

**Mandates of the Special Rapporteur on violence against women and girls, its causes and consequences; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the right to privacy; the Special Rapporteur on freedom of religion or belief and the Working Group on discrimination against women and girls**

Ref.: AL LBY 2/2023  
(Please use this reference in your reply)

5 July 2023

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on violence against women and girls, its causes and consequences; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the right to privacy; Special Rapporteur on freedom of religion or belief and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 50/7, 52/4, 46/16, 49/5 and 50/18.

In this connection, we would like to bring to the attention of your Excellency information we have received concerning the **movement restrictions on Libyan women and girls travelling without *mahram*, or male companion.**

According to the information received:

In April 2023, the Internal Security Agency (ISA) of the Government of National Unity (GNU) reportedly issued a restriction that prevents women and girls from travelling outside the country without a male guardian (*mahram*). The procedure was reportedly issued by the de facto head of the ISA without a formal announcement. The new procedure requires all women departing from Libyan airports in the Western region to submit a completed document entitled ‘form for Libyan female travelers’, in which women are asked to provide personal information and to specify reasons for travelling abroad without a *mahram*, as well as any previous history of travelling without a *mahram*. Women are allegedly refused boarding if the form is not completed or submitted, and students studying abroad are also reportedly being affected.

A few weeks following the implementation of this procedure, Tripoli’s religious authority, Dar al-Iftar, reportedly issued a religious edict (*fatwa*) supporting the new procedure and conferring it religious legitimacy. In 2014, the same authority had called for women to be accompanied by a *mahram* when travelling abroad. The GNU’s Minister in charge of women’s affairs, Dr. Houria al-Turmal, publicly praised the ISA order, stating it is a preventive tool to guarantee “protection” for Libyan women and girls. In the same vein, a delegation of women members of the House of Representatives reportedly met with the head of the ISA, and expressed open support for this decision on 8 May 2023, stating that the restriction may act as a preventive procedure until the laws related to the security of women and girls are adopted.

The ISA also allegedly tried to mobilize further support for this measure by issuing a survey filled out by 1,000 people on whether women and girls need a *mahram* to travel, using yes or no answer options to the following four questions: (a) does a woman need a *mahram* or legal guardian for travelling,

(b) do you consider banning women from travelling without a *mahram* or legal guardian to be a legal procedure, (c) is this restriction contrary to human rights, and (d) since Islam is the official State religion, is the ban in compliance with canon law or Sharia?

On 15 May 2023, a list of the names of 119 human rights defenders and civil society activists, who had issued a statement protesting this new procedure, was disseminated on social media, highlighting that they were against the new procedure by ISA, thereby increasing the serious risks to their safety and threat of reprisals. Several signatories and other human rights defenders were also reportedly called in for interrogation by the ISA.

It appears that no such procedure is being applied or mandated in the Eastern region of the country. However, similar travel restrictions have been implemented in the past. In 2017, the military chief of staff of Libya's Eastern region, Abdelrazzak Al-Naduri, reportedly imposed a similar travel ban on women below the age of 60, though it was temporarily withdrawn following protests from civil society actors and international partners.

While we do not wish to prejudge the accuracy of these allegations, we express concern about the continued and excessive control by security agencies of women and civil society actors. We are particularly concerned about the negative impact the discriminatory procedure has on the basic rights and freedom of women and girls, in contradiction of Libya's international legal obligations. This arbitrary and restrictive procedure also threatens women's constitutional right to movement and contradicts the principle of equality enshrined in domestic law, including Articles 6 and 14 of the 2011 Temporary Constitutional Declaration, and Article 31 of the Political Agreement.

If the GNU have adopted this restrictive procedure in response to a particular and significant risk that the GNU has identified for Libyans travelling abroad, such as credible reports of exposure of women and children to trafficking and/or sexual exploitation, such measures must be adopted in line with international human rights standards. The GNU must ensure that any preventive measures ostensibly implemented to guarantee "protection" for Libyan women and girls are in line with international human rights standards and are not discriminatory. The mandatory requirement of *mahram* violates women's right to freedom of movement and dignity, and is inherently discriminatory, humiliating, and derogatory. In view of the above, we call upon your Excellency's Government to revoke this requirement and to put an end to any intimidation, harassment or attack against women and human rights defenders who have protested against this new discriminatory ruling.

We would like to seize this occasion to remind your Excellency's Government that under the Convention on the Elimination of All Forms of Discrimination Against Women, to which Libya is a State Party since 16 May 1989, the obligation to protect women's and girls' rights to equality and non-discrimination, including on social and religious or belief grounds, compels the State to prevent discrimination by private actors. Due diligence as a principle of State action should result in a global model of prevention, protection, prosecution, punishment and redress for acts of discrimination and violence against women in all areas of women's and girls' lives.

We would also like to emphasize that while reaffirming our commitment to the principle of upholding freedom of religion or belief as a human right to be protected, religious beliefs and norms cannot be used to justify discrimination against women and girls. As stated in Article 5 of the Vienna Declaration on Human Rights, all human rights are universal, indivisible and interdependent and interrelated. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment(s) you may have on the above-mentioned allegations.
2. Please explain what measures have been taken to ensure that all human rights are respected and protected for all women, particularly their rights to equality and non-discrimination and their dignity and right to freedom of movement.
3. Please clarify how the procedure referred to above responds to a legitimate need as the authorities claim, and provide evidence that a measure that applies distinctly to women and girls as opposed to universally, is a proportional and legitimate restriction.
4. Please explain what data-protection measures are available in your national legal system to protect against the possible exploitation and use of such data collected, stored, and used by other State or non-State actors with whom data may be shared.
5. Please indicate the measures taken or planned to ensure that Libya fulfils its international human rights obligations to promote and protect women and girls' rights, including protection of women human rights defenders and civil society actors from any harassment, intimidation or violence when exercising their right to peacefully protest.
6. Please provide reasons for calling the human rights defenders in for interrogation by the ISA.
7. Please explain what measures have been taken to ensure that all human rights defenders in Libya, in particular women human rights defenders who exercise their right to protest the restrictions on their movement, can carry out their peaceful and legitimate activities without fear of restrictions, judicial harassment or violence.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

Please accept, Excellency, the assurances of our highest consideration.

Reem Alsalem

Special Rapporteur on violence against women and girls, its causes and consequences

Mary Lawlor

Special Rapporteur on the situation of human rights defenders

Ana Brian Nougères

Special Rapporteur on the right to privacy

Nazila Ghanea

Special Rapporteur on freedom of religion or belief

Dorothy Estrada-Tanck

Chair-Rapporteur of the Working Group on discrimination against women and girls

## **Annex**

### **Reference to international human rights law**

In connection with above alleged concerns, we would like to refer your Excellency's Government to the International Covenant on Civil and Political Rights (ICCPR), to which Libya is a State Party since 15 May 1970, and in particular to Articles 2, 7, 17, 18, 19, 26 and 27, which provide for the principle of non-discrimination, the right to be free from torture and other forms of ill-treatment, the right to privacy, the rights to freedom of thought, conscience, religion or belief, opinion, and expression, equality before the law, as well as the right of persons belonging to minorities.

Article 17 of ICCPR protects against the unlawful or arbitrary interference of identifying information about an individual as well as information concerning their private life. Procedures allowing for the collection and retention of personal information, whether or not that information is subsequently used, may constitute an interference with individual privacy rights. Any interference with a person's privacy rights must, in turn, be prescribed by law, specifying the precise circumstances in which such interference is permitted, and must not be discriminatory ([A/HRC/27/37](#)). The UN General Assembly has highlighted that "the rapid pace of technological development .... enhances the capacity of governments to undertake surveillance, interception and data collection, which may violate or abuse human rights, in particular the right to privacy" ([A/RES/68/167](#); see also [A/RES/69/166](#) and [A/RES/71/199](#)).

Article 18(1) of the ICCPR states that "Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom [...] either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching." While the manifestation of religion or belief may be restricted as per Article 18(3) of the ICCPR, to protect public safety, order, health, morals and the fundamental rights and freedoms of others, any such limitation must fulfil a number of obligatory criteria of legality, proportionality and necessity, including being non-discriminatory in intent or effect and constitute the least restrictive measure.

The Special Rapporteur on freedom of religion or belief highlighted that freedom of religion or belief can never serve as a justification for violations of the human rights of women and girls ([A/HRC/43/48](#), para. 68). "International law is clear that the manifestation of religion or belief may be limited by States, in full conformity with the criteria outlined in Article 18(3) of the International Covenant on Civil and Political Rights, to protect the fundamental rights of others, including the right to non-discrimination and equality, a principle upon which all human rights, including the right to freedom of religion or belief, depends" (Ibid., para. 69).

We would like to also remind your Excellency's Government that, under the Convention on the Elimination of All Forms of Discrimination Against Women, the obligation to protect women's and girls' rights to equality and non-discrimination compels the State to prevent discrimination by state and non-state actors. In this regard, we deem it appropriate to refer to Article 15 of the Convention on the Elimination of all Forms of Discrimination against Women, which explicitly states women's right to movement. Furthermore, Article 2 of the Convention requests all States to take all appropriate measures, including legislation, to modify or abolish

existing laws, regulations, customs and practices which constitute discrimination against women, and Article 5 of the Convention requires States to take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to eliminating prejudices and practices that are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.

The Committee on the Elimination of Discrimination against Women (CEDAW Committee), in its General Recommendation No. 35 (2017) on gender-based violence against women, updating the General Recommendation No. 19 (1992), refers to the obligation of States Parties, its bodies and agents to refrain from engaging in practices of direct or indirect discrimination against women and to ensure that public authorities and institutions act in accordance with that obligation ([CEDAW/C/GC/35](#)).

In its reports to the Human Rights Council, the Working Group on discrimination against women and girls has demonstrated the persistence of a global discriminatory cultural construction of gender, often tied to religion, and the continued reliance of States on cultural justifications for adopting discriminatory laws or for failing to respect international human rights law and standards. It has particularly emphasized that failure to ensure the equality of women and girls within the family undermines any attempt to ensure their equality in all areas of society. While the Working Group is committed to the principle of upholding freedom of religion or belief as human rights to be protected, it regrets the increasing challenges to gender equality in the name of religion. It joins other international human rights expert mechanisms in reiterating that freedom of religion or belief should never be used to justify discrimination against women. The Working Group also demonstrated that secular systems, while being imperfect, are the most conducive to gender equality (see [A/HRC/29/40](#) and [A/HRC/38/46](#)).

In addition, the Working Group documented that culture and religion are often invoked to justify discrimination and violent practices against women and girls. Women have often been viewed as objects rather than as equal participants with men in the creation and manifestation of cultural principles. Indeed, when culture and religion are invoked to justify different forms of discrimination against women, women are seen not as victims or survivors of such discrimination, but as persons who “violate” cultural rules and norms. In Joint General Recommendation 31 of the CEDAW Committee and General Comment No. 18 of the Committee on the Rights of the Child (CRC), the Committees have noted that harmful practices affecting women and girls are deeply rooted in social attitudes according to which women and girls are regarded as inferior to men and boys based on stereotyped roles. They highlight the gender dimension to violence and indicate that sex- and gender-based attitudes and stereotypes, power imbalances, inequalities and discrimination perpetuate the widespread existence of practices that often involve violence or coercion ([A/HRC/29/40](#)).

In its report on women’s participation in political and public life, the Working Group on discrimination against women and girls noted that for women to have the capacity to equally participate in political and public life, they must be able to exercise their rights to freedom of thought, conscience, religion, expression, movement and association ([A/HRC/23/50](#)). The political will of States is a key element for gender equality outcomes, combined with persistent support and scrutiny

by women's rights movements, whose autonomy should be protected by the State. Patriarchal and discriminatory family law or practice may limit women's freedom of movement in the public space. For instance, laws that require women to seek permission from their husbands or other family members traditionally defined as guardians in acquiring identity documents can also undermine women's capacity to equally participate in political and public life.

In the same report, the Working Group on discrimination against women and girls also called on States to ensure, including through constitutional provisions, a coherent system-wide framework for gender equality and to accelerate efforts to eliminate all forms of violence against women and girls, including through a comprehensive legal framework to combat impunity. In addition, the Working Group demonstrated that stigmatization, harassment and attacks are used to silence and discredit women who are leaders, community workers, human rights defenders and politicians. Women human rights defenders are often the target of gender-based violence and may experience intimidation, attacks, death threats and even murder. Violence against women human rights defenders is sometimes condoned or perpetrated by State actors.

In this vein, we deem appropriate to remind your Excellency's Government of the important and legitimate role that human rights defenders play and the protection they are entitled to by international law. We wish to highlight in particular the Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the Declaration on Human Rights Defenders, which states that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has the primary responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Specifically, we would like to draw your attention to the General Assembly Resolution [68/181](#), which urges States to acknowledge publicly the important and legitimate role of women human rights defenders in the promotion and protection of human rights, democracy, the rule of law and development as an essential component of ensuring their protection, including by publicly condemning violence and discrimination against them (OP7). We also invite your Excellency's Government to refer to the Human Rights Council resolution [31/32](#), in which States expressed particular concern about systemic and structural discrimination and violence faced by women human rights defenders. States should take all necessary measures to ensure the protection of women human rights defenders and to integrate a gender perspective into their efforts to create a safe and enabling environment for the defense of human rights. This should include the establishment of comprehensive, sustainable and gender-sensitive public policies and programmes that support and protect women defenders. Such policies and programmes should be developed with the participation of women defenders themselves (OP5, 19 and 20).

Following her country visit to Libya from 14 to 21 December 2022, the Special Rapporteur on violence against women and girls, its causes and consequences shed light on the "widespread, systematic and grave levels of violence faced by Libyan women and girls" ([A/HRC/53/36/Add.2](#), para. 39). In the same report, the Special Rapporteur further expressed concern that "women and/or their family members who hold or who are perceived to hold political opinions contrary to those in

power, who oppose powerful actors on the ground or who go against socially accepted norms are victims of particularly gross levels of violence” (Ibid., para. 50). Lastly, the Special Rapporteur recommended that Libya address “entrenched patriarchal attitudes, gender stereotypes and harmful practices, with the aim of promoting equal sharing of family responsibilities between women and men and the equal status and responsibilities of women and men in the private and public spheres” (Ibid., para. 76).