

# *'We will not be silenced:'* Online Violence Against Women in Libya



محامون من أجل العدالة في ليبيا



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# 1. INTRODUCTION

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Online violence against women (OVAW) is a pressing issue which affects women and girls worldwide. A 2020 study by UN Women found that online harassment was the highest reported type of violence against women in all nine countries in the Arab region (including Libya).<sup>1</sup> OVAW is a contemporary form of gender-based violence (GBV)<sup>2</sup> which has significant impact on its victims, undermines gender equality, and hinders the exercise of women's rights, including the right to participate in public and political life and freedom of expression. However, OVAW is largely unaddressed by states, especially in the context of human rights obligations to prevent, combat and punish violence against women (VAW).

This report provides a first comprehensive study examining the scale and impact of OVAW in Libya and investigates attitudes towards social media and OVAW in Libyan society. It outlines the use of social media by women in Libya, examines the typology and scale of OVAW in Libya, and positions it in the broader context of Libya's international legal obligations. The report considers OVAW in the Libyan transitional context and examines OVAW that could amount to torture in specific cases. The report draws on the results of an online survey and interviews carried out with Libyans between 30 June 2020 and 28 February 2021. The report ends with a number of recommendations to the Libyan state, international bodies and Internet intermediaries.

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<sup>1</sup> UN Women, 'Rapid Assessment: The Effects of COVID-19 on Violence Against Women and Gendered Social Norms - A Snapshot from Nine Countries in the Arab States. Preliminary results' (2020), available at: <https://arabstates.unwomen.org/en/digital-library/publications/2020/08/brief-the-effects-of-covid-19-on-violence-against-women-and-gendered-social-norms>

<sup>2</sup> This report views OVAW as a form of gender-based violence. the Committee on the Elimination of Discrimination against Women established in General Recommendation No.19 (1992) that VAW is a form of gender-based violence (i.e. violence that is directed against a woman because she is a woman or that affects women disproportionately) and a form of discrimination against women. The Committee confirmed in General Recommendation 35 that gender-based violence against women occurs in technology-mediated environments: CEDAW, General Recommendation 35 (2017), para.20.

## 2. METHODOLOGY

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The report is based on information collected through desk-based research,<sup>3</sup> an online survey and interviews with experts including journalists, activists, politicians, and lawyers whose work focuses on violence against women, Libya's transitional process and human rights. The survey was circulated to diverse audiences, including women journalists, politicians, activists, human rights defenders (HRDs), lawyers and staff of civil society organisations based in the east, west and south of Libya. It was also circulated to members of the Libyan diaspora.

The survey was conducted between 30 June 2020 and 31 October 2020. The survey was widely circulated, attracting 163 respondents, over 99% of whom identified as Libyan and 81% of whom said they were currently living in Libya. The respondents were between 18 and 74 years old, with the largest proportion of responses coming from those between 25 and 34 years old.

The design of the survey was guided by gaps identified in the literature concerning the experience of online abuse – especially OVAW – in Libya. There are no comprehensive studies that address this modern phenomenon from a Libyan perspective – hence, the survey was a key method in obtaining relevant data.

The survey explored the respondents' views concerning the following issues:

- their understanding of OVAW;
- their experience of OVAW (its typology and impact);

- the nature of their social media use;
- the groups most targeted by OVAW;
- their awareness of remedies for social media abuse as well as experience of using such mechanisms (where applicable);
- their perceptions concerning which actors are accountable for social media abuse (especially OVAW);
- their perception of who the perpetrators of OVAW are and whether they identified the perpetrators as being associated with the Libyan state or militias affiliated with it; and
- the entities they perceived as responsible for preventing and combating OVAW.

The survey comprised of closed and open questions, giving the respondents frequent opportunities to describe their views and experiences in relation to various aspects of online abuse. The questions were asked in Arabic, with subsequent translation of the questions and answers into English for purposes of this report.

LFJL expresses its gratitude to all those who contributed information to this report. The identity of some interviewees, as well as the places and dates of interviews, have been withheld to protect the personal safety of those concerned in a context where some of the respondents may be targeted and attacked by state and non-state actors across the country.

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<sup>3</sup> Further, LFJL reviewed information from online sources including reports of INGOs and the United Nations, international and national news outlets, government public statements and social media platforms including Facebook, Twitter and YouTube.



### 3. LIBYAN WOMEN AND SOCIAL MEDIA

The Internet and social media are widely used in Libya. In January 2021, there were six million social media users in the country, increasing by 900,000 (+18%) between 2020 and 2021.<sup>4</sup> The overwhelming majority of respondents to LFJL's survey (99.4%) used social media, with 97.6% of respondents using social media daily. Social media penetration in Libya is notably high – standing at 86.8% as of January 2021 – with Facebook being the most widely used social media platform.<sup>5</sup> As such, social media (and the Internet more generally) remains a significant source of news, political conversations and debate,<sup>6</sup> as well as a key space for communication, campaigning and activism. Although in general more men than women use social media in Libya, women are more active on some social media platforms than men, especially when it comes to commenting on and liking posts on Facebook.<sup>7</sup>

Women in Libya regularly use digital spaces to organise,<sup>8</sup> campaign,<sup>9</sup> blog<sup>10</sup> and network, but also to create platforms for raising awareness about the experiences of Libyan women and to organise workshops and training opportunities. Initiatives such as Project Silphium, co-founded in 2014 by Khadeja Ramali, were started in response to a concern that “women’s voices started to disappear”<sup>11</sup> from the public discourse in Libya due to ongoing harassment against women, including online harassment.

Another blogging platform, Huna Libya (هنا ليبيا), features content written by female Libyan bloggers such as Rima

Ibrahim,<sup>12</sup> as well as a number of posts dedicated to raising awareness about violence against women in Libya, including online violence.<sup>13</sup> Furthermore, digital spaces and technology are also used by women in their peacebuilding efforts. For example, the Libyan Women’s Network for Peacebuilding uses digital spaces to meet, network, campaign for greater inclusion of women in the peace process, run training sessions and support local communities – most recently using mobile devices to support COVID-19 response initiatives in Libya.<sup>14</sup>

#### THE USE OF SOCIAL MEDIA IN LIBYA

The respondents were asked why they use social media. Answers show the multitude of reasons. These vary from socialising, following domestic and international news, connecting with organizations, campaigning, conducting advocacy and exercising their right to freedom of expression. Respondents said:

*To share ideas I can't express in real life.*

*To express my opinion, follow the news, and connect with close friends. For me, it is a space for dealing with issues that are important to me and to circulate beneficial information.*

*To communicate and spread human rights culture, raise awareness and fight for a civil state. I also use it for work.*

*To be involved in local issues.*

*To know more about what goes on in the world. There is no denying that social media is our window on the world.*

*To learn more, to have fun, to connect with others and share thoughts on art, society, politics and culture.*

*To socialize and share opinions on matters that concern us as Libyans. I also use social media to follow the local and international news. Social media websites have taken the place of TV and newspapers. However, blogging is in decline due to violence.*

4 Simon Kemp, *Digital 2021: Libya*, Datareportal (11 February 2021), available at: <https://datareportal.com/reports/digital-2021-libya>.

5 In comparison, social media penetration in the UK stood at 77.9% in January 2021, with 53 million social media users in the country. Simon Kemp, *Digital 2021: United Kingdom*, Datareportal (10 February 2021), available at: <https://datareportal.com/reports/digital-2021-united-kingdom>.

6 However, political conversations and debates predominantly happen in private groups rather than on public pages. Democracy Reporting International, *Libya: Social Media Monitoring – Main Findings* (8 June 2020), available at: <https://democracy-reporting.org/libya-social-media-report/main-findings/>.

7 In January 2021, on average, women liked 17 posts (in comparison with 14 posts liked by men) and commented on 12 posts (in comparison with 10 posts commented on by men). Simon Kemp, *Digital 2021: Libya*, Datareportal (11 February 2021), available at: <https://datareportal.com/reports/digital-2021-libya>.

8 For example, ‘Feminists of Libya’ Facebook page: <https://www.facebook.com/Feminists-of-libya-171012039649258>.

9 Online social media campaigns, such as #NoorLibya are used to campaign against VAW whilst “shedding light on the proper treatment of women in Islam through Ayas (verses) from the holy Quran and Hadith.” #NoorLibya was organised by The Voice of Libyan Women.

Alaa Murabit, ‘Libya: Noor campaign addresses gender violence through Islam’ (19 July 2013), available at: [http://www.wunrn.org/news/2013/07\\_13/07\\_22/072213\\_libya.htm](http://www.wunrn.org/news/2013/07_13/07_22/072213_libya.htm).

10 For examples of blogs by Libyan women see: <https://ps.org.ly/womeninlibya/>; <https://projectsilphium.wordpress.com/>.

11 BBC, ‘The Libyans blogging for change’ (26 May 2016), available at: <https://www.bbc.co.uk/news/av/world-africa-36387353>.

12 Huna Libya, available at: <https://hunalibya.com/author/rimaibrahim/>.  
13 See, for example: Rima Ibrahim, ‘7 ways to deal with cyberbullying’ (7 طرق للتعامل مع التمر الإلكتروني) (July 2019), available at: <https://hunalibya.com/dammawashadda/marriage-and-relationships/5839/>.

14 UN Women, ‘Connected by their phones, women peacebuilders lead COVID-19 prevention efforts across Libya’ (19 June 2020), available at: <https://www.unwomen.org/en/news/stories/2020/6/feature-women-peacebuilders-lead-covid-19-prevention-efforts-across-libya>.

The online presence of women was instrumental leading up to and during the 2011 Libyan uprising – many women used online spaces for their political activism, campaigning for regime change and democracy and human rights.<sup>15</sup> Back in 2011, online activism offered an opportunity for Libyan women to make their voices heard and to play an active part in bringing about long-awaited social change. Due to the nature of social media and its wide reach, Libyan women activists' messages reached not only fellow Libyans fighting for freedom from the Gaddafi regime, but were received worldwide. As such, online activism became a form of empowerment for Libyan women in this crucial historical moment, not only offering an opportunity to overcome barriers to active participation in public and political life but also to challenge existing gender stereotypes and patriarchal norms.

However, as Libya commemorates the ten-year anniversary of the uprising, the state of the rights of women – once (s)heroes<sup>16</sup> of the uprising – puts in question the state of human rights in Libya and the strength of the democratic process. Despite women's activism playing a crucial role in the 2011 uprising, women's rights in post-Gaddafi Libya are disregarded and gender equality – both *de jure* and *de facto* – is far from being a reality.

Despite the prohibition of discrimination being embedded in the Constitutional Declaration of August 2011 and the principle of equal opportunity being included in article 16 of the draft permanent constitution,<sup>17</sup> women's everyday experience in Libya reveals a failure to apply these principles by the Libyan state. Governmental initiatives such as a national plan under the title “Together to end violence against women”<sup>18</sup> launched by the Ministry of Justice in 2019 appear to be merely paying lip service to Libya's international obligations with respect to preventing and punishing all forms of VAW as well as protecting women from it. Moreover, whilst the advent of the Internet and social media has opened unprecedented avenues for Libyan women to participate in public life, these opportunities are curtailed by instances of

OWAW and state surveillance of women's activities<sup>19</sup> – both frequently resulting in offline acts of violence being directed at women, including, in some instances, in the form of killings or enforced disappearance. Female online activists and bloggers continue to be targeted, with many being forced to leave the country amid threats. Finally, the targeting of prominent women who openly participate in public and political life – such as Seham Sergiwa and Salwa Bugaighis – are a significant cause for concern and a testament to the fragility of women's rights in contemporary Libya.

*After the positive turnout by women and their active participation at the beginning of February [i.e. the 2011 uprising], we were encouraged until online violence reached the level of incitement to murder and exclusion of women because they were women. (...) Political assassinations began with that of Salwa Bugaighis, then Fariha Al-Barakawi, then Seham Sergiwa, then Hanan Al-Barassi, and the common factor is that all of them were women involved in politics and all of them had been subjected to continuous incitement campaigns. That is in addition to the dominance of extremist ideology even after the end of the armed conflict.*

- Hanan Elmgawab, Libyan journalist

15 Courtney Radsch, 'Unveiling the Revolutionaries: Cyberactivism and the Role of Women in the Arab Uprisings,' Rice University James A. Baker III Institute for Public Policy Research Paper (17 May 2012), Available at: <https://ssrn.com/abstract=2252556>. See also: Courtney C. Radsch and Sahar Khamis, 'In Their Own Voice: Technologically mediated empowerment and transformation among young Arab women,' 13(5) Feminist Media Studies (2013), 881-890.

16 Olga Jurasz, 'Women of the Revolution: the future of women's rights in post-Gaddafi Libya' in: C. Panara, G. Wilson (ed.) The 'Arab Spring': New Patterns for Democracy and International Law, Martinus Nijhoff (2013), 123-144, 124.

17 "Equal opportunities are guaranteed to citizens of both sexes, and the State is to take the measures necessary to achieve that end."

18 UN Human Rights Council Working Group on the Universal Periodic Review, 'National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1. Libya,' A/HRC/WG.6/36/LBY/1 (18 August 2020), para.65. See also: Facebook page of the Libyan Ministry of Justice, available at: <https://www.facebook.com/Ministry.of.Justice.Libya/posts/2335936299846201/>.

19 Khadeja Ramali and Tim Eaton, 'How Women are Dealing with Libya's Ever-Present Armed Groups' (15 June 2020), available at: <https://www.chatamhouse.org/2020/06/how-women-are-dealing-libyas-ever-present-armed-groups>.

## 4. ONLINE VIOLENCE AGAINST WOMEN (OVAW)

### WHAT IS OVAW?

OVAW is a pressing and large-scale problem which affects women and girls worldwide. It is a form of GBV that is manifested by, or committed through the use of the Internet, particularly social media, and other online interactive fora, against women because they are women. It includes, but is not limited to, online harassment, online hate, online threats, online misogyny, text-based abuse (e.g. on social media platforms such as Twitter or Facebook), image-based sexual abuse, deep fake pornography, doxing<sup>20</sup> and cyberstalking.<sup>21</sup>

Although OVAW is different from offline forms of GBV due to the specificity of digital spaces, it is not a new phenomenon. Rather, it represents the long pre-existing forms of VAW with the same root causes, but instead taking place in a different (online) environment. Similarly to offline VAW, OVAW is rooted in unequal gender relations, structural inequalities, patriarchal and gender stereotypes, as well as the societal normalisation and acceptance of the ‘everyday’ nature of VAW.<sup>22</sup> The specific environment in which OVAW takes place amplifies the volume of abuse received (e.g. through the practice of dogpiling and / or multi-platform harassment) as well as making the abuse highly visible whilst allowing the perpetrators to exercise greater anonymity and fostering impunity for the abuse they commit. Furthermore, the anonymity of perpetrators is a factor contributing to the heightening of fear resulting from online violence.

### THE HARMS OF OVAW

In June 2018, the UN Special Rapporteur on Violence Against Women presented a thematic report on online violence against women to the UN Human Rights Council in which she noted that, “[d]espite the benefits and empowering potential of the Internet and ICT, women and girls across the world have increasingly voiced their concern at harmful, sexist,

misogynistic and violent content and behaviour online.”<sup>23</sup> Acts of OVAW have a profound, wide ranging, and long-lasting impact on women and girls, including social, economic, psychological, reputational and participatory harms.<sup>24</sup> An online poll by Amnesty International of women who had experienced abuse or harassment on social media platforms across eight countries (Denmark, Italy, New Zealand, Poland, Spain, Sweden, the UK and the USA) confirmed the toll that OVAW takes on women.<sup>25</sup> The respondents reported stress, increased anxiety, panic attacks, a sense of powerlessness and loss of self-confidence as a result of receiving online abuse. Sixty one percent said they had experienced lower self-esteem or loss of self-confidence, with more than half (55%) of women experiencing stress, anxiety or panic attacks after experiencing online abuse or harassment. The respondents also reported the negative impact of online abuse on their sleep (63%) as well as the ability to concentrate for longer periods of time (56%).

However, harms associated with OVAW – especially those of a psychological nature – are often misperceived as less serious than those caused by offline violence, and played down. That said, harms caused by OVAW can, and often do, translate into offline acts of violence – especially its physical forms.

*Especially in the Libyan context, when you’re threatened online, it is not just a comment or a message – it can very easily turn into physical danger. There are numerous women activists or commentators outside of Libya who have had their families in Libya threatened because of comments they made online.*

- Nadine Dahan, legal consultant

For instance, a Libyan politician and human rights activist, Salwa Bugaighis, was murdered after she expressed views

20 Doxing involves revealing and broadcasting private information about a person. This typically involves revealing the person’s real name, address details, phone number, workplace, and de-anonymisation of online account details. These details are then usually publicised widely through online forums and social media, inviting people to make use of these for various forms of online abuse, including online harassment.

21 Kim Barker and Olga Jurasz, *Online Misogyny as a Hate Crime: A Challenge for Legal Regulation?* Routledge (2019) xiv.

22 Ibid, Chapter 2.

23 UN Human Rights Council, “Report of the Special Rapporteur on violence against women, its causes and consequences on online violence against women and girls from a human rights perspective,” A/HRC/38/47 (18 June 2018), p.5. The term ‘ICT’ refers to information and communications technology.

24 Kim Barker and Olga Jurasz, “Text-based (sexual) abuse and online violence against women: towards law reform?” in: J Bailey, A Flynn and N Henry, *Technology-Facilitated Violence and Abuse – International Perspectives and Experiences*, Emerald (2021).

25 Amnesty International, ‘Amnesty reveals alarming impact of online abuse against women’ (20 November 2017), available at: <https://www.amnesty.org/en/latest/news/2017/11/amnesty-reveals-alarming-impact-of-online-abuse-against-women/>.



critical of armed groups online and offline.<sup>26</sup> OVAW also has serious implications for women's freedom of expression online and, as a result, their participatory rights. In particular, OVAW undermines the prohibition of discrimination when it comes to participation in public and political life,<sup>27</sup> which nowadays is increasingly taking place online.

## HANAN AL-BARASSI

In November 2020, a prominent political activist and lawyer, Hanan al-Barassi, was killed in Benghazi. She was shot in the street by armed men just a few minutes after posting a video on Facebook in which she made allegations of corruption against the Libyan Arab Armed Forces (LAAF). Al-Barassi's killing is a sad reminder of the threats faced by women in Libya who express their views online.

## ONLINE VIOLENCE AGAINST WOMEN HUMAN RIGHTS DEFENDERS, JOURNALISTS AND POLITICIANS

*Women human rights defenders, journalists and politicians are directly targeted, threatened, harassed or even killed for their work. They receive online threats, generally of a misogynistic nature, often sexualized and specifically gendered. The violent nature of these threats often leads to self-censorship. Some resort to the use of pseudonyms, while others maintain low online profiles, an approach that can have a detrimental impact on their professional lives and reputations. Others decide to suspend, deactivate or permanently delete their online accounts, or to leave the profession entirely. Ultimately, the online abuse against women journalists and women in the media are a direct attack on women's visibility and full participation in public life. (...) In addition to the impact on individuals, a major consequence of online and ICT-facilitated gender-based violence is a society where women no longer feel safe either online or offline, given the widespread impunity for perpetrators of gender-based violence.*<sup>28</sup>

26 Chris Stephen, 'Libya in shock after murder of human rights activist Salwa Bugaighis,' The Guardian (26 June 2014), available at: <https://www.theguardian.com/world/2014/jun/26/libya-shock-murder-human-rights-activist-salwa-bugaighis-benghazi>.

27 Article 7 CEDAW.

28 UN Human Rights Council, 'Report of the Special Rapporteur on violence against women, its causes and consequences on online violence against women and girls from a human rights perspective,' A/HRC/38/47 (18 June 2018), para.29.

## - UN Special Rapporteur on Violence Against Women, its Causes and Consequences (2018)

OWAW is an increasingly common form of violence, which also plays out in conflict-related and transitional contexts – such as in Libya – contributing to the continuum of violence against women. It is overwhelmingly directed against prominent women – such as politicians<sup>29</sup> – but also against women human rights defenders<sup>30</sup> (including women's rights campaigners), and journalists,<sup>31</sup> with the aim of silencing their voices and, increasingly, spreading misinformation.<sup>32</sup>

Violence against women politicians is prevalent in the Libyan context. Women are targeted with online abuse at all stages of their political involvement – including when campaigning and running for office. As noted by the UN Special Rapporteur on Violence Against Women:

'[T]he aim of violence against women in politics is to preserve traditional gender roles and stereotypes and maintain structural and gender-based inequalities. It can take many forms, from misogynistic and sexist verbal attacks to the most commonplace acts of harassment and sexual harassment, much of it increasingly online (...).'<sup>33</sup>

This is true for the type of online abuse received by Libyan women politicians – it is not only gendered in its form, but also heavily reliant on the maintenance and promotion of gender stereotypes.

*I have been the target of online violence since 2011 when I ran for the General National Congress. The accusations and the stories targeted at my honour and my decency were a relentless attempt to make me reconsider the idea of running for office, but I continued and*

29 UN General Assembly, 'Report of the Special Rapporteur on violence against women, its causes and consequences on violence against women in politics,' A/73/301 (6 August 2018); International Foundation for Electoral Systems, *Violence Against Women in Elections Online: A Social Media Analysis Tool*, (2019), available at: [https://www.ifes.org/sites/default/files/violence\\_against\\_women\\_in\\_elections\\_online\\_a\\_social\\_media\\_analysis\\_tool.pdf](https://www.ifes.org/sites/default/files/violence_against_women_in_elections_online_a_social_media_analysis_tool.pdf).

30 UN Human Rights Council, 'The impact of online violence on women human rights defenders and women's organisations. Statement by UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein, 38th session of the Human Rights Council' (21 June 2018), available at: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=23238&LangID=E>.

31 Julie Posetti, 'Online Violence: The New Front Line for Women Journalists,' International Centre for Journalists (24 September 2020), available at: <https://www.icfj.org/news/online-violence-new-front-line-women-journalists>.

32 Kim Barker and Olga Jurasz, 'Gendered Misinformation & Online Violence Against Women in Politics: Capturing legal responsibility?' CoInform (March 2020), available at: <https://coinform.eu/gendered-misinformation-online-violence-against-women-in-politics-capturing-legal-responsibility/>.

33 UN General Assembly, 'Report of the Special Rapporteur on violence against women, its causes and consequences on violence against women in politics,' A/73/301 (6 August 2018), para.13

*considered that if I had surrendered, this would have meant the end of my political journey.*

*The process is coordinated and led by pages which are funded. It impacts me and many women as the content delves into matters that are sensitive to women in a conservative society with traditions and customs that restrict women. We work in very difficult conditions: social and family pressures (under the influence of “what will people say?”), death threats, which I experienced in 2014 when I opposed a certain political ideology, and defamation. But I stayed resilient against these attacks.*

*This violence left me unemployed, especially as I am one of the boycotting members of the House of Representatives (as I have my own political point of view and I do not belong to any party or group).*

*I was not only the target of online violence from the public, but I was also personally attacked by well-known political figures and leaders to whom I did nothing but express an opposing opinion, and the dispute with them became very bad, not for me but for them because they committed several injustices against me, so I resorted to the judiciary... For example, the Minister of Information in the Government of National Accord, when we politically pressured the governor of the Central Bank of Libya to change the monetary policy of the country, he chose to attack me because he was close to the governor personally at that time. He wrote an article about me accusing me of crimes of dishonour, so I filed a complaint against him with the Public Prosecutor and he remains free despite an arrest warrant being issued for him by the Public Prosecutor and I am not the only woman whom he accused of immorality.*

- Alsaida al-Yaqoby, parliamentarian and member of the Libyan Political Dialogue Forum (LPDF)

*The impact is significant, as many women prefer to withdraw from public space due to the attempts to undermine, defame and slander them, not to mention death threats. Its effect is also clear on the electoral process, as women now avoid the process of participating in elections, whether as candidates or voters, and this may be the result of a personal decision, or an imposition by the family.*

- Abeir Imneina, political activist

Furthermore, the UN General Assembly resolution on the safety of journalists and the issue of impunity, cosponsored and supported by Libya, has highlighted the specific risks faced by women journalists, particularly condemning “specific attacks on women journalists in the exercise of their work, including sexual and gender-based discrimination and violence, intimidation and harassment, online and offline.”<sup>34</sup>

*As a television presenter, I was subjected to online violence many times and still am to this day, it used to impact my self-confidence and how I see and value myself, but with time I learned how to ignore it, particularly given the nature of my work, but the impact [of online violence] is very dangerous and affects women’s participation in life in general and perhaps it is more dangerous to the younger generation.*

- Raghda Ibraheem, Libyan TV and radio presenter

*I have been, and continue to be, subjected to online violence for being a woman who discusses politics and is an activist in the field of human rights. Because of online violence and direct incitement and defamation, and because of direct incitement through social media pages, I had to leave Libya and my future in Libya has been destroyed: no study, no work. Social media has declared me an infidel for no real reason other than for being a woman who dared, who expressed her opinion and who rejected extremism and the proliferation of arms, and many others faced the same fate and even worse!*

- Hanan Elmgawab, Libyan journalist

This is of particular concern in contemporary Libya, where, according to the Defender Center for Human Rights and the Libyan Center for Freedom of Press, two thirds of women journalists preferred to leave their jobs given the intimidation and harassment they face, including online threats, for doing their jobs.<sup>35</sup> Similarly, the growing scale of violence directed against women activists and human rights defenders as well as its profound impacts, were highlighted in 2018 by the then UN High Commissioner for Human Rights, Zeid Ra’ad Al Hussein:

*Online campaigns against women human rights defenders and organisations aim to damage their*

<sup>34</sup> UN General Assembly, ‘The safety of journalists and the issue of impunity,’ A/C.3/72/L.35/Rev.1 (13 November 2017), available at: <https://undocs.org/A/C.3/72/L.35/Rev.1>

<sup>35</sup> UN Human Rights Council, ‘Summary of Stakeholders’ submissions on Libya. Report of the Office of the United Nations High Commissioner for Human Rights,’ A/HRC/WG.6/36/LBY/3 (28 February 2020), para.29.

*credibility as advocates, to diminish or obliterate the power of their voices, and to restrict the already limited public space in which women's activists can mobilise and make a difference.<sup>36</sup>*

As such, OVAW acts as a weapon aimed at silencing women's voices, hindering the peaceful exercise of their rights (especially participation in public and political life) as well as an obstacle to achieving gender equality. As noted by the UN Special Rapporteur on violence against women, its causes and consequences, "[o]nline violence against women not only violates a woman's right to live free from violence and to participate online but also undermines democratic exercise and good governance, and as such creates a democratic deficit."<sup>37</sup> This is of particular relevance given Libya's efforts to transition into a sustainable and stable democracy underpinned by the rule of law and respect for human rights. Continuous attacks on women and their rights, as well as cultivating acceptance of, and impunity for, widespread VAW, not only violate Libya's international obligations, but stand as an obstacle to achieving peace and security for *all* its citizens.

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36 UN Human Rights Council, 'The impact of online violence on women human rights defenders and women's organisations. Statement by UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein, 38th session of the Human Rights Council' (21 June 2018), available at: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=23238&LangID=E>

37 UN Human Rights Council, 'Report of the Special Rapporteur on violence against women, its causes and consequences on online violence against women and girls from a human rights perspective,' A/HRC/38/47 (18 June 2018), para.29.





## 5. ONLINE VIOLENCE AGAINST LIBYAN WOMEN

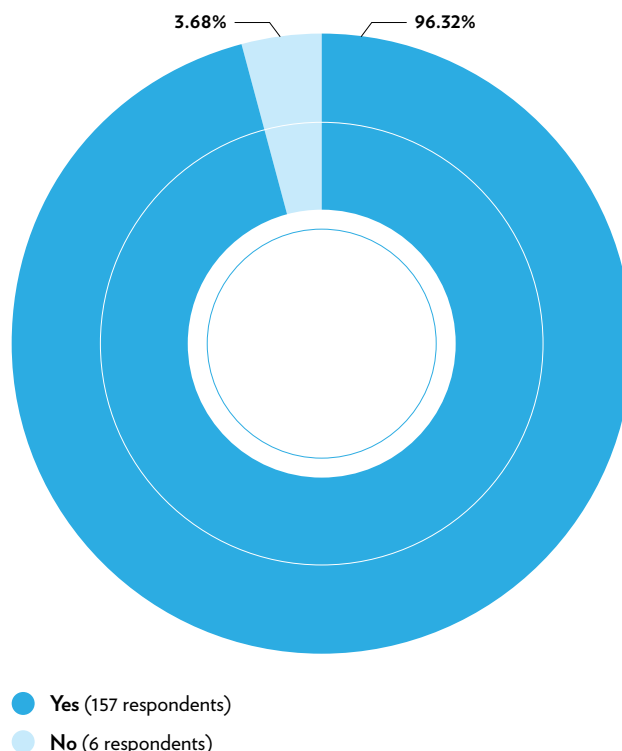
A decade since the Libyan uprising, women's online activism – as well as campaigning for women's rights – face a significant backlash in Libya. Once instrumental to the success of the Libyan uprising, women's voices and participation online are being silenced by threats, harassment and other forms of online, and frequently, offline, violence deployed by the state and their affiliated militias as well as by private actors. Monitoring of women's social media activities as well as any content promoting or advocating for women's rights by state actors can also hinder women's participatory rights. For example, the Libyan Ministry of Interior of the Interim Government in the East broke up a women's Tweetup at a cafe in Benghazi on 27 December 2018, describing it as “immoral” and “illegal” as well as alleging that gambling was taking place.<sup>38</sup> During the operation, the security forces detained the cafe owners and staff and questioned a female photographer hired to take pictures of the event.<sup>39</sup> The incident was condemned on Twitter by the United Nations Support Mission in Libya as a “dangerous indicator of the degradation of individual freedoms”<sup>40</sup> and also highlights the alarming extent of the state's surveillance of women's lives and activities – as well as repercussions for women exercising their basic rights and freedoms.

### OWAW IN LIBYA: SCALE AND PERCEPTIONS

The survey conducted by LFJL showed that the overwhelming majority of respondents to the survey perceive OWAW to be a serious problem (96.3%), with 97% of respondents confirming that this form of violence is taking place in Libya. Further, 67.5% of respondents said they had experienced online abuse on social media platforms.

Libyan female human rights activists, journalists, bloggers and politicians who participate and/or campaign online regularly face intimidation, harassment and threats – both

### Is online violence against women a serious problem?



in the online and offline spheres.<sup>41</sup> Survey respondents identified that the top three groups who are subject to online violence against women in Libya are Libyan women who express their views online (89.5%), activists and human rights defenders (85.9%) and women working in political affairs (78.5%). In addition, the respondents highlighted the silencing effects of OWAW, the impact of a patriarchal society, and the lack of adequate laws dealing with online violence as some of the key reasons why online violence is directed at women. Respondents said:

*As a Libyan woman, your voice is not accepted in reality, and we have been silenced. In order to hush us up on social media, they use all their power to keep us away.*

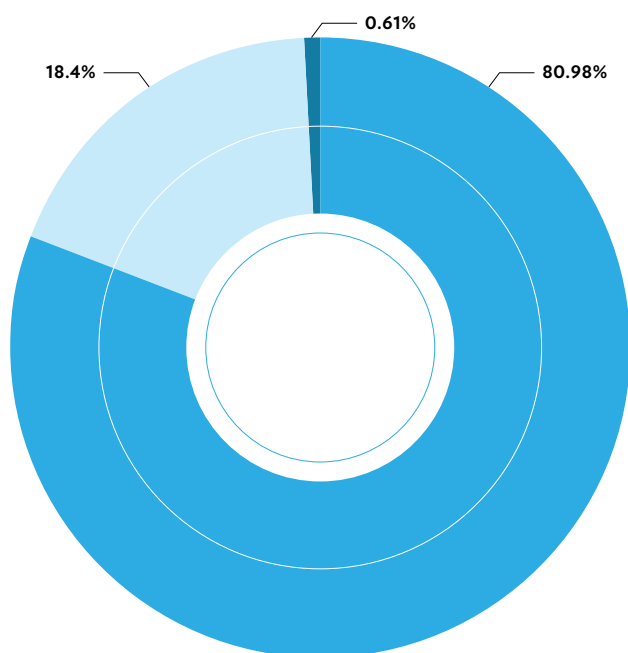
<sup>38</sup> In fact, the ‘gambling evidence’ amounted to games such as dominoes and UNO: @PSilphium, 29 December 2018, 8:29pm: <https://twitter.com/PSilphium/status/1079112128370565120/photo/1>.

<sup>39</sup> K\_ramali, Medium post, ‘The #Benghazi Cafe tweetup in Numbers’ (29 December 2018), available at: [https://medium.com/@k\\_libya/the-benghazi-cafe-incident-in-numbers-5a8ecf3c5184](https://medium.com/@k_libya/the-benghazi-cafe-incident-in-numbers-5a8ecf3c5184)

<sup>40</sup> @UNSMILibya, Tweet, 29 December 2018, 1:55pm: <https://twitter.com/UNSMILibya/status/1079013143530127360>

<sup>41</sup> Amnesty International, ‘Libya 2019’, available at: <https://www.amnesty.org/en/countries/middle-east-and-north-africa/libya/report-libya/>; Amnesty International, ‘Silenced Voices: Libyan Women Human Rights Defenders Under Attack’ (17 July 2018), available at: <https://www.amnesty.org/download/Documents/MDE1986572018ENGLISH.pdf>.

## How serious is online violence against women?



- As serious as offline forms of VAW (132 respondents)
- Less serious than offline forms of VAW (30 respondents)
- Not serious at all (1 respondent)

Libyan society does not accept that the Libyan woman has a voice. There is no reason for misogyny, which is feeling hatred and contempt for Libyan women.

Libyan women face abuse every day on the streets and online. This is because many people still believe that they are an inferior gender (oppressive mentality). There is no awareness spread about violence against women. Domestic violence isn't even a crime in Libya, so there are no laws protecting women from cyber bullying or any bullying to date. Also, with the country's current situation, no one is paying attention to cyberbullying nor do they have the facilities to do so.

The culture of the patriarchal community, the absence of laws and legal provisions, and the failure to activate [or establish] police or online security... I think that there is no state oversight on the Internet. One of the reasons is also the customs and traditions that bind women through silence. This has made women a target for online violence, whether directed by women against women or by men against women.

Women who are not acting in a culturally appropriate manner are not accepted socially and therefore, are being bullied online. If a woman dresses in a certain way or talks about her lifestyle, if it does not fit with our Libyan standards, she is slut shamed and rumours are spread against her, which may make her a target for extremists and make it dangerous for her to go back to Libya.

## WHO ARE THE WOMEN AFFECTED BY OVAW IN LIBYA?

Women activists in particular face threats, which has forced some of them to leave the country, adopt a low profile<sup>42</sup> or withdraw their participation online amidst fears for their safety.

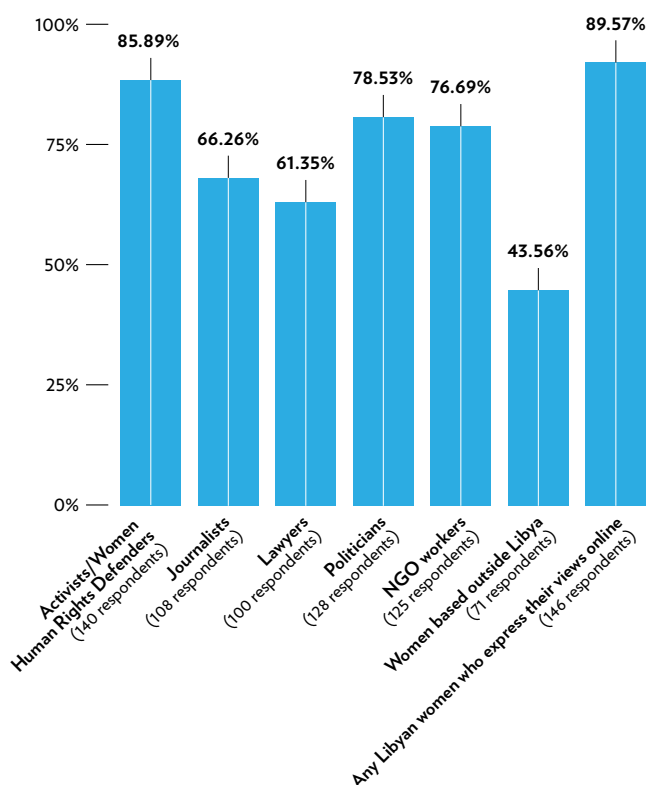
*I posted my picture with some activists in a workshop on one of the Facebook pages, but the comments were all threats and bullying. Some commentators asked for information about our place of residence in order to hand us over to one of the security brigades under the pretext of espionage, according to what he said. I came across a number of hurtful comments targeting activists including insults, bullying and slander. I used the Facebook feature to report abuse. However, unfortunately, Facebook did not respond and did not regard the comments as offensive.*

- Anonymous survey respondent

<sup>42</sup> UN General Assembly, Human Rights Council Working Group on the Universal Periodic Review, 'Compilation on Libya, Report of the Office of the United Nations High Commissioner for Human Rights,' A/HRC/WG.6/36/LBY/2 (12 March 2020), para.41.



## Which group of women are mostly targeted and subjected to OVAW?



For instance, a Libyan women's rights activist, Magdulein Abaida, was forced to flee Libya after being subjected to GBV, threats and intimidation due to her campaigning online and offline for human rights – and women's rights specifically.

### Case in focus: Magdulein Abaida

Violence directed against Abaida took both offline and online forms.<sup>43</sup> Following her participation in a demonstration in Tripoli named '[t]he Day of Anger of Libyan Women' in February 2012, Abaida's name, together with the names of other protesters, was posted on Facebook. She received messages on Facebook alleging that she was trying to destroy the Islamic way of life. An article by the commander of one of the most powerful militias in eastern Libya, Ismail al-Salabi, was published on his Facebook page, where he criticised women protesters for not wearing veils

43 For extensive details of both online and offline violence directed against Abaida, see: *Magdulein Abaida v Libya*, Individual Communication Submitted pursuant to Article 2 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women (8 March 2017), available at: [https://redress.org/wp-content/uploads/2017/11/M\\_Abaida\\_Libya\\_CEDAW\\_080317.pdf](https://redress.org/wp-content/uploads/2017/11/M_Abaida_Libya_CEDAW_080317.pdf).

or covering their hair during public protests, which he considered 'not representative of Libyan society.'

Abaida received asylum in the United Kingdom in November 2012. She submitted a formal complaint against Libya to the UN Committee for the Elimination of All Forms of Discrimination Against Women, the body of experts that monitors implementation of the Convention on the Elimination of All Forms of Discrimination against Women.

Furthermore, women who express views critical of political and security actors on Twitter or Facebook are being harassed, threatened and defamed on these platforms. Women are labelled as 'traitors,' 'foreign agents,' 'an insult to public morals' and 'liars' in an attempt to discredit their views before the general public.

*I have been accused of having no morals and have been slandered, insulted, abused, and threatened with sexual assault and sometimes just with general insults and treated with contempt just for being a woman, who must follow male advice since they assume that I am deficient in mind and religion. The list goes on as well with many of my friends and female colleagues sometimes facing verbal and sexual assault, or receiving pornographic videos and images that violate our morals and values in addition to being described disrespectfully, such as being depicted as prostitutes or corrupt women. The perpetrators go on in Libyan dialect saying, "Don't you have someone to restrain you?" They usually regard the option of banning you as the most appropriate and most feasible solution to control women.*

- Anonymous survey respondent

*Certainly, online violence affects women negatively including the effectiveness of their role in political participation and the democratic process. There are security and social concerns and restrictions that limit women's participation and limit participation in the democratic process, whether as voters or candidates or as political actors. And the pattern in Libya is that online violence goes beyond verbal and written violence to incitement and threats to life, and its impact extends beyond the person to all their family members. In addition, the verbal culture of society makes an oral accusation proof from the first word, it makes what is said*

*in online violence an accusation that affects the reputation of the person without evidence.*

- Omelez Ali Elfarsi, LPDF member

For instance, Zahra Langhi, the founder of Libyan Women's Platform for Peace, was a victim of smear campaigns on social media, which aimed to portray her as 'immoral' and 'divorced' in order to stigmatize and discredit her in the eyes of the general public.<sup>44</sup> This type of abuse is particularly impactful in Libya and the Middle East and North Africa region, where divorce is perceived as shameful, causes reputational damage and brings disgrace to a woman and her family.

**Case in focus: Mariam al-Tayeb**

Mariam al-Tayeb, an activist and blogger based in Tripoli, began documenting human rights violations and abuses in Libya following the 2011 uprising. She suffered both online and offline violence as a result of her work, including death threats on Facebook. She reported being subjected to arbitrary arrest, physical assault and other forms of torture and ill-treatment, and posted a video telling the story of her abuse on Facebook. Mariam had used Facebook to advocate for greater protection of the rights of migrants, refugees, and internally displaced persons in Libya. She openly criticised militias and armed groups responsible for human rights abuses, including arbitrary arrests, extrajudicial killings, enforced disappearances, torture and other ill-treatment.<sup>45</sup>

On 11 January 2018, she was abducted from her car by a militia from the Bab Tajoura district of Tripoli.<sup>46</sup> She was physically assaulted and, subsequently, refused admission to hospital unless she stated that she was seeking care after an altercation.<sup>47</sup> When Mariam filed a complaint against the militia with the Public Prosecutor, she was denied any documentation confirming the filing of the complaint. As a result of the online and offline abuse she suffered, Mariam fled Libya in February 2018.

44 Amnesty International, 'Silenced Voices: Libyan Women Human Rights Defenders Under Attack' (17 July 2018), available at: <https://www.amnesty.org/download/Documents/MDE1986572018ENGLISH.pdf>.

45 Ibid.

46 'Assault on female blogger and activist Maryam Tayeb in Tripoli,' Libya Herald (13 January 2018), available at: <https://www.libyaherald.com/2018/01/13/assault-on-female-blogger-and-activist-maryam-tayeb-in-tripoli/>.

47 Amnesty International, 'Silenced Voices: Libyan Women Human Rights Defenders Under Attack' (17 July 2018), available at: <https://www.amnesty.org/download/Documents/MDE1986572018ENGLISH.pdf>.

As a result of OVAW, women are less likely to participate and comment in online public fora and are more likely to engage exclusively in private and female-only online spaces.<sup>48</sup> Accordingly, intimidation and the use of various forms of abuse (including textual, image-based, and psychological violence) against women results in women's voices being effectively erased from the social media discourse in Libya and rendered invisible in public spaces. This has significant implications not only for the individual women concerned but raises questions about the quality, strength, and the role of equality in, the democratic process in Libya. The ability to equally participate in public and political life is arguably one the cornerstones of a thriving democracy. Excluding women from being able to contribute effectively to public and political debate in Libya – both online and offline – is a serious threat to building a sustainable democracy and fostering respect for human rights.

*Online violence directly impacts the ability of Libyan women to participate freely in public life. Some regions and cities use women's exposure to this type of violence as an excuse to prevent them from participating in the democratic process under the pretext of their personal protection and the protection of their families.*

- LPDF member

*I was targeted on social media whilst being involved in the Libyan political process. The abuse came from a man who was in the same political dialogue, and even shared the same offline space as me at the time. The abuse was image-based but accompanied by written remarks filled with stereotypical tropes – e.g. suggesting that there are more appropriate jobs for women, such as being in the kitchen, rather than being involved in the political dialogue. It felt gendered and very personal and was designed to undermine women's confidence.*

- LPDF member

This is further exacerbated by commonplace violence against women politicians, which is directed at them both online, especially in form of hate speech, and offline. As such, ensuring the equality of participation in public spaces – especially online – should be a priority, particularly in light of concerns

48 Female only groups like 'Bride of Fezzan 2019\_2020' with 40,000 members and 'The daily life of a Libyan man's wife' with 85,000 members focus on social life and lifestyle, whereas private female-only Facebook groups created by civil society organisations – such as the Silphium Project with 7,500 members – provide a safe space for women to freely debate politics and other contentious topics. Democracy Reporting International, 'Libya social media monitoring report: December 2018 – January 2019' (2019), available at: <https://www.democracy-reporting.org/libya-social-media-report/january/>.

expressed in January 2020 by the UN Secretary-General over the stalling of the democratic process in Libya.<sup>49</sup>

*I was exposed to violence when I was working to make the constitutional process successful. I am Amazigh and since the Amazigh had boycotted the constitution, they asked me to withdraw from promoting the constitutional process, but I refused and carried on. Thus, an electronic army engaged in a massive smear campaign against me to scare me off, but I refused and continued to support the constitution while preserving our rights as indigenous people. The campaign carried on for a while until I submitted a memo to the Public Prosecutor documenting all the defamation against me. I also reported the issue to Facebook, requesting them to close all the fake pages that had been spreading false and fraudulent news using violence and profanity. Facebook responded, and the case was reported. Hence, they all withdrew once they discovered that they cannot terrify me.*

- Anonymous survey respondent

*My life changed completely after going into politics. I became almost deprived of normal life. The [space] that women enjoy in male patriarchal societies is limited at the intellectual level, and everyone denounces her engagement in this context and considers her a socially and politically rebellious woman. Because of this, I was exposed to a lot of online violence and it started with the beginning of the emergence of my clear political positions in 2013 when I was a member of the General National Congress. Electronic warfare cost me a lot on the family and personal fronts. The defamation and smear campaigns to which I was subjected personally – and female Libyan politicians generally – were ferocious and went beyond all moral limits in terms of political differences or rivalry.*

- Hajer Elgaid, LPDF member and former member of the General National Congress

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<sup>49</sup> UN Security Council, 'UN Support Mission in Libya. Report of the Secretary-General,' S/2020/41 (15 January 2020), para.95, available at: <https://undocs.org/S/2020/41>.

## 6. OVAW THAT MAY AMOUNT TO TORTURE

### PROHIBITION OF TORTURE

Torture is prohibited under international law. The prohibition of torture and cruel, inhuman or degrading treatment or punishment is absolute and firmly embedded in key human rights treaties: the International Covenant on Civil and Political Rights (ICCPR) (Article 7), the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT),<sup>50</sup> and – at a regional level – the African Charter on Human and Peoples' Rights (Article 5). Torture is also prohibited in customary international law – including in times of armed conflict.<sup>51</sup>

As a state party to UNCAT and the ICCPR, Libya is under a legal obligation to take steps to prevent, investigate, prosecute and punish torture or cruel, inhuman and degrading treatment. The obligation extends to prosecuting non-state actors responsible for carrying out such acts “where State authorities or others acting in official capacity or under cover of law, know or have reasonable grounds to believe that acts of torture or ill-treatment are being committed by non-State officials or private actors.”<sup>52</sup>

### TORTURE AND VIOLENCE AGAINST WOMEN

The gendered dimensions of torture have been recognised by the UN Special Rapporteur on Torture, the UN Committee Against Torture, and the Human Rights Committee. In particular, the UN human rights treaty bodies as well as international courts have recognised that sexual and gender-based violence – committed in a range of contexts – can amount to torture and other inhuman or degrading treatment and, as such, violate states' international obligations. The examples include restricting or denying women's reproductive rights,<sup>53</sup> domestic violence,<sup>54</sup> sexual

harassment of women in public spaces<sup>55</sup> and conflict-related sexual violence.<sup>56</sup>

### TORTURE AND OVAW

In March 2020, “cybertorture” was identified as an area of particular concern in a report by the UN Special Rapporteur on Torture. In general, the use of information technology has not been thus far considered as a tool through which violations of human rights can be committed – but rather “as a tool used to obstruct the exercise of the right to freedom of expression on the Internet.”<sup>57</sup> Importantly, the report recognizes that “cybertechnology can also be used to inflict, or contribute to, severe mental suffering while avoiding the conduit of the physical body, most notably through intimidation, harassment, surveillance, public shaming and defamation, as well as appropriation, deletion or manipulation of information.”<sup>58</sup> In the context of online violence that may amount to torture, psychological harms arising from online and technologically facilitated violent acts are of paramount consideration. Acts such as, but not limited to, cyberbullying, online (sexual) harassment, threats of violence to person or their families (including death threats), violations of sexual integrity (through, e.g. image-based sexual abuse) are highly likely to result in significant mental suffering or even lead individuals to cause physical harms to themselves. Therefore, such acts can amount to psychological torture when committed by the state or affiliated groups, and is understood “to include all methods, techniques and circumstances which are intended or designed to purposefully inflict severe mental pain or suffering without using the conduit or effect of severe physical pain or suffering.”<sup>59</sup> When committing acts of online violence, including social media abuse, the perpetrator can effectively exercise psychological control over the victim whilst remaining at a distance and retaining their anonymity. The latter aspect adds to the overall psychological distress of the victim and feeling of powerlessness, not least by inflicting fear through textual

50 Libya ratified UNCAT in 1989. However, as of February 2021, Libya had not ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

51 Rule 90, Customary International Humanitarian Law database, [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule90](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule90)

52 UN Committee Against Torture, ‘General Comment No. 2,’ para.18.

53 *Mellet v. Ireland*, CCPR/c/116/D/2324/2013 (17 November 2016).

54 UN General Assembly, ‘Relevance of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment to the context of domestic violence. Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment,’ A/74/148 (12 July 2019); *Opuz v. Turkey*, Application no.33401/02, Judgment (9 June 2009).

55 *Egyptian Initiative for Person Rights and Interights v. Egypt* (communication no.323/2006) [2011] African Commission on Human and Peoples' Rights (16 December 2011).

56 *Mrs. A v. Bosnia and Herzegovina*, Communication No. 854/2017, Views of 22 August 2019, UN Doc. CAT/C/67/D/854/2017;

*Prosecutor v. Kunarac*, Appeals Chamber Judgment of 12 June 2002, IT-96-23/IT-96-23/1-A.

57 UN General Assembly, ‘Torture and other cruel, inhuman or degrading treatment or punishment. Report of the Special Rapporteur,’ A/HRC/43/49 (20 March 2020), para.71.

58 *Ibid*, para.73.

59 *Ibid*, para.19.

threats (e.g. abusive and threatening tweets). Furthermore, psychological torture can be inflicted through “the proactive targeting of victims’ sense of self-worth and identity through the systematic and deliberate violation of their privacy, dignity and sexual integrity.”<sup>60</sup> When considered in the context of OVAW, this may include online hate speech, including online sexist hate speech, misogynistic text-based abuse (e.g. in the form of misogynistic tweets), systematic sending of abusive content (e.g. Facebook messages, posts or Tweets).

## OVAW AND THE PROHIBITION OF TORTURE – TOWARDS STATE RESPONSIBILITY?

The UNCAT definition of torture requires it to be carried out “by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.”<sup>61</sup> Due to this aspect, not every act of OVAW will amount to torture. However, online abuse, including acts of OVAW, are a powerful tool in the hands of state actors who want to inflict psychological harm on the victim. In the contemporary world, dominated by digital communication, it is plausible that state actors – including state security services<sup>62</sup> – may resort to threats, harassment and violence via digital means to inflict torture on the targeted victims. In this context, social media platforms can act as a conduit for such acts in an anonymous and effective manner which has a long-lasting effect on the victims. Although OVAW on social media is predominantly text-based (e.g. in the form of Tweets or Facebook posts/messages), it can include graphic descriptions of violent and threatening acts, including acts of sexual violence, directed at the victim. Equally, sexually explicit images – and frequently fake ones – can be used to tarnish the reputation of the targeted victims, intimidate them and inflict psychological harms such as feelings of powerlessness as well as “anxiety, stress, shame and guilt amounting to ‘severe mental suffering’ as required for the finding of torture.”<sup>63</sup>

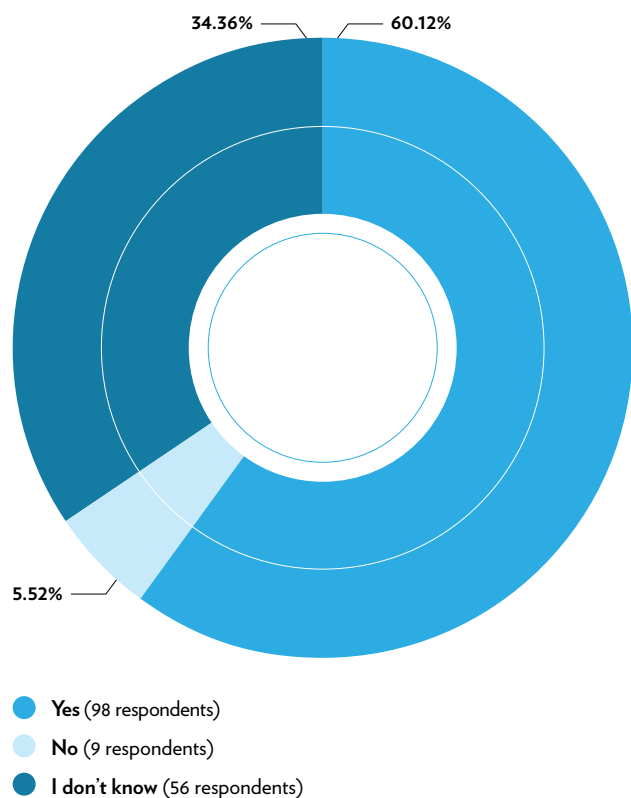
The use of OVAW that may amount to torture is therefore becoming an effective way for state actors to silence women who are outspoken online, especially on issues that challenge

or critique the existing regime and its ideology. This puts women activists, human rights defenders and politicians in a particularly vulnerable position.

## OVAW AND THE LIBYAN STATE

The vast majority of respondents identified the state as the primary actor which should bear responsibility for acts of OVAW. Sixty percent of respondents were of the view that OVAW in Libya is committed by state actors and/or affiliated militias. A number of respondents highlighted the failure of the Libyan state to enact laws that would provide adequate protection for women from online and offline violence. Other respondents stated that the Libyan state had not taken any serious measures to protect women or prosecute the perpetrators and hold them to account, which implicates the state and affiliated militias in OVAW.

### In your opinion, are the government or its militias involved in the perpetration of OVAW?



<sup>60</sup> Ibid, para.51.

<sup>61</sup> In contrast to the UNCAT definition of torture, there is no requirement in the ICCPR for an element of involvement or acquiescence by a state official for an act to be qualified as torture or ill-treatment. Rather, “it is the duty of the State Party to afford everyone protection through legislative and other measures as may be necessary against the acts prohibited by Article 7, whether inflicted by people acting in their official capacity, outside their official capacity or in a private capacity.” UN Human Rights Committee, ‘General Comment No. 20: Prohibition of torture, or other cruel, inhuman or degrading treatment or punishment’ HRI/GEN/1/Rev.7 (1992), para.2.

<sup>62</sup> UN General Assembly, ‘Torture and other cruel, inhuman or degrading treatment or punishment. Report of the Special Rapporteur,’ A/HRC/43/49 (20 March 2020), para.74.

<sup>63</sup> Ibid, para.75.



Respondents said:

*The government is the one that gave militias that much power and such unlimited freedom with total impunity. Sometimes, the government benefits from silencing dissenting voices of women speaking the truth. The government hasn't taken any action to protect women from threats, intimidation and violence.*

*There are no laws to protect women against violence and women have been denied their most basic rights.*

*The government did not take the necessary administrative and executive measure to protect women against online violence. When women are subject to verbal violence on the government's social media pages, the government does not delete the comments or prosecute those who wrote them. Remaining silent means they accept such practices.*

*The government does not protect against cybercrimes.*

*The government does not cooperate by ensuring the protection of women victims of violence, nor does it punish the perpetrators. It also does not give any consideration to what happens on social media. As for the militias, they are actively involved in the violence since their members contribute to cyberbullying and threaten women both online and in real life in a manner that sometimes amounts to kidnapping and murder attempts.*

## 7. OVAW AND INTERNATIONAL LAW

OVAW is a form of GBV against women and it is crucial that it is addressed as such at international, regional, and domestic levels. International law is clear on the prohibition of VAW and states' due diligence obligations with respect to preventing, punishing and combatting all forms of such violence. Furthermore, OVAW violates key principles of human rights: the principle of non-discrimination and the principle of equality. These two principles underpin all human rights instruments, including, but not limited to, the UN Declaration of Human Rights (Articles 1 and 2), The ICCPR (Article 2), and the African Charter on Human and Peoples' Rights (Articles 2 and 19). The commitments to ensure equal rights of men and women and non-discrimination are also reflected in the Charter of the United Nations and a number of regional human rights treaties, including the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol).<sup>64</sup>

Although the existing human rights treaties and core women's rights instruments such as the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW), the Declaration on the Elimination of Violence against Women and the Maputo Protocol largely predate the era of the Internet, social media and OVAW, existing international law – especially international human rights law – applies to this contemporary form of VAW. The online nature of VAW is not an obstacle to protecting human rights, as recognised by the Human Rights Council in 2016.<sup>65</sup> Furthermore, based on *opinio juris* and state practice, it is also recognised that the prohibition of GBV against women in all its forms has evolved into a principle of customary international law,<sup>66</sup> making it legally binding on all states irrespective of whether they are party to CEDAW.

### INTERNATIONAL AND REGIONAL HUMAN RIGHTS LAW

#### A) CEDAW

CEDAW is the key instrument protecting women's rights at the international level. Libya ratified CEDAW in 1989 and, accordingly, has international obligations under this treaty.

States parties to CEDAW have due diligence obligations with

respect to eliminating all forms of discrimination against women, as articulated in Article 2. This covers both sex-based and gender-based forms of discrimination<sup>67</sup> as well as both direct and indirect forms of discrimination.<sup>68</sup> Although CEDAW does not refer to VAW explicitly, in General Recommendation No.19 (1992) the CEDAW Committee established that VAW is a form of GBV, i.e. violence that is directed against a woman because she is a woman or that affects women disproportionately, and a form of discrimination against women.<sup>69</sup> Recognising that there exists a close nexus between GBV, discrimination against women, and violations of human rights and fundamental freedoms, the CEDAW Committee also affirmed that:

*(t)he full implementation of the Convention requires States to take positive measures to eliminate all forms of violence against women.*<sup>70</sup>

This obligation includes steps taken to ensure that both state and non-state actors refrain from violence against women – including OVAW. Given the nature of OVAW, this includes due diligence obligations to prevent, investigate and punish acts of violence against women committed by private actors, such as Internet intermediaries and/or platform providers.<sup>71</sup>

Furthermore, in recognition of the evolving nature of various forms of VAW, the CEDAW Committee commented on technology-facilitated forms of VAW in General Recommendation No. 35 (2017), noting how OVAW redefined the boundaries between private and public<sup>72</sup> and confirming that CEDAW was fully applicable to technology-mediated environments, such as the Internet and digital spaces.

As confirmed by the CEDAW Committee in General Recommendation No. 30, CEDAW applies in conflict and post-conflict situations as well as periods of transition – such as in Libya. In the periods of transition from conflict, women's participatory rights, guaranteed under Article 7

<sup>64</sup> Article 2 Maputo Protocol.

<sup>65</sup> UN Human Rights Council, 'Resolution on the promotion, protection and enjoyment of human rights in the Internet,' A/HRC/RES/32/13 (18 July 2016), para.1.

<sup>66</sup> Committee on the Elimination of Discrimination against Women, 'General Recommendation 35,' para.2.

<sup>67</sup> Although the Convention only explicitly refers to sex-based discrimination, the CEDAW Committee clarified in *General Recommendation 28 on the core obligations of States parties under Article 2 of the CEDAW* that the Convention extends to gender-based discrimination too (para.5).

<sup>68</sup> Committee on the Elimination of Discrimination against Women, 'General Recommendation 28,' para.16.

<sup>69</sup> Committee on the Elimination of Discrimination against Women, 'General Recommendation 19,' paras.1, 6.

<sup>70</sup> Committee on the Elimination of Discrimination against Women, 'General Recommendation 19,' para.4.

<sup>71</sup> See generally: Article 2 (e) of the Convention on the Elimination of All Forms of Discrimination against Women 1979.

<sup>72</sup> Committee on the Elimination of Discrimination against Women, 'General Recommendation 35,' para.20.

of CEDAW, are of crucial importance – however, women's equal and meaningful participation in public and political life is undermined if GBV, including its online forms, is rife, unpunished, or even perpetrated by the state.<sup>73</sup> Under Article 7 of CEDAW, states are obliged to take steps to prevent and eliminate discrimination against women in public and political life and to ensure their equal participation. Whilst this obligation was articulated over 40 years ago and therefore before the rise of social media and the Internet, its contemporary interpretation ought to extend to online spaces as primary locations of modern day political and public life.

## B) ICCPR

Online abuse causes many women to withdraw from online participation, including expressing their views on online platforms. This is concerning as it curtails women's freedom of expression which is guaranteed by Article 19 of the ICCPR. Libya has obligations under the ICCPR to respect, promote and protect this right.

Although freedom of expression is not an absolute right – for instance, it cannot be used as a justification for incitement of hatred, discrimination, hostility, or violence<sup>74</sup> – it is essential that women can freely express themselves online, without being harassed, threatened, and/or subjected to any form of OVAW.

## C) African Charter on Human and Peoples' Rights and the Maputo Protocol<sup>75</sup>

Freedom of expression is also firmly embedded in Article 9 of the African Charter on Human and Peoples' Rights. Furthermore, Article 9 of the Maputo Protocol requires States parties to ensure and promote equal participation of women in political life and decision-making. OVAW committed against political candidates or otherwise politically active women is an obvious and real obstacle in the progressive realisation of this right. With social media and other digital spaces being used extensively by politicians, political candidates and campaigners, it is crucial to ensure women's safe and equal participation in those spaces.

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<sup>73</sup> Committee on the Elimination of Discrimination against Women, 'General Recommendation 30,' Paras.37, 44.

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<sup>74</sup> Article 20 ICCPR.

<sup>75</sup> Libya ratified the African Charter on Human and Peoples' Rights in 1986 and the Maputo Protocol in 2004.



## 8. OVAW AND THE DOMESTIC LEGAL FRAMEWORK

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Libya does not have a domestic legal framework that prevents online violence against women – or violence against women generally – despite the widespread nature of these acts across the country. A number of draft laws on violence against women have been proposed to the parliament since 2014. However, all the drafts to which LFJL has had access fell short of meeting the requirements set out in international law, including standards set out in the Maputo Protocol and CEDAW. For example, the draft laws did not cover any aspects of the online attacks and threats that women face on a daily basis in Libya despite the fact that, on several occasions, online attacks against women have led to the killing and disappearance of women. Further, the draft laws focused only on the physical aspect of women and did not look at women's right to personal integrity. The draft laws have – thus far – mainly recognised the physical harms resulting from assault or rape but have not fully recognised the pain inflicted on women as a result of the psychological harm. This is important especially in the context of online violence when the harm suffered can, but does not have to be, only psychological. The draft laws failed to set a requirement for the establishment of safe shelters for the victims of VAW. These shelters are crucial for the protection of victims, especially in Libya where militias are powerful, yet largely unaccountable, actors.

Several respondents to the survey and experts interviewed by LFJL said that Libya does not yet have laws that tackle violations and crimes committed in digital spaces including OVAW, or any other forms of violations committed over the Internet. They added that this paved the way for such violations to go unchecked, as did the lack of effective investigations by the authorities to hold the perpetrators to account.

Notwithstanding the lack of a specific law on (O)VAW, the Libyan state has – in principle – the basic legal framework to prosecute the perpetrators responsible for OVAW and hold them to account. For example, article 16 of the 1953 Penal Code defines an offence as an act “committed in public if it was committed: a) by means of newspapers or other means of publication or propaganda; b) In a public place or a place open or exposed to the public.” Although this legislation was created prior to the rise of the Internet and social media, the provision can be interpreted as covering the online aspect of a crime.

Further, article 217 of the penal code states that “[a]nyone who prevents another person, either wholly or in part, from the exercise of a political right by violence, threats, or by deceit, shall be punished by detention.” This article can be used to prosecute perpetrators responsible for threatening women on the Internet for exercising their civil and political rights online.

Moreover, article 430 of the Penal Code states that “[a]nyone who threatens another with unlawful injury shall be punished by detention for a period not exceeding six months or a fine ....[and] if the threats are to commit an offence against life or property, or disclose matters that violate honour...the penalty shall be detention for a period not exceeding one year.” Thus, this article can be used to prosecute perpetrators that make threats towards women and girls online or try to harm their reputation publicly on social media platforms.

## 9. OVAW AND RESPONSIBILITIES OF SOCIAL MEDIA PLATFORMS

Efforts to combat OVAW require states and the ICT sector to work together to prevent and adequately respond to such forms of abuse. Although platform providers are not state entities and, as such, are not parties to human rights treaties, they are often more powerful, more influential, and have greater financial resources than some states, placing them in a much stronger position to address the abusive behaviours happening on their platforms. It remains the primary obligation of states to ensure that laws, regulations and policies applicable to Internet intermediaries protect the human rights and fundamental freedoms of users effectively. Nonetheless, in line with the UN Guiding Principles on Business and Human Rights, Internet intermediaries have a responsibility to respect the internationally recognised human rights of their users and of third parties affected by their activities.<sup>76</sup> The “Internet Giants” (Facebook, Google, Twitter) have indeed taken steps to address selected forms of online content which is perceived as harmful, hateful and / or offensive – typically where extremist or terrorist content is involved<sup>77</sup> – however, they are yet to take meaningful steps to address gender-based hate and OVAW. As such, this inaction makes them complicit in perpetrating the harms suffered by users who are victims of OVAW.<sup>78</sup>

*When I was involved in the LPDF, I was abused on social media. Luckily, another prominent member of the group had direct access to Facebook, which meant that this content was reported and taken down with immediate effect. Having access to the decision maker at Facebook felt empowering in that moment but also highlighted to me the lack of systematic mechanisms in place to report instances of OVAW and for such reports to be taken seriously. When I was subjected to similar abuse in the past (and since) in other contexts, my reports were not given equivalent treatment in terms of taking down content containing gender-based abuse.*

- LPDF member

<sup>76</sup> Guiding Principles on Business and Human Rights, A/HRC/17/31 (21 March 2011), adopted by Human Rights Council Resolution 17/4, A/HRC/RES/17/4, (6 July 2011).

<sup>77</sup> See for example: The EU Code of Conduct on Countering Illegal Hate Speech Online (30 June 2016), available at: [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combatting-discrimination/racism-and-xenophobia/eu-code-conduct-countering-illegal-hate-speech-online\\_en#theeucofconduct](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combatting-discrimination/racism-and-xenophobia/eu-code-conduct-countering-illegal-hate-speech-online_en#theeucofconduct).

<sup>78</sup> Kim Barker and Olga Jurasz, ‘Online violence against women: addressing the responsibility gap?’, LSE WPS blog (23 August 2019), available at: <https://blogs.lse.ac.uk/wps/2019/08/23/online-violence-against-women-addressing-the-responsibility-gap/>.

It is crucial that meaningful action is taken by social media platforms to address OVAW and to make equal participation in online spaces a reality whilst providing adequate support, reporting mechanisms, and remedies to the victims of OVAW. Importantly, platforms should be mindful of the fact that protecting freedom of expression cannot act as a shield when it comes to addressing violent acts which discriminate against women and undermine gender equality. As noted by the UN Special Rapporteur on violence against women and the UN Special Rapporteur for freedom of expression:

“The Internet should be a platform for everyone to exercise their rights to freedom of opinion and expression, but online gender-based abuse and violence assaults basic principles of equality under international law and freedom of expression. (...) Ensuring an Internet free from gender-based violence enhances freedom of expression, as it allows women to fully participate in all areas of life and is integral to women’s empowerment.”<sup>79</sup>

Thus far, social media platforms’ efforts to combat OVAW have been limited to masking the problem, e.g. introducing controls on who can reply to public tweets or taking down content, rather than addressing root causes of OVAW and abusive behaviours directed at women online.

*Facebook itself plays a part in perpetuating the problem of OVAW. A lot of women report violent abuse or comments, but Facebook’s response is often that they do not consider this language to be contrary to their rules. A part of the reason for that is that there are not enough moderators who are familiar with regional Arabic dialects. For instance, certain words in the Libyan dialect may not be as offensive to people from other Arabic speaking countries. It is very regional and specific. When the Arabic speaking audience is so huge on Facebook, it is disappointing to see this gap and how it contributes to the lack of a safe space online.*

- Nadine Dahan, legal consultant

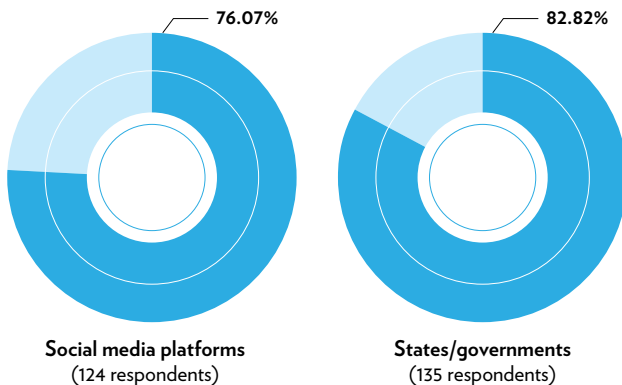
<sup>79</sup> Office of the United Nations High Commissioner for Human Rights, ‘UN experts urge States and companies to address online gender-based abuse but warn against censorship’, (8 March 2017), available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21317#:~:text=%E2%80%9CEnsuring%20an%20internet%20free%20from,is%20integral%20to%20women’s%20empowerment.%E2%80%9D>.



## SHOULD PLATFORM PROVIDERS BE RESPONSIBLE FOR OVAW?

Survey respondents identified online platforms as a second key actor, after states, who should bear responsibility for acts of OVAW. Seventy six percent of respondents believe that platforms should have responsibility for the abuse that occurs on their sites.

### Who should be responsible for preventing OVAW?



*A picture of me with misinformation was published on social media platforms. Following that, I was subjected to a campaign of defamation and crude comments. This impacted me strongly at the time and I tried to use the reporting mechanisms on the platforms as much as possible, but unfortunately the platforms were not responsive. To this day, I am trying to find a way to have these widespread pictures removed, but to no avail! The effect of this violence and defamation is still there today given that everyone looks people up online before they meet them. That then has an impact on your reputation in one way or another. The picture is also used to provoke my family and is randomly published in the comments sections of posts on my family members' private pages.*

- LPDF member

*Platforms have very clear policies. As a person participating on a platform, I expect that when my rights are encroached upon by somebody who violates these policies, something will be done about it. It's unreasonable to expect Facebook to monitor every comment or every account, but the purpose of the reporting mechanism is that you flag something and Facebook is then able to deal with it in a meaningful way – especially when the language of abuse is not English.*

- Nadine Dahan, legal consultant

# 10. RECOMMENDATIONS

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OVAW has significant implications for progressive realisation of women's rights in post-2011 Libya. Its effects on the victims are wide ranging and continue to cross online and offline realms. In particular, women engaging in online activism and online participation have suffered severe consequences in some cases, including enforced disappearances, kidnappings, online and offline harassment, threats, and acts which may amount to (cyber)torture. These acts cause harm not only to the women against whom they are directed but also to broader society. The silencing effects of OVAW are not to be underestimated, especially in terms of undermining freedom of expression and the right to equal participation in public and political life.

In light of the findings in this report, Lawyers for Justice in Libya makes the following recommendations:

## TO THE LIBYAN STATE

- Respect and adhere to Libya's international obligations under CEDAW and other human rights treaties – especially when it comes to the prevention of violence against women, including its online forms, and the prosecution of those responsible for it.
- Enact domestic legislation which addresses forms of online violence through civil and criminal law. Such legislation should be a part of a broader, new law on GBV, which captures contemporary forms of such violence and provides avenues for redress and support to victims. It should also reflect and incorporate Libya's international obligations – including those under the Maputo Protocol.
- Repeal all legal provisions in Libyan legislation that constitute discrimination against women and undermine Libya's obligations under CEDAW and the Maputo Protocol. These include provisions which cause, promote or justify violence against women or perpetuate impunity for such acts.
- Publicly acknowledge the widespread pattern of VAW, including its online forms, and commit to preventing, investigating, combatting, and punishing such forms of GBV against women as a part of the realisation of UN Sustainable Development Goal 5 (Gender Equality) and full implementation of UN Security Council Resolution 1325 on Women, Peace and Security.
- Create education and GBV prevention programmes, aimed at promoting gender equality, eliminating gender

stereotypes, and educating citizens about civil participation online, including on social media.

- Provide adequate training to actors within the justice system and other law enforcement institutions such as the ministry of interior on OVAW, gender equality, harms of OVAW and gender-sensitive responses to this modern phenomenon.

## TO INTERNATIONAL BODIES

- For the Human Rights Council, inquire into OVAW faced by journalists, politicians and human rights defenders in Libya.
- For the UN human rights treaty bodies, apply a gender-sensitive lens during their investigations, inquiries, and periodic monitoring of Libya's compliance with its treaty obligations, showing appreciation that human rights violations play out in the online/digital context and have real, wide ranging, and long-lasting harmful consequences.
- For the UN Special Rapporteurs, especially the UN Special Rapporteurs on violence against women and freedom of expression, consider the scale and impact of OVAW in Libya in inquiries and reports.
- For the United Nations Independent Fact-Finding Mission on Libya created by UN Human Rights Council resolution 43/39, investigate the pattern of OVAW and identify the perpetrators with a view to holding them to account.

## TO INTERNET INTERMEDIARIES

- Commit to the eradication of OVAW by adopting a human rights-based approach to regulation and responsibilities and ensure that data evidencing OVAW is made available for use in investigative and legal proceedings aimed at establishing accountability for perpetrators.
- Publish an annual audit containing gender disaggregated data on responses to reports of gender-based abusive conduct, including OVAW, occurring on the given platform. This information should include the number of reports that are found to be in breach of the platform's guidelines and policies, the number of reports to which the platform failed to respond, and the average time it takes for the platform to respond to reports of gender-based abuse.

- Improve reporting mechanisms so that gender-based abuse, including OVAW, can be reported as such.
- Improve the quality of content moderation, ensuring that it is language and content specific.
- Carry out public awareness campaigns in Arabic explaining what OVAW is, its types and how to report it.
- Make reporting systems easily accessible and available in Arabic.

*Addressing issues such as OVAW requires a culture shift of sorts. Now is a great time to address these issues in Libya because we've been witnessing the beginning of this culture shift in the past 5-6 years. As the next generation comes of age, and with greater globalisation, there is greater participation of younger women on new and different online platforms. There exist different types of social media, a different type of audience and different context – not shaped by anger, polarisation and high emotions such as those witnessed during the Libyan Revolution. Young Libyan Twitter for example is a nice space to observe and it gives me hope. There is definitely space for women there, however limited, and value given to what women say and contribute. Riding this wave is crucial to addressing OVAW.*

- Nadine Dahan, legal consultant

# ABOUT US

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Lawyers for Justice in Libya is a Libyan and international independent non-governmental organisation and UK-registered charity. We work on and in Libya with a growing network of lawyers, activists and grassroots communities across and outside the country. Our vision is of a Libya which embodies the values and principles of human rights and the rule of law and is a society committed to justice. We seek justice in Libya through advocacy and outreach, accountability, transitional justice initiatives and capacity building, underpinned by our own independent research. Our work is rooted in a rights-based approach: we believe that all engagement and policies must be founded on a framework of human rights and ensure that individuals and communities can participate fully as a fundamental part of leading dignified lives.

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