

LIBYA

A Threat to Society?

The Arbitrary Detention of Women and Girls for “Social Rehabilitation”

PART TWO OF A THREE PART SERIES

HUMAN
RIGHTS
WATCH

Although she served her time, she’s here because her parents don’t want to take her, to protect her. She’s here so that she doesn’t get lost again. These women would be a threat to society otherwise.

PUBLIC PROSECUTOR, TRIPOLI, MAY 4, 2005



**A Threat to Society?
Arbitrary Detention of Women and Girls for
“Social Rehabilitation”**

I. Summary 1

II. Recommendations 4

 To the Government of Libya..... 4

 To the United Nations 5

 To the ACHR, E.U., and Donors 5

III. Background 7

 Women’s Legal Status 7

 Government Response to Violence against Women 10

IV. Libya’s Social Rehabilitation Facilities..... 14

 Mandate and Bylaws Regulating Social Rehabilitation Facilities 14

 Transfer of Women and Girls into “Preventive” Custody..... 15

 The Benghazi Home for Juvenile Girls..... 15

 The Social Welfare Home for Women in Tajoura..... 17

V. Human Rights Abuses in Libya’s Social Rehabilitation Facilities..... 23

 Arbitrary Deprivations of Liberty, Due Process, and Freedom of Movement..... 23

 Forced Virginity Testing 26

 Prolonged Solitary Confinement..... 28

 Denying Girls the Right to Education..... 29

VI. Conclusion..... 31

Acknowledgments..... 32

Appendix: Official Libyan Government Response to the Report’s Findings 33

I. Summary

The problem with the center is the gate. It is as if we're criminals even though we didn't do anything wrong.

— Woman held in the Social Welfare Home for Women in Tajoura, Tripoli, May 4, 2005

I want to go and live on my own with integrity.

— Woman held in the Social Welfare Home for Women in Tajoura, Tripoli, May 4, 2005

The government of Libya is arbitrarily detaining women and girls in “social rehabilitation” facilities for suspected transgressions of moral codes, locking them up indefinitely without due process. Portrayed as “protective” homes for wayward women and girls or those whose families rejected them, these facilities are de facto prisons. In them, the government routinely violates women’s and girls’ human rights, including those to due process, liberty, freedom of movement, personal dignity, and privacy. Many women and girls detained in these facilities have committed no crime, or have already served a sentence. Some are there for no other reason than that they were raped, and are now ostracized for staining their family’s “honor.” There is no way out unless a male relative takes custody of the woman or girl or she consents to marriage, often to a stranger who comes to the facility looking for a wife.

The official bylaw governing Libya’s social rehabilitation facilities states that they are to provide housing for “women who are vulnerable to engaging in moral misconduct.” The facilities are supposed to “protect” these women and girls from violence by relatives in the name of “family honor,” and to rehabilitate women deemed to have transgressed socially-accepted norms of behavior. But this is protection gone seriously awry: suffering a range of human rights abuses in the facilities, most of the women and girls Human Rights Watch interviewed said they wanted to leave, and would escape if they could.

Human Rights Watch visited two social rehabilitation facilities in April and May 2005. Some of the women and girls we interviewed were confined because they were accused—but not criminally convicted—of having had extramarital sex. Others had served prison sentences for engaging in extramarital sex, and were transferred to the facilities because no male family member would take custody of them. Many had been raped, and then evicted from their homes by their families.

Libya is violating some of the most basic principles of human rights law in the operation of these facilities. The women and girls we interviewed had no opportunity to contest their confinement in a court of law, and had no legal representation. Staff did not allow them to leave the compound gates. They also subjected them to long periods of solitary confinement, sometimes in handcuffs, for trivial reasons like “talking back.” Women and girls were tested for communicable diseases without their consent, and most were forced to endure invasive virginity examinations upon entry to the facilities. The only education the government offers girls in these facilities is weekly religious instruction.

The paradox for women in Libya is striking: legal reforms over the past several decades have put Libya ahead of many countries in the Middle East and North Africa in terms of formal gender equality. For example, Libyan law now protects a woman’s right to hold judicial positions, requires judicial divorce rather than allowing husbands to simply verbally repudiate their wives, and grants women presumptive custody of children upon divorce. Yet the rigid social norms governing women’s and girls’ participation in society and their status in families undermine these legal reforms. They also put women and girls at risk of being stripped of their liberty and held captive in social rehabilitation facilities.

Libya’s *zina* laws, which criminalize adultery or fornication, can lead to the detention of women and girls in social rehabilitation facilities. These laws, codified in the penal code, discourage rape victims from seeking justice by presenting the threat of prosecution of the victims themselves. Women and girls who attempt to press charges for rape risk being imprisoned for adultery or fornication if they are unable to meet the high threshold of evidence required in rape cases. Judges in Libya also have the authority to propose marriage between the rapist and the victim as a “social remedy” to the crime, further impeding the ability of rape victims to seek justice. *Zina* laws violate international legal standards guaranteeing individuals the right to have control over matters relating to their sexuality, free from coercion, discrimination, and violence. Most of the women and girls we interviewed were suspected of having committed *zina* offenses, leading prosecutors to commit them to “social rehabilitation” facilities.

In addition to the *zina* laws, social and cultural norms regarding chastity, virginity, and “family honor,” and the stigma attached to unmarried women living alone, contribute to the detention of women and girls in these facilities. Libyan authorities treat adult women detained in social rehabilitation facilities like legal minors with little to no independent decision-making authority over their lives. Thus, the human rights of women and girls are subordinated to rigid social norms condoned and reinforced by the Libyan government.

While the number of detained women and girls in Libya's social rehabilitation facilities is small—often less than one hundred—the abusive nature of these facilities and the egregious violations that occur within them require immediate action. Libya should immediately release all women and girls detained in social rehabilitation facilities, and instead establish purely voluntary shelters for women and girls in need of housing or protection from violence. These shelters should not compromise their privacy, autonomy, and freedom of movement. Any woman or girl suspected of a crime should receive due process protections, and if convicted should be released upon serving her sentence. The government must also take all appropriate measures to eliminate the discriminatory laws that lead to the detention of women and girls in these facilities in the first place.

This report is based on interviews conducted in Tripoli and Benghazi in April and May 2005 during Human Rights Watch's first visit to Libya. During this three-week investigation, the authorities provided access to a wide range of high-level officials and allowed researchers to speak to prisoners and detainees in private. Government guides, however, escorted the delegation and monitored unofficial contact with individuals.

This report presents findings from brief visits to two social rehabilitation facilities in Libya: the Social Welfare Home for Women in Tajoura, near Tripoli, and the Benghazi Home for Juvenile Girls. At both of these facilities, the directors questioned the women and girls about their conversations with Human Rights Watch researchers. The director of one of centers told detainees only to speak positively about the facility.

All of the names of women and girls whose cases are discussed have been changed to protect their privacy and to ensure they are not penalized for their comments. Identifying information for other individuals has been withheld in some cases for the same reasons.

The Libyan government submitted a response to these findings in January 2006 attached as an appendix to this report. The statement, prepared by the General People's Committee of Foreign Liaison and International Cooperation, defends the detention of women and girls on the basis of Libya's "religious, sociological, cultural and legal" norms. However, the statement concluded that the appropriate authorities would take these findings into consideration and investigate the conditions in these institutions according to national and international standards.

II. Recommendations

When it comes to justice and the judiciary in the Great Jamabiriya, we are keen to be up to standards... we seek to amend laws with that in mind.

—‘Ali ‘Umar Abu Bakr, secretary of justice, Tripoli, April 28, 2005

Human Rights Watch makes the following preliminary recommendations to assist Libya in reforming its laws and practices to comply with international standards on detention, due process, and women’s human rights. We also encourage the government of Libya to invite the U.N. Working Group on Arbitrary Detentions (as per their request) for an official country visit to carry out more specialized follow up.

To the Government of Libya

- Release all women and girls detained in social rehabilitation facilities who have not been charged with or convicted of a crime, and those who have served their sentence.
- Cease the operation of these facilities as they are currently run. Until such time, provide all women or girls with their full due process rights including their rights to legal counsel and judicial review.
- Establish voluntary shelters for women and girls at risk of violence that function as refuges without compromising the residents’ privacy, personal autonomy, and freedom of movement.
- Repeal regulations that condition a woman’s release from any form of detention on a male relative claiming custody of her.
- Repeal Law No. 70 (Regarding the Establishment of the *Hadd* Penalty for *Zina* Modifying some of the Provisions of the Penal Law) of 1973.
- Pending repeal of the *zina* law, ensure that women accused of the crimes of adultery and fornication are afforded due process rights. When detained, authorities must inform them of the charges against them, formally charge them, and allow them to contact family members and legal counsel.
- Prosecute perpetrators of domestic and sexual violence to the fullest extent of the law.
- Enact a specific set of laws explicitly criminalizing all forms of family violence.
- Prohibit judges from suggesting the marriage of the perpetrator and the victim as a remedy in rape cases.

- Cease immediately the practice of forcing detained women and girls to undergo virginity examinations against their will.
- Use solitary confinement for adults detained in “social rehabilitation” facilities only as a last resort and for relatively short periods of time. It should be imposed and, where necessary, renewed, on a case-by-case basis, under strict supervision, including by a physician, and only for legitimate penological reasons of discipline or preventive security.
- Prohibit the use of disciplinary measures for detained children that involve closed or solitary confinement or any other punishment that may compromise the physical or mental health of the child. Use cell confinement only when absolutely necessary for the protection of a child. Where necessary, it should be employed for the shortest possible period of time and subject to prompt and systematic review.
- Collect and disseminate, in a timely and transparent manner, comprehensive national statistics on violence against women, detailing the nature and degree of violence, rates of prosecution and conviction, and the average sentences and penalties.

To the United Nations

- United Nations agencies operating in Libya, such as the United Nations Development Programme (UNDP), the United Nations Children’s Fund (UNICEF), and the World Health Organization, should pay particular attention to violations committed against women and girls in social rehabilitation facilities and develop programs and strategies designed to curb these abuses.
- UNDP, in conjunction with the Libyan government and nongovernmental organizations, should design and implement service programs for women victims of sexual and other violence, including legal literacy, legal aid, counseling, shelter, and job training programs.
- The U.N. Special Rapporteur on Violence against Women, its Causes and Consequences should request a visit to Libya to assess the extent of violence against women in the country and evaluate the state’s response.

To the ACHR, E.U., and Donors

- The African Commission on Human and Peoples’ Rights should examine the abuses against women and girls in Libya’s social rehabilitation facilities and urge appropriate reforms. The Commission’s Special Rapporteur on the Rights of

Women in Africa should request a visit to Libya to assess violations of women's human rights.

- The European Union and its member governments should use their influence to encourage Libya to adopt the recommendations outlined in this report. They should raise the problem of Libya's social rehabilitation facilities at high-level meetings and through their embassies in Tripoli.
- Prospective donors seeking to invest in Libya should support programs providing basic services for women victims of violence, including women's shelters, medical rehabilitation, counseling, and legal aid. They should also provide technical and other assistance to the Libyan government to train police, prosecutors, doctors, and judges to eliminate gender bias in handling cases of violence against women and *zina* crimes.

III. Background

We're trying to move the law from theory into practice. There are women in the police, the army, the judiciary, and the university, but the problem is that much of the society still holds a primitive view of women.

— Libyan attorney [name withheld], Tripoli, May 4, 2005

Libyan women have made substantial legal and social gains since the al-Fateh revolution of 1969.¹ These advances, many of which are unparalleled in other countries in the region, have improved women's status in the family and their participation in public life. However, despite the existence of formal guarantees of equality, women continue to confront widespread discrimination throughout Libyan society, which remains largely male-dominated and patriarchal. Adult women are often treated socially and legally as perpetual minors under the guardianship of their fathers or other male relatives. While no reliable statistics exist on the incidence of violence against women in Libya, senior government officials categorically deny its existence in the country. There is no domestic violence law, and laws punishing sexual violence are inadequate, leaving victims without effective judicial recourse.

Women's Legal Status

Libyan women enjoy a host of legal rights denied to women in the rest of the Middle East and North Africa. For example, the minimum age of marriage is equal for both men and women, and is set relatively high at twenty.² Only judicial divorces are officially recognized, prohibiting husbands from verbally repudiating their wives.³ Divorced women are granted presumptive custody of their children.⁴ Libyan women may hold

¹ Colonel Mu'ammar al-Qadhafi led a military coup known as the al-Fateh Revolution on September 1, 1969 that overthrew the monarchy of King Idris al-Sanusi. The Revolutionary Command Council headed by al-Qadhafi ruled the country until the "popular revolution" of 1971, establishing a system of "direct democracy." This system later evolved in 1977 towards the *Jamahiriyah* (or "state of the masses") in place today.

² Law No. 10 (1984) Concerning the Specific Provisions on Marriage and Divorce and their Consequences, chapter 1 (Marriage), section 2 (General Provisions), article 6 (Legal Capacity). Judges are granted the authority to make exceptions for earlier marriages "where [the court] determines some benefit or necessity and after the agreement of the guardian." Dawoud S. El Alimi and Doreen Hinchcliffe, *Islamic Marriage and Divorce Laws of the Arab World* (London: Kluwer Law International, 1996), p.183.

³ Law No. 10 (1984), chapter 2 (Divorce of the Spouses), section 1 (Divorce), article 28. Dawoud S. El Alimi and Doreen Hinchcliffe, *Islamic Marriage and Divorce Laws of the Arab World* (London: Kluwer Law International, 1996), p.189.

⁴ Law No. 10 (1984), chapter 3 (Consequences of the Dissolution of Marriage), section 6 (Custody), article 62. *Al-mara' fi al'tashiryat al-libaya* [Women in Libyan Legislation], (Tripoli: Publication of the Women's Affairs Secretariat of the General People's Congress, 1994), p. 113.

judicial positions in all courts, including family courts—a right granted only to men in most of Libya’s neighboring countries.⁵

Inequalities persist in law, however, such as in citizenship laws that at present allow only men to transfer citizenship to a foreign spouse.⁶ In some areas, adult women continue to be considered legal minors with restricted decision-making power over their lives. For example, while there are female police officers in Libya, they require the permission of their fathers for admission to the Women’s Police Academy.⁷ When Human Rights Watch visited a government-run drug rehabilitation facility in Tripoli, the director noted that all 5,500 patients admitted over the past five years were men. This is no doubt due to the fact that women of all ages need permission from their fathers or male guardians to enroll in this program.⁸

Like men, the Libyan government denies women the right to organize politically outside state-sanctioned parameters. Their only avenue of political participation is within the Basic People’s Congress (*mu’atamar al-shabi al-asasi*) open to all Libyans over the age of eighteen.⁹ The government-run General Women’s Union within the General People’s Congress (the legislative branch) is responsible for implementing all social programs for women and children. In 1992, the General People’s Congress established a department of Women’s Affairs with a deputy responsible for women. However, the Secretary of Social Affairs has recently absorbed this department, and its deputy is now responsible for a much wider portfolio not limited to women’s affairs.

While the government has attempted to increase women’s access to employment, Libyan women continue to lag behind men in this area. Women comprise only 22 percent of the Libyan labor force in the formal sector.¹⁰

⁵ Law No.8 (1989) Concerning Women Holding Judicial Positions, article 1. *Al-mara’ fi al’tashiryat al-libaya* [Women in Libyan Legislation] (Tripoli: Publication of the Women’s Affairs Secretariat of the General People’s Congress, 1994), p. 232.

⁶ A law allowing Libyan women to transfer citizenship is reportedly in the final stages of preparation. Human Rights Watch interview with Miriam al-Leyd, consultant at the Tripoli Appeals Court, Tripoli, April 25, 2005.

⁷ Human Rights Watch interview with officers at the Women’s Police Academy, Tripoli, April 26, 2005.

⁸ Human Rights Watch interview with Ismail Mabrouk Karama, general director of the Drug Enforcement and Control Authority, Tripoli, April 25, 2005.

⁹ Basic People’s Congresses exist in each local administrative unit (*sha’biyya*). Each Basic People’s Congress elects a People’s Committee (*lajna sha’biyya lil mahalla*) which appoints the local representative to the General People’s Congress (*mu’tamar al-sha’b al-’amm*) or national legislative assembly.

¹⁰ See “Gender” in the Libya section of the UNDP Programme on Governance in the Arab Region website: <http://www.pogar.org/countries/gender.asp?cid=10> (retrieved June 28, 2005).

In 1989, Libya acceded to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Libya has also ratified the Optional Protocol to CEDAW, which allows the Committee on the Elimination of Discrimination against Women to receive and consider complaints from individuals or groups.¹¹ Libya was among the first countries to ratify the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, guaranteeing women access to justice and equal protection of the law.¹² This Protocol requires state parties to adopt all necessary measures for the prevention, punishment, and eradication of all forms of violence against women.¹³ Additional obligations to protect women's rights and ensure their equal status under the law are enshrined in other international instruments ratified by Libya including the International Covenant on Civil and Political Rights (ICCPR)¹⁴ and the Convention on the Rights of the Child (CRC).¹⁵

However, at the time of its ratification of CEDAW, Libya entered reservations to article 2 (on the right to non-discrimination) and article 16 (c) and (d) (on non-discrimination in all matters relating to marriage and family relations), stating that the convention must be implemented in accordance with *shari'a* (Islamic law). In July 1995, Libya submitted a new general reservation stating that the treaty's implementation cannot conflict with personal status laws derived from *shari'a*. Such reservations undermine the object and purpose of the treaty because article 2 is considered to be a core article of the convention.¹⁶ These reservations have been widely criticized by other governments.¹⁷ The CEDAW Committee has also noted that "reservations to article 16, whether lodged for national, traditional, religious or cultural reasons, are incompatible with the Convention and therefore impermissible and should be reviewed and modified or withdrawn."¹⁸

¹¹ Libya ratified the Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women on June 18, 2004.

¹² Article 8. The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa was adopted by African Heads of State and Government on July 10, 2003. Libya ratified this protocol on May 23, 2004.

¹³ Article 4, Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

¹⁴ The International Covenant on Civil and Political Rights (ICCPR), 999 U.N.T.S. 171, entered into force March 23, 1976 and acceded to by Libya on May 15, 1970.

¹⁵ Convention on the Rights of the Child (CRC), adopted November 20, 1989, 1577 U.N.T.S. 3 entered into force September 2, 1990, acceded to by Libya on May 15, 1993.

¹⁶ See section on "Reservations to CEDAW," the U.N. Division for the Advancement of Women, Department of Economic and Social Affairs [online] <http://www.un.org/womenwatch/daw/cedaw/reservations.htm> (retrieved August 18, 2005).

¹⁷ Denmark, Finland, Germany, Mexico, the Netherlands, Norway, and Sweden have entered objections to these reservations. Sweden, for example, stated that "indeed, the reservations in question, if put into practice, would inevitably result in discrimination against women on the basis of sex, which is contrary to everything the Convention stands for."

¹⁸ *Ibid.*

Government Response to Violence against Women

Violence and rape is very rare. You might find two cases [in Libya] from people belonging to non-Libyan cultures.

—Amal Safar, deputy of social affairs in the General People’s Congress, Tripoli, April 25, 2005

Society looks at that woman [a rape victim] as if she made a mistake. The woman pays the price for this. She gets an exit visa from society.

— Libyan attorney [name withheld], Tripoli, May 4, 2005

The manner in which violence against women is handled in the Libyan legal and judicial system raises serious human rights concerns. Widespread denial that violence against women exists in Libya, and the lack of adequate laws and services, leaves victims of violence without an effective remedy and deters reporting of rape. According to government officials, programs and services for victims of violence are unnecessary due to the absence of this phenomenon in Libyan society. The deputy of social affairs told Human Rights Watch: “We don’t have violence against women... if there was violence, we would know.” She claimed that violence against women in Libya ended with the onset of the 1969 al-Fateh revolution. “We can’t deny that previously before the revolution, there were wrongdoings against women,” she said. Another official told Human Rights Watch that the existence of “social values” in Libya made violence against women rare.¹⁹ These claims are not backed by any qualitative or quantitative research.

While the extent of violence against women in Libya remains unknown, a senior judicial official told Human Rights Watch that their office regularly confronts domestic violence cases.²⁰ According to this official, 99 percent of the victims eventually withdraw their cases.²¹ Secretary of Public Security Nasr al-Mabrouk told Human Rights Watch that in Libya “it is completely prohibited to use violence against women in any way,”²² but this is not the understanding of those in the highest levels of the Libyan police. The head of the Public Security Training Administration, Brigadier Mohammed Ibrahim al-Asaybi, told Human Rights Watch: “Disciplining [a woman] is my right. But that right is not limitless... when your son makes a mistake, you can reprimand him and hit him but you

¹⁹ Human Rights Watch interview with Nasr Amin, secretary of interior, Tripoli, April 26, 2005.

²⁰ Human Rights Watch interview with a senior judicial official [name withheld], Tripoli, May 2, 2005.

²¹ Ibid.

²² Human Rights Watch interview with Nasr al-Mabrouk, secretary of public security, Tripoli, April 26, 2005.

cannot take a pistol and shoot him.”²³ It is unclear how much scope a man has to “discipline” his wife under Libyan law. According to Brigadier al-Asaybi, “there is no exact boundary for violence against women.”²⁴ Moreover, according to article 375 of the penal code, if a man kills a wife, mother, daughter or sister whom he suspects is engaged in extramarital sexual relations, he benefits from a reduction in penalty.

Domestic violence is not explicitly prohibited by law. Police officers are also not specifically trained to handle cases of violence against women. According to Brigadier Mohammed Ibrahim al-Asaybi, the same official who condoned “disciplining” wives with violence, “women’s rights are not addressed [in the training manuals provided to police cadets] since women are equal.” He dismissed the idea of specialized police officers trained to handle cases of family violence: “If we think about it, what’s next? A tourism police? A children’s police? An electricity police? A women’s police? We would be divided into ten pieces. We can’t get too specialized. We’re a small country.”²⁵

There are no shelters for victims of violence in Libya. Victims of violence, particularly rape victims, would thus find government-provided “shelter” only in the social rehabilitation facilities described in this report.

The classification of sexual crimes in the Libyan penal code is problematic. The law considers sexual violence to be a crime against a woman’s “honor.” The chief prosecutor for Tripoli told Human Rights Watch: “If a woman is raped, that is a threat to her honor. She’s usually kicked out of the home and stays in the social welfare home.”²⁶ The penal code classifies sexual violence under “crimes against freedom, honor, and morality,” which does not appropriately reflect the nature of the crime.²⁷ All forms of sexual assault should be considered fundamentally as a crime against the individual rather than a crime against specific norms or values.

Human Rights Watch is particularly concerned that the criminalization of extramarital sexual relations in Libya also would severely impede the ability of rape victims to seek

²³ Human Rights Watch interview with Brigadier Mohammed Ibrahim al-Asaybi, head of the Public Security Training Administration, Tripoli, May 3, 2005.

²⁴ Ibid.

²⁵ Ibid.

²⁶ Human Rights Watch interview with Mohammed Youssef al-Mahatrash, chief prosecutor for Tripoli, May 2, 2005.

²⁷ See Libyan penal code, chapter 3.

justice.²⁸ A court may view a woman's charge of rape as an admission of illegal sex unless she can prove (by strict evidentiary standards) that the intercourse was non-consensual and therefore not fornication or adultery. According to high-level government officials, only the most violent rape cases (mostly involving older men attacking minors) are criminally prosecuted, while the rest are remedied "socially" through family arrangements such as coerced marriage in order to avoid public scandal. Libya's chief public prosecutor Mohamed al-Masrati explained:

When a judge is presented with a case of sexual relations between a man and a woman, the judge searches for the best solution that serves both parties. If the sexual relations were forced, the parents often intervene in these matters and try to find a social solution outside of the court. This is better than destroying families.

The judge suggests marriage when there are appropriate circumstances: if the judge feels that both parties are willing, if the families of both parties are capable of cooperating, and the judge is convinced that there were previous [sexual] relations.

Judges don't force them to marry. The judge looks at both sides, the situation of the woman and the man, while taking into consideration the opinions of the family. The judge [then] decides whether it [the case] should end in jail time or a social solution in order to keep the issue secret.²⁹

A female prosecutor told Human Rights Watch that "most rape cases end in marriage."³⁰ According to the public prosecutor, if the rapist and the victim agree to marry, the judge issues a sentence that the court does not immediately enforce. "If the marriage lasts and they have children, the sentence is no longer valid; it is dropped. But if there are problems, and he [the rapist] attempts to deceive the woman again, the judge [requires the rapist to] serve the sentence," he said.³¹ Under these circumstances, it is likely that the courts coerce many women into marriages with their attackers and that the women

²⁸ Law No. 70 (1973) "Regarding the Establishment of the *Hadd* Penalty for *Zina* modifying some of the Provisions of the Penal Law." Article 1 defines *zina* as intercourse between a man and woman who are not bound to each other by marriage. Flogging is prescribed as punishment for those convicted of the *zina* offenses outlined in articles 3 and 4.

²⁹ Human Rights Watch interview with Mohamed al-Masrati, chief public prosecutor, Tripoli, April 27, 2005.

³⁰ Human Rights Watch interview with Intissar al-Ghiryani, prosecutor, Tripoli, May 2, 2005.

³¹ Human Rights Watch interview with Mohamed al-Masrati, chief public prosecutor, Tripoli, April 27, 2005.

have not given their free and full consent to the marriage, in violation of international law.³²

The sexual history of a rape victim and her relationship (intimate or otherwise) with the rapist may also determine whether the court prosecutes the rapist or proposes marriage as a “solution” to the case. According to the attorney general, a judge proposes marriage when “there was a relationship.” However, he noted, “when a woman is young and is assaulted by an older man, the perpetrator is imprisoned. . . . If there is a *clear* assault on a woman, we take criminal action [emphasis added].”³³

The legal trend in many countries is that the general reputation of the victim has no bearing on a judicial determination of whether she was raped in a particular instance. Many countries have enacted “rape shield laws” that explicitly bar the admission of reputation or opinion evidence relating to a woman’s past sexual behavior in rape cases. Such rape shield laws also prohibit the admission of other evidence regarding a woman’s past sexual behavior, with a few limited exceptions.

While the real extent of violence against women in Libya is unknown, the government is failing to act with due diligence in determining the extent of these crimes and responding appropriately to them when they do occur. In General Recommendation 19,³⁴ the CEDAW Committee emphasized that states may be “responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence.”³⁵

³² ICCPR, article 23 (3) and CEDAW, article 16 (b).

³³ Human Rights Watch interview with Mohamed al-Masrati, chief public prosecutor, Tripoli, April 27, 2005.

³⁴ General Recommendations elaborate on the contents of the provisions of the Convention and are intended to provide guidelines to states parties in order to assist them in fulfilling their obligations under these treaties.

³⁵ Committee on the Elimination of Discrimination against Women (CEDAW Committee), General Recommendation 19, Violence against women, U.N. Doc.A/47/38 (1992) para. 9.

IV. Libya's Social Rehabilitation Facilities

Initially it was for women who had no family. [Now] it's for people with families who want them to stay there, for families who want to get rid of their daughters for any reason.

— Libyan attorney [name withheld], Tripoli, May 4, 2005

Mandate and Bylaws Regulating Social Rehabilitation Facilities

Our role is to change their personality.

— Aisha Ramadan Ben Soufia, director of the Social Welfare Home for Women, Tripoli, May 4, 2005

The General Secretary of Social Affairs supervises and administers social rehabilitation facilities in Libya. According to an internal bylaw of the General Secretary, the mandate of these facilities is to provide housing for “women who are vulnerable to engaging in moral misconduct.”³⁶ While there is no clear definition in the bylaw of how this is determined, the following categories of women and girls are specified: “raped adolescent girls;³⁷ misled adolescent girls whose decency was assaulted; women accused of prostitution about whom the court did not make a decision; women abandoned by their families because of illegal pregnancy; homeless women; and divorced women abandoned by their families.”³⁸

The facilities are meant to serve two purposes: to protect women and girls who have been threatened by their families; and to rehabilitate women and girls deemed to have transgressed socially-accepted norms or Law No. 70 (1973) criminalizing extramarital sexual relations. According to article 1 of the bylaw, the facilities aim to “guide them socially, psychologically and religiously in order to correct their behavior and empower them to return to a righteous family life and to integrate into society.” There is no limit on the length of time the government can hold women and girls in social rehabilitation facilities.

³⁶ Article 1, Internal Bylaw, Social Rehabilitation Home for Protecting Women [Al-layha al-dahilaya lilbayt al-ijtima'i lihamayat al-mar'a]

³⁷ Article 9 of Act No. 17 (1992) sets the age of majority at eighteen. In this report, the words “child” and “girl” refer to anyone under the age of eighteen.

³⁸ *Ibid.*, article 3, Criteria for Admission, Internal Bylaw: Social Rehabilitation Home for Protecting Women.

Transfer of Women and Girls into “Preventive” Custody

She can't leave when she wants. We don't let them go out in the street where there is no protection for them. It [the social rehabilitation facility] is a type of protection for them. Everything is provided for them.

— Mohammed Youssef al-Mahatrash, Head of Prosecutions, Tripoli,
May 2, 2005

Women and girls are transferred into social rehabilitation facilities by the office of the public prosecutor, which is normally notified of cases by the police. Some women and girls report to the police voluntarily out of fear that their families would attack them if they found out that they had been sexually assaulted. Others are sent to the police by families no longer willing to provide them with a home.

Libya's social rehabilitation system for women and girls operates as an exception to article 4 of the penal code, which states that “deprivation of freedom should not take place outside the prison realm.”³⁹ The public prosecution may place “women who are in preventive custody and others who are sentenced to punishments that deprive them of their freedom (those whose freedom is monitored) in social rehabilitation facilities identified by the secretary of social affairs with agreement of the General People's Committee for Public Security.”⁴⁰ There is no mechanism for women and girls to appeal their transfer into these facilities.

The Benghazi Home for Juvenile Girls

“They just want us to be silent. They just want us to keep quiet.”

— A child detained in the Benghazi Home for Juvenile Girls, April 23,
2005

Financing from the General Secretary of Social Affairs' social fund (*sanduk al-iktima'i*) established the Benghazi Home for Juvenile Girls in the 1980s. It is located in a larger compound housing people with disabilities and juvenile males who have been convicted

³⁹ While article 4 does allow for detention outside of prisons in exceptional circumstances if the prosecution demands it, such detention may not exceed 15 days— see Article 25, Law No. 47 (1975) Regarding Prisons, Section 4 Regarding Placing Female Prisoners.

⁴⁰ Article 25, Law No. 47 (1975) Regarding Prisons, Section 4 Regarding Placing Female Prisoners.

of crimes. It houses girls (both Libyan and non-Libyan) below the age of 18. The director of the facility described the usual admission process, involving girls who are fearful for their safety should their families learn that they have had sex (consensual or forced): “Usually girls are afraid. They go to the police, who send them to the public prosecutor, who transfers them into temporary detention. If the father or family is sympathetic, they [the girls] can get a pass to stay at home.”⁴¹

When Human Rights Watch visited the facility in April 2005, five girls—three Libyans and two Egyptians—were detained, all aged sixteen and seventeen. All of the girls had been tested for communicable diseases without their consent,⁴² and four of them had been forced to undergo virginity examinations administered by male forensic doctors.⁴³ Three of the five girls told Human Rights Watch that they were victims of a rape or an attempted rape. They were brought to the facility by families who no longer wanted to provide them with housing.

Girls at the Benghazi Home for Juvenile Girls, many of whom are in fact victims of crimes and not perpetrators of them, are treated like criminals. Once in the facility, they are detained indefinitely and require permission from their fathers to leave. During their detention, they are provided with no education except religious instruction from a sheikh who visits the facility once a week to teach the *Qu’ran*. Girls complained of being hit or sent to solitary confinement if they talked back or misbehaved in even the smallest way. The mandate of the facility allows the authorities to hold girls in solitary confinement for up to seven days. However, staff at the facility admitted to holding some girls for periods of two to three weeks and showed us a record log of the days girls were held in isolation. The girls we interviewed reported that staff sometimes handcuffed them while they were in isolation. While the food they were provided was sufficient, they told Human Rights Watch that personal hygiene supplies were inadequate. One girl said, “[t]hey give you soap and shampoo only once a month. They don’t care if it runs out.”⁴⁴ The girls are only allowed visitors with the permission of a prosecutor.

⁴¹ Human Rights Watch interview with Fayza Khamis, director, Benghazi Home for Juvenile Girls (*dar al-ahdath al-anath*), Benghazi, April 23, 2005.

⁴² Non-Libyan girls with communicable diseases are deported. According to the director, a Sudanese girl who was HIV-positive and an Egyptian girl with hepatitis had been deported after they were tested at the facility. Human Rights Watch interview with Fayza Khamis, director, Benghazi Home for Juvenile Girls (*dar al-ahdath al-anath*), Benghazi, April 23, 2005.

⁴³ One of the girls did not undergo a virginity examination because she was detained for theft and not a *zina* related offense or action.

⁴⁴ Human Rights Watch interview with a girl detained in the Benghazi Home for Juvenile Girls [name withheld], Benghazi, April 23, 2005.

Mona Ahmed,⁴⁵ has been detained in the Benghazi Home for Juvenile Girls for over a year. She became pregnant following a rape and was brought to the facility by her father. While the family initially doubted that she had been raped, the rapist eventually confessed. However, her father continues to prohibit her from leaving until she agrees to give up her child, who is kept in the facility with her. She told Human Rights Watch, “the rapist confessed but my father is complicating things. Only my father can give permission to release me. My father will agree only if I give up the child so that he can marry me off to his friend.” She does not know whether she will ever be permitted to leave the facility.

Nada Mounir, seventeen, was brought to the facility on April 21, 2005 after the death of a relative who tried to rape her. She attacked him with a knife in self-defense, and he subsequently died of complications. She told Human Rights Watch, “[h]e tried to rape me but he didn’t succeed. My parents were in another house. He came from behind the house. He kissed me. He had a knife. He pulled me down by my hair and said he was going to do it but I took the knife and stabbed him. I told my mother about it. She took me to the police station. They [the police] took me to the prosecutor who brought me here.”⁴⁶ Her family refuses to visit her or agree to take custody of her. She does not have a lawyer.

The Social Welfare Home for Women in Tajoura

Although she served her time, she’s here because her parents don’t want to take her, to protect her. She’s here so that she doesn’t get lost again. These women would be a threat to society otherwise.

— Said al-Shoft, public prosecutor, Tripoli, May 4, 2005

Human Rights Watch visited the Social Welfare Home (*bayt al-ijtima’i*) for adult women on May 4, 2005. Located on the outskirts of Tripoli in the town of Tajoura, this facility at the time of the visit housed sixteen women (including one child⁴⁷) and has a maximum capacity of fifty. These women, many of whom have committed no crime and others who have already served their sentence, are kept in locked quarters indefinitely.

⁴⁵ The names of all the women and girls whose cases are discussed in this report have been changed to protect their privacy. Human Rights Watch interview with Mona Ahmed (pseudonym), Benghazi, April 23, 2005.

⁴⁶ Human Rights Watch interview with Nada Mounir (pseudonym), Benghazi, April 23, 2005.

⁴⁷ The director of the Tajoura facility did not provide Human Rights Watch with a clear answer as to why a sixteen-year-old girl was being held in an adult facility.

They are detained because their families (most often their fathers) are unwilling to take custody of them. When Human Rights Watch spoke to the twelve women at the center that day, eleven said that they wanted to leave. One had been there for eight years. One woman could not imagine living alone and felt that staying in detention was her only hope for shelter.

Government officials allowed Human Rights Watch researchers to interview privately several of the women held in the facility. However, one of the women we interviewed said that the facility director had told her, “[t]his woman is coming from outside [of Libya]. You have to give her a good picture of our society. She will not be able to find a solution for you anyway.” This type of pressure may have constrained the women we interviewed from describing a full picture of their situation.

When asked why a family member is required to take custody of an adult woman in order to be released, the general director of social organizations told Human Rights Watch, “[i]t is for her protection. If they pick her up, it’s a form of protection for her. . . . Sometimes we don’t even allow an uncle to take custody of her, if her father has not approved.”⁴⁸ While the staff of the facility regularly contacts the woman’s family in an attempt to reconcile them, the director of the Tajoura facility admitted that only half of these women are ever picked up by their families.⁴⁹

For many women, their only chance of extricating themselves from the facility is through marriage, often to a stranger who approaches the facility looking for a bride. According to one public prosecutor, so few families agree to take custody of these women that “[t]he only answer is marriage. That is the only way to leave the [social rehabilitation] home.”⁵⁰ Aisha Ramadan Ben Soufia, the director of the social home, described the marriage process:

[A man comes to us and] asks to get married. We do our research and ask him why he’s coming here. We visit his home to make sure the conditions are as he described. We verify his salary and qualifications. . . . He has to have a full-time job and housing. It is usually someone from outside of Tripoli. We tell them [the women] his qualifications and ask the girls if they want to marry him.

⁴⁸ Human Rights Watch interview with Amal Mohammed Al-Hangari, general director of social organizations, Tripoli, May 4, 2005.

⁴⁹ Human Rights Watch interview with Aisha Ramadan Ben Soufia, director of the Social Welfare Home for Women in Tajoura, Tripoli, May 4, 2005.

⁵⁰ Human Rights Watch interview with Najat Abou Azza, public prosecutor, Tripoli, May 2, 2005.

The facility determines which women “qualify” for marriage based on their “moral character.” The director of the Tajoura facility told Human Rights Watch: “We only marry the ones without problems, the ones of good morals.”⁵¹ According to Awatif al-Sherif, a social worker at the facility, “[a]ll of them get married in the end.”⁵² According to the general director of social organizations in Tripoli, over the past five years in social rehabilitation facilities in the capital, nineteen girls were married.⁵³ Two of the women held in the Social Welfare Home for Women in Tajoura at the time of Human Rights Watch’s visit were engaged.

When asked why men would choose to marry a women detained in a social rehabilitation facility, the director said that the intentions vary and that men usually approach the center because their neighbors were married similarly, out of religious sympathy for the woman, and in order to get a religious blessing [*sawab*].⁵⁴ However, the head of prosecutions and one female public prosecutor described a different rationale. The head of prosecutions told Human Rights Watch that these centers were “one of the cheap places for marriage.”⁵⁵ A public prosecutor went on to say that “there are no [pre-marriage] expenses. It is not the same [process] as a woman with a family.”⁵⁶

The women whose families do not agree to take custody of them and those who do not get married because they are “ineligible” according to the criteria set by the center, or unwilling for any reason, are detained in the facility indefinitely. Their days are spent cleaning the facility, listening to religious lectures, and participating in computer training. Their personal possessions, including radios and non-religious books, are confiscated. They are only allowed to make phone calls to family members. All of those calls are monitored.

Staff allow only those women deemed to be of “good behavior” to work—for minimal pay—at a center for children located within the gates of the compound. According to the center director, “[a] woman who does not marry can work in the children’s home

⁵¹ Human Rights Watch interview with Aisha Ramadan Ben Soufia, director of the Social Welfare Home for Women in Tajoura, Tripoli, May 4, 2005.

⁵² Human Rights Watch interview with Awatif al-Sherif, social worker at the Social Welfare Home for Women in Tajoura, Tripoli, May 4, 2005.

⁵³ Human Rights Watch interview with Amal Mohammed Al-Hangari, general director of social organizations, Tripoli, May 4, 2005.

⁵⁴ Human Rights Watch interview with Aisha Ramadan Ben Soufia, director of the Social Welfare Home for Women in Tajoura, Tripoli, May 4, 2005.

⁵⁵ Human Rights Watch interview with Mohammed Youssef al-Mahatrash, chief prosecutor for Tripoli, Tripoli, May 2, 2005. It is customary in Libya for the groom to give the bride a dowry and pay for their housing.

⁵⁶ Human Rights Watch interview with Najat Abou Azza, public prosecutor, Tripoli, May 2, 2005.

[*dar al-tijf*] only if she has good behavior. Behavior is the most important thing.”⁵⁷ The social worker added, “[w]e let the ones with good behavior work, the ones that don’t raise their voices, the ones that sleep quietly. We don’t let the new ones work.”⁵⁸

Many of the women at this facility reported having been raped. Nawal Ali, thirty-two, has been detained for eight years, seven of them at the Tajoura facility. Her family forced her out of her home following a rape by a relative. She explained:

After my father’s death in 1997, my mother’s relative came to me and whispered in my ear and said, “[w]e should get married.” I was in high school and wasn’t thinking about marriage. Then he started to use bad language. He kept telling my mother that I was going out with boys... One day he went with me to buy school supplies. He took me to a place that I’d never seen before. It was rape. My mother said, “[y]ou’re lying; he didn’t do that; you’ve been with men.”⁵⁹

She became pregnant and spent one year in the women’s section of the Zawiya Prison because the forensic doctor concluded that the sexual relations were consensual. After serving her sentence, she was transferred to the Tajoura facility with her infant daughter because her family refused to take custody of her. Her daughter stayed in the neighboring facility for children until she was reportedly given away for adoption without Nawal’s notification or consent, in violation of the Libyan penal code⁶⁰ and international human rights law.⁶¹ She told Human Rights Watch: “I went to visit her

⁵⁷ Human Rights Watch interview with Aisha Ramadan Ben Soufia, director of the Social Welfare Home for Women in Tajoura, Tripoli, May 4, 2005.

⁵⁸ Human Rights Watch interview with Awatif al-Sherif, social worker at the Social Welfare Home for Women in Tajoura, Tripoli, May 4, 2005.

⁵⁹ Human Rights Watch interview with Nawal Ali (pseudonym), Social Welfare Home for Women in Tajoura, Tripoli, May 4, 2005.

⁶⁰ Article 28 of Law No.47 (1975) states: “The child is to remain with his mother in the social rehabilitation house until he reaches 2 years of age, then he is to be handed to his father or whoever is in charge of his custody. If the child does not have relatives then the prison manager is to send a notice to the concerned authority to undertake placing him in a child rehabilitation facility.” The mother should be notified and allowed to see him regularly according to the bylaw.

⁶¹ Article 9 of the Convention on the Rights of the Child (CRC) provides that states parties shall “ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child.” It further provides that in any such proceedings, “interested parties shall be given an opportunity to participate in the proceedings and make their views known.” In addition, it requires that states parties “respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child’s best interests.” See CRC article 9 (1), (2) and (3).

there one day, and they told me that someone came to take her.... They said a good family took her. I don't know where she is now.”⁶²

Another rape victim, Rana Mohammed, twenty, described the reasons for her detention in the Social Welfare Home for Women in Tajoura:

Family problems brought me here. A man raped me on the street on August 8, 2004. It was a frontal [vaginal] rape. He left me on the street... I went directly to the center in Tarhouna, because my brother would kill me if he found out. I went directly from the center to the social welfare home. The prosecutor called my parents. He told them my story. They visit me but they won't officially receive [take custody of] me.⁶³

She has been engaged for the past four months to a man who owns a clothing store and who sought a wife at the center. She is not sure when she will be married and thus be permitted to leave the facility. When asked why she thought she was picked to marry, she said “they chose me because I'm not a troublemaker.”

Some women are detained simply at the whim of their parents. Hala Mohsen, twenty-five, has been held in the Social Welfare Home for two-and-a-half months. The prosecutor's office ordered her detention after her father (who had previously forced her out of her abusive home) demanded that she return home. Although she is legally an adult and has committed no crime under Libyan law, she will be detained until she agrees to return to her father's home or marry. She told Human Rights Watch:

My mother died in a car crash when I was two. My father married a Moroccan woman. We didn't understand each other. We had lots of problems. She'd hit and insult us. Eventually my father kicked me out. He gave me a ticket to visit my relatives. I worked in a restaurant. I made clean money. I didn't smoke or take drugs. A year later, my father came to pick me up because people were talking. The prosecutor told me that I could either come here [to the center] or go home with my

⁶² Human Rights Watch interview with Nawal Ali (pseudonym), Social Welfare Home for Women in Tajoura, Tripoli, May 4, 2005.

⁶³ Human Rights Watch interview with Rana Mohammed (pseudonym), Social Welfare Home for Women in Tajoura, Tripoli, May 4, 2005.

father. They [the office of the prosecutor] brought me here for no reason since I have an apartment and a job.⁶⁴

Several of the women held in the Tajoura facility told Human Rights Watch that they had gone there willingly in search of shelter after their families evicted them from their homes. They had not had sexual relations. One woman said, “[m]y mother doesn’t want me so I came here myself,” while another said. “I told the prosecutor that I have no home, so they brought me here.” Instead of providing these women with shelter fitting for someone who had committed no crime, the Libyan authorities locked them up.

The arbitrary nature of the detentions, as well as the conditions, reportedly caused some women to try to escape. A social worker at the Tajoura facility, who has worked there for ten years, denied that any woman had ever tried to escape and said, “[b]esides, even if they escape, people bring them back.”⁶⁵ The detainees to whom Human Rights Watch spoke refuted this claim. They said that in fact there had been escape attempts, although few were successful. One of the detainees said that a woman had escaped a few years ago. She added, “[i]f we could escape, we would all leave.”

⁶⁴ Human Rights Watch interview with Hala Mohsen (pseudonym), Social Welfare Home for Women in Tajoura, Tripoli, May 4, 2005.

⁶⁵ Human Rights Watch interview with Awatif al-Sherif, social worker at the Social Welfare Home for Women in Tajoura, Tripoli, May 4, 2005.

V. Human Rights Abuses in Libya's Social Rehabilitation Facilities

I had a case, I served my sentence, but every member of my family is rejecting me.

— A woman held in the Social Welfare Home for Women in Tajoura describing why she continues to be detained, Tripoli, May 4, 2005

Arbitrary Deprivations of Liberty, Due Process, and Freedom of Movement

I'll leave if someone comes to marry me. That's the only solution I have. There's no other answer.

— A woman held in the Social Welfare Home for Women in Tajoura, Tripoli, May 4, 2005

A fundamental principle of human rights law is that states should not subject any individual to arbitrary detention. Article 9 of the ICCPR prohibits arbitrary arrest and detention. The prohibition on arbitrariness means that the deprivation of liberty, even if provided for by law, as is the case in Libya, still must be proportional to the reasons for arrest.

The circumstances of detention in Libya's social rehabilitation centers meet the criteria of arbitrariness established by the U.N. Working Group on Arbitrary Detentions ("the Working Group").⁶⁶ According to this U.N. body, a deprivation of liberty is considered arbitrary when:

“(1) it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his sentence or despite an amnesty law applicable to him); (2) results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 10 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights; or (3) the total or partial non-observance of the

⁶⁶ The U.N. Commission on Human Rights established the Working Group on Arbitrary Detentions in 1991 on the basis of resolution 1991/42. It is composed of five independent experts appointed by the chairperson of the Commission.

international norms relating to the right to a fair trial, spelled out in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character.”⁶⁷

The Working Group has also acknowledged that “protection” cannot be used as an excuse to arbitrarily detain women. They have called for protective custody to be used only as a “last resort and when the victims themselves desire it.”⁶⁸

Human Rights Watch maintains that when detainees are held indefinitely for indeterminate and arbitrary periods of time, their detention is arbitrary, even where the initial detention was in accordance with applicable legal standards. Where a detainee has served her sentence yet remains detained, the arbitrary nature of the detention is exacerbated. To the extent that the Libyan government detains women and girls whom it has not charged or convicted, or who have completed their sentences, within these “social rehabilitation” facilities, the Libyan government violates the right to liberty of these persons.

Article 9 of the ICCPR also specifically requires that detainees be informed at the time of arrest of the reasons for their arrest and promptly be told of any charges against them. They are entitled under the Covenant to “take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.”⁶⁹ According to the ICCPR, “all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.”⁷⁰ The Libyan government is violating all of these standards in its social rehabilitation facilities.

The majority of women and girls interviewed by Human Rights Watch in social rehabilitation facilities were denied any form of legal representation. Awatif al-Sherif, a social worker at the Social Welfare Home for Women in Tajoura, told Human Rights

⁶⁷ See Fact Sheet No. 26, section IV “Criteria Adopted by the Working Group to Determine whether a Deprivation of Liberty is Arbitrary,” U.N. Working Group on Arbitrary Detention [online] <http://www.ohchr.org/english/about/publications/docs/fs26.htm#IV> (retrieved June 28, 2005).

⁶⁸ Report of the Working Group on Arbitrary Detention, “Civil and Political Rights, including the Questions of Torture and Detention,” (Fifty-ninth session), U.N. Doc. E/CN.4/2003/8, December 16, 2002, para. 65.

⁶⁹ ICCPR, article 9.4

⁷⁰ ICCPR, article 10. Article 7 of the ICCPR also states that “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”

that “the prosecutor decides if she [a woman held in detention] needs a lawyer or not.”⁷¹ One woman held in that facility told Human Rights Watch, “[n]one of us have lawyers since none of us have [ongoing] cases.”⁷² The majority of these women and girls do not have ongoing legal cases against them and are not serving criminal sentences, making their detentions arbitrary and illegal. However, given that they are currently detained, they are entitled to the protections afforded to any detainee, including the right to legal counsel.⁷³ According to the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Body of Principles), a set of international standards promulgated by the General Assembly, detained individuals who cannot afford an attorney should have legal counsel assigned to them by a judicial or other authority without payment.⁷⁴

Once women and girls are transferred to these facilities, their freedom of movement is completely denied. At the Social Welfare Home for Women in Tajoura, those who are allowed to leave the building are permitted to work only in the neighboring facility within the locked gates of the compound. One woman in this facility told Human Rights Watch: “I’m not allowed to work outside of the house. I can only work within the social welfare center so that I’m continuously under their surveillance.” Girls detained in the Benghazi Home for Juvenile Girls do not leave their building except for specified field excursions. According to the director of the girl’s facility, “they need a court decision in order to leave the premises.”⁷⁵

These restrictions on freedom of movement are particularly detrimental to children detained in social rehabilitation facilities. It is now widely understood that contact with peers, family members, and the wider community counteracts the detrimental effects of detention on a child’s mental and emotional health, and promotes his or her eventual reintegration into society.⁷⁶ Reflecting this reality, international standards call for the placement of children in the least restrictive setting possible, with priority given to “open” facilities over “closed” facilities.⁷⁷ Every facility, whether open or closed, should

⁷¹ Human Rights Watch interview with Awatif al-Sherif, social worker at the Social Welfare Home for Women in Tajoura, Tripoli, May 4, 2005.

⁷² Human Rights Watch interview with a woman held in the Social Welfare Home for Women in Tajoura, Tripoli, May 4, 2005.

⁷³ Principle 17 of the *Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment*, U.N. General Assembly Resolution 43/173 of 9 December 1988.

⁷⁴ *Ibid.*

⁷⁵ Human Rights Watch interview with Fayza Khamis, director, Benghazi Home for Juvenile Girls (*dar al-ahdath al-anath*), Benghazi, April 23, 2005.

⁷⁶ U.N. Rules for the Protection of Juveniles, articles 1-3.

⁷⁷ See U.N. Standard Minimum Rules for the Administration of Juvenile Justice (the “Beijing Rules”), G.A. Res. 40/33 (1985), comment to article 19.

give due regard to children's need for "sensory stimuli, opportunities for association with peers, and participation in sports, physical exercise and leisure-time activities."⁷⁸ In this regard, the U.N. Rules for the Protection of Juveniles call for detention centers to provide youths with "adequate communication with the outside world;"⁷⁹ permit daily exercise, preferably in the open air;⁸⁰ and integrate their education, work opportunities, and medical rehabilitation as far as possible into the local community.⁸¹

Forced Virginity Testing

All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

— Article 10.1 of the ICCPR

The majority of the women and girls Human Rights Watch interviewed in social rehabilitation facilities had been forced to undergo virginity tests, a gynecological examination undertaken to determine the status of the hymen, prior to being committed to the facilities. At the request of the police or a public prosecutor, a forensic doctor (*tabib shara'i*) examines women and girls suspected of having had extramarital sex to determine whether their hymens are "intact." Any physical rupture of the hymen, regardless of its connection to sexual activity, is considered evidence of lost virginity.

This focus on the hymen has no legal or medical basis, and instead reflects a misplaced preoccupation with the victim's ostensible virginity status and popular misconceptions about the medical verifiability of virginity. Experts have confirmed that the state of a woman's hymen is not a reliable indicator of recent sexual intercourse and the nature, consensual or otherwise, of any such intercourse. The degree of elasticity, resilience, and thickness of the hymen, its location in the vaginal canal, and consequently its susceptibility to tearing and bruising, vary from person to person.⁸²

⁷⁸ U.N. Rules for the Protection of Juveniles, article 32.

⁷⁹ *Ibid.*, article 59.

⁸⁰ *Ibid.*, article 47.

⁸¹ *Ibid.*, articles 38, 45, and 49.

⁸² According to Dr. Greg Larkin, Professor of Emergency Medicine at the University of Texas Southwestern Medical Center, an expert in the field of forensic documentation of intimate partner abuse, there is no reliable test for virginity. Hymens can be torn by a range of common activities, and the presence of an intact hymen does not signify abstinence from sexual intercourse. E-mail message from Dr. Greg Larkin to Human Rights Watch, February 14, 2006.

Doctors in Libya are required to inform the police if they suspect that a woman or girl has had extramarital sexual relations. In fact, police officers can be found in hospitals ready to hear any reports of unlawful actions. One woman described her ordeal:

I went to the hospital for my heart problem. The doctor wanted to do a complete checkup. He said, “you have a condition called ‘*keis*’ and you have to stay in the hospital.” They [the hospital staff] called the police who called the forensic doctor who then called the prosecutor. The forensic doctor said it was external penetration. The nurse and the police officer were present [in the room].⁸³

One girl held in the Benghazi Home for Juvenile Girls told Human Rights Watch, “[w]hoever goes to the children’s home gets a virginity examination. They knew I didn’t have any intimate relations. [But] the [forensic] doctor said that I wasn’t a virgin.”⁸⁴

The link between the concept of honor under the law and the discriminatory control of women’s virginity by families, doctors, and law enforcement officials, establishes a context in which a woman’s right to bodily integrity and privacy is subordinate to the family’s interest in maintaining its honor. Thus, often at the request of family members, state physicians perform forcible and invasive virginity examinations on women and girls. One prosecutor in charge of overseeing several social rehabilitation facilities told Human Rights Watch, “[i]f a family complains that their daughter has not come home for a few days, [when she comes back] we take her to the forensic doctor to find out whether she had sexual relations recently. We then move the case to the public prosecutor. If I do not agree with the conclusions [of the virginity examination], then I send her to another [forensic] doctor.”⁸⁵

Virginity examinations involve pain, humiliation, and intimidation. Libyan authorities compel women and girls to subject themselves to the probing hands and instruments of unknown male doctors. Victims attest that being forced to undress and undergo examinations is degrading and intimidating both as a physical violation and for the

⁸³ Human Rights Watch interview with a woman detained in the Social Welfare Home for Women in Tajoura, Tripoli, May 4, 2005.

⁸⁴ Human Rights Watch interview with a child detained in the Benghazi Home for Juvenile Girls, Benghazi, April 23, 2005.

⁸⁵ Human Rights Watch interview with Said al-Shoft, prosecutor, Tripoli, May 4, 2005.

threatened consequences. These examinations constitute degrading treatment and are a violation of women's rights to physical integrity and privacy.⁸⁶

A voluntary gynecological examination might be legitimate, for example, in order to collect evidence relating to a rape charge. However, there is no legitimate rationale for forced virginity examination. Human Rights Watch maintains that conducting such examinations is unjustified, that the emphasis on female virginity is itself inherently discriminatory and that, in any case, virginity is irrelevant as evidence of sexual assault.

Prolonged Solitary Confinement

I spent seven days in solitary confinement. It's like a coffin. It's so dark; there's no light. They gave me one sandwich to eat the whole day.

— Girl detained in the Benghazi Home for Juvenile Girls, Benghazi,
April 23, 2005

Upon entry into social rehabilitation facilities, staff hold women and girls in solitary confinement while they are tested for communicable diseases. These tests appear to be administered without informed consent. Authorities also can hold women and girls in solitary confinement for up to seven days for “disciplinary reasons.”⁸⁷ They can be kept in solitary confinement for even the most minor transgression, such as “talking back,” or smoking.⁸⁸

The Social Welfare Home for Women in Tajoura contained four solitary confinement rooms. Two of the rooms smelled of paint, and one did not have a bathroom. One woman held in this facility told Human Rights Watch, “[w]hen they brought me to the Social Home, I stayed in solitary confinement for one week. They kept me there to check if I had any diseases. It's not healthy. There's no fresh air. I had to put the covers over my eyes because of the burning sensation.”⁸⁹

⁸⁶ ICCPR, article 7 states that: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” Principle 6 of the Body of Principles provides that: “No circumstance whatsoever may be invoked as a justification for torture or other cruel, inhuman or degrading treatment or punishment.”

⁸⁷ Article 25, Decision of the Minister of Youth and Social Affairs No. 20 (1973) for Juvenile Education and Guidance.

⁸⁸ Human Rights Watch interview with Awatif al-Sherif, social worker at the Social Welfare Home for Women in Tajoura, Tripoli, May 4, 2005.

⁸⁹ Human Rights Watch interview with a woman detained in the Social Welfare Home for Women in Tajoura, Tripoli, May 4, 2005.

Children held in the Benghazi Home for Juvenile Girls complained that they were handcuffed while held in solitary confinement. This is incompatible with international standards on the treatment of juveniles, which dictate that disciplinary practices should maintain safety in a manner that upholds the child's inherent dignity and the rehabilitative purpose of detention.⁹⁰ In particular, these standards forbid the use of closed confinement, placement in a dark cell, "or any other punishment that may compromise the physical or mental health of the juvenile concerned."⁹¹ Instruments of restraint should "only be used in exceptional cases, when all other control methods have failed... should not cause humiliation or degradation, and should be used restrictively and only for the shortest possible period of time."⁹² Violations of these standards also may rise to the level of cruel, inhuman, or degrading treatment, in violation of the CRC, the ICCPR, and the Convention against Torture.⁹³

Denying Girls the Right to Education

We have social workers and psychologists. We have all the services needed including field trips and religious teaching.

— Fayza Khamis, director, Benghazi Home for Juvenile Girls, Benghazi, April 23, 2005

Our day involves cleaning the entire facility, sewing training, and religious education from a sheikh who visits us.

— Girl detained in the Benghazi Home for Juvenile Girls, April 23, 2005

Libyan authorities deny girls detained in the Benghazi Home for Juvenile Girls the right to an education. The facility provides only religious education and sewing instruction to the detained girls. Staff prohibit these girls from reading anything other than books on Islam. Any non-religious books they possess are confiscated upon entry. One of the girls

⁹⁰ U.N. Rules for the Protection of Juveniles, article 66.

⁹¹ *Ibid.*, article 67.

⁹² *Ibid.*, article 64.

⁹³ Convention on the Rights of the Child (CRC), article 37(a); International Covenant on Civil and Political Rights (ICCPR), article 7; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted December 10, 1984, 1465 U.N.T.S. 85 (entered into force June 26, 1987, acceded to by Libya on June 15, 1989), article 16.

told Human Rights Watch, “[p]eople donate religious books. No other books are allowed.”⁹⁴

The right to education is set forth in the International Covenant on Economic, Social and Cultural Rights, acceded to by Libya on May 15, 1970, and the CRC. Each of these treaties specifies that secondary education, the level relevant to all of the girls in the Benghazi facility, must be “available and accessible to every child.”⁹⁵ The Committee on Economic, Social and Cultural Rights defines availability to mean “functioning educational institutions and programmes...to be available in sufficient quantity....”⁹⁶ Educational institutions must be accessible to all without discrimination, “within safe physical reach either by attendance at some reasonably convenient geographic location,” and “affordable to all.”⁹⁷

International standards, as reflected in the U.N. Rules for the Protection of Juveniles, provide that youths do not lose their right to education when they are confined. “Every juvenile of compulsory school age” who is deprived of his or her liberty “has the right to an education suited to his or her needs and abilities,” education that should be “designed to prepare him or her for return to society.”⁹⁸ The U.N. Standard Minimum Rules for the Administration of Juvenile Justice (the “Beijing Rules”) call upon government officials to ensure that children deprived of their liberty “do not leave the institution at an educational disadvantage.”⁹⁹

⁹⁴ Human Rights Watch interview with a girl detained in the Benghazi Home for Juvenile Girls [name withheld], Benghazi, April 23, 2005.

⁹⁵ The International Covenant on Economic, Social and Cultural Rights provides that primary education “shall be available to all” and that secondary education “shall be made generally available and accessible to all by every appropriate means.” International Covenant on Economic, Social and Cultural Rights, article 13. Article 28 of the Convention on the Rights of the Child recognizes “the right of the child to education” and notes that state parties must strive to make secondary education “available and accessible to every child.”

⁹⁶ Committee on Economic, Social and Cultural Rights, *General Comment No. 13: The Right to Education*, U.N. Doc. E/C.12/1999/10, December 8, 1999, para. 6 (a).

⁹⁷ *Ibid.*, para. 6 (b).

⁹⁸ U.N. Rules for the Protection of Juveniles, article 38.

⁹⁹ Beijing Rules, article 26.6.

VI. Conclusion

Libya is subjecting women and girls to arbitrary deprivations of their liberty and a host of other human rights abuses by locking them up indefinitely in social rehabilitation facilities. By detaining women and girls who have transgressed socially-acceptable norms and rape victims whose families have abandoned them, the government is choosing to prioritize chastity, virginity, and a traditional concept of family “honor” over human rights. The exit requirements are in themselves arbitrary and coercive.

The confinement of victims of rape in social rehabilitation facilities is emblematic of the Libyan state’s position towards violence against women—a position of denial of the phenomenon, tacit acceptance of domestic violence, and inadequate laws and services to provide proper protection and remedy to the victims. The notion persists that, rather than being a crime against the individual woman requiring appropriate judicial redress, rape is a crime against a women’s “honor” that shames her and her family. The risk that rape victims will themselves be prosecuted is also one of the problematic aspects of the criminalization of all extramarital sexual relations in Libya.

The transfer of women and girls into social rehabilitation facilities is only the beginning of a host of other abuses they will endure. Libyan authorities utterly restrict their freedom of movement and subject them to punitive treatment including solitary confinement for the most trivial of reasons. Women and girls are tested for communicable diseases without their consent and are forced to endure virginity examinations, a form of degrading treatment. Human Rights Watch is concerned that many of the detainees are denied their rights to due process, are not granted the opportunity to challenge the legality of their detention in a court of law, and are denied any form of legal representation.

The abusive nature of social rehabilitation facilities and the egregious violations that occur within them require immediate action. Social rehabilitation centers must not be the only form of shelter available to women and girls in need of protection in Libya. The Libyan government should establish purely voluntary and non-punitive shelters for those in need of housing or protection from violence. These shelters should not compromise women’s privacy, personal autonomy, and freedom of movement. All women and girls held in them who have not been convicted of a crime according to standards of due process and are not serving a sentence, should be released immediately.

Acknowledgments

Farida Deif, Middle East and North Africa researcher for the Women's Rights Division, authored this report based on research conducted in Libya in April and May 2004. Janet Walsh, acting executive director of the Women's Rights Division; Sarah Leah Whitson, executive director of the Middle East and North Africa Division; Clarisa Bencomo, researcher in the Children's Rights Division; Wilder Tayler, Legal and Policy director; and Ian Gorvin, consultant to the Program Office, reviewed the report. Nadwa al-Dawsari and Julie Hassman, interns with the Women's Rights Division, provided valuable research assistance. Erin Mahoney, Tamara Rodriguez Reichberg, Tarek Radwan, Andrea Holley, Fitzroy Hepkins, and José Martinez provided production assistance.

We would like to thank the Libyan authorities for permitting this visit and facilitating meetings for the Human Rights Watch delegation. We hope that this will be the beginning of further engagement between Human Rights Watch and the Libyan government, and that there will be subsequent visits to the country. We would also like to express our deep gratitude to the courageous women and girls detained in the Social Welfare Home for Women in Tajoura and the Benghazi Home for Juvenile Girls, without whom this report would not have been possible.

We acknowledge with gratitude the financial support of the Lisbet Rausing Charitable Fund, the Sigrid Rausing Trust, the Moriah Fund, the Libra Foundation, the Oak Foundation, the Streisand Foundation, the Silverleaf Foundation, the Banky-LaRocque Foundation, the Schooner Foundation, the Jacob and Hilda Blaustein Foundation, the Chicago Foundation for Women, the Gruber Family Foundation and the members of the Advisory Committee of the Women's Rights Division.

Appendix: Official Libyan Government Response to the Report's Findings

(Official Government Translation)

Comments of GPC For Foreign Liaison and International Cooperation on the Second Part of the Human Rights Watch Organization Report relating to (Benghazi Juvenile home) and (the Social Home) in Tajura Based on Its team visit to the Libyan Jamahiriya from 20/ 04 – 11/ 05/ 2005

Comments:

The report mentions that "the interviews, carried out with the officials in these two homes- subject of the report and so-called the detainees and the members of the district attorney's office showed that the Libyan government which manages the two homes is detaining the women and girls without any clear accusation (charge). The law that governs these two homes states that they are constructed to provide a shelter for "women exposed to participating in immoral actions".

These homes are suppose to protect those women and girls from the violence that their relatives will exercise on them in the name of family honor, and to rehabilitate those women that have passed certain acceptable behavioral norms. In other words, these accusations are not acceptable reasons, from the Universal Declaration of Human Rights) point of view to keep them under custody to the point that the Libyan government arrests women and girls without being defendant or convicted of any crime or those who have completed their sentences. The Libyan government violates the right for freedom for those persons".

The General Peoples Committee of Foreign liaison and International Cooperation asserts that what the report has indicated concerning the violations in the social care homes or juvenile care homes, have no relation, whatsoever, to the society moral values. And confirms that the report is ignoring the Islamic values that govern the Libyan society and also the traditions and habits which have the major role in the formation of the human relations in the society and form their visions to reality, for example in some regions, there is the habit of revenge for their honor to the cases of indecency, to

renounce and to ostracize the women accused of indecency cases from their families- these are among the habits that exist in the nearby countries, and the concerned authorities are working to remove or eliminate these habits by changing the understanding related to them, through the enlightenment, counseling and education. Also the traditions and habits of the society do not accept to leave women and girls in the streets facing the unknown destiny, and that necessitates the need to find solution and means to counter act these things. It is necessary to clarify that the child care, boys care, girls care, disabled and elderly care, women care homes (social homes) and juvenile reforming institutions are social institutions and not criminal or disciplinary ones, except the juvenile reform institution and all of them are affiliated to the social security fund, which takes care of the disabled and the juvenile that have no one to take care for them and all of those who have no means for a respectful living. These institutions provide free complete health care and social welfare in the framework of welfare to the individuals in the society according to the lenient Islamic Law (sharia) and the principles of the Third Universal Theory. In order to demonstrate the role of such institutions, and the legislation regulating them, the social homes are established to provide shelter for the women who have their living means ceased, those who have no shelter, or women accused in legal cases where the legal procedures necessitate that they remain under control in these homes, to sympathize with their social circumstances as well as the circumstances of the criminal case associated with them; which is not appropriate to have them detained in women reform and rehabilitation institutions, to avoid the damage of their social status from the view point of prevailing traditions and habits in the society.

The first category enters the social home voluntarily and with their own consent for different reasons. Some of them approach these homes because they have no place to live in, due to disputes with their families especially those who are accused of immoral cases; others who have no means for a respectful life and family care either by loss of their guardians or families, and these categories have the right to leave the institute whenever it is suitable for them.

These social arrangements are initiated by the popular community for the respect and preserving the dignity of women and parrying of all dangers of taking advantage of them by others. It is necessary to mention that the legislation regulating these institutions makes it necessary to arrange for these women, during their stay in these homes, to receive qualifying courses if they are not qualified, by sending them to work as well as arranging some cultural programs. They are, also, provided with the opportunity to continue their education, if interested. The institutions arrange for securing jobs for them and help them make families by facilitating their marriage to whoever they desire or try to arrange for conciliation with their families.

The second category includes those who are kept in a separate section within these institutions based on legal procedures. The criminal procedural law regulates the period of their detention and the time for the review of their cases, which are governed by the provisional detention regulations stipulated in the law.

Regarding the female juvenile care institutions there are two categories of detainees in them:

1st category includes the girls that the public attorney's office orders their provisional detention for investigation reason based on the charges addressed to them or to serve a sentence passed by a juvenile court in accordance with the criminal law and penal procedures law.

2nd category includes the girls that have been sentenced by juvenile court to be detained there, as it is approved that they are homeless in accordance with the law for juvenile vagrancy legislation.

The second category includes those female juveniles who have completed their sentences or those whose legal action against the is completed, they are transferred to an independent section within these girls care homes if their families refuse to allow them to live with them.

The question that has to be asked (what is the solution for these cases? Do we leave them in the streets to face their destiny without shelter and without a family or guardian or they left liable for revenge? Or they are sheltered in social institutions till they reach womanhood (legal majority age) then they have the choice to stay or leave the institution?

The need to safeguard them from abuse, crimes or revenge requires keeping them in these institutions, providing them with education and training, cultural and rehabilitation programs to give them a chance to rejoin the society peacefully or to attempt to reunion them with their families.

The HRWO report, also, indicates that "HRW is concerned with several of the detainee, who have been denied their rights for fair Trial ,as well as denying them their right to object to the legality of their detention and they have not been given the right for legal representation (lawyers)".

The General Peoples Committee of Foreign liaison and International Cooperation asserts that each individual male or female has the right to have a fair trial. The legislation lays down the guarantees and the requirements for a fair trial, the most important of which come the multi-degrees of rulings, the publicity of the proceedings and access to a lawyer as per the concerned person's choice. Such right guarantees, for every person, to disapprove the evidence presented against him by the attorney general's office including the confessions ascribed to him and any breach to this right makes the conviction faulty in terms of the breach to have the right for defense which leads to breaching the law that necessitates its nullification by a higher degree court and the Supreme Court have the firm ruling since a very long period of time.

The committee draws the attention to what the report points out in this connection considering that as a loose statement, and can not form the basis for the existence of violations to such rights and guarantees, in addition to its contradiction to what the organization have undertaken in terms of maintaining objectivity, accuracy and the documentation of the incidents supported with proof and evidence that it will present in its report, so that the concerned authorities could verify the alleged accusations and take the necessary actions accordingly.

Then the report states that " its investigators have said that those women and girls are detained for unspecified periods in these institutions till one of their male relatives agrees to be their guardian or they agree to get married. These prerequisites for leaving the institutions are- in themselves- provocative and dictatorship. HRW believes that detaining of the prisoners for unspecified periods of time is dictatorship even when their detention is in accordance with practiced legal standards, this would be even worse when the detainee completes her sentence and kept detained after that."

The General Peoples Committee of Foreign liaison and International Cooperation draws the attention to the fact that, as previously, mentioned the residents of the social homes are there by their own will because they have no shelter or guardian or income and they have the right to leave the institutions whenever they feel it suits them. Regarding those detained due to accusations by judicial bodies, their stay in these institutions is connected with the legal procedures set up by the judicial bodies according to the law of criminal procedure. It is worth mentioning that some women had left these homes and returned to them voluntarily because of the reasons mentioned above, however, the organization have specified any names so the concerned authority could review their conditions and be able to verify the alleged accusation.

The report states that " the researches thy carried out revealed that the transfer of detainees to the rehabilitation centers is just the beginning of further violations that they have to bear. The staff in these institutions limit the detainees freedom of movement and they are subjected to penal procedures including solitary confinement for long periods of time for minor infractions. The children detainees in Benghazi juvenile reform centers for girls complained that the handcuffs stay in their hands during solitary confinement. This does not conform to the international norms for the treatment of the detained juveniles. Which call for carrying disciplinary practices in such a way that safe guard and maintain the juvenile ego and consider detention as means for rehabilitation".

The General Peoples Committee of Foreign liaison and International Cooperation asserts that the treatment of the residents of social homes or reform institutions are governed by the social security law no. (13) year (1980) and the legislation and decisions enacted by virtue of the law, and the law no. (109) year 1972 concerning the juvenile education and guidance institutions. These legislation secured the rights of the residents of these institutions in respect of food, clothing, education, training, rehabilitate and the disciplinary procedures including the duration of the disciplinary detention the requirements for these disciplinary procedures, and the authority that withholds the power to inflict the disciplinary action.

And asserts that the claimed mistreatment, indicated in the report, is unacceptable according to the popular society norms and are liable for legal penal. It is regrettable that the report narrated this without the precise facts that the organization used to follow, so as to enable the concerned authority to verify their accuracy. It is not unlikely that these allegations from perverted juveniles are the out come of a psychological case due to their presence in these institutions in a condition that does not satisfy the desires of those in their age outside these institution.

The report adds that " the women and girls are medically examined for diseases without their approval also they are forced to take the virginity test by male legal doctors. These medical examinations constitute a conduct that carries the contempt and this violates the women's right for her body and individual safety".

The General Peoples Committee of Foreign liaison and International Cooperation asserts that the medical examinations are carried out to determine the existence of contagious diseases or not and this is required for preserving public health in such places. This is done in compliance with the law. In respect to the virginity test there is no test called virginity test, what happens is the accused of sexual intercourse or adultery are referred to medical examiner according to a judiciary order and in some cases, their

layers request that to confirm their innocence or to disapprove the accusations of sexual intercourse or adultery, in an attempt to provide evidence for their innocence of the accusations, in accordance with the law.

The report, also, states that "one woman in Tajura home told us that her daughter living in the child care home, in the same complex, has been adopted by another family without her approval. The woman does not know the fate of her daughter. This is considered a violation to the Libyan criminal law and the child rights treaty. Any woman or girl that her child have been taken from her, by the staff of the facility, has the right for a judicial review session because of the separation and they should get a direct and consistent meeting with her child according to the human rights norms " .

The General Peoples Committee of Foreign liaison and International Cooperation asserts that the Libyan law has nothing called adoption because its regulations are derived from the Islamic law (sharia) which have abolished the adoption, however, the Libyan law provides for sponsorship system which is derived from the Islamic sharia; law no. (10) year (1984) and the social security law and the legislation and decisions enacted by virtue of the law regulates the sponsorship procedures. From an Islamic point of view it is considered as worship for God's rapprochement and the sponsorship imposes several duties on the sponsor and guarantees certain rights for the sponsored, and the sponsorship does not take place till certain conditions, stipulated in the law, are met. Regarding the child that his mother gave him up voluntarily, the report should have specified the alleged case so the proper authority can investigate the case.

The report has alleged that" the detained juveniles in Benghazi reform institute have been denied the right to be educated. The facility provides only religious instructions and tailoring instruction violating the right to get education according to the Grand Green Charter on the Human Rights and several international treaties, in which Libya is a member and the United Nations regulations that protect the juvenile . Such treaties state that the youth should not lose their right for education during their detention"

The General Peoples Committee of Foreign liaison and International Cooperation asserts that the legislation that governs the social care homes which was mentioned previously guarantees for every juvenile or adult to have the right to continue his or her education at any level and the staff managing these facilities are obligated to provide chances for education, training and rehabilitation, this case will be investigated by the proper authorities.

The organization's report stated that the nature of violations in the social rehabilitation centers and the internal violations in the reform institutions require immediate action from the Libyan Government. The social rehabilitation centers should not be the only umbrella available for the women and girl, who, need protection in Libya. The report concluded that other umbrellas should be voluntarily constructed and does not have the disciplinary character for those who are in need for shelter or protection from violence. All women and girls that are detained without being convicted in a crime according to justice trial norms and those who are not serving any sentence should be released immediately.

The General Peoples Committee of Foreign liaison and International Cooperation reasserts that the women protection homes (the social home) and the juvenile rehabilitation and guidance homes work for the protection of the women from alienation and taking unwarranted advantage of them and to provide them with the social protection that they have lost. These homes try to secure peace with their families and providing the right conditions for their coherence in the society with dignity. Also these homes work for the cultivation of perverted juveniles righteous cultivation as well as trying very hard to provide them with decent life conditions and means to cohere with the society when they reach their adulthood and re-join the life battle.

Also we reconfirm that what is stated in the report does not conform to the society's norms and ignores the religious, sociological, cultural and legal considerations for the Libyan society, however, the appropriate authorities will take these remarks into consideration, and will investigate the conditions in those institutions according to the national and international legislation and find out if they need for the restructuring and development in consistency with those norms.

HUMAN RIGHTS WATCH
350 Fifth Avenue, 34th Floor
New York, NY 10118-3299

www.hrw.org

H U M A N
R I G H T S
W A T C H

PART TWO OF A THREE-PART SERIES

PART ONE: WORDS TO DEEDS: THE URGENT NEED FOR HUMAN RIGHTS REFORM

PART THREE: STEMMING THE FLOW: ABUSES AGAINST MIGRANTS AND REFUGEES

A Threat to Society?

The Arbitrary Detention of Women and Girls for “Social Rehabilitation”

The government of Libya is arbitrarily detaining women and girls in “social rehabilitation” facilities for suspected transgressions of moral codes, locking them up indefinitely without due process. Portrayed as “protective” homes for wayward women and girls or those whose families rejected them, these facilities are de facto prisons. In them, the government routinely violates women’s and girls’ human rights, including those to due process, liberty, freedom of movement, personal dignity, and privacy. Many women and girls detained in these facilities have committed no crime, or have already served a sentence. Some are there for no other reason than that they were raped, and are now ostracized for staining their family’s honor. There is no way out unless a male relative takes custody of the woman or girl or she consents to marriage, often to a stranger who comes to the facility looking for a wife. The only education the government offers girls in these facilities is weekly religious instruction.

A Threat to Society? documents the experiences of women and girls in two social rehabilitation facilities in Libya: the Social Welfare Home for Women in Tajoura, near Tripoli, and the Benghazi Home for Juvenile Girls. This report calls on the Libyan government to immediately release all women and girls detained in social rehabilitation facilities, and instead establish purely voluntary shelters for women and girls in need of housing or protection from violence. These shelters should not compromise their privacy, autonomy, and freedom of movement. Any woman or girl suspected of a crime should receive due process protections, and if convicted should be released upon serving her sentence. The government must also take all appropriate measures to eliminate the discriminatory laws that lead to the detention of women and girls in these facilities in the first place.