



**Convention on the Elimination
of All Forms of Discrimination
against Women**

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**Committee on the Elimination of Discrimination
against Women**

**Consideration of reports submitted by States parties under
article 18 of the Convention on the Elimination of All Forms
of Discrimination against Women**

**Combined second, third, fourth and fifth periodic reports of
States parties**

Libyan Arab Jamahiriya*

* The present report is being issued without formal editing.

The report drafting committee¹

Pursuant to report no. 8 (28/08/1376 DP – 2008 CE) of the Secretary of Women's Affairs of the General People's Congress, a committee was formed under the supervision of the Secretary of Women's Affairs of the Secretariat of the General People's Congress, Dr Huda Fathi bin Amir, with the following members:

<i>Name</i>	<i>Capacity</i>
	Head, Demographic Indicators Unit;
Ms Amal Saad al-Sharqawi	Representative of the National Information and Documentation Authority
	Deputy Director, Department of People's Legal Defence, Tripoli;
Ms Bahija Mahmoud al-Ayeb	Representative of the General People's Committee for Justice
Ms Zahra Jumaa bin Attiya	Representative of the General People's Committee for Public Security
Ms Suad Anbar	Representative of the General People's Committee for Foreign Liaison and International Cooperation
	Director, Office of Technical Cooperation, General People's Committee for Social Affairs;
Eng. Safiya Ibrahim bin Amir	Responsible for the international cooperation desk at the Secretariat of the General People's Congress / Women's Affairs
Ms Faiza Faraj Ali	Director, Department of Civil Society Activity, Secretariat of the General People's Congress / Women's Affairs
Dr Fatima Yusuf Wafa	Director, Office of Technical Cooperation; Representative of the General People's Committee for Planning
Ms Lutfiya al-Qabayili	Representative of the General People's Committee for Culture
Ms Naima Khalifa Ahmad	Assistant Legal Advisor, Secretariat of the General People's Congress
Dr Wijdan Milad al-Shtaiwi	Representative of the General People's Committee for Social Affairs
Legal review and language correction: Mr Sharif al-Azhari	
Typing: Ms Zahra Jumaa bin Attiya	

¹ Names listed in alphabetical order.

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* [Translator's note: The annexes do not appear in the source document.]

Introduction

Given that the administration of justice and preservation of freedoms are at the core of its activity, the protection of human rights is one of the most important duties of the State. On this premise, the Libyan Arab Jamahiriya issued the constitutional document entitled, The Great Green Document on Human Rights in the Age of the Masses, on 12 June 1988, which has this to say on the rights of women: “.....discrimination between men and women in respect of rights is a gross injustice which has no justification”.

This principle is endorsed in part three of *The Green Book* by statements embodying rights and freedoms, to the effect that women have suffered types of oppression and injustice throughout history and are still suffering, despite the fact that they constitute half of the world’s population and that there is no difference between men and women as human beings. Accordingly, men and women must be equal in respect of human rights in terms of the right to work, the right to education and the right to acquire the knowledge to which they are suited.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was ratified by the Libyan Arab Jamahiriya on 16 May 1989 and came into force on 15 June 1990.

Committed to implementing the articles of this Convention, the first report of the Libyan Arab Jamahiriya was prepared and finalized by the CEDAW committee on 18 February 1991 (CEDAW/LIBL/1). At the committee’s request, additions were made to the report in October 1993 (CEDAW/C/LIB/1/add/1). The present report is a combined one, containing the second, third, fourth and fifth reports.

Pursuant to the above, these reports elucidate the legal measures adopted in the Jamahiriya. In the light of the progress achieved by women, the report will consist of two parts:

- Part I, dealing briefly with the geographic and population features of the Libyan Arab Jamahiriya, in addition to the organizational structure of the people’s authority, the current administrative division and the legal framework for implementation of CEDAW;
- Part II, dealing with the extent of correspondence between the articles of CEDAW and the laws in force in the Jamahiriya;
- Annexes and attachments, including statistics, laws and resolutions relating to Part I.

This report was prepared under the supervision of the Secretariat of the General People’s Congress/Women’s Affairs by a technical committee which included a group of specialists representing a number of sectors, including the civil sector. The committee was anxious that the responses to the articles of CEDAW contain all available information on the measures and steps taken by the Libyan Arab Jamahiriya in the area of women’s rights.

Proceeding on the basis that the Holy Koran is the law of society in the Libyan Arab Jamahiriya, all operative, positive law derived from the Holy Koran accords special attention to respect for human rights and equality among mankind, both men and women equally. Accordingly, all national legislation is in harmony with the provisions of CEDAW and consistent therewith in the majority of cases, in both

letter and spirit. National legislation forbids any discrimination between men and women. The Constitutional Declaration (1969), the Declaration of the Establishment of the People's Authority (1977), the Great Green Document on Human Rights (1988), the law on the enhancement of freedoms (1991) and the Women's Charter (2008)² all affirm full equality in respect of rights between all Libyan citizens, both male and female. In presenting the combined second, third, fourth and fifth report of the Jamahiriya, we affirm the following points:

1. In its report, the committee attempted to cover all the comments made by the CEDAW committee on the first report;
2. In endeavouring to achieve justice and equality among the members of Libyan society, the Jamahiriya is working strenuously with the international community to strengthen and protect human rights by ratifying all human rights conventions;
3. Despite the gains made by Libyan women in the area of gender equality, we do not claim to have achieved everything required. The obstacles and constraints which restrict women, under the influence of social factors and the cultural legacy need, in addition to legislation, awareness by women of the rights guaranteed to them by law.

Part I: The geographic location, demographic characteristics and political, administrative and judicial system of the Libyan Arab Jamahiriya

The geographic and demographic characteristics

1. Location and area

The Great Socialist People's Libyan Arab Jamahiriya lies in central North Africa, between latitudes 18°N and 33°N and longitudes 9°E and 25°E. It is bordered by the Mediterranean Sea to the north, with a coastline of approximately 1,900 kilometres, by the Arab Republic of Egypt and Republic of the Sudan to the east, the Republic of Chad and Republic of Niger to the south and the Republic of Tunisia and Republic of Algeria to the west. It has an area of approximately 1,775,500 square kilometres, making it the fourth largest country in Africa in terms of area.

2. Population

The preliminary results of the 2006 general population census show a resident population of 5,673,031, of whom 5,323,991 are Libyan and 349,040 non-Libyan. It should be noted that there are hundreds of thousands of other non-Libyans in the population who enter the country unofficially from neighbouring States in search of work and for business, on whom statistics are not available. As regards distribution of the Libyan population by sex, there are 2,695,145 males and 2,628,846 females. Males thus constitute 50.62% of the total. The population density in 2006 was 3.2 persons per kilometre. Further, it should be pointed out that, from the 1960s to the 1980s, the Libyan population witnessed a high average rate of growth of more than

² The Women's Charter was announced on 25 July 2008, that day being Libyan Women's Day, on which achievements in implementation of the clauses of the Charter each year are reviewed.

3.6% per annum. However, the preliminary results of the 2006 general population census show a different trend to the situation in the past, resulting in the emergence of significant changes in a number of demographic indicators. The most important of these are as follows:

1. A reduction in the composite annual growth rate of the Libyan population to 1.38% and of the non-Libyan population to 1.45%;
2. The sex ratio at birth is 112 males to 100 females; this ratio has been rising since the beginning of the 1980s, indicating that the sex ratio is increasing in favour of males;
3. A rise in the average age at first marriage of males from 27.35 years in 1984 to 31.03 in 1995 and of females from 23 to 28.02 in the same period, a phenomenon attributable to the desire of both males and females to continue their higher education and the increased participation of women in the economy, which rose to 29.6% in 2006;
4. According to the definition used in the general population census, the proportion of urban dwellers among the resident population rose from 75% in 1984 to 85% in 1995 and the phenomenon of nomadism and semi-nomadism had disappeared completely by 1995;
5. As a result of the reduced annual population growth rate in 1995 compared with 1984, the proportion of children in the population (14 years or less) fell from 50% in 1984 to 39% in 1995 and to 32% in 2006. In consequence, the proportion of the population of working age increased to 65% of the total population in 2006;
6. Average life expectancy at birth was 67 years for females and 65 for males in 1995, and was calculated at approximately 72.7 for females and 70.3 for males in 2001.

The political system

The political system in the Libyan Arab Jamahiriya is based upon direct democracy, which means the authority of the people (i.e. direct popular rule), exercised through people's congresses.

The organizational structure of the people's authority:

Since the Declaration of the Establishment of the People's Authority in 1977,³ the political system in the Libyan Arab Jamahiriya has adopted the character of direct people's authority, exercised without delegation or representation in basic people's congresses. This is treated in detail by Law no. 1 (2007), on the system of operation of people's congresses and people's committees, as follows:

1. Basic people's congresses:

These are the basis of the people's authority in the Jamahiriya system and are composed of all male and female citizens aged 18 and above. Article 2 of the relevant law stipulates that the basic people's congresses shall exercise direct authority, governance and control, undertake the administration of affairs of State

³ See annex no. 1.

and society, promulgate necessary legislation and take all decisions regulating their own existence. In this respect, they are the sole political authority, having the following duties:

- Formulating general policy and enacting laws in various areas;
- Formulating and adopting economic and social plans and public budgets;
- Selecting and holding to account their secretariats and executive and supervisory people's committees;
- Defining the relationship of the Great Jamahiriya with other States.

2. District people's congresses:

- These are composed of the secretariats of the basic people's congresses situated within their jurisdiction;
- The congress has a secretariat chosen from among its members and consisting of a secretary and five members, with the proviso that these include a secretary of social affairs and a secretary of women's affairs (the law requires that this member be female);
- The people's congress is responsible for compiling and reformulating the draft resolutions and recommendations adopted by the basic people's congresses within its scope and, subsequently, referring these to the General People's Congress for the necessary measures to be taken thereon. The people's congress is also responsible for referring approved resolutions to the competent authorities for implementation.

3. The General People's Congress

This is an assembly in which the people's congresses, people's committees and professional unions, federations and associations come together and which is competent to:

- Select and hold accountable the secretariat of the General People's Congress, accept the resignation of its members and relieve them of their duties;
- Determine the sectors to be administered by general people's committees and clarify their duties;
- Select the secretaries of the People's Committee for the Board of Inspection and People's Control and the Audit Board, and their assistants;
- Select and hold accountable the secretaries of the General Planning Council and General People's Committee, accept their resignation and relieve them of their duties;
- Formulate laws and resolutions to be enacted by the basic people's congresses;
- Select the president and advisors of the Supreme Court, the public prosecutor and the governor and assistant governor of the Central Bank of Libya, accept their resignation and relieve them of their duties.

The General People's Congress does not exercise power but is merely a higher committee the duties of which are limited to drafting the resolutions of the basic people's congresses. The General People's Congress has a secretariat which is chosen directly from among its members or others. The secretariat is composed of:

- The Secretary of the General People's Congress;
- The Secretary of People's Congresses' Affairs;
- The Secretary of People's Committees' Affairs;
- The Secretary of Foreign Affairs;
- The Secretary of the Affairs of Professional Unions, Federations and Associations;
- The Secretary of Legal Affairs and Human Rights;
- The Secretary of Women's Affairs.

The current administrative system

Since the declaration of the establishment of the people's authority in 1977, all public utilities have been managed by people's committees chosen directly by the people's congresses and operating under their control and supervision. The people's committees are the equivalent of specialized departments, whose role is limited to implementing the laws, resolutions and policies promulgated by the people's congresses and the Department of Utilities and Projects. People's committees consist of:

1. Peoples' committees:

Each basic people's congress chooses a people's committee from among its members to manage and organize the various sectors and to implement the resolutions of the basic people's congress. As such, it is responsible for implementing the laws and resolutions promulgated by the basic people's congresses and providing public services to citizens residing within its administrative compass.

2. People's committees for sectors in the district people's congresses:

These consist of the secretaries of the sectors of the basic people's congresses, chosen directly from the masses of the concerned congresses and having the competence to manage and administer, within their administrative compass, the various sectors, in accordance with the resolutions of the basic people's congresses.

3. General people's committees for sectors:

These consist of the members of the people's committees for sectors in the district congresses. A secretary for each committee is selected by the General People's Congress from among those chosen by the people. The general people's committee for the sector is competent to implement resolution relating to the sector, implement and administer projects and services, formulate draft laws relating to the sector and submit the necessary proposals for amendment of legislation for presentation to the basic people's congresses via the Secretariat of the General People's Congress.

4. The General People's Committee:

This consists of the secretary and members of the general people's committees for sectors and is responsible for implementing resolutions of the basic people's congresses formulated at the General People's Congress by drawing up programmes and plans for implementation of such resolutions, proposing the draft general budget of the State, draft development plans and draft laws, and forwarding these to the basic people's congresses, as the seat of authority and sovereignty.

The structure of the judiciary and the court system

The judicial system has a progressive structure, consisting of four levels:

- The Supreme Court is the apex of the judicial structure. Located in Tripoli, it consists of a president and a number of advisors, chosen by the General People's Congress. It hears civil, commercial, criminal, administrative and personal status cases; each area of jurisdiction has five advisors.
- Courts of appeal hear appeals brought against verdicts delivered by the primary courts and the verdicts of courts of appeal against which leave to appeal to the Supreme Court has been granted.
- Primary courts have general jurisdiction and are courts of second instance, hearing verdicts delivered by the summary courts.
- Summary courts are courts of first instance, competent to decide on civil, commercial and personal status cases up to a designated amount. They are also competent to hear misdemeanours and contraventions. Summary courts are located in small towns.

Laws regulating the judicial system:

A number of laws govern the judicial system in Libya:

- Code of civil and commercial procedure;
- Code of litigation procedure before Shariah courts (personal status courts);
- Law no. 10 (1984) on marriage, divorce and the effects thereof;
- Penal code;
- Law no. 88 (1971) on administrative jurisdiction;
- Law no. 6 (2006) on the judicial system;
- Law no 87 (1971) on the Department of State Lawsuits;
- Law no. 4 (1981) on the Department of People's Legal Defence;
- Law no. 6 (1992) on the creation of the Legal Department;
- Law of the Supreme Court (1953), amended by Law no. 6 (1982).

The basic principles on which the administration of justice in the Libyan Arab Jamahiriya is based are:

- The principle of the independence of the judiciary;
- The principle of equality before the law;

- The principle of equality before the judiciary;
- The principle of openness in litigation;
- The principle of two-stage litigation;
- The principle of guaranteed right of defence.

These basic principles on which the administration of justice in the Libyan Arab Jamahiriya is based are stipulated in Law no. 20 (1991) on the enhancement of freedom,⁴ the highest and most elevated law in the Libyan State. Article 30 of this law stipulates that each person has the right of resort to the courts in accordance with the law and to be provided with all necessary guarantees by the court, including the right to a lawyer free of charge, as well as the right to choose a non-court appointed lawyer, whose costs he shall bear. It should be pointed out here that, while the Libyan Arab Jamahiriya adopts the concept of free people's defence alongside the conventional, traditional system of paid defence, it proceeds from a profound philosophy based on guaranteeing the right of the accused to receive a fair trial, regardless of his financial abilities, on the basis of the State's commitment to bear the costs of the institutions of justice – arrest, investigation and trial – in addition to the defence of the accused and guarantee of his right to defence before the court, when he does not choose a private lawyer at his own expense. Accordingly, it may well surpass the system of judicial assistance for the impoverished, with the humiliation of the accused which that entails.

To prevent interference in the work of the courts, article 33 of the same law stipulates that no public body may exceed the limits of its competence or interfere in matters with which it is not charged. Likewise, no body may interfere in matters of judicial arrest unless authorised by law to do so.

In order to protect the provisions of this most elevated of laws from violation, article 35 stipulates that the provisions of this law shall be considered fundamental: no promulgation may be made which violates these provisions and all conflicting legislation shall be amended. Pursuant to this stipulation, the Libyan legislature is committed to achieving two obligations. The first of these is negative namely, to refrain from promulgating any law which conflicts with the letter or spirit of the provisions stated therein. The second is positive, requiring the legislature to review and amend all operative laws in a manner consistent with the provisions of this most exalted of laws.

In all cases, the judicial authority – represented by the court institutions, at the head of which is the Supreme Court – maintains the right to monitor the constitutionality of the law (legal legitimacy), especially after the Supreme Court, through the constitutional chamber, resumed hearing appeals relating to violation of the constitution.

The principle of the independence of judicial authority in Libyan society is thus a concept linked to the power of the political system of the State, which is based on the ideas and principles of the Third Universal Theory which maps out the mode of governance in the Great Jamahiriya, clarifies the ideal method of administering all State bodies and affirms the wide participation in authority of all individuals in society, through basic peoples' congresses. Features of this system

⁴ See annex no. 4.

include respect for human rights, the utilization of all wealth in the service of the citizen, equality in job opportunities and education, the outlawing of gender discrimination, the prohibition of ethnic or religious discrimination, fostering the role of the law and applying it equally among all mankind and the prohibition of all forms of despotism in authority, on the grounds that authority is a means of serving, not oppressing, mankind. Accordingly, all legislation in the society of the masses guarantees full rights and freedoms to people, within the permissible legal guidelines. In the society of the masses, all the various sections of the State are subject to the law, in implementation of the principle of equality stemming from the Great Green Document on Human Rights in the Age of the Masses,⁵ introduced by the First of September Great Revolution, which affirms in clause 9 that the society of the masses guarantees the right to litigation, an independent judiciary and the right of each person to a fair and impartial trial. Article 30 of Law no. 20 (1991) on the enhancement of freedom stipulates that each person may resort to law and that he shall be provided by the court with all the necessary guarantees, including recourse to a lawyer chosen by himself, in accordance with his circumstances. In general, international charters provide for the principle of the independence of the judicial authority, as we indicated above. The principle of the independence of the judicial authority in the Universal Declaration of Human Rights means that it is essential that the law undertake to protect human rights lest people be forced into insurrection, dictatorship and tyranny. This means that it is important for the rights of mankind to be observed, otherwise people will rebel with force of incalculable results against injustice and tyranny, in the absence of a fair judiciary.

We might conclude the above by noting that, having completed the issuance of its authoritative texts on rights, commencing with the Great Green Document on Human Rights in the Age of the Masses, the Document of the Rights and Duties of Women in the Society of the Masses, the law protecting the rights of the child and the law on the enhancement of freedom, the Libyan Arab Jamahiriya proceeded to review and amend its operative laws in a manner consistent with the charters on rights, including those mentioned above. One result of this was the abolition of the extraordinary people's court, under Law 7 (2005).

The legal framework for applying CEDAW

The Libyan Arab Jamahiriya has been committed to CEDAW since acceding thereto, considering it as domestic legislation and binding upon national judges. It is the right of each interested party to raise and invoke the provisions thereof before the Libyan judiciary.

The Libyan Arab Jamahiriya has entered a general reservation to the effect that accession shall not conflict with the personal status laws derived from the Islamic Shariah. On 5 July 1995, the Libyan Arab Jamahiriya informed the United Nations Secretary-General of its decision to modify its general reservation entered upon accession to CEDAW, making it more specific by stipulating the following:

The Libyan Arab Jamahiriya declares its accession to the Convention on the Elimination of All Forms of Discrimination against Women adopted by the United Nations General Assembly on 18 December 1979, with the following reservations:

⁵ See annex no. 2.

- Article 2 of CEDAW shall be applied with due regard to the definitive provisions of the Islamic Shariah, concerning the determination of the share of the heirs to the estate of a deceased person, male or female;
- Article 16, paragraphs (c) and (d) of CEDAW shall be applied without prejudice to any rights guaranteed to women by the Islamic Shariah.

It is worth mentioning that the accession of the Libyan Arab Jamahiriya to CEDAW was facilitated by the full harmony and absence of conflict of its legislation with the provisions of the Convention. Indeed, its legislation is consistent, in letter and spirit, with the provisions of CEDAW in most cases. This will be clear from the review of the articles of CEDAW and their comparison with the analogous provisions in our national legislation. We might say that, on the basis of its tolerant Islamic faith, Libyan society was (and still is) keen to apply CEDAW before accession and even before the Convention entered into force, given that these provisions are stipulated in national legislation.

1. The law recognizes the rights of women in respect of international representation, social security and responsibilities and rights, in line with articles 11, 8 and 16(1h) of CEDAW.

2. The law recognizes a woman's freedom to choice of work, husband, marriage on the basis of consent, profession, job and the freedom to dispose of and manage her property.

3. The law provides women with a number of privileges, including paid maternity leave, crèche facilities at the workplace and the provision of healthcare services, in line with articles 11(2b), 11(2h) and 12(2) of CEDAW.

4. Libyan legislation has established judicial and administrative protection of women and the proper understanding of motherhood as a social function, providing health protection, childbearing protection and protection from dismissal during maternity leave, working to eliminate discrimination against women in rural areas and requiring obligatory registration of marriage and specification of age, in line with articles 2(3), 2(5), 6, 9, 1, 11(1), 11(2), 2(a), 14(2) and 16(2) of CEDAW.

5. The law prohibits all forms of discrimination against women and forbids public authorities to discriminate against women. It has clarified measures which are not considered to be discriminatory. It has striven to eliminate a discriminatory attitude toward women and forbids discrimination against women in the field of work. This is consistent with article 12 of CEDAW and articles 4, 5(1) and 11(1a).

6. The law has established the principle of equality on the basis of published constitutional documents and affirmed equality for women in fundamental and public freedoms, technical education and vocational training, school curricula, examinations and equipment, literacy, physical education and employment opportunities. The law has prohibited discrimination against women in the economic and social fields, affirmed equality with men in respect of legal competence and annulled the restrictions which limit women's competence. It has affirmed the right of equality of women with men in respect of freedom of movement and residence and equality in respect of guardianship, tutelage and trusteeship.

Areas in which the law defers to religion are as follows:

- Rights arising from the marriage contract (article 16(1a) of CEDAW);
- The matter of equality in respect of rights and obligations during marriage and upon the dissolution thereof (article 16(1h) of CEDAW).

In relation to the comments of the CEDAW Committee expressed during the discussion of the first report of the Libyan Arab Jamahiriya, on the reservation of the Libyan Arab Jamahiriya, in which the Committee refers to the work on developing and amending the Shariah (from the point of view of the Committee), we affirm that the noble Islamic Shariah is valid for all time and place and capable of keeping pace with development in all areas and maintain our position of reservation on everything which conflicts with the clear and definitive Koranic texts.

Part II: Aspects of agreement between the Convention on the Elimination of All Forms of Discrimination against Women and national legislation

In this part, we shall study Libyan legislation to clarify the extent of congruence between the provisions thereof and those of CEDAW. We shall provide the text of each article of CEDAW then discuss the provisions which are consistent with our national legislation. Before beginning this comparison, we should like to point out that the substance of Libyan legislation is superior to much of CEDAW because discrimination is something which is not affirmed by the noble Islamic religion, the other sources of legislation or the philosophy upon which the Third Universal Theory is based and which is contained in the three parts of *The Green Book*.

Article 1

For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Response to article 1

All laws in force in the Libyan Arab Jamahiriya affirm equality between men and women and no legislation exists which prohibits women from exercising any right, whether in the political, cultural, economic or social fields. Women have the right to make use of all services and to occupy managerial and leadership positions, even judicial and legal positions. Women constitute close to 40% of the general workforce of the courts, prosecution service and the legal profession. They enjoy the privileges enjoyed by men and lose none of these rights upon marriage, because a woman has legal competence, an independent name and independent financial status. Women exercise their rights and are not forbidden to work in any field.

Article 2

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

(a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;

(b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

(c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;

(d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;

(e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;

(f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;

(g) To repeal all national penal provisions which constitute discrimination against women.

Response to article 2

All legislation promulgated in the Libyan Arab Jamahiriya, even prior to accession to CEDAW, is consistent with the principle of equality between men and women. We state the following with regard to the points mentioned:

(a) The principle of equality between men and women embodied in the national constitution is stated as a general stipulation in the Constitutional Declaration issued on 11 December 1969, of which article 5 stipulates that all citizens are equal before the law. This principle has been set forth in detail in Law no. 20 (1991) on the enhancement of freedom,⁶ of which article 1 stipulates that the citizens of the Great Jamahiriya, male and female, are free and equal in respect of rights and that their rights may not be violated.⁷ Guaranteeing the achievement in practice of this principle is enjoined by the legal position of women before the judiciary, which is one of equality with men before the law in respect of rights and obligations. The rights of women may not be violated and women may not be deprived of their rights. This was affirmed by the statement issued by the Second Conference on the Emancipation of Women (Sabha, 16 March 1997),⁸ which states that women in the society of the masses are assured of enjoying all the rights enjoyed by men, without discrimination between the sexes.

⁶ *Official Gazette*, special issue (1969).

⁷ *Official Gazette*, no. 22 (1991).

⁸ See annex no. 4.

(b) Each citizen in the Libyan Arab Jamahiriya has the right of recourse to law to lodge a case of abuse in respect of any of the rights which all citizens enjoy, given that they are rights associated with humanity. Article 29 of the Libyan Civil Code stipulates that the personality of a human being commences upon his live birth and ends upon his death. As this does not limit competence to one sex rather than another, a human being, whether male or female, is thus a natural person having competence and the right to engage in litigation before all courts, unless this competence is rendered ineffective by any of the causes of legal incapacity (madness, imbecility, idiocy), at which time the person, whether male or female, who assumes responsibility for his affairs shall exercise this right on his behalf.

(c)/(d) Women in the Libyan Arab Jamahiriya enjoy legal protection of their rights on an equal footing with men by means of the system of legislation referred to in paragraphs (a) and (b), in addition to a number of other measures, some of which are exceptional and designed to obviate cultural impediments. Of these we might mention that the Jamahiriya was one of the first Islamic States to allow women to occupy all positions in the judiciary and plead before all courts and to incorporate women into the police force, public security apparatus and the army. In addition, women play a role as secretaries of women's affairs and social affairs at the levels of basic people's congress and district people's congress and at State level in the General People's Congress.

(e) In the event that a discriminatory action originates from the administrative authority of the State, a woman has the right of recourse to the administrative judicial system to overturn the discriminatory decision against her and compel the originator of the decision to make compensation. There are, in addition, other supervisory bodies which hear cases of injustice, to which both men and women have the right of recourse. The most important of these is the Office of People's Control and Follow-up, concerned with monitoring the implementation of all laws.

(f)/(g) To amend and abolish any discrimination against women, the Libyan Arab Jamahiriya promulgated Law no. 10 (1984) on marriage, divorce and the effects thereof, guaranteeing women their rights with regard to the marital relationship. This law ensures the abolition of any discriminatory aspects in personal status issues, granting women the right to divorce her husband and abolishing the provisions relating to estrangement, stipulating that the provisions promulgated in this regard be annulled and treated as if they had never existed (Law no. 10 (1984), article 37). Article 13 of the Document of the Rights and Duties of Women stipulates the right of a woman's heirs to enjoy security rights upon her death. This provision has been put into force.

Article 3

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Response to article 3

The Great Jamahiriya has taken a number of measures at legislative and executive levels which, in sum, ensure the development and advancement of women in all political, social and economic fields and guarantee the genuine exercise of their rights and freedoms on an equal footing with men.

On the political level, the Libyan Arab Jamahiriya is a pioneer in the participation of women in decision-making through membership of basic people's congresses, which are the basis of people's authority in the Libyan Arab Jamahiriya. These congresses include all members of society, men and women, without discrimination.

Membership of the basic people's congresses is open to all male and female citizens who have reached the age of 18. Libyan women exercise people's authority directly, in the same way as men. Since the dawn of the Great Revolution, women have been an indivisible part of the society of the masses, having an influential and active role via membership of the basic people's congresses.

On the economic front, all operative legislation and administrative measures and statutes in force in the field of economic activity prohibit absolutely any kind of discrimination. Women, like men, have the right to obtain bank credit in respect of loans and interest-free loans, to dispose freely of property, to assume positions at any level and to enrol in education and training at any level and in any field.

As a result of this approach in general State policy vis-à-vis the strengthening and development of the potential and capacities of Libyan women, the relative importance of Libyan women in the national workforce advanced from approximately 14% of all workers in 1984 to more than 27% in 2001. Likewise, the rate of enrolment of girls in all levels of education and training, which was less than 50% in the 1970s, was more than 74% of girls of school age in 2001. The proportion of girls out of total enrolment in education and training increased to more than 51% in 2003.

With regard to the social aspect, modern legislation has, as previously mentioned, restored to a woman her proper position and esteem within the family and society and in respect of her relationship with her life partner namely, a relationship based upon equality and mutual respect.

With regard to the legislative aspect, the equality of women and men in respect of rights and obligations is a principle affirmed by the Constitutional Declaration of 11 December 1969, as previously stated, of which article 5 stipulates that all citizens are equal before the law.⁹ The same principle is stipulated in the Great Green Document on Human Rights in the Age of the Masses, of which clause 21 states that the members of the society of the masses, both men and women, are equal in respect of all human matters and that discrimination in respect of rights between men and women is a gross and unjustifiable injustice.¹⁰ This is also affirmed by Law no. 20 (1991) on the enhancement of freedom, which affirms in article 1 that the male and female citizens of the Jamahiriya are free and equal in respect of rights and that their rights may not be violated.¹¹ Accordingly, the rights of women are guaranteed,

⁹ *Official Gazette*, special issue (1969).

¹⁰ *Official Gazette*, special issue (1988).

¹¹ *Official Gazette*, special issue (1991).

just as those of men, as long as they have reached the age of majority and acquired legal competence in accordance with the Civil Code. Thus women have freedom of opinion, expression, residence, movement and training, freedom to choose a husband and freedom to choose the appropriate type of work.

Among the measures taken pursuant thereto are Law no. 106 (1975) on women's organizations and Law no. 20 (1369 DP) regulating women's associations, which require the General Union of Women's Organizations to advance women and the family in the social and cultural spheres and promote them to leadership positions. The Libyan Arab Jamahiriya ratified the Convention on the Political Rights of Women on the basis of Law no. 7 (1989)¹² and declared the Women's Charter on 25 July 2008. This date is celebrated nationally each year as Libyan Women's Day.

Article 4

1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.

Response to article 4

The legislature in the Libyan Arab Jamahiriya has sought to amend previous laws containing an element of gender discrimination, in one form or another, in order to achieve genuine and actual equality between men and women and remove the obstacles which make some fields the exclusive preserve of men.

There is no doubt that the law has accorded special treatment to women in the areas of work, training, protection and motherhood, all of which are for the benefit of the family and proper social upbringing of children. In no case, however, can this be said to take the form of discrimination against men – and this is a good concept in Libyan society. At the same time, we find nothing in the law which constitutes unequal or separate standards in breach of the principle of equal opportunity between men and women.

Given that Libyan society appreciates the importance of gender equality, a number of laws contain some provisions which discriminate in favour of women. These are considered as a temporary arrangement to integrate women into certain areas. Examples are legislation providing for the special treatment for women out of regard for her nature, although not discriminatory in favour of women, such as the special treatment of women, especially pregnant women, in prisons, in accordance with Law no. 5 (2005) on reform and rehabilitation institutions, and forbidding the employment of women in typically harsh tasks, such as hard labour. There is, likewise, the acknowledgement of women's right to special leave for

¹² *Official Gazette*, no. 20 (1989).

pregnancy and maternity. These are all facilities for women to protect their reproductive function. Women are also given priority over men in occupying certain positions in order to encourage women to become involved in public life, in view of the nature of these positions and women's particular competence for them.

The extent of the actions which have resulted in the existence of equal and non-distinct standards is confirmed by Law no. 8 (1989) on the amendment of the judicial system and the priority of women in holding positions in the judiciary and public prosecution service. This has resulted in a marked increase in the proportion of women entering this field, with the statistics for judicial year 2002-2003 showing 575 women members of the judiciary, the equivalent of 25% of members of judicial bodies throughout the Jamahiriya. Law no. 6 (2006) on the judicial system affirms the same right.

Article 5

States Parties shall take all appropriate measures:

(a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;

(b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

Response to article 5

(a) The Libyan Arab Jamahiriya has adopted a number of different means to strive to modify certain social patterns and customs considered harmful to society and having an effect on the course of social development. These means include legislative intervention by the enactment of laws, including Law no. 106 (1975) on women's organizations, the first section of which covers the revolutionary formations of the Libyan Arab woman, with article 2 defining the goals of these formations. The goals include affirming civilized customs which serve society, encouraging women to work in fields which suit their nature and struggling to free women from exploitation in jobs which do not suit their femininity. Section 2 covers women's associations, with article 11 stipulating that the goal of these is to develop women's awareness of the social and cultural reality of the country and to strive to create the conditions for achieving a social revolution which will induce women to carry out their duties and role in society in the areas of the family, work and production.

Examples of the various customs which were prevalent are an inferior view of women and the control by a legal guardian of a woman's fate in matters relating to marriage, education etc. However, the progress achieved by women in education and in occupying positions such as those in the judiciary, has led to the enactment of many laws in favour of women, including Law no. 10 (1984) on the provisions for marriage, divorce and the effects thereof, which established the following:

1. Full competence to marry shall be achieved upon reaching the age of 20 (b6), later amended to 18;
2. A legal guardian may not compel a girl to marry against her will (a8);
3. A man may marry another woman, if there are sound reasons and one of the following two conditions is met:
 - a. Agreement of the wife to whom he is married before the competent summary court;
 - b. Delivery of a ruling of consent by the competent summary court in a case which the wife contests.

Failure to meet these conditions results in annulment of the marriage and the first wife may bring an action, verbally or in writing, for the divorce of the second wife at the court closest to her (article 13);

4. The creation of courts to hear personal status cases to which a woman is a party, at separate locations from other courts. There are ten such courts distributed between the cities of Tripoli and Benghazi and the goal is to for them to be widespread in all cities of the Jamahiriya in order to speed up decisions in cases involving women, respect women's special position and avoid women mixing with criminal elements and other cases;

5. The participation of women in the political and administrative decision-making process (basic people's congresses) and the strengthening of the role of women's associations in furthering women and protecting their rights (a change from the old pattern where women were secluded and restricted to a defined role);

6. A woman is able to lead and become head of her family and to take control of the family booklet in her name, where the old pattern was that she live her life in the shadow of her closest male relatives.

Matters have arrived at the present image of women, empowered in all areas, levels of education and employment, able to gain access to all economic fields, manage their own property and exercise their political and social rights to eliminate the old pattern once and for all.

(b) The legislative response to the concern for motherhood, social upbringing and family education in the Jamahiriya:

Resolution no. 875 (1992) of the General People's Committee was promulgated, in which article 11 defines the competences of the General Directorate of Social Welfare as follows:

1. To propose legislation and regulations relating to social welfare programmes;
2. To carry out social research and studies on social problems and phenomena and social work in order to protect and defend society, and to develop existing social services and programmes;
3. To contribute to the formulation of the plans and programmes necessary to protect and defend society from crime and delinquency, to care for the family and childhood and raise their economic and social level;

4. To promote, monitor and supervise associations working in the field of voluntary, civil social activity and to encourage members of society, male and female, to take part in the voluntary activities of various social work programmes.

The Secretary of the General People's Committee for Health and Social Security issued resolution 68 (1993), creating the health and social security awareness and education section and defining its competencies as follows:

1. To study harmful social problems and phenomena, analyse their causes and devise the necessary programmes and methods to treat them;
2. To formulate awareness, education and social guidance plans in different communities and regions and address any problems or shortcoming in implementation.

Also, Law no. 37 (1974) was promulgated, ratifying convention no. 103 on the protection of motherhood in relation to working women, establishing maternity leave with cash and medical benefits to safeguard completely the health of mother and child consistent with a proper standard of life. Likewise, Law no. 65 (1974) was promulgated, ratifying the Arab Convention on Labour Standards, which established maternity leave and the impermissibility of dismissal of a woman during maternity leave (articles 65 and 66).

Paragraph 8 of the declaration issued by the Second Conference on the Emancipation of Women, held on 6 March 1997, states that woman is the foundation of the family and upon her falls the burden of raising its members properly to ensure that they assume their social, political and scientific responsibilities.

The Green Book affirms this paragraph in full, acknowledging that a child is raised by its mother. It is therefore natural that, when raising her child, the mother should desire that she herself implant a sound understanding of motherhood in the child and that the father, in the society of the masses, should partner the mother in raising the children, complementing the pedagogic and psychological aspects dictated by his role in society, so that the mission of both parents is integrated in joint responsibility, the goal of which is to provide the means of a sound upbringing and education of the children, enabling them to grow up within the framework of a sound culture and proper understanding of the role of the mother and the rights of children and to oppose all forms of discrimination and violence.

Article 6

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

Response to article 6

The Islamic faith of Libyan Arab society forbids and social custom condemns the practices which make women the object of traffic or exploitation for prostitution. The Islamic Shariah treats women justly and forbids the violation of their respect and dignity, in order to protect their humanity and from a desire to raise a generation of healthy children and avoid the spread of diseases resulting from these practices.

We might point out here that the Libyan penal code criminalizes the forms of traffic in women, the exploitation of women for prostitution and incitement thereto, articles 415, 416, 417 *bis* (a) and 417 *bis* (b) (annexed) making this a punishable offence. The penal code stipulates severe penalties, treating it in some cases as a capital crime.

Article 418 of the penal code, on the international trafficking of women, stipulates that anyone who compels a woman by force or threat to migrate to a place abroad, in the knowledge that she will be exploited there for prostitution shall be punished with imprisonment for a term of not more than ten years and a fine of between 100 and 500 pounds. The same penalty applies to anyone who induces by any means a minor person or an adult woman of diminished mental capacity to migrate to a place abroad, in the knowledge that she will be exploited for prostitution. If the act is accompanied by violence or threat, the punishment is increased by one-half. The punishment is doubled in the cases provided for in the last paragraph of article 415 and, likewise, if the act is committed against two or more persons, even if their destinations differ.

Regarding trafficking in women, article 419 of the same code stipulates that anyone who facilitates by any means the perpetration of one of the crimes stipulated in the preceding article, in the knowledge that the intent is to exploit for prostitution, shall be punished with imprisonment for a term of between three and five years and a fine of between 100 and 500 pounds, unless he is an accomplice to the crime, in which case also the last paragraph of the preceding article shall be applied.

The law provides for the punishment of a Libyan trafficker of women, stating in article 420 that a Libyan shall be punished for the acts stipulated in the two preceding articles, even if committed abroad.

The Libyan Arab Jamahiriya has acceded to the protocol on the criminalization of trafficking in persons, especially women and children.

Article 7

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

Response to article 7

- (a) The participation of women in political life is conducted in Libya within the framework of the established political system. Thus women, who have the right to membership of parliament in a traditional democracy, have the right to membership of the General People's Congress in a direct democracy, the

membership of which consists of the secretaries of the basic people's congresses for residential districts throughout the Jamahiriya (as stated in the introduction). In these congresses, the established rules for elections, voting and secret balloting are not followed. Instead, there is an open ballot (called "people's choice") in the basic people's congress. The participation of women has risen to 32%, according to the record of attendance of the General People's Congress.

(b) Women take part in the formulation of State policy, participate in executive administrative committees (people's committees), assume public positions and perform duties at all official and popular levels. Among the manifestations of this are the presence of a secretary of women's affairs among the membership of the Secretariat of the General People's Congress, a position held by a woman under resolution no. 1 (1994) of the General People's Congress, and the presence of a secretary of women's affairs and secretary of social affairs in all people's committees. Women also occupy the following positions: assistant secretary of the General People's Congress, secretary of the General People's Committee for Information and Culture, secretary of the General People's Committee for Education, secretary of the Environment General Authority, etc, in addition to positions in the armed forces and security forces, in both of which women have reached senior ranks. Women also occupy leadership positions in the diplomatic missions of the Jamahiriya in several countries.

(c) As regards the right of women to participate in all non-governmental organizations and associations concerned with the public and political life of the country, Law no. 7 (1989) was promulgated, ratifying the Convention on the Political Rights of Women. Similarly, Law no. 106 (1975), on women's organizations, was promulgated. This covers three types of organization:

1. Revolutionary formations of Libyan Arab women;
2. Women's associations;
3. The General Women's Union, concerned with researching and formulating general plans for women's activity.

In addition, Libyan women are to be found in the basic people's congresses in the field of social affairs. There are 454 female secretaries of social affairs in the basic people's congresses and 33 secretaries of social affairs at district level. The major responsibilities of the secretary of social affairs, in both the basic people's congress and district people's congress, are to study the problems and difficulties facing women, find solutions for these, determine the obstacles which prevent the fostering of the role of women in society and to formulate plans and programmes designed to qualify women professionally and intellectually and integrate them in development programmes.

In addition, women participate as members and heads of several civil associations in the cultural, scientific, social and other fields, without discrimination. We might point out that Libyan women have chaired the United Nations Human Rights Committee and headed the delegation of the Libyan Arab Jamahiriya to the League of Arab States.

Article 8

States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

Response to Article 8

The free educational opportunities and training given to young Libyan women have enabled them to obtain posts at all levels. Education and training opportunities for young women have expanded in all fields and at all levels, increasing their prospects for work in different economic and social sectors—including the Diplomatic Corps—and to represent Libya in international and regional conferences and symposia. This has been made possible through the awareness and will of Libya's political leadership, which has helped women overcome inherited social and cultural obstacles impeding their freedom to travel. The Libyan leadership has provided women with everything possible in this regard, generating confidence in them to participate and speak on behalf of Libya in international gatherings.

In this context, Libya has seen a major expansion in university education institutions, which are now located throughout Libya. In the 1970s, the General People's Committee for Foreign Liaison and International Cooperation (Ministry of foreign Affairs) established a College of International Relations, which prepares and qualifies both male and female students without discrimination, to serve in the Diplomatic Corps. Consequently, the number of women holding diplomatic posts has risen noticeably over the past three decades, after previously being negligible. Many Libyan women now hold diplomatic posts in Libyan embassies in fraternal Arab countries, embassies in other friendly countries, and in international and regional organizations.

Law No. 2 of 2002 on the Diplomatic and Consular Corps stipulates the following:

“A person appointed as member of the Corps must meet the requirements for holding a public post in the government and:

- “a. Enjoy Libyan nationality.
- “b. Be fully competent.
- “c. Be of commendable background and conduct.
- “d. Not have been convicted of a felony or misdemeanour breach of honour or trust, even if he has been rehabilitated.
- “e. Not have been dismissed from a public post as a disciplinary measure.
- “f. Establish his physical fitness.
- “g. Have obtained a university diploma in law, political science, economics, trade, or literature”.

The aforesaid article establishes general requirements that must be met by both men and women. Accordingly, many women have joined the Diplomatic Corps. Some hold the post of bureau secretary (ambassador). Table 1 below shows the

number of Libyan women employed in the Diplomatic Corps during 1998-2003.¹³ As the table shows, the highest grade in the Diplomatic Corps is assistant secretary. Women comprise a significant percentage of the employees at this grade. This points to a growing general awareness of the importance of women working in diplomacy and to the greater freedom women now enjoy to travel, reflecting social trends that have started to change to the advantage of women in this field.

<i>Grade</i>	<i>Number of men</i>	<i>Number of women</i>
8 (assistant secretary)	132	57
9 (secretary)	56	29
10 (assistant advisor)	223	33
11 (political advisor)	200	4
12 (assistant expert)	233	6
13 (expert)	89	2

Regarding Libyan women's participation in international conferences, Women have served in Libyan delegations participating in successive UN General Assembly sessions, as seen in Table 2 below, which covers the 53rd-63rd (1998-2008).¹⁴

<i>Date of session</i>	<i>Session number</i>	<i>Number of men</i>	<i>Number of women</i>
1998	53	16	01
1999	54	18	01
2000	55	16	02
2001	56	08	--
2002	57	--	--
2003	58	06	03
2004	59	12	02
2005	60	14	02
2006	61	17	03
2007	62	16	01
2008	63	08	02

Libyan women have also participated in a number of sessions of the Commission on the Status of Women in New York. In 2003, a Libyan woman chaired the UN Human Rights Committee. Libyan women have participated in many Arab, African, and international meetings and conferences and have been appointed to many diplomatic posts abroad, including the posts of Libya's representative to UNOG and ambassador to the Netherlands, Austria, and Malta. A woman currently serves as Libya's ambassador to Serbia, and many female diplomats serve in Libya's embassies abroad at various diplomatic grades.

¹³ *Source:* General People's Committee for Foreign Liaison and International Cooperation [this reference and the references below are in Arabic—translator].

¹⁴ *Source:* General People's Committee for Foreign Liaison and International Cooperation.

Article 9

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.

2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

Response to Article 9

1. The Libyan Supreme Court has ruled that Libya's Nationality Law does not discriminate between men and women regarding the acquisition of nationality in any case. It did so on the grounds that a woman's financial liability is separate from that of her husband. Hence, after Libyan woman marries, she retains her nationality, separate financial liability, and surname.

Law No. 18 of 1980 on the Provisions of the Nationality Law permits the granting of Arab (Libyan) citizenship based on the terms and conditions stipulated in the implementing regulation. Article 1 stipulates, "The Arab nationality shall be the nationality of citizens of the Great Socialist People's Libyan Arab Jamahiriya". Article 6 of Law No. 18 stipulates, "An Arab woman who marries a foreigner shall retain her Arab nationality unless she desires to acquire her husband's nationality and is allowed to do so under the law applicable to her husband. However, she may reclaim her Arab nationality if the marriage ends by notifying the Secretary of the General People's Committee for Justice in this regard, provided she forfeits her foreign nationality".

Regarding stateless women, Law No. 7 of 1989 ratifies the following conventions, to which Libya is consequently bound: Convention on the Reduction of Statelessness, Convention Relating to the Status of Stateless Persons, and Convention on the Nationality of Married Women.

2. The children of a Libyan woman married to a non-Libyan man do not enjoy the nationality of the Libyan mother, because nationality is based on the father's nationality according to the concept of customary law, religion, and filiation. Thus, the children trace their lineage to the father and bear his nationality.

Article 20 of the Charter on the Rights and Duties of Women in Libyan Arab Society, which was issued by the Women's Liberation Conference on 16 March 1997, states, "The children of a Libyan woman married to a foreigner shall enjoy the full rights which Libyans enjoy". Article 21 of the same charter states, "Women in the Great Jamahiriya affirm that children of an Arab, Libyan woman married to an Arab shall have the same rights and duties as Libyans". A draft law regulating nationality has been prepared. It equalizes men and women in all that relates to nationality without discrimination.

Article 10

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

(a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;

(b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;

(c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;

(d) The same opportunities to benefit from scholarships and other study grants;

(e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;

(f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;

(g) The same Opportunities to participate actively in sports and physical education;

(h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

Response to Article 10

a. The right of youths to an education is established in legislation that does not violate the principle of gender equality in education. Legal guardians are required to educate their children under Law No. 95 of 1979 on Compulsory Education, article 1, which stipulates, "Primary and preparatory education shall be compulsory for all boys and girls as stated in this law". Article 2 of the same law states, "Compulsory education shall start at age 6, and 1 September shall be the basis for calculating the student's age".

The law requires a guardian to register his child who has reached the compulsory age for primarily school and to keep the child in school regularly until the end of the preparatory level. Article 12 of the aforesaid law provides penalties to be imposed on any person who violates his obligation to educate his children, including a fine and denial of government and bank loans, assistance, subsidies, the granting and renewal of any license, and obtainment of a visa for travel abroad. In 2007, 100 percent of all children of primary-school age were registered or enrolled in primary school.¹⁵

¹⁵ Source: Office of Technical Cooperation in the General Popular Committee for Education.

This legislation translates and applies the Constitutional Proclamation issued on 11 December 1969, which stipulates, in article 14, that “education is a right and a duty for all Libyans. It is compulsory until the end of primary school. The state guarantees this right through the establishment of schools, institutes, universities, and pedagogical and cultural institutions in which education is free. The creation of private schools will also be regulated by law”. The number of students in primary educational institutions (Libyan and non-Libyan) in 2006-2007 totalled 1,079,554, including 1,043,653 Libyans and 35,901 non-Libyans; of this total 552,541 were males and 527,013 were females.¹⁶ Intermediate and advanced colleges in all mixed technical and professional specialties have proliferated. The number of students in colleges of health, technology, medicine, law, and industry in 2006-2007 totalled 9133, including 2916 males and 6217 females.¹⁷ The number of students in specialized secondary schools (basic, social, economic, engineering, biological, and legal sciences and the Arabic and English languages) during the same period totalled 242,274, including 105,346 males and 136,928 females.¹⁸

b. There are absolutely no differences in academic curricula and examinations, which are uniform in all matters relating to the educational process. In academic year 2006-2007, there were 4298 primary and intermediate schools, including 3154 primary schools, 807 intermediate schools, and 337 primary/intermediate schools.¹⁹

c. The principle of equality in academic attainment between all males and females, as affirmed in legislation, leaves no room for any stereotypes.

e. Opportunities for access to ongoing educational programmes are equal. There is no distinction or discrimination in these programmes.

f. School dropout rates are almost zero thanks to Law No. 95 of 1979 on Compulsory Education and concern for social status. The 2-4 percent dropout rate in 2007²⁰ stems is not related to gender, but rather to other circumstances.

g. The participation of girls in athletic games and physical fitness is an educational goal in early education. The Primary Education Regulations state, “Primary education aims to achieve the integrated mental, physical, and spiritual growth of children”. Article 4 of the Secondary Education Regulations provides for the “...achievement of the integrated, overall cognitive, physical, moral, social, and nationalistic development and growth of students”. As for participation in athletics outside the scope of education, girls participate in many private athletic clubs, e.g., riding, gymnastics, and Swedish exercises. There is also a woman’s football team associated with the College of Police Sciences for Girls.

Article 11

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to work as an inalienable right of all human beings;

¹⁶ *Source*: National Centre for Planning and Education (see annexes).

¹⁷ *Source*: Secretariat of the General People’s Committee for Higher Education (see annexes).

¹⁸ *Source*: National Centre for Planning and Education (see annexes).

¹⁹ *Source*: National Centre for Planning and Education (see annexes).

²⁰ *Source*: Office of Technical Cooperation in the General People’s Committee for Education.

(b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;

(c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;

(d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;

(e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;

(f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

(a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;

(b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;

(c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;

(d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.

3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

Response to Article 11

Libya has taken the following series of legislative and executive measures to eliminate employment discrimination against women and ensure equal employment opportunities for women:

a. Article 5 of the Constitutional Proclamation issued on 11 December 1969 states, "All citizens are equal before the law". Article 4 of the Proclamation states, "Work in the Libyan Arab Republic is a right and duty for every able citizen". The Great Green Charter of Human Rights of the Jamahiriya Society (article 13) stipulates that "work is a right and duty for every individual within the limits of his own personal efforts or in association with others. Each member of society is entitled to select the work that suits him".

b. The right to equal employment opportunities is contingent on fulfilment of the hiring requirements stipulated in the Labour Law, Civil Service Law, and Employment Regulations. These requirements include minimum age, medical fitness, and good conduct and reputation. In this regard, no distinction is made between men and women.

c. Article 2 of Decree No. 2 of 1988 of the General People's Committee on Regulations for the Employment of Women states, "Work is a duty to society of women capable of working. Women shall be entitled to engage in occupations and jobs in the various economic and social activities in society, enjoy all vocational and job training opportunities which they require to engage in such occupations and jobs, choose a job consistent with their specialties or desires, and choose part-time or full-time employment, all as regulated by the legal articles mentioned in the aforesaid decree."²¹

d. There is no gender discrimination regarding remuneration (including benefits), the right to equal treatment with respect to work of equal value and the evaluation of work quality, and the right to increments and promotions. All of these rights are regulated by a single law and by regulations that apply uniformly to everyone without discrimination.

e. The right to social security in cases of retirement, sickness, old age, and invalidity has been established for participants in the Social Security systems under Law No. 13 of 1980 on Social Security, specifically article 1 thereof. The retirement age is 60 for female employees and 62 for male employees given their respective natures.

f. Regarding safety in working conditions, Libya has promulgated Law No. 65 of 1974 Ratifying the Arab Convention on the Safeguarding of the Health and Protection of Workers and the Protection of Women, Law No. 93 of 1976 Concerning Industrial Safety and Protection of Workers, and Revolutionary Command Council Decree Ratifying the International Labour Convention Concerning the Employment of Women Before and After Childbirth. Libya also promulgated Law No. 58 of 1970, which provides for the welfare and protection of, and creation of suitable conditions for, working women in view of their maternity responsibilities and many family duties, including the following special advantages designed to protect working women:

- Refrainment from the employment of women in hard or hazardous labour.
- Restriction of the work hours of women to 48 hours weekly, including overtime work hours. Regarding work hours for maternity, article 5 of Decree No. 164 of 1988 of the General People's Committee Concerning Regulations for the Employment of Arab, Libyan Women stipulates that pregnant "women shall be employed part time in administrative, service, and production sectors for four hours daily, which must fall within official work hours. The employer may coordinate with women working part time regarding work times. Work hours may not exceed four hours per day and 24 hours per week, and work shall not be performed at night".

²¹ See, in the annexes, the table showing the distribution of the population of Libyans and non-Libyans 15 years and older employed in the economy in each district.

- Refraining from employing women at night between 8:00 pm and 7:00 am, except in the cases and activities and on the occasions specified by the competent authorities.
- The entitlement of working women who are nursing children to two additional periods, to be counted as work time, of at least 30 minutes daily to nurse their children for 18 months.
- An employer who employs 50 or more workers must provide a location for a nursery for the children of female workers.
- A working woman is entitled to maternity leave of three months before and after giving birth with full pay. Women may not work for 30 days after they give birth. This period has been amended to 14 weeks under the new Labour Relations Law.
- A working woman may not be dismissed during her maternity leave. This is affirmed in the new Labour Relations Law, which prohibits the dismissal of a woman due to pregnancy or birth.

In addition, Civil Service Law No. 55 of 1976 covers employment security. It specifies the instrumentalities for the retirement of women working in public enterprises and corporations and administrative units when they reach the age of 60. A working woman may also be pensioned off at age 55 based on her request or if she works in a job covered by a decree issued by the competent authorities. Once she retires, a woman is entitled to receive a retirement pension for the rest of her life.

Article 12

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.
2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

Response to Article 12

1. Libya has taken effective steps and measures in the area of health care. It has legislated many laws, beginning with Health Law No. 106 of 1973.²² Article 1 of the aforesaid law stipulates, "Health and medical care are a right of citizens guaranteed by the state. The Ministry of Health shall act to develop, enhance, and increase the effectiveness of health and medical services to meet the needs of citizens and keep pace with scientific advancements in health and medicine consistent with the country's development path. The Ministry shall also act to provide the technical elements required by health facilities. Decree No. 24 of 1424 BP [approx. 19 August 1994 – 8 August 1995] of the General People's Committee stipulates adoption of a national strategy to provide health care to everyone at all

²² *Official Gazette*, No. 6 of 1974.

facilities. The Medical Treatment Regulations were issued on 9 June 1975 by decree of the Council of Ministers to implement the Health Law. Article 1 of the Health Law states, “Medical treatment shall be free, a right of all citizens equally, and provided at the health facilities in the Republic”.²³

In addition, several international conventions—including the ILO Social Security (Minimum Standards) Convention (No. 102)²⁴ and the Maternity Protection Convention (No. 103)—were ratified under Law No. 37 of 1975.

2. Article 25 of Social Security Law No. 13 of 1980, amended by Law No. 8 of 1985, stipulates a number of short-term benefits to which a self-employed participant is entitled, including short-term monetary benefits and compensation for assumed income lost due to temporary invalidity stemming from sickness, work injury, or birth, to include, “In the event of birth: 100 percent of assumed income for a three-month period, including before and after birth”. Article 27 of the same law provides for the payment of lump-sum grants, including birth grants, to a participant when the necessary conditions are met. Table No. 3 below shows the value of the birth grant granted during 2001-2006.²⁵

Table No. 3

Value of the Birth Grant During 2001-2006 [in Libyan dinars]

<i>Type of assistance</i>	<i>2001</i>	<i>2002</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>Total</i>
Birth grant	429,613	369,114	417,790	455,800	440,951	310,625	2,006,103

The average lifespan of Libyan women has risen continuously over the past 30 years. The 1995 Census indicates that life expectancy at birth for females is 66 years compared to 48 in the late 1960s and close to 72 in 2000. The maternal death rate declined steeply from 77/1000 in 1983 to 40/1000 in 2000.

The following data attest to fairness in the provision of health services to everyone:

- 80.8 percent of women of child-bearing age receive health care.
- 92.5 percent of women of child-bearing age receive general health care.
- 99.6 percent of births occur in hospitals under general medical care.

There are no appreciable differences between urban and rural areas regarding all of the aforesaid areas.

Article 13

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to family benefits;
- (b) The right to bank loans, mortgages and other forms of financial credit;

²³ *Official Gazette*, No. 19 of 1976.

²⁴ *Official Gazette*, No. 25 of 1976.

²⁵ *Source*: Social Security Fund.

(c) The right to participate in recreational activities, sports and all aspects of cultural life.

Response to Article 13

Libyan legislation makes no gender distinction in the areas of economic and social life. [Rights] are established according to rules and requirements that must be met by both sexes.

a. Article 10 of Social Security Law No. 13 of 1980 provides for family benefits. It grants social security participants, without discrimination, old-age pensions, work disability pensions, pensioner's family allowance, lump-sum grants as aid for pregnant women, birth grants, burial allowances, disaster and emergency grants, and in-kind benefits (e.g., social welfare). These benefits are provided based on the view that society must provide for those who lack shelter or providers. Society cares for those who cannot care for themselves due to their personal circumstances. It provides medical care for the injured, incapacitated, or disabled and services to the residents of social welfare houses. Article 13 of the law establishes the retirement age for women at 60. Once they reach this age, female workers are entitled to an old-age pension, which is discrimination in favour of women given that the retirement age for male workers is 62.

b. No gender discrimination exists regarding the obtainment of bank loans and mortgages. All banks, particularly those that play a key role in developing rural and remote areas and creating jobs, provide loans to both sexes. The Rural Bank alone during 2007 granted 19,558 loans worth LD 86,457 million to 5837 men and 4502 women, including to 4045 according to the Islamic *musharaka*—profit-and-loss sharing—system and 4174 job seekers of both sexes.²⁶

c. Legislation also entitles women to participate in athletic and cultural activities, in which there is no discrimination against women. Many intermediate and advanced sports institutes and university colleges have been established. They provide an opportunity for young Libyan women to participate in athletics in a practical way. The number of women's sports centres has also risen. These centres provide an opportunity for Libyan women to engage in Jamahiriya athletics to thereby embody the motto "Sports for All", which flows from the Third International Theory [a style of government used in Libya]. Previously, the traditional nature of life limited Libyan women's participation in athletic activities. However, now, young women engage in sports of all types, including gymnastics, riding, and other athletic activities. Athletic clubs have spread. Women wishing to stay in shape have become interested in engaging in athletic activities in private facilities. Some have participated in international competitions, including the Olympic Games.

Regarding recreational and creative cultural activities, Libyan women are inherently gifted because of the cultural store they possess. In the past, female artists were active only to a limited degree. They became more active after the revolution, which encouraged women to contribute to various fields of creativity,

²⁶ Secretariat of the General People's Conference, "4th Periodic Report for 2008 on Measures Taken by the Great Jamahiriya to Apply the Rights and Freedoms Contained in the African Charter on Human and Peoples' Rights, Legal Affairs, and Human Rights", p. 31.

such as folk arts, literature, theatre, journalism, news agency work, and the editing of newspapers in all fields.

Creative Libyan writers, journalists, and other media professionals have advanced to positions of responsibility and decisionmaking. Women have assumed numerous leadership posts in cultural, information, and press organizations. For example, women have held the posts of Secretary of Culture and Information, director of a cultural centre abroad, secretary for media affairs in the Peoples' Congresses, assistant secretary of the Libyan Writers and Authors League, cultural advisor, magazine editor in chief and manager, and other posts. Women have also participated in the production of radio and television programmes, on intellectual and cultural competition judging committees, and in the management of literary festivals.

Article 14

1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

(a) To participate in the elaboration and implementation of development planning at all levels;

(b) To have access to adequate health care facilities, including information, counselling and services in family planning;

(c) To benefit directly from social security programmes;

(d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;

(e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self employment;

(f) To participate in all community activities;

(g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;

(h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

Response to Article 14

1. Libya's overall policy targets comprehensive development. Libya has therefore devoted special concern to the development of rural areas. This was initially done through rural development centres. The spread of educational and

vocational training institutions boosted the number of literate female graduates in rural areas. The rural development centres were then transformed into comprehensive centres for vocational training and training in the economic and management sciences under the supervision of the Secretariat of the People's Committee for Training.

2. Libya has taken extremely important measures to eliminate discrimination against rural women through:

a. The presence of Basic Popular Conferences in all areas of Libya, which offer rural women the right to participate in formulating and implementing development planning at all levels.

b. The health care mentioned in connection with article 12, which is provided in all parts of Libya, including rural areas. There is no problem concerning family-planning information, counselling, and services, which are considered private affairs of the Libyan family.

c. The equal benefit enjoyed by women and men vis-à-vis Social Security programmes, save for the positive discrimination of women mentioned in connection with article 12(2).

d. Regarding obtainment of education and training, rural women are no different than urban women. Statistics indicate that rural women's participation in the agricultural sector has become quite small. This is due to advancements in agricultural operating and production methods and techniques, increased school enrolment, and the trend of rural girls to complete intermediate and higher education. Rural communities have become more like urban communities, and the Libyan countryside has all the appearances of urban life.

Regarding the provisions of the Convention in subparagraphs e, f, g, and h of article 12 [read 14], we affirm that there is no discrimination in the treatment of rural men and women or between rural women and urban women concerning the obtainment of educational or training services, health care, and the Social Security services provided to state employees and weak groups in society.

Nor are there any discrimination, obstacles, or restrictions regarding women's obtainment of agricultural loans, acquisition of agricultural land, and disposal of agricultural land in all legal ways, e.g., sale, purchase, inheritance, gift, allocation by the state, compensation, membership in agricultural cooperative associations, etc.

Nothing prevents rural women from participating in community activities. This is evident in their participation in all fields of life and their work in all fields. Women also participate in women's associations and various civic associations.

Article 15

1. States Parties shall accord to women equality with men before the law.

2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.

3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.

4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

Response to Article 15

1. Article 5 of the Constitutional Proclamation issued on 11 December 1969 states, "All citizens are equal before the law",²⁷ and this is affirmed by article 1 of Law No. 20 of 1991 on the Consolidation of Freedom.

2. Regarding legal capacity, article 44(1) of the Civil Code stipulates, "Any person of majority age, who possesses mental faculties and has not been declared legally incompetent shall have full legal capacity to exercise his civil rights. Article 48 of the Civil Code stipulates, "No one may waive his legal capacity or amend the provisions thereof". Law No. 17 of 1992 on the Regulation of the Status of Minors, article 9, stipulates, "The age of majority shall be 18 complete, Gregorian years". Based on these provisions, a natural person who has acquired his identity through birth and has reached the age of 18, shall have the freedom to conclude contracts, administer property, and undertake litigation procedures.

3. No legislation in Libya restricts the legal capacity of women on the basis that they are women, so long as they have not lost their legal capacity due to the impediments specified in article 10 of Law No. 17 of 1992 on the Regulation of the Status of Minors and the Like (these impediments are insanity, mental deficiency, negligence, and impudence). This applies to men and women alike. Article 35 of the Law on the Consolidation of Freedom stipulates, "The provisions of this law are fundamental. Nothing in violation thereof may be promulgated, and legislation contrary to this law shall be amended".

4. The right to freedom of movement and to select one's residence and domicile is guaranteed by basic laws. Article 20 of Law No. 2 of 1991 on the Consolidation of Freedom stipulates, "Every citizen in peace time shall have freedom of movement and the freedom to select his place of residence, and the freedom to leave and return to Libya as he wishes".

Article 16

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

- (a) The same right to enter into marriage;
- (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
- (c) The same rights and responsibilities during marriage and at its dissolution;

²⁷ *Official Gazette*, Special Issue, 1969.

(d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;

(e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;

(f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;

(g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;

(h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

Response to Article 16

1. a. The marriage contract in Libya is governed by the rules of the Islamic Sharia. The Constitutional Proclamation issued on 11 December 1969, article 2, affirms, "Islam is the religion of the state". The Declaration on the Establishment of the Authority of the People issued on 2 March 1977, article 2, states, "the Holy Koran is the law of the community in the Socialist People's Libyan Arab Jamahiriya". Principle 21 of the Great Green Charter of Human Rights of the Jamahiriyan Era stipulates, "Marriage is an equitable association between two equal parties. No one may marry another person against that person's will". Article 25 of Law No. 20 of 1991 on the Consolidation of Freedom states, "Every male and female citizen shall be entitled to form a family based on a marriage contract that has the consent of both parties".

b. Law No. 10 of 1984 on Marriage and Divorce Provisions and the Effects Thereof, article 8, establishes that "a guardian may not compel a young man or young woman to marry against his or her will". This obtains even if the woman's marriage is arranged with the guardian's consent, because a marriage contract, which is a legal agreement governed by Islamic law, does mean that a woman may be compelled against her will to marry. Similarly, if a woman's legal guardian is inflexible and refuses to consent to her marriage in the absence of an acceptable, legal excuse, the woman may bring her matter before the judiciary. In this case, she is granted permission to contract her marriage without need for the guardian's consent. Under the same law, a wife may demand a divorce for reasons of desertion or damage of any type, just as a man may.

c. Libyan law does not provide for equality in respect to the rights and responsibilities during marriage and at its dissolution. The husband's rights

differ from the wife's rights under Law No. 10 of 1984, which specifies the rights the wife has from the husband and vice versa. Under article 17 this law, the wife's rights from her husband include the right to:

- a. Alimony and everything pertaining thereto within the limits of the husband's wealth and capability according to the provisions of this law.
- b. The non-subjection of her private property, which she may dispose of as she wishes.
- c. The husband's refrainment from harming her physically or psychologically.

Under article 18 of the aforesaid law, the husband's rights from his wife include the right to:

- a. Alimony and everything pertaining thereto if the husband is destitute and the wife is wealthy according to the provisions of this law.
- b. The wife's concern with his comfort and his psychological and sensory repose.
- c. The wife's supervision of the conjugal house and organization and maintenance of its affairs.
- d. The wife's raising, protection, and nursing of her children from him, provided a medical impediment does not prevent her from doing so.
- e. The wife's refrainment from harming him physically and psychologically".

Regarding rights and responsibilities arising from a divorce, article 35 of the same law states the following:

- a. A divorce shall occur with the consent of the husband and wife in the presence thereof or their attorneys who have been granted special power of attorney.
- b. A divorce that occurs with the consent of the husband and wife shall be documented before the competent court.
- c. If the two parties do not agree to the divorce, each shall be entitled to request the granting of a divorce decree from the special court according to the articles in effect.

The law specifies the following other cases of divorce in the absence of agreement by the two parties:

1. The granting of a divorce decree based on the petition of the husband or wife if the petitioner claims that he or she was damaged by the other party (article 39).
2. The granting of a divorce decree based on the petition of the wife if she was not informed of the husband's destitution before the marriage. The husband must be granted a suitable period to rectify the matter before the divorce decree is granted (article 40).
3. The granting of a divorce decree based on the petition of the husband or wife if either finds in the other a defect that prevents the

consummation of the marriage, regardless of whether the defect was present before, or occurred after, the marriage contract was concluded (article 42).

4. The granting of a divorce decree based on the wife's request if the husband is absent without an acceptable excuse, after he is granted a period of time to return to his wife (article 43).

5. The granting of a divorce decree based on the wife's request if the husband deserts his wife for four or more months without an excuse (article 43).

d. The provision of article 16(d) of the Convention must be effected according to the Personal Status Law, which is derived from the Islamic Sharia. Article 56 of Law No. 10 of 1984 states that "the mother's parentage of a newborn shall be established upon mere ascertainment of the birth without her declaration, and without restriction or condition. All financial or other effects of such parentage stemming from maternity and filiation shall stem from such parentage". Hence, according to this article, the newborn is related to the mother, just as he is related to his father (without restriction or condition), unless the father declares that the child was conceived adulterously, which falls under the expression "irrespective of her marital status". Of course, the interest of the child is the paramount consideration, as determined by a judge if a dispute arises regarding this detail.

e. Libyan legislation does not provide the right to decide on the number of children and the spacing of the children. The parents decide these matters based on their free will. Libya does not suffer from over-population and thus does not have birth control programmes. The basic programmes that exist concern the health of the mother and child and the spreading of awareness through mother and child centres. These matters have been influenced by women's entry into workplace and the demands of modern life. The National Libyan Family Health Survey of 2008 shows that 59.9 percent of married or previously married women between the ages of 15-49 previously used some form of birth control. Regarding childbearing preferences, the survey indicates that 48.3 percent of currently-married women in the same age group want to have more children. This percentage gradually declines as the number of live births increases.²⁸

f. Guardianship, wardship, and trusteeship of children are regulated by Law No. 17 of 1992 on the Regulation of the Status of Minors and the Like. Article 32 defines guardianship as follows: "Both parents are equal with respect to guardianship, followed by the agnates within the prohibited degree [unmarriageable persons because they are in a degree of consanguinity precluding marriage under Islamic law] according to their order of inheritance and kinship. In the case of equality, the court shall decide who among the such agnates is most suited to serve as guardian. If none is eligible, the court shall appoint a suitable person to serve as guardian from among the minor's relatives, and in the lack thereof, a third party". Article 62 of the aforesaid law states that "the father may choose a guardian for his minor child or foetus in

²⁸ The League of Arab States, "The Great Jamahiriya - National Libyan Survey of Family Health, Preliminary Report", 2008, p. 23.

utero if the mother is incompetent; if he does not choose a guardian, the court will appoint one”.

Libyan women enjoy the same rights and responsibilities with respect to guardianship and wardship of children or the like in terms of social systems, such as the system for the sponsorship of children lacking a provider. Adoption is forbidden under Islamic law in order to prevent the mixing of lineages and marriage to persons within the prohibited degree. Therefore, sponsorship is used instead of adoption. Sponsorship of a young child entails raising and educating the child and covering his expenses. The young child may be a foundling or a child whose parentage is unknown or known but who lacks support or a provider, e.g., if his parents are deceased, and there is no relative to handle the child’s affairs. In all cases, the child’s interests are paramount.

g. The freedom to choose a profession and occupation is a principle established in Law No. 20 of 1991 on the Consolidation of Freedom. Article 10 of this law stipulates, “Every citizen shall be free to choose, by himself or in collaboration with another, the work that suits him”.²⁹ The right to choose a family [name] is provided in article 38 of the Civil Code as follows: “Each person shall have a name and surname, and the person’s surname shall be attached to his children”.³⁰ Women in Libya retain the name of their father and their surname even after marriage.

h. Libyan laws does not restrict the capacity of a woman or prohibit a woman from exercising her rights on a par with men. Women may exercise all civil rights, including the rights to possess, acquire, sell, purchase, administer, and enjoy property. Women may lease and sell their property and gift it to whomever they wish. They may undertake other such legal disposal so long as they possess legal capacity.

2. Law No. 10 of 1984 on Provisions Concerning Marriage, Divorce, and the Effects Thereof regulate the capacity to marry, registration of a [marriage] contract, and the [minimum] marriage age. Article 6 of the law stipulates the following;

- a. Capacity to marry is conditioned on rationality and attainment of the legal age of majority.
- b. Capacity to marry is attained upon reaching the age of 20.
- c. The court may permit a marriage before the age of 20 based an interest or need that it determines after the guardian so consents.
- d. A person who marries according to the previous two paragraphs shall acquire the capacity to litigate in all that relates to the marriage and its effects.

Thus, the law specifies a minimum age for marriage.

Article 29 of Law No. 36 of 1986 on Civil Status states the following regarding registration of marriages in an official registry: “The authorities empowered to document or certify a marriage contract or divorce certificate must submit any document they prepare to the Civil Registry Secretary in the district where the marriage or divorce occurred. This must be done within seven days of the

²⁹ *Official Gazette*, No. 36 of 1992.

preparation of the document by registering the document in the pertinent record, stamping it, and marking it with a registration number. The authorities shall also record, on the document, the husband's [identification] card and the agency that issued it and the wife's [identification] card. The Civil Registry Secretary must keep a copy of this document".³¹ The implementing regulation of the law stipulates the same procedures.³²

³⁰ Civil Code promulgated on 28 November 1953, Justice Publications.

³¹ *Official Gazette*, No. 26 of 1968, p. 13.

³² *Official Gazette*, No. 39 of 1969, p. 16.

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