



Home Office

# Country Policy and Information Note

## Libya: Women

Version 2.0

January 2018

# Preface

This note provides country of origin information (COI) and policy guidance to Home Office decision makers on handling particular types of protection and human rights claims. This includes whether claims are likely to justify the granting of asylum, humanitarian protection or discretionary leave and whether – in the event of a claim being refused – it is likely to be certifiable as ‘clearly unfounded’ under s94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers must consider claims on an individual basis, taking into account the case specific facts and all relevant evidence, including: the policy guidance contained with this note; the available COI; any applicable caselaw; and the Home Office casework guidance in relation to relevant policies.

## Country information

COI in this note has been researched in accordance with principles set out in the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#) and the [European Asylum Support Office’s research guidelines, Country of Origin Information report methodology](#), namely taking into account its relevance, reliability, accuracy, objectivity, currency, transparency and traceability.

All information is carefully selected from generally reliable, publicly accessible sources or is information that can be made publicly available. Full publication details of supporting documentation are provided in footnotes. Multiple sourcing is normally used to ensure that the information is accurate, balanced and corroborated, and that a comprehensive and up-to-date picture at the time of publication is provided. Information is compared and contrasted, whenever possible, to provide a range of views and opinions. The inclusion of a source is not an endorsement of it or any views expressed.

## Feedback

Our goal is to continuously improve our material. Therefore, if you would like to comment on this note, please email [the Country Policy and Information Team](#).

## Independent Advisory Group on Country Information

The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to make recommendations to him about the content of the Home Office’s COI material. The IAGCI welcomes feedback on the Home Office’s COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy. IAGCI may be contacted at:

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Information about the IAGCI’s work and a list of the COI documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector’s website at <http://icinspector.independent.gov.uk/country-information-reviews/>

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# Policy guidance

Updated: 29 January 2018

## 1. Introduction

### 1.1 Basis of claim

1.1.1 Fear of gender-based persecution or serious harm from non-state actors.

### 1.2 Points to note

1.2.1 For the purposes of this note, gender-based persecution or serious harm includes domestic violence, sexual violence (including rape), so-called 'honour' crimes and forced marriage or divorce.

1.2.2 Decision makers should also refer to the [Asylum Instruction on Gender issues in the asylum claim](#).

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## 2. Consideration of issues

### 2.1 Credibility

2.1.1 For information on assessing credibility, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

2.1.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the [Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants](#)).

2.1.3 Decision makers should also consider the need to conduct language analysis testing (see the [Asylum Instruction on Language Analysis](#)).

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### 2.2 Particular social group

2.2.1 Libyan women form a particular social group (PSG) within the meaning of the Refugee Convention because they share an innate characteristic or a common background that cannot be changed, and have a distinct identity which is perceived as being different by the surrounding society.

2.2.2 Although Libyan women form a PSG, establishing such membership is not sufficient to be recognised as a refugee. The question to be addressed in each case is whether the particular person will face a real risk of persecution on account of their membership of such a group.

2.2.3 For further information and guidance on particular social groups, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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### 2.3 Assessment of risk

2.3.1 The Constitutional Declaration states that men and women are equal before the law and have the same rights, however it has yet to be implemented and the government has been unable to enforce the Declaration due in part to its

limited operating capacity. Libya remains a conservative and patriarchal society where women are subject to discrimination in law and in practice, and are marginalised socially, politically and economically (see [Political and security context](#); [Legal context](#); and [Gender-based discrimination and violence](#)).

2.3.2 In the country guidance case of [AT and Others \(Article 15c; risk categories\) \(CG\) \[2014\] UKUT 318 \(IAC\) \(14 July 2014\)](#), heard 18-22 November 2013, the Upper Tribunal found that:

‘Whilst Libya is a male-dominated society and there is evidence of discrimination and violence against women and poor recognition of women’s rights, being female does not per se establish a risk on return. However, taking into account all the circumstances, including a woman’s age, health, level of education and economic status, one or more of the following characteristics or factors are likely, depending on the circumstances, to be significant in relation to the assessment of risk on return for a woman:

‘a) African ethnicity;

‘b) Being a victim of sexual violence, including having been raped by soldiers loyal to the Qadhafi regime or by other combatants;

‘c) Being a woman accused or suspected of sexual misdemeanours or offences against family honour.’ (para 215 (10))

2.3.3 The human rights situation for women has not significantly changed since [AT and Others](#) was promulgated. Women continue to face persistent societal discrimination and remain vulnerable to gender-based violence, which is reported to be widespread but underreported (there are no reliable data on numbers affected) (see [Gender-based discrimination and violence](#)).

2.3.4 Levels of discrimination and violence have been exacerbated by the break down of law and order, and the continued lack of security and political stability (see [Political and security context](#); [Legal context](#)).

2.3.5 Women who are particularly vulnerable to be subject to treatment amounting to persecution or serious harm include:

- women of African ethnicity
- victims of sexual violence
- women accused of a sexual offence against family honour
- women’s rights activists
- women displaced by conflict without a support network and female-headed households

2.3.6 See [Gender-based discrimination and violence](#), [Women’s rights activists](#) and the country policy and information notes on [Libya: Security and humanitarian situation](#) and [Libya: Minority ethnic groups](#).

2.3.7 However being female does not on its own establish that a woman will be subject to treatment amounting to persecution and qualify as a refugee. Decision makers must consider each case on its merits, determining whether they are likely to face treatment so serious by its nature and repetition that it

amounts to persecution. The onus is on the woman to demonstrate that she would be personally at risk of gender-based violence.

- 2.3.8 If a woman does not qualify for refugee status, decision makers **must** consider whether protection is required owing to the prevailing security and humanitarian situation under Articles 2 and 3 of the ECHR / Articles 15 (b) and (c) of the Qualification Directive. For analysis and country information, see the Country Policy and Information Note on [Libya: Security and humanitarian situation](#).
- 2.3.9 For further information on assessing risk, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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## 2.4 Protection

- 2.4.1 In the country guidance case of [AT and others](#), the Tribunal found that in general a woman who has established that she is at risk of persecution or serious harm will not be able to obtain protection (see para 215 (17)).
- 2.4.2 Since [AT and others](#) was promulgated in July 2014, political instability and lawlessness has continued. In the absence of a coherent and unified state, law and order has not significantly improved. Therefore, in general a woman continues to be unlikely to be able to obtain protection (see [Political and security context](#)).
- 2.4.3 For general guidance on assessing the availability state protection, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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## 2.5 Internal relocation

- 2.4.1 In [AT and Others](#), the Tribunal found that in general a woman who is at risk of serious harm or persecution in her home area would not be able to internally relocate (para 215 (18)). The Tribunal furtherfound that:
- ‘In relation to the possibility for a woman to relocate internally, taking into account the position of women in society in Libya, the difficulty for women of accessing accommodation if alone, and the rarity of a woman arriving in a community without knowing any person there, internal relocation would not be reasonable and would be unduly harsh unless in the prospective area of relocation the woman has a close family or significant other connection, aside from merely a tribal connection.
- ‘In addition, bearing in mind the above factors, a woman is likely to be more conspicuous with the result that her presence may more easily be discovered by the prospective persecutor.’ (see paras 215 (22-23))
- 2.5.1 The country situation has not significantly improved since AT was promulgated. Therefore, in general, it will be unreasonable for a woman who is at risk of persecution in her home to relocate.
- 2.5.2 If a woman is not found to be at risk of persecution for a Refugee Convention ground in her home area, decision makers must consider whether she is likely to face serious harm as a result of the prevailing security and humanitarian situation in Libya under Articles 2 and 3 of the ECHR / Articles

15 (b) and (c) of the Qualification Directive and, if so, whether internal relocation is reasonable. For further analysis and country information, see the Country Policy and Information Note on [Libya: Security and humanitarian situation](#).

- 2.5.3 For guidance on considering internal relocation, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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## 2.6 Certification

- 2.6.1 Where a claim is refused, it is unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.

- 2.6.2 For further guidance on certification, see [Certification of Protection and Human Rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 \(clearly unfounded claims\)](#).

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# Country information

Updated: 22 January 2018

## 3. Political and security context

- 3.1.1 Detailed information on the general security and humanitarian situation is available in the country policy and information note on [Libya: Security and Humanitarian Situation](#).
- 3.1.2 The UN Office for the Coordination of Humanitarian Affairs assessed the country situation of Libya in their 2017 Humanitarian Needs Overview Report, and stated that:
- ‘The current crisis in Libya is the result of conflict, political instability and a vacuum of effective governance, driving system collapse with grave security, rule of law, social and economic consequences. Hundreds of thousands of people across the country are now suffering, living in unsafe conditions and in high-risk hostile environments, with little or no access to basic household goods and essential commodities, and without functioning public services and utilities. Under these conditions people are highly vulnerable, exposed to violence and unable to access life-saving medical assistance, essential medicines, food, safe drinking water and sanitation, shelter and education...
- ‘Civilians in Libya continue to suffer as a result of conflict, insecurity, political instability and a collapsing economy. An estimated 1.3 million people are in need of humanitarian assistance. ‘The most vulnerable groups include people with no or low incomes and coping mechanisms such as displaced people, refugees and vulnerable migrants, and people with disabilities, older persons, children and women.’<sup>1</sup>
- 3.1.3 The Australian Department of Foreign Affairs and Trade (DFAT) based on consulting a range of sources in a report of April 2016 observed that: ‘...the lack of political stability since the outbreak of civil conflict in 2011, compounded by the resumption of conflict in 2014, has contributed to a situation where the rule of law as provided by a national government does not exist for the majority of Libyans.’<sup>2</sup>
- 3.1.4 A joint report by ‘the Office of the Commissioner General for Refugees and Stateless Persons (CGRS) in Belgium, the Country of Origin Information Unit of the Ministry of Foreign Affairs in the Netherlands, the Office for Country Information and Language Analysis (OCILA) of the Ministry of Security and Justice in the Netherlands, Landinfo in Norway and Lifos in Sweden’ (European joint report), Libya: Vulnerable Groups, of December 2014, based on a range of sources, observed:

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<sup>1</sup> The UN Office for the Coordination of Humanitarian Affairs, ‘2017 Humanitarian Needs Overview; Libya’, November 2016, Part I: Humanitarian Key Figures, p.5 & 7, [http://www.ecoi.net/file\\_upload/1226\\_1479290506\\_2017-libya-humanitarian-needs-overview-november-2016-0.pdf](http://www.ecoi.net/file_upload/1226_1479290506_2017-libya-humanitarian-needs-overview-november-2016-0.pdf), accessed 12 April 2017.

<sup>2</sup> Australian Govt, ‘DFAT Country Information Report - Libya’ (p21), 4 April 2016, <http://dfat.gov.au/about-us/publications/Pages/country-information-reports.aspx>. Accessed 12 April 2017.



'In the period after Qadhafi's fall, activist women's focus has been to defend rights and positions already obtained (both under Qadhafi and during the 2011 uprising), and to amend legislation which is discriminatory to women, all the while facing a political landscape where conservative Islamists have gained considerable influence.[...]

'The influence of conservative religious leaders extends well beyond the political sphere, as a large number of militia groups in post-Qadhafi Libya have an islamist agenda, and at times explicitly embrace a role of "moral police" in their community.[...] In the autumn of 2014, militias in eastern Libya have declared allegiance to the Salafi extremist group the Islamic State, [...] infamous for its very conservative views on the position of women.

'There is no indication that women are particularly targeted in the armed conflicts currently going on in Libya (although they are just as vulnerable in the difficult security situation as the population in general).'<sup>3</sup>

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## 4. Legal context

### 4.1 Anti-discrimination laws

4.1.1 The US State Department (USSD) in its human rights report for 2016 noted: 'The Constitutional Declaration states citizens are equal under the law with equal civil and political rights and the same opportunities in all areas without distinction on the grounds of gender. Absent implementing legislation, and operating with limited capacity, the government did not effectively enforce these declarations.'<sup>4</sup>

4.1.2 The Organisation for Economic Co-operation and Developments (OECD) gender index country profile of 2014, based on a range of sources predating 2014, observed that:

'Equality between women and men is granted in the 1977 Declaration of the Authority of the People and the 1988 Great Green Charter of Human Rights in the Age of the Masses. The 1997 Charter on the Rights and Duties of Women in Jamahiriya Society includes provisions to guarantee the equal rights of men and women in areas such as national security duties, marriage, divorce, child custody, and the right to work, social security, and financial independence. However, these guarantees of equality are undermined by family law, which retains many discriminatory clauses.'<sup>5</sup>

4.1.3 The DFAT report stated:

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<sup>3</sup> Office of the Commissioner General for Refugees and Stateless Persons (CGRS) in Belgium, the Country of Origin Information Unit of the Ministry of Foreign Affairs in the Netherlands, the Office for Country Information and Language Analysis (OCILA) of the Ministry of Security and Justice in the Netherlands, Landinfo in Norway and Lifos in Sweden (Belgium et al), Libya: Vulnerable Groups (section 6.1), 19 December 2014, [http://www.landinfo.no/asset/3022/1/3022\\_1.pdf](http://www.landinfo.no/asset/3022/1/3022_1.pdf). Accessed: 12 June 2017.

<sup>4</sup> USSD, Country Reports on Human Rights Practices for 2016' (section 5), 3 March 2017, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265510>. Accessed: 9 June 2017.

<sup>5</sup> Organisation for Economic Co-operation and Development, 'Social Institutions Gender Index', Libya, undated, <http://www.genderindex.org/country/libya>. Accessed: 9 June 2017.

'Under Gaddafi, Libya acceded to the Convention on the Elimination of All Forms of Discrimination Against Women (1989), and became a signatory to the optional protocol of the convention (2004). However, Libya has consistently made reservations on certain provisions of the Convention which it views as conflicting with the principles of sharia. These provisions are Article 2, the obligation of states to integrate the principle of gender equality in their constitutions and national legislation, and guaranteeing actual realisation of this principle; and Article 16/1, which commits states to take proper measures to eliminate discrimination against women in marriage and family affairs.

'The Constitutional Declaration does not specifically mention women's rights or gender equality. However, Article 5 states that: the family is the basis of society and shall be entitled to protection by the State; and the State shall protect and encourage marriage; guarantee the protection of motherhood, childhood and the elderly; and take care of children, youth and the handicapped.'<sup>6</sup>

- 4.1.4 The Freedom House report for 2015 observed that: 'The GNC has made limited efforts to address gender inequality, but formal legal changes have yet to be enacted.'<sup>7</sup>
- 4.1.5 Human Rights Watch in their World Report – Libya for 2016 stated: 'The penal code permits a reduced sentence for a man who kills or injures his wife or another female relative because he suspects her of extramarital sexual relations. Libyan law inadequately prohibits domestic violence and its personal status laws continue to discriminate against women, particularly with respect to marriage, divorce, and inheritance.'<sup>8</sup>
- 4.1.6 The USSD report for 2016 noted 'By law children derive citizenship only from a citizen father. Citizen mothers alone were unable to transmit citizenship to their children, but there are naturalization provisions for noncitizens. The law permits female nationals to confer nationality to their children in certain circumstances, such as when fathers are unknown, stateless, of unknown nationality, or do not establish filiation.'<sup>9</sup>
- 4.1.7 Human Rights Watch observed in their report covering events in 2015 that the House of Representatives (HoR) passed a General Amnesty Law in July 2015 but did not apply it to crimes of sexual violence like rape.<sup>10</sup> DFAT noted that:

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<sup>6</sup> Australian Govt, 'DFAT Country Information Report - Libya' (p21), 4 April 2016, <http://dfat.gov.au/about-us/publications/Pages/country-information-reports.aspx>. Accessed 12 April 2017.

<sup>7</sup> Freedom in the World, '2016- Libya', 27 January 2016, <https://freedomhouse.org/report/freedom-world/2016/libya> accessed 28 June 2017

<sup>8</sup> Human Rights Watch, 'World Report 2017- Libya', 12 January 2017, <http://www.refworld.org/country,...LBY,,587b58343b,0.html>, accessed 20 January 2017

<sup>9</sup> USSD, Country Report on Human Rights Practices – Libya 2016, section 2d 'Stateless Persons', 3 March 2017 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265510>. Accessed 13 April 2017

<sup>10</sup> Human Rights Watch, 'World Report 2016', 26 January 2016, [https://www.hrw.org/sites/default/files/world\\_report\\_download/wr2016\\_web.pdf](https://www.hrw.org/sites/default/files/world_report_download/wr2016_web.pdf). Accessed 2 February 2017.

'During the 2011 conflict, the International Criminal Court (ICC) reported that it had collected evidence that Gaddafi had ordered the rape of women as a weapon against rebel forces. While it is unclear how many women were raped during the conflict, the number is believed to be in the hundreds. In February 2014, Libya's then-Cabinet issued a decree that would put women raped during the 2011 conflict on the same level as wounded ex-fighters, entitling them to compensation including financial assistance and physical and psychological health care. It is unclear whether the decree has been implemented.'<sup>11</sup>

4.1.8 The UNHCR in its annual report on human rights in 2016 observed that: 'Civil society groups have lobbied for the draft constitution to address these issues [discrimination in law and practice against women, such as travel restrictions and lack of the right to pass on Libyan nationality to their children]. On 8 September [2016], the Presidency Council established a women's support and empowerment unit, pursuant to the Political Agreement.'<sup>12</sup>

4.1.9 Amnesty noted in its report covering 2016 that 'Women continued to face discrimination in law and practice and were marginalized socially, politically and economically.'<sup>13</sup>

4.1.10 Human Rights Watch (HRW) report in its annual report covering events in 2017 that:

'Libyan law does not specifically criminalize domestic violence... The penal code allows for a reduced sentence for a man who kills or injures his wife or another female relative because he suspects her of extramarital sexual relations. It also allows rapists to escape prosecution if they marry their victim under article 424.

'On February 16, Abdelrazeq al-Nadhouri, chief of staff of the LNA, issued an order requiring women who wished to travel abroad by land, air, or sea to be accompanied by a male guardian. Al-Nadhouri rescinded the order on February 23 after public pressure, and replaced it with another order requiring all men and women ages 18 to 45 to acquire clearance by relevant security agencies ahead of any international travel from east Libya.

'The penal code prohibits all sexual acts outside marriage, including same-sex relations, and punishes them with up to five years in prison.'<sup>14</sup>

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<sup>11</sup> Australian Govt, 'DFAT Country Information Report - Libya' (p21), 4 April 2016, <http://dfat.gov.au/about-us/publications/Pages/country-information-reports.aspx>. Accessed 12 June 2017.

<sup>12</sup> UNHCR, 'Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Libya, including on the effectiveness of technical assistance and capacity-building measures received by the Government of Libya' (para 35), 13 January 2017, (accessed via Securitycouncilreport) [http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/A\\_HRC\\_34\\_42.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/A_HRC_34_42.pdf). Accessed: 12 June 2017.

<sup>13</sup> Amnesty International, 'Annual Report', Libya 2016/2017, February 2017, <https://www.amnesty.org/en/countries/middle-east-and-north-africa/libya/report-libya/>. Accessed: 12 June 2017.

<sup>14</sup> Human Rights Watch, 'World Report 2018', Libya, January 2018, <https://www.hrw.org/world-report/2018/country-chapters/libya>. Accessed: 22 January 2018.

## 4.2 Marriage, divorce, child custody and inheritance

### 4.2.1 The OECD SIGI profile for Libya based on a range of sources published up to 2014 noted that:

'Libya currently has no unified family code. Different laws relating to personal status are partly based on the Maliki school of Sunni Islam, and contain provisions that discriminate against women. Civil courts typically make decisions relating to personal status, as civil and Sharia courts have been merged since 1969.

'The legal age of marriage is 20 years for both men and women in Libya, but judges can grant permission for marriage at an earlier age. Early marriages are relatively rare in Libya. According to the United Nations, in 2006 2.4% of women between 15 and 19 years of age in Libya were married, divorced or widowed (compared to 39.6% in 1973). Article 21 of the Great Green Charter forbids forced marriage and requires full consent of both parties; under Law No.10 of 1984, a male guardian cannot refuse permission for a woman to marry. Arranged marriages, while once the norm, are now relatively rare, occurring mostly in rural areas. While a non-Libyan man must convert to Islam in order to marry a Libyan woman, a non-Libyan woman is not required to convert if she wishes to marry a Libyan man. Sexual relations outside of marriage are a criminal offence. Recent data on the adolescent fertility is not available, although the United Nations reports a rate of 3.8 per 1,000 women age 15-19.

'Under Law No.10 of 1984 (Art.17) men and women have different responsibility during marriage and if dissolution. Wives are placed under legal obligation to ensure the comfort, physical and psychological well-being of their husbands, and to assume all domestic and childcare responsibilities; in return, she is entitled to financial support from her husband, control over her own income and assets, and the right to be free from psychological or physical violence. In terms of parental authority, under Islamic law, the father is considered the natural guardian of his children, the mother the physical custodian. In the event of divorce, custody is often awarded to the mother until daughters marry and until sons reach puberty and move in with their fathers. Judges may, however use their discretion, and in cases where the mother is not Libyan will often grant custody to the father.

'Sharia law provides for detailed and complex calculations of inheritance shares. [A] woman may inherit from their father, mother, husband or children and, under certain conditions, from other family members. However, their share is generally smaller than that to which men are entitled. Daughters, for example, inherit only half as much as sons. In some cases, women cede their inheritance rights to their brothers, partly to ensure that they will then receive financial support if they do not marry, or become divorced or widowed. It is not clear how common this practice is.'<sup>15</sup>

### 4.2.2 The Social Institution and Gender Index also noted that:

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<sup>15</sup> OECD, 'Social Institutions and Gender Index', Libya (Discriminatory family code), undated, <http://www.genderindex.org/country/libya>. Accessed 9 June 2017.

'Men have the right to repudiate (divorce unilaterally) their wives, but such divorces must be registered with the court to be valid. Women do not have the same right, and can only obtain a divorce under a limited number of conditions (e.g. desertion or lack of financial support), or request a khula divorce and forfeit their dowry. In the case of the latter she may also need to give up custody of her children in exchange for divorce. Divorced women may face social stigma and financial difficulties, particularly if they do not have support from their natal family'<sup>16</sup>.

- 4.2.3 According to the Al-Monitor news article by Mustafa Fetouri in 2015, women have experienced legal setbacks in respect of marriage as polygamy was legalised in 2013. Fetouri explained that during Gaddafi's regime 'it was almost impossible for a man to marry a second wife'.<sup>17</sup>
- 4.2.4 HRW noted in its report covering events in 2017 that: 'Personal status laws continue to discriminate against women, particularly with respect to marriage, divorce, and inheritance.'<sup>18</sup>

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## 5. Political participation

- 5.1.1 The OECD's SIGI profile of Libya, based on a range of sources released pre 2014, noted that: 'As Libya transitions out of the 42-year of autocratic rule under the Qadhafi regime, women have actively sought participation in the drafting process of the new constitution and in the formation of government policies, including the recent 2012 electoral law.'<sup>19</sup> Amnesty noted 'The draft constitution published in April [2016] proposed to guarantee women 25% of [House of Representatives] HOR and local council seats for 12 years.'<sup>20</sup>
- 5.1.2 DFAT observed in its April 2016 report that:
- 'Election Law 10 (2014) put special measures in place to ensure representation of women within the House of Representatives, reserving 32 of the House's 200 seats for women. There was one woman in the original 12 person Cabinet (appointed following the June 2014 parliamentary elections), and one woman in the HoR cabinet appointed in September 2014. The National Election Commission included one woman among its seven members.'<sup>21</sup>

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<sup>16</sup> OECD, 'Social Institutions and Gender Index', Libya (Discriminatory family code), undated, <http://www.genderindex.org/country/libya>. Accessed 9 June 2017.

<sup>17</sup> Al-Monitor, Mustafa Fetouri, 'Women face setbacks in new Libya', 23 March 2015 <http://www.al-monitor.com/pulse/originals/2015/03/libya-women-murder-situation-gaddafi-regime-militias.html>, accessed 14 December 2016.

<sup>18</sup> Human Rights Watch, 'World Report 2018', Libya, January 2018, <https://www.hrw.org/world-report/2018/country-chapters/libya>. Accessed: 22 January 2018.

<sup>19</sup> OECD, 'Social Institutions and Gender Index', Libya, circa 2014, <http://www.genderindex.org/country/libya>. Accessed: 12 June 2017.

<sup>20</sup> Amnesty International, 'Annual Report', Libya 2016/2017, February 2017, <https://www.amnesty.org/en/countries/middle-east-and-north-africa/libya/report-libya/>. Accessed: 12 Junw 2017.

<sup>21</sup> Australian Govt, 'DFAT Country Information Report - Libya' (p21), 4 April 2016, <http://dfat.gov.au/about-us/publications/Pages/country-information-reports.aspx>. Accessed 12 June 2017.

- 5.1.3 The Al-monitor news article by Mustafa Fetouri of 2015 reported that 'Women face new setbacks in Libya', noting that the National Transitional Council of Libya passed legislation in 2012 to restrict the right of women to stand for elected office, adopting election law that only allocates '10% of the seats to women in national elections, while leaving it to political parties how to allocate seats at the local level'.<sup>22</sup>
- 5.1.4 Mr Fetouri stated further that: 'in a male-dominated society, women will have little say at the local level if the if the law is not on their side, since all political parties are led by men, making women's chances of getting nominated in any party's list slim'.<sup>23</sup> Fetouri analysed the role of women within the National Transitional Council of Libya during the revolution, stating that: 'in spite of its role in the revolution, the NTC itself only had two female members, one being the murdered Bughaighis' and that 'the other is Salwa el-Deghali'.<sup>24</sup> The article also noted that 'women's participation in civic action in the new Libya is as low as 20%' and that 'one reason could well be the lack of security in the country after the NATO intervention in 2011 that plunged Libya into the chaos that has prevailed ever since.' Mr Fetouri stated that there has been a decline in engagement with voting in elections for women 'with nearly 66% voting in 2012', while 'they participated less in the elections in June 2014'. Mustafa Fetouri proposed that 'one explanation for this regression could be disappointment and disillusionment in the previous elections, which failed to stabilize the country or end the violence'.<sup>25</sup>
- 5.1.5 The UN Secretary General's report of August 2017 reporting on the period May to August 2017 observed:
- 'In May, UNSMIL, supported by the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), finalized the 2017-2018 national strategy on women and peace and security to promote women's political participation, including through capacity-building and technical assistance.
- 'UNSMIL continued to train women members of the House of Representatives and provided technical assistance in support of the women's caucus in Parliament. From 4 to 7 May 2017, UNSMIL also engaged with the Deputy Minister of Interior in order to identify training opportunities for women police officers. Members of the High National Electoral Commission joined a training session on gender-based budgeting, held from 4 to 6 August. On 8 May, UNSMIL, in coordination with the State

<sup>22</sup> Al-Monitor, Mustafa Fetouri, 'Women face setbacks in new Libya', 23 March 2015 <http://www.al-monitor.com/pulse/originals/2015/03/libya-women-murder-situation-gaddafi-regime-militias.html>, accessed 14 December 2016

<sup>23</sup> Al-Monitor, Mustafa Fetouri, 'Women face setbacks in new Libya', 23 March 2015 <http://www.al-monitor.com/pulse/originals/2015/03/libya-women-murder-situation-gaddafi-regime-militias.html>, accessed 14 December 2016

<sup>24</sup> Al-Monitor, Mustafa Fetouri, 'Women face setbacks in new Libya', 23 March 2015 <http://www.al-monitor.com/pulse/originals/2015/03/libya-women-murder-situation-gaddafi-regime-militias.html>, accessed 14 December 2016

<sup>25</sup> Al-Monitor, Mustafa Fetouri, 'Women face setbacks in new Libya', 23 March 2015 <http://www.al-monitor.com/pulse/originals/2015/03/libya-women-murder-situation-gaddafi-regime-militias.html>, accessed 14 December 2016.

Minister of Women's Affairs and Community Development, launched a study on Libyan women's leadership, highlighting the low percentage of women in decision-making positions and providing recommendations to enhance female leadership.<sup>26</sup>

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## 6. Social and economic rights

### 6.1 Education and employment

- 6.1.1 The 'Women face new setbacks in Libya' Al-monitor news article by Mustafa Fetouri of 2015 noted that women in the workplace became a more prominent feature of society during the Gaddafi era:

'During the Gaddafi era, women made steady progress in gaining access to education and work. It became very common to see female lawyers, judges, civilian pilots and university professors... While equality in the workplace was inching forward, it stalled after the civil war of 2011 and the emergence of various Islamist groups such as Ansar al-Sharia. These organizations are less inclined toward gender equality, while some of them do not like to see women working outside the home at all.'<sup>27</sup>

- 6.1.2 The Libya Status of Women Survey 2013 looked at the participation of women within the formal economy through analysing the subsequent control of their personal earnings and assets, and their waged labour:

'When respondents were asked if they had worked for pay in the past week, 43% of women say they did, compared to a much higher proportion of men- 66% who say they did. This shows there is a relatively large gender gap in labour force participation between men and women, with men being 1.5 times more likely to be employed than women', indicating 'a large percentage of both men and women have not worked for pay in the last week'<sup>28</sup>.

- 6.1.3 The Libya Status of Women Survey 2013 stated: 'When looking at women's labour force participation patterns by age groups, data shows the most economically active women fall in the 25-54 age group, peaking for the 35-44 age cohort, with 67% of women in this group reporting work for pay. Employment rates are lowest for women above 55 or under 24.'<sup>29</sup>

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<sup>26</sup> UN Security Council, 'Report of the Secretary-General on the United Nations Support Mission in Libya' (paras 53-54), <https://unsmil.unmissions.org/sites/default/files/n1725784.pdf>. Accessed: 22 January 2018.

<sup>27</sup> Al-Monitor, Mustafa Fetouri, 'Women face setbacks in new Libya', 23 March 2015 <http://www.al-monitor.com/pulse/originals/2015/03/libya-women-murder-situation-gaddafi-regime-militias.html>, accessed 14 December 2016.

<sup>28</sup> International Foundation for Electoral Systems (IFES), Rola-Abdul Latif, 'Libya Status of Women Survey 2013', [http://www.wluml.org/sites/wluml.org/files/Libya%20Status%20of%20Women%20Survey%20Report\\_f inal2.pdf](http://www.wluml.org/sites/wluml.org/files/Libya%20Status%20of%20Women%20Survey%20Report_f inal2.pdf), accessed 20 December 2016.

<sup>29</sup> International Foundation for Electoral Systems (IFES), Rola-Abdul Latif, 'Libya Status of Women Survey 2013', [http://www.wluml.org/sites/wluml.org/files/Libya%20Status%20of%20Women%20Survey%20Report\\_f inal2.pdf](http://www.wluml.org/sites/wluml.org/files/Libya%20Status%20of%20Women%20Survey%20Report_f inal2.pdf), accessed 20 December 2016.

- 6.1.4 The Bertelsmann Stiftung's Transformation Index for 2016 covering the period from 1 February 2013 to 31 January 2015 observed that:
- 'The economic decline [in Libya] has been ubiquitous, affecting everyone. It has most adversely, however, affected formerly excluded groups such as youth and women (Libya has a history of social inequality, youth unemployment, gender and regional disparities). While education was compulsory and free, according to 2014 World Bank data, the literacy rate in Libya reached 89.9%, with rates higher for men (96.1%) than for women (83.7%). This illustrates that there remains a gender gap in education even though education was provided to everyone under Qadhafi.'<sup>30</sup>
- 6.1.5 The article 'Women face new setbacks in Libya' by Mustafa Fetouri stated in 2015 that access to education for Libyan women was an achievement of the Gaddafi era: "One of the greatest achievements for women under the Gaddafi regime was unlimited access to free education at all levels" and that 'realising the importance of education in modernizing society, the former regime made it compulsory for parents to keep their children of both sexes in school until the age of nine<sup>31</sup>'. Mr Fetouri noted that this law (passed during Gaddafi's regime) 'is now reflected in Libyan women being highly educated as compared to the region; 'an almost equal number of women (32%) as men (33%) hold university degrees', while almost 77% of female high school graduates intend to pursue higher degrees both inside Libya and abroad'<sup>32</sup>.
- 6.1.6 The DFAT Country Report on Libya stated that since the overthrow of Gaddafi a 'lack of security throughout Libya caused by ongoing conflict has had a major impact on the delivery of education services in the country' and that 'school enrolment rates had dropped on average by 20 per cent across the country (21 per cent boys and 17 per cent girls)'. The report observed that 'before the resumption of conflict in 2014, Libya provided near universal access to education services.'<sup>33</sup>

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## 6.2 Access to finances

- 6.2.1 The Social Institutes and Gender Index (SIGI) explain that women 'have the legal right to access financial services, including bank loans (without their husbands' consent). The SIGI notes how '... in most cases, however, husbands or fathers take responsibility for any financial undertakings and commitments, and may also expect women to hand over their income. The 2013 IFES survey indicates that 59% of women do not personally have

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<sup>30</sup> Bertelsmann Stiftung, 'Transformation Index', 2016, Libya (p14), [https://www.bti-project.org/fileadmin/files/BTI/Downloads/Reports/2016/pdf/BTI\\_2016\\_Libya.pdf](https://www.bti-project.org/fileadmin/files/BTI/Downloads/Reports/2016/pdf/BTI_2016_Libya.pdf). Accessed: 9 June 2017.

<sup>31</sup> Al-Monitor, Mustafa Fetouri, 'Women face setbacks in new Libya', 23 March 2015 <http://www.al-monitor.com/pulse/originals/2015/03/libya-women-murder-situation-gaddafi-regime-militias.html>, accessed 14 December 2016.

<sup>32</sup> Al-Monitor, Mustafa Fetouri, 'Women face setbacks in new Libya', 23 March 2015 <http://www.al-monitor.com/pulse/originals/2015/03/libya-women-murder-situation-gaddafi-regime-militias.html>, accessed 14 December 2016.

<sup>33</sup> Australian Govt, 'DFAT Country Information Report - Libya' (p8), 4 April 2016, <http://dfat.gov.au/about-us/publications/Pages/country-information-reports.aspx>. Accessed 12 June 2017.



financial savings (versus 34% who do), although women who work have proportionally more access to or own financial savings than those who do not (46% versus 24% respectively).<sup>34</sup>

- 6.2.2 The SIGI also explained the correlation between Libyan women obtaining credit and employment: 'Employment also increases women's perceived ability to obtain bank loans and credit. While only 25% of women who do not work for pay said they would be comfortable obtaining a bank loan or credit, 45% of women who work for pay said the same. In 2007, the Rural Bank granted 19,558 loans, of which 4,502 went to women'<sup>35</sup>.

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## 7. Gender-based discrimination and violence

### 7.1 General human rights situation

- 7.1.1 Detailed information on the general security and humanitarian situation is available in the country policy and information note on [Libya: Security and Humanitarian Situation](#).

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### 7.2 Prevalance

- 7.2.1 The Reach Multi-Sector Needs Assessment III stated in 2016 that 'Gender-based violence is known to be a sensitive topic [...], with violence against women and girls widely understood to be under-reported in this context'.<sup>36</sup>
- 7.2.2 The Reach Multi-Sector Needs Assessment III reported: '15% of respondents indicated an awareness of violence against women and/or girls in their communities, with a greater proportion of female (23%) to male (11%) respondents reporting this issue. Of the 15% indicating the existence of violence against women or girls, types of violence ranged from physical and verbal violence to kidnapping and psychological abuse.'<sup>37</sup> Some respondents stated 'the incidence of violence against females was a direct result of the psychological stress caused by the protracted conflict'<sup>38</sup>.
- 7.2.3 The USSD report for 2016 observed: 'There was no mechanism to monitor violence against women and, in the absence of monitoring, violence, and intimidation against women largely went unreported.'<sup>39</sup>

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<sup>34</sup> The Social Institutes and Gender Index, (SIGI), dated 2014

<http://www.genderindex.org/country/libya>, accessed 13 February 2017.

<sup>35</sup> The Social Institutes and Gender Index, (SIGI), <http://www.genderindex.org/country/libya>, accessed 13 February 2017.

<sup>36</sup> The Reach Multi-Sector Needs Assessment III, 'Libya: Report', 2016, <http://reliefweb.int/sites/reliefweb.int/files/resources/reach.pdf>-, accessed 4 January 2017.

<sup>37</sup> The Reach Multi-Sector Needs Assessment III, 'Libya: Report', 2016, <http://reliefweb.int/sites/reliefweb.int/files/resources/reach.pdf>-, accessed 4 January 2017.

<sup>38</sup> The Reach Multi-Sector Needs Assessment III, 'Libya: Report', 2016, <http://reliefweb.int/sites/reliefweb.int/files/resources/reach.pdf>-, accessed 4 January 2017.

<sup>39</sup> USSD, Country Reports on Human Rights Practices for 2016' (section 5), 3 March 2017, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265510>. Accessed: 9 June 2017.

## 7.3 Discrimination

7.3.1 Amnesty noted in its annual report for 2016/17 that: 'Women continued to face discrimination in law and practice and were marginalized socially, politically and economically.'<sup>40</sup> The UNHCR in its human rights report covering 2016 stated 'significant discrimination against women in both law and practice continues to have a serious impact on the rights of women in Libya.'<sup>41</sup>

7.3.2 DFAT observed in its April 2016 report that:

'In practice, women in Libya face numerous forms of social discrimination, which affects their ability to access employment, their presence in the workplace, and their mobility and personal freedom. There is no mechanism under Libyan law to monitor violence and intimidation against women, which largely goes unreported. Rape within marriage is not a crime. Domestic violence, rape and other forms of gender-based violence both inside and outside the home are considered private matters that carry a great deal of shame and are rarely discussed publicly. A victim of rape risks prosecution for extramarital relations if she presses charges and may instead have to marry the perpetrator to save her and her family's honour.'<sup>42</sup>

7.3.3 The USSD report for 2016 noted:

'Women faced social forms of discrimination, which affected their ability to access employment, their presence in the workplace, and their mobility and personal freedom. Although the law prohibits discrimination based on gender, widespread cultural, economic, and societal discrimination against women continued. Sharia governs family matters, including inheritance, divorce, and the right to own property. While civil law mandates equal rights in inheritance, women often received less due to interpretations of sharia that favour men. Women may seek divorce for a range of reasons under the law, but they often forfeited financial rights in order to obtain a divorce. While the law demands men provide alimony for a fixed duration, according to the individual marriage contract, authorities did not uniformly enforce the law in instances when men failed to provide alimony. Women must obtain government permission to marry noncitizen men and often faced difficulties, including harassment, in attempting to do so while men did not face similar restrictions.'<sup>43</sup>

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<sup>40</sup> Amnesty International, 'Annual Report', Libya 2016/2017, February 2017, <https://www.amnesty.org/en/countries/middle-east-and-north-africa/libya/report-libya/>. Accessed: 12 Junw 2017.

<sup>41</sup> UNHCR, 'Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Libya, including on the effectiveness of technical assistance and capacity-building measures received by the Government of Libya' (para 35), 13 January 2017, (accessed via Securitycouncilreport) [http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/A\\_HRC\\_34\\_42.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/A_HRC_34_42.pdf). Accessed: 12 June 2017.

<sup>42</sup> Australian Govt, Department of Foreign Affairs and Trade (DFAT), 'Country Information Report - Libya' (p21), 4 April 2016, copy on request. Accessed 12 June 2017.

<sup>43</sup> USSD, 'Country Reports on Human Rights Practices for 2016' (section 5), 3 March 2017, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265510>. Accessed: 9 June 2017.

- 7.3.4 DFAT concluded its April 2016 report that '... the majority of women in Libya face persistent societal discrimination and the threat of gender-based violence. Longstanding traditional values and gender roles also continue to restrict the participation of women in the work force. Women of sub-Saharan ethnicity, those who have been the victim of sexual violence, and those accused or suspected of sexual 'misdemeanours' or offences against 'family honour' are particularly vulnerable.'<sup>44</sup>

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## 7.4 Domestic violence

- 7.4.1 Human Rights Watch opined in their report for 2016: 'The law in Libya does not provide sufficient protection for women from their spouse and/or male relatives from domestic violence.'<sup>45</sup>

- 7.4.2 A Canadian Immigration and Refugee Board information response dated 27 November 2013, based on a range of sources, noted:

'Sources report that domestic violence in Libya is a problem that is "serious" (Christian Science Monitor 14 Mar. 2013) or "significant" (Human Rights Watch May 2013, 25). The US Department of State's Country Reports on Human Rights Practices for 2012 indicates that NGOs report the problem is "widespread," but also notes that there are no reliable statistics on the prevalence of domestic violence (19 Apr. 2013, 21). Similarly, in their 2009 concluding observations for Libya, the United Nations (UN) Committee on the Elimination of Discrimination Against Women (CEDAW) expressed concern at the lack of statistics on the extent of violence against women and girls (6 Feb. 2009, para. 23).

'Freedom House describes Libyan society as influenced by "extremely conservative patriarchal traditions and tribal culture, which continue to foster gender discrimination" (2010, 2). Similarly, the UN Human Rights Council notes that Libyan culture contains "entrenched discriminatory norms" regarding gender (1 June 2011, para. 33).

'According to Freedom House, domestic violence is a "taboo issue" in Libya and speaking about incidents of domestic violence is considered "shameful" and brings dishonour on the victim and her family (Freedom House 2010, 13). The same source notes that many victims do not make complaints of domestic violence due to "social stigma" and fear that they will be rejected by their husband and extended family.

'In an article in the Christian Science Monitor, the founder and president of the Voice of Libyan Women, a Libyan NGO that has run advocacy campaigns to raise awareness of the issue of violence against women (Voice of Libyan Women n.d.), states that concern about the issue of domestic violence is considered a "Western" value in Libya, and is therefore viewed with "suspicion" (Christian Science Monitor 14 Mar. 2013). In March

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<sup>44</sup> Australian Govt, 'DFAT Country Information Report - Libya' (p21), 4 April 2016, <http://dfat.gov.au/about-us/publications/Pages/country-information-reports.aspx>. Accessed 12 June 2017.

<sup>45</sup> The Human Rights Watch, 'World Report 2017- Libya', 12 January 2017, <http://www.refworld.org/country,...,LBY,,587b58343b,0.html>, accessed 20 January 2017.

2013, the Grand Mufti of Libya, Sheikh Ghariani, reportedly called for Libyan women to protest at the UN headquarters and issued a "fatwa" against a UN Commission on the Status of Women's report because it urged governments to protect women and girls against violence (Libya Initiative 25 Mar. 2013). Al Jazeera reports that some Libyan women protested at the UN headquarters against the UN commission's draft report and in defence of Sharia law (Al Jazeera 14 Mar. 2013). The Islamic Affairs Committee of Libya's General National Congress (GNC) reportedly issued a statement that the UN document on domestic violence "does not take into consideration cultural and religious particularities of Arab people". However, sources also indicate that at the cabinet office, during the same time period, some Libyan women protested against gender-based violence and in support of the UN document (Libya Initiative 25 Mar. 2013).<sup>46</sup>

7.4.3 The OECD SIGI profile for Libya based on a range of sources predating 2014 observed that:

'Article 17 of Law No. 10 of 1984 states that husbands should not cause physical or psychological harm to their wives, but beyond this, there is no legislation in place to protect women from domestic violence, or to penalise perpetrators. There are no accurate figures available as to the prevalence of domestic violence, but it is thought to be fairly common. The intervention of family members or neighbours in incidents of domestic violence tends to limit reporting, as does social stigma and the fear of being rejected by the husband and extended family. The few cases that are filed are usually subsequently withdrawn. 28% of women think it is somehow justifiable for a man to beat his wife. When given specific scenarios, the share of both men and women who believe domestic violence is always or sometimes justified increases. For example, 52% of men and 41% of women would justify a husband beating his wife if she went out without telling him, while only 24% of women and 30% of men would reject domestic violence in any of the listed scenarios (e.g. neglecting household responsibilities, being disobedient to the husband, neglecting children, etc.)<sup>47</sup>

7.4.4 According to a 2015 paper by Libyan activist and researcher Asma Khalifa<sup>48</sup>:

'Gender based violence is a taboo topic within the Libyan society, whether it's domestic abuse or sexual harassment. Often cases, incidents of such nature are unheard of, there are degrees and exceptions to this rule, for example in the urban city of Tripoli there are some who speak or even protest against it. This silence and stigma of violence against women is not only because its culturally unacceptable but the fact that there are no enforced laws that would offer services and remedies to the victims/

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<sup>46</sup> Immigration and Refugee Board of Canada, Research Directorate, LBY104667.E, 'Libya: Domestic violence, including legislation, state protection and support services (2011-November 2013)', 27 November 2013, <http://www.irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=454962&pls=1>. Accessed: 12 June 2017.

<sup>47</sup> OECD, 'Social Institutions and Gender Index', Libya (Discriminatory family code), dated 2014, <http://www.genderindex.org/country/libya>. Accessed 9 June 2017.

<sup>48</sup> World Peace Youth, Asma Khalifa, undated, <http://www.worldpeaceyouth.org/asma-khalifa/>. Accessed: 12 June 2017.

survivors of the violence, which deters the women from speaking up or reporting it.

‘Domestic violence has potentially increased since 2011; there are no sufficient data or statistics of the topic but with the increased rate of criminality, weapons and lack of security and laws, women and girls are under bigger risks of such violations. Domestic violence is largely and widely present in Libya, in several places within the country it is perceived acceptable for the male/head of the family to punish his woman/daughter of any misconduct or misbehaviour...’<sup>49</sup>

7.4.5 The Reach Multi-Sector Needs Assessment III 2016 investigated the religious and cultural attitudes towards domestic violence and women: ‘Domestic violence is frequently encountered in primary care. Physical abuse is seen as the right of a male member of the family to “teach” a female appropriate behaviour and rectify any perceived misconduct.’<sup>50</sup>

7.4.6 The USSD report for 2016 observed that:

‘The law criminalizes rape but does not address spousal rape. There were no known reports of a woman accusing her husband of rape during the year. The Constitutional Declaration prohibits domestic violence, but it did not contain reference to penalties for violence against women.’<sup>51</sup>

‘There were no reliable statistics on the extent of domestic violence during the year. A 2013 report from the International Federation of Electoral Systems cited high levels of acceptance and justification of domestic violence in the society. Social and cultural barriers--including police and judicial reluctance to act and family reluctance to publicize an assault--contributed to lack of effective government enforcement. In the past municipalities and local organizations maintained women’s shelters in most major cities, but it was difficult to confirm whether shelters continued to operate or were accessible to victims of domestic violence.’<sup>52</sup>

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## 7.5 Sexual harassment and violence

7.5.1 The Research Directorate of the Immigration and Refugee Board of Canada, November 2013 citing various sources stated:

‘Sources indicate that the subject of rape is rarely spoken of publicly (Reuters 26 Nov. 2011; Freedom House 2010, 14). According to Freedom

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<sup>49</sup> Women in War, ‘Women in Libya: The Ongoing Armed Conflict, Political Instability and Radicalisation’ 2015 [http://womeninwar.org/wordpress/wp-content/uploads/2015/08/Beirut/6/Asma%20Khalifa\\_Libyan%20Women%20in%20Conflict-UHGPW.pdf](http://womeninwar.org/wordpress/wp-content/uploads/2015/08/Beirut/6/Asma%20Khalifa_Libyan%20Women%20in%20Conflict-UHGPW.pdf) accessed 28 April 2017

<sup>50</sup> The Reach Multi-Sector Needs Assessment III, ‘Libya: Report’, 2016, <http://reliefweb.int/sites/reliefweb.int/files/resources/reach.pdf->, accessed 4 January 2017.

<sup>51</sup> USSD, Country Reports on Human Rights Practices for 2016’ (section 5), 3 March 2017, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265510>. Accessed: 9 June 2017.

<sup>52</sup> USSD, Country Reports on Human Rights Practices for 2016’ (section 5), 3 March 2017, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265510>. Accessed: 9 June 2017.

House, victims of gender-based violence outside the home are often blamed for the actions of the abuser. The Independent notes that rape is "considered a stain on the honour of the entire family" in Libya and that rape victims may face abandonment by their families (29 May 2011).

'Sources indicate that there were allegations of rape during the 2011 conflict, particularly by pro-Gaddafi forces (FIDH 29 Mar. 2011; Reuters 26 Nov. 2011; The Independent 29 May 2011). However, Reuters reports that it is unknown how widespread the problem was during the conflict (Reuters 26 Nov. 2011). The Independent reports that, according to responses to a survey of 59,000 families conducted by a London-trained child psychologist working with traumatized children in Libya, 259 women respondents said they were raped by Gaddafi's militias in cities including Benghazi, Toburk, Brega, Bayda, Ajdabiya, Saloum and Misrata (29 May 2011). The psychologist noted that the true number of rape victims was likely significantly higher due to fear of reporting the attacks (The Independent 29 May 2011). A representative of the Tripoli-based women's NGO Phoenix told Reuters that there were approximately 8,000 cases of rape during the war, but that the figure could be higher due to unreported cases (qtd in Reuters 26 Nov. 2011). Further information about the prevalence of rape during the 2011 conflict could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

'The UN Secretary-General reports that, with the exception of the charge of mass rape in Zuara in the trial of the former Prime Minister Al-Baghdadi al-Mahmoudi, the government of Libya has not initiated investigations into conflict-related sexual violence (14 Mar. 2013, para. 97).

'Several sources indicate that rape victims are often pressured by their families and society into marrying the rapist in order to avoid social stigma (Freedom House 2010, 13; Human Rights Watch May 2013, 27; UN 6 Feb. 2009, para. 23). In 2009, CEDAW expressed concern at this "widespread practice". In contrast, Country Reports 2012 states that, according to their local contacts and NGOs, this practice has stopped (US 19 Apr. 2013, 21). However, other sources reported on this practice in 2012 and 2013 (IDN 12 Aug. 2012; Human Rights Watch May 2013, 27).'<sup>53</sup>

#### 7.5.2 The OECD SIGI profile for Libya based on a range of sources predating 2014 observed that:

'Rape is a criminal offence, but the law does not recognise spousal rape. Rape victims seldom report what has happened to them, for fear of being blamed themselves, or of being prosecuted for engaging in extramarital sex. A convicted rapist may either marry the victim with her agreement, or serve a prison sentence of up to 25 years. There is no reliable information as to how often this occurs, although some NGOs report that the forced marriage of rape victims has reportedly stopped. There have, however, been widespread

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<sup>53</sup> Immigration and Refugee Board of Canada, Research Directorate, LBY104667.E, 'Libya: Domestic violence, including legislation, state protection and support services (2011-November 2013)', 27 November 2013, <http://www.irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=454962&pls=1>. Accessed: 12 June 2017.

reports of rape being used as a tactic during the recent war, with the International Criminal Court adding charges of rape against Gaddafi.<sup>54</sup>

7.5.3 The USSD report for 2016 observed with regard to rape that:

'The law criminalizes rape but does not address spousal rape. There were no known reports of a woman accusing her husband of rape during the year. The Constitutional Declaration prohibits domestic violence, but it did not contain reference to penalties for violence against women.

'By law a convicted rapist has the option to avoid a 25-year prison sentence by marrying the survivor, regardless of her wishes--provided her family consents. According to UNSMIL the forced marriage of rape survivors to their perpetrators as a way to avoid criminal proceedings remained rare. In previous years rape survivors who could not meet high evidentiary standards could face charges of adultery.<sup>55</sup>

7.5.4 The OECD SIGI profile for Libya based on a range of sources predating 2014 observed that:

'There is no law against sexual harassment. It is, however, reportedly widespread, including intimidation of women by militias and extremists, especially where the woman is accused of acting "un-Islamic". In 2009, adult residents of a care home for women and girls orphaned as children made complaints about on-going sexual harassment at the centre. Officials initially pressured the women to retract their claims, although the Prosecutor's Office then went on to open an investigation, resulting in the director of the residence being charged. Recent survey data from IFES reports that 3% of women declare experiencing unwanted/sexually suggestive noises, comments, or gestures towards them every or most times they are in public spaces, suggesting that this phenomenon is relatively limited in public, although this same percentage rises to 11% among women 18-24.<sup>56</sup>

7.5.5 With regard to sexual harassment, the USSD report for 2016 noted 'The law criminalizes sexual harassment, but there were no reports on how or whether it was enforced. According to civil society organizations, there was widespread harassment and intimidation of women by militias and extremists, including accusations of "un-Islamic" behaviour. Multiple local contacts reported harassment of women attempting to travel alone internationally at airports and in certain militia-controlled areas.'<sup>57</sup>

7.5.6 The UNHCR noted in its annual report on human rights for 2016: 'Women in detention and migrant women are particularly vulnerable to sexual abuse and other forms of violence. Women held in detention centres run by armed

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<sup>54</sup> OECD, 'Social Institutions and Gender Index', Libya (Restricted physical integrity), dated 2014, <http://www.genderindex.org/country/libya>. Accessed 9 June 2017.

<sup>55</sup> USSD, 'Country Reports on Human Rights Practices for 2016' (section 5), 3 March 2017,, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265510>. Accessed: 9 June 2017.

<sup>56</sup> OECD, 'Social Institutions and Gender Index', Libya (Restricted physical integrity), dated 2014, <http://www.genderindex.org/country/libya>. Accessed 9 June 2017.

<sup>57</sup> USSD, 'Country Reports on Human Rights Practices for 2016' (section 5), 3 March 2017,, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265510>. Accessed: 9 June 2017.

groups across the country are commonly guarded by men, who have full access to their cells.’<sup>58</sup>

7.5.7 In his report to the Security Council of April 2017, covering the period 1 December 2016 to April 2017, the UN Secretary General observed that:

‘Women were arbitrarily held in detention, often because of family affiliations. Women and girls, including foreign nationals, were held captive in Sirte by groups allied to ISIL. They were subjected to torture, rape and other forms of sexual violence. By the end of February 2017, at least 117 women were being held in overcrowded prisons in Misratah under investigation for alleged involvement in terrorism-related activities. The majority had reportedly been cleared by the prosecution in January [2017].

‘At a workshop on human rights monitoring, including of sexual and gender-based violence, facilitated by UNSMIL on 5 December 2016, participants highlighted the rise in sexual violence against women and lamented the general climate of insecurity and the breakdown of the rule of law.’<sup>59</sup>

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## 7.6 ‘Honour’ crimes

7.6.1 The European joint report of December 2014 observed:

‘Libya is considered to be among the more conservative Arab countries, something which is often attributed to fairly recent urbanisation. Bedouin traditions combined with conservative religious views still stand strong among Libyans in general.

‘Traditional honour codes in Arab societies generally make people deeply concerned with the family honour, something that has profound influence on women’s behaviour in public settings. The mere suspicion that a woman has been in a situation where she theoretically may have had sex outside of marriage brings dishonour not only on herself, but on her family as well, for having failed in bringing her up to be a person with moral integrity. Avoiding behaviour that might lead to speculations concerning women’s morals places considerable limitations on women’s liberty of movement in the Arab world in general,[...] and as an Arab society, Libya is no exception.

In 2007 HRW published a report on the situation for women who were considered to have broken honour codes,[...] and highlighted how girls and women in this situation were placed in state-run social rehabilitation facilities with two purposes: “to protect women and girls who have been threatened by their families; and to rehabilitate women and girls deemed to have transgressed socially-accepted norms or Law No. 70 (1973) criminalizing

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<sup>58</sup> UNHCR, ‘Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Libya, including on the effectiveness of technical assistance and capacity-building measures received by the Government of Libya’ (para 36), 13 January 2017, (accessed via Securitycouncilreport) [http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/A\\_HRC\\_34\\_42.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/A_HRC_34_42.pdf). Accessed: 12 June 2017.

<sup>59</sup> UN Security Council, ‘Report of the Secretary-General on the United Nations Support Mission in Libya’ (paras 44-45), 4 April 2017, <https://unsmil.unmissions.org/sites/default/files/n1707537.pdf>. Accessed: 12 June 2017.



extramarital sexual relations." [...] The bleak picture described for women considered to be immoral seems not to have changed after the fall of the Qadhafi regime, as HRW documented in 2013 that these institutions continued to operate in the same way under the new authorities, and that sexual relations outside of marriage remain criminalised.[...]<sup>60</sup>

7.6.2 A 2011 BBC News Website article reported that rape victims in Libya face 'honour' killing at the hands of male relatives:

'Libyan women and girls who become pregnant through rape risk being murdered by their own families in so-called "honour killings", according to Libyan aid workers. 'Rape is a sensitive topic worldwide, but in this country it is even more of a taboo.

"In Libya when rape occurs, it seems to be a whole village or town which is seen to be dishonoured," says Arafat Jamal of the UN refugee agency, UNHCR.

'Libyan charities say they are getting reports that in the west of the country, which is particularly conservative, Gaddafi's forces have raped women and girls in front of their fathers and brothers.

"To be seen naked and violated is worse than death for them," says Hana Elgadi. "This is a region where women will not go out of the house without covering their face with a veil."<sup>61</sup>

7.6.3 The article continued:

'The charity World for Libya has engaged imams across the border in Tunisia to preach that rape is not the victim's fault.

'An estimated 130,000 people have fled western Libya for Tunisia, and the Libyan NGOs which have sprung up to deal with their needs say they believe many are rape survivors who are too ashamed to come forward for help.

'World for Libya is trying to reach a group of teenage girls still inside Libya whose school was attacked by forces loyal to Col Gaddafi.

"The armed men separated the girls and raped those they deemed more attractive," says Nader Elhamessi. "One of the girls cut her wrists and killed herself rather than face the shame. The rapes were only reported to us by the girls who were left alone."

"Rape is a crime in this war, like being shot," says Ms Elhamessi. "We are even flying in a highly respected sheikh from the Emirates so he can get this message across."

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<sup>60</sup> Office of the Commissioner General for Refugees and Stateless Persons (CGRS) in Belgium, the Country of Origin Information Unit of the Ministry of Foreign Affairs in the Netherlands, the Office for Country Information and Language Analysis (OCILA) of the Ministry of Security and Justice in the Netherlands, Landinfo in Norway and Lifos in Sweden (Belgium et al), Libya: Vulnerable Groups (section 6.2), 19 December 2014, [http://www.landinfo.no/asset/3022/1/3022\\_1.pdf](http://www.landinfo.no/asset/3022/1/3022_1.pdf). Accessed: 12 June 2017.

<sup>61</sup> BBC World News, 'Libya rape victims face 'honour' killings', 14 June 2011, <http://www.bbc.co.uk/news/world-africa-13760895>, accessed 15 February 2017.

'The International Criminal Court says it believes Col Gaddafi's forces are using rape as a weapon of war. The ICC says it has reason to believe orders to rape were given, and the drug Viagra was distributed to fighters.

'A major in the Libyan army who has now deserted told the BBC the shipments of Viagra were widely known about, but neither he nor his colleagues saw them.'

"The order to rape was not given to the regular army," says the major, who did not want his name to be used, because his family is still in Tripoli. "Col Gaddafi knew we would never accept it. It was given to the mercenaries."

'Mr Jamal, the UNHCR's emergency co-ordinator for Libya, says it has not so far uncovered evidence that rape has been used as a weapon of war, although it has seen evidence of individual instances of rape throughout the country'<sup>62</sup>.

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## 7.7 Women's rights activists

7.7.1 The Freedom House 2016 Libya report covering events in 2015 noted that: 'Threats and harassment against women, especially female activists, are reportedly increasing. The GNC has made limited efforts to address gender inequality, but formal legal challenges have yet to be enacted.'<sup>63</sup> Amnesty noted in its report covering events in 2016: 'Armed groups also threatened and harassed women who engaged in public activism.'<sup>64</sup>

7.7.2 In an Al-monitor news article of March 2015 by journalist Mustafa Fetouri, women face setbacks in the new Libya if they are an influential and high profile human rights activist<sup>65</sup>. Mr Fetouri reported the murders of two female Libyan human rights activists, Salwa Bughaighis and Intissar al-Hassari: 'Salwa Bughaighis was murdered at her home in Benghazi in eastern Libya', after casting her vote for the new House of Representatives. Fetouri stated she was 'Libya's most prominent female lawyer, a member of the former National Transitional Council (NTC) that led the rebel movement in 2011 and well-known civil activist'. Fetouri further stated that in February 2015, 'Libya was shocked again by news of a murder targeting yet another well-known activist in Tripoli: Intissar al-Hassan'<sup>66</sup>.

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<sup>62</sup> BBC World News, 'Libya rape victims face 'honour' killings', 14 June 2011, <http://www.bbc.co.uk/news/world-africa-13760895>, accessed 15 February 2017.

<sup>63</sup> Freedom House, 'Freedom in the World 2016- Libya', <https://freedomhouse.org/report/freedom-world/2016/libya>, accessed 30 January 2017.

<sup>64</sup> Amnesty International, 'Annual Report', Libya 2016/2017, February 2017, <https://www.amnesty.org/en/countries/middle-east-and-north-africa/libya/report-libya/>. Accessed: 12 Junw 2017.

<sup>65</sup> Al-Monitor, Mustafa Fetouri, 'Women face setbacks in new Libya', 23 March 2015 <http://www.al-monitor.com/pulse/originals/2015/03/libya-women-murder-situation-gaddafi-regime-militias.html>, accessed 14 December 2016.

<sup>66</sup> Al-Monitor, Mustafa Fetouri, 'Women face setbacks in new Libya', 23 March 2015 <http://www.al-monitor.com/pulse/originals/2015/03/libya-women-murder-situation-gaddafi-regime-militias.html>, accessed 14 December 2016.

7.7.3 In January 2016, MENAS Associates, a 'strategic and political risk consultancy'<sup>67</sup>, wrote:

'During and after the revolution, the importance of women's roles in post-conflict reconstruction was clear. But activists still face death threats, especially after the rise of IS. This has not stopped women in Libya from trying to participate fully in their country's development, but it has been very dangerous work. The prominent human rights activist Salwa Bugaghis, civil society activist Intissar Al-Hassairi, and Congresswoman Fariha Al-Barkawy have all been killed for their activism over the last two years alone.

'In Libya, the UN has worked with female activists representing all facets of Libyan political life to develop a Minimum Women's Peace Agenda for Libya. The agenda calls for 30% women's representation in Libya's unity government, the Government of National Accord (GNA), and all other elected bodies. They also want to enshrine gender equality in the new constitution, and to reform the law to combat violence against women.'<sup>68</sup>

7.7.4 The Menas article continued:

'For three days last week [January 2016], Libyan women met with Libyan government officials and UN Special Envoy Martin Kobler to discuss this agenda. In response, Kobler stated that he would submit four requests to the GNA Presidency Council on their behalf: that women should have a 30% quota in the future GNA; that the GNA should establish a Women's Empowerment Unit under as soon as possible; that women should have adequate representation in all the committees under the political agreement; and that women should have a central point of contact to discuss their views with the Presidency Council.

'But having the UN Special Envoy speak on their behalf to the GNA shows the lack of access that these women have to the government themselves. Furthermore, the first committee that the GNA established (on security matters) included no women.'<sup>69</sup>

7.7.5 DFAT observed in its April 2016 report that: 'The UN Security Council reported that attacks on women activists increased between September 2014 and February 2015. UNSMIL and the UNHCR jointly reported in March 2015 that female human rights defenders and their families had faced threats and intimidation from armed groups on the basis of their gender.'<sup>70</sup>

7.7.6 According to IPI Global Observatory, tribal leaders in Libya, including women, are a necessary part of the negotiations for peace of the United Nations and the government . In April 2017 it reported:

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<sup>67</sup> Menas Associates, 'About us', undated, <https://www.menas.co.uk/about-us/>. Accessed: 12 June 2017.

<sup>68</sup> Menas Associates, 'UN wants women in Libya's new government', 18 January 2016 <https://www.menas.co.uk/blog/women-in-libya/>. Accessed 4 May 2017.

<sup>69</sup> MENAS Associates: 'UN wants women in Libya's new government' 18 January 2016 <https://www.menas.co.uk/blog/women-in-libya/> date accessed 4 May 2017

<sup>70</sup> Australian Govt, 'DFAT Country Information Report - Libya' (p21), 4 April 2016, <http://dfat.gov.au/about-us/publications/Pages/country-information-reports.aspx>. Accessed 12 June 2017.

'UNSMIL and other international partners have indeed left community leaders out of the peace negotiations to date. They continue to lack a local or tribal track and have instead focused on engaging with contested political leaders and holding peace negotiations outside the country. This is not through a lack of interest on the part of locals in creating peace in Libya, however. Many of these individuals and groups are gathered under the umbrella of the National Movement for Libya (NML), which has been working since 2015 to promote reconciliation and inclusion in the country. As the state struggles to exert its authority beyond Tripoli, members of the NML highlight the need for a bottom-up approach to statebuilding and the establishment of the parallel tracks of dialogue that are currently missing from the formal negotiations...

'Women are also a key component of NML. The organization includes more than 80 female leaders from across the country and tribal and ethnic divides. One result of this is the so-called "tent movement," which establishes mobile camps in the midst of battlefields, where female NML members who have lost husbands or sons in tribal conflicts engage with other women in the same situation. The aim is to build on the common experience to promote dialogue across tribal lines. NML hopes to encourage more and more women to join the movement and spread a message of reconciliation to sons and husbands. In the southwestern town of Ubari, which has suffered through 14 months of intense clashes between the Tuareg and Tebu tribes, women mediators built a mobile tent in the middle of the violence. The mediator involved in this process said at CSW that this dialogue facilitated the restoration of peace in the area and, to some extent, the signing of a ceasefire agreement.

'Women leaders working with NML are also directly negotiating ceasefires with militias in conflict-affected areas in the South, to allow unhindered access of humanitarian aid and care for the wounded. This work is not without risk, and a high number of women peacemakers have been targeted or killed because of their engagement. Yet this is not an uncommon experience for Libyan women at present; a general level of insecurity remains a major challenge and has jeopardized their long-established presence in police and military positions, particularly in the west of the country.

'The community leaders speaking at the CSW, in particular women mediators, also cited political Islam as threatening their work, with radicalized militias seeking to restrict or silence female activists and using religion to attract youth. They have, however, found several ways to work around the increasing limits they face on freedom of movement and their abilities to organize...'<sup>71</sup>

7.7.7 The UNHCR noted in its annual report on human rights covering 2016 that:

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<sup>71</sup> IPI Global Observatory: - (Aissata Athi) - 'Women, Tribal Leaders Key to Rebuilding Libyan State' 11 April 2017 <https://theglobalobservatory.org/2017/04/libya-peacebuilding-government-national-accord-haftar-gaddafi> Date accessed 4 May 2017

'Following intimidation and attacks in 2014 and 2015, several women activists were forced to leave the country or adopt a low profile. In 2016, UNSMIL/OHCHR received continuing reports of women activists in exile receiving threats. On 25 September [2016], an armed group that operates in Al-Fernaj, Tripoli, abducted and tortured a blogger, accusing him of being "liberal" and writing in support of women's rights on the Internet. Relatives are now unable to locate him.'<sup>72</sup>

- 7.7.8 The UN Secretary General in his report covering May to August 2017 noted that 'Armed groups on all sides continued to take hostages, to carry out unlawful killings and to use torture and forced disappearances, including of civilians, in particular women and other persons not involved in the fighting. Individuals were targeted on the basis of family or tribal identity, affiliations and political opinions, as well as for ransom or prisoner exchange.' The same source also observed '... women were arbitrarily deprived of their liberty, often because of family affiliations or for prisoner exchanges, and were held in facilities without female guards, exposing them to the risk of sexual abuse.'<sup>73</sup>

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## 8. Protection

- 8.1.1 The Immigration and Refugee Board of Canada published a brief overview of domestic and sexual violence in Libya, on 27 November 2013, based on a range of sources. The response noted:

'The UN Secretary-General of the UN Support Mission in Libya reports that in the Fall of 2012, the Ministry of Social Affairs began a multi-sector working group on the issue of gender-based violence, as well as a working group on services for victims of sexual violence (21 Feb. 2013, para. 37). In a March 2013 report to the UN General Assembly Security Council on the topic of sexual violence in conflict, the Secretary-General noted that the Libyan government had not initiated investigations into conflict-related sexual violence, nor developed new legislation, policies, programs or services for victims (14 Mar. 2013, para. 97).'<sup>74</sup>

- 8.1.2 The same response stated:

'Information about police protection and treatment of victims of domestic violence and sexual violence could not be found among the sources

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<sup>72</sup> UNHCR, 'Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Libya, including on the effectiveness of technical assistance and capacity-building measures received by the Government of Libya' (para 35), 13 January 2017, (accessed via Securitycouncilreport) [http://www.securitycouncilreport.org/atf/ct/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/A\\_HRC\\_34\\_42.pdf](http://www.securitycouncilreport.org/atf/ct/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/A_HRC_34_42.pdf). Accessed: 12 June 2017.

<sup>73</sup> UN Security Council, 'Report of the Secretary-General on the United Nations Support Mission in Libya' (paras 27 and 37), <https://unsmil.unmissions.org/sites/default/files/n1725784.pdf>. Accessed: 22 January 2018.

<sup>74</sup> Immigration and Refugee Board of Canada, Research Directorate, LBY104667.E, 'Libya: Domestic violence, including legislation, state protection and support services (2011-November 2013)', 27 November 2013, <http://www.irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=454962&pls=1>. Accessed: 12 June 2017.

consulted by the Research Directorate within the time constraints of this Response.

‘According to the founder and president of the NGO Voice of Libyan Women, since the end of the Libyan conflict in October 2011, domestic violence and other gender-based violence has "been exacerbated" due to a decrease in law and order and a "lack of accountability" for such violence (Christian Science Monitor 14 Mar. 2013). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.’<sup>75</sup>

8.1.3 The DFAT Country Report on Libya stated: ‘Post- Gaddafi Libyan authorities have been unable to provide protection for people who are threatened by non-State actors. According to HRW (Human Rights Watch), Libyan authorities have failed to conduct investigations or prosecute those responsible for the any of the unlawful killings since 2011, fostering a culture of impunity that has fuelled further abuses’.<sup>76</sup>

8.1.4 The US State Department (USSD) in its human rights report for 2016 noted: ‘The most serious human rights problems during the year resulted from the absence of effective governance, justice, and security institutions, and abuses and violations committed by armed groups affiliated with the government, its opponents, terrorists, and criminal groups.’

‘Impunity was a severe and pervasive problem. The government had limited reach and resources, and did not take steps to investigate, prosecute, and punish those who committed abuses and violations. Intimidation by armed actors resulted in paralysis of the judicial system, impeding the investigation and prosecution of those believed to have committed human rights abuses, including against public figures and human rights defenders.’<sup>77</sup>

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## 9. Support and assistance

9.1.1 The Canadian information response citing various sources of November 2013 stated:

‘According to Human Rights Watch, there are "inadequate" services for victims of domestic violence and sexual violence, leaving the victims without an "effective remedy" (May 2013, 26). Similarly, the UN Secretary-General said that there is a "near absence" of services available for victims of sexual violence (21 Feb. 2013, para. 37).

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<sup>75</sup> Immigration and Refugee Board of Canada, Research Directorate, LBY104667.E, ‘Libya: Domestic violence, including legislation, state protection and support services (2011-November 2013)’, 27 November 2013, <http://www.irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=454962&pls=1>. Accessed: 12 June 2017.

<sup>76</sup> Australian Govt, ‘DFAT Country Information Report - Libya’ (p9), 4 April 2016, <http://dfat.gov.au/about-us/publications/Pages/country-information-reports.aspx>. Accessed: 30 January 2017.

<sup>77</sup> USSD, ‘Country Reports on Human Rights Practices for 2016’ (section 5), 3 March 2017, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265510>. Accessed: 9 June 2017.

‘Sources indicate that there are no shelters for victims of domestic violence (Freedom House 2010, 13; Human Rights Watch 2013).

‘Sources report that women who have allegedly compromised their families’ reputations, including rape victims, may be forced to stay at "social rehabilitation" facilities (Freedom House 2011; Human Rights Watch May 2013, 29). According to CEDAW, occupants of these facilities include victims of gender-based violence and domestic violence (UN 6 Feb. 2009, para. 23). Freedom House equates the use of these facilities to "arbitrary arrest and detention" (2011), and notes that women are transferred by the public prosecutor, there is no mechanism for a woman to appeal being sent to one of these facilities, and there is no time limit on their detention (2010, 6). The same source notes that women at these facilities are often forced to have "invasive virginity examinations" (Freedom House 2010, 6). Human Rights Watch describes the facilities as "de-facto prisons" and noted that the women were not allowed leave (Human Rights Watch May 2013, 29). In 2012, Human Rights Watch confirmed with the Ministry of Social Affairs that the centres were still in operation and contained "young women with family problems," "divorcees" and others, although they were unable to find out how many women were being held at the facilities.

‘Information about other services for victims of domestic violence, such as crisis centres or hotlines, including services provided by NGOs, could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.’<sup>78</sup>

- 9.1.2 The Reach Multi-Sector Needs Assessment III report stated ‘women are very reluctant to seek psychiatric help for the fear of being shamed by their in-laws, their husbands marrying a second wife, divorce and losing custody of their children’. It was also stated that ‘Arab patients and their families may attribute behavioural symptoms to bad spirits (jinn) or attribute undesirable thoughts and wrongdoing to temptation by the devil. Patients and their family prefer to seek help from spiritual leaders or black magic.’<sup>79</sup>

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## 10. Freedom of movement

- 10.1.1 The UNHCR in its annual report on human rights in 2016 observed that ‘Libyan women face discrimination in matters such as travel restrictions, as a result of armed groups requiring them to travel with a male guardian in some areas’.<sup>80</sup>

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<sup>78</sup> Immigration and Refugee Board of Canada, Research Directorate, LBY104667.E, ‘Libya: Domestic violence, including legislation, state protection and support services (2011-November 2013)’, 27 November 2013, <http://www.irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=454962&pls=1>. Accessed: 12 June 2017.

<sup>79</sup> The Reach Multi-Sector Needs Assessment III, ‘Libya: Report’, 2016, <http://reliefweb.int/sites/reliefweb.int/files/resources/reach.pdf>-, accessed 4 January 2017.

<sup>80</sup> UNHCR, ‘Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Libya, including on the effectiveness of technical assistance and capacity-building measures received by the Government of Libya’ (para 38), 13 January 2017, (accessed via Securitycouncilreport) <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3->

- 10.1.2 The Social Institutions and Gender Index noted in its profile of Libya based on a range of sources released before 2015 that:

‘There are no legal restrictions on women’s access to public space and freedom of movement, but societal norms can limit their right to move freely, especially in the evenings or in rural areas. It is also socially unacceptable for an unmarried or divorced woman to live on her own. There are similarly no legal requirements for women to obtain their husband’s or male guardian’s permission to secure a passport or travel independently, but social conventions mean that many women do not travel alone or without the permission of their husbands or families. In addition, it is difficult for women to travel on their own within Libya, as most hotels will not accept unaccompanied women. The 2013 IFES survey reports that 57% of women say they feel completely (37%) or somewhat (20%) restricted in leaving their houses without permission and both men (96%) and women (82%) agree “a good wife should obey her husband even if she disagrees.” Following the revolution, many families have imposed restrictions on women’s movements, due to security concerns, the circulation of stories of violence against women, and the uncertainty of a centralized authority for the military and police. According to the IFES survey, at least one in five women felt somewhat or completely restricted in associating with persons of her own choosing (24%), moving about in public areas without fear or pressure (29%), and expressing her views on critical issues to family, neighbours or friends (34%). However, an attempt to introduce legal restrictions on the freedom of movement of women outside the country in 2007 caused outcry, and was quickly overturned.’<sup>81</sup>

- 10.1.3 The United States State Department Country Report on Human Rights Practices for 2016, in its report published on 3 March 2017, stated:

‘The Constitutional Declaration recognizes freedom of movement, including foreign travel, emigration, and repatriation, although the government has the ability to restrict freedom of movement. The law provides the government with the power to restrict a person’s movement if it views that person as a “threat to public security or stability” based on the person’s “previous actions or affiliation with an official or unofficial apparatus or tool of the former regime.”

‘The government did not exercise control over in-country movement, although the LNA established checkpoints targeting extremist movements around Benghazi and Derna. Militias effectively controlled regional movements through armed checkpoints. Militia checkpoints and those imposed by Da’esh, Ansar al-Sharia, and other extremist organizations impeded movement within the country and, in some areas, prohibited women from moving freely without a male escort.

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[CF6E4FF96FF9%7D/A\\_HRC\\_34\\_42.pdf](#). Accessed: 12 June 2017.

<sup>81</sup> OECD, ‘The Social Institutes and Gender Index’, Libya (Restricted civil liberties), undated, <http://www.genderindex.org/country/libya>. Accessed 12 June 2017.



‘There were also multiple reports of women who could not depart from western Libyan airports controlled by pro-GNA militias due to a lack of a “male guardian,” which is not a legal requirement in the country.’<sup>82</sup>

10.1.4 Amnesty noted in its report for 2016 that: ‘In Sirte and other areas that they controlled, IS [Islamic State] and other armed groups imposed strict interpretations of Shari’a law that restricted women’s movement and dress, and reportedly sanctioned the practice of child marriage.’<sup>83</sup>

10.1.5 In mid February 2017 the authorities in eastern Libya issued an order that prevented women under 60 leaving Libya without a male guardian.<sup>84</sup> However:

‘On February 23 [2017], Abdelrazeq al-Nadhouri, chief of staff of the forces known as the Libyan National Army (LNA) and the military governor of the region that extends from Derna to Ben Jawwad, repealed his order requiring women who wish to travel abroad to be accompanied by a male guardian and replaced it with a new order imposing travel restrictions on all men and women ages 18 to 45. The new order specifies that people in that age group need clearance by relevant security agencies ahead of any international travel from eastern Libya. Justifying these restrictions, the order refers to the “necessity to put in place measures to counter risk from abroad that threaten national security.”

‘... Abdelrazeq al-Nadhouri... issued the order requiring women who wish to travel abroad by land, air, or sea to be accompanied by a male guardian, also known as a mahram. The text of the order justifies it as necessary for “reasons of public interest” and “to limit negative aspects that accompanied Libyan women’s international travel.” On February 21 [2017], after a public uproar, al-Nadhouri reportedly suspended implementation of this regulation until further notice.’<sup>85</sup>

10.1.6 The same source noted:

‘Many women’s rights activists and human rights lawyers rejected the regulation, saying it violated women’s rights, as protected by Libyan laws. On February 22 [2017], women’s rights activists staged a demonstration in al-Kish square in Benghazi protesting the travel restrictions.

‘Libyan women have had the right to travel abroad without the permission of a male relative. In 2014, the Tripoli-based religious authority, Dar Al-Iftaa,

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<sup>82</sup> USSD, ‘Country Reports on Human Rights Practices for 2016’, Libya (section 2c), 3 March 2017 <https://www.state.gov/documents/organization/265722.pdf>. Accessed 13 April 2017

<sup>83</sup> Amnesty International, ‘Annual Report’, Libya 2016/2017, February 2017, <https://www.amnesty.org/en/countries/middle-east-and-north-africa/libya/report-libya/>. Accessed: 12 June 2017.

<sup>84</sup> BBC News, ‘Libya’s eastern authority freezes women’s travel ban’, 22 February 2017, <http://www.bbc.co.uk/news/world-africa-39053829>. Accessed 12 June 2017.

<sup>85</sup> Human Rights Watch, ‘Libya: Discriminatory Restriction on Women’, 23 February 2017, <https://www.hrw.org/news/2017/02/23/libya-discriminatory-restriction-women>. Accessed: 12 June 2017.

called for a woman to be accompanied by a male guardian if she wished to travel abroad, but the religious edict, or fatwa, never became law.’<sup>86</sup>

10.1.7 In his report to the Security Council of April 2017, covering the period 1 December 2016 to April 2017, the UN Secretary General observed that:

‘On 16 February 2017, the Libyan National Army issued a decision prohibiting women under 60 years of age from travelling abroad without a male “guardian”, citing security concerns. Throughout the country, Libyan women activists protested and described the decision as a breach of the country’s human rights obligations, as well as of the Constitutional Declaration. The decision was put on hold on 21 February as a result of those protests and was subsequently replaced by a decision requiring all Libyans between 18 and 45 years of age to acquire security approval before travelling abroad.’<sup>87</sup>

10.1.8 For further information about freedom of movement within Libya, see the country policy and information note on [Libya: Security Situation](#).

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<sup>86</sup> Human Rights Watch, ‘Libya: Discriminatory Restriction on Women’, 23 February 2017, <https://www.hrw.org/news/2017/02/23/libya-discriminatory-restriction-women>. Accessed: 12 June 2017.

<sup>87</sup> UN Security Council, ‘Report of the Secretary-General on the United Nations Support Mission in Libya’ (para 17), 4 April 2017, <https://unsmil.unmissions.org/sites/default/files/n1707537.pdf>. Accessed: 12 June 2017.

# Version control

## Clearance

Below is information on when this note was cleared:

- version **2.0**
- valid from **29 January 2018**

## Changes from last version of this note

Updated country information.

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