



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

Distr.: General  
6 February 2009

Original: English

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### Committee on the Elimination of Discrimination against Women

Forty-third session

19 January-6 February 2009

### Concluding observations of the Committee on the Elimination of Discrimination against Women

#### Libyan Arab Jamahiriya

1. The Committee considered the second periodic report and the combined third to fifth periodic reports of the Libyan Arab Jamahiriya (CEDAW/C/LBY/2 and CEDAW/C/LBY/5) at its 877th and 878th meetings, on 29 January 2009. The Committee's list of issues and questions is contained in CEDAW/C/LBY/Q/2 and the responses of the Libyan Arab Jamahiriya are contained in CEDAW/C/LBY/Q/2/Add.1.

#### Introduction

2. While expressing its appreciation to the State party for its second periodic report and its third to fifth periodic reports, the Committee regrets that they do not follow its guidelines for the preparation of periodic reports or provide sex-disaggregated data on all areas covered by the Convention, notably in the fields of education, health and employment, although it notes that some sex-disaggregated data were provided during the constructive dialogue. The Committee also expresses its appreciation to the Libyan Arab Jamahiriya for its written replies to the list of issues and questions raised by the pre-session working group, but regrets that they do not provide specific information in response to the questions posed. The Committee also regrets that the submission of the third to fifth periodic reports was significantly delayed and reminds the State party of the need to comply with its reporting obligations in a timely manner, as delays in reporting may have a negative impact on the implementation of the Convention. The Committee encourages the State party to seek technical assistance for the preparation of the next periodic report, including from the Office of the United Nations High Commissioner for Human Rights.

3. The Committee commends the State party for sending a high-level delegation headed by the Secretary of Women's Affairs of the General People's Congress and composed of representatives from the General People's Committee of Planning, the

General People's Committee of Social Affairs, the General People's Committee of Justice, the General People's Committee of General Security, the General People's Committee for Foreign Affairs, the General People's Committee for Foreign Liaisons and the secretariat of the General People's Congress.

**Positive aspects**

4. The Committee commends the State party for acceding in 2004 to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.

5. The Committee notes with satisfaction the progress made by the State party towards the achievement of equality between women and men in the areas of education, health and social security. In this respect, the Committee particularly welcomes the approval by the General People's Congress, in March 1997, of the Charter on the Rights and Duties of Women in the Libyan Arab Society.

6. The Committee notes that Law No. 10 of 1984 regulating marriage and divorce was amended by Law No. 9 of 1993 to prohibit polygamy without the written consent of the first wife and authorization from the court, which is a step towards the complete abolition of polygamy. The Committee further notes that article 37 of the Law revokes all rulings based on the principle of *nushuz* (recalcitrance), which shall be considered null and void.

**Principal areas of concern and recommendations**

**7. While recalling the State party's obligation to systematically and continuously implement all the provisions of the Convention, the Committee views the concerns and recommendations identified in the present concluding comments as requiring the State party's priority attention between now and the submission of the next periodic report. Consequently, the Committee calls upon the State party to focus on those areas in its implementation activities and to report on actions taken and results achieved in its next periodic report. It also calls upon the State party to submit the present concluding observations to all relevant ministries and to the General People's Congress so as to ensure their full implementation.**

**General People's Congress**

**8. While reaffirming that the Government has the primary responsibility and is particularly accountable for the full implementation of the State party's obligations under the Convention, the Committee stresses that the Convention is binding on all branches of Government, and it invites the State party to encourage its General People's Congress, in line with its procedures, where appropriate, to take the necessary steps with regard to the implementation of these concluding observations and the Government's next reporting process under the Convention.**

**Legal status of the Convention and definition of discrimination**

9. While taking note of the State party's affirmation that all laws in force in the Libyan Arab Jamahiriya embody the principle of equality between women and men, the Committee remains concerned at the lack of clarity with respect to the status of

the Convention in the domestic legal order. The Committee is also concerned at the absence of a prohibition of discrimination against women in domestic legislation in line with article 1 and article 2, paragraph (b), of the Convention. It recalls that the absence of such a specific provision on prohibition of discrimination against women, which encompasses both direct and indirect discrimination in both the public and private spheres, constitutes an impediment to the full application of the Convention in the State party.

**10. Recalling the acknowledgement by the Libyan delegation of the predominance of the Convention over national law, the Committee calls upon the State party to take urgent steps to incorporate into domestic legislation a prohibition of discrimination against women that encompasses both direct and indirect discrimination, in line with article 1 of the Convention, as well as sanctions where appropriate in line with article 2, paragraph (b), of the Convention.**

#### **Visibility of the Convention and its Optional Protocol**

11. While commending some of the efforts undertaken by the State party in disseminating and raising awareness of the provisions enshrined in the Convention, the Committee is concerned that the Convention, the Optional Protocol and the Committee's general recommendations are not widely known in the Libyan Arab Jamahiriya. The Committee is also concerned that the provisions of the Convention have not been invoked in national courts.

**12. The Committee recommends that educational programmes on the Convention, including its Optional Protocol and its jurisprudence, and programmes on women's rights be introduced for all legal professionals, including judges, lawyers, prosecutors and law enforcement personnel, as well as the public at large. It urges the State party to take special measures, including comprehensive legal literacy programmes, to enhance women's awareness of their rights so that they may be able to exercise them. The Committee requests the State party to report on progress made in this regard in the next periodic report, including cases where the provisions of the Convention were invoked in or applied by courts.**

#### **Reservations**

13. While welcoming the withdrawal by the Libyan Arab Jamahiriya, in 1995, of its general reservation to the Convention, the Committee is concerned at the State party's remaining reservations to article 2 concerning the right to inheritance and article 16, paragraphs (c) and (d) regarding marriage and divorce, as it is of the opinion that these reservations are contrary to the object and purpose of the Convention. In this regard, it notes that the State party did not enter any reservations to the International Covenant on Civil and Political Rights, which also requires equality between women and men in these areas.

**14. The Committee urges the State party to take all necessary steps, including the initiation of a public debate involving all sectors of society, for the withdrawal of all of its reservations to the Convention, so as to ensure that women in the Libyan Arab Jamahiriya benefit fully from all the provisions enshrined in the Convention.**

**National machinery for the advancement of women**

15. While acknowledging the adoption of the Charter on the Rights and Duties of Women in the Libyan Arab Society, the Committee is concerned at the absence of a national machinery for the advancement of women to monitor its implementation and that of the Convention, and promote the rights of women enshrined therein. The Committee further regrets the absence in the State party of programmes and plans of action based on the Beijing Platform for Action.

**16. The Committee calls upon the State party to put in place an institutional mechanism that recognizes the specificity of discrimination against women and is exclusively responsible to promote de jure and de facto equality and to monitor the practical realization of the principle of substantive equality of women and men, with a view to promoting women's human rights and gender equality at all levels. It calls upon the State party to endow at the highest political level such a mechanism with the necessary authority and human and financial resources to promote effectively the implementation of the Convention and the enjoyment by women of their human rights across all fields by coordinating and monitoring gender mainstreaming in all areas, thus ensuring women's enjoyment of their human rights across all fields. It encourages the State party to establish gender focal points in different Government bodies, provide them with adequate gender training and link them with the national machinery. Furthermore, the Committee encourages the State party to seize the occasion of the launch, on 25 July 2009, of the strategy for women in the Libyan Arab Jamahiriya for the period 2009-2019, which was referred to by the delegation, to develop programmes and action plans based on the present concluding observations.**

**Discriminatory laws**

17. While welcoming the pledge by the State party's delegation that Law No. 18 of 1980 on the provisions of the nationality law will be amended in order to comply with article 9 of the Convention, the Committee remains concerned that Libyan women married to non-Libyan nationals are not granted equal rights with men with respect to the nationality of their children. The Committee is further concerned at the legislation governing child custody whereby women are not permitted to travel abroad with their children without the consent of the children's father. The Committee expresses concern that legal provisions relating to personal status, in particular concerning marriage (including polygamy), divorce and inheritance, do not provide for equal rights for women and men.

**18. The Committee encourages the State party to accelerate the process of amendment of Law No. 18 of 1980 to make it consistent with article 9 of the Convention. The Committee further calls upon the State party to intensify its efforts to amend its legislation governing child custody expeditiously, in order to ensure that women have the same right as men to travel with their children abroad. The Committee recommends that the State party introduce legislative reforms to provide women with equal rights in marriage, divorce and inheritance. It calls upon the State party to end the practice of polygamy in accordance with the Committee's general recommendation No. 21, on equality in marriage and family relations.**

### Temporary special measures

19. The Committee is concerned that a clear understanding of temporary special measures, as well as the reason for their application according to paragraph 1 of article 4 of the Convention, which is directly applicable, seems to be lacking in the State party, in particular in the area of labour as well as political and public participation. It is further concerned that such measures are not systematically applied as a necessary instrument to accelerate the achievement of de facto equality between women and men in all areas of the Convention.

**20. The Committee encourages the State party to enact specific legislation for the adoption of temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation No. 25 in order to accelerate the realization of women's de facto equality with men in areas where women are underrepresented or in disadvantaged situations. The Committee recommends that the State party take measures to raise public awareness about the importance of temporary special measures in accelerating the process of achievement of gender equality.**

### Stereotypes, cultural practices

21. The Committee is concerned at the absence in the State party of a national strategy to promote the human rights of Libyan women and eliminate stereotypes about the role of women and men. The Committee remains concerned about the persistence of entrenched, traditional stereotypes regarding the roles and responsibilities of women and men in the family and in society at large, which are reflected, in part, in women's educational choices, their situation in the labour market and their low participation in political and public life.

**22. The Committee urges the State party to adopt a national strategic plan, in particular to bring about change in the widely accepted stereotypical roles of women and men, thereby promoting equal sharing of family responsibilities between women and men and the equal status and responsibilities of women and men in the private and public spheres. The Committee recommends that awareness-raising campaigns be addressed to both women and men and that the media be encouraged to project a positive image of women.**

### Violence against women

23. While noting that, according to article 17 of Law No. 10 of 1984, a man should refrain from causing physical or psychological harm to his wife, and commending the State party for the establishment of 20 Women's Courts across the country dealing with violence against women, the Committee is concerned that the State party has not yet adopted comprehensive legislation to protect women against violence, especially domestic violence, as recommended by the Human Rights Committee in its concluding observations adopted on 30 October 2007. The Committee is further concerned at the confinement of women and girls who have not been convicted in so-called social rehabilitation facilities, some of whom are victims of gender-based violence and domestic violence, for their own protection according to the State party, without the provision of a possibility to challenge this confinement in a court. The Committee is also concerned at the widespread practice whereby marriage between perpetrators of rape and women victims of rape is encouraged to protect the victims from social stigma and marginalization and ensure

clarity of lineage if the victim is pregnant, which results in impunity for the perpetrator. The Committee is of the view that marriage between perpetrators of rape and the victim can lead to revictimization of the victim. The Committee expresses concern about the lack of statistics provided in the report on the extent of different forms of violence against women and girls. The Committee is also concerned that the maintenance of Law No. 70 (1973) criminalizing extramarital sexual relations may have a disproportionate impact on women.

**24. The Committee urges the State party to implement the recommendations identified in the study of the Secretary-General on all forms of violence against women (A/61/122 and Add.1 and Add.1/Corr.1) and in the report of the Special Rapporteur on violence against women, its causes and consequences (A/HRC/4/34/Add.1) and to monitor their impact. Furthermore, the Committee calls upon the State party to enact legislation on violence against women, including domestic violence. The Committee recommends that the State party adopt and implement a national strategy to combat violence against women, which would include the collection of sex-disaggregated data on all forms of violence and research into the extent of violence against women and girls, including that which occurs in the domestic sphere. It urges the State party to reconsider and amend the legal provisions which allow the confinement of women and girls in so-called rehabilitation facilities against their will. Furthermore, the Committee calls upon the State party to discourage the practice whereby victims of rape are forced to marry the perpetrator and to ensure that in all cases perpetrators are duly prosecuted and punished, and victims rehabilitated. The Committee recommends that training and awareness-raising programmes be offered to judicial personnel, law enforcement officials, members of the legal and health professions and the general public, taking into account its general recommendation No. 19 on violence against women. The Committee encourages the State party to make use of the multi-year campaign launched in 2008 to eliminate violence against women. The Committee also calls upon the State Party to consider repealing Law No. 70 (1973).**

#### **Vulnerable groups of women**

25. While noting with satisfaction that the State party ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families in 2004, the Committee expresses concern at reports regarding the alleged ill-treatment of undocumented migrants, including women and children. The Committee is also concerned that the State party's reports do not contain information on the situation of migrant women in the Libyan Arab Jamahiriya.

**26. The Committee recommends that the State party implement the provisions of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The Committee further recommends that the State party consider ratifying the 1951 Convention relating to the Status of Refugees. It requests the State party to provide detailed information on the situation of migrant women in its next periodic report.**

**Trafficking and exploitation of prostitution**

27. The Committee welcomes the State party's ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. While noting that the Penal Code criminalizes all forms of trafficking in women, and that Libyan nationals shall be sentenced even if the crime was committed abroad, the Committee expresses concern about the lack of information regarding the extent of trafficking in women and girls and the absence of a comprehensive law and plan to prevent and eliminate trafficking in women and to protect victims. The Committee is also concerned about the lack of information in regard to prostitution and the lack of a comprehensive strategy for the protection and rehabilitation of victims of exploitation of prostitution.

28. **The Committee recommends that the State party take measures to combat all forms of trafficking in women and girls through the adoption and implementation of a comprehensive strategy, and increase its efforts in relation to regional, international and bilateral cooperation with countries of origin and transit so as to address more effectively the causes of trafficking and improve its prevention through information exchange. It encourages the State party to collect and analyse data from national police and international sources, prosecute and punish traffickers, and ensure protection of the rights of trafficked women and girls. It recommends that the State party take measures to ensure that trafficked women and girls receive adequate support and protection to support them in testifying against their traffickers. The Committee urges the State party to analyse the causes and extent of trafficking in women and girls from its perspective as a country of transit. The Committee calls upon the State party to take all appropriate measures to suppress the exploitation of prostitution of women, including discouraging male demand by ensuring the effective prosecution and punishment of those who exploit prostitution. The Committee requests the State party to provide, in its next report, comprehensive information and data on exploitation of prostitution and trafficking in women and girls, as well as on the measures taken to prevent and combat such activities.**

**Political participation and participation in public life**

29. While noting with satisfaction that women's participation has risen to 32 per cent in the General People's Congress, and welcoming the information provided by the Libyan delegation on women's involvement in the Basic People's Congresses and positions held on these bodies, the Committee remains concerned that women continue to be underrepresented in political and public life, particularly in decision-making bodies, including the executive branch of Government, and the diplomatic and public service.

30. **The Committee urges the State party to take all appropriate measures, including temporary special measures under article 4, paragraph 1, of the Convention, and in accordance with the Committee's general recommendations Nos. 23 and 25, and to establish concrete goals to accelerate the increase of women's representation in the executive branch of Government, Parliament and the diplomatic corps. It recommends that the application of such measures to increase women's political representation should include the establishment of benchmarks with timetables or increased quotas. The Committee recommends**

**that the State party continue to undertake awareness-raising campaigns about the importance of women's participation in decision-making at all levels.**

#### **Education**

31. While commending the State party on the high percentage of female graduates, the Committee regrets that the State party's reports do not provide sufficient information with respect to the access of women to education, both in rural and urban areas, concerning all areas addressed by article 10 of the Convention.

**32. The Committee requests the State party to include, in its next periodic report, data disaggregated by sex and urban and rural areas on all issues addressed by article 10 of the Convention, including women's and girls' access to vocational training, access to studies in the primary, secondary, technical and tertiary education, access to scholarships and other study grants and access to programmes of continuing education, as well as statistics on student dropout rates.**

#### **Employment**

33. The Committee regrets the lack of detailed and comprehensive information in the State party's reports with respect to the situation of Libyan women in the area of employment, in both the public and private sectors as well as in the formal and informal sectors.

**34. The Committee requests the State party to provide data disaggregated by sex, in its next periodic report, on all issues addressed by article 11 of the Convention, including the right of women to equal remuneration for work of equal value and their right to social security and maternity leave. The Committee also requests the State party to provide information on the situation of women in the informal sector, in both urban and rural areas.**

#### **Health**

35. While welcoming the information provided by the State party that health services are provided free of charge, the Committee regrets the lack of sufficient and detailed information in the reports with respect to the access of women to health-care services.

**36. The Committee requests the State party to include in its next periodic report information, including statistics disaggregated by sex, with respect to all matters covered by article 12 of the Convention, including family planning and appropriate services in connection with pregnancy and the post-natal period, in both urban and rural areas.**

#### **Family relations**

37. While taking note that article 8 (a) of Law No. 10 of 1994 provides that a guardian may not force a woman to marry against her will, the Committee is concerned that the concept of male guardianship over women seems to be widely accepted and limits women's exercise of their rights under the Convention, in particular with regard to issues of personal status both de jure and de facto.



38. **The Committee calls upon the State party to take steps to eliminate the practice of male guardianship over women both de jure and de facto, including through the design and implementation of awareness-raising campaigns. It encourages the State party to engage in a social dialogue on the concept of male guardianship and how it affects the application of the Convention in the Libyan Arab Jamahiriya with a view to eliminating this practice.**

#### **National human rights institutions**

39. The Committee regrets that steps to establish an independent national human rights institution with a wide mandate to protect and promote women's human rights, in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (see General Assembly resolution 48/134, annex), have not yet been taken.

40. **The Committee recommends that the State party establish, within a clear time frame, an independent national human rights institution in accordance with the Principles, whose competencies should include issues related to the equality of women and men.**

#### **Non-governmental organizations**

41. The Committee is concerned at the level of cooperation of the authorities in the State party with civil society, in particular women's non-governmental organizations, in the implementation of the Convention. The Committee expresses concern in particular about the insufficient involvement of women's non-governmental organizations in the preparation of the reports, which is manifest by the absence of alternative reports submitted to the Committee by Libyan non-governmental organizations and their lack of participation in the consideration of the reports.

42. **The Committee urges the State party to cooperate more effectively and in a systematic manner with civil society, in particular women's non-governmental organizations, in the implementation of the Convention. The Committee further recommends that the State party consult with non-governmental organizations during all phases of the preparation of its next periodic report.**

#### **Data collection and analysis**

43. The Committee regrets that the State party's reports did not provide sufficient statistical data disaggregated by sex on all areas covered by the Convention or information on the impact and results of measures taken to achieve equality between women and men, thereby making it difficult for the Committee to assess progress in the implementation of the Convention in the State party.

44. **The Committee calls upon the State party to put in place a comprehensive system of data collection, including measurable indicators to assess trends in the situation of women and progress towards women's de facto equality over time. It invites the State party to seek regional and international assistance, as necessary, for the development of such data collection and analysis efforts. The Committee requests the State party to include in its next report statistical data and analysis, disaggregated by sex and by rural and urban areas, indicating the impact of measures taken and the results achieved in order to illustrate more**

comprehensively the situation of women in all areas of the Convention, in particular in the fields of education, health and employment. The Committee invites the State party to give special attention to the collection of data in respect of the most vulnerable groups of women, including rural and migrant women.

#### **Beijing Declaration and Platform for Action**

45. The Committee urges the State party to utilize fully, in the implementation of its obligations under the Convention, the Beijing Declaration and Platform for Action, which reinforce the provisions of the Convention, and requests the State party to include information thereon in its next periodic report.

#### **Millennium Development Goals**

46. The Committee emphasizes that full and effective implementation of the Convention is indispensable for achieving the Millennium Development Goals. It calls for the integration of a gender perspective and explicit reflection of the provisions of the Convention in all efforts aimed at the achievement of the Millennium Development Goals and requests the State party to include information thereon in its next periodic report.

#### **Ratification of other treaties**

47. The Committee notes that States' adherence to the nine major international human rights instruments<sup>1</sup> enhances the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. Therefore, the Committee encourages the Government of the Libyan Arab Jamahiriya to ratify the treaties to which it is not yet a party, namely the International Convention for the Protection of All Persons from Enforced Disappearance and the Convention on the Rights of Persons with Disabilities.

#### **Dissemination of concluding observations**

48. The Committee requests the wide dissemination in the Libyan Arab Jamahiriya of the present concluding comments in order to make the people, including Government officials, politicians, members of the General People's Congress and women's and human rights organizations, aware of the measures that have been taken to ensure de jure and de facto equality of women, as well as the further steps that are required in this regard. It requests the State party to continue to strengthen the dissemination, in particular to women's and human rights organizations, of the Convention, its Optional Protocol, the Committee's general recommendations, the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General

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<sup>1</sup> The International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention on the Rights of Persons with Disabilities and the International Convention for the Protection of All Persons from Enforced Disappearance.

**Assembly, on the theme “Women 2000: gender equality, development and peace for the twenty-first century”.**

**Article 20, paragraph 1**

**49. The Committee encourages the State party to accept, as soon as possible, the amendment to article 20, paragraph 1, of the Convention concerning the meeting time of the Committee.**

**Follow-up to concluding observations**

**50. The Committee requests the State party to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraphs 20 and 38 above. The Committee also requests the State party to consider seeking technical cooperation and assistance, including advisory services, if necessary and when appropriate for implementation of the above recommendations.**

**Date of next report**

**51. The Committee requests the State party to respond to the concerns expressed in the present concluding observations in its next periodic report under article 18 of the Convention. The Committee invites the State party to submit its combined sixth and seventh periodic reports in 2014.**

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