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**Official visit to Libya
14 - 21 December 2022**

**SUMMARY PRELIMINARY FINDINGS AND RECOMMENDATIONS
21 December 2022**

Yesterday I concluded my official visit to Libya, which I undertook at the invitation of the Government of National Unity from 14 to 21 December 2022.

My objective during this visit has been to evaluate the situation of violence against women and girls in the country, and the following statement contains my preliminary findings. I will present my final report with a more detailed analysis of the manifestations, causes and consequences of violence against women and girls, along with action-orientated recommendations to the United Nations Human Rights Council in June 2023.

While I was heartened by the invitation extended to me by the Government of National Unity (GNU) to visit Libya and the swift setting of dates, undertaking the visit has proven to be very challenging. Given the complex realities that women and girls face in Libya, I deemed it important to conduct the visit in order to fully cast light on these realities and to express solidarity with them. My visit however has been fraught with obstacles, including delays on entering the country; limited cooperation in securing meetings with relevant GNU Ministries and institutions, and despite numerous requests a denial of access by all authorities, both in the east and west of the country, to visit places of detention where Libyan and non-Libyan women and children are held. I was also barred from leaving the airport in Benghazi and could not pursue the meeting schedule I had planned, despite an initial agreement from the Libyan National Army (LNA) to do so. I also deeply regret the inability to meet with Libyan women active in politics, as well as women and girls who are victims of violence due to challenges in organization and implications for their personal security. A request made

to the Libyan National Army (LNA) to visit [Iftikhar Boudra](#), a Libyan woman arrested in Benghazi four years was also denied.

Legal and policy framework

Libya's Constitutional Declaration of 2011 affirms the State's commitment to human rights and basic freedoms and commits Libya to joining international conventions "that protect such rights and freedoms." Article 6 of the Declaration provides that Libyans shall be equal before the law, enjoy equal civil and political rights, have the same opportunities and be subject to the same public duties and obligations without distinction.

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

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

While the main focus was on developing a substantially solid text, less attention was paid by all those involved to garner support from the wider society and to capitalize on the assistance that national and international stakeholders could provide in instilling understanding of its objectives. The draft law is comprehensive, however given the sustained campaign by conservative elements within society against Libya's adherence to the Convention on the Elimination of Discrimination Against Women (CEDAW) and women's rights application is likely to be challenging. The adoption of the law will nevertheless be important, as it will constitute a binding legislative tool that can reasonably be expected to mobilize deliberate funded policy action on combating violence against women and girls and responding to it. National and international stakeholders invested in the adoption of the law need to focus on obtaining consensus and understanding by all key stakeholders in the country on the text of the law and its objectives, ahead of its adoption and subsequent implementation.

Similarly, the national plan entitled "Together to end violence against women" launched by the Ministry of Justice is a positive step, as its purpose is to raise

awareness in society about the gravity of domestic and other forms of violence and to make women themselves aware of their rights.

With regards to children, Libya has signed the Convention on the Rights of the Child (CRC). There are still areas of incompatibility between the national legislation and Libya's obligation under the CRC.. It is positive that as of December 2022, there are 37 family and child protection units throughout Libya, with a view to strengthening child justice systems, although they need significant strengthening and operationalization. Child specific institutions, such as the Higher Council for Childhood and others mandated with working on child protection and assistance do not count on a regular budget and resources and State institutions dealing with children for the most part lack specialized staff and expertise.

While the afore-mentioned laws and plans, if fully adopted and implemented, represent a positive step in tackling violence against women and girls in the country, other existing laws and policies continue to be deeply problematic and incompatible with fundamental human rights standards and norms.

The Penal Code, which is the main regulatory instrument in the State, contains general provisions that could in theory be applied to prosecute perpetrators of violence against women and girls in the domestic sphere, however they are not implemented in practice. A number of provisions are also not in line with international standards. In addition to the lack of implementation and enforcement of law, there is no means by which women can obtain protection orders to prevent acts of domestic violence from occurring. Social and cultural barriers, including police and judicial reluctance to act and family reluctance to publicize an assault, contribute to lack of effective government enforcement. Libya does not have shelters for victims of violence, and deep-seated social and cultural norms make it a taboo to speak about incidents of domestic violence, as it is considered "shameful" and brings dishonour on the victim and her family.

Of particular concern is Art. 407 of the Penal Code that criminalizes rape as an "offence against freedom honour and morals", rather than as a crime against the individual. Marital rape is not covered by the Penal Code as an offence. Additionally, rape survivors who cannot meet high evidentiary standards, and therefore, cannot prove their assault, are likely to face charges of adultery resulting in detention. According to Article 424 of the Penal Code, a rapist could be exonerated of his sentence if he marries his victim and does not divorce her for a period of three years.

Articles 390-395 of the Penal Code, prohibit abortion, including for women who have been raped. The penalty is reduced if the abortion is performed to the honour of the person performing it or the honour of a relative. A woman who carries out her own abortion is also punishable of an imprisonment of no less than six months (Art. 392).

The lack of adequate laws and services leave female victims of violence without an effective remedy and deters them from reporting rape and domestic violence. This is

compounded by conservative ideals and cultural norms within society, resulting in underreporting because of stigma and the risks that survivors may face when reporting crimes. In the current context, this troubling legislation is also often weaponized by powerful individuals, including those who have ties to armed militias in order to punish women and to rob them of their rights, while also forcing women and girls into exploitative and coercive relationships with them.

Laws pertaining to Libyan women married to non-Libyans are also a cause for concern, specifically Nationality Law 24/2010. While the Decree issued by the Council of Ministers of the GNU on 19 October is a welcome first step to granting non-citizen children of Libyan women access to free education, free medical treatment, and visa-free entry to Libya, it fails to guarantee the right of children of Libyan women to obtain nationality on an equal basis to children of Libyan men. Without Libyan nationality, non-citizen children of Libyan women face difficulties including in obtaining identity documents. Their civil and political rights are severely limited, preventing them from voting in elections and shutting them out of public sector jobs. I urge the authorities to address these issues without delay.

Trafficking is also a matter of considerable concern in the country, particularly with regard to non-Libyan women and girls, as well as women and girls living in border areas. The lack of a comprehensive anti-trafficking legislation to prevent and eliminate trafficking in women and girls and to protect victims, or detailed guidance as to its various punishable elements, has done little to deter perpetrators. I am deeply concerned about the documented patterns of sexual violence, sexual exploitation, forced prostitution, extortion, and trafficking of non-Libyans. I therefore urge the GNU to adopt anti-trafficking legislation in accordance with international standards and Security Council resolution 2331 (2016) to protect migrants and to address the nexus between conflict-related sexual violence and trafficking, in accordance with Security Council resolution 2331 (2016). I also urge the authorities to release all migrants and refugees detained arbitrarily, prioritizing: the vulnerable and those 'at risk', including children, in particular those who are unaccompanied or separated; families; pregnant and nursing women; survivors of trafficking, torture and rape; persons with particular physical or mental health needs; and persons living with disabilities.

Article 10 of Law No. 19 on combating irregular migration, stipulates that migrants should be treated "in a humane manner, keeping their dignity and rights, without assault on their money or assets". Law No. 10 (2013) concerning the criminalization of torture, forced abduction and discrimination makes discrimination a punishable act. Even though Libya is party to the OAU Refugee Convention, refugees and asylum seekers are considered as illegal migrants and their status of asylum seekers or refugees is not taken into account by current Libyan law in view of the absence of an asylum legal framework.

Over the years, many national and international organizations have advocated for the development of a favorable legal framework including through regularization of the

legal status of refugees and asylum seekers, as well as the need to receive asylum seekers, refugees and other migrants in minimum conditions of safety, dignity and free from abuse. I urge the Libyan authorities to amend Libyan legislation, including Laws no. 6 of 1987 and no. 19 of 2010, to decriminalize irregular entry, stay and exit from the country, and end the practice of mandatory or automatic detention of migrants, ensuring that any immigration infractions are treated as administrative, rather than criminal, offences; and take measures to ensure that migrants in detention are not subjected to sexual violence.

Despite the fact that the grave conditions in which non-Libyan women and girls find themselves in the country are well-known, I am deeply concerned by the continued cooperation between Libyan authorities and EU countries to intercept migrants at sea and to push them back to conditions in which their lives are at risk and where they are locked into a vicious and continuous circle of violence, particularly in view of the lack of dignified stay options in Libya and the limited options for relocation and resettlement. Many continue to lose their lives while making the perilous journey across the Mediterranean. I urge the Libyan authorities to develop a favorable legal framework that would allow for the regularization of the legal status of asylum seekers and refugees. I urge EU countries and others to put an end to these policies and to scale up opportunities for resettlement, evacuation and humanitarian corridors. In this respect, the establishment of a humanitarian corridor to Italy has proven to be life-saving, and I would encourage other countries to follow suit. Furthermore, there is a need to invest more seriously into implementing safe and regular paths to return migrants to their countries and for the Libyan authorities to end all violations and abuses of migrants' rights, and to hold those responsible accountable.

Libyan and non-Libyan women and girls in detention

With the exception of Jdayda Women's Prison in Tripoli, no other detention facilities employ female guards. This situation is compounded by the unimpeded access of male guards to the cells of female inmates, which increases the risk of sexual abuse and exploitation. While nominally under the Ministry of Justice, Mitiga Central Prison is effectively run by the Deterrence Apparatus to Combat Organized Crime and Terrorism (DACOT). Systematic abuses and violations have been documented in the facility against women and girls, including sexual violence, threats of rape, ill-treatment and torture, prolonged arbitrary detention, denial of medical care, extortion, systematic denial of family visits/contact with families, as well as denial of access to lawyers. An estimated 80 women and an unknown number of children are detained in that facility that is reported to have no female guards and no access to Justice. Furthermore, women who are allegedly affiliated with ISIL fighters, many of whom were recruited when they were themselves children, or who were either abducted or coerced into marrying ISIL fighters are detained with their children at the Kwefyeh military wing facility in Benghazi, where they are reportedly exposed to sexual violence including rape, lack of hygiene, medical treatment, proper food and drinking water.

Since the time of arrest in 2016, the concerned have been denied from due process including any legal services nor calls with families. These women should, as a matter of urgency be moved to a women's prison under the Ministry of Justice in line with Libyan legislation and international standards (or released if held without a legal or factual basis) where they can obtain the protection, care and services they need. The process of judicial reforms, with a view to ensuring access to justice for all persons deprived of their liberty, especially women and children, should be accelerated.

Experience of violence by women and girls

I have left Libya feeling deeply disturbed at the widespread, systematic, and grave levels of violence faced by Libyan women and girls. Femicide, or the killing of women on multiple grounds is on the rise; as are acts of physical, economic, political violence in the private and public sphere. Online violence targeted at women, inciting hate and aggression with the aim of preventing them from carrying out their activities or freely expressing their views is particularly rife and acts as an effective and powerful deterrent.

These acts of violence are frequently committed by family members, as well as institutions and individuals affiliated with the actual and de facto authorities and armed groups. These realities are emboldened by an all-encompassing impunity, and total disregard for the rule of law, and exacerbated by the ongoing instability, and insecurity in many parts of the country, as well as the proliferation of armed groups that exert control over populations and territories.

Specific groups of women are particularly at risk of violence including women active in politics, human rights defenders, and women perceived to be acting in contravention to established social and religious norms in society, or actively advocating for equality between men and women and their enjoyment of their rights. These include women and girls who have been abandoned by their families as children or whose parents are unknown and are housed in so called social rehabilitation centres. I am deeply troubled by reports that those housed in these centers are regularly subjected to sexual exploitation and abuse.

Furthermore, women who hold and express political opinions perceived to be in opposition to those in power, have family members that are perceived to be opposed to powerful actors on the ground, or who go against socially accepted norms are victims of particularly gross levels of violence. These include femicide, rape, torture, kidnapping and other forms of sexual violence, and forced disappearance. For example, in April 2020, a group of women from the same family were abducted at the hand of Al Kaniyat militia and found at mass graves at later stage in the town of Tarhuna. Other examples include the killing of prominent activists such as Salwa Bugaighis, Fareeha Al-Berkawi, Intissar Al-Hasaeri and Hanan Al Borosi. The victims are meant to serve as examples for anyone daring to emulate them and the threats,

harassment and assaults targeting many others appear designed to send a broader message that women should not be vocal in the public sphere.

Women subjected to violence, are regularly denied a fair trial, access to medical care, and contact with their families and loved ones. According to the information I have received, none of these serious incidents were investigated and no one has been convicted for these most egregious crimes. For example, the fate of the member of House of Representatives, Dr. Siham Sergiwa, is still unknown, more than a year after she was kidnapped from her home in Benghazi by an armed group. There is lack of national mechanism to protect victims and witnesses in Libya that has resulted in a severe lack of reporting and an unsafe environment in which to lodge a criminal complaint

With regards to girls, I was very concerned at the reported increase in the prevalence of incidents of violence against children in general, including sexual violence, within the family, schools and communities. Though data on the prevalence of violence against children is seriously lacking, mirroring the situation of violence against women, available data, such as the 2017/2018 study by UNICEF, the National Center for Disease Control and CORAM showed that at least 88 percent of girls had reported experiencing one form of violence. The taboos and stigma that surround these issues make reporting and addressing them extremely difficult.

With more than 132,000 internally displaced persons (IDPS) in the country, female IDPs often lack access to sexual and reproductive health services, violence prevention and response services as well as access to the justice system. The worsening security concerns from the state and the community often result in limiting the freedom of movement for women and girls on the assumption that it is best for their protection. Worsening security concerns from the state and the community often result in limiting the freedom of movement for women and girls, with the assumption that this would be best for their protection.

Non-Libyan women and girls continue to be disproportionately affected by the continuing conflict and the rise of violent extremism across the country. Incidents of conflict-related sexual violence by armed groups remain severely underreported because of fear, intimidation and stigma related to underlying discriminatory norms. While I did not visit any locations in which non-Libyans are being held, I am alarmed at the multiple reports I received of discriminatory and dehumanizing treatment including horrific levels of torture, sexual violence, abduction for ransom, detention, trafficking in persons, forced labour and unlawful killings they are subjected to, and the level of impunity that exists for these crimes

Women and girl survivors of violence face many barriers to accessing essential services including financial, while the irregular status of non-Libyans limits their freedom of movement.

Since 2021, new detention centers have emerged under the authority of the Stabilization Support Apparatus (SSA). It is estimated that thousands of asylum seekers, refugees, and migrants are held in SSA-run DCs and/or in captivity by

different security forces and are essentially hidden without access to any kind of protection.

Women who are allegedly associated with ISIL fighters, many of whom were recruited when they were themselves children, or who were either abducted or coerced into marrying ISIL fighters are detained with their children for many years on end without a fair trial, where they are exposed to sexual violence including rape, lack of hygiene, medical treatment, proper food and drinking water.

The way forward

Several officials I have met with appeared to feel comforted by their perception that many aspects of the law and the State Religion uphold equality between men and women. Libyan officials also often referenced the fact that several GNU Ministers and senior officials are women. Many of them recognize that the legal framework requires revision and work in several areas, including family law, trafficking, sexual exploitation, and violence against women. At the same time, it was troubling to observe a tendency to deny the scale of violence experienced by women in Libya and, at times, its normalization.

Opportunities to amend current legislation are significantly curtailed by the fragmentation in governance structures, political deadlock, instability, insecurity, and lack of political will to recognize and prioritize the prevention and response to violence against women and girls. Interest in legal and policy reform, where it has been expressed, have often been conditioned on the need for these reforms to be in conformity with the religious and social norms of the country and without sufficient and due consideration of the fact that Libya is a signatory of key international legal instruments, such as the Convention on the Elimination on Discrimination Against Women (CEDAW). This is no coincidence. Libya's adherence to CEDAW is seriously under threat, as it has come under an orchestrated and heavy attack by ultra conservative forces in society that have spread misinformation about the scope of CEDAW and its objectives. In this respect, I am deeply concerned at the fact that the authorities have allowed the defamation of CEDAW and feminist organizations working on women's rights. A number of them have also not shielded their own senior officials from heavy attack but played into the hands of these forces, as well as aided and abated them. It is imperative that the threats to Libya's adherence to international legal frameworks is recognized and that a sound national strategy is put in place to counter it, including through information campaigns and dialogues with social and religious leaders.

Relevant ministries such as the Ministry of Women's Affairs has also established a multi-sectoral working group specific to violence against women. Without a budget or clear mandate or authority however, the ministry is left without clout or effective ability to develop sectoral programs and interventions on women. Without "teeth" the Ministry has focused on advocacy for women's empowerment and their political participation, consultation of different constituencies of women. Other Ministries and institutions

with committed civil servants must also be supported if good governance is to be achieved.

Women have no access to effective assistance and response mechanisms, particularly essential health services in areas affected by the hostilities and outside larger urban centers. At the same time, strengthening the delivery of targeted services for victims of violence in health facilities appears to be potentially promising.

Despite this grim picture, there are at least two entry points through which the advancement of women can be achieved, and which could constitute crucial entry points for achieving progress in their enjoyment of their rights. One of these is the importance placed on increasing the participation of women in politics, including in upcoming elections as well as encouraging more women to run as political candidates. Such an interest is reflected in the establishment of a Libyan women's caucus in the House of Representatives (HoR) to promote the inclusion of women in the constitution drafting process and recent convening of a series of meetings with women from all walks of life for them to participate in the political transition and reconciliation process. The Higher National Election Commission plays a crucial role in highlighting the importance of including women in the political sphere and should be further supported in its programme to monitor online violence against women during the elections.

The other area for work is economic empowerment. 50% of the women who work in the public sector are women, with concentration in several sectors such as education and health care. The GNU has set up women's empowerment units in various ministries and the Presidential Council.

It is equally concerning to me that international and national organizations working in the humanitarian response, protection, as well as the advancement of women and girls and their enjoyment of their rights are finding it increasingly difficult to operate in Libya. The space for operating is decreasing, and the pressure on organizations and their staff increasing.

Moving forward, it is clear to me that the main threat to women and children, including girls, is the fragmented political and governance situation, as well as the continued instability and proliferation of armed groups and weapons in the country. Libya agreed to many of the recommendations outlined in the Universal Periodic Review of 2020, including in relation to eliminating violence against women and girls. These commitments must be translated into reality. Furthermore, it is clear that the integrity and effectiveness of civil institutions is under serious threat and the rule of law is being rolled back on a daily basis. These factors, together with others have become fertile grounds for impunity for acts of violence, as well as enforcing systems and modalities for inflicting violence against women and children, including girls. It is imperative that the Libyan authorities, as well as United Nations entities, and international donor organizations place the protection of women and children, including girls at the centre of all development frameworks, reconciliation and peacebuilding efforts.

The UN and the International community must also advocate consistently and systematically for treating the prevention of violence against women and children, including girls in Libya by all Libyan authorities as a priority

Other key opportunities that could strengthen the prevention and response mechanisms on violence against women and children, including girls, such as: ensuring important legislative reforms through the adoption of the 2021 Draft Law on violence against women; ending impunity; bolstering support for relevant institutions dealing with women and children to ensure they are fully operational; supporting opportunities for economic empowerment and political participation of women: It is also imperative to support the efforts being made by public servants and human rights defenders who, against all odds, are tirelessly working towards ensuring the protection of women and girls in Libyan society.