

The influence of the prevailing value system on laws with a legal philosophy

“A draft law to protect women from violence” as a model

Jazia Jibril Shiitir

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Abstract

This paper seeks to analyse the general contexts surrounding the file of combating violence against women in Libya, whether it is the legislative context and the extent of legal protection for women against violence or the political context represented in the legislative division and the faltering democratic transition, or the social context, whether it is the religious beliefs or societal traditions, and the security context where violence increases in light of the weakness of law enforcement authority

The paper also reviews the civil efforts made by Libyan women during the transitional period to prepare a draft law to combat violence against women, whether by defining the time and personal scope of these efforts or in terms of the measures taken to prepare it.

The paper evaluates the draft law on combating violence against women in the light of international standards, and monitors official and unofficial responses to the project.

The paper concludes with a forward-looking vision for the future of issuing the project and the future of applying the law, and the researcher's proposals to the Libyan governmental and non-governmental authorities to speed up the issuance of the project and to achieve an optimal application of the law once it is issued.

Keywords:

The draft law on violence against women - the influencing contexts - the value system - international standards - the future of the draft law on violence against women.

The introduction

The significance of the Study

It would be unfair to date the Libyan interest in women's rights issues starting in 2011. Those who follow the Libyan scene before 2011 monitor a movement that opposes discrimination against women and violence against women, whether on an official level through the ratification of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1989 and the translation of its most important principles in the Freedom Promotion Law No. 20 of 1991 and other laws, or on an informal level through interest in the civil sector through some associations organized by Law 19 of 2001, although the official interest was dominated by the nature of politicization of the file and flirting with the outside world, and the informal interest was dominated by the nature of dependence on the existing political system at the time.

However, 2011 marked a milestone in the issue of violence against women in two respects. First: the women's rights context, openness to the outside world, involvement in civil society organizations, and an increase in human rights awareness. Second: the realistic context of the increase in cases of violence against women and the introduction of forms that did not exist before, and perhaps the most dangerous of them are cases of sexual violence during the armed conflict.

During Libya's endeavour during the last decade towards democratic transformation, the most important manifestation of which is preserving the rights and freedoms of marginalized groups, the most important of which is women, who are truly the other half of society. We are shocked by the general situation of women in Libya. It was described as "appalling" by Ms. Reem Al-Salem, the UN Special Rapporteur on Violence against Women, who, in a statement after her visit to Libya, stressed the need to take urgent measures to end the continuing cycle of violence against Libyan and non-Libyan women and girls, "which has been exacerbated by complete impunity for the crimes committed."¹ All this demonstrated the need for a law that protects women from all forms of violence. Perhaps the most important achievement of Libyan women during these ten transitional years is the draft law to protect women from violence that was presented by the civil authority to the legislative authority at the beginning of this year 2023. It is necessary to devote a study to this project, which is a pioneering civil attempt at the level of the Arab world.

¹ [Libya: Alarming levels of violence against women and girls must end, says UN expert | OHCHR](#)

Study methodology

The study is multi-methodical. It will adopt the descriptive approach to narrate the different contexts and the project-making process. The analytical approach will be used to study the impact of contexts on the project-making process. It is necessary to compare the project with international standards, and finally we make a forward-looking reading of the future of the project and the law once it is issued.

Study plan

We will devote the first part to an attempt to monitor the general contexts in which the idea of the project was born and that surrounded the process of making the draft law, including the legislative, political, economic, social, and cultural context.

In the second part we will shed light on the project-making process from its inception, up to its current stage, with a focus on community interaction with the project and its making process.

In the third part, we will deal with the evaluation of the project, including its procedural and substantive rules, examining the extent of their conformity with international standards, and the comprehensiveness of the protection stipulated.

In the last part, we will try to anticipate the future of the project, and the extent to which there are opportunities for its issuance and implementation. Perhaps for the sake of hope for its speedy issuance and effective implementation, we propose a set of general policies to governmental and non-governmental authorities.

The first part

The general contexts of the draft law

The prevailing legislation in any country reflects the prevailing social, political, and economic conditions and ideas in society. The more society develops, the more legislation develops to keep pace with new developments. The Libyan society has experienced many political, social and cultural developments after 2011, which necessitated the introduction of new laws to keep pace with these developments in a way that protects and enhances the rights of Libyan citizens, male and female, and perhaps the best example of this is the draft law protecting women from violence. This draft presented a human rights response to these developments, whether cultural or societal developments, and perhaps it expressed society's adoption of a human rights philosophy that must be translated into legislative policies.

Legislative context

After 2011, Libya finally saw a constitutional document, albeit a temporary one. The document tried to give great importance to individual rights and freedoms, especially since it is a revolutionary document, but it was brief. Its issuers were counting on the birth of the comprehensive permanent constitutional document soon. Therefore, it was devoid of a constitution expressly and adequately protecting women from forms of violence and contented itself with referring to the prohibition of gender discrimination in Article 6 thereof.

Despite Libya's ratification of many international covenants and conventions that guarantee the protection of women from violence, namely:

1. The International Covenant on Civil and Political Rights
2. The International Covenant on Economic, Social and Cultural Rights
3. The Convention on the Elimination of All Forms of Discrimination against Women
4. The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women
5. Security Council Resolution 1325 on 2000, and the nine subsequent resolutions on women, security and peace.

This endorsement was not translated legislatively through a process of updating the Libyan legislation to ensure its compatibility with that international

law with its human rights standards. All legislations in Libya, whether electoral², administrative, civil, or criminal, are unable to achieve aspects of protection of women for several reasons:

- being old. Some of them were issued in the early fifties of the last century, such as the Libyan Penal Code and the Libyan Criminal Procedure Code.
- And because it is written with a mostly masculine and security voice, and with a conservative traditional philosophy that lacks respect for the international human rights system as a whole, including women's rights.

We can say that there is a legal and human rights stalemate. This applies even to subsidiary legislation issued by the executive authority, in which we have seen the influence of strict religious or security policies. And it represented violence against women from the state, including, for example: Decree of the Military Governor (Derna. Bin Jawad) No. 6 of 2017 regarding preventing women from traveling without a male companion (*mahram*)³ and the restrictions it imposes on women's freedom of movement in flagrant discrimination based on gender.

We cannot point positively, except for the experience of the interim Libyan government (Zidan's government) submitting a draft law on abused and raped women in 2013 to the legislative authority (the General National Congress) in hopes of issuing it. When the National Congress refused to pass that project, the government contented itself with issuing Cabinet Resolution No. 119 of 2014 regarding dealing with the situation of victims of sexual violence, followed by a decision by the Minister of Justice No. 904 of 2014 regarding organizing a fund to address sexual violence situations⁴.

The 2017 draft constitution was disappointing, and that is why many feminist advocates wrote a lot about its lack of many aspects of women's rights protection. Perhaps the most important drawback is that self-contradiction in adopting supra-constitutional principles. Although it adopted the international law and its principles with regard to the chapter on rights and freedoms, it restricted it in a way that does not contradict Islamic law, as it is the only source of legislation. This threatens all human rights gains to fall at the mercy of strict human interpretations of Sharia⁵.

² Not inclusive yet. By RONALD BRUCE ST JOHN in: <https://carnegieendowment.org/sada/53115>

³ It was revoked by Military Governor Resolution No. 7 of 2017 regarding the cancellation and addition of a provision by Resolution No. 6 of 2017. Issued on February 23, 2017.

⁴ Jazia Jibril Muhammad, Victims of Sexual Violence and Protection Mechanisms in Libya, Legal Agenda Journal Issue 4, April 2016. [Gender, Sexuality and Women Rights | - Legal Agenda \(legal-agenda.com\)](https://legal-agenda.com/Gender_Sexuality_and_Women_Rights_-_Legal_Agenda)

⁵ Jazia Jibril Muhammad, Women's Rights in Libya: Preserving the Gains of the Past and Fears of the Future, The Legal Agenda Journal, Issue 3, December 2015 [Women's Rights in Libya: Preserving Past Gains, Fearing for the Future - Legal Agenda \(legal-agenda.com\)](https://legal-agenda.com/Women's_Rights_in_Libya_Preserving_Past_Gains_Fearing_for_the_Future_-_Legal_Agenda)

The important political documents could not explicitly refer to the importance of combating violence against women, whether the first political agreement "Skhirat 2015" or the second political agreement "Geneva 2020".

Hence, the inadequacy of legislative policy in general, and criminal policy in particular, is evident in the lack of addressing the issue of violence against women in general, whether in ensuring legal protection for women or in providing them with follow-up care. Therefore, there was an urgent need for a modern law that considers the following objectives:

- Developing articles of the Penal Code and amending its human rights flaws.
- Developing articles of the Code of Criminal Procedure and addressing the phenomenon of impunity, and paying more attention to prevention programs for survivors of violence.
- Criminalization of emerging phenomena in Libya during the past decade, such as violence during international and local armed conflicts, electronic violence, and political violence against women.

The political and security context

It is easy to monitor the continued suffering of women and the continuation of discrimination against them in Libya despite the passage of more than a decade since the events of change in February 2011. The absence of political will for reconciliation, democratic transition, and interest in the human rights file, as well as the political division of the executive authorities, the political stagnation of the legislative authorities, the lack of security and stability, and the challenges of the judicial authority related to the rule of law and the power of its enforcement have affected the situation of women and made them more vulnerable to violence and less protected⁶.

We also cannot overlook the main impact of the political crisis process, which is the deteriorating security situation. This situation has a significant impact on the increase in violence against women. Where the proliferation of armed groups and weapons outside the authority of the state contributed to the prevalence of impunity for crimes committed, and the increase in the rate of violence against women. Most of the murders that occurred against women involved the use of firearms in a manner that was not known before 2011⁷.

⁶ [Feminism at the Frontline: Addressing Women's Multidimensional Insecurity in Yemen and Libya - Euro-Mediterranean Women's Foundation \(euromedwomen.foundation\)](https://euromedwomen.foundation/)

⁷ [النساء المهددات بالعنف الأسري؛ بين ظلم المجتمع وغياب القوانين \(drooj.com.ly\)](http://drooj.com.ly)

1- In general violent contexts, where the democratic transition has turned into bloody civil conflicts over the ten years, women have had their share of exposure to this violence, starting from political violence to family violence. In the two types of violence: political and domestic, all physical degrees of violence were monitored. Beginning with harassment, threats, extortion, and premeditated murder, all this in the absence of official statistics documenting the rates and percentages and specifying them in numbers, which prompted some civil organizations to carry on unofficial documentation, and even some human rights activists made a personal effort to monitor incidents of violence and killing of women, including the statistic carried out by the Libyan human rights activist "Marwa Salem" about women who were killed in Libyan cities over the past recent years⁸, and these statistics lack systematic robustness, and therefore it is difficult to rely on them, which stresses the urgent need for an observatory of gender-based violence. This was confirmed by the bill, which stipulates "establishing an observatory on violence against women to prepare a statistical database for abused women, and to issue an annual report to be submitted to Parliament and the Presidency of the Council of Ministers on cases of violence against women and girls witnessed by police stations and courts and their results to assess the effectiveness of the interventions taken and to develop and publish them. (Article 62 of it)

Sociocultural context

Analysing the social and cultural context helps to comprehend why it is difficult to understand the Libyan society's need for a law on protection from violence against women, while there is a societal obstruction of the issuance of that law. This is an influential context, and perhaps the most important context influencing the issue of violence against women.

In the social context, values contradict each other, but they work together to generate a society that produces violence from the outset and does not deplore it, but finds justifications for it, and strongly rejects the movement of the human rights movement to combat violence against women even if it appears to reject that violence.

Many of the inherited values of Libyan society favour violence in general, and violence against women in particular. Whether they are inherited from the tools of the legal system that has existed since the birth of the Libyan state (codifying the idea of public order and public morals, in addition to the system of

⁸ Ibid.

laws of a masculine nature) or inherited from the tools of the social system that has existed in the Libyan society (religious norms and fatwas).

We can only understand the phenomenon of violence against women and discrimination against them only through analysing the societal mentality that discriminates against women, which derives its origins from the social imbalance in the roles between men and women, which is an imbalance that is supported by social, patriarchal and authoritarian concepts in society.

It also contributes to understanding the Libyan value system by analysing the violent religious discourse based on strict interpretations of religious texts, and the ready arguments against women rights, for example: *"This is not empowerment, this is alienation of women from their origins and taking them out of their natural role that their true religion has drawn for them."*⁹

The marriage of minors serves as a prominent example of conflicting values within Libyan society. Historically, it was a deeply ingrained cultural practice until the 1970s when the importance of education, especially for girls, began to be recognized by families. Consequently, parents started prioritizing their daughters' education over early marriage during the 1970s, 1980s, and 1990s. However, the events of 2011, marked by societal upheaval, had a profound impact on traditional values, causing a shift in attitudes towards girls.

With the uncertainties brought about by war and displacement, some families reverted to the idea of early marriage as a means of securing their daughters' future¹⁰. On the other hand, a progressive idea emerged: allowing girls to travel abroad independently for educational opportunities offered by international organizations or foreign scholarships. This openness clashed with the entrenched traditional values, particularly those grounded in religious beliefs that rejected the notion of women traveling without a male guardian (mahram). As a result, this clash between evolving societal values and steadfast religious traditions was reflected in state decisions and religious rulings (fatwas).

Between the push and pull, women were on a date with the defective and contradictory value system, especially with regard to the file of violence against them. Since the beginning of 2011, research studies monitor many forms of violent and gross practices¹¹. The studies also monitor an emerging civil movement interested in human rights and feminist affairs, at the fore of which is the fight against violence targeting women.

⁹ One of the men attending a symposium held by the Washm Center for Women's Studies, Benghazi, March 13, 2023.

¹⁰ Sahar Amnina, a lawyer at the Public Attorneyship Department, during a symposium at the Washm Center March 13, 2023

¹¹ Zahra' Langhi. Abuse of Women's Rights in Libya: Trends, Patterns, and Relevant Legislations & Policies. [Research-web-EN-13-1-1.pdf \(defendercenter.org\)](https://defendercenter.org/research-web-EN-13-1-1.pdf)

With the escalation of violence against women, there is no safe haven for survivors of violence. There is no place for them to turn to when they are subjected to domestic violence. At the beginning of the 1990s, the state established in more than one city institutions to protect abused women. It was called the “Social Home” institution. The mission of these institutions is to contain women threatened with death, those subjected to abuse from their families, or those rejected by their families. The Foundation provides a safe place for them to reside and continue their studies or work. However, the conditions of these homes after 2011 are no longer suitable for fulfilling their purpose. Which is to achieve security for survivors of violence, which makes us think of two paths: institutional reform of this important service sector, and the search for an alternative provided by the civil sector represented by civil society organizations with support and funding from the private sector.

Part Two

Making of the draft

Precursors for the birth of the draft project: before 2017

Libyan civil organizations have been very interested in the issue of violence against women since the early events of 2011. On the one hand, they faced violent cases that the law fails to protect, and on the other hand, awareness was growing of the importance of combating all forms of violence and discrimination, especially since many of these organizations were run by women with legal backgrounds. However, the struggle of these organizations was not crowned with success. The government contented itself with issuing Cabinet Resolution No. 119 of 2014 regarding dealing with the situation of victims of sexual violence, followed by a decision by the Minister of Justice No. 904 of 2014 regarding organizing a fund to address sexual violence situations¹².

These decisions included protection for both males and females who were subjected to sexual violence in times of war or for political reasons, and despite the little protection these decisions provide, they were not implemented, as a result of the aforementioned obstructing contexts¹³. The Libyan arena has witnessed many civil projects aimed at raising awareness of the dangers of violence against women, and calling for effective legal protection in confronting it, emanating from the realization of the need for a solid legal situation to address violence against women, which includes ensuring the protection of victims of violence and the provision of services and assistance in holding perpetrators accountable¹⁴.

The first initiative: 2016/2017

In 2016, a group of female civil activists agreed and went to the legislative authority in Tobruk (the House of Representatives) and they met with many female legislators, urging them to adopt the preparation of a draft law that would protect women from all forms of violence, which resulted in Mrs. Halima Al-Ayeb, head of the Women's Parliamentary Bloc, assigning a group of legal experts to prepare a draft law to combat the phenomenon of violence against women¹⁵.

¹² Jazia Jibril Muhammad, Victims of Sexual Violence and Protection Mechanisms in Libya, Legal Agenda Journal Issue 4, April 2016. [Gender, Sexuality and Women Rights | - Legal Agenda \(legal-agenda.com\)](http://legal-agenda.com)

¹³ Ibid.

¹⁴ Ibid 11.

¹⁵ Dr. Saliha Sadaqa, Ms. Fatima Shanib, Ms. Ibtisam Al-Zani, Ms. Maha Mosaed, and Ms. Khadija Al-Baseikri

Indeed, the committee prepared a "Draft Law on Combating Violence against Women" that includes 24 articles distributed under four chapters. The project was presented to the House of Representatives in the second half of August 2017, in an official ceremony in the city of Tobruk, where the House of Representatives is based in eastern Libya. The draft was referred to the Legislative Committee¹⁶ of the House of Representatives in 2017, which considered that its penalties are heavy and inconsistent with the general legal system in some provisions, and that the accuracy of the legal drafting was absent from the draft altogether and in detail. Therefore, it returned it to the parliamentary bloc for further development with a recommendation to present it to the Department of Criminal Law at the Faculty of Law, University of Benghazi. A workshop was held under the chairmanship of Dr. Tariq Al-Jamali to discuss the project, and the attendees concluded¹⁷ that it is necessary to hold more discussion sessions on the project in order to make it more ready to be presented to the deputies and to gain social acceptance because in its current form it suffers from many shortcomings in the formulation, or in the lack of proportionality between the gravity of the crimes and the severity of the penalties, which may impede its adoption, and women in Libya lose a historic opportunity to pass a protective law for them in the face of all forms of violence.

On the other hand, many jurists¹⁸ saw that this draft deviated greatly from the Model Law for Combating Violence against Women and Girls in Arab Countries¹⁹, and for these reasons combined, the first attempt to pass the draft failed.

¹⁶ Among its members are lawyers such as: Mr. Moftah Koueider and Mr. Ramadan Shambash.

¹⁷ It was held at the Faculty of Law, Benghazi University, on the morning of Thursday, January 11, 2018, in the presence of the Dean of the Faculty, Dr. Tariq Al-Jamali, and Mrs. Head of the Criminal Law Department, Dr. Jazia Shiitir, and the head of the Faculty's cultural committee, Dr. Hala Al-Atrash and members of the faculty and prominent human rights and legal activists.

¹⁸ Jazia Jibril Muhammad, The draft law on violence against women in Libya: Disappointment in form and content, The Legal Agenda Journal, Tunis, Issue No. 10, February 21, 2018, [حقوق المرأة في ليبيا: الحفاظ على مكتسبات الماضي وتوجسات المستقبل | Legal Agenda \(legal-agenda.com\)](#)

¹⁹ Prepared by women's rights associations in more than 14 Arab countries, including a Libyan organization: Nataj Organization for the Development of Women's Capabilities. The final version was completed on 12/19/2017.

The second initiative: 2021/2023

The Covid-19 pandemic and the political deadlock in Libya conspired to hinder the improvement of the project, and therefore the feminist movement did not become active again until 2020 when a multidisciplinary committee of Libyan legal experts²⁰ prepared the draft law under study based on the 2017 draft law. With logistical sponsorship was from the Women's Support and Empowerment Office at the United Nations Mission in Libya, and the Gender-Based Violence Office at the Women's Population Fund. The committee worked for a year through virtual meetings. In April 2020, Minister of State for Women's Affairs, Houria Tourmal, agreed to sponsor the project, and the committee invited her to attend a personal meeting in Tunis in June 2020.

It provides experts with cooperation with international expertise such as Dr. Amal Abdel-Hadi²¹ from Egypt, and consultant Nazik Al-Khatib from Lebanon, who represented a source of international experience in dealing with forms of violence against women, and advised the Committee of Experts on everything that benefits the project's convergence with international standards, and what achieves optimal protection for survivors of violence.

The Committee of Experts launched a series of virtual public discussions with civil society organizations, women's groups, academics, relevant researchers, members of the judiciary, and lawyers to discuss and amend the draft based on this discussion, in preparation for its formal referral to parliament. There are many organizations working in women's rights that are interested in the issue of violence against women, including, for example: the Amazons of Libya Organization, the Libyan Women's Platform for Peace, the Together We Build Organization, the Washm Center for Women's Studies, the Women's Union in Libya, the Product Development Organization, Defenders Organization, Lawyers for Justice and many others.

²⁰ A list of the names of the members of the Committee 2021: It is noted through it the extent of regional representation for all Libyan regions, the extent of diverse expert representation between academics, jurists and activists, as well as the extent of care to inoculate the committee with the male element with human rights concerns:

Dr.. Saliha Ali Sadaka, Professor of Public International Law, Faculty of Law, Omar Al-Mukhtar University

Dr.. Faiza Al-Basha, Head of the Department of Criminal Law, Faculty of Law, University of Tripoli.

Dr.. Jazia Jibril Shiitir, Professor of Criminal Law, Faculty of Law, University of Benghazi

Rafia Al-Obaidi, advisor to the Supreme Court

Salah al-Murtada, judge at the Court of First Instance in Derna.

Fatima Boubaker Shanib, a lawyer at the Public Defender's Department, Benghazi

Omaima Al-Fakhri, legal advisor at the Public Defender's Department, Benghazi.

Najwa Ali Ahmadi, a private lawyer at the Tripoli Bar Association

Marwan Tashani, a human rights researcher and former judge

Aida Ahmed Ibayo, Chair of the Board of Directors of Bridges of Justice Organization for Legal Aid

Elham Abdullah Al-Saudi, human rights lawyer and director of Lawyers for Justice in Libya

²¹ Egyptian activist in the field of women's rights and director of the "New Woman" Foundation.

The committee's experts also played a major role in previous advocacy campaigns by promoting the project, whether through the organizations to which they belong: such as Mrs. Elham Saudi through the "Lawyers for Justice" organization, where she held an important symposium on cyber violence in April 2021, or individually by hosting more than one organization and more than one radio program.

During the period from September to November 2021, the committee held many meetings and virtual dialogues about the draft law and revised it according to the testimonies of the participants. Many of the remarks made by the attendees were included in the draft law until the draft law was approved under the name "Protecting Women from Violence". Discussion began on the preparation of each of the explanatory memorandum of the law and the executive regulations, and indeed some experts, male and female, began working on them.

In early September 2021, the Faculty of Law²² discussed an updated version of the 2017 draft, at the request of Mrs. Intisar Shneib, the head of a parliamentary committee called: The Woman and Child Committee, but it was not the final version.

On September 21, 2021, Parliament passed a vote of confidence in the government, and the relationship between Parliament and the government became strained. However, the experts insisted that the work of the committee is human rights, not political, and that it is far from political tensions, and proceeded to hold the second meeting of the Committee of Experts on the draft law to protect women against violence in Turkey on September 29, 2021. There, women parliamentarians reported that they would obtain the necessary signatures on the project, so that it would be worthy of submission in the next Parliament session.

Since the end of 2021, the project has become almost ready, and despite the then-Speaker of Parliament, Mr. Aqila Saleh, welcoming the project through his meeting with Minister Houria Tarmal and Ms. Omaira Bawi, a member of the Committee of Experts, on August 16, 2021, the experts hesitated to hand it over to the existing legislative authority at the time, assuming that it was about to change, and some preferred to hand over the project to the next legislative authority that was to be elected on December 24, 2021.

On October 15, 2021, it was decided²³ to launch the second phase of the draft committee of experts, which is a phase centered on a comprehensive advocacy campaign for the draft law before it is submitted to Parliament. The

²² In the presence of the Dean of the Faculty: Dr. Salwa Al-Dugaili and a group of specialists from the faculty members of the college and workers in the justice sector.

²³ Supporters of the Expert Committee: UNSMIL and its partners from the United Nations Population Fund and UN Women.

most important thing that the plan of that campaign focused on is the assertion of full ownership of the draft, especially the technical aspect related to the drafting and the substantive and procedural provisions it contains in a way that suits the Libyan reality and the suffering experienced by Libyan women. Male and female experts also agreed that the advocacy sessions begin with a historical narration of the stages of the birth of the project, then the general structure of the law, its objectives and definitions, then the crimes part, the procedures part, and finally the prevention part and non-judicial institutions.

However, this advocacy campaign has been hampered for several reasons. On the one hand: there was a fear that the project would be put forward for advocacy and would be seized by insecure hands. An advocacy campaign means speaking out about the law and its ideas, and then the project will be used to the detriment of advocacy and will be negatively promoted on social media. The enemies of the law have long hands, a strong electronic army, and great financial support, and there are active women²⁴ in civil society who rejected the project publicly on a social media platform. The reason for the declared rejection: "Secularists and liberals destroy faith and society by corrupting women and removing them from their chastity and modesty."²⁵

On the other hand, the unexpected happened, as the Prime Minister issued in October a decision to form a committee headed by the Minister of Justice to conduct an administrative investigation with the Minister of State for Women's Affairs regarding the memorandum of understanding between the Ministry of Women's Affairs and the United Nations Mission regarding the national plan for Resolution 1325, issued by the United Nations Security Council, which is the plan aimed at strengthening the plan of international commitment to the agenda of women, peace and security. Likewise, the parliament decided²⁶ to form a committee to interrogate the minister, this was consisting of women parliamentarians: Fatima Boussaada, Asmaa Al-Khawja and Halima Al-Ayeb, in light of the campaign launched against the minister due to the reference to CEDAW in the preamble to the Memorandum of Understanding. Consequently, the public advocacy campaign was stalled until the storm of societal rejection of feminism and human rights calmed down.

But the panel of experts spared no effort to find various avenues for advocacy. They turned to external advocacy by introducing two experts (Consultants Salah Mortada and Omaina Bawi) to introduce the project to the

²⁴ Mrs. Intisar Qlaib, Head of the Civil Society Commission. Tripoli.

²⁵

<https://www.libya-al-mostakbal.org/top/17748/%25D8%25A3%25D9%2588%25D9%2582%25D8%25A7%25D9%2581-%25D8%25A7%25D9%2584%25D9%2585%25D8%2>

²⁶ Resolution 2 of 2021, issued by the Speaker of Parliament.

Working Group on Human Rights and International Humanitarian Law²⁷ on October 28, 2021. In the context of supporting the project, the United Nations Development Program in New York approved a request to translate the project into English, and hopes that the project will be translated soon.

On November 24, 2021, two members of the experts, namely: (Faiza Al-Basha from Tripoli, and Jazia Shiiter from Benghazi), ran for the parliamentary elections, and the candidacy plan for both of them contained support for the draft law to protect women from violence.

On November 28, 2021, the activities of the 16-day campaign to combat violence against women were held, in which civil organizations operating in Libya focused on electronic violence against women, based on a survey of the opinions of Libyan women working in the civil rights field. Libyan activists have spared no effort in establishing human rights and awareness activities on the issue of electronic violence against women.

In mid-March 2022, an expert²⁸ briefed the Security Council in which she mentioned the draft law and called on the Security Council to support its issuance.

In mid-July 2022, during the “Eid al-Adha period,” cases of domestic violence increased to the point of murder²⁹, which prompted the Minister of State for Women’s Affairs to declare a condemnation, according to the official statement from the minister who edited it on July 13, 2022. The Committee for Women and Children’s Affairs also declared the conviction on July 16, 2022, and confirmed in that statement that they are working on issuing a law to protect women against violence. And because these deadly violent crimes were domestic crimes, “domestic violence,” it became a matter of national public opinion³⁰ and prepared the Libyan society to accept the idea of the need for a law that protects women from violence.

Among the advocacy mechanisms sought by the experts was the meeting with the United Nations Group of Experts on the Rule of Law and Violence against Women in Conflict Situations, where that team had observations about the project and discussed them with the Committee of Experts on the Zoom platform and in a personal meeting in Tunis in mid-May 2022.

²⁷ It is a group that emerged from Berlin 2020 and is made up of the Embassy of the Netherlands, the Embassy of Switzerland and the Mission. In each of its monthly meetings, it invites one or two guests to talk about a human rights issue.

²⁸ Jazia Shiiter, member of the withdrawn political dialogue

²⁹ Some human rights publications refer to lists of 71 female victims.

³⁰ As for the phenomena of political violence, it is limited to highlighting them by opponents of the team accused of human rights violations.

And in the 16-day campaign to eliminate all forms of violence against women³¹ in November 2022, all experts participated in supporting the law through panel discussions and radio and television episodes, and their advocacy had a positive impact. On December 5, 2022, in a dialogue session in the city of Benghazi, Mrs. Sultana Al-Mismari, a member of the House of Representatives, stated that the women's bloc in Parliament is collecting signatures on the project, and I heard women's appeals for the need to speed up its enactment, and I heard from specialized female lawyers that it will be a support for Libyan women because of the extremely important procedural aspects it contains including the text of protection orders³².

Finally, the Committee of Experts decided to hand over the project to the current House of Representatives for several reasons:

1. The diminishing hope of electing a new legislative authority after the constitutional and legal blockage dominating the political scene.
2. Women parliamentarians support³³ what they have of an un-updated version that they obtained at Turkey's meeting with the Committee of Experts. Therefore, it is more useful for women parliamentarians to support the latest updated version of the project.
3. On the other hand, civil society women demanded that the project be made available to them to contribute to advocacy campaigns, including the Women's Union, the Washm Center for Women's Studies, and many others.

Indeed, the Committee of Experts³⁴ coordinated with the Chair of the Committee on Women and Children's Affairs in the House of Representatives, Ms. Intisar Shnaib³⁵, and officially delivered a copy of the project in the city of Benghazi on February 6, 2023, in the presence of a group of male and female members of the House of Representatives.

The members of the delegation indicated the committee's experts' readiness to attend a hearing session in which they would present any clarifications to the representatives, and on the part of the members of the House of Representatives, who were present for the handover and reception, they

³¹ waggs.org) يومًا من الفعاليات ضد العنف القائم على أساس النوع الاجتماعي 16

³² A protection order is a measure issued by the competent judicial authority to consider cases of violence against women in all procedural stages: reasoning, preliminary investigation, trial and execution of the sentence; To protect the safety, privacy and dignity of its beneficiaries.

³³ Whether the head of the Women and Child Affairs Committee, Mrs. Intisar Shanib, or the head of the Women Parliamentarians for Libya bloc, Mrs. Halima Al-Ayeb.

³⁴ The delegation that delivered the copy: each of the gentlemen: Salah Al-Mortada and Rafia Al-Obaidi, Omaira Bawi and Dr. Jazia Shiiter.

³⁵ She is responsible to receive draft laws related to women, expressly stipulated in Article 49 of Law No. 4 of 2014 regarding the adoption of the internal system of the House of Representatives.

confirmed the speed of referring the project to the Legislative Committee in preparation for presenting it in an official session for approval.

In an international response in support of the project, Mr Bathily stated in his briefing to the Security Council on February 26, 2023, the support of the United Nations Mission for the project. He said the following: "In a more positive gesture, a draft law on combating violence against women was formally submitted to the House of Representatives, which is necessary to guarantee women's basic right to live free from violence."³⁶

One of the most important recommendations of the report issued by Ms. Reem Al-Salem, Special Rapporteur on Violence against Women, on her visit to Libya on May 4, 2023 was: "Adopt the draft law on ending violence against women as a matter of priority and ensure that it is preceded by a comprehensive campaign to inform the broader society of its goals."

With regard to the legislative response to the project we have to admit that in Libya, members of the legislative authority will not fear the political consequences of rejecting the project. They will not be punished for this refusal by not being elected again, or by mobilizing the civil society against. All these measures are ineffective in the Libyan scene, given the recent parliamentary experience.

In Libya, following the 2015 political agreement, two legislative councils were established: the House of Representatives and the State Council. The House of Representatives serves as the main legislative body, while the State Council functions in an advisory capacity. Both councils consist of male and female members who may hold progressive or conservative views. According to a State Council member, a legislator's political stance significantly influences their approach to societal issues, particularly those related to human rights. As a result, those affiliated with political Islam tend to be less enthusiastic about advocating for these human rights issues compared to members aligned with the civil current³⁷. This difference in enthusiasm reflects the varying perspectives on addressing and promoting human rights within Libya's political landscape.

Also, the female members are not in one position. Some of them hold a capacity other than membership of the Council, either by chairing a committee specialized in women's affairs like the ladies: Intisar Shanib and Halima Al-Ayeb from the House of Representatives, or because they are interested in political affairs and a member of political dialogues, such as the ladies: Magda Al-Falah, Sultana Al-Mismari, Rabia Bouras, Sayeda Al-Yaqoubi and Aisha Shalabi, or

³⁶ [SRSG Abdoulaye Bathily's Remarks to the Security Council meeting on Libya - 27 February 2023 | UNSMIL \(unmissions.org\)](https://unmissions.org/en/stories/srsg-abdoulaye-bathily-remarks-to-the-security-council-meeting-on-libya-27-february-2023)

³⁷ A member of the State Council at a symposium in Tunis attended by the researcher, organized by the Martti Ahtisaari Foundation for Peace CMI, on: 11/12 November 2022.

because they have an active presence in civil activities such as Naima Al-Hami for being a pioneer scout, and many others.

All of these view the advocacy of the law to combat violence against women in a more profound way, whether in terms of the advantages that will accrue to them by advocating it, as they will be included among the prominent women in the legal and civil fields, or in terms of their protection from the political violence that they are exposed to, especially electronically. We will not forget that some of them were actually subjected to political violence. Whether it was electronic violence, the Sultana Al-Mismari, or physical violence, as in the case of Siham Sergiwa and Fareha Al-Barkawi.³⁸

Therefore, it is not surprising that Mrs. Majida Al-Falah, a member of the State Council, who is a member of Women Parliamentarians Against Violence, expressed her interest in the law including effective protection for women during political participation, starting from her candidacy³⁹ to her presence under the legislative dome, and that the two women: Naima Al-Hami and Magda Al-Falah, members of the State Council, promise to lead a campaign advocating for the project within the State Council, and they indicated the need to exchange experiences with Arab feminists with previous experiences in legislation combating violence against women.

The female members of the House of Representatives, Sultana Al-Mismari, Intisar Shanib, Halima Al-Ayeb, also promised that they would collect signatures in support of the project, and that they would be keen to present it in an official session to obtain accreditation, so that it would see the light soon.

³⁸ alwasat.ly (بعثة الاتحاد الأوروبي: 17 يوليو ذكرى لصعوبة مشاركة المرأة السياسية في ليبيا)

³⁹ Magda Al-Falah at a symposium in Tunis attended by the researcher, organized by the Martti Ahtisaari Foundation for Peace CMI, on: November 11/12, 2022.

Part Three

The draft law in the light of international standards and comparative laws

It is important to recall that the Committee of Experts was characterized by the presence of two legal currents, one of which was traditional and conservative, represented by some of the committee's judges⁴⁰ and some of its academies, in exchange for an enlightened modernist current represented by those involved in human rights and civil affairs. Therefore, there was no complete consensus on some of the provisions of the law, but there was great agreement on all its provisions. The conservatives were only concerned about not accepting it, which might impede the protection of women from violence. The aspirations of the modernists were not a blind imitation of international law, but rather their main concern was to achieve the maximum protection for women from violence. Therefore, the two teams reached a formulation that took into account international human rights standards and at the same time took into account the cultural specificity of Libyan society.

In its deliberations, the Committee considered Libya's constitutional obligations, and its obligations in accordance with the regional and international mechanisms and documents that it ratified and became a party to. The committee also took into account the latest developments in the laws of brotherly Arab countries related to combating violence against women, and relevant international experiences.

The draft law consists of 69 articles divided into six chapters

- Part One: Objectives and Definitions (Articles 1-2)
- Part Two: Crimes of Violence against Women (Articles 3-27)
- Part Three: Criminal Procedures (Articles 28-44)
- Part Four: Protection of Victims, Witnesses, Reporters, and Experts (Articles 45-59)
- Part Five: Prevention of Violence (Articles 60-65)
- Part Six: Final Provisions (Articles 66-69)

According to the first article of the draft law, this law aims to:

- 1- Guaranteeing women's rights in a manner that preserves their dignity and security.
- 2- Addressing violence against women and eliminating impunity.
- 3- Criminalizing all forms of violence against women, whether in the public or private sphere.

⁴⁰ Rafia Al-Obeidi stated that she joined the committee with the permission of the Supreme Judicial Council, in order to ensure that the project does not violate the constants related to Sharia or public order in Libya.

- 4- Facilitating women's access to prompt justice and ensuring that they obtain the necessary protection, redress, compensation and redress.
- 5- Provide due protection for victims of violence, witnesses, whistleblowers, relevant experts and advocates for women's rights.
- 6- Addressing the gaps in the laws in force and the institutional mechanisms that impede the access of victims of violence to justice and redress.
- 7- Addressing various forms of violence against women, especially new ones, such as electronic violence.
- 8- Developing the judicial system and law enforcement agencies, whether at the level of the efficiency of the institutional mechanisms, or at the level of awareness and capabilities of those working in the law in the broadest sense.

The merits of the bill

We can easily see the advantages of the law, as it is a law that is in line with international standards, and avoids the defects noted in the first version of the draft. Its authors were keen to expand the definition of violence to include a wide variety of acts: including violence against women with the aim of arbitrarily depriving them of their public or private rights, marrying women before they reach the legal age for marriage using fraudulent methods or forged documents, forcing women to marry, depriving women of their right to legal inheritance, depriving women under their jurisdiction of compulsory education, and the employer's violation of the principle of equality and equal opportunities between men and women in the scope of work. The draft also included all aspects of legal protection, as it defined the term protection in the fourth paragraph of Article 1 as "extending legal protection to abused women and enabling them to obtain their rights."

In terms of substantive criminal policy, the project was keen to re-criminalize many of the criminalized acts in the Libyan Penal Code by increasing their penalties. In order to show the keenness on a strict policy towards the perpetrator of violence against women, the drafter of the law stated in an article entitled "Strengthening the Punishment" that "the penalties prescribed in this law shall not prejudice any harsher punishment stipulated in the Penal Code, or any other law." The draft did not neglect the specificity of crimes of violence against women during or after armed conflicts, or in any similar situation. He also expanded the definition of rape and the crime of incest, and abolished the legal excuse for marrying a raped woman. It also paid attention to new types of crimes such as cyberviolence (Article 2 of the draft law).

With regard to domestic violence, the draft law represented a development of the Libyan criminal law, which since its issuance in the fifties⁴¹ included a separate section for crimes against the family⁴². Hence, the draft law responded to these developments and strengthened the protection of women by consolidating the principle of criminal punishment against those who cause harm or threaten them with danger, within the family, in one of their legally protected interests: whether their life or their physical, psychological and sexual integrity, guaranteeing their freedom and preserving their honour, dignity and money (Article 4 of the draft law).

The draft has a number of virtues regarding substantive penal policy, including: its keenness to exclude the death penalty in line with the human rights context of international standards, as well as its stipulation of a choice penalty, which allows the judge to exercise their discretion in choosing the appropriate punishment for the offender. The draft also considers alternatives to punishments in Article 20 of it, which reads: "The competent court may - if it deems it appropriate - for the circumstances of the accused and the victim, substitute custodial penalties for misdemeanour crimes stipulated in this law, by assigning the accused to perform community service as specified by the competent ministry, and in partnership with civil society institutions concerned with this field, for a period or periods not exceeding half of the maximum prescribed penalty." The pioneering nature of the draft law is also represented in expanding the legislator's interest not only in providing deterrent punishment for violent crimes, but also in what contributes to effective protection, including procedural measures to prevent violence against women.

With regard to procedural criminal policy, although the Libyan Criminal Procedure Code belongs to the Latin system and adopts the system of excavation and investigation, it is a system that does not give a major role to the victims in the criminal case and does not care much about the victim⁴³. Chapter Three of the draft law strives to take into account the human rights and social dimensions and lays the first building block in the development of the criminal procedural system in the Libyan state in the hope that a comprehensive amendment of the Libyan criminal legislation system will be achieved. On the one hand, the authors of the project deliberately shed light on all the details of procedural criminal protection in a message to those in charge of law enforcement stating: The matter is very important and that the Libyan woman, a victim of violence, is of great interest to the legislator, and therefore stipulated the possibility for civil organizations

⁴¹ Influenced by the old Italian law.

⁴² Thus, he represented a pioneer among the Arab laws at the time in the field of protecting the family in general and women in particular.

⁴³ Perhaps this system, which is taken from the old French law and quoted from the Egyptian law, needs many amendments. This has not happened since the fifties except on a few occasions and mostly for political reasons.

concerned with violence against women to file a complaint or report before the law enforcement authorities (Article 33 of the draft). victim for her complaint (Article 25 of the draft).

On the other hand, the draft law decided to protect victims of violence, whistleblowers, witnesses, experts, and human rights defenders, and it provided multiple protective mechanisms at all stages of the investigation: evidence, investigation, and trial, in a way that helps encourage reporting of violent crimes, achieve swift justice, and eliminate impunity, including: an order to hear the statements of the witness without mentioning their data, provided that a sub-file is created that includes identification of their identity and data, as well as display of testimony or statements by electronic means, or mechanisms to change the voice or hide the facial features (Article 50 of the project)

The bill also accounts for its revenues for advanced criminal procedures, as Article 18 of it stipulates that “the court may hear the victims, witnesses, and experts through modern means of communication, or through judicial delegation.” The draft also stipulates that the data of the complainants, victims of violence, and witnesses that they give before the Anti-Violence Unit and the investigation and trial authorities are among the confidential data that are not disclosed except by request and for reasons determined by the court judge. It also stipulated the establishment of a statistical database of abused women at the state level. The bill is credited for its text on “the state’s commitment to support and encourage civil society to establish independent human rights associations that aim to raise awareness against violence, reduce its cases, rehabilitate victims, and provide them with legal aid, each according to its competence,” according to Article 21 of it.

Among the new criminal procedures stipulated in Article 17 of the draft, which gave powers to the Public Prosecution Office to issue protection orders for victims or witnesses. It also gave it powers to issue orders for temporary financial assistance to be disbursed from the Victims’ Welfare Fund stipulated in Article 13 of the draft, which is a fund established by a decision of the Prime Minister to care for female victims of violent crimes and their families. Fines adjudicated for the crimes stipulated in the draft are included within its resources.

The draft law also obligates the Ministry of the Interior to establish a specialized department for combating violence against women, with branches in all municipalities, provided that units are established within it for other police agencies determined by the Minister of Interior, provided that it includes in its composition the necessary number of women police, social and psychological specialists, doctors and technicians, as well as the establishment of a specialized public prosecution and court. It is noteworthy that the draft law has introduced crimes against the judicial police officer who may deliberately commit acts that

prevent the complaint of a victim of violence from reaching the judiciary. It also established disciplinary responsibility in the event of his neglect of complaints and reports of violent crimes, and the punishment is stiffened in the event of a violation of the dignity of the victim or in the event of failure to respect the basic guarantees for her protection (Article 42 and what follows of the draft law).

The project did not neglect the responsibility of those in charge of the official departments specialized in registering marriage contracts, within the framework of combating early marriage. The competent official departments were prohibited from registering any marriage contract of a minor, and any violator was punished with imprisonment for a period of no less than three years. An employee who refuses to inform the Public Prosecution of a violation of this prohibition shall be punished with imprisonment for a period not exceeding one year and a fine (Article 10 of the draft law).

The comprehensive definition of aspects of legal protection was also translated into several texts of the draft law, by obliging the state to provide means of assistance and services for abused women, establishing a fund for victims' care, confirming that the victim enjoys the rights stipulated for people with disabilities in accordance with the disability law, and confirming the obligation of the state to establish institutions to provide rehabilitation services for victims of violence. The project also emphasized a number of commitments, including implementing a legal awareness program for girls and women about relevant legislation, and appointing women's rights monitors in all state ministries.

Not to mention that it obligated specialized educational and professional institutions to include courses on violence against women in the educational curricula for students and stipulated the need to provide comprehensive and continuous training for the various law enforcement officials.

These obligations are vested in the executive authority and can only be fulfilled through the issuance of general regulations or special decisions that are multiplied by the multiplicity of ministries and institutions. Confirming their mention in the draft came as a way to create the surrounding environment to prevent violence and give legitimacy to those measures and a general obligation on the executive authority, which makes complacency in taking these decisions or taking negative violating decisions that lead to judicial accountability before the administrative judiciary.

Shortcomings of the bill

This draft, like any other act of its kind, still has several shortcomings. Its creators acknowledge that the wording may not be perfect, and it may not offer comprehensive protection, as pointed out by some who have reviewed it. Notably, during workshops held by the Washm Center for Women's Studies on March 13, 2023, and the Parliament's Women and Child Affairs Committee on June 22, 2023, criticisms were raised regarding the draft's preamble.

One of the major criticisms is the absence of references to both the inheritance law and the cybercrime law. Regarding the latter, it was expected since the cybercrime law had not been issued at the time of preparing the draft. Additionally, some concerns were raised about the expansive definitions in the cybercrime law, particularly in its definition of gender, which was seen as a matter of jurisprudence rather than within the jurisdiction of the legislator.

Furthermore, the project faced criticism⁴⁴ for not sufficiently addressing an essential aspect of violence: violence in the workplace. This type of violence is explicitly prohibited according to Convention No. 109 of 2019, as ratified by the International Labour Organization⁴⁵. The omission of this aspect from the project was a point of contention among the critics, who emphasized its importance in promoting comprehensive protection for individuals. It was also criticized the project in terms of the lack of clarity in the relationship between it and the law of retaliation and blood money in relation to murder crimes, and the lack of clarity in the relationship between it and the law of adultery in relation to the crime of consensual intercourse. The law did not provide for a committee that determines the minor's eligibility for marriage with an exception estimated by his estimation, and the project was absent from an accurate and exclusive determination of family members, and finally the law was criticized because it did not specify a time period given to the relative to hand over the woman's share of the inheritance if he did not hand over to her during which the expectation of punishment.⁴⁶

Nevertheless, these criticisms remain minimal and do not detract from the extent to which the draft protects women from all forms of violence, and the expert committee can work to improve it, taking all these observations into account.

⁴⁴ Nermin Al-Sharif, President of the General Confederation of Trade Unions of Libya, a symposium discussing the project held by the Women and Child Affairs Committee in Parliament, Benghazi, June 22, 2023.

⁴⁵ Although Libya has not ratified this agreement, it is assumed that trade unions and human rights organizations work to urge the Libyan state to ratify it.

⁴⁶ These criticisms were made in the workshops that were held to discuss the project in Benghazi on June 22, 2023

However, the fear that may abort the dream of seeing the project come to light is the one related to the societal rejection of the project, which is a rejection based on the incorrect idea that the project may conflict with the value system of Libyan society, a fear confirmed by different segments of women:

- A parliamentarian expresses her reservations about organizing the project for the right to a safe abortion and calls for careful consideration by the Libyan Islamic community.⁴⁷
- A human rights woman indicates that she heard in more than one forum commenting on the law that its spirit is not Libyan and that it was influenced by international experts who helped the experts in drafting it.⁴⁸
- A private lawyer⁴⁹ is surprised that the law stipulates a separate definition of forced circumcision, as this act does not occur in Libya, and when a gynaecologist⁵⁰ replied to her by confirming that it does happen, but by foreigners residing in the Libyan state, the lawyer believes that the provision for mutilation of sexual organs in Article 13 includes acts of forced circumcision.
- A civil activist and an academic professor fears that the project will not be accepted because it is dreamy from the point of view of conservatives, and that the exaggeration in the desire to protect women will eventually cause women to be deprived of that protection because the legislative authority may reject this project.⁵¹

⁴⁷ Magda Al-Falah, Tunisia Seminar organized by the Martti Ahtisaari Foundation for Peace CMI on: 11/12 November 2022.

⁴⁸ Ahlam Bentaboun, Tunisia Symposium organized by the Martti Ahtisaari Peace Foundation CMI on: 11/12 November 2022.

⁴⁹ Ms. Mona Zoghbiyeh, a symposium discussing the draft law organized by the Women and Child Affairs Committee in Parliament, Benghazi, 22 June 2023.

⁵⁰ Dr. Hawaa Al-Difar, a symposium discussing the draft law organized by the Women and Children Affairs Committee in Parliament, Benghazi, June 22, 2023.

⁵¹ Abeer Amneina, Washm Center symposium, March 13, 2023

Conclusion

Issuance and implementation opportunities

At the end of this study, which tried as much as possible to place the reader in the scene of a feminist human rights struggle of Libyan women in order to achieve the most important protection entitlements for them against the various types of violence, that scene in which the paths varied between an internal path for the Committee of Experts, the method of its formation, the difficulties that surrounded its work, the sources of moral and logistical support that it obtained, and the discussions that accompanied the drafting of each of the articles until it drafted the draft law, and an external path for the environment surrounding this committee in the various contexts of that environment. The study monitored how that external path often challenged the committee's work and represented an opportunity to move forward at other times.

The project is still being adopted by the Women and Children Affairs Committee and the Women Parliamentarians for Libya bloc under the dome of Parliament, and it is still being referred by the Legislative Committee in Parliament to the Presidency of Parliament, and no decision has been issued to present it for voting in an official session. Where the matter is required to be referred with the written approval of a group of deputies exceeding the number of ten in accordance with Article 120 of Law No. 4 of 2014 regarding the adoption of the internal system of the House of Representatives, which is what the women of parliament are currently working on.

Unfortunately, the challenges are great, perhaps the most important of which is that there is a current of opposition in the legislative and executive authorities and in society as a whole, and all of them have one argument; *The status of women is sensitive. We are a conservative Islamic eastern society.*

And if the law sees the light and was issued by the House of Representatives, what are the chances of its implementation? This depends on several facts, some of which may be due to the institutional political division in the Libyan state, but some of them are due to the Libyan value system and its effects on the justice sector. I think that the most important factor influencing the implementation of the law once it is issued is the civil rights movement that will work for women to benefit from its provisions and will work to raise awareness of the objective and procedural protections it contains.

Proposed measures to ensure the speed of issuance and the effectiveness of the application

Proposals that can be presented to each of the five authorities in order to eliminate violence and discrimination against women in Libya, and in order to issue a Libyan law for violence against women based on its environment and keeping pace with the most important Arab and international jurisprudence developments.

To international bodies

1. International governmental and non-governmental organizations should further strengthen support for the concerned governmental institutions and non-governmental organizations concerned with women's rights to ensure that they carry out their work to the fullest.
2. It should also strengthen support for the relevant government institutions and urge them to place the issue of human rights protection, especially for women and girls, at the forefront of all dealings with the Libyan authorities,
3. Perhaps it is necessary that the file of women's rights in general and their right to a law to protect them against violence be present on the diplomatic and political table on which the Libyan file is discussed.
4. International governmental and non-governmental organizations should give priority to funding and support to civil organizations working on the file of support and advocacy for the draft law.
5. It is effective to recall that supporting Libya in the process of democratic transition, supporting it in combating violence and corruption, and facilitating the way for sustainable development, all of this would have a positive impact on the issue of protecting women from violence.

To the legislative authority

Legislation is a political decision that expresses the position of the legislative authority and the ruling regime on political, social, and economic issues in order to regulate or change them. Mostly, legislation of a protective nature, especially criminal ones, expresses a decision taken to address an existing problem, which is in here *violence against women*. The legislative authority in Libya must accurately define the problem of violence against women and the reasons for its emergence, scope, and effects, and consider current legislation that is sufficient to protect women from violence or amend them. Our current legislative authority must recognize that our legislation is outdated and does not fit the new reality and requirements.

After that, the legislative authority must resort, as a second stage, to consultations with the parties affected by the legislation, whether governmental

or non-governmental, as well as with abused women or their representatives, while documenting the process of consultation, fixing opinions, collecting information and data, and benefiting from the opinions of experts, experiences, and comparative legislation that dealt with the issue of violence against women, through internal and external consultations, and it is also possible to benefit from civil society organizations, academics in universities, research centers, and expert houses.

Then comes the stage of legal analysis of the draft law and the extent of its compatibility or conflict with the constitution, international treaties and agreements, national laws in force, the time frame for its entry into force, its enforcement mechanism, and its effective date.

It is also necessary to look at the financial cost of the Law on Protection from Violence against Women, and the additional expenses or burdens it entails on the government budget, in addition to the burdens and costs spent on the project before its issuance, such as workshops, committees, conferences, and consultations, and determining the total cost of the law, without neglecting to consider the economic cost of violence against women.

More specifically we can legislatively recommend:

1. Constitutionalizing the state's obligation to protect women against violence,
2. Dealing with the Women's Protection Law as one of the basic laws that express a human rights vision with which ordinary legislation such as criminal, Sharia, electoral, labour and others must be consistent,
3. The legislative authority should deal with the Law for the Protection of Women from Violence as part of a whole, as it is closely linked to files of great importance: the file of transitional justice and national reconciliation, the file of sustainable development, reconstruction and rebuilding of the state.
4. Reviewing the project by a committee of experts with specialization in forensic sciences and auxiliary sciences such as sociology of crime, philosophy of law, therapeutic psychology, and doctors specializing in obstetrics and gynaecology and forensic medicine.

To the executive authority

1. It should create teams specialized in investigating cases of violence nationwide, as part of the structure of police stations and investigation authorities.
2. It should network with civil society organizations, both international and local, working in the field of violence against women, and establish a constructive dialogue to draw up policies that are more protective of women from violence.
3. Improving preventive measures and making policies more effective in protecting survivors of violence, and they must better deal with the exceptional challenges they face regarding the issue of combating violence against women.
4. Finding statistics and surveys issued by specialized study centers in Libya, to monitor and document violations of human rights in general and the rights of marginalized groups, especially women.
5. Work to establish safe protection homes for abused women and survivors of violence and reactivate social homes.
6. The Women's Empowerment Unit in the Presidential Council, and the sectoral units affiliated to the various ministries, should work to mobilize support and advocacy regarding the draft law.
7. Among the most important executive authorities in the field of combating violence against women are: the Ministry of Social Affairs, the Ministry of State for Women's Affairs, the Ministry of Justice, the Ministry of Interior, and the Ministry of Foreign Affairs. All these ministries are directly concerned with adopting the draft law and sending a copy of it to the House of Representatives, after studying it and adding what can be added of better protectionist policies.
8. The National Council for Public Liberties and Human Rights is one of the independent sovereign bodies concerned with human rights files. It should adopt the draft law to protect women against violence and launch advocacy campaigns to support it.

To the judiciary

The judiciary can support the draft law against violence against women through many contexts, including contexts related to its main profession, which is the issuance of judicial rulings where it can interpret the laws in accordance with the spirit of the text on the occasion of the ruling on incidents of violations of women's rights, or by referring in the rulings it issues to the inadequacy of current legislation in achieving optimal protection.

It can also address the legislative authority, appealing to it to quickly issue a law to combat violence against women.

In a practical context, it can activate some of the units referred to in the draft law. This is what the Supreme Judicial Council has actually started by establishing two ad hoc circuits within the scope of the Tripoli and Benghazi Courts of Appeal to address violence against women, men and children.⁵²

The judicial authority is required to train and qualify its members on the human rights system in general and women's rights in particular, and to study the draft law, comparative laws, model law and international laws regulating aspects of women's protection against all forms of violence.

To The fourth authority: the media

Although there is an opinion that the media will not have a positive role in advocating the draft law to protect women from violence because it is influenced by intellectual, religious and political trends and this matter will negatively affect the advocacy of the project with integrity and objectivity. There must be an effort on adopting a media plan and advocacy campaign through social media, and publish paragraphs, explanatory graphics, and infographics.

Cultural programs should intensify the work of public and specialized seminars to discuss the draft law and highlight its advantages and the consequences of not hastening its implementation. There must be a sublime media message in all works, whether dramatic, news or even sports, that abhor violence against women and that it is a reprehensible value.

Perhaps one of the actual advocacy mechanisms for media professionals is the meeting provided by the Human Rights and Women Support Office of the United Nations Committee of Experts mission on the Zoom application on March 9, 2023 with a group of media professionals⁵³ trained on human rights issues in order to network between experts and media professionals to promote the project after understanding it and absorbing its legislative policy.

The private sector: civil society

In Libya, there is a phenomenon that can be called: the elitism of projects,⁵⁴ whether draft visions, policies, strategies, or bills. This elitism may be acceptable if the state is stable and its official authorities are not divided and popularly

⁵² [UN IN LIBYA Statement on "International Day for the Elimination of Sexual Violence in Conflict Zones" | UNSMIL \(unmissions.org\)](#)

⁵³ Tahani Al-Bah - Iman Al-Wuhayshi - Iman Bin Amer - Muhammad Al-Tayeb - Sahar Al-Naas - Samah Vikini - Ammar Al-Mansoori and others, whether media professionals in local broadcasts or in media platforms or journalists and media professionals in Al-Wasat TV channel or even fact-checkers and media professionals in media companies such as the Cloud Agency and others .

⁵⁴ Abeer Amneina, Washm Center symposium, March 13, 2023

represented, and therefore its legitimacy are not in question. Otherwise, the projects must be grassroots and enjoy national ownership through broad community participation in their making, and it remains for the specialists in the law to formulate it in the texts of the court of structure and meaning. Therefore, it is appropriate for civil society organizations to adopt the draft law issued by the Committee of Experts and present it to their grassroots for community participation in large awareness campaigns to try to persuade it, and to learn more from the experiences of those concerned, and those interested in the issue, which is essentially a societal issue.

However, civil society organizations did not develop a unified human rights plan to combat violence against women, and networking between organizations was not monitored for this human rights file except within the framework of what is supported by the United Nations and other interested international organizations. The Libyan feminist movement can also be blamed for the absence of a long-term institutional struggle, and the fragmentation and personalization of feminist activity.⁵⁵

A question was raised within civil circles about the acceptability of having financial support and funding for advocacy campaigns, and the decisive response came from many civil organizations: Libya has the right to have a professional civil society, and it cannot be prevented from obtaining funding to carry out advocacy work.

Perhaps one of the remarkable proposals is for civil society organizations to submit it to the municipal councils so that they are the ones to submit it to the legislative authority.⁵⁶ It is also useful to work on establishing a national civil coalition against feminist violence, with more than 50 organizations, for example, to advocate for and adopt the project.

In fact, it is assumed that the discussion of the third sector extends to what is more comprehensive than civil society organizations, and therefore advocacy for the file of combating violence against women and advocacy for the draft law can be through important social institutions such as unions and leagues, not to mention the scouts and the Red Crescent, but also through sports clubs as well. Therefore, it is unfortunate that the sign "No to violence against women" is absent from the clothes of sports teams, especially women's teams.

On the other hand, political parties must adopt this human rights file and this pioneering project, and then they are expected to include it in their electoral programs, launch advocacy campaigns, issue statements in support of the project,

⁵⁵ Abeer Amnina, Tunisia Symposium organized by the Martti Ahtisaari Peace Foundation CMI on: 11/12 November 2022.

⁵⁶ Fadia Hammad, Southern Women's Union, Tunis Seminar Organized by the Martti Ahtisaari Peace Foundation CMI on: November 11/12, 2022.

and collect signatures appealing to the legislative authority to speed up its issuance.

In conclusion, it must be said that women's monopoly on this advocacy is ineffective. So that men do not view the law as an evil that is plotted against them in secret⁵⁷, and those interested in combating violence against women and in the draft law to protect women from violence should involve the “man” partner in the entire human rights process to ensure its success and effectiveness.

⁵⁷ Amjawar Al-Aqouri, Washm Center Symposium. Benghazi, March 13, 2023

The references

International Agreements

- International Covenant on Civil and Political Rights
- The International Covenant on Economic, Social and Cultural Rights
- Convention on the Elimination of All Forms of Discrimination against Women
- The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women
- Security Council Resolution 1325 of 2000 Concerning Women, Security and Peace S/RES/1325 (2000)
- [Human Rights Watch report, A Revolution for All: Women's Rights in the New Libya, 26 July 2013](#)
- Amnesty International Report, Libya: Silencing Voices: Attacks on Libyan Women Human Rights Defenders, 7 July 2018 [Libya: Silenced voices: Libyan women human rights defenders under attack \(amnesty.org\)](#)
- Guide to legislation related to violence against women, United Nations 2010 [Handbook for legislation on violence against women.pdf \(un.org\)](#)
- [Model Framework for Legislation on Violence against Women, United Nations](#)

Constitutional and quasi-constitutional charters

1. Freedom Promotion Law No. 20 of 1991
2. The Interim Constitutional Declaration 2011
3. Draft Constitution 2017
4. The 2015 Political Agreement
5. Roadmap 2021

Legal legislation

1. The Libyan Penal Code
2. Law No. 8 of 1989 regarding the right of women to hold judicial positions
3. Law No. 14 of 2015 amending some provisions of Law No. 10 of 1989 regarding provisions relating to marriage and divorce and their effects

4. The decision of the military governor, Derna. Bin Jawad No. 6 of 2017 regarding preventing women from traveling without a mahram
5. Military Governor Decree No. 7 of 2017 regarding the cancellation and addition of a provision by Decree No. 6 of 2017
6. Cabinet Decision No. 119 of 2014 regarding dealing with the situation of victims of sexual violence
7. Minister of Justice Decision No. 904 of 2014 regarding the organization of the Fund for Treatment of Sexual Violence Situations
8. The draft law on violence against women, first draft 2017
9. The draft law on violence against women, second draft 2022

Studies

- [The Model Law for Combating Violence against Women and Girls in the Arab Countries](#), prepared by women's rights associations in more than 14 Arab countries, including a Libyan organization: Nataj Organization for the Development of Women's Capabilities. The final version was completed on December 19, 2017.
- [Women's International League for Peace and Freedom](#), Feminism on the Frontline Addressing the Multiple Dimensions of Women's Insecurity in Yemen and Libya, 2017.
- Ronald Bruce St. John, [The Challenges of Full Engagement in Libya](#), Carnegie Endowment for International Peace, 2013.
- Zahra Langhi, [Patterns and Trends of Violations of Women's Rights in Libya and Milestones of the Movement of Related Legislation and Policies](#), Research Studies on Marginalized Groups in Libya, Defender Center for Human Rights.
- [Jazia Jibril Muhammad, Women's Rights in Libya: Preserving Past Gains and Future Apprehensions, Legal Agenda Journal, Issue 3, December 2015.](#)
- [Jazia Jibril Muhammad, Victims of Sexual Violence and Protection Mechanisms in Libya, Legal Agenda Journal Issue 4, April 2016.](#)
- [Jazia Jibril Muhammad, Draft Law on Violence against Women in Libya: Disappointment in Form and Content, Legal Agenda Journal, Issue 10, February 2018.](#)

In-depth interviews and focus groups

1. Mrs. Abeer Amneina, former head of the Civil Society Commission
2. Mrs. Majida Al-Falah, Member of the State Council

3. Ms. Naima Al-Hami, Member of the State Council
4. Ms. Sultana Al-Mismari, Member of Parliament
5. Mrs. Intisar Shnaib, Member of the House of Representatives
6. Mrs. Halima Al-Ayeb, Member of Parliament
7. Mrs. Ahlam Bin Taboun, member of the Anti-Corruption Commission
8. The Libyan Women's Union. Tripoli branch
9. Rabab Halab, member of the Board of Directors of the High Electoral Commission
10. Workshop of the Faculty of Law, University of Benghazi on: January 11, 2018. Deanship of Mr. Tariq Al-Jamali
11. Male and female experts of the project preparation committee
12. On the sidelines of the meetings of the Libyan Women's Forum, organized by the Martti Ahtisaari Foundation for Peace (CMI). Tunisia. November 2022
13. A symposium to discuss the draft law, organized by the Washm Center for Women's Studies, Benghazi, on: March 13, 2023
14. A symposium to discuss the draft law, organized by the Women and Children Committee in Parliament. Benghazi: June 22, 2023