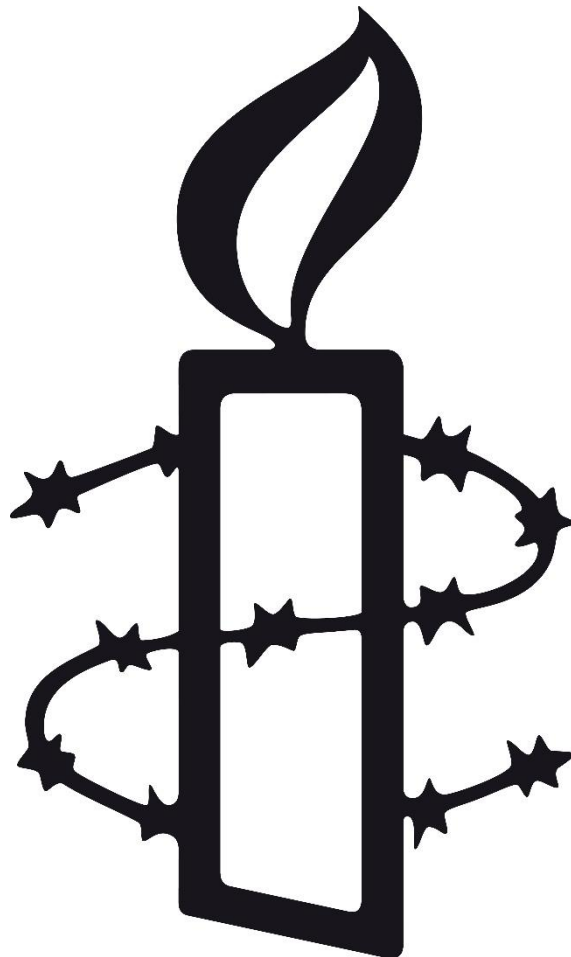


LIBYA

SUBMISSION TO THE UN COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

90TH PRE-SESSIONAL WORKING GROUP, 3 - 7 JUNE 2024, LIST OF ISSUES
PRIOR TO REPORTING



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INTRODUCTION

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DISCRIMINATION AGAINST WOMEN AND GIRLS AND GENDER BASED VIOLENCE (ARTICLES 2, 16)

Libya's political fragmentation since 2014, with competing authorities seeking governance, legitimacy and territorial control, as well as the proliferation of militias and armed groups including those espousing Madkhali-Salafist ideologies which restrict the rights of women and girls, have had an adverse impact on women's and girls' enjoyment of their human rights.

Discrimination and violence against women and girls remain pervasive. Women face discrimination in law and practice, including in matters related to marriage, child custody, access to political office and employment.

Libya lacks legislation specifically addressing violence against women and girls, including domestic violence. A draft law on combating violence against women proposed in 2017 by the Tripoli-based Government of National Unity (GNU), with the support of the United Nations Support Mission in Libya (UNSMIL), the Office of the High Commissioner for Human Rights (OHCHR), UN Women, and United Nations Population Fund (UNFPA), has yet to be tabled for discussion by the Tobruk-based House of Representatives, Libya's parliament.

Article 407 of the Penal Code defines rape as an "infringement upon freedom, honour, and societal morals" in contravention to international law and standards which promote a definition of sexual violence as a violation of a person's sexual autonomy. Furthermore, Article 424 of the Penal Code permits marriage between the perpetrator and survivor of rape, entrenching impunity for violence against women. The Penal Code also does not criminalize marital rape.

Libyan laws continue to criminalize consensual sexual relations outside marriage, including several provisions of the Penal Code and Law No. 70 of 1973 on the Establishment of the *Had*¹ of *Zina*², punishable by imprisonment and/or flogging. These laws have a disproportionate impact on women, in particular as being pregnant and unwed is deemed sufficient proof of "adultery". Further, these laws deter survivors of rape from reporting the crime due to well-founded fears of being prosecuted.³

Articles 390–395 of the Penal Code prohibit abortion, even in cases of rape or when pregnancy poses a risk to the health or life of the pregnant woman and punish both women and providers with imprisonment.

Amnesty International has documented rape and other forms of sexual violence against refugee and migrant women and girls, including those arbitrarily detained in facilities under the nominal oversight of state institutions, such as the Department for Combatting Illegal Migration of the Ministry of Interior.⁴ Rape and other forms of sexual violence committed by state agents constitute torture or other ill-treatment under international law. The organization has consistently raised concerns about the prevailing impunity for rape and other forms of sexual violence against migrant and refugee women and girls. These concerns, in combination with the absence of female guards in the vast majority of detention centres, or any prevention

¹ 'Had' refers to offences under Shari'ah that have prescribed punishments.

² Zina is defined in Libyan law as sexual relations between a man and a woman outside a lawful marriage.

³ Amnesty International, *'Libya of tomorrow: What hope for human rights'* (Index: MDE 19/007/2010), 23 June 2010, <https://www.amnesty.org/en/documents/mde19/007/2010/en/>

⁴ Amnesty International, *'No one will look for you': Forcibly returned from sea to abusive detention in Libya* (Index: MDE 19/4439/2021), 15 July 2021, <https://www.amnesty.org/en/documents/mde19/4439/2021/en/>

measures, such as consistent independent surprise inspections or oversight mechanisms, foster a high risk environment for detained women and girls in violation of Libya's international law obligations to prevent gender-based violence and torture and other ill-treatment. Additionally, well-founded fears of being arrested due to their migration status deter refugee and migrant women from reporting crimes of rape and other sexual violence to the police and prosecution authorities, including when committed by members of their own communities, criminal gangs, or other non-state actors. Furthermore, survivors told Amnesty International that they refrained from approaching officials, fearing their possible affiliation with perpetrators.⁵

Successive Libyan authorities, including the GNU, and its Tripoli-based predecessor the Government of National Accord (GNA), as well as the self-proclaimed Libyan Arab Armed Forces (LAAF), an armed group in de facto control of large parts of eastern and southern Libya, not only failed to address harmful gender stereotypes but endorsed smear campaigns online and on Libyan TV channels against a proposed draft law to combat violence against women and promote women's rights in general, which was dubbed contrary to Libyan and Islamic values including by official religious institutions such as the Dar al-Ifta and the General Authority for Endowments and Islamic Affairs (known as Awqaf).

In October 2023, the Dar al-Ifta issued a fatwa, or decision made by scholars interpreting Shari'ah, prohibiting the use of the term "gender" in government departments and official documents.⁶ The decision stated that the term gender includes meanings that contradict common human nature and the definitive provisions of Islamic law, because it implicitly promotes "homosexuality", "adultery", abortion, invalidation of marriage, divorce, women's inheritance, and the destruction of the family.

Since 2011, Dar al-Ifta has issued a series of fatwas affecting women's rights. In 2013, a fatwa called on female students to dress according to Islamic traditions, while another required women teachers to veil their faces when instructing male students who have reached puberty.⁷ In February 2022, the GNU revoked a memorandum of understanding (MoU) between the Minister of State for Women's Affairs Houria al-Turman and UN Women, after the minister's visit to the Dar al-Ifta. The MoU signed in October 2021 aimed to prepare and adopt a national plan for implementation of the UN Security Council Resolution 1325 (2000) on Women, Peace and Security.⁸ The signing of the MoU sparked controversy and a smear campaign against the minister. Religious clerks, conservative politicians, militia leaders, and patriarchal figures considered that this step would be inconsistent with Libyan legislation and religious values. The GNU, which approved the signing of the MoU, pushed back and issued a decision to form an administrative committee to investigate it.

Successive authorities have also consistently failed to prevent, investigate or prosecute violence against women and girls by members of militias, armed groups, their family members and other non-state actors.⁹ Amnesty International documented cases of militias threatening survivors not to lodge judicial complaints.

In 2022, 32-year-old woman K.R was killed after asking for a divorce. The authorities failed to investigate her murder or ensure accountability.¹⁰ Authorities also failed to investigate the abduction, torture and captivity in a private location in al-Zawiya, a city in northwestern Libya, of a young woman in 2021 by armed men following a family dispute.¹¹

Amnesty International has also documented how militias, armed groups and security forces across the country target women and girls, allegedly for "immoral behaviour". In December 2018, police forces affiliated with the Ministry of Interior in Benghazi raided a café in the city where a group of nearly 20 young girls, most with their mothers, were attending a gathering they had organized on Twitter. The police arrested the manager and staff on grounds of "immoral behaviour".¹² In October 2019, gunmen raided two cafés in Tripoli to intimidate women unaccompanied by a male family member. The armed men asked to see customers' marriage certificates, took male customers who were with female friends out of the café for questioning and told women they should be accompanied by their husbands or other male relatives.¹³

⁵ Amnesty International, "*Between Life and Death*": Refugees and migrants trapped in Libya's cycle of abuse (Index: MDE 19/3084/2020), 24 September 2020; <https://www.amnesty.org/en/documents/mde19/3084/2020/en/>

⁶ Dar al-Ifta, "Resolution No. 2 of 1445 AH prohibiting the use of the term gender", 3 October 2023, <https://vo.la/XVAHy>

⁷ Amnesty International, *Silenced voices: Libyan women human rights defenders under attack* (Index: MDE 19/8657/2018), 17 July 2018, www.amnesty.org/en/documents/mde19/8657/2018/en

⁸ Yesterday in #Libya, an MoU was signed by the Minister of State for Women's Affairs in the Government of National Unity with Rep of @unwomenlibya, 08 October 2021, Twitter, <https://twitter.com/unwomenlibya/status/1446404015680626688> (visited 09 April 2024)

⁹ Amnesty International, *Silenced voices*, (previously cited)

¹⁰ Amnesty International, *Report 2022/23: The state of the world's human rights* (Index: POL 10/5670/2023), 27 March 2023, <https://www.amnesty.org/en/documents/pol10/5670/2023/en/>

¹¹ Amnesty International, *Report 2021/22: The state of the world's human rights* (Index: POL 10/4870/2022), 29 March 2022, <https://www.amnesty.org/en/documents/pol10/4870/2022/en/>

¹² Amnesty International, *Review of 2018: Human Rights in the Middle East and North Africa Regional Overview* (Index: MDE 01/9433/2019), 26 February 2019, <https://www.amnesty.org/en/wp-content/uploads/2021/05/MDE0194332019ENGLISH.pdf>

¹³ Amnesty International, *Human rights in the Middle East and North Africa: Review of 2019* (Index: MDE 01/1357/2020), 18 February 2020, <https://www.amnesty.org/en/documents/mde01/1357/2020/en/>

In 2023, the Tripoli-based Internal Security Agency (ISA), nominally under the Presidential Council of the GNU, intensified its crackdown on freedom of thought, expression and belief, targeting Libyan youth, including women and girls, under the pretext of “guarding virtue”. On 28 December 2023, the ISA published two videos on its social media channels showing four women and a 17-year-old girl, under apparent duress “confessing” to offences such as “spreading atheism,” “apostasy,” “embracing non-religion,” “adopting liberal ideas,” “wife swapping,” and “homosexuality”. As of 28 March 2024, at least three remained in detention. ISA’s intensified crackdown has targeted individuals perceived as rejecting the dominant Madkhali-Salafist ideology in Awqaf, which significantly restricts the rights of women and girls, religious minorities and LGBTI people.¹⁴

Impunity also prevails for enforced disappearance, torture and other ill-treatment of women who have been held in official and unofficial places of detention since the outbreak of armed conflict in 2011.¹⁵

ATTACKS ON WOMEN HUMAN RIGHTS DEFENDERS, POLITICIANS AND ACTIVISTS (ARTICLE 2 AND 7)

Since 2014, Libyan women activists, bloggers and journalists have been increasingly silenced as they face gender-based violence in the form of physical assault, abductions and sexual violence, as well as smear campaigns including on Facebook and Twitter, gender-related slurs and attempts at intimidation. Some of that violence documented by Amnesty International includes gendered insults by militias and private individuals, including allegations of engaging in sex work and sex outside marriage (“adultery”). Amnesty International also documented threats online and misogynistic abuse targeted at women politicians in 2021, including Najla al-Mangoush, GNU’s then minister of foreign affairs, and two presidential candidates L.K and H.M¹⁶. Women human rights defenders who do not adhere to social norms or challenge gender stereotypes are particular targets of abuse, questioning, harassment and detention by militias, armed groups and security forces.

The failure to investigate and prosecute the assassinations of prominent women human rights defenders and politicians, including of parliamentarian F.B and human rights defender S.B in June 2014, has had a chilling effect on Libyan women activists, many of whom discontinued their activism or fled Libya. No one has been held accountable for the assassination of lawyer H.B in Benghazi, who was shot and killed by unknown gunmen in broad daylight on 10 November 2020, a day after she posted on social media that she was going to release a video exposing the corruption of the LAAF leader’s son, Saddam Haftar. H.B and her daughter had both been receiving death threats due to H.B’s vocal criticism of the corruption of several individuals affiliated with the armed groups in eastern Libya.¹⁷ The family members of parliamentarian S.S, who was abducted by gunmen in a night-time raid on her home in Benghazi in 2019 after she criticized the LAAF’s offensive to capture Tripoli in a TV interview earlier that day still have no information on her fate and whereabouts.¹⁸

The Special Rapporteur on violence against women and girls noted during her visit to Libya from 14 to 21 December 2022¹⁹ concerns over the arrests of women human rights defenders accused of “offending the traditions of Libya” following the activation of Law No. 5 of 2022 on Cybercrimes.²⁰ In February 2023, the

¹⁴ Amnesty International, “Libya’s Internal Security Agency must end abuses in name of ‘guarding virtue’”, 14 February 2024, <https://www.amnesty.org/en/latest/news/2024/02/libya-internal-security-agency-must-end-abuses-in-name-of-guarding-virtue/>

¹⁵ Amnesty International, “Libya: Abducted politician’s fate remains unknown a year on amid ongoing disappearances”, 17 July 2020, www.amnesty.org/en/latest/news/2020/07/libya-abducted-politicians-fate-remains-unknown-a-year-on-amid-ongoing-disappearances/ and Amnesty International, “Libya: UN Rights Council members must address widespread torture during periodic review”, 10 November 2020, www.amnesty.org/en/latest/news/2020/11/libya-un-rights-council-members-must-address-widespread-torture-during-periodic-review/

¹⁶ Amnesty International, *Report 2021/22: The state of the world’s human rights* (Index: POL 10/4870/2022), 29 March 2022, <https://www.amnesty.org/en/documents/pol10/4870/2022/en/> (previously cited)

¹⁷ Amnesty International, *Report 2020/21: The state of the world’s human rights*, 07 April 2021, (Index: POL 10/3202/2021), <https://www.amnesty.org/en/documents/pol10/3202/2021/en/>

¹⁸ The husband of S.S, call to anyone who has information about the disappearance of his wife to help the family know the truth regarding her fate, Al-Wasat TV, Facebook page, 09 March 2024, <https://www.facebook.com/alwasatnewsly/videos/1492413098380912/> (visited 09 April 2024)

¹⁹ Visit to Libya, Report of the Special Rapporteur on violence against women and girls, its causes and consequences, 4 May 2023, UN Doc A/HRC/53/36/Add.2.

²⁰ UNSMIL, “SRSG Abdoulaye Bathily’s remarks to the Security Council meeting on Libya”, 27 February 2023, <https://unsmil.unmissions.org/srsg-abdoulaye-bathily%E2%80%99s-remarks-security-council-meeting-libya-27-february-2023>

ISA in Benghazi arrested singer A.Y and content creator H.A for “offending the traditions of Libya ”, accusing them of violating the anti-cybercrime law. They were released in April 2023 without charge.

RIGHT TO IMPART NATIONALITY (ARTICLES 2 AND 9)

Women do not have equal rights to men with respect to passing on their nationality to their children. According to Law No. 24 of 2010 on provisions of Libyan nationality, children of all Libyan fathers automatically obtain Libyan nationality.²¹ On the other hand, Article 3 specifies that Libyan mothers can only confer Libyan nationality to their children if their children are born in Libya and if the father is stateless or if his nationality and origin are unknown. Article 11 of law further states that: “The children of Libyan women married to non-Libyans may be granted Libyan nationality. The executive regulation shall determine the guidelines for implementation of this article”. In October 2022, the GNU issued Decree No.902/2022, granting to children born to Libyan mothers and non-Libyan fathers access to public education and healthcare without guaranteeing their right to nationality on par with children born to Libyan fathers and non-Libyan mothers.²² This discriminatory legislation results in the denial of equal access to civil, political, social and economic rights to children of Libyan mothers and non-Libyan fathers, and discriminates against Libyan women.

FREEDOM OF MOVEMENT (ARTICLES 2 AND 15)

Women across Libya continue to face restrictions on their freedom of movement. While there is no Libyan law criminalizing solo women travellers or requiring women to seek permission from their spouses or male guardians to travel alone, including abroad, militias and armed groups across the country have sought to restrict women’s movement. In April 2023, the ISA-Tripoli based, required women travelling abroad alone to complete a form on their reasons for travelling abroad without a male “guardian” (mahram). In eastern Libya, under the de facto control of LAAF, LAAF’s Decree No. 6 of 2017 issued in February 2017 restricted the right of Libyan women under the age of 60 from travelling abroad without a legal male guardian. Following a public outcry and calls from civil society for its removal, Decree No. 6 was replaced by Decree No. 7 of 2017, which stipulated that no Libyan man or woman between the ages of 18 and 45 could travel abroad without prior “security approval”. The Decree failed to specify the procedure required to obtain such approval or the criteria that would be used to grant or deny it.²³ Some women told Amnesty International that the security approval for women required filling out a form. This form asked for reasons for traveling abroad alone, the purpose of the trip, the reasons for the absence of a male ‘guardian’ (mahram), and whether the woman had ever travelled before without a male ‘guardian’ (mahram).

WOMEN RELATIVES OF MISSING PERSONS (ARTICLE 2, AND 16)

Since the 2011 armed conflict, thousands of people, mainly men, have been subjected to enforced disappearances, or have gone missing in the context of the protracted armed conflict, instability and more recently the catastrophic flooding in Derna in September 2023. Women are disproportionately impacted, as they are left to address the financial and psychological consequences of the disappearance on the family, including losing the main breadwinner. Given the precarious legal status of their disappeared relatives,

²¹ Law no. 24 for the year 2010 on the Provisions of Libyan Nationality, Citizenship Rights Africa, <https://www.citizenshiprightsafrika.org/wp-content/uploads/2010/01/Libya-Nationality-Law-No-24-2010-EN.pdf>

²² Amnesty International, Report 2022/23: The state of the world’s human rights, (Index: POL 10/5670/2023), 27 March 2023, <https://www.amnesty.org/en/location/middle-east-and-north-africa/libya/report-libya/> (previously cited)

²³ Amnesty International, Libya: Arbitrary military decree highlights precariousness of women’s rights in Libya (Index: MDE 19/5820/2017), 03 March 2017, <https://www.amnesty.org/en/documents/mde19/5820/2017/en/> and Amnesty International, Report 2017/18: The state of the world’s human rights, 22 February 2018, (Index: POL 10/6700/2018), <https://www.amnesty.org/en/documents/pol10/6700/2018/en/>

women are confronted with barriers in accessing their social and economic rights, including bank accounts and social services, and in claiming or retaining ownership of assets. Successive Libyan authorities and those in de facto control did not institute specific measures to facilitate the provision of death certificates for those subjected to enforced disappearance or missing, including in the wake of Derna floods, needed to access widows' pensions and other state aid. This particularly affected women who lost their husbands. Libyan personal status laws stipulate that the death of a missing husband is acknowledged four years after he is registered as missing. In relation to other missing persons, their death can only be registered following a court decision or proof of death.²⁴ In November 2023, in the wake of the Derna floods, the eastern-based Government National Stability (GNS), which is allied to the LAAF, submitted a proposed law to consider a missing person as dead after six months, rather than four years, to address the rights of heirs as well as to enable married women with missing husbands to be recognized as widows. The law has yet to be tabled for discussion by the parliament. Authorities did not put in place any measures to ensure that individuals impacted by the floods, including women and girls, have access to free legal advice and assistance to help them claim their rights.²⁵

Others impacted include the women relatives of hundreds of men who have gone missing after being abducted in and around Tarhuna by al-Kaniat armed group, which was in control of the area until June 2020 when GNA forces imposed their control over the city.²⁶ The pain and suffering of having lost their loved ones are compounded by the continued failure of the Libyan authorities to provide them with adequate remedies including financial, social and psychological support and compensation. As of 28 March 2024, no concrete mechanism had been put in place by the authorities to provide the necessary financial and psychosocial support to survivors and families of victims.

²⁴ According to Article 25 of Law No. 17 of 1992, "the missing status ends with the proof of the missing person's life or death, or a judgment considering him/her dead".

²⁵ Amnesty International, Libya: "In seconds everything changed": Justice and redress elusive for Derna flood survivors, 11 March 2024, (Index: MDE 19/7608/2024), <https://www.amnesty.org/en/documents/mde19/7608/2024/en/>

²⁶ Amnesty International, Report 2020/21: The state of the world's human rights, 07 April 2021, (Index: POL 10/3202/2021), <https://www.amnesty.org/en/documents/pol10/3202/2021/en/> (previously cited)

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Index: **MDE 19/7858/2024**

Publication: **April 2024**

Original language: **English**

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