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## Consejo de Derechos Humanos

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**Promoción y protección de todos los derechos humanos, civiles, políticos, económicos, sociales y culturales, incluido el derecho al desarrollo**

## Visita a Libia

### Informe de la Relatora Especial sobre la violencia contra las mujeres y las niñas, sus causas y consecuencias, Reem Alsalem\*

#### *Resumen*

La Relatora Especial sobre la violencia contra las mujeres, sus causas y consecuencias, Reem Alsalem, visitó Libia del 14 al 21 de diciembre de 2022. En el informe, la Relatora Especial hace una evaluación de la situación de los derechos humanos y la violencia contra las mujeres y las niñas, señala deficiencias y retos, y recomienda medidas para prevenir y combatir la violencia contra las mujeres y las niñas en el país.

\* El resumen del presente informe se distribuye en todos los idiomas oficiales. El informe propiamente dicho, que figura en el anexo, se distribuye únicamente en el idioma en que se presentó y en árabe.



## Annex

# Report of the Special Rapporteur on violence against women and girls, its causes and consequences on her visit to Libya

## I. Introduction

1. The Special Rapporteur on violence against women and girls, its causes and consequences, Reem Alsalem, conducted an official visit to Libya from 14 to 21 December 2022, at the invitation of the Government of National Unity.

2. While cognizant of the complex political context and the multifaceted realities facing women and girls in Libya, the purpose of the visit by the Special Rapporteur was to examine the systemic causes of gender-based violence against Libyan and non-Libyan women and girls in the country and to express her solidarity with the survivors of all forms of violence and with the plethora of different stakeholders who support them. The Special Rapporteur had hoped to engage in constructive dialogue with all relevant actors, including the authorities, with a view to identifying the main gaps and challenges and providing recommendations on how to strengthen current legislation and policies to prevent violence against women and girls.

3. While the Special Rapporteur appreciates the initial invitation extended to her by the Government of National Unity to visit Libya, she deeply regrets the series of obstacles she encountered from the outset, including: delays in issuing a visa to enter the country; the lack of cooperation on the part of the Government of National Unity, both prior to and during the visit, in order to provide the Special Rapporteur with an agenda of official meetings; denial of access to places of detention (in which Libyan and non-Libyan women and children are being held) and reception centres (both formal and informal); and refusal of permission to leave the airport in Benghazi by the Libyan National Army, despite prior agreement from both the Libyan National Army and the Government of National Unity. The fact that the Special Rapporteur was neither met by a representative from the Government of National Unity upon her arrival in Tripoli, nor was she afforded the time to debrief anyone from the Government on her findings prior to her departure are perhaps indicative of the lack of priority being given to preventing violence against women and girls in the country.

4. Despite the early difficulties, the Special Rapporteur was, however, able to meet with a few government representatives during the last few days of the visit, including from: the Ministry of the Interior; the Ministry of Justice; the Ministry of Health; and the Ministry of Women's Affairs. She also met with the Attorney General, the Head of the High National Election Commission and the Chair of the Higher Council for Childhood, along with representatives from international donor countries, United Nations agencies, international non-governmental organizations (NGOs), Libyan civil society organizations and human rights defenders and a number of victims. Although not permitted to leave the airport in Benghazi in order to attend previously arranged meetings in the city, she was granted a meeting with the Military Prosecutor of the Libyan National Army within the confines of Benghazi airport.

5. While information provided by the authorities was extremely limited, the Special Rapporteur was able to gather a substantial body of evidence and information from other sources to assess the situation of violence against women and girls in the country.

6. The Special Rapporteur would like to express her sincere gratitude to the Special Representative of the Secretary-General for Libya and Head of the United Nations Support Mission in Libya (UNSMIL), as well as the Deputy Special Representative for Libya and the Resident and Humanitarian Coordinator for Libya, and their teams, for their support in preparing and facilitating the visit, and to all representatives from the United Nations country team and international entities, donors and other stakeholders for meeting with her and generously sharing their time and knowledge. She expresses her particular gratitude to the staff of the UNSMIL Human Rights, Transitional Justice and Rule of Law Division, for their support in the preparation and conduct of her visit. The Special Rapporteur regrets that many

individuals and NGOs based in Libya did not feel safe enough to meet and speak freely and privately with her. Of particular concern is the fact that Presidential Council Decree No. 286 of 2019 regulating the work of civil society organizations in Libya remains in force at the time of writing and continues to inhibit NGOs from conducting their legitimate activities.

## II. General context

7. A protracted conflict and widespread violence perpetrated by armed groups, State and State-affiliated militia and Libyan National Army units, combined with a longstanding political stalemate, have continued to plague Libya since the collapse of the Libyan Arab Jamahiriya in 2011. Libyans survived for four decades under a military dictatorship led by Muammar Gaddafi, during which time human rights violations prevailed, including extrajudicial executions, enforced disappearances, torture and other forms of ill-treatment. In addition, freedom of expression and many basic liberties and rights were curtailed, while the rights and autonomy of women in matters related to financial independence, divorce, child custody and sexual violence were constantly violated and restricted.

8. In June 2014, a new assembly, the House of Representatives, was elected, while a coalition of armed Islamist groups, the Libya Dawn, restored the outgoing General National Congress. The absence of central authority in Libya created an opening for the militant extremist group Da'esh. Fighters from the group's core territories in Iraq and the Syrian Arab Republic began to arrive in early 2014 and by the summer of 2015 the group had taken control of the central coastal city of Sirte. Women and girls who lived in the city and surrounding areas occupied by the group suffered greatly, as their movements and rights were severely restricted. Men and women were segregated in all public areas and women were forced to wear the veil.

9. On 4 April 2019, Tripoli and the surrounding areas were subjected to an armed attack, which lasted for more than a year, resulting in hundreds of casualties, mass damage to public and private infrastructure and the displacement of hundreds of thousands of people, as well as adversely affecting the Government's ability to ensure respect for human rights. Systematic abuses, including long-term arbitrary detention, unlawful killings, torture, sexual violence and forced disappearances, continue to destroy the lives of civilians across the country while increasing political tensions have exacerbated attacks on the judiciary and anyone whose political affiliation or perceived opinions run contrary to the ruling powers. Since then, Libya has been divided into east and west, with rival Governments and associated military forces, leaving southern Libya to largely fend for itself.

10. In January 2020, an international conference was held in Berlin, following which an interim executive authority was established, along with the interim Government of National Unity approved by the House of Representatives. The discussions also led to the conclusion of a ceasefire in October 2020. Although the ceasefire agreement remains in place, parliamentary and presidential elections planned for 24 December 2021 have been delayed indefinitely. At the time of writing, the House of Representatives and the High State Council have yet to agree on a constitutional basis for elections.

11. Over the years, women and girls have been disproportionately affected by the broader effects of the armed conflict, placing them at increased risk of poverty, discrimination and violence. The loss of male family members, for example, results in a critical socioeconomic situation for women and their families. Furthermore, their access to health services is severely impeded in locations of active hostilities, as service providers have either fled the conflict zones or cannot provide services due to the ongoing insecurity. Women often remain confined within their homes and villages or are forced to flee with their families.<sup>1</sup>

12. Women and children, including girls, bore the brunt of much of the violence unleashed during the Gaddafi regime, with survivors of sexual and conflict-related violence having limited recourse to effective remedies.<sup>2</sup> Subsequent governments and ruling parties have failed to protect women and girls from multiple forms of violence and abuse. During the

<sup>1</sup> A/HRC/34/42, paras. 35–38.

<sup>2</sup> CEDAW/C/LBY/CO/5, paras. 23 and 24.

presentation of its report in June 2022, the Human Rights Council-mandated Independent Fact-Finding Mission on Libya highlighted that the culture of impunity continued to prevail in Libya, posing a great obstacle towards achieving national reconciliation.<sup>3</sup>

### III. Legal, policy, judicial and institutional framework for the elimination of violence against women and girls

13. The Constitutional Declaration of 2011 affirms the State's commitment to human rights and basic freedoms and commits Libya to joining international conventions that protect such rights and freedoms. The principle of equal opportunity is enshrined in article 16 of the proposal for a consolidated draft constitution, which reads: "Equal opportunity shall be guaranteed for male and female citizens. The State shall take the necessary measures to achieve the same."

14. Libya ratified the Convention on the Elimination of All Forms of Discrimination against Women in 1989. In 1995, Libya modified two reservations that it had submitted after its accession to the Convention by merging them into one. The general reservation notes that: "[Accession] is subject to the general reservation that such accession cannot conflict with the laws on personal status derived from the Islamic *Shariah*." In 2004, Libya acceded to the Optional Protocol to the Convention and also ratified the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol).<sup>4</sup> Libya ratified the Convention on the Rights of the Child in 1993.

15. Libya is not a signatory to the 1951 Convention relating to the Status of Refugees or its 1967 Protocol. Although Libya is party to the Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa, refugees and asylum-seekers are considered as illegal migrants and their status of asylum-seekers or refugees is not taken into account by current Libyan law in view of the absence of a legal framework on asylum.

16. Although Libya has acceded to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, it does not have comprehensive anti-trafficking legislation to prevent and eliminate trafficking in women and girls and to protect victims. While article 10 of Law No. 19 of 2010 on combating irregular migration stipulates that migrants should be treated "in a humanitarian manner that preserves their dignity and rights and that does not violate their money or moveable property", it is not enforced.

17. As far as statelessness is concerned, Libya has acceded to both the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness in 1989. Together with other regional and international human rights treaties, they form the basis of protection of the right to nationality and the rights of stateless persons in Libya.<sup>5</sup>

18. The visit of the Special Rapporteur followed the third cycle of the universal periodic review of Libya in November 2020. She therefore hopes that the recommendations outlined in the present report will be implemented in conjunction with those provided during the universal periodic review,<sup>6</sup> as a means of developing a road map to assist the Government in its efforts to eliminate violence against women and girls and to uphold the rights of women

<sup>3</sup> See [A/HRC/50/63](#).

<sup>4</sup> Subject to a reservation about "judicial separation, divorce and annulment of marriage".

<sup>5</sup> These include the International Covenant on Civil and Political Rights, art. 24 (3); the Convention on the Rights of the Child, arts. 7 and 8; the Convention on the Elimination of All Forms of Discrimination against Women, art. 9; the International Convention on the Elimination of All Forms of Racial Discrimination, art. 5 (d); the Convention on the Rights of Persons with Disabilities, art. 18; and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, art. 29. Libya also ratified the African Charter on the Rights and Welfare of the Child in 1999. The right to a nationality is also protected under article 15 of the Universal Declaration of Human Rights and articles 5 and 19 of the Cairo Declaration on Human Rights in Islam.

<sup>6</sup> [A/HRC/46/17](#).

in the public and, especially, the private, spheres, in line with the Convention on the Elimination of All Forms of Discrimination against Women, the Declaration on the Elimination of Violence against Women and Goal 5 of the Sustainable Development Goals, in particular target 5.5.

## **A. Legal system**

19. The current legal framework on violence against women is inadequate, with necessary legal reforms currently stalled. At present, the only national law that directly addresses the issue of violence against women is Law No. 10 of 1984, which prescribes that a woman has the right to expect her husband to refrain from causing her physical or psychological harm. However, the Law does not refer to any enforcement mechanism. Other existing laws and policies continue to be deeply problematic and incompatible with fundamental human rights standards and norms, including those highlighted in the following section.

### **1. Draft legislation on combating violence against women**

20. While recognizing the attempts made since 2011 to develop new legislation relating to equality before the law and the protection of women and girls from violence, the protracted conflict and ongoing instability that continues to blight the country, combined with a lack of political will and considerable implementation gaps in almost all policies related to women's rights, continue to pose a considerable challenge to advancing the rights of women and girls in Libya. A number of aspects within the personal status law are problematic, as Libyan women face discrimination on issues pertaining to marriage, inheritance and divorce.

21. In this regard, it is disappointing that there has been no further progress in adopting the draft law on combating violence against women. The 2021 draft law represents a milestone in terms of the protection and promotion of the rights of all women and girls in Libya, in line with international standards and regional best practices. It criminalizes all forms of violence against women, including online violence and online hate speech, identifies protection and prevention mechanisms and defines institutional responsibilities. Furthermore, it provides for the establishment of a national commission to combat violence against women and a dedicated trust fund to support victims of violence.

22. The Special Rapporteur regrets that diverging opinions within the Government of National Unity on adoption of the law have done little to aid progress in this regard. While the main focus of the drafters, and other relevant stakeholders involved in the process, was on developing a substantially solid text, less attention was paid to garnering support from wider society and to capitalizing on the assistance that national and international stakeholders could provide in instilling understanding of its objectives. The draft law is comprehensive, however, given the sustained disinformation campaign by regressive elements within Libyan society against its adherence to the Convention on the Elimination of All Forms of Discrimination against Women and on women's rights in general, application of the law is likely to be challenging.

23. The Special Rapporteur was alarmed that the Government of National Unity, and other authorities, have allowed the defamation of the Convention on the Elimination of All Forms of Discrimination against Women to flourish while organizations working on women's rights and equality are increasingly vilified. Ministers, and other senior officials, who have been accused by conservative forces of having supported the Convention and other international human rights instruments, have not been shielded from attacks. In this regard, the Special Rapporteur is disconcerted by credible evidence that the authorities have at times succumbed to pressure from conservative forces and aided and abetted such attacks against officials, while related processes have been put on hold, such as the finalization by Libya of its national action plan for implementation of Security Council resolution 1325 (2000) on women, peace and security.

24. Targeted engagement is therefore necessary to explain the nature of the international obligations of Libya on ensuring equality between men and women. The Special Rapporteur notes that adoption of the law should be prioritized, as it will constitute a binding legislative tool that can reasonably be expected to mobilize deliberate policies and resources for action

on combating violence against women and girls and the State's response to it. The Special Rapporteur also believes that national and international stakeholders invested in the adoption of the law should focus on fostering understanding and obtaining consensus by all key stakeholders in the country on the text of the law and its objectives, ahead of its adoption and subsequent implementation.

## 2. Penal Code

25. The Penal Code, which is the main regulatory instrument in the State, contains general provisions that could in theory be applied to prosecute perpetrators of violence against women and girls in the domestic sphere, however, they are not implemented in practice. According to article 375 of the Penal Code, a man whose so-called honour-motivated violence results in severe injuries to his wife might be imprisoned for no more than two years, while the same level of violence could result in a maximum of seven-and-a-half years' imprisonment if the attack was not motivated by so-called honour.

26. The aforementioned article, along with a number of other provisions contained within the law, are not in line with international standards. Of particular concern is article 407, which criminalizes rape as an offence against freedom, honour and morals, rather than as a crime against the individual, while article 424 allows for marriage between the perpetrator and women and girl victims of rape, whereby the perpetrator could be exonerated of his sentence if he marries his victim and does not divorce her for a period of three years. The Special Rapporteur was disturbed to learn that this practice is widespread and is encouraged by families to protect the victims from social stigma and marginalization and to ensure clarity of lineage if the victim becomes pregnant, which results in impunity for the perpetrator. Marital rape is not covered by the Penal Code as an offence. Additionally, rape survivors who cannot meet high evidentiary standards and, therefore, cannot prove their assault are likely to face charges of adultery resulting in detention.

27. Moreover, articles 390–395 of the Penal Code prohibit abortion, including for women who have been raped. The penalty is reduced if the abortion is performed to protect the honour of the person performing it or the honour of a relative. A woman who carries out her own abortion is also liable for imprisonment of no less than six months (art. 392).

28. In addition to the lack of implementation and enforcement of law, there is no means by which women can obtain protection orders to prevent acts of domestic violence. Social and cultural barriers, including reluctance by the police and the judiciary to intervene, and family reluctance to publicize an assault, contribute to lack of effective government enforcement. Libya does not have shelters for victims of violence, and deep-seated social and cultural norms make it a taboo to speak about incidents of domestic violence, as it is considered "shameful" and brings dishonour on the victim and her family.<sup>7</sup>

29. The Special Rapporteur is further concerned at the existence of government-run social rehabilitation centres for the mandatory detention of women and girls who have been raped, subjected to domestic violence or abandoned by their families, supposedly for their own protection.

30. The lack of adequate laws and services leaves female victims of violence without an effective remedy and deters them from reporting rape and domestic violence. This is compounded by patriarchal ideals and harmful cultural norms and gender stereotypes within society, resulting in underreporting due to stigma and the risks that survivors may face when reporting crimes. In the current context, this troubling legislation is also often weaponized by powerful individuals, including those who have ties to armed militia, in order to punish women, while also forcing women and girls into exploitative and coercive relationships with them.

<sup>7</sup> United Nations Development Programme, "Libya: gender justice & the law" (New York, 2018), pp. 13 and 14.

### 3. Judicial system

31. Protracted armed conflicts and the pervasive insecurity have weakened the judiciary, which is able to function only partially due to threats, harassment and attacks against judges, lawyers and prosecutors by militia and other armed actors. Where courts are able to function, there are serious violations of due process.<sup>8</sup> Although there are some female judges (18.5 per cent as of 2018), women are still vastly underrepresented in top-ranking positions in the justice sector (7 per cent). Women constitute the majority (68 per cent) of public defence lawyers in Libya, who are technically part of the judiciary, but they have very low status.<sup>9</sup> The lack of female judges and prosecutors, combined with the prevailing climate of fear that continues to afflict the country, has led to a lack of understanding or resistance to women's rights among stakeholders within the justice sector, including judges and prosecutors. Efforts are therefore needed to promote a more gender-responsive justice sector to protect women's rights.

### 4. National action plan

32. The Special Rapporteur notes that the national action plan entitled "Together to end violence against women" launched by the Ministry of Justice is a positive step, as its purpose is to raise awareness about the gravity of domestic, and other forms of, violence and to make women themselves aware of their rights. The plan also envisages the establishment of women and child welfare units within security directorates. Moreover, in cooperation with the United Nations Development Fund, the United Nations Children's Fund and the United Nations Population Fund, the Ministry is seeking to extend its national campaign to curb violence against women, to sensitize the police and the judiciary about the seriousness of the phenomenon and to draw attention to the need to deal with it in a way that reflects the gravity of the impact that it has on women both psychologically and physically.<sup>10</sup> The challenge is now to ensure that adequate financial and human resources are pledged to ensure its full implementation.

33. With regard to children's rights, there are still areas of incompatibility between national legislation and the obligations of Libya under the Convention on the Rights of the Child. While it is positive that, as of December 2022, there are 37 family and child protection units throughout the country, with a view to strengthening the child justice system, significant efforts need to be made to ensure adequate resources, specialized training and operationalization. Child-specific institutions, such as the Higher Council for Childhood, and others mandated to work on child protection and assistance cannot count on a regular budget, while State institutions dealing with children lack specialized staff and expertise.

## B. Policy framework for ending violence against women and girls

34. The Ministry of Women's Affairs, along with other relevant ministries, have established a multisectoral working group to specifically address violence against women. However, without benefiting from an adequate budget nor a clear mandate or authority, the Ministry is unable to effectively engage in developing sectoral programmes and interventions for the protection of women and girls. The Ministry has thus instead focused on advocacy for women's empowerment and their political participation, through consultation with different constituencies of women. The Special Rapporteur notes that other relevant ministries and institutions with committed civil servants must also be supported if good governance is to be achieved.

35. Since the establishment of the Family and Child Protection Office in 2018 within the Ministry of the Interior, in addition to the aforementioned family and child protection units, two dedicated courts for cases of violence against women and children have also been

<sup>8</sup> Human Rights Watch, "Libya: civilians under threat from militias", 17 January 2019.

<sup>9</sup> United States Agency for International Development, *Libya Gender Analysis: Identification of Constraints, Opportunities & Best Practices in USAID/Libya* (2020).

<sup>10</sup> A/HRC/WG.6/36/LBY/1, para. 65.

established and should be noted as positive developments.<sup>11</sup> Progress has been hampered by the lack of legislation to protect women from violence, understaffed units, the high turnover of staff, lack of specialization in the subject matter and very limited resources.<sup>12</sup> Existing services for survivors of violence against women and children remain very limited and are reliant on the support of humanitarian agencies rather than being institutionalized within government services.

36. Women and children subjected to violence have no access to effective assistance and response mechanisms, particularly essential health services in areas affected by the hostilities and beyond urban centres. In a welcome initiative, a unit on ending violence against women was established within the Ministry of Health in 2021, with the aim of expanding the availability of psychological and health-care services to victims, through a range of activities, including capacity-building of medical staff, conducting research, improving coordination among relevant ministries and improving the health infrastructure.<sup>13</sup> While important, these efforts are still in their infancy and are yet to be scaled up.

37. The Special Rapporteur was struck by some of her interactions with representatives of the Government of National Unity, the majority of whom appeared to be comforted by their perception that many aspects of the law, together with sharia law, uphold equality between men and women, therefore implying that the existing legal framework for the prevention of violence against women and girls is sufficient. At best, some government representatives recognized that the legal framework could benefit from adjustments in some areas, including family law, trafficking, sexual exploitation and violence against women. The Special Rapporteur is troubled by her observation that there is a widespread tendency to downplay the extent of reforms required to bring national legislation into line with the international and regional human rights obligations of Libya and to end violence against women.

38. Opportunities to amend current legislation are significantly curtailed by the fragmentation in governance structures, political deadlock, instability, insecurity and lack of political will to recognize and prioritize the prevention and response to violence against women and girls. Interest in legal and policy reform, where it has been expressed, has often been conditioned by the need for these reforms to be in conformity with religious and social norms in the country without due consideration of the country's international human rights obligations. The lack of concerted effort on the part of the Government of National Unity to revise national legislation in this regard and to implement existing legislation that is relevant to violence against women and girls further exacerbates the risks that they face.

#### **IV. Manifestations of violence against Libyan women and girls**

39. The Special Rapporteur is deeply disturbed by the widespread, systematic and grave levels of violence faced by Libyan women and girls. Femicide, or the killing of women on multiple grounds, is on the rise; as are acts of physical, economic, and political violence in both the private and public sphere. Physical violence includes acts of forced disappearance and sexual harassment, including rape, as well as torture and arbitrary detention. These acts of violence are frequently committed by family members, as well as institutions and individuals affiliated with the authorities and armed groups. Marital rape is commonplace and often accompanied by other acts of violence, such as beatings, insults, abandonment without means for the woman to fend for herself, as well as family and public humiliation.

40. Domestic violence, including physical, sexual and psychological abuse, is still considered mostly a private matter, while rape and other forms of gender-based violence are culturally taboo. Women subjected to violence are regularly denied a fair trial, access to medical care and contact with their families and loved ones. Almost all violence against women in Libya goes underreported, owing in part to the lack of public awareness on how to

<sup>11</sup> UNSMIL, "UN in Libya: statement on 'International Day for the Elimination of Sexual Violence in Conflict Zones'", 19 June 2020.

<sup>12</sup> S/2022/932, para. 83.

<sup>13</sup> A/HRC/WG.6/36/LBY/1, para. 65.



report; fear of stigmatization; lack of trust in law enforcement agencies; and the low quality of existing services and protection mechanisms for victims of violence. Well-founded fears of retaliation pose a significant barrier to reporting, particularly given the rampant impunity that is deeply embedded in the social fabric of the country, with reports received indicating that there have been no comprehensive investigations into allegations of violence against women, nor has anyone been convicted, even for the most egregious crimes. Victims of violence also rarely have access to support and protection services, such as hotlines, shelters or psychosocial services.

41. Judgments in cases involving custody disputes or allegations of domestic violence, in which the court has decided in favour of the woman or child, are often not enforceable, due to a fear of reprisals. Harassment, ranging from intimidation to direct death threats or sexual abuse, are not uncommon methods adopted by either the perpetrator or the extended family as a means of deterring the woman or child from accessing their basic rights. The police response in such cases is extremely limited.

42. Online violence against women and girls is an emerging issue in Libya, with perpetrators of gender-based violence turning to digital technology as a means of intimidating women and girls and preventing them from freely expressing their views. It is also often used to name and shame victims of violence within the community or to initiate defamatory smear campaigns. Both such cases could result in the women and girls being attacked or killed by a family member, the wider community and/or militia groups. For many girls, there is pressure to leave online platforms or self-censor to avoid abuse. This places the onus on girls to change their behaviour, rather than on the perpetrators and must be challenged.

43. The Special Rapporteur is also disturbed by credible reports indicating that women and girls who reject advances by men in authority, including those from law enforcement agencies and militia groups, are accused of having committed adultery, which is punishable by law. Given the stigma that such accusations create for the woman or girl, and her family, along with the likelihood of arbitrary detention, they are thus exposed to additional risks to their lives, including so-called honour killings by members of society or their families.

44. The Office of the Special Representative of the Secretary-General for Children and Armed Conflict noted that children in Libya, including girls, continued to face serious protection concerns, which was further exacerbated by an escalation of violence following the April 2019 offensive of the Libyan National Army to seize control of Tripoli.<sup>14</sup> A joint study by the United Nations Children's Fund, the National Centre for Disease Control and Coram in 2017 and 2018 revealed that at least 88 per cent of girls had reported experiencing some form of violence. Many incidents of such violence, including sexual violence, is perpetuated by family members, teachers or within the community, including by armed groups affiliated with the authorities.

45. Sexual violence is gendered, however; experienced by girls and boys in a distinct manner. Detailed information on the particular way in which Libyan girls and adolescents experience violence is, however, lacking, denoting challenges in reaching out to them to better understand their situations and needs and to provide differentiated assistance, and health and support services. The right of girls to access justice in cases of sexual violence and harassment is essential to their ability to participate meaningfully in society. The low rate of conviction, coupled with physical and psychological barriers to reporting the incidents themselves, creates a culture of impunity with regard to sexual violence and harassment.

46. Protection from sexual violence in schools and the guarantee of reproductive rights are fundamental to girls' and women's right to life, health and equality. Child marriage is one of the principal causes of school dropout. After trending downwards for several years, the number of cases of child marriage increased considerably in 2022, in part due to a Government of National Unity programme that provides up to 40,000 Libyan dinars (approximately, \$8,700) for newly-wed couples.<sup>15</sup> Reports of girls being forced to undergo harmful ceremonial rituals carried out by traditional community leaders are of considerable

<sup>14</sup> Submission by the Office of the Special Representative of the Secretary-General for Children and Armed Conflict, p. 1.

<sup>15</sup> See [www.ndi.org/our-stories/program-spotlight-combatting-child-marriage-libya-not-18-campaign](http://www.ndi.org/our-stories/program-spotlight-combatting-child-marriage-libya-not-18-campaign).

concern. Most of these rituals are aimed at demonstrating the virginity of the unmarried girl and prove to be highly traumatic with long-lasting negative impacts. The Special Rapporteur notes the efforts being made by the Ministry of Education, along with the Ministry of Social Affairs, in conjunction with a coalition of local civil society organizations supported by the National Democratic Institute, to disseminate the “Not before 18” campaign to reduce the number of early marriages throughout the country by raising awareness of its negative consequences.<sup>16</sup> In the following section, the Special Rapporteur provides information about the groups of Libyan women and girls that are at particular risk.

## A. Women active in politics and women human rights defenders

47. After the 2011 uprising, Libyan women actively sought to participate in political and public life, reaching 17 per cent representation in parliament. However, the international withdrawal and lack of subsequent support for Libya after 2014 precipitated the deterioration of security and increased militarization. The increasing control and conflict among various militant groups has excluded women from public life and condoned widespread violence. Acceptance of violence, particularly among the younger generation, perpetuates self-censorship and inhibits public discourse, media coverage and condemnation of such violence.

48. In its national report submitted during the third cycle of the universal periodic review in 2020, the Government of National Accord noted that it had established a unit to support and empower women within the Presidency Council and all ministries. As a result, the representation of women in judicial positions had exceeded 40 per cent and the presence of women in university education had exceeded that of men. Equally of note, the proportion of women working in the public sector had exceeded 50 per cent.

49. While welcoming the aforementioned development, the Special Rapporteur is concerned that women continue to be underrepresented in political and public life, particularly in decision-making bodies, including the executive branch of government and the diplomatic and public service. According to a study conducted by Democracy Reporting International Libya and the Jusoor Center for Studies and Development, which assessed the situation of Libyan women’s public participation, almost 60 per cent of participants noted that women felt deterred from participating in the public sphere as a result of attacks on women. These attacks were reported to be in the form of bullying, threats, defamation, hate campaigns, forced disappearances, murder and other forms of violence to discourage and intimidate women from public participation or to punish them for voicing their opinions. The High National Election Commission plays a crucial role in highlighting the importance of women in the political sphere and should be further supported in its programme to monitor online violence against women during the elections.

50. Women and/or their family members who hold or who are perceived to hold political opinions contrary to those in power, who oppose powerful actors on the ground or who go against socially accepted norms are victims of particularly gross levels of violence. These include femicide, rape, torture, kidnapping and other forms of sexual violence and forced disappearance. For example, in April 2020, a group of women from the same family were abducted at the hands of the Ninth Brigade and were later found at a mass grave in Tarhunah. Other examples include the killing of prominent women activists, including Salwa Bugaighis, Fareeha al-Berkawi, Intissar al-Hasaeri and Hanan al-Borosi, who were targeted for criticizing powerful political and military figures. The victims are meant to serve as examples for those daring to emulate them and the threats, harassment and assaults targeting many others appear designed to send a broader message that women should not be vocal in the public sphere. Meanwhile, the fate of Siham Sergiwa, a Member of the House of Representatives, who was violently kidnapped from her home in Benghazi by an armed group in 2019, remains unknown. The lack of a national mechanism to protect victims and witnesses in Libya has resulted in a severe lack of reporting for fear of reprisals.

51. Women human rights defenders, including those working with Libyan women, migrants, refugees and others affected by the conflict have expressed concern about their

<sup>16</sup> See [www.ndi.org/our-stories/program-spotlight-combatting-child-marriage-libya-not-18-campaign](http://www.ndi.org/our-stories/program-spotlight-combatting-child-marriage-libya-not-18-campaign).

personal safety and security. Some of them work secretly fearing a backlash by those in power and their communities. The Special Rapporteur is disturbed by reports of a wave of arrests of women human rights defenders, accused of “offending the traditions of Libya”, following the activation of the anti-cybercrime law on 17 February 2023.<sup>17</sup> The Special Rapporteur is further concerned by the legal opinion issued on 8 March 2023 by the Supreme Judicial Council, declaring all NGOs and civil society organizations that have not been established in accordance with Law No. 9 of 2001 to be illegal and recommending that their registration should be deemed void. It constitutes an intensification of the crackdown on civic space in Libya.

## **B. Women and children associated with Da’esh or other extremist armed groups**

52. Reports of the detention of women allegedly affiliated with Da’esh fighters, along with their children, in the military wing of Kuwayfiah detention centre in Benghazi is deeply concerning. Many of the women were children themselves when they were either recruited, abducted or coerced into marrying Da’esh fighters. According to reports by the Office of the United Nations High Commissioner for Human Rights (OHCHR) and UNSMIL,<sup>18</sup> the women are reportedly exposed to sexual violence, including rape, and lack access to proper food, water, basic hygiene and medical care. Since the time of their arrest in 2016, the women concerned have been denied due process, including access to legal services or calls with their families. Children, including girls, who are arbitrarily detained and deprived of liberty, including in several detention centres and prisons throughout the country, without charge or trial, on account of their family’s alleged links with Da’esh, are reportedly languishing in dire conditions with their mothers.

## **C. Internally displaced women and girls**

53. Law No. 29 of 2013 on transitional justice provides accountability and reparations mechanisms for victims of human rights violations committed since 1969. The Law also stipulates the establishment of an agency for the affairs of internally displaced persons. This agency has the authority to inspect their conditions, make it possible for them to exercise their rights and prevent discrimination against them.<sup>19</sup> The Special Rapporteur welcomes efforts to advance durable solutions for internally displaced persons, including the finalization of a national strategy for durable solutions in line with international frameworks and the United Nations Sustainable Development Cooperation Framework for Libya for the period 2023–2025.<sup>20</sup>

54. Of the more than 132,000 internally displaced persons in the country, the women among them often lack access to sexual and reproductive health services, violence prevention and response services, as well as access to the justice system. The worsening security situation often results in limiting the freedom of movement of women and girls on the assumption that such restrictions are in their best interests.

## **D. Women and girls perceived to be acting contrary to established social and religious norms**

55. The Special Rapporteur was disturbed at reports received indicating that women and girls who are perceived to be overly independent or who have supposedly stained the family’s honour or challenged social or religious norms are either ostracized from their families or are subjected to corrective punishment, which can take the form of beatings or other forms of

<sup>17</sup> UNSMIL, “SRSG Abdoulaye Bathily’s remarks to the Security Council meeting on Libya – 27 February 2023”, 27 February 2023.

<sup>18</sup> [A/HRC/43/75](#).

<sup>19</sup> [A/HRC/WG.6/22/LBY/1](#), para. 44.

<sup>20</sup> United Nations Libya, *United Nations Sustainable Development Cooperation Framework: Libya 2023–2025* (Tripoli, 2022), p. 11.

violence, including sexual violence. Anyone deemed to be a “feminist” can be identified for investigation and arrest, including by the Tripoli-based Internal Security Agency. In one case highlighted by the Independent Fact-Finding Mission on Libya, a young activist was abducted and disappeared for more than two years and subjected to ill-treatment and torture in detention; the victim explained that part of his interrogators’ focus was on his perceived efforts to “liberate women”.<sup>21</sup>

56. The Special Rapporteur was informed during her visit that anyone associated with promoting equality between men and women, including women human rights defenders, are villainized and targeted with hate speech as a means of delegitimizing and silencing them. More concerning are reports that they may be accused of apostasy. While apostasy is not a crime in itself, militias take it upon themselves to mete out whatever punishment they see fit.

57. Lesbian, gay, bisexual, transgender and intersex persons suffer from societal and official discrimination justified in part by religious dogma. Incidents of beatings and rape of lesbian, gay, bisexual, transgender and intersex persons have been reported.<sup>22</sup> The lesbian, gay, bisexual, transgender and intersex community is therefore forced to live in hiding as its members are not protected against gender-based violence and attacks on their lives or discrimination. Articles 407 and 408 of the Penal Code were amended in 1973 to criminalize consensual sex and indecent acts regardless of the gender or the sexual orientation of the persons involved. The Special Rapporteur is very concerned that the officials of the Government of National Unity with whom she met noted that there were no lesbian, gay, bisexual, transgender or intersex persons in Libya.

## **E. Women married to foreigners**

58. According to Law No. 24 of 2010 on provisions of Libyan nationality, a mother may confer her nationality on her children only if the father is unknown, stateless or does not establish filiation. The discriminatory application of Law No. 24 in law and in practice has resulted in the inability of Libyan mothers to confer their nationality on their children and non-Libyan spouses on an equal basis with men, resulting in the lack of equal access to their fundamental civil, political and economic rights, as well as their right to a legal identity.

59. Witnessing the daily challenges that their children endure has resulted not only in significant psychological distress, but also in many women being forced to remain in abusive relationships. Due in part to the strong advocacy lobby by Libyan women affected by the situation, the Council of Ministers of the Government of National Unity has granted children of Libyan women who are not citizens access to free education, free medical treatment and visa-free entry to the country. While the Special Rapporteur welcomes this move, she urges the Libyan authorities to remove discriminatory processes, which constitutes a recurrent recommendation that Libya has received during the various cycles of the universal periodic review, including the operationalization of article 11 of the aforementioned law by the executive branch of the government.<sup>23</sup>

60. Without Libyan nationality, non-citizen children of Libyan women face difficulties, including in obtaining identity documents. Their civil and political rights are severely limited, preventing them from voting in elections and shutting them out of public sector jobs.

<sup>21</sup> A/HRC/50/63, para. 86.

<sup>22</sup> A/HRC/48/83, para. 52.

<sup>23</sup> Article 11 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”.

## F. Violence against non-Libyan women and girls, particularly those of African descent

61. There are approximately 650,000 migrants comprising more than 40 nationalities in Libya,<sup>24</sup> although estimates are difficult to verify due to the lack of official government data. Of these, a significant number of non-Libyans are refugees and asylum-seekers, of whom 43,113 are registered individuals.<sup>25</sup> Even though Libya is a party to the Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa, refugees and asylum-seekers are considered as illegal migrants and their status of asylum-seeker or refugee is not taken into account by current Libyan law in view of the absence of a legal framework on asylum. Law No. 6 of 1987 on organizing the entry, residence and exit of foreigners in Libya and Law No. 19 of 2010 on combating illegal migration criminalize irregular entry, stay and exit from the country, resulting in the automatic detention of migrants, refugees and asylum-seekers as they are considered to have committed a criminal offence. As a result of their criminalization, migrants in Libya are also systematically deprived of access to justice and economic, social and cultural rights, including health, education, social protection, decent work and an adequate standard of living.<sup>26</sup>

62. As of January 2023, an estimated 2,857 migrants were detained in official detention centres, of whom 313 were women and 30 were girls.<sup>27</sup> Since 2021, new detention centres have been established under the authority of the Stability Support Apparatus. It is estimated that thousands of asylum-seekers, refugees and migrants are held in detention centres run by the Stability Support Apparatus or are being held captive by different security forces and are essentially hidden without access to any kind of protection or visits by NGOs or United Nations agencies.

63. While the Special Rapporteur was not permitted to visit any locations in which non-Libyans were being held, she was alarmed at the multiple reports that she received of discriminatory and dehumanizing treatment, including horrific levels of torture and sexual violence. Women held at detention centres are reportedly subjected to strip-searches by or in front of male guards or to intrusive cavity searches. Male guards also routinely enter women's cells and washing and sanitation facilities without warning. Reports of rape and other forms of sexual violence are common, particularly among younger women, who are reportedly selected and taken out of their cells on a nightly basis to be raped by guards and their guests.<sup>28</sup>

64. The climate of impunity for rape and other sexual violence against migrant and refugee women and girls, coupled with the lack of female guards or safeguards, including regular independent unannounced monitoring or compliance mechanisms, create an environment in which women and girls in detention are vulnerable to sexual violence and exploitation. They have no recourse to justice or redress or access to adequate sexual and reproductive health services. They are subjected to systematic and large-scale violations of their fundamental human rights at the hands of armed groups, smugglers and traffickers, individuals and institutions affiliated with the State and within the community. Such violations include abduction for ransom, sexual exploitation, forced prostitution, trafficking in persons, forced labour and exploitation, and abuse by private employers. Impunity for these acts continues to be rampant.

65. Non-Libyan women and girls experience severe and systematic intersectional discrimination based on multiple identities, including their gender, age, race and the fact that they are foreigners, all of which exacerbate their exposure to violence. Migrant women and girls of African descent are at particular risk, in part due to the endemic racism that exists in

<sup>24</sup> International Organization for Migration, "IOM Libya migrant report: round 41, February–April 2022" (2022), p. 4.

<sup>25</sup> See <https://data.unhcr.org/en/country/lby>.

<sup>26</sup> OHCHR, "Nowhere but back: assisted return, reintegration and the human rights protection of migrants in Libya" (Geneva, 2022).

<sup>27</sup> International Organization for Migration, Global Data Institute, Displacement Tracking Matrix, "Libya – detention centre profile generator (January 2023)".

<sup>28</sup> UNSMIL and OHCHR, *Desperate and Dangerous: Report on the Human Rights Situation of Migrants and Refugees in Libya* (Geneva, 2018), p. 46.

Libyan society, resulting in dehumanizing treatment and abuse. In October 2019, for example, an unidentified armed group abducted a Sudanese woman from the market area in Benghazi. Her body was found in the Hawwari neighbourhood three days later. The body of another Sudanese woman, who had also been abducted from the market area, was found with gunshot wounds in the Jilyana area of the city the following day. Reports indicated that both victims were killed for allegedly practising witchcraft.<sup>29</sup>

66. According to credible information received by UNSMIL and OHCHR, migrant women who travelled through Libya using smuggling routes and those who were in official and unofficial migrant detention centres were targeted for rape. Migrant women who had been detained were reportedly taken away by armed men from cells shared with others and repeatedly raped over several days. Women migrants held by groups pledging allegiance to Da'esh were "handed over" to individual fighters and repeatedly raped. If they sought to resist, they were beaten and tied up. Those that tried to escape were also beaten and denied food and/or water for up to two days.<sup>30</sup>

67. Sexual violence, including rape, against migrant women and girls is rampant. Not only does it take place in detention centres during interrogations and beyond, including those run by the Ministry of the Interior, it is also prevalent in the public and private spheres. State agents or members of militias, as well as traffickers, use sexual violence as a tool of subjugation or humiliation. Given the high level of impunity for such crimes, along with shame or a fear of reprisals, survivors of sexual violence do not report their cases to the authorities or share their experiences with others. The Special Rapporteur is aware of a number of cases in which sexual abuse has resulted in unwanted pregnancies. Underage girls have not been spared. In 2022, at least five girls aged between 7 and 17 years old were abducted, detained and raped by unknown armed groups, armed trafficking groups and officials, while in immigration detention.

## **G. Women in detention**

68. The consequences of the rampant impunity that continues to pervade society, combined with the breakdown of governance and rule of law, is most felt by those in detention, particularly women and girls. With the exception of Jadida Women's Prison in Tripoli, no other detention facility employs female guards. The situation is compounded by the unimpeded access of male guards to the cells of female inmates, which increases the risk of sexual abuse and exploitation. According to information received, conditions in the Mitiga prison, which is run by the Deterrence Apparatus to Combat Organized Crime and Terrorism and in which an estimated 80 Libyan and non-Libyan women and an undetermined number of children are being detained, are dire with inmates forced to survive in appalling conditions of arbitrary detention, including lack of access to health care, legal aid and visitation rights, and regular exposure to sexual abuse, torture and violence. The situation is so severe that women were prompted to launch a hunger strike in 2021, which was brutally suppressed.

## **V. Departures, pushbacks and access to protection and asylum outside of Libya**

69. According to the Office of the United Nations High Commissioner for Refugees (UNHCR), it is estimated that approximately 90 per cent of those who attempt to reach Europe depart from Libya using the central Mediterranean route,<sup>31</sup> which is characterized by very high loss of life and persons missing at sea. Of the 53,310 persons who arrived in Italy from Libya in 2022, only 3 per cent were women and 16 per cent children, which suggests that departure from Libya is highly gendered and that the majority of women and girls do not leave.

<sup>29</sup> A/HRC/43/75, para. 24.

<sup>30</sup> A/HRC/WG.6/36/LBY/2, para. 44.

<sup>31</sup> See [www.unhcr.org/libya.html?query=libya](http://www.unhcr.org/libya.html?query=libya).

70. The Special Rapporteur reiterates the concerns of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families in relation to reports of interceptions of vessels carrying migrants by the Libyan Coast Guard in the Mediterranean Sea and their return to Libya, reportedly at times against their will, in so-called pullback operations.<sup>32</sup> In 2021, 32,425 migrants were returned to Libya in such circumstances,<sup>33</sup> with more than 8,000 estimated to have been arbitrarily arrested and transferred to detention centres run by the Department for Combating Illegal Migration, while more than 15,000 were unaccounted for, with no clarity as to whether they were transferred to official detention centres or not. It is assumed that many may have been transferred to unofficial facilities in which severe human rights violations are reportedly taking place.

71. Furthermore, Libyan authorities are reported to have arrested at least 7,500 migrants between January 2019 and December 2020, without any due process,<sup>34</sup> while departures for resettlement and evacuation flights for refugees and asylum-seekers have been prevented by the authorities. There have been reported incidents of guards and others shooting at refugees and migrants in detention centres or during escape attempts. In its report of June 2022, the Independent Fact-Finding Mission on Libya found reasonable grounds to believe that crimes against humanity were being committed against migrants in Libya, including by mid- to senior-level Libyan officials as part of a “cycle of violence” being systematically perpetrated against migrants.<sup>35</sup>

72. With the increased arrivals from Libya to European shores through the Mediterranean Sea, European Union foreign and defence ministers agreed to create a naval force and launch a common security and defence policy operation in the Mediterranean on 18 May 2015, the European Union military operation in the Southern Central Mediterranean, with the aim of saving lives by disrupting criminal networks of smugglers and traffickers.

73. In March 2019, the operation officially ended its sea patrols, and significantly shifted its focus from carrying out its own maritime search and rescue operations to strengthening surveillance by air, as well as reinforcing support for the Libyan Coast Guard through enhanced training and capacity-building. On 31 March 2020, the European Union military operation in the Southern Central Mediterranean was replaced by the European Union military operation in the Mediterranean, which has a specific mandate to implement the arms embargo on Libya imposed by the Security Council; however, its vessels have no specific search and rescue mandate.<sup>36</sup> In September 2020, a more coordinated European approach to search and rescue was presented in the new pact on migration and asylum proposed by the European Commission, which remains to be adopted by European Union member States.<sup>37</sup>

74. The Special Rapporteur is deeply concerned by reports of a lack of cooperation, including information-sharing, in rescue coordination, particularly from coordinating States, with humanitarian NGOs operating in the central Mediterranean Sea, with reports indicating that the calls and inquiries by search and rescue observers are ignored or dismissed when operating in the immediate area of a boat in distress.<sup>38</sup> The Special Rapporteur is also troubled by reports indicating that, in 2022, during 55 per cent of all disembarkations in Libya, there were no humanitarian organizations present. The treatment of non-Libyan migrant and refugee women and girls cannot be disassociated from the broader context of the violence that migrant and refugees as a whole experience in the country. The Special Rapporteur is deeply concerned by the continued cooperation between the Libyan authorities and European Union countries to intercept migrants at sea and to push them back to conditions in which their lives are at risk and she concurs with OHCHR and others within the United Nations system that have consistently held that Libya cannot be considered a safe place for the return

<sup>32</sup> CMW/C/LBY/CO/1, para. 32.

<sup>33</sup> See [www.infomigrants.net/en/post/40001/iom-4000-migrants-returned-to-libya-so-far-this-year](http://www.infomigrants.net/en/post/40001/iom-4000-migrants-returned-to-libya-so-far-this-year).

<sup>34</sup> OHCHR, “Unsafe and undignified: the forced expulsion of migrants from Libya” (Geneva, 2021), p. 18.

<sup>35</sup> A/HRC/50/63, para. 75.

<sup>36</sup> OHCHR, “‘Lethal disregard’: search and rescue and the protection of migrants in the central Mediterranean Sea” (Geneva, 2021), p. 10.

<sup>37</sup> Ibid.

<sup>38</sup> Ibid., p. 11.

or disembarkation of migrants intercepted or rescued at sea and that such returns to Libya may violate the principle of non-refoulement due to the constant threat of human rights violations and abuses in Libya by State and non-State actors.<sup>39</sup>

## VI. Recommendations

75. On the basis of the above findings and in a spirit of cooperation and dialogue, the Special Rapporteur offers the following recommendations, which should be considered in conjunction with the relevant recommendations emanating from the universal periodic review.

### A. Ending violence against Libyan women and girls

76. The authorities of Libya should:

(a) Remove all reservations to the Convention on the Elimination of All Forms of Discrimination against Women and consider ratifying all outstanding international human rights instruments and update domestic legislation to bring it into line with international treaties;

(b) Adopt the pending draft law on ending violence against women as a matter of priority, ensuring that it is preceded by a comprehensive campaign to familiarize wider society with its objectives;

(c) Adopt a comprehensive national action plan on empowerment and ending violence against women that incorporates: a robust inter-institutional mechanism for its implementation; clear roles and responsibilities for relevant line ministries; the inclusion of all relevant stakeholders, including NGOs; allocation of adequate financial and human resources; and a timeline and measurable targets requiring authorities to implement relevant laws to ensure the prevention and elimination of all forms of de facto discrimination and violence against women and girls;

(d) Ensure the protection of women candidates and politicians, women activists and women municipal councillors from all forms of violence, including those online, and ensure a secure environment in which they can freely express their views and participate in political and public life without fear of reprisals;

(e) Adopt a national strategic plan to address entrenched patriarchal attitudes, gender stereotypes and harmful practices, with the aim of promoting equal sharing of family responsibilities between women and men and the equal status and responsibilities of women and men in the private and public spheres;

(f) Develop a campaign to counter disinformation surrounding the objectives of international treaties ratified by Libya, including the Convention on the Elimination of All Forms of Discrimination against Women;

(g) Strengthen the judiciary to bring to justice the perpetrators of violations or abuses of international human rights law and violations of international humanitarian law;

(h) Take urgent steps, with the technical support of UNSMIL and other relevant United Nations agencies and mechanisms, to amend the Penal Code and other relevant legislation, to encompass all forms of violence against women, and to bring them into line with general recommendations Nos. 19 (1992) and 35 (2017) of the Committee on the Elimination of Discrimination against Women; and revise the decree regulating the work of NGOs;

(i) Encourage women to report incidents of gender-based violence, including domestic violence, by tackling the rampant impunity for cases of violence against

<sup>39</sup> OHCHR, “Nowhere but back: assisted return, reintegration and the human rights protection of migrants in Libya”.



women, particularly femicide and domestic violence, and ensure that all cases of gender-based violence against women are effectively investigated and that perpetrators are prosecuted and adequately punished;

(j) Establish a mechanism to collect comparable data on violence against women and gender-related killings of women or femicide, as well as cases of suicides of women, by setting up a system charged with collecting data, to include data on the relationship between victim and perpetrator;

(k) Ensure that women and girls are protected from sexual violence; hold to account perpetrators of sexual violence; and remove legal impediments preventing survivors from reporting incidents;

(l) Hold to account perpetrators of killings and enforced disappearances of women; and ensure protection for women human rights defenders and activists;

(m) Strengthen measures to ensure equality and the prohibition of discrimination based on any grounds, including sex, sexual orientation, gender, disability, race and religion, among others, and decriminalize consensual same-sex relations;

(n) Ensure the immediate transfer of women detainees to facilities with sufficient female guards and other trained personnel; establish gender-appropriate health care and other services for women and accompanying children in detention; and protect women detainees from torture and sexual abuse and exploitation;

(o) Adopt comprehensive anti-trafficking legislation to prevent and eliminate trafficking in women and girls regardless of their nationality; develop guidance on the various punishable elements under Libyan law; and establish a national referral mechanism for victims of trafficking along with witness protection schemes for women victims so as to encourage them to testify against their traffickers;

(p) With the support of relevant United Nations agencies and civil society organizations and in conjunction with relevant ministries and institutions, including the Ministry of Women's Affairs and the Higher Council for Childhood, strengthen the national child protection system;

(q) Immediately end the arbitrary detention of all children in Libya, including girls; release from detention and facilitate, to the extent possible, the voluntary return of women and children allegedly associated with Da'esh;

(r) Ensure that Libyan mothers who have children with foreign-born fathers have access to identity documents, in line with the new decree on Law No. 24 of 2010 on provisions of Libyan nationality;

(s) Effectively implement the prohibition of child marriage, including the de facto tolerance of religious marriages, and strengthen awareness-raising efforts regarding the harmful effects of child marriage on the health and development of girls, in line with joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child on harmful practices;

(t) Fully fund and implement the national action plan for implementation of Security Council resolution 1325 (2000) on women, peace and security, to protect women and girls from violence in law, policy and practice.

## **B. Ending violence against non-Libyan women and girls**

77. The authorities of Libya should:

(a) Take immediate steps to protect the human rights of women migrants in Libya, including by decriminalizing irregular entry, stay and exit in Libya, ensuring non-discrimination based on the nationality or migration status; carry out search and rescue operations with the objective of saving lives and delivering rescued persons to a

place of safety; refrain from dangerous interception practices and the forcible return of migrants to Libya; immediately end arbitrary detention and release all arbitrarily detained women and girl migrants in Libya; ensure migrant women and girls in Libya have access to health, housing, decent work and other rights without discrimination; and investigate and ensure accountability, including access to justice and effective remedy, for all human rights violations and abuses perpetrated against migrants;

(b) Develop a favourable legal framework that would allow for the regularization of the legal status of asylum-seekers and refugees, as well as their stay in safety and dignity;

(c) Accelerate the development and adoption of labour migration schemes for women migrants and other foreigners who may wish to stay in Libya and work;

(d) Facilitate uninterrupted access, in line with universal periodic review recommendations, for international NGOs and United Nations bodies to detention centres run by the Department for Combating Illegal Migration and other centres in which potential asylum-seekers and refugees are held, protect women and girl detainees from violence, exploitation and abuse by smugglers and hold accountable those responsible for such acts;

(e) Move, as a matter of urgency, women and children who are believed to be affiliated with Da'esh to a women's prison under the auspices of the Ministry of Justice, in which they can obtain the protection, care and services that they need, in line with international standards (or release them if they are held without a legal or factual basis);

(f) Ensure that sexual violence is incorporated as a stand-alone designation criterion for targeted sanctions, including the imposition of travel and visa bans, the freezing of assets and other financial resources so as to ensure that there are no safe havens for perpetrators and to curtail the financial revenues of armed groups from trafficking for the purposes of sexual exploitation; and ensure that decisions related to humanitarian exemptions duly take into account gender considerations;

(g) Expand safe and regular pathways for admission to and stays in European Union member States for women refugees and migrants currently in Libya based on grounds of international human rights protection, as well as compassionate, humanitarian or other considerations; and encourage European Union and other countries to scale up opportunities for resettlement, evacuation and humanitarian corridors, following the model in Italy, especially for women survivors of gender-based violence and unaccompanied children;

(h) Ensure safe and regular pathways for voluntary return for migrant women and girls who wish to return to their home countries and for whom it would be safe to do so;

(i) Design and implement specific mechanisms for the evacuation and resettlement of non-Libyan women and girls outside Libya;

(j) End any operation by the Libyan Coast Guard or other law enforcement agency that violates the right of migrant workers and members of their families to leave any State, including Libya;

(k) Adopt measures for the registration and documentation of migrants and refugees by the authorities and accept UNHCR documentation, including when accessing public services, and ensure the implementation of national provisions on the regularization of foreign nationals, including the granting of work permits.

78. The authorities of Libya and the international community should scale up efforts to hold those involved in perpetuating crimes against humanity against migrants and refugees in Libya, including women and girls, accountable. In order to enhance prospects for accountability, actors investigating and following up on international crimes, such as the International Criminal Court, should ensure that the matter of gender-based persecution is sufficiently investigated.

79. **The European Union, its institutions and member States must, as a matter of urgency, end cooperation with the Libyan Coast Guard in relation to pushbacks and forced return to Libya as they constitute a violation of their obligations under international law.**

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