 23 February with Decree No. 7 of 2017, which stipulates that no Libyan male or female between the ages of 18-45 can travel abroad without prior "security approval."

Eastern Libya's military intelligence agency and Ministry of Interior is responsible for implementing the decree and issuing clearance for those who wish to travel, for military personnel and civilians respectively. While it has yet to be implemented, the decree provides no further clarity as to the criteria on how the security approval would be obtained or the basis for denial of travel.

Amnesty International calls on authorities to ensure that the procedures used to implement Decree No. 7 are non-discriminatory in interpretation and implementation, and do not lead to arbitrary denial of travel for women.

Decree no. 6 of 2017 came one day shy of the sixth anniversary of the uprising in Libya which ousted Colonel Muammar al-Gaddafi, ending 42 years of authoritarian rule. It was eventually suspended altogether on Thursday 23 February but not before delivering yet another blow to women's rights in Libya and demonstrating how such rights can be subject to the whims of military rulers, Amnesty International said.

Decree no. 6 constituted a severe limitation on women's freedom of movement in eastern Libya, and its replacement with decree no. 7 raises concerns that women may still be subject to arbitrary restrictions on their right to travel amidst an overall deteriorating human rights situation in the country. Women have been particularly affected by the ongoing conflict and in the face of intimidation and fear have been forced to retract from public and political engagement in recent years.

Restrictions on women's rights and civil liberties, including freedom of movement, are not new to Libya and are often applied arbitrarily. While there is no Libyan law which stipulates that women are not allowed to travel abroad alone, this has not prevented similar decrees from being enforced in the past. The former al-Gaddafi government attempted to enact a similar decree in 2007, though this was short lived and retracted within days. Following the 2011 uprising, a similar restriction took place in the form of a religious decree '*fatwa*', issued by the Grand Mufti of Libya, which prevented

women in Tripoli from traveling abroad without a male guardian in December 2013. While the Fatwa issued in 2013 did raise concern, it carried little weight within the legislative and other applicable bodies.

While the new decree provides that the restriction to travel abroad will apply to both men and women, Amnesty International is concerned that it may be arbitrarily implemented and that, in effect, women will be disproportionately targeted. Amnesty International calls on the authorities in eastern Libya to ensure that the decree's application is not discriminatory, while the "security approval" envisaged must be capable of being reviewed by an independent and impartial body, with a possibility of appealing any such decision. The authorities must also introduce other measures to ensure that women are in practice not discriminately targeted by the implementation of this ban.

Libya is a state party to the International Covenant on Civil and Political Rights (ICCPR) as well as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Common Article 3 of the four Geneva Conventions of 1949, which is applicable to all situations of armed conflict, prohibits adverse distinction founded on sex. This prohibition is a rule of customary international humanitarian law, binding on all parties to Libya's armed conflict.

Arbitrary implementation of the Decree, which in effect may restrict the right of women to travel would violate Libya's obligations under Article 3 (equality of men and women) and Article 12 (freedom to leave and enter one's country) of the ICCPR. It would also be incompatible with Article 12 of CEDAW which guarantees freedom of movement for women. Article 13 of the Universal Declaration of Human Rights also ensures that such freedom of movement is guaranteed. All parties to Libya's armed conflict are bound by international humanitarian law, which prohibits discrimination on grounds of sex.

While it might be permissible for states to introduce certain measures to restrict freedom of movement at the time of public emergency threatening the life of the nation and when such measures are strictly necessary, those measures would never be lawful if they are in effect discriminatory.

In addition to international obligations, national constitutional legislation also guarantees the freedom of movement to all Libyan nationals irrespective of gender, particularly referring to article 6 of the Interim Constitutional Declaration guaranteeing equality and 14 guaranteeing the freedom of movement, which is further emphasized in article 31 of the Libyan Political Agreement.

Amnesty International calls on the authorities in Libya to ensure that women's rights and freedoms are fully protected in law and in practice and that all government authorities uphold Libya's international human rights obligations.