LBY104667.E
Libya: Domestic violence, including legislation, state protection and support services (2011-November 2013)
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Overview
1.1 Domestic Violence

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 (ibid.).

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 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" (ibid.). 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 (ibid.; Libya Initiative 25 Mar. 2013).
1.2 Sexual Violence

Sources indicate that the subject of rape is rarely spoken of publicly (Reuters 26 Nov. 2011; Freedom House 2010, 14). According to Freedom House, victims of gender-based violence outside the home are often blamed for the actions of the abuser (ibid., 13). 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" (ibid.). 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).

Reuters reports that in November 2011, approximately 100 women participated in a silent march in Tripoli calling for the new government to increase support for victims of rape during the war (Reuters 26 Nov. 2011). The same source notes that there were also marches in other Libyan towns such as Benghazi, Misrata and Zawiyah, although the number of participants was unknown (ibid.). The organizers of the march in Tripoli told Reuters that they met with the Prime Minister about tougher sentences for rape and funding services for victims, and he said that the issue was "one of their priorities" (ibid.).

Amnesty International (AI) reports that in February 2013, there were small protests in Tripoli and Benghazi for equal rights for women and against gender-based violence and sexual harassment and that the protests were condemned by militia leaders (AI 2013). According to AI, several of the organizers of the protests received threats and discontinued their activism (ibid.). Corroborating information could not be found among the sources consulted by the Research Directorate.

2. State Protection

2.1 Legislation and Implementation

Human Rights Watch reports that Libyan law does not specifically criminalize domestic violence (Human Rights Watch 2013). In a May 2013 report entitled A Revolution for All: Women's Rights in the New Libya, Human Rights Watch states that Libya's pre-revolution laws "scarcely addressed" the issue of domestic violence and were "inadequate" as an "effective remedy" (ibid. May 2013, 25-26).

According to Freedom House, Libya's Law No. 10 of 1984 states that "husbands should not cause physical or mental harm to their wives" (2010, 13). Similarly, Human Rights Watch quotes Article 17 of the Law Concerning the Specific Provisions on Marriage and Divorce and their Consequences, No. 10 of 1984, as stating that a woman "has the right to expect her husband to ... refrain from causing her physical or psychological harm" (Human Rights Watch May 2013, 26, 29). Human Rights Watch further indicates that "[t]he law provides no enforcement mechanisms, however, and therefore is not effective in combating the problem" (ibid., 26). A copy of the Law No. 10 of 1984 in English could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Country Reports 2012 states that the Constitutional Declaration forbids domestic violence, but there is little information about the penalties for such crimes (US 19 Apr. 2013, 21).
Interviewed by InDepth News, a representative of the Institute for Democracy and Electoral Assistance (IDEA), an international "intergovernmental organization that supports sustainable democracy worldwide" (IDEA n.d.), stated that a man "can only be penalised if he beats his wife to the extent that her injuries require hospitalization for several days" (qtd. in IDN 12 Aug. 2012). In addition, in order to be penalised, InDepth News states that there must be several witnesses outside the family, which is difficult due to the stigma of outsiders being involved in "private" matters (ibid.). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Sources report that spousal rape is not a crime (Freedom House 2010, 13; US 19 Apr. 2013, 21).

Human Rights Watch notes that sexual violence is addressed in the criminal code as a crime against a woman's honour, rather than against the person, allowing the courts to focus on the woman's sexual history rather than on the crime against her (May 2013, 26). According to Country Reports 2012, a convicted rapist can face a punishment of up to 25 years in prison, if the victim does not marry him (US 19 Apr. 2013, 21). Human Rights Watch notes that the rapist is given a suspended sentence if the victim agrees to marry him (May 2013, 28). Freedom House notes that the woman's consent is needed for such a marriage, but that given the social and family pressure; many women do not have other options (Freedom House 2010, 13). According to Freedom House, only "the most heinous" rapes are prosecuted (ibid.).

Sources indicate that extramarital sex is forbidden by Law No. 70 of 1973 and sources further note that rape victims who come forward may risk prosecution for extramarital sexual relations (Freedom House 2010, 11, 13; Human Rights Watch May 2013, 27).

Several sources report that Libya's personal status laws discriminate against women in respect to marriage, divorce and inheritance (ibid., 29; UN 6 Feb. 2009, para. 17; Freedom House 2011). Human Rights Watch explains that divorced women do not have rights to a share of the marital home or other property, and, even though the law requires men to pay support, this is often not enforced (Human Rights Watch May 2013, 30). Human Rights Watch expressed the opinion that some victims of domestic violence may stay in an abusive relationship rather than risk poverty by getting a divorce (ibid., 30).

2.2 Government Efforts

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). Further information about government efforts to address domestic violence and sexual violence could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

2.3 Police

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

3. Support Services

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).

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 (ibid.).

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.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

References

Al Jazeera. 14 March 2013. "Libyan Women Protest Against UN Declaration on Violence Against Women." (Factiva)


Additional Sources Consulted

Oral sources: Attempts to contact the following representatives were unsuccessful within the time constraints of this Response: The Voice of Libyan Women.

Internet sites, including: Alkarama; ecoinet; Factiva; Hot Peaches Pages; International Crisis Group; Libya – Ministry of Justice (Arabic only); Ministry of Interior (Arabic only); Libyan League for Human Rights; Middle East Media Research Institute; Minority Rights Group International; Organization for Economic Co-operation and Development – Social Institutions and Gender Index; PeaceWomen; United Kingdom – Border Services Agency; United Nations – Integrated Regional Information Networks, Office of the High Commissioner for Human Rights, Refworld, UNICEF, UN Secretary General's Database on Violence Against Women, UN Women; Voice of Libyan Women; Women Without Borders.

Tips on how to use this search engine.