



NGO Stakeholder Report for the UN Universal Periodic Review of Libya

submitted September 2014 to the UN Office of the High Commissioner for Human Rights

by Libyan Women's Platform for Peace

Libyan Women's Platform for Peace (LWPP, Libya)

Fowayhat, Benghazi

Libya

Led by Ms. Zahra' Langhi

Tel.: 002 012 222 96 565

Email: langhiz@yahoo.com

Website: <http://www.lwpp.org>

Libyan Women's Platform for Peace (LWPP), led by Zahra' Langhi

Founded in October 2011, LWPP is pressure group/movement advocating for women's socio-political empowerment and peace-building. LWPP has mobilized hundreds of women and youth, activists, political leaders, media, and others to engage in the political process and building a roadmap for reconciliation. In 2012, LWPP proposed and lobbied successfully for a zippered candidate list to be required for political parties' seats in the first general election, which secured for women 16.5% of the total seats in parliament. LWPP conducts campaigns and trainings to ensure a more inclusive and accountable political process, gender-sensitive demobilization and security sector reform, protection for women victims of violence, and an inclusive National Dialogue process. LWPP's founder and director Zahra' Langhi is a gender specialist, civil society strategist and political activist advocating for peace, human rights, and women's leadership. In 2013 she was appointed to the Advisory Council for the Preparatory Commission of Libya's National Dialogue.

Human Rights and Women in Libya
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I. Introduction

A. Peace and Justice

The conflict and war crimes being waged in post-revolution Libya pose important challenges to women’s meaningful exercise of human rights and engagement in the transition and the advancement of gender equality in the country, including the ability to create inclusive governance institutions.

The most significant obstacle to women’s full exercise of human rights, political participation, and share of decision-making roles is currently the unchecked militarization and violent extremism plaguing Libya today, perpetuating armed conflict and war crimes.

The State and the international community have failed to enact arms control, DDRR (disarmament, demobilization, rehabilitation, and reintegration), and to combat the rampant impunity for these violent crimes. As long as this continues, there is no security in which women or men can exercise their human rights or in which the rule of law can be re-established.

The steps the State and the international community need to take must be inclusive—of women, youth, minorities, and civil society—engaging more parties than just the militant groups. Sustainable peace, conflict resolution, and transitional justice affect and involve civil society constituencies as much as combatants. Thus, all steps toward peace and security must be inclusive, from the start.

Protection of civil society members and human rights defenders must be paramount for their safe participation in the peace, reconciliation, and political processes. The female human rights activists and leaders Salwa Bugaighis and Fareha al Barqawi were each assassinated by militias in 2014 for calling for and advocating for a peaceful transition of power. In Tripoli, militias are publicly calling the opposition ‘traitors’ and making claims that they will assassinate and persecute opposition members even outside the country.

There must be no impunity for warlords. There must be inclusive and gender-sensitive negotiations and peacebuilding processes, DDRR, and security sector reform (SSR). From this foundation, rule of law and democratic governance will be more successfully established, whereupon the State must be held accountable to its legal obligations to respect, protect, and fulfill the human rights guaranteed to all women, men, youth, minorities, and those within its borders.

B. Women’s Human Rights Protection

The absence of civil society under Qaddafi’s government, and women’s limited political influence and economic engagement in the past 40 years, suggest that their human rights protection will require urgent and comprehensive attention, in addition to the enactment

of gender-inclusive DDRR, SSR, and democratic governance. Like the rest of the segments of the Libyan society, Libyan women were subjected to injustices and state violence in Qaddafi's despotic rule—imprisoned, tortured, raped and killed. That is why, *inter alia*, Libyan women strongly participated in the Revolution and the subsequent Liberation War.

Upon the liberation, the National Transitional Council (NTC) declared that one of its objectives was to restore participation and representation including women's. A few important steps have been taken in that direction:

- In 2012, in response to a proposal by a civil society group, the NTC revised the electoral law to require 'zippered' candidate lists for political party seats, in which male and female names had to alternate, horizontally and vertically. This increased the range of seats ensured for women from 0 to nearly 40—20% of the total seats in the constitutional assembly. Ultimately, given districting irregularities, women won 16.5% of the 2012 General National Congress (GNC) in the first national election since the fall of Qaddafi's regime.
- Nevertheless, this zipper list precedent was dropped in 2014 by the GNC from the next electoral law when a direct vote system was adopted for the subsequent legislature. However, the GNC retained a 16% quota for women in the new body, the Council of Representatives, elected in June 2014.

Despite these advances, most of the NTC's policies and laws and those of the General National Congress have lacked a gender-sensitive approach. Moreover, the policies, laws, and political appointments in the transition and reconciliation process have marginalized inclusion of women and failed to provide protection from violence, particularly for women in the public sphere.

C. Overview of Areas of Concern

This report makes recommendations in the following areas of concern where the State has a legal obligation to reject impunity, carry out an inclusive peace and reconciliation process, restore the rule of law and democratic governance, deliver justice, and to respect, protect, and fulfill human rights under international law:

1. **Compliance with UN Security Council Resolution 1274 issued under Article VII powers** (September 2014) which "condemns the use of violence against civilians and civilian institutions and calls for those responsible to be held accountable," "calls on all parties to engage in an inclusive Libyan-led political dialogue in order to help restore stability," and reaffirms designation of a travel ban and asset freeze "for individuals and entities...engaging in or providing support for...acts that threaten the peace, stability or security of Libya, or obstruct or undermine the successful completion of its political transition.
2. **Compliance with CEDAW General Recommendation 30** which obliges Libya to take legislative, policy, and other appropriate measures to realize "substantive gender

equality before, during and after conflict and ensuring that women's diverse experiences are fully integrated into all peacebuilding, peacemaking, and reconstruction processes.”

3. **Enactment of UN SCR 1325, 1820, 1889, 2106, et al**, which call for women's participation at all levels of peacebuilding, conflict resolution, and post-conflict decision-making, as well as ending sexual violence during armed conflict and its impunity, elaborating concrete measures for accountability.
4. **Protection of women human rights defenders and women's political participation, representation, and presence in the public sphere**, to be free from exclusion, harassment, threats, abuse, kidnappings, and intimidation which impede their exercise of human rights and violate the security of all civil society members.
5. **Protection, investigation, prosecution, and punishment for extrajudicial killings** by non-State actors, such as the assassinations of Salwa Bugaighis in Benghazi, Fareha al Barqawi in Derna, and Salwa Henied in Derna, and an end to impunity and lack of deterrent measures.
6. **Transitional justice carried out according to international human rights standards**, including gender-inclusive DDDR, SSR, and Truth Commission and reconciliation processes, and reform of the Political Exclusion law.

Main Issues of Concern and Recommendations

II. Concerns and Recommendations under International Treaties

UN Security Council Resolution 2174

Acting under Chapter VII powers, the UN Security Council issued mandatory Resolution 2174 in September 2014, taking the following steps with regard to Libya:

- calling for an immediate ceasefire and end to fighting
- condemning the use of violence against civilians and civilian institutions and calling for those responsible to be held accountable
- calling on all parties to engage in an inclusive Libyan-led political dialogue in order to help restore stability, and to forge consensus around the next steps in Libya's transition
- reaffirming the travel ban and asset freeze of any individual or entity determined to be engaging in or providing support for acts that threaten the peace, stability or security of Libya, or obstruct or undermine the successful completion of its political transition

Recommendation 1: To fulfill its obligation to the UN Security Council mandatory resolution, its duty to eliminate impunity, and to respect, protect, and fulfill its human rights obligations, the Libyan State must ensure protection of civilians, establish and engage in an inclusive peace process and political dialogue with militant groups and civil

society, provide for the security of all constituents in those processes, ensure justice to victims of violence committed by State and non-State actors, and designate individuals to be subject to the UNSC's described sanctions.

Recommendation 2: Eliminate impunity for all warlords, the militias and those affiliated to them who planned and supported their atrocities; hold them accountable for their war crimes and subject them to investigation, prosecution, and punishment to the full extent of national and international law.

CEDAW General Recommendation 30 and UNSCR 1325, et al

Issued in October 2013, CEDAW General Recommendation 30 obliges Libya as a State Party to take legislative, policy and other appropriate measures to realize “substantive gender equality before, during and after conflict and ensuring that women’s diverse experiences are fully integrated into all peacebuilding, peacemaking, and reconstruction processes,” binding States Parties to report on fulfillment of UNSCR 1325 and related resolutions.

Recommendation 3: The Libyan State should enact concrete and immediate measures to fulfill the legal obligations under CEDAW General Recommendation 30 related to arms control to prevent its use for violence against women, temporary special measures for women’s participation in peace and post-conflict processes, gender-responsive SSR and DDRR, and prosecution of sexual violence in the conflict, among others.

III. Constitutional and Legislative Framework; Human Rights Infrastructure

Libya’s elected Constitutional Assembly is in the process of drafting a new constitution. The members of that body are urged to provide for women’s rights and temporary special measures to accelerate the realization of equality.

Recommendation 4: Include provisions in Libya’s new constitution that protect women’s rights and allow for the adoption of temporary special measures to ensure gender perspective and women’s representation and participation in political bodies and branches.

IV. Inequalities and Recommendations for Legislation & Policy

1. Right to life, liberty and security of the person

2013 and 2014 have been tumultuous in Libya. Militias blockaded and stormed the Congress several times. Assassination attempts on male and female leaders, bomb attacks, armed militias, strikes, and blockades have left a state of insecurity and instability in almost every major city and the government. A persistent illegal arms trade has increased revenge crimes and kidnappings, aggravating property destruction, displacement, and gender-based violence targeting different individuals or groups.

A number of alarming incidents as well as policies were observed as an evidence of

systematic violence and discrimination against women.

Examples of these major **violations** observed are in the following areas:

- a. Assassinations in 2014 of human rights activist (and Vice Chair of the National Dialogue Preparatory Commission) Salwa Bugaighis, former GNC member Fariha Al-Berkawi, and of Salwa Henied, a member of the the National Security in the former regime.
- b. Women activists receiving threats and attacks on some offices of women's NGOs. Most of these women leaders have fled the country and their families left behind are under threat.
- c. Recent attacks and threats of women parliamentarians who are attending the sessions in Tobruk. Firing at the house Aisha Al-Tablaqi, a parliamentarian from Benghazi, threat to burn down the house of Na'ima al-Dalphy from Zeilten. And the house of Afaf Zurayq, a candidate for the parliamentary elections from Tripoli, was burned and robbed by Dawn of Libya Operation militias.
- d. Refusal by the GNC to pass the law to treat victims of sexual violence during conflict as victims of war. A ministerial decree (not legislative one) was subsequently adopted in 2014 providing victims of sexual violence with reparations.
- e. Negligence on part of the Executive branch with regard to employing women police officers, thus adversely impacting female prisoners and depriving them appropriate care.
- f. Failure by the executive bodies to condemn violence against women and bring the perpetrators to justice as in the following incidents:
 - Abduction and killing of Hamida al Asfar, a lawyer, by militias in Janzur.
 - Attack on Hanan Nasuri, a lawyer, and her father in front of the court in Misrata.
 - Harassment by officers in the 4th Security Support Unit in Tripoli of Aicha Al Maghrabi, a university professor and writer, because she was travelling in a car with her driver, unchaperoned by a Mehrem (male relative or guardian).
 - A group of armed men broke into a women's forum and forcibly pulled out Magdoline Ebeidah, a civil activist, and abducted her. The women who were present at this forum were intimidated and threatened. Presently, this activist has received political asylum in the UK.
- g. Verbal & physical abuse by members of the National Congress affiliated with militias targeting female Congress members in a plenary. GNC member Najah Saloh was physically attacked in the legislature by Salah Badi of Misrata, now leader of the Dawn of Libya operation in Tripoli, during the debate on DDRR. Another verbal abuse was by Mohamed Kilani of Zawiyya against women members of the GNC which was aired on TV. He argued that the GNC members are distracted by their women colleagues who wore make up, dressed indecently

and mingled with men.

- h. When the quota for women in the Constitutional Assembly was being debated by GNC, some of the male GNC members affiliated with militias threatened their female colleagues if they did not accept the minimum proposal of just 6 seats for women out of the 60. This strong-arm tactic led to some civil society groups boycotting the subsequent elections.
- i. The Supreme Constitutional Court is currently reviewing the right of women to be judges.
- j. A 2013 fatwa by the Supreme Mufti calls on the government to ban the marriage of Libyan women to foreigners; another of the Mufti's fatwa bans women from traveling without a male chaperone (Mehrem), and another fatwa decrees that female teachers should cover their faces if they are teaching teenage boys.

Recommendation 5: With the help of women leaders, the State should launch a DDRR campaign of the militias. Absorb ex-fighters from the militias into the state army and security apparatuses so as to encourage them to relinquish their private stock of arms. Conduct media campaigns against the chaotic use of arms, and on DDRR from a gender perspective.

Recommendation 6: Fulfill the State obligation of due diligence, to prevent, protect, investigate, and punish State and non-State perpetrators of violence, particularly all forms of violence against women in the public and private spheres and in armed conflict.

Recommendation 7: Implement gender-inclusive security sector reform (SSR), including recruitment of women as military, police, and prison personnel, and train all security and government personnel in human rights, gender integration, and procedures and protection of women from threats or acts of violence in public and in private.

Recommendation 8: Cease impunity, conduct proper investigation, prosecution and punishment for extra-judicial killings, also cooperate with international or regional bodies' inquiries and/or investigations into these crimes.

2. Administration of justice, including impunity and the rule of law

Courts have been closed in Benghazi and Derna, and members of the judiciary, prosecutors' office, and the military police have been subject to organized assassinations, detention and kidnapping, occurring with impunity. In April 2013, militias also blockaded the GNC and several government ministries with anti-aircraft weapons, and forced adoption of the Political Exclusion Law at gunpoint.

Recommendation 9: Activate the judicial system, eliminate impunity for violent crimes, pursue criminals and conduct proper investigation, prosecution and punishment.

Recommendation 10: Revise the Political Exclusion Law to meet international standards for transitional justice and due process. The law should be amended to create a vetting

process which evaluates on an individual case basis and which removes or bars only people found guilty of committing human rights abuses.

Recommendation 11: Transitional justice and reconciliation process requires gender-inclusive commitment to DDRR, SSR, and truth & reconciliation measures. Support the completion of the inclusive National Dialogue process, and design and launch with civil society's input an inclusive Truth & Reconciliation mechanism.

3. Right to participate in public and political life

Women remain poorly represented in the Constitutional Assembly, and in ministries and the higher government jobs. There were only two women in the first Cabinet of Prime Minister Keib out of 24 ministers and only two women in the National Transitional Council out of 73 announced members in 2011. The percentage in the next government of Prime Minister Zeidan was not different. There are only two female ministers, the Social Affairs ministry and the ministry of Tourism. There are yet no women ambassadors.

Democracy entitles that all voices are represented, those of the majority as well as those of the minority. As long as there is gender-based discrimination in society, CEDAW Article 4 and General Recommendation 25 oblige the State to enact temporary special measures to protect the disenfranchised and to accelerate the realization of equality, particularly in political institutions and elected bodies.

In 2014, the GNC enacted a new electoral law that reserves a 16% quota for women in the direct election to the new legislature, the Council of Representatives. The GNC's electoral law for the Constitutional Assembly allocated only a 10% quota for women, i.e., 6 out of the 60 seats in the assembly, and 10% for minorities.

Recommendation 12: Enact adequate temporary special measures to ensure women's equality in representation in decision-making political bodies and in political appointments at the national and international levels, and ensure that women's rights are recognized within the new constitution and under law.

Recommendation 13: Enact temporary special measures in electoral laws for increased representation of minorities, and ensure that minorities and their rights are recognized within the new constitution and under law.