

## **Introduction:**

The Great Socialist People's Libyan Arab Jamhuriya, while submitting this 5<sup>th</sup> periodic report to the African Commission on Human and Peoples' Rights in due regard of Article (62) of the African Charter on Human and Peoples' Rights for 1981, it is thereby putting before members of the solemn Committee, African Union member states and NGOs interested in human rights in Africa, this Report which throws light on the people-based human rights system as envisaged in the First Statement of the 1<sup>st</sup> of September (Fateh) 1969 Revolution, the declared institution of the power of the people in 1977, the Great Green Charter of Human Rights in the Era of the Masses in 1988, and the executing Freedom Promotion Act no. 20/1991, being two underlying documents drawn from the fundamentals of the Third Universal Theory as conspicuously unfolding in political rights, the right to practice direct democracy "the power of the people", the right to employment (right to paid labor) and others.

**Thus** the Report addressed, inter alia, rights provided for in the African Charter of Human and Peoples' Rights for 1981, falling in six (6) parts as follows:

**First: Civil and Political Rights:** can be summed up as the right to life, to physical and moral integrity, to freedom, to power exercise, to expression and opinion, to movement and residence, to equality and to prosecution.

The Report has elaborated on the right to life and how to maintain and preserve human psyche. It has reflected on the clear Libyan legal response to this issue in conformity with human rights. It also made reference to the right to physical and moral integrity with emphasis on the Libyan legal position in forbidding, prohibiting and incriminating torture in all its forms, and deeming it punishable. Moreover, the Report has tackled the political right of Libyan citizens, males and females, being the

right to participate directly in the decision-making process via basic people's congresses with no parliamentarians or representatives. People's committees selected from these congresses undertake to carry out decisions made. The Report indicated that the right to expression and opinion shall be secure for all citizens with no objection or opposition thereto, and that the basic people's congresses are but the political frame for constructive and instrumental dialogue in putting forward issues and problems relating to all segments of the society who are the members of these conventions. As for the right to movement and residence, it shall be guaranteed for all sons of the Mass society in concert with principles of international Law. Concerning the right to equality, the Report underlined this issue in terms of equality before the Law and as regards public positions and functions for men and women, whereas concerning the right to prosecution, it was referred to, similar to the other rights, in accordance with the Great Jamhuriya's commitments.

## **Second: Economic Rights**

Included in this part of the Report is the right to intellectual property, labor, and health care. The Report took up these rights from two perspectives: the first is relevant to legislative procedures specifying legal justification of the given rights, and the second relates to procedures applicable for their fulfillment. A noted output is that the right to labor was enacted and is substantiated within the frame of work relations in the Great Jamhiriya, markedly free of exploitation and bondage and based on partnership and appreciation of the real value of the level of effort. As for property right, one of the main remarks is that the level of effort according to the Libyan Law and in compliance with the masses' theses is a recipe for property acquisition. With regard to right to labor, the Report contained a battery of practical procedures to ensure this right including employment programs, job opportunities and training, service and production loans, basic and pension security. Besides these three economic-specific rights, the Report highlighted the right of producers to have their own syndicate pursuant to the people's perspective. Another crucial issue is the right to wealth so that all Libyans are entitled to share their country's wealth.

## **Third: Social and Cultural Rights**

Among the rights covered in this context are health and social care rights, as well as the collective right of people to environmental health, to education for all, to housing and health utilities.

Laws, legislation, practical procedures, statistics and data were exponentially adequate to demonstrate action on the part of the Great Jamihirya for the effectuation of the above rights; health to all, education to all, housing to all, environment to all, wealth to all. It can thus be safely admitted that the base of equality among all sons of the community as well as the masses' leanings were distinctive qualities of this report as far as the said rights were concerned.

**Fourth: Judicial Organization**

In its fourth part, the Report touched upon judicial organization to specify mechanisms of litigation right and how far terms of fair and impartial trial are provided. It underpinned that the Libyan judicial regime is clear, transparent and compatible with standards of human rights, stressing the fact that Libyans, males and females, are treated as equal before the Law.

**Fifth: Right to Establish Non-Governmental Organizations (NGOs) and Syndicate Action**

In this part, the Report addresses the right to establish NGOs, unions, syndicates and vocational associations. In this connection, the Report details these rights and their application conditions in terms of the law. It is well observed that the syndicate business is typically related to the masses' regime based on the power of the people. Unions, vocational associations and syndicates are components of the People's General Conference (meeting point of conferences, people's committees, unions, syndicates and vocational associations). At the grassroots level, their members are those of basic people's congresses and vocational conferences.

**Sixth: Interest in Community Classes**

The Report, in its sixth part, portends that Libyan legislation has ensured particular care for categories like women, children, old-aged people and the disabled as exemplified in human and ethical treatment accorded to them under the umbrella of law in pursuance of their civil, political, economic, social and cultural rights. In this respect, the Great Jamahiraya takes the lead in Africa as perhaps one of the very few countries in the world that devotes special care for and develops unfailing interest in the above mentioned strata.

This Report is tantamount to the validation of principles and rules enunciated in the African Charter of Human and Peoples' Rights. In its Article (62), the Charter emphatically reiterates the concern of the Great Jamahiraya to fulfill its commitments and to

prove to African brethren its paramount interest in protecting human rights. The Report brings to light legislative and executive procedures in application of the said principles.

**Hosni Al Waheeshy Al Sadeq**  
**Secretary of Legal Affairs and Human Rights**

## **Part I: Civil and Political Rights**

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Civil and political rights are considered among the oldest in the human rights system, being the rights relevant to humans' life and relationship with the society and the State. Hence was the communities' concern with their protection as natural rights and accordingly their visualization of a set of legal principles and rules, with institutions in place to ensure their respect and maintenance against breaches. This 5<sup>th</sup> periodic report thus was presented by the Great Jamhriya to the African Commission on Human and Peoples' Rights within the context of discharging its obligations vis-à-vis civil and political rights enshrined in the African Charter of Human and People's Rights for 1981.

Below is a presentation of the efforts made by the Great Jamhriya towards protecting and promoting these rights during the following period of the 4<sup>th</sup> periodic report.

### **First: Right to Life**

The right to life is one of the basic rights and underlying parameters of human rights. No declaration, law, charter, or divine religion is devoid of special reference to the right to life. It had been mentioned in Article 4 of the African Charter of Human and Peoples' rights for 1981, and earlier in the Universal Declaration on Human Rights for 1948 as well as in the International Covenant on Civil and Political Rights for 1966 (Article 6).

As we put this report to you, it is important in this context to stop at the right to life and how it is dealt with in Libyan legislation to figure out to what extent it is in agreement with the African Charter of Human Rights for 1981 as well as with the provision cited in its Article 62 on the member states' commitment to give effect to its provisions.

Determinants of the right to life are represented in the inadmissibility of arbitrary executions (beyond the realm of law) and the inadmissibility of infringing on this right (punishment for murder), or in other words killing in any form be it an action leading to a crime or punishment for a murder crime does constitute an issue subject to substantive and procedural rules of criminal law. The relevant Libyan law complies with these rules. However social response embodied in legally-formulated punishment for murder is derived from social core values reflecting the culture and faith of the community concerned. The Muslim Libyan community acknowledging in Article 2 of the Declaration on the Establishment of the Power of the People for 1977 that the Holy Qoran, the legislation (Sharia'a) governing the community, has approved retribution for the murderer as the justly deserved penalty to the credit of the victim for violating his right to life and also in conservation of his relatives' rights. In this regard, the Qoran reads " If anyone killed a person- unless it be for murder or for spreading mischief on earth- it would be as if he killed all people; and if anyone saved a life, it would be as if he saved the life of all people." (Surat Al Ma'ada Verse 32). Replacing the penalty with sentence of life imprisonment is however possible if pardoned by the blood-for-ransom retaliator. The power of amnesty is exclusive to the victim's relatives as Allah the Almighty Has Said "And if anyone is killed wrongfully, We have his heir authority to demand retribution (Kesas) or to forgive; but let him not exceed bounds in the matter of taking life for he is helped by the Law". (Surat Al Israa'a- Verse 33).

This view actually shapes the faith of the Muslim Arab Libyan community regarding death penalty and the right to life. This was reflected in the Libyan Penal Code and Human Rights Charters of the Jamhriya, rendering capital punishment on retributitional basis a social value.



The Libyan Penal Code was dwelt on making human life the most cherished of these rights; therefore a highly critical penal legislation was enacted based on Islamic Shari'aa and related Human Rights Charters endorsed by the Libyan community. Interest in the right to life went so far as to prohibit pre-natal murder of fetus in his mother's womb and during neonatal period and until his death. Further, the Libyan Law declined to sanction the so-called euthanasia for reasons of having mercy on hopelessly ill persons to end their sufferings. This comes in affirmation of the right to live as sacred.

The 1988 Great Green Charter of Human Rights in the Era of Masses, in turn, had promoted the right to life, citing in its Article 8 that the sons of the mass society "revere and maintain human life". It rather envisaged rudimentary limitations for death penalty by stating "that execution is exclusively for the one whose life inflicts injury or induces wrongdoing, being the same determinants quoted in the Holy Qoran, as well as in the Freedom Promotion Law no 20/1991.

This position that sanctions capital punishment in specific cases and in accordance with the Law (as cited in the Penal Code and Criminal Procedure Law) is finely tuned with the International Law on Human Rights which has not, as some may believe, abolished it altogether but rather mandated that it should not involve arbitrary verdicts or be judged as beyond the scope of the law (Article 6 of the International Covenant on Civil and Political Rights for 1966). The Libyan stance is in full harmony with the prerequisites stated in Article 4 of the 1981 African Charter of Human and Peoples' Rights regarding the right to life.

The Libyan Law approves death sentence as penalty for committing particular types of murder crimes, notably murder with premeditation, or those grossly or brutally perpetrated, or still crimes targeting large numbers of people. Other murder crimes such as manslaughter or those committed without premeditation or in protection of honor or money, are not, according to Libyan Law, punishable by execution; lighter

penalties are rather imposed for reasons of not involving criminal danger by the offender and therefore the latter neither poses a threat nor is proved corrupt at the community level.

Death penalty in the Jamhriya is definitive both substantively and procedurally and is not arbitrarily carried out. Its eventual abolition remains the aspired end of the Jamhiriya society. Pending this aspiration comes true, death sentences will continue to be applicable to those who constitute danger or corruption to the life of the community (Article 8 of the Green Charter).

## **Second: Right to Physical and Moral Integrity**

This right was provided for in the majority of international human rights instruments, starting with the Universal Declaration on Human Rights for 1948, passing by the International Covenant on Civil and Political Rights for 1966, the African Charter of Human and Peoples' Rights for 1981, and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment for 1984. What really matters in this Report is the crux of Article 4 of the 1981 African Charter of Human and Peoples' Rights considering human right to physical and humanitarian integrity as one of the basic human rights.

Human right to physical and moral integrity is the prohibition of violability of his body whether by beating or torturing, etc (right to physical integrity), as well as of cruel, degrading or inhuman treatment (right to moral integrity).

**Pursuant** to the International Law on Human Rights, this right, similar to the right to live, is among rights that cannot be restricted or prejudiced under any circumstances or for any justification even in cases of emergency, war and threatening public security (Article 4/2 of the International Covenant on Human Rights)

The Jamhriya is a party to all international instruments ensuring protection of the above mentioned human right to physical and moral integrity. Having faith in human value and worth, the Libyan people, in Article 2 of the Great Green Human Rights Charter in the Era of Masses for 1988, had endorsed that the Jamhiriya society "prohibits penalties that prejudice human dignity and are detrimental to human entity as much as it prohibits doing physical or moral harm to the prisoner and condemns his trading or making experiments on him."

**In application** of this principle, the Freedom Promotion Act no 20/1990 provides for "physical integrity as the right of all

humans and forbids carrying out scientific experiments on the living human body unless done on voluntary grounds."

**In this respect**, the Libyan Penal Code provides for guarantees ensuring human right to physical and moral integrity. Beating is incriminated and deemed punishable. This is applicable to simple and gross abuse, insult and verbal abuse, cruel and inhuman treatment. This also has relevance to prisoners whose torture or offence shall be incriminated by the Law (Article 385/penalties). This legal status is perfectly in commensurate with the International Law on Human Rights, with particular emphasis on the African Charter of Human and Peoples' Rights regarding which we are in the process of reporting on measures and procedures pursued by the Great Jamhiyria for the realization of rights articulated in it.

### **Third: Right to Freedom**

International declarations on human rights stipulate that every individual has the right to freedom, and ban bondage or slavery of any person. The Libyan people subsequently confirmed the citizen's right to freedom guided by Omar Bin Khatab when he was quoted as saying: "When did you enslave people while they were born free?" Article 2 of the Green Charter concedes "that sons of the Jamihirya society hold sacred human freedom and prohibit its restriction." Articles in the Green Human Rights Charter provide for the citizen's freedom to movement and residence as well as to institution of unions, syndicates and associations in protection of professional interests. Furthermore, every human is entitled to private performances and personal relations, which no one has the right to interfere with unless involving an affair that is harmful to the community or in contravention with its values.

Given the fact that while power-freedom conflict forges as one of the most intractable problems facing humanity, the power-of-the-people regime has made a breakthrough in this concern by

doing away with the rulers' tyranny vis-à-vis the ruled, thus considering all as rulers in people's congresses.

#### **Fourth: Right to Exercise of Power**

Since human rights defamation in the exercise of power has led to barbaric actions that were proved abusive to human conscious, the Great Jamhiriya was keen to confer on citizens the right to exercise power and directly run the public affairs of the country through a political system based on direct democracy and not through representatives of the people. This right was incarnated in highly cherished legal foundations, primarily the Declaration on the Establishment of the Power of the People. Since 1977 of last century, the direct power of the people has been the basis for the political regime in Libya. Power is exclusively for the Libyan people to be exercised via basic people's congresses, people's committees, syndicates, unions and vocational associations.

The Libyan people's direct exercise of power in the absence of representation was substantiated as a *fait accompli* through basic people's congresses amounting to (468) in number at the level of the Jamhiriya.

This right was provided for in a background document, namely the Declaration on the Establishment of the Power of the People in 1977 and emphasized in the Great Green Charter of Human Rights in the Era of the Masses which the Libyan people assembling in basic people's congresses had agreed to release in 1988 where the first of its principles had read: "The Libyan people exercise popular power directly and without representation at the level of people's congresses and committees." The Libyan people asserted their right to directly exercise power through the Freedom Promotion Act no 20/1991, the rules of which are deemed fundamental and void of all that is in contrast. To guarantee this right on the grounds, a basic law no 1/1375 regulating the *modus operandi* of the people's congresses and people's committees was issued.

The Declaration on the Establishment of the Power of the People and subsequent codes secure the right of the people to directly exercise their power and to partake in the management of public affairs. This legislation has defined mechanisms for enforcing this right in reality and ensuring effective exercise of the power of the people while banning any restriction likely to limit this practice and safeguarding the citizen on proceeding with it. It is not applicable thus in the Great Jamhriya that a citizen be punished for expressing his opinion via the basic people's congresses or in other direct democracy institutions.

On the Libyan people exercising power in a direct way, all categories were spared the sufferings other peoples in the world had to go through, and who are still struggling for a minimum level of participation. By virtue of having the power of the people in place, the participation of all citizens in public affairs is safeguarded and the culture of democracy is further strengthened.

### **Fifth: Right to Expression and Opinion**

Freedom of opinion and expression is one of the major human rights in which interest has been largely developed at present, thanks to multiplicity of means of accessing information that served to call forth human need to think, brainstorm and take action regarding issues and ideas brought up by such media. Cases in point are different newspapers, audio-visual broadcasts and modern means of communication spearheaded by the Internet.

The right to expression was adopted in international human rights instruments as a basic human right entitling all persons to freedom of expression and opinion as well as to elicit, receive and broadcast news and ideas by any means. This is an indication of the right every person has to sound out his opinion, express his viewpoint and disseminate these opinions and ideas via respective mass media, including the right to freely access a wide spectrum of information and to transmit them in written or

printed form or in a technical mould, however in terms of showing respect for the rights of others and ensuring protection of national security, public order and disciplinary norms.

The Great Jamhriya has attended to the citizen's right to express his opinion by including this right and the related practice of its concretization in its baseline documents.

The historic declaration of the power of people in 1977 of last century contains what is beyond expression in its traditional concept, when it conferred on the citizen in Libya the right to express his opinion on public affairs put forward to the basic people's congress. This was confirmed by the Great Green Human Rights Charter in its Article 5 providing for "the sovereignty of every individual in the basic people's congress to guarantee his right of expression in the open air". The Charter also stressed on shunning violence in imposing ideas and opinions. Article 19 of the Green Charter ensures for every citizen the right to creativity, freedom of thought, research and innovation.

The Freedom Promotion Act provides for the protection of the citizen on exercising his freedom to express his opinion. Its Article 8 stipulates for the right of every citizen "to express his opinion and ideas and to speak them out in people's congresses and through mass media." The Act also banned "Invoking calls for ideas and opinions clandestinely."

In practice, legislation governing and regulating media and press conditions allow every citizen to publish all that he wants to in newspapers, magazines and books; he as well has the right to express his opinion vis-à-vis issues projected in audio and visual broadcast.

At the radio level, the Law has ensured for the Libyan citizen the right to participate in the discussion transmitted live in the radio of the Jamhriya. The Libyan citizen also has the right to participate in local broadcasts found in all municipalities respectively.

As for the TV, the Libyan citizen now watches a considerable number of Libyan and satellite-borne channels. Besides visual channel 1 of the Jamhriya, there is also channel 2, youth, and sports Libya channels, El Hedaya, Al Badeel, Al Motwaset, Al Tawasel and others.

Expression in the Press is widespread through various daily newspapers at the national and vocational levels. Below are some publications issued in the Jamhriya; for example:

### **Dailies**

The New Dawn (Al Fajr Al Jadeed) - the Sun Newspaper - Al Jamhiyria \_ Green March (Al Zahf al Akhder) - Ouya - Quryna Al Asala – Al Batnan - News of Tobruk (Akhbar tobruk) El Shalal (Waterfall)- Ajdabiya News - Benghazi News Al Jamahir, Al Shatt (the coast newspaper), Ghardabaya al Sharara- Al Jabal News- Almargib– Al Jufra newspaper - Drdnil Tripoli , the Coast Valley (Wadi el Shatte'e) Five Points (Al Neqat al Khams) –Marj Newspaper –Valley of Life (Wadi el Hayah – Message of the Desert (Resalat al Sahra'a), acacus Green Flag newspaper – Western Mountain (Al Jabal al Akhdar) Aljafarah - Tripoli Advertising - Al Ghat - Sirte - Nalut - Kufra

### **Magazines**

Al Biyt Magazine (House Magazine) - Alamal Magazine (Journal of Hope) - Companion Magazine (Al jalis) - Journal of Cultural Affairs - Journal of Media Research - Theatre and Cavalry - Heritage of the People - Green March (azzahf alakhder) - Journal of Arab Culture - Ovannin - The Conference (Al Motamar) – Spaces.

### **Professional Newspapers**

Islamic Da'wa newspaper - Al Fateh Journal - Newspaper of Justice (al Adala) - the producers - Money and Business -



Journal of Youth and Sport - –Volunteer – Fighting Echo (Sada as Mokafaha)\_ Print – Mezan (Libra) - –Garyounis - Raya newspaper -the Student (AlTaleb)

#### **D. Professional Magazines**

The Domain (Al Majal) –The Complex (Al Mojamaa) –Journal of Real Estate – Platform (Al Menbar) – The Good Example (Al Oswa al Hasana) –Communication (Al Tawasul)- Al Refqa – Customs - The Four Seasons - N Magazine (nun) - Journal of Human Sciences - Torch Magazine - and hold fast (Waetasumu) - Studies.

#### **Sixth: Right to Movement and Residence**

The right to movement and residence is one of the rights closely related to human freedom, and it is deemed one of the basic rights, given its relevance to the right to citizenship and nationality.

This right was noted in all international human rights instruments such as the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights and the African Charter of Human and Peoples' Rights for 1981 we are talking about.

Humans have the right to move and reside wherever they want inside or outside borders. Some constraints on this right were mentioned in the International Law on Human Rights, (Article 4/2) of the International Covenant on Civil and Political Rights for 1966 placing restrictions in specific cases such emergencies, wars and others relating to State public security conditions.

The Libyan legislation did not prejudice this right in its content but rather abided by its determinants. The principle cited in the 1988 Great Green Human Rights Charter stressed that "sons of the mass society are free – in times of peace– to move and

reside". The Freedom Promotion Act no 20/1991 as well covered its in-house and off-shore dimensions, stating that "every citizen is free – in times of peace – to move and choose his domicile. He may leave and return to the Great Jamhiryra any time he wishes."

According to these two texts, it has been decided, in principle that, in times of peace, there will be no restrictions on the right to movement and residence inside and outside the country. This merely indicates that in times of war and under exceptional circumstances, this right may be subject to limitation. Also it may, summarily and in specific judicial cases, be restricted if crimes necessitating investigation and trial were committed.

The Libyan position regarding this right is an embodiment of the stipulation contained in Article 12 of the African Charter of Human and Peoples' Rights for 1981 citing that "each person has the right to free movement and choice of his domicile within the State concerned provided commitment to provisions of the Law is observed", and that "each person has the right to leave any country including his own, as much as he has the right to return to his country. This right shall not be subject to any constraints unless otherwise provided in the Law and believed necessary for national security, public order, health and public morals.

## **Seventh: Right to Equality**

Right to equality is one of the basic civil human rights. Human dignity is the origin of human rights and is only viable by ensuring that all people are equal before the Law and that there is no discrimination on the basis of gender, color, religion, nationality or social security.

This right was enunciated in all international human rights instruments including the African Charter of Human and Peoples' Rights for 1981, subject of the Report which, in its Article 2, provides for "the right to indiscriminate treatment in enjoying rights determined in the Charter", and in Article 3 in: 1) endorsing "equality before the Law" and 2) stipulating for "equality in terms of protection before the Law".

The right to equality is multi-faceted. It is the right of the individual to be treated without discrimination no matter the reason. He shall be entitled to be treated as equal before the Law in taking its relevant provisions as reference whether regarding rights and obligations, or protection, or labor and civil service.

Libyan right-specific declarations and charters corroborated and assured this right. In the First Statement of the 1969 Revolution, it was noted that "all people are equal where no one shall be disadvantaged or subdued". In the Declaration on the Establishment of the Power of the People, the right to political exercise of power is warranted for all citizens without discrimination for any reason whatsoever. Defending homeland is the responsibility of all citizens without discrimination. Concerning the 1988 Great Green Human Rights Charter in the era of the masses, the stipulation of its Article 21 is evident in approving gender equality, stressing that sons of mass society, men and women, are equal vis-à-vis whatever is deemed humane since differentiation between men and women in terms of rights implies unjustifiably flagrant injustice. The provision cited in Article 17 of the same Document is a precursor to the principle of non-discrimination reading that "sons of mass

society reject differentiation between humans for considerations of color, sex, religion or culture."

These mass humanitarian leanings have been duly instated in the Freedom Promotion Act no 20/1990 as well as in many other legal provisions such as the Libyan Administrative Law on civil service functions, the Criminal Law on incrimination, punishment and trial, the Fiscal Law on determination of taxes and charges, the Civil Service Law regarding public posts, the Law on the power of the people in the course of regulating exercise of this power, and people's selection of congresses and committees as well as the National Service Law and the other social and economic laws including the Law on Child and Family, etc... The general rule underlying Libyan legislation is founded on facts that all are equal before the Law and in protection of the Law; and that treatment on discriminatory basis is categorically rejected and punishable administratively and criminally. Therefore, Libya is committed to apply and effectuate provisions of Articles 2 and 3 of the 1981 African Charter of Human and Peoples' Rights.

### **Eighth: Right to Prosecution**

Human right to have access to justice for fairness against violation of basic rights is considered one of the inherent well-established principles in international instruments concerned with human rights. Each person has the right to present his case before an independent fair tribunal to claim his rights and to contest the charge pressed against him. A human is innocent originally speaking unless proved guilty by a public court in the course of which necessary guarantees for his defence shall be provided.

The right to have recourse to natural justice is a human right on the grounds that it ensures equity meaning that one goes to the court fully assured of holding on to his right and that he will not be suppressed. All states have pledged to respect this right and safeguard it for their citizens, and ward off any and all measures interfering with its realization.

The citizen's right to bring his case before a fair judge and a public, independent, impartial legally-established court is, honestly and precisely, a sacred respectful right in the Jamihriya that is set forth in background documents and ordinary codes.

Baseline documents, primarily the Great Green Human Rights Charter and the Freedom Promotion Law undoubtedly assert that judicial provisions in Libya are intended, inter alia, to guarantee individual rights and freedoms. The Green Charter in Article 7 states that "the mass society shall guarantee the right to litigation and independence of the Judiciary and that the accused shall be entitled to a fair and impartial trial", since judges are independent and overruled solely by law and conscious. Individuals are supplied with all safeguards including assignment of attorneys by the community if this is not personally affordable.

The Libyan Supreme Court, being the highest-level in Libya, and competent to oversee law enforcement and interpretation, reaffirms human right to fair trial and that litigation should be left open to individuals, being a natural human right established to the entire satisfaction of human conscious and dictated by rules of optimal justice. No doubt, principles laid down by the Supreme Court is a sublime legal value-added to the Libyan judicature, with Article 30 of the Supreme Court Law no (6) for 1982 citing that legal principles thrashed out by the Supreme Court is binding to all courts and all other authorities in the Jamhirya.

Respecting ordinary legislation, procedures related to the right of prosecution are adequately provided through the Civil Procedure Code, Criminal Procedure Law, judicial administration principles and Judicature Act. In pursuance of the above laws, every citizen whose basic rights are subject of breach, shall have the right to access justice whether this violation was relevant to material or moral injury or to criminal crime by other individuals or the State or non-State legal persons, also failure to execute any court judgment is deemed a criminal crime. The Judicature Act ensures distribution of courts according to domestic or specific realm of competence, thus rendering exercise of the right of litigation smooth and simple. Moreover, human right to appear before natural justice is established as a principle in the Libyan judicature; also exceptional courts for trying particular persons in a discriminately privileged manner do not exist.

## **Second Part: Economic Rights**

## **Part II: Economic Rights**

Economic activity represents one of the major factors impacting on human rights either in the affirmative or in the negative. States accordingly develop considerable interest in keeping this activity under control by putting in place sufficient guarantees in protection of economic human rights believed to be the basis for decent human living and means of subsistence. Among the most protected of these rights according to the African Charter of Human and Peoples' Rights are rights to property (Article 14), to labor (Article 15), to wealth (Article 21) and to development (Article 22).

In fulfillment of its international commitments as party to this Charter, the Jamhriya undertook to adopt an array of legal and practical procedures for the effectuation of these rights and freedoms within the domestic legal system as follows:

### **First: Legal Procedures**

Besides basic laws providing for the protection of these rights, the Libyan legislator has been enacting in commensurate with the development and requirements of the international community, thus his legislation were mostly up-to-date especially during 2008 – 2010 and running parallel with these prerequisites as part of the transformation of the Libyan community into one that is in control of its power and wealth which represents the best guarantor of its rights:

**1- Property Right:** is a sacred right guaranteed for all sons of the community. It is inviolable unless for public interest and necessarily with fair compensation in accordance with provisions of effective laws. Article (12) of the Great Green Human Rights Charter in the era of the masses confirmed protection of property right, reading: "The sons of the mass society are free from feudalism. Landholding is not exclusive. Everyone has the right to exploit land as usufructuary in terms of occupancy, agro-business and pastoral activity during lifetime



and his heirs' life within the limits of his level of effort and satisfaction of his needs.

Article (2/11) of the above mentioned Charter also underpinned the sanctity of production ownership, citing that "The mass society is one of partners not of employees. Ownership as the outcome of effort is deemed sacred, protected and inviolable unless for public interest and in return for fair compensation

What actually distinguishes the Libyan economic system from other systems is the fact that the former, besides being founded on liberalization of human needs, it premises this liberalization on the protection of human effort and therefore the output of this effort is considered a cherished sacred property.

Article (12) of Freedom Promotion Act no (20) for 1991 stipulates that "Private property is sacred and inviolable if it fathoms a legitimate reasoning and is free of exploitation of others and aloof of their material or moral impairment. It is forbidden to be put to use in contravention with public order or disciplinary morals. Expropriation is only admissible for purposes of public benefit and in return for fair compensation".

Within this framework, Article (1) of Law no (11) for 1992 on some provisions on real estate property stipulates that "Housing is an essential need for the individual and the family. Its ownership is sacred and inviolable. No one shall be denied ownership of his dwelling place except in cases determined in the law and in the manner it sees appropriate."

Article (11) of Law no (17) for 2010 on real estate registration and State properties stipulates that "Applications to substantiate ownership shall be submitted to real estate registration departments or offices within the jurisdiction of which the subject real estate of the persons concerned or their representatives is located."

Article (48) of Law no (17) mentioned above states that "All dispositions establishing, conveying, changing or removing

indigenous rights in-rem as well as final judgments proving any of which shall be registered. Failure to register the above mentioned rights, the latter shall not be established, or conveyed or changed or removed among persons concerned and third parties. Unregistered dispositions as well shall have no effect other than personal undertakings among those concerned.

Art. (52) of the above mentioned Law states that inherited real estates shall be registered in the name of heirs only on presenting the legal notification issued by the competent court to determine heirs, indicate their respective shares and register inheritance right.

In turn, Law no (9) for 2010 on Investment Promotion has approved guarantees for the investor be he national or foreigner. To this effect, Art. (23) of the same Law noted that "the nationalization, expropriation, forced seizure, confiscation, sequestration, placing in custody or freeze of the given project or subjecting it to procedures having the same effect shall be only admissible by virtue of law or legal judgment and in return for fair compensation.

Within the framework of indemnifying the citizen in the event of expropriating his property for public interest purposes, the General People's Committee issued decision no (294) for 2010 on defining real estate valorization bases and controls in effect at real estate offices as well as decisions no (195/2006 – 108/2006- 66/2006) on the formation of committees entrusted with estimation of damages and related compensation procedures.

**2- Labor Right:** Labor Law no (58) for 1970 regulated working relations between workers and different employers. Upon the issuance of the Green Book and the Great Green Human Rights Charter, these relations have developed into partner rather than employee relations, with this statement ensuring wide-scale protection of human effort, signaling a landmark transformation in adjusting work relations and securing their protection against exploitation. The Libyan legislator thus has adequately attended to this right and issued many laws, decisions and operational procedures in application of the articles of the Charter.

The most critical of these laws and documents is the Great Green Human Rights Charter with its Art. (11) stating that:

"The right to work is one of the basic human rights. The mass society guarantees labor right. Labor is the obligation and right of every individual. "As for the Freedom Promotion Act, it emphasizes the right of every citizen to work and to freely choose the work he deems suitable and to enjoy its output as provided for in Articles (10) and (11) of this Law.

The new Labor Law issued on 22/11/2010 under the title of "Working Relations Law" assuredly furthered and effectuated guarantees of economic human rights. Perusing this Law, features promoting protection of human right to work can be recorded briefly as follows:

- 1- The Law applied equality of treatment between workers of public and private sectors in terms of right to labor, freedom of worker and equality of employment, thereby doing away with discrimination between types of work, between workers and with regard to benefits accorded to each sector;
- 2- The Law duly regarded labor right as human right to effort output, thus preventing exploitation by one another;
- 3- Based work relationships chiefly on economic unity to help create a productive rather than a consumer community thereby underscoring freedom of society, its control over its destinies and ensuring its self-reliance. (Art.12)

- 4- Expanded leave approvals taking into account social and health conditions of workers;
- 5- Adopted the principle of equal pay for Libyans and foreigners;
- 6- Codified household service and prevented exploitation of domestic servants;
- 7- Applied equal work remuneration. Art. (21) stated that financial return of work of equivalent value should not be determined on the basis of sex, ethnicity, religion or color;
- 8- Supported insurance of women workers' rights by stressing the inadmissibility of women employment in businesses not suiting their nature and status and allowing them latitude to do the job they like;
- 9- Mandated that the employer take the necessary action to apply medical insurance for workers and employees;
- 10- Established an advisory council to be entrusted with determining work remuneration in view of economic developments (art.19), a procedure for protection of individuals' pensions;
- 11- Established employment offices and rendered it obligatory that these offices monitor women looking for job opportunities to help them with their quest; (art.6)
- 12- Stressed on financial incentives for workers and employees; (art. 146)
- 13- Attended to adequately train workers and employees and enable them to follow up on scientific developments; (art.142)
- 14- Mandated guaranteed services and transactions for the employee during his service period by the department concerned assigning persons to carry out these services; (art.146)

### **3- Health Care, Insurance Rights and Right to Work**

The principle of social justice in all areas has been and still is the goal of all peoples. To achieve this end is the way to a civilized developed community that is up to meeting its aspirations and honoring its obligations. At the Jamhiryia level, a set of measures have been taken and means employed to improve health conditions of all citizens without exception, and several laws and regulations were issued to this effect. Each time basic people's congresses happen to spare flaws of previous laws and work on updating favorable ones as is the case regarding Health Law no (106) in 1973 and Social Security Law no (13) for 1980.

Early this year, Law no (20) for 2010 on health insurance was issued, guaranteeing for every worker living in the Jamhiryia the right to treatment of different types gratuitously through payment of subscriptions by public and private employers in favor of their staff in medical insurance institutions and contribution to the subscriber quota. This is mandatory for employers.

The legislator did not disregard unemployed citizens or very limited-income earners. Article (3) of the above mentioned Law stipulates that: "The State shall undertake to pay full medical insurance premiums for the following categories:

- 1) Widows, orphans and those in need with no guardian;
- 2) Those who have no income;
- 3) Limited – income categories;

The legislator has not left in the purview of executive bodies the delineation of medical insurance services but rather overtly made it optional for the citizen to exercise his right to medical examination and treatment in all clinics, centers, or with practitioners, specialists and experts, and to access services extended by family doctors, lab analyses and tests, x-rays, hospitalization, and surgeries, follow-up sessions and delivery operations for pregnant women and necessary medication and others which the patient needs throughout stages of illness.

The State has directly taken charge of financing health services such as those related to primary health care, health sensitization and enlightenment, combat of communicable and endemic diseases, vaccinations, chronic psychological and mental illnesses for gratis to all citizens.

The Law (20/2010) stressed that authorities concerned should duly extend medical services in compliance with established professional and ethical standards as well as approved scientific methods, taking into account medical progress achieved in this domain.

The Jamhriya thus has taken all measures necessary to increase leverage of health care for citizens in general and workers in particular by offering high-quality services in this field and sparing the citizen the burden of defraying costly treatment expenses. Only those who are able can pay nominal fees and the State shall pay for those who cannot afford.

#### **4- Law on Income Taxes**

Within the framework of safeguarding economic rights of individuals, Law no (7) for 2010 on income taxes was issued to expand the cover of protection regarding rights of limited-income categories by citing exemption from income taxes of mostly vulnerable brackets. In this perspective, the above mentioned Law provides in Article (33) for considerable exemptions reaching (14 cases).

Law no (9) for 2010 stipulated in Article (10) for tax exemptions in favor of investment projects.

#### **5- Investment Law**

The new Law treated as equal national and foreign investors in terms of privileges and rights with a view to rehabilitate and develop Libyan cadres and raise their level of efficiency as well as transfer and domesticate knowledge and achieve adequate development (Article 3) of the said Law, which is an application of Article (22) of the Charter.

The Law is set to scale up and diversify per capita income, exploit raw materials available and enable citizens to avail themselves thereof, (Articles 3+5+7) of the given Law.

All the above mentioned laws were aimed to introduce Articles (14, 15, 21, and 22) of the African Charter in the Libyan Law of relevance as a guarantee for economic rights that the State of Libya was committed to protect in front of the international community.

Further the Great Jamhriya went so far as to pursue practical procedures in affirmation and in support of protecting these rights, as made clear in the following item:

## **Second: Practical procedures pursued by the Great Jamhriya to give effect to economic rights and freedoms as articulated in the Charter:**

As mentioned before, reports outlined that the Great Jamhriya has not only pursued legal procedures to effectuate these rights, but also took practical steps to make laws on economic rights functional as part of a process putting in place economic and social decisions and structures that can be summed up as follows:

### **1- Property Right:**

Within the context of promoting property right, the General People's Committee issued decision no (294) for 2010 on the formation of committees for assessment of indemnities and application of procedures relating to compensation in return for expropriation of individual property for public interest, and in this respect, the amount paid in compensation was raised.

### **2- Labor Right**

Libyan state organs have applied a host of practical procedures to ensure labor right as follows:

#### **A- Employment Programs and Creation of Job Opportunities**

Providing job opportunities for job seekers is a priority issue for all world countries. The Great Jamhriya focused its efforts and resources on economic and social development programs, and harnessed massive budgets amounting to billions of dinars for the implementation of development-driven programs opening work avenues, not only for citizens but also for nationals of neighboring countries and African Union member countries. During 2007, for example, (43.122) job seekers were employed and (2385) were directed to training to remain afterwards in workplaces when their training period is over. Also 40762 incoming labor from all world continents were employed in



2007. This number rose during the first quarter of 2008 to reach (68208) by more than 80% increase and is expected to rise further upon the signing of contracts of giant economic and social development programs.

### **3- Training**

New trainees numbering (18432) for the training course 2007-2008 in addition to (38.432) trainees in advanced training centers amounting to (97) in number, have been enrolled. The number of medium-level training centers reached (384) with (80574) trainees, of whom (26761) were registered for the training course 2007 – 2008.

Albeit efforts made in the area of training in different and specialized training centers, off-shore training to raise efficiency and transfer technology was elementary and therefore (1977) trainees, males and females, were dispatched overseas to train in technical and technological fields.

### **4- Service and Production Loans**

Easy loans were granted to youth and also to surplus labor in the administrative body willing to diversify in terms of service and production projects as well as small and medium industries through loan funds and specialized banks. An employment fund was also established incorporating the diversification fund to which the necessary budget was allocated. Moreover, a monthly grant for job seekers was cashed pending their employment and loans taken out for their service and production enterprises.

Loans processed have totaled (43.695.044) million Libyan dinars covering (68) projects with a 5-year grace period and 20% exemption of loan and its interest, as well as exemption of all machines, equipment and raw materials from all customs duties and taxes plus exemption from income tax for five years. These loans amounted to 6596, 7 billion Libyan dinars in 2008

whereas in 2009, they were worth 44357, 8 billion Libyan dinars.

The Agrarian Bank has contributed to the lending program for job seekers by approving during 2006-2007 to process (403) loans worth 170 million dinars to the benefit of (1073) job seekers and in 2008 – 2009, this number of loans was largely doubled.

The Rural Bank performs a crucial role in developing remote and rural areas and creates job opportunities for residing workers to help them settle down. The number of loans granted in 2007 was (19.558) with a total value of (86.457) million dinars from which (5837) men and (4502) women have benefited, (4045) of whom on partnership basis, and (4274) as male and female job seekers.

The Development Bank offered individuals (681) loans with a financial value worth (172,713,849) million dinars during the period from 1/1/2007 through 30/11/2007 that contributed to the employment of (3682) citizens.

Real estate loans have amounted to (1278, 8) million dinars in the last quarter of 2009 in addition to social advances reaching an amount of (3192.1) million dinars in 2009.

## **5- Basic and Security Pensions**

The Great Jamhriya has devoted overriding interest to the provision of full-fledged social protection and care as endorsed in the Social Security Law no (13) for 1980 which is believed to be one of the most up-to-date and distinctive laws in the area of social security, having emphasized in Article (1) that "Social security is a right the community guarantees for all citizens. It is also protection for non-native residents."

The same Article has made it clear that social security involves a system specifying any measure that is intended to provide protection and care in cases of old age, disability, illness, work injury, occupation maladies, loss of guardian, disruption of livelihoods, pregnancy and birth-giving, family burdens as well as in cases of disasters, emergencies and death. Social security also covers social care to those who are not sponsored by their children, boys, girls, people with special needs, the disabled, the elderly and juvenile delinquents. It also relates to industrial security measures and procedures, handling with care cases of work injury and occupation maladies, rehabilitation of patients, the injured and the disabled. Family is well attended to through extension of material and moral assistance based on mentioned above legislation.

Law no (16) for 1985 on basic pension for citizens (Article 1), the right to basic pension without paying subscriptions in return by those eligible for it, or in other words the protection system in this manner is a pension rather than remuneration system, i.e. the beneficiary of a basic pension fund obtains money that is enough to secure for him a decent life even though he does not pay any subscriptions.

Basic pension entitlement is extended to several brackets defined in the law such as: the elderly, the disabled, widows, orphans, families of the provisionally imprisoned, those executing court judgments as well as families of the lost, the absent, the captive, and the released after serving their sentence

until they get back to work, as well as returnees from the Diaspora and others.

Basic pension for those entitled to it was increased to more than double the amount pursuant to the decision of the People's General Committee no (277) for 2006 along with the contribution to upgrade the level of limited-income families to lead a fairly good life, by distributing wealth in cash money to each family and buying its members investment equities in production and service companies within the framework of wealth possession as will be explained later.

Women also are entitled to all rights including employment and profession. Discrimination against women is banned in the Libyan Arab Jamhiryat in accordance with effective laws ensuring equality with men regarding all that is humane. This was corroborated further in the provision of Article (91) of Labor Law no (58) for 1970 stating: "Without prejudice to the provisions of the following articles, all regulatory provisions respecting employment of workers without discrimination in the same work, are applicable to juveniles and women". Article (95) of the same Law provides for "the inadmissibility of employing women in hard or hazardous work" Article (31) of the same Law stipulates that "differentiation in wages between men and women if conditions and nature of work were the same is not allowable". As previously pointed out, the items cited in the Great Green Human Rights Charter stresses in Article (21) that sons of mass society, both men and women, are on an equal footing vis-à-vis whatever is deemed humane since differentiation between men and women in terms of rights involves groundlessly flagrant injustice".

Freedom Promotion Law no (20) for 1991 also laid emphasis on the principle of gender equality with Article (1) noting: "Citizens, males and females, in the Great Jamhiryat are equal in rights, and their rights are inviolable".

## **6- Right to Establishment of Syndicates**

Syndicate freedom is guaranteed by virtue of laws in force in the Great Jamhriya, one of the countries that ratified international conventions on this freedom, which are:

- International Labor Convention no. (87) for 1948 on Syndicate Freedom and Protection of the Right of Organization
- International Labor Convention no. (98) for 1949 on the Right of Organization and Collective Negotiation;
- Arab Convention no (8) for 1977 on Syndicate Freedoms and Rights;
- Arab Convention no (11) for 1979 on Collective Negotiation;

National legislation has stipulated for syndicate freedom. In Article (6) of the Great Green Human Rights Charter: "Sons of the mass society are free to establish trade unions, syndicates and associations in protection of their professional interests".

Freedom Promotion Law no (20) for 1991, in Article 9, cites: "Citizens are free to establish syndicates, trade unions, vocational and social associations, and charity societies and to accede thereto in protection of their interests or for the realization of the legitimate purposes for which they were instituted".

The Jamihriya, as a party to these conventions, is committed to submit annual reports on legal and practical procedures it applied to make these conventions operational as far as the Libyan domestic law was concerned. Its presence is also particularly impressive before the Experts Committee affiliated to and at conferences of the International Labor Organization (ILO).

## **7- Right to Wealth**

The Jamhriya has developed several programs to enable citizens to benefit from the wealth of their country without

discrimination and in a manner that ensures that the society is not divided into classes.

The call echoed by the Leader and which he has often emphasized in his statements that is aimed to distribute oil revenues accrued to the citizens in the form of amounts of money or services, has forged as a platform for action adopted by people's congresses with a view to pursue procedures enabling citizens to benefit from these riches.

In practice, the first step towards wealth distribution was by enumerating limited-income families and offering them residential, agrarian and production loans and investment portfolios. The second stage was to support their modest economic situation and help them lead a better life. The volume of these portfolios starting 2007 to date could be put as follows:

- Number of investment portfolios up till 30/6/2010 was (230852);
- Paid cash distributions to citizens from 2007 through 30/6/2010 were:

A. 2007	500.000.000 million Libyan dinars
B. 2008	699.000.000 million Libyan dinars
C. 2009	849.000.000 million Libyan dinars
Total Value:	2.616.000.000 million Libyan dinars

## **Part III: Social and Cultural Rights**

## **Part III: Social and Cultural Rights**

### **First: Right to Health and Health Care**

Health Law no "106" for 1973 in Article 1 provided for "**Health and medical care as an established right of citizens that the State undertakes to provide**". Article (50) of the same Law cites that: "**Medical treatment and its affiliates in hospitals, sanatoriums and treatment units, with their different types and names that the State creates, shall be an established right of every citizen and all are on an equal footing**".

Within the framework of making these articles functional, major accomplishments of the Great Jamhriya in the area of health had materialized over the past decades as reflected in higher average life expectancy of 72 years for both sexes, while maternal mortality rates were brought down to 23 deaths for every 100,000 live births, and infant mortality rates to 17.6 deaths for every 1000 live births, and under-five children to 20.1 deaths for every 1000 live births. Along this line, the Jamhriya is steadily heading towards the achievement of the Millennium Health Goals, having become free of contagious diseases (such as small pox, polio, tetanus, leprosy, cholera and yellow fever). **The Jamhriya is among the leading candidate countries to be declared free of measles.**

### **Concerning health resources:**

- There are 10,414 doctors, 3,169 dentists, and 1049 pharmacists, along with 38,387 nursing staff and 16075 health technicians, thus achieving the indicator of 19 doctors, 68 nurses, 6 dentists and two pharmacists operating in public utilities for every 10,000 citizens.
- The Medical Specialization Board is a substantial source for providing doctors and assistant specialists where 5180 trainees in 12 fields of specialization are trained by 593 trainers. This



Board had previously awarded medical specialization certificates to 428 doctors.

- In the field of health utilities, (1424) facilities in the area of primary health care have been implemented at a rate of (2.6) facilities for every 10,000 citizens. The number of hospitals amounted to 97 containing 20689 beds, putting the general rate at the family level for every 10,000 citizens at (38) beds.
- As for medical infrastructure, advanced radiology equipment were supplied, 40 computerized tomography scanners, 20 machines for magnetic resonance imaging, 9 instruments for angiography and 5 for radiotherapy.

## **Health Services Extended to Citizens during 2009:**

- Frequency rate at primary health care facilities and poly clinics for 2009 is estimated at 2.7 times per capita. Public hospitalization covered 624,973 cases, 158,364 delivery operations and 121,000 surgeries.
- At the level of health services, the compulsory vaccination coverage percentage ranged between 95 – 100%. Further, 99.88% of deliveries were performed with medical care at different health facilities.
- In the area of artificial kidney services, dialysis services were extended to 2487 patients in 38 dialysis centers using 897 dialysis machines. Also 46 renal transplantations were performed.

## **Second: Health Environment**

The Great Jamhira attaches paramount importance to environment health preservation especially against a backdrop of variegated environmental phenomena threatening mankind. To face this, the Jamhira has adopted an array of legal and executive procedures to help preserve the environment and provide a space for the citizen to live soundly.

### **1- Executive Procedures**

#### **A. National Program for Environment Health**

This Program is aimed to achieve a set of aspired national policies for the protection and health of the existing environmental situation and the rectification of wrongdoings in order to ensure besides preservation of natural resources, rationalization of their consumption and securing of their sound investment, redress of different environmental pollution problems and elaboration of effective and sustainable development programs. The Program offers a package of

proposed environmental projects with targeted implementation according to specific time frames, based on allocated resources in defined areas of phased action, hence is their formulation in packages to form file groups serving various dimensions and domains of the environment. At a later stage, projects will be either directly supervised, managed and operated by the Environment General Authority, or put to tender for implementation, management, operation or investment by other parties be they public, private or national or if necessary, with foreign participation. Projects were designated as follows:

- 1- Environmental Waste Management Project
- 2- Environmental Pollution Control and Monitoring Project
- 3- Nature Protection and Desertification-Combating Project
- 4- Environmental Education, Sensitization and Culture Project
- 5- Legislation and Domestic Laws Updating Project
- 6- National Plan for Response to Environmental Accidents and Disasters Project
- 7- Hazardous Pesticides Resistance Project
- 8- Coastal Region Environmental Management Project
- 9- New and Clean Energy Project
- 10- Integrated Environmental Management Project

## **B- Rodent Control**

Recognizing the danger of rodents and related health, environmental and economic problems, the Environment General Authority has set up a national committee to develop a national plan for rodent control which, in effect, conducted its work as follows:

- 1- Enumeration of and research on rodents;
- 2- Development of a training program in the area of controlling rodents with the help of specialized professors from national universities and research centers;
- 3- The Libyan Program for protection of sea turtles

Sea turtles belong to reptiles living in seas and oceans millions of years ago and are always in need of going out to land in specific seasons to lay their eggs on the beach sands. However due to increased human pressure on this marine living creature over the past decades whether by poaching or in connection with different sources of pollution, it is threatened with extinction worldwide. Therefore, the Libyan Program for sea turtle protection was devised to:

- 1- Follow up on the activity of sea turtle nesting in particular locations;
- 2- Protection of the largest number of nests possible and insurance of the exit of small turtles from the sea;

## **2- Legal Procedures**

In this respect, the Environment General Authority has developed legal procedures and measures in execution of provisions of Law no (15) for 1375 Hij on environment protection and improvement as represented in the following:

- Draft Executive Regulation on environmental impact assessment of Projects;
- Draft Executive Regulation on hazardous substance management;
- Draft Executive Regulation of Law no (2) on protection against radiation;
- Draft Executive Regulation on agricultural pesticides management;
- Draft Executive Regulation on integrated medical waste management;
- Draft environmental requirements relating to air;
- Technical conditions pertinent to oil waste and fuel exhaust;
- Draft national plan in response to environmental emergencies;

With regard to the training and rehabilitation of technical cadres in the area of environment, the Environment General Authority

recognized that interest in environment is basically associated with capacity-building and gearing of human resources for conduct of work and accomplishment of tasks relevant to environment protection and improvement at different levels with special emphasis on human development in terms of the environment. Accordingly, the Authority devoted special interest to training and rehabilitation processes for staff operating in the field of environment, taking into consideration the significance of this approach in keeping with global scientific developments on the basis of annual training plans and programs covering staff working in the Authority and other environment-related sectors.

### **Third: Right of Education**

Education in Libya is the springboard for the formation of intellectual, cultural and conscious-specific components for the preparation of the individual to become an effective citizen in the society. Hence was the interest in education institutions and the promotion of their human and material constituents which are part of overall development efforts at the community level to cope with global scientific and technological advancement.

The educational policy in the Jamhirya hinges on setting technical frames, building humans and preparing generations to take their responsibility. It is also essentially linked with principles of justice and equal opportunity and its relation with these values is determined by the nature of the people-based rule regime and philosophy which the educational philosophy contributes one of the major tributaries of this regime.

The educational policy is designed to achieving interdependence and integration of components of the educational system, its tracks and different types; from basic to university education and from public to vocational education.

## **1- Legislation Regulating Education in Libya**

The Constitutional Declaration issued by the Revolutionary Command Council on the 2<sup>nd</sup> of Shawal 1389 Hij corresponding to 11/12/1969 cited in Article 14 that "education is a right and obligation of all Libyans. It is compulsory until the termination of the preparatory stage which the State is responsible for providing by building schools, institutes and universities as well as cultural and educational institutions on gratuitous basis. Cases permitting the establishment of private schools shall be regulated by the law".

Article (2) of Law no 134 for 1970 on education has put forward best means and ways of disseminating education all over the country within the limits of the general plan of the State and ensuring equal opportunity for all citizens in fields of education according to the needs of the country.

Along with the State's increased interest in education and leveraging economic and social standards of the individual, the Compulsory Education Law no (95) for 1975 was issued to underpin in Article (1) that "primary and preparatory education is compulsory for all children, boys and girls. In Article (2), it set the compulsory age at 6 years old. The Law advised the parent to register his son on reaching this age in the primary school and to make sure of his continuing and attending school regularly until the end of the preparatory stage. The Great Green Human Rights Charter of 1988 further promoted this right, sanctioning that education and knowledge are a natural right of each human who is entitled to choose, without direction or compulsion, the type of education that suits him and the knowledge that he finds appealing.

Freedom Promotion Law no (20) for 1991 stipulated in Article (23) that "each citizen shall enjoy the right of education and knowledge as well as choice of the branch of science that suits him. Monopoly or forfeiture of knowledge for any reason shall

be forbidden". Article (9) of Law no (5) on Childhood Protection states that "basic education shall be a right guaranteed by the society for its sons – normal or with special needs- who can afford it; it shall be compulsory and the child shall not be denied this right."

Rules regulating education assert that it is the right of every citizen, male or female, and that it is compulsory up till the age of 15.

Law no (5) for 1987 on People with Special Needs stipulate in Article (14) that basic education shall be a right and obligation for people with special needs so long they reached the age determined for this stage. Their elderly as well shall be entitled to benefit from literacy programs, provided that, on planning subject matters in both cases, disability conditions should be duly observed. Article (16) of the same Law noted that "the person with special needs, who completed his basic education successfully, shall have the right to continue his education."

Law no (18) for 2010 on education states in Article (1) that "education shall be the right of all and that the State shall be concerned with making it accessible to citizens under the sponsorship of public and private educational institutions, following up on its efficiency and controlling the quality of its outputs. The State further tends to encourage and expand private education which is also compulsory for citizens until the completion of the basic education stage.

Decision no 1386 of the 14<sup>th</sup> Session on the Draft Declaration on Child Rights under Principle 7 stated that" the child shall enjoy the right to education. Education shall be gratuitous and compulsory at least in its early stages".

Article (13) of the International Covenant on Economic, Social and Cultural Rights stipulates that "States parties acknowledge in this Covenant the right of every individual to education and are in agreement as to the essentiality of directing education to the development of a full-fledged humane character and the

ascertainment of his dignity as well as to the promotion of respect for human rights and basic freedoms.

It can be safely admitted thus that Libyan legislation has incorporated the right of all members of the society, males and females, in villages, the countryside and cities, to education which is compulsory and for gratis.

## **2- Indicators to Development of the Educational System**

Libya moved forward by leaps and bounds as far as education was concerned and achieved successes marked with massive accomplishments in its bid to keep up with advanced societies and contribute to the scientific and technological advancement the world is today witnessing through building human cadres capable of sharing in the foundation of the society of knowledge, creativity and innovation and furnishing education opportunities for all social categories, males and females, in different geographic regions, rural and urban.

Prompted by the general objectives of the educational system in the Great Jamhriya and in implementation of the decisions of the basic people's congresses and directives of the Revolution Leader on guaranteeing human rights, several themes were included in the Libyan syllabuses, most notably;

- Teaching the Green Human Rights Charter in the mass education syllabus. The Charter emphasizes human rights and non-discrimination between males and females or due to color or ethnicity.

The education sector also has attended to the establishment and maintenance of school and university buildings and utilities with adequate budget earmarked for the building of "179" schools in administrative divisions as well as "23" university campuses in different parts of the Jamhriya.

In continuation of the educational process, the Sector was dwelt on making available laboratories, equipment, school and office furniture for all educational institutions and satisfying their school health needs.



Work is in progress in the final stages of the National Computer Program intended to supply (4300) computers for installation in educational institutions, whereby the Jamhriya is believed to have taken wide strides in this direction.

The People's General Committee on Education and Scientific Research has embarked on a number of applicable procedures and programs with the aim of developing exams and evaluation and measurement methods and making them more transparent and accurate, including expansion of the e-exam experience while enabling students to check their results via the internet and local area connection.

The Education Sector also was interested in training mentors and upgrading their level of efficiency through the institution of the General Center for Training Teachers and the development of training and rehabilitation plans and programs with the necessary budget needed for their implementation.

The People's General Committee on Education and Scientific Research fostered private education and expanded its domestication by laying down plans and programs to help serve this purpose.

The Sector meanwhile took good care of post-graduate students and programs at home. It also undertook to nominate, dispatch and watch over post-graduate students abroad, remove obstacles on their way, resolve problems they face and allot sufficient budgets for universities and higher institutes implementing post-graduate programs.

The People's General Committee on Education and Scientific Research has paid special attention through the National Authority for Scientific Research to scientific researches and studies undertaken by universities and higher institutes as well as research centers affiliated with the Authority.

The Sector also paid special attention to school and university activity by developing plans and programs and appropriating necessary funds for their implementation plus meeting related needs.

It furthered cooperation relations with sisterly and friendly countries as well as Arab, regional and international organizations through giving effect to scientific and cultural cooperation agreements, exchanging teaching staff and scholarships and benefiting from programs in advanced countries.

One of the developments undergone by the Education and Scientific Research Sector is the introduction of the Education Office for Students with Special Needs which was established upon the decision of the People's General Committee no (665) for 2009 to implement the National Merger Project and give effect to Law no (5) for 1987 on People with Special Needs and its Executive Regulations.

A decision was issued to the effect of steering schools to deal with students with special needs in their bid to incorporate into educational institutions under the Merger Program. There are currently (507) schools under steering. The Program is also dwelt on raising the level of awareness in the schooling environment, covering all categories; students, administration, teachers and the society in general. A national register for merging to enumerate students with special needs was established.

The Assistant Teacher Program was approved to prepare (250) assistant teachers under training to support students with special needs in public education and to help merge persons with mental needs (moderate and average).

### **3- Figures and Statistics Featuring Education Status Quo in the Jamhirya**

Libya is one of the pioneer countries globally speaking in scoring high rates of school enrolment and distribution of educational opportunities between men and women in all stages of education. Below are indicators of this performance:

**Table shows rates of basic education enrolment  
of Libyan students of age category (6-11)  
Part 1: (12-14) Part 2: of population according to census  
During periods from (1973 – 1995) and (1995 – 2006)**

Year	Percentage% / 1995			Percentage% / 2006		
	Males	Females	Total	Males	Females	Total
Part I	38.08	39.74	38.8	46.65	41.19	43.08
Part II	20.76	21.01	20.8	25.63	23.57	24.6
Both Parts	58.84	60.75	59.76	72.28	64.76	68.40

**Table shows number of students (males and females)  
In the first and second parts  
(First Part from 6 – 11 years, Second Part from 12 – 14 years)**

Grade	Number of students for the academic year (2008 – 2009)		
	Males	Females	Total
Part I	326981	309602	636583
Part II	185940	181271	367211
Total of the two parts	512921	490873	1003794

**Number of Students Enrolled in Basic Education in Mixed Schools  
for the Academic Year (2008 -2009)**

Males	Females	Total
481419	462041	943460

**Gender-based Numerical Distribution of Students Enrolled in the  
Basic Education Stage for the Academic Year (2009 – 2010)**

Males	Females	Total
<b>Basic Education</b>		
477364	442844	920208

**Gender-based Numerical Distribution of Students  
Enrolled in the Secondary Education Stage for the  
Academic Year (2009 – 2010)**

Males	Females	Total
<b>Secondary Education</b>		
73562	94047	167609

**Gender-based Numerical Distribution of Students Enrolled  
In the Basic Participatory Stage for the Academic Year  
(2009 – 2010)**

Males	Females	Total
<b>Basic Participatory Education</b>		
39262	39110	78372

**Gender-based Numerical Distribution of Students Enrolled  
In the Secondary Participatory Stage for the Academic Year  
(2009 – 2010)**

Males	Females	Total
<b>Secondary Participatory Stage</b>		
9322	9957	19279

**Numerical Distribution of University Students  
For the Academic Year (2008 – 2009)**

Libyans			Non-Libyans		
Males	Females	Total	Males	Females	Total
103214	184926	288140	3659	3605	7264

**Numerical Distribution of University Teaching Staff  
For the Academic Year (2008 – 2009)**

Libyans			Non-Libyans		
Males	Females	Total	Males	Females	Total
14270	2032	16302	2211	487	2698

- The number of male and female teachers in the basic education stage for the academic year (2009-2010) totaled (28401)

- As for the number of teachers (males and females) in the secondary education stage, it has reached for the academic year (2009-2010) a total of (28401), some with schedules amounting to (23844) in number and (4557) as substitutes.
- The advancement of the educational process in the Jamhriya is further evidenced in the number of people enrolled in literacy and adult education classes for the academic year (2009-2010) where the total number was put at (3318) distributed as (306) males and (3012) females who receive education in schools in different administrative divisions in the Jamhriya.

#### **Fourth: Housing and Utilities Sector**

Providing a decent healthy dwelling for each family is one of the main goals of the Development Program and is considered to be a human right of the Libyan Arab individual. The Housing and Utilities Sector has been over past decades subject of considerable interest on the part of planners and specialists.

As a point of departure, the importance of dwelling and the State's desire to contribute to making it available on easy terms versus increased demand on housing as a result of normal population growth as well as social and cultural changes the society is experiencing, the Housing Program targeted appropriate housing policies to reduce the current deficit and to face future needs through the building of new residential units that are adequate, systematic and spatially distributed in a good manner to meet anticipated upward housing requirements. The Program is also slated to provide building materials and implement integrated utility projects involving water supply and sanitary drainage systems, gas, paving roads and building bridges.

Housing programs in this stage are designed to reducing deficit in the housing stock as the State was committed to defray all administrative, contractual and financial expenses, which resulted in implementing thousands of residential units during this stage. The general housing policy is built around the fact that the State is the guarantor ensuring provision of habitat for all individuals in the society. For social rights to become effective, the platforms and goals of the housing and public utility policy as well as the executive steps taken by State organs to make it a success can be stated as follows:

### **General Policies and Goals**

- 1- Considering abode as an essential need of the individual and the family. Every citizen has the right to have his own dwelling either from self-funded savings or through taking out a real estate loan or others. The State is obliged to provide for people who cannot afford it the proper healthy house to live in by financing it from the Public Treasury.
- 2- Conduct demographic, social, economic, environmental and health-related studies in connection with housing and urban development to specify residential needs, provide necessary services for densely-populated areas and eliminate under-development and shanty town phenomenon in these areas, while helping their inhabitants by offering them more suitable housing and creating integrated new villages and cities.
- 3- Develop urbanization studies on looking for new sites to provide job and housing opportunities and have national natural planning of third generation studies focused on furnishing housing locations that ensure high-standard living and improved residential conditions matching with future needs and requirements.
- 4- Develop plans, make available lands for construction purposes, and correlate the implementation process of these plans with urban development projects rendering basic services (potable water and sanitary drainage) alongside a formidable infrastructure of roads and utilities.

- 5- Address increased demand on housing through medium and long-term plans that take account of the current deficit as well as normal population growth needs together with replacement and compensation conditions in terms of housing stock.
- 6- Design cities taking into consideration the culture, customs and traditions and living conditions of the Libyan people as well as the number of family members depending on the environment and available potential.
- 7- Broaden the scope of cost-reducing studies to cover all related aspects without any additions or margins on housing cost that may cause it to grow higher. Housing should also be treated as a subsidized commodity that is tax and charge-exempt.
- 8- Draw up a plan recommending dependence on the national element in housing construction and boosting national companies and the private sector. The plan underlines sustainable rehabilitation and training programs for national manpower on re-planning basis to ensure promotion of the building and construction activity.
- 9- Encourage creditworthy public and private companies to provide infrastructure and public utilities to proposed plots and prepare them for building construction and either sell them as ready- for-construction plots or build on them for investment purposes.
- 10- Reactivate cooperative housing activity and support housing societies by designating lands suitable for construction and securing necessary funds for loaning their candidate owners.
- 11- Motivate the private sector and individuals and enhance their role in implementing some of the housing plan targets through creation of a suitable environment for carrying out real estate and housing investment activities.
- 12- Allot and register lands suitable for construction for investment companies in the field of housing and sort out the percentage of their contribution to the financing and implementation of public benefit networks in observance of conditions of remote areas.



- 13- Exempt investment companies, public and private, national and foreign, in the field of housing from taxes on profits for a period of five years to be calculated from the starting date of implementation and three years after sale, whichever is shorter, with the conditional undertaking to employ national manpower.
- 14- Conserve the existing housing stock and intensify maintenance and renovation works and amelioration programs as well as develop residential buildings and complexes and their utilities and services to upgrade the housing environment.
- 15- Devise programs and plans for the operationalization of infrastructure in areas of water, sanitary drainage, roads, electricity, gas, communication and other civil services throughout the Jamhriya while developing existing facilities and services and sustaining periodic maintenance of enterprises already implemented.
- 16- Give incentives to foreign investors and the private sector and activate their role in implementing projects of sea water desalination and wastewater treatment stations on the basis of construction, operation and ownership contracts.
- 17- Supply cities and compounds built along the banks of the great industrial river with its water and implement new integrated water desalination station projects with due consideration to quantitative and qualitative needs and integration with other water resources.
- 18- Increase quantities of potable water and purify it in conformity with approved standards and specifications. Expand the process of granting real estate loans by establishing financing funds and other specialized real estate or housing banks and providing adequate capital, while taking into account the financial potential of citizens on determining premiums to pay off loans alongside abidance by approved building terms and plans.
- 19- Allow commercial and specialized banks to offer real estate loans to companies undertaking to provide housing to its candidate owners (company housing), and extend credit facilities such as medium and short term loans to financing companies investing in the field of housing

## **Practical Procedures to make the Housing and Public Utility Policy a success**

The Jamhriya took measures to improve services extended to the citizen in the following manner:

- A) Real estate loaning through the Saving and Real Estate Investment Bank and commercial banks;
- B) Establish public companies to invest in housing;
- C) State appropriations for public housing;

### **Within this framework, the following achievements were demonstrated:**

- The number of existing units implemented in previous stages is estimated according to 2006 census at 951402;
- Expenditures allocated for housing projects and utilities in different areas for the past period have reached approximately 4.160 billion dinars. Implementation processes were conducted by the General Organization for Housing and Utilities, the Housing and Utility Project Implementation Agency, Saving and Real Estate Investment Bank, the Agrarian Bank (Ago-Housing) and the Municipality Management and Development Organ.
- In the field of utilities, a number of wastewater treatment stations were installed in addition to more than 7500 km long sanitary drainage networks. Several wastewater and rainfall pumping stations were constructed.
- Several water supply systems were applied with lengths of water supply networks and their main and sub-lines reaching more than 35 thousand kms, and more than 1000 underground and elevated water tanks, in addition to sea water desalination and underground water units to provide drinking water to citizens in all cities and villages of the Great Jamhriya.
- Projects of integrated utilities covering 41 cities in different administrative divisions and others of basic utilities for the remaining cities and compounds were implemented including:

- 1- Water supply systems for urban purposes (including provision of water from the sources, distribution networks, underground and elevated tanks and pumping stations, etc...);
- 2- Sanitary drainage systems (including networks for collecting and transport of wastewater, pumping stations and wastewater treatment stations, etc...)
- 3- Rainfall drainage systems;
- 4- Road networks (including digging roads and building bridges);
- 5- Electricity and lighting networks (including 11 kilo volt, transfer stations and street lighting)
- 6- Communication networks;
- 7- Gas supply systems (including gas tanks and distribution networks... etc)
- 8- Implementation of basic utilities for cities, villages and residential compounds numbering 141, including:
  - 1- Water supply, sanitary and rainfall drainage systems as well as road, electricity and lighting networks.
  - 2- Development of under-urban regions in some cities of the Jamhriya;
  - 3- Training and rehabilitation of 30,000 national elements who are graduates of intermediate institutes and raising the efficiency of 600 trainees for off-shore training, and around 600 trainees annually for in-house training.
  - 4- Updating maintenance systems for managing and operating public utilities in cities (wastewater, gardens and parks, solid waste and cleanliness of cities).

## **Part IV: Judicial and Legal Organization**

## **Section 1: Judicial Organization**

In this part, we will address the nature of the judicial organization in the Great Jamhriya, later we will move on to court types and levels and other judicial bodies. We will then take up terms of appointment of members of the judicial bodies. Finally we will come across some critical developments of the Libyan judiciary.

### **1- Nature of the Judicial System in the Jamhriya**

The Libyan judicial system is built around the notion of the unity of the judiciary. The Libyan legislator has declined to adopt the concept of the dual judicial system as is the case in many countries of the world which basically apply the Latin system to their litigation system. In the Great Jamhriya, only one judicial system is in place that is comprised of: Summary Courts, Courts of First Instance, and Courts of Appeal and on top of all these courts is one Supreme Court.

Judicial organization is dwelt on multiplicity of courts in response to two basic considerations; First: the vast geographic extension of the Libyan Region; Second: the desire to achieve quality justice by placing courts nearby litigants' domiciles. These courts examine civil, commercial and criminal disputes and personal status cases.

There are specialized circuits to examine some cases; for example the Department of Constitutional Jurisdiction at the Supreme Court that is exclusively competent to look into the constitutionality of laws to verify their conformity with basic laws; the Administrative Judicial Circuits at the Courts of Appeal exclusively competent to rule on requests of revoking illegal administrative decisions and determine due compensation as well as examine administrative matters relating to contracts.

All courts run their affairs in accordance with the Code of Civil and Commercial Proceedings and Code of Criminal Procedure alongside some additional provisions in the Administrative Law, Supreme Court Law, and Code of Personal Status Procedure.

**The Libyan Judiciary is currently regulating a battery of laws, namely:**

- 1- Judicature Law no 6/2006 regulating all functional affairs of the members of judicial bodies. These bodies are: Courts, Public Prosecution, Department of State Litigation, People's Law Office, and Law Department.
- 2- Supreme Court Law no 6 for 1982 amended by Law no 17/1994 regulating status of judges of the Supreme Court and modality of forming its circuits and running its affairs fully independently from the rest of the judicial bodies;
- 3- Law no 87/1971 on Department of Litigation defines competence of the members of the Department;
- 4- Law no 88/1971 on Administrative Judicial System regulates competence of Administrative Judicial Circuits at the Court of Appeal, laying special emphasis on requests for rescinding final administrative decisions and determining due compensation;
- 5- Law no 4/1981 on People's Law Office regulates competence of Office members in rendering free defence for citizens in lawsuits they file or in actions brought against them;
- 6- Law no 6 for 1982 on Law Department defines its jurisdiction in giving legal opinion vis-a-vis all cases submitted to it from State administrations and reviewing bills and regulations.

All members of these judicial bodies enjoy the same immunities and privileges enjoyed by the judges. Within the framework of supporting women in mass society, women vigorously obtruded all judicial bodies now accounting for 40% of the total number of their members.

**Below is a brief illustration of respective judicial bodies:**

### **First: Courts and their Jurisdictions**

In accordance with Article 21 of Law no 6/2006 mentioned above, Courts are formed as:

- A. Summary Courts
- B. Courts of First Instance
- C. Courts of Appeal
- D. Supreme Court

#### **A- Summary Courts**

A Summary Court is a first instance court and is competent to decide on some civil and commercial cases not exceeding a maximum of 1000 dinars in value and mostly personal status cases. It is also competent to examine contraventions and misdemeanors and appeal judgments issued by Courts of First Instance under its judicial circuit.

Summary Courts number (135), spread in all cities and villages, thus reflecting judicial decentralization and the principle of bringing litigants nearer to justice.

#### **B- Courts of First Instance**

The Court of First Instance is competent to examine all civil and commercial suits of high value as well as litigations with no specific value. It is composed of three sitting judges, each of whom is no less than grade one. It shall look into contestations filed by persons concerned regarding judgments issued by Summary Courts, and in this case, it consists of three judges, at least two of whom are no less than grade one. It maintains the general jurisdiction of examining cases, or in other words decides on all disputes and crimes, unless otherwise provided for (Article 16 of Judicature Law).

The Court of First Instance has an Accusation Chamber administered by a magistrate judge. It is competent to consider referral of felonies previously referred to it by the Public Prosecution to the Criminal Court or to issue a writ declaring that there is no point in litigating. It is thus authorized to complete investigations as an accusation and referral power.

Judgments issued by the Court of First Instance are contestable before the Court of Appeal which is a higher court (Article 307 Code of Proceedings).

Verdicts issued by the Court of Appeal are contestable before the Supreme Court within certain limits. The number of Courts of First Instance is (24) spread throughout the Great Jamhriya. Each court is composed of a chairman and a number of judges.

### **C- Courts of Appeal**

At the level of Appellate Court, litigation is devoted to two degrees of appeal. It is competent to examine the following cases:

- 1- Contestations lodged by persons concerned regarding judgments issued by courts of first instance other than cases of appeal against judgments issued by summary courts;
- 2- Crimes punishable by death penalty, life imprisonment or imprisonment;
- 3- Challenges regarding administrative decisions of government agencies;

Each court of appeal is composed of a chairman and three counselors. Its judgments are contestable before the Supreme Court (Article 336 Code of Proceedings). There are currently (7) Courts of Appeal in the Great Jamhriya; in Tripoli, Benghazi, Musrata, Al Gabal Al Aghdar, Al Zawya, Sabha and Al Khoms. The specialized Tripoli Court of Appeal was abolished and its jurisdiction transferred to the Tripoli Court of Appeal. The State Security Court, headquartered in the City of



Tripoli and as an Appellate Court, is competent to examine all cases cited in Chapter 2 of the Penal Code.

#### **D- Supreme Court**

The Supreme Court is at the helm of the Libyan judicial organization. It is basically competent to monitor proper law enforcement by lower level courts regarding different civil and commercial cases as well as personal status, penal and administrative affairs.

The Supreme Court is composed of a chairman and an adequate number of counselors.

The current organization of the Supreme Court is based on the combined circuit system. As original mandate suggests, the Supreme Court is a court of laws, before which final judgments issued by trial courts are challenged, and accordingly it does not examine facts of the case. However, in the event of repealing the verdict, the suit is returned to the court issuing the judgment for a second opinion and decision by judges other than those who issued the first verdict.

Nevertheless, the legislator has entrusted the Supreme Court with examining some cases directly as a trial court, stipulating for its exclusive jurisdiction to look into challenges filed by persons of vested interest in regard of matters at variance with the Constitution in any crucial legal issue pertaining to the Constitution or its interpretation that might have been raised in a case examined by the court system, as well as in cases of conflict of jurisdiction, be it positive or negative, among courts, and court verdicts of death penalty. Further, if the Supreme Court was to reverse its opinion on a previously declared principle, it is differently formed into the so-called combined circuits that will be comprised of (22) counselors.

#### **Second: Public Prosecution and its Jurisdiction**

There is a prosecution office for each type of court (Summary Court, Court of First Instance and Court of Appeal) to investigate into and dispose of all crimes and to proceed with litigations according to the Code of Criminal Procedure. All these prosecution offices report to the Prosecutor-General at the level of the Great Jamhriya. The Public Prosecution is assigned the duty of executing verdicts and supervising prisons.

The Law mandates the presence of the Public Prosecution before Administrative Judicial Circuits at the Courts of Appeal and Civil Status Circuits at Summary Courts and Courts of First Instance in protection of public order and for submission of legal opinion memorandum. The Code of Civil and Commercial Proceedings requires that the Prosecution intervenes in any and all personal status cases involving foreigners as well as in nationality cases. It also permits the Prosecution to intervene in cases related to minors, incompetent persons, persons in absentia, charity endowments (Waqfs), donations, benevolent testaments (wills), as well as in connection with cases of conflict of jurisdiction among courts, lack of competence due to absence of jurisdiction, contestation against court magistrates and prosecution members, reconciliation to avoid bankruptcy and other lawsuits relating to public interest, public order or public disciplinary morals (Articles 107 and 108 of the Code of Proceedings).

**Cassation Prosecution:** The Supreme Court has a parallel prosecution that is affiliated with it but does not report to the Prosecutor-General. It is known as the Cassation Prosecution. It performs the role of prosecution before the Supreme Court and gives opinion on all challenges filed before the latter. Its members are (61) in number.

### **Third: Litigation Department**

The Litigation Department acts, by force of law, on behalf of public legal persons (the State- government agencies – public institutions - public organs - public interests) regarding lawsuits filed by or actions brought against them. Public persons according to the Libyan Law are not immune against justice. Persons with vested interest may litigate to claim a right or to revoke a State procedure or to be compensated for injury inflicted as a corollary.

It also acts on behalf of public companies which are owned either to the State or to any public legal person, provided that this should be agreed between the chairman of the Department and entities concerned. It has (10) branch offices all over the Jamhirya. It was organized by virtue of Law no 87/1971. Its functions are distributed among its members upon the decision of the chairman or the competent branch office, as appropriate.

### **Fourth: People's Law Office**

People's Law is an unprecedented flagship idea in the area of legal defence without remuneration of citizens before courts in suits filed by and actions brought against them or in litigations in which they accused. This accounts for an underlying characteristic and advantage of the mass regime.

This idea is considered one of the main guarantees for achieving justice. Justice cannot be established in the absence of a lawyer to defend the accused or claim the rights of people before courts.

This idea moreover is closely related to human rights. The right of defence is a basic and crucial human right. The presence of an attorney on gratuitous basis by the side of the accused ensures and facilitates protection of human rights from this perspective.

Besides the right of defence, the People's Law Office was assigned another job, namely sensitization of the people and extension of legal advice and consultancy when requested with a view to enlighten the masses vis-à-vis their legal rights, interpret laws and elucidate their provisions to them without remuneration.

The People's Law Office is one of the judicial bodies. Having recourse to this judicial body is not obligatory but rather left to the discretion of the person concerned who may either choose an attorney at his own expense or to defend himself by himself.

The People's Law Office is headquartered in the City of Tripoli and has (7) branches in each of the Appellate Court circuits, with (25) affiliated offices in cities and villages of the Great Jamhriya for the purpose of facilitating citizens' access to defenders needless to move to metropolitan cities.

It has field offices in all reform and rehabilitation institutions to enable inmates to seek legal defence without remuneration if necessity calls for it, so that they will not have to face difficulty accessing justice, given their status in these institutions and their inability to frequent lawyers' offices in villages and cities. As mentioned above, this Office is deemed a judicial body and its members are eligible to have the same privileges and immunities enjoyed by members of the other judicial bodies.

### **Fifth: Law Department**

It is a central Department with no branches. It gives legal opinion and advice on cases put to it by public legal persons and public companies. It develops and reviews draft laws due to be issued as well as draft conventions to which the Jamhira is a party. Besides exercising oversight of legal advisors in the State, it examines disciplinary actions in respect of top level management staff as well as financial contraventions as the Supreme Disciplinary Council is placed in this Department. It further participates in all financial disciplinary sessions and undertakes to discipline both contract editors and summoning officers and attend to their entries in legally established registers before they are permitted to take up their jobs. It finally examines grievances and settlements of persons concerned regarding their functional affairs.

To evolve an integrated image of the judicial business in the Jamhira, the table below shows a statistics indicating members of the judicial bodies and another traces the number of cases examined by these bodies:

<b>Judicial Body</b>	<b>No. of Males</b>	<b>No. of Females</b>	<b>Total</b>
Court of Appeal and Court of First Instance	862	142	1004
Public Prosecution	584	124	708
Litigation Department	204	372	576
People's Law Office	291	762	1053
Law Department	59	18	77
Total	2000	1418	3418

The following is the statistics indicating cases and legal actions at stake at the said bodies:

<b>Judicial Body</b>	<b>No. of Cases under examination for 2009</b>
Court of Appeal and Court of First Instance	277694
Public Prosecution	119711
Litigation Department	53968
People's Law Office	32604
Law Department	257
Total	484234

The number of Supreme Court judges is 68 and the number of Cassation Prosecution members is 61

#### **Terms of recruitment of members of the judicial bodies:**

The Judicature Law in Article (43) stated terms of recruitment for judicial positions as follows:

- 1- To be fully competent and enjoy the nationality of the Great Socialist People's Libyan Arab Jamhriya;
- 2- To be holder of university degree (bachelor) in Islamic Law (Sha'ria) or the Law from one of the Faculties in the Jamhriya; or equivalent foreign certificate provided that in the latter case, he passes an exam to be regulated by the Secretary.
- 3- To successfully pass the rehabilitation program at the Judicial Institute;
- 4- To have good repute;
- 5- Not to have been previously convicted as a felon or in connection with a dishonor or dishonesty misdemeanor even if rehabilitated;
- 6- Not to have been sentenced by a disciplinary council to dismissal or transfer to a non-judicial function;
- 7- To be physically fit, healthy and free from disabilities that may prevent his functionality in the best way in accordance with conditions and controls decreed by the Council;

- 8- The age of counselors should not be less than 40 sidereal years, judges than 30 years and the rest of the members of judicial bodies than 21 years;
- 9- Not to be married to a non-Arab or he may be exempted from this clause upon a Council decision;

### **Supreme Council of Judicial Bodies**

The Supreme Council of Judicial Bodies manages judicial affairs in their entirety under the chairmanship of the Secretary-General of the People's General Committee on Justice. Its membership is composed of the President of the Supreme Court, the Prosecutor-General, the Secretary-General of the People's General Committee on Justice, Head of the Judicial Bodies' Inspection Department, Chairmen of the Litigation Department, the People's Law Office, and the Law Department and the most senior chairman of the Courts of Appeal, all are members of judicial bodies, each whose grade is no less than chairman of the court of appeal.

### **Council Jurisdiction**

Pursuant to the Judicature Law mentioned above, the realm of competence of this Council has typically featured in designing judicial policies as well as in the appointment, promotion, transfer, secondment, and disciplining of members of the judicial bodies and running their functional affairs including examination of suits they file to challenge decisions issued against them. Other assignments are more specifically listed as follows:

- 1- Give opinion on all cases pertinent to judicial bodies as well as study and propose legislation on promotion of judicial systems in place;
- 2- Ratify judicial provisions which laws sanction the essentiality of their ratification;
- 3- Issue penalty-pardoning decisions;

- 4- Consider as null final administrative decisions on any of the functional affairs of members of the judicial bodies that fall within the jurisdiction of administrative justice and compensation claims arising from it;
- 5- Disputes regarding salaries, pensions and remunerations payable to members of the judicial bodies, as well as allowances and material and moral incentives;
- 6- Establish courts of all types and degrees except for the Supreme Court that was established and regulated by virtue of a respective law, being the only tribunal of this kind in the Great Jamhriya;
- 7- Establish inclusive and summary prosecution offices as well as branch offices for the Litigation Department and the People's Law Office;

### **Substantial Developments of the Judicial Action**

It is beneficial before finalizing talk about the judicial system to project some of the developments that were brought forth in the area of judicature in view of their unflagging significance:

**First:** The Judicature Law sanctioned many guarantees, immunities and privileges. It also underpinned guarantees already established in previous legislation, having introduced multiple benefits and developments. The most crucial points stated in the given Law can be summed up as follows:

- 1- It conferred judicial immunity on all members of the Judicial Bodies after it had been previously confined to judges and members of the public prosecution;
- 2- To ascertain accuracy of judicial action, first instance circuits have come to be composed of three judges instead of one magistrate judge;
- 3- Financial incentives were accorded to members of the judicial bodies, doubling their salaries alongside authorizing the Supreme Council of Judicial Bodies to determine allowances and remunerations;



- 4- The social security system for members of the judicial bodies was changed to determine their pensions on the basis of the maximum value of the salary bracket of the grade in which they were rated even though recently reached or according to the last salary paid. This system is different from the other social security systems applicable to the rest of State civil servants;
- 5- All members of the judicial bodies are covered under the medical insurance system as per contract with the Libyan Medical Insurance Company consistently with the advanced insurance system including free treatment in Libya and the Arab world for staff and their families without deducted amounts in subscription;
- 6- Extending the age of retirement from 63 to 65 years old;
- 7 - To raise the professional level of judges and members of the judicial bodies, a higher institute was established with the aim of organizing rehabilitation courses all the year round for members of the judicial bodies to modernize their profile and their real time monitoring of developments in the area of judicial action;
- 8- The new Law provides for the creation of a social solidarity fund to serve social and humanitarian purposes;
- 9- The Law decides on continued payment for three years of the salary of the judicial body member in the event of suffering a work injury plus a financial compensation with a subvention up to 100,000 dinars in case of death;
- 10- Establish legally independent social clubs for members of the judicial bodies, the revenues and financial resources of which are to be employed in improving conditions of the judicial bodies;
- 11- The Supreme Council of Judicial Bodies issued a code of conduct for members of the judicial bodies in compliance with the UN Convention against Corruption which the Jamhriya has signed and ratified. The Convention renders it imperative to issue codes of conduct for public officials tasked to enforce laws as drawn from the Bangalore draft of the Code of Judicial Conduct.

12- The Supreme Council of Judicial Bodies issued the Judicial Inspection Regulation that commissioned experienced judges in office to discharge the obligation of inspecting members of the judicial bodies, thus ensuring independence of the judiciary and delegating judicial staff only to exercise control over judicial action.

13- Law no 5/2010 was issued to amend some provisions of the Contract Editor Law, assigning the role of inspection of their functions to the Judicial Inspection Department on the grounds that the official contracts they draft are executive orders that have the same effect of judicial rulings.

**Second:** Recommending further the principle of reconciliatory justice (conciliation and arbitration). It is taken for granted that all countries of the world have become well-disposed to attach due importance to dispute-settlement through negotiation and reconciliation. Reconciliation certainly leads to accelerated resolution of disputes and relief of burden on courts, not to mention satisfaction of parties and sparing them the grudge of dispute. To this end, the Jamhriya took precedence in issuing Law no 74/1975 that vested the people's committees in the jurisdiction to conciliate and arbitrate between citizens, entrusting the people's committees in basic people's congresses with the competence of examining disputes regarding civil and commercial articles and personal status as well as criminal procedure articles falling within the jurisdiction of the summary court to be addressed in a popular and social perspective and how this can contribute to the smooth settlement of disputes away from court corridors. The Law thus defines simplified procedures for these committees to pursue in commensurate with the nature of litigations subject of their examination in a manner that encourages citizens to have recourse to.

The Law substantially signifies reconciliatory justice by requiring conditionally that the subject lawsuit falling within the jurisdiction of summary and first instance courts in civil and commercial articles and those pertinent to legal expenses, be

submitted first to conciliation committees and so that if individuals fail to take this course, the Court will turn down their litigation.

In order to effectuate and cement the idea of reconciliatory justice, this Law needs reconsideration. As a consequence, Law no 4/2010 was issued with new more developed concepts of reconciliatory justice compared to the previous Law and has gone so far as to expand the competence of conciliation and reconciliation committees to include even criminal cases. The Law as well declines to associate reconciliatory justice with the administrative structure of the State. It rather renders competent non-governmental committees to be formed in every congress or residential quarter. These committees are to be made up of persons who are best known for their efficiency, fairness, impartiality, social prestige and experience in dispute settlement.

## **Section II: Legal and Judicial Protection of Human Rights**

Since its inception, the Great Al Fateh Revolution has devoted special interest to the enactment of legislation on the protection of citizens' rights and the harmonization of its related laws with international treaties and instruments it abides by. Besides enacting laws to protect rights and basic freedoms of individuals, control mechanisms and organs were introduced to ensure respect for effective laws and oversee their application.

In this part of the report, we tackle legal protection as item 1, judicial protection as item 2 and control mechanisms as item 3 as follows.

### **First: Legal Protection:**

- 1) **Basic Laws:** This protection is discernable through overriding interest the Great Jamhirya has developed in human rights and basic freedoms in a number of basic

and ordinary laws alongside its ratification of and accession to many international human rights conventions. Aspects of this protection are dealt with in this regard as follows:

**A- Declaration on the Establishment of the Authority of the People on 2 March 1977:**

This historic declaration has firmly established the natural right of the citizen to determine his own fate and participate directly in the exercise of ruling power from the political and administrative sense of the term, citing in Item 3 that "power is but for the people and no one else. The people will exercise their power through people's congresses and people's committees." Therefore the people are authorized to enact laws and choose the executive tool (people's committees) at their different levels.

**B- The Great Green Human Rights Charter in the Era of the Masses:**

The Charter contains an array of generic rights and freedoms as enshrined in international and regional declarations and conventions such as civil, political, economic, social and cultural rights, adding other rights and freedoms that were not mentioned before, for example human right to live in a world free of atomic, germicidal, and chemical weapons and means of mass destruction; human right to sovereignty and exercise of power directly without representation; human right to exploit land for personal benefit; human right of not being employed by others but rather to own his production to which he has contributed his effort as long as the given activity is income-yielding in tandem with the partners–not-employees principle.

In this respect, it is worth mentioning that the Great Green Human Rights Charter in the Era of the Masses is singular in characteristics that distinguish it from other instruments and positive laws on human rights and basic freedoms:

- It is not limited to the Solemn Declaration on Human Rights and Basic Freedoms, but is resolutely dedicated to provide adequate conditions and put in place appropriate mechanisms to enable humans to verily enjoy their rights and freedoms. In assertion of the human right to exercise power and determine one's own fate, it takes forward to means securing this right as exemplified in people's congresses and people's committees. Also in assertion of human right to labor, it recognizes his full freedom to choose the type of work suiting him whether individually or in partnership with others and to enjoy the output of his effort; and in affirmation of human right to exploit land for personal benefit in terms of occupancy, agro-living and pastoral activity, it has freed him from the yoke of feudalism by stating that "land is the property of no one".
  
- It has not been exclusively bound to the Declaration on Human Rights and Basic Freedoms but is persistently after harmonization and adjustment of these rights and freedoms in concert with the concept of humanization and dignity of humans. Having approached the right of freedom as sacred, it confines imprisonment as a penalty to those whose freedom poses threat or constitutes corruption to others, prohibits all degrading penalties detrimental to human dignity and sets the target of penalty to be social reform as represented in rectification, rehabilitation and advice. Meanwhile the Green Charter has made it clear that the ultimate aim of the mass society is the abolition of death penalty, thus it condemns appalling implements of execution such as electric chair and poisonous gas injection.
  
- In emphasis of the sacredness of human rights and basic freedoms, the Green Charter provides for rights and freedoms in absolute terms and without conditions or restrictions. It has not left in the purview of the ordinary legislator to define these rights, the modality of their exercise or means and ways of enjoying them. The Charter notes: "The sons of the mass society are free in times of peace to move and reside, that citizenship in the mass society is a sacred right that may not be

dropped or withdrawn, that sons of the mass society are free to set up trade unions, syndicates and associations in protection of their professional interests and that the mass society ensures the right of litigation and independence of the judiciary, maintaining the right of the accused to stand fair and impartial trial.

- The Great Green Human Rights Charter was exclusive in stipulating for the right to compose a family and deems it a cherished right in the bid to ensure the formation of a coherent family in terms of parenthood and siblings. The human is created to be raised by his mother and his nature is only suited to her true care and breast-feeding. The child is the produce of his mother's upbringing. As its provisions were based on this right and that principle, the Charter has specifically been guided by bedrock concepts articulated in the Green Book that regards the family as the cradle of human, his origin and social umbrella. Accordingly, it fine-tunes with the African Charter of Human Rights that singled out, unlike all regional and international instruments, in highlighting these core values in the Item on Obligations in Chapter 2 of Part I.
- Perhaps the most remarkable input of the Great Green Charter is its inclusion of the right of peoples to liberation and advocacy in due regard to the subdued and the persecuted, as well as the right of incitement of peoples to face injustice, arbitrary practices, exploitation and colonialism. It further provides for the right of peoples to security and peace and to shun wars and terrorism and the right of nationalities to live according to their own choices.
- Finally the Charter states that the resourcefulness of rights and freedoms enunciated in it is not derived from the will of the State but rather takes root in sublime ideals and rules of natural law, citing rights as the endowment of Allah the Almighty.

### **C- Freedom Promotion Law no.20/1991:**

Guided by international instruments and covenants on human rights and basic freedoms and based on the Great Green Human Rights Charter in the Era of the Masses, this Law has been issued to have its articles expressly pinned, in detail, on fundamental principles embraced in the Green Charter, noting that such rights are not subject to prescription or prejudice and may be waived. The Law stresses that its provisions are fundamental and nothing that is in contravention with it may be issued. It rather mandates amendment of whatever is deemed in conflict.

### **2-Ordinary Legislation (Civil, Commercial and Criminal)**

A battery of civil, commercial and criminal laws regulates relations among individuals and between the latter and government and private agencies. These laws are principally inferred from French and Italian codes alongside some Islamic Law (Shari'a) stipulations. Albeit the fact that these laws are relatively modern if compared to those applicable in other countries, it has become necessary to reconsider them in keeping with national and global developments.

Therefore, committees, numbering 14, were formed to reconsider key legislation and review laws (civil – commercial – proceedings – criminal procedure – Penal Code – labor and civil service – State financial system – administrative structuring – foreign investment – education – health – judicature – oil and others). Several laws were issued to this effect, including:

Commercial Law that fell in 1660 articles and Laws on Labor Relations, Investment, Education, Health, Financial Leasing, Real Estate Registration, Taxation, Customs, Illegal Migration, and Nationality. The General Organization for Investment was also established. A good many of laws are still under study.





**Most important reasons justifying reconsideration of legislation are:**

- 1- The Jamhiryia is in the process of economic restructuring according to a newly-developed program for wealth distribution to all Libyans based on the statement that people are partners in power, wealth and weapon, in addition to preliminary procedures required for accession to the World Trade Organization (WTO).
  
- 2- The Jamhiryia was committed to the other states and international organizations by ratifying or acceding to a number of international conventions including but not limited to:

Fighting terrorism and transnational organized crime, trafficking in persons, smuggling illegal migrants, trafficking in arms, combat of corruption and narcotics, and others which demanded reconsideration of provisions of criminal law and legislation regulating transactions with foreigners especially that the territories of the Jamhiryia are markedly vast and sprawling.

**Criminal Laws:**

These laws include the Penal Law and its complementary laws as well as the Code of Criminal Procedure.

The Penal Code and Code of Criminal Procedure were issued in 1954 and since then, interesting developments have been coupled with human rights. Committees were formed to develop a draft penal code ensuring protection of human rights

Updates of the penal system are currently being introduced as manifest in the following:

- \* Commutation of death penalty for its eventual abolition;
- \* Curbing of freedom-restricting penalties and their substitution by financial penalty such as fines;
- \* Expansion in reconciliation bids for simple and medium-level crimes (contraventions and misdemeanors) by paying an amount of money to the victim or to the State in lieu of prison sentences;
- \* Adoption of the idea of alternative sanctions by employing the convict instead of jailing him;
- \* Affiliation of reform and rehabilitation institutions (prisons) to the People's General Committee on Justice in administrative and technical terms so as to have them placed under direct judicial supervision to prevent abuse in treating prisoners.

All complementary laws were incorporated into the new draft Penal Code for smooth reference.

As for Code of Criminal Procedure, it deals with rules regulating functions of res judicata officers, evidence collection, investigation and trial procedures as well as trial and detention guarantees for the protection of human rights in the Great Jamhirya.

## **International Human Rights Treaties and Instruments**

Based on its irrevocable faith in the sacredness of human rights and basic freedoms, the Jamhiryia has ratified international conventions on human rights in their different domains.

The Libyan legal system is chiefly built around the domestication of international or regional covenants and instruments ratified by the basic people's congresses or to which the Jamhiryia accedes, once they are published in the official gazette and thus should be respected. The national judge also is committed to their application as part of the national legislation (Article 1 of the Libyan Civil Law). This indicates that the mere ratification of the subject convention or covenant necessitates its regard as internal legal rules that courts are obliged to apply to disputes under examination. Moreover, each person with vested interest may seek effectuation of its provisions before the national judge to exclude national legal provisions that may be in contravention with it. This goes for the African Charter of Human and Peoples' Rights to which the Great Jamhiryia had been a party since 1986, as well as the Protocol establishing the African Court for Human and Peoples' Rights ratified by the Jamhiryia in 2003. Given the critical importance of judicial cooperation in protecting human and peoples' rights, the Great Jamhiryia has concluded a host of judicial cooperation agreements with the other states to facilitate execution of judicial writs and rulings whether issued by Libyan Courts or by courts in other states party to these agreements.

### **Human Rights Organizations:**

In the Jamhiryia, there are organizations concerned with human rights and interested in protecting, monitoring and tracking related violations and attempting their redress. These organizations are set within their realm of competence to energize nationally, regionally and internationally-agreed human rights. These organizations are represented in the following:

### **1- Legal Affairs and Human Rights Secretariat at the People's General Conference Secretariat:**

It is a higher administrative agency above ministerial level and its structure consists of all departments directly concerned with human rights such as the Human Rights Department and the Legal Affairs Department. These Departments are institutional constituents of the Secretariat of the People's General Conference and are concerned in the first place with following up and implementing all human rights policies contained in the Libyan legislation.

**2- Human Rights Committee at the People's General Committee** led by the Secretary-General of the People's General Committee on Justice and with the membership of heads of sectoral legal offices. It receives, examines, verifies and responds to human rights observations and complaints.

### **3- At the Non-Governmental Society Level**

Civil society in the field of human rights in the Great Jamhriya is complementary to the role of State institutions in enhancing the community and improving the performance of its individuals towards building human as a point of departure to creativity in the light of freedom and practice of direct democracy (power of the people). On the basis of entrenching religious parameters calling for righteous action and recommending cooperation for benevolence and piety, civil work historically takes root ever since the rise of Islam, most notably is the Hold Fast Society (Waetasmou) operating under the supervision of Dr. Aisha Moamer El Qaddafi and the Qaddafi Institution for Charitable Societies and Development under the supervision of Dr. Seif El Islam Moamer Qaddafi that has launched national, regional and international human rights initiatives, and others.

The Revolution recognized the centrality of civil action, thus issuing early after its inception Law no 111/1970 on Societies detailing in 7 parts how these societies were formed and striking

the balance between founders of these societies and the administration powers, naming the judiciary as the competent authority vested in separating between the two sides.

The Libyan legislator issued the Civil Societies Law no 19/2001 which granted citizens the right to establish civil societies, conferring jurisdiction to issue licenses for creation of these societies on one of the following three entities namely the Secretariat of the People's General Conference, the People's General Committee and the Research National Authority.

Purposes of these societies diversified covering nearly all aspects of life such as human rights, youth, women and child care, attention to people with special needs, the physically disabled and psychiatric patients as well as interest in developing treatment for patients of chronic diseases, like societies for combating cancer, prevention against radiation, renal failure, renal transplantation, intensive care and others.

This enumeration does not normally involve trade unions, syndicates and vocational associations because these institutions, though by the book, are considered as civil and attend to the professional interests of their candidate members; they still constitute part of the political fabric of the Libyan society.

## **Second: Judicial Protection**

Under this item, we will first present basic principles governing the Libyan Judicial System and second will review Libyan judicial efforts in protecting human rights:

## **1- Basic Principles governing the Libyan Judicature**

The Libyan judicial system provides for a set of guarantees to ensure rights and freedoms:

- 1- Independence and impartiality of the Judiciary;
- 2- Ensuring right of litigation;
- 3- Gratuity of justice;
- 4- Separation of judicial bodies;
- 5- Multiplicity of litigation degrees;
- 6- Magistrate judge and multiple judges;
- 7- Publicity of sessions;

These basic principles are correlated with human rights and we will address them more clearly as follows:

### **1- Independence and Impartiality of the Judiciary:**

The Great Green Human Rights Charter in the Era of the Masses cites in its ninth principle that "The Mass Society ensures independence of the Judiciary", similar to the stipulation in Article 31 of the Freedom Promotion Law no 20/1991 to the effect that judges are independent and not subject to any authority. While in office, they are not susceptible to any influence. Claims of otherwise or attempt to do so is a punishable crime pursuant to articles (274-276) of the Penal Code.

Courts are not permitted to establish legal rules to become vested in the power to enact. In order to assert the judges' independence from the executive body that appoint them, the above mentioned Judicature Law has decided on a number of guarantees ensuring that judges are not liable to relief of office. It has also developed some provisions on their appointment, secondment, transfer, and discipline as well as the other remaining functional affairs since the Supreme Council of Judicial Bodies, composed of senior members of these bodies, is exclusively designated to perform the aforementioned functions.

However, independence of the judiciary means also non-interference in its affairs by any entity from outside since legislation has entrusted monitoring of judicial action to a judicial body comprised of a number of judges of higher degrees, or the so-called Inspection Department. Inspection is carried out by examining the performance of the inspector every year at the Inspection Department Headquarters or the competent branch, as appropriate, or by the inspector moving to the workplace of the member subject of inspection.

In all cases, the inspector is provided with a copy of the legal work performed by the member subject of inspection, while the latter may present to the inspector first-hand positive level of effort to indicate his efficiency. This work or level of effort is subject to evaluation affirmatively or negatively and no member of the judicial body will be entitled to promotion unless he is reported to have been evaluated at least by above average grade.

The judge applies justice in balancing legal interests of adversaries. The Judicature Law presupposes the impartiality of the judge; however he is to be prevented from examining the case once proved to be of vested material or moral interest or if he is bound in kinship up till the fourth grade with any of the adversaries, or if he has had prior opinion on the subject case under his examination. The Libyan Law has adopted this principle to ensure smooth conduct of justice and maintain its networking with public order, which the judge is automatically committed to it, even without plea on the part of the adversaries.

## **2- Ensuring the right of litigation and equality before court:**

The Great Green Human Rights Charter in the Era of the Masses stipulates in its ninth principle that "Mass society guarantees the right of litigation and the independence of the judiciary and that the accused has the right to a fair trial".

This principle applies to foreigners as well. The foreigner who goes to court, will be entitled to enjoy the same rights of the

Libyan citizen except for free-of-charge defence unless he is financially unable, then he is to benefit from defence gratuity in the same way the national does.

The Freedom Promotion Law no 20/1991, in Article 1 notes: "Citizens, males and females, in the Great Jamhirya, are free and equal in rights, and their rights are inviolable".

Pursuant to Libyan legislation, defence tools are employed by three entities namely:

**A- People's Law Office:** a group of members of the judicial bodies who are paid by the State and enjoy the same privileges accorded to judges be they financial, functional or immunities. They take the responsibility of defending individuals in all cases.

**B-Litigation Department:** defends the State and public legal persons in suits filed by or against them. Its members enjoy the same privileges of the judges.

**C- Private Law:** This is practiced by attorneys who work for themselves as professionals as per the law as is the case in other countries where the same validation determined for attorneys is provided.

### **3- Gratuity of Justice**

The judges are paid their salaries from the Public Treasury and not from the adversaries. Therefore it can be safely admitted that going to court is gratuitous. If litigants are charged judicial fees in return for their having recourse to courts, it is thereby meant to assure seriousness of the case. There is the legal aid system that allows those financially unable, be they nationals or foreigners, to litigate without remuneration, including exemption from fees and attorney fees in observance of a set of substantive and formal terms defined in the Judicial Fees Law, even though these judicial fees are nominal as the suit-filing fees, in the early stages, do not exceed 19 dinars no matter its value.



#### **4- Separation of judicial bodies**

To ensure soundness of judicial performance, each judicial body is tasked an independent function other than those assigned to the other bodies. While the sitting judge issues judgment, the Public Prosecution conducts investigation and institute lawsuits, the Litigation Department defends the State in suits filed by or against it since the legal system does not recognize that the State is immune against prosecution except in areas of state sovereignty. The People's Law Office defends individuals on the basis of gratuity of defence whether for those who are unable or able, a system that is applicable nowhere in any country in the world.

#### **5- Multiplicity of litigation degrees**

It is considered one of the underlying principles in the Libyan judicial system. The lawsuit is instituted before the Court of First Instance; the convict may then challenge its judgment before the Court of Appeal to which the dispute is brought anew for decision by final judgment which may be contested still before the Supreme Court. The mission of this Court is to monitor enforcement and interpretation of the law, as well as soundness of litigation procedures. Its rulings are unimpeachable. Its principles are binding to all courts and administrative bodies.

#### **6- Magistrate Judge and Multiplicity of Judges**

The Libyan legislator adopts the magistrate judge system for summary courts whereas the multiplicity of judges system is applicable to inclusive circuits in the Courts of First Instance as well as to Appellate Court in examining challenges against judgments issued by Summary Courts in order to ensure transparency and guarantee that the case was examined by more than one magistrate judge. This is also the case with the Courts of Appeal and the Supreme Court.

The purpose of multiplicity of judges is for the new judge to avail himself of the experience of senior judges. This multiplicity opens avenues of dialogue, enriches discussion, and help reach the truth. It is also in agreement with the principle of decision collectivity, which results in avoiding individual abusive practices and authoritarian decision-taking.

### **5- Publicity of Sessions**

One of the most crucial litigation guarantees is the publicity of sessions i.e. conducting legal proceedings in public sessions where every person has the right to attend. Article 25 of the Judicature Law stipulates that "Court sessions shall be held in public unless ordered by the Court to be in camera in observance of public morals or in preservation of public order. Pronouncement of judgment in all cases shall be in public sessions).

### **Third: Guarantees for Implementing Judicial Rulings**

The Libyan legal system recognizes a set of guarantees certain to ensure protection of citizens' rights and basic freedoms and deter any excesses or aggressions against them.

### **Guarantees for Implementing Civil Judgments**

The Code of Civil Proceedings included more than 400 articles dealing with judicial enforcement. As enforcement means using the State power in executing judgments by coercive force in favor of the party with an executive order, formidable guarantees have been listed in a series of procedures to be pursued to make sure human rights are not violated due to enforcement. Attachments performed regarding movable or real estate property mean taking it by force from its owner to implement the right of the party requesting enforcement. Therefore the latter should follow procedures set forth in the Law of Proceedings such as notifying the executive order and requesting its enforcement. The Law has

defined funds that are not be subject to attachment and permitted application of this procedure without exceeding quarter of the salary and but stipulated that it was not allowable regarding residence (if it was the only residence).

### **Guarantees for Implementing Criminal Judgments**

The convict in a crime is the one who has infringed upon the sanctity of the community and broken its laws which its legislative authority had enacted, thus mandating his penalty. Crimes perpetrated by those criminals such as murder, theft, narcotics crimes and terrorism seriously threaten and undermine the security and stability of the society for representing assault on lawfully-protected rights.

However we should not be in oblivion as to the fact that this criminal is a human whose human rights must be duly respected; as perhaps he may not have been responsible for the conditions that led to his commitment of crime and that it may be in the interest of the society that this criminal becomes a righteous person after serving his sentence. This has prompted the Libyan legislator to call prisons "reform and rehabilitation institutions", thus delegating the power of supervising these institutions to the Public Prosecution and oversight judges in addition to transferring the judicial police competence to the People's General Committee on Justice.

Hence the following part is dwelt on the issue of oversight of reform and rehabilitation institutions:

#### **A- Inmates' Treatment in Reform and Rehabilitation Institutions**

Law no 5/2005, replacing Law no 47/1975 on prisons, regulates the affairs of reform and rehabilitation institutions in the Great Jamhirya.

This Law identifies reform and rehabilitation institutions as places of reform and education intended to rectify and put right

the conduct of convicts serving freedom-restricting sentences and rehabilitate them to be righteous members of the community, which thereby the Law has transcended penalty purposes to materialize in reform and rehabilitation, mindful of public and private deterrence in conjunction with modern criminal policies.

Having classified reform and rehabilitation institutions into key, local, special open and semi-open institutions, this Law provides for inmates' categorization and distribution according to the degree of crime committed and meanwhile mandates that depositing any person in a reform and rehabilitation institution should be upon a written order, signed and sealed, by the Public Prosecution. It forbids that the subject convict be retained after the expiry of the period specified in the order.

Within each institution, the Law requires that inmates be divided, in terms of treatment or subsistence, into two fully-separated categories; the first includes the provisionally detained, traffic crime and sinful offence convicts, sentenced elderly people who are past 60 years in age and convicts who are under 21. The second category covers the rest of convicts.

The Law mandates as well that provisionally detained inmates are to be accommodated in separate places in the given institution. They are also permitted to stay in paid furnished rooms.

The Law permits that inmates buy or meet their needs from outside the institution unless otherwise indicated as opposed to health or security contingencies.

It decides that if the sentence period the subject convict is serving in the institution exceeded four years, he will have to pass through a transitional period before his release to observe progressive ease of constraints for his eventual reintegration in the society.

The Law permits sheltering pregnant inmates in social care institutions in lieu of reform and rehabilitation institutions upon a decision by the doctor concerned with regard to food, activity and sleep, until she gives birth and for 40 days after delivery and the

inmate will be also entitled to keep her baby until he/she is two years old.

Concerning other rights of inmates, the Law confers on them the right to work and get paid for it. It relieves the inmate from work on reaching the age of 60 unless he otherwise desires and is proved physically able to continue working. Inmates, according to this Law, are entitled to have days off on religious events and official holidays. The Law also stipulates for the validity of provisions of Social Security Law regarding injuries inflicted on inmates at work.

The Law gives inmates the right to learning and knowledge, and obligates reform and rehabilitation institutions to educate and train them vocationally in accordance with State schooling curricula.

It permits inmates in specific cases to do exams in schools outside the institution. It requires establishing a library in each institution with a view to educate and discipline inmates alongside permitting them to buy books, newspapers, magazines and others from outside which they will pay for.

According to the Law, the judicial police are required to provide different mass media to the inmates, and to hold synthesizing and recreational symposiums and workshops for them. The Law states in this regard that inmates, who seek to be better educated, shall be awarded remuneration if they managed during their stay in the institution to memorize the Holy Qoran or half of it or to obtain general or university certificate.

The Law makes it obligatory to have in each institution a preacher or more to conduct guidance activity and help in rectifying aberrant behavior of inmates to reinstate them in the community as sagacious citizens.

The Law includes the provision citing the right of inmates to medical care by having in each institution a resident doctor aided by an adequate number of assistants, whose mission is to follow

up on health affairs of inmates and check on the impact of their environmental conditions such as solitary confinement or labor to take appropriate measures to prevent or redress injury.

The Law mandates that the seriously ill inmate whose life is in danger or who is threatened with physical disability shall be released on health grounds upon a Health Release Committee order approved by the Secretary-General of the People's General Committee on Justice, based on the reported medical examination of the physician concerned.

The Law as well provides for the right of inmates to social care, having established in each institution a section for social care supplied with a sufficient number of experts and specialists to examine the inmate's character and decide on the program suitable for his treatment. It stipulates for inmates' categorization, education, training and rehabilitation together with development of social researches and psychological studies on their cases.

The Law provides for granting bonus-track benefit to the released that is in need to help him meet his urgent needs after his release.

The Law stipulates for the right of the inmate to visit and correspond as well as his right to meet his lawyer in private and also his relatives or his representative or guardian even not during normal visiting hours, when necessary.

The Law provides for the right of the inmate, who is sentenced to a freedom-restricting penalty, to 8-day annual leave at intervals, maximum 4 days running at a time. He is to have the right to an emergency leave for 72 hours at most in the event of the passing away of one of his relatives up to the 2<sup>nd</sup> grade.

The Law mandates that the head of the institution accept any complaint, verbal or written, to be lodged by the inmate and take the necessary action in this respect.

The Law stipulates for conditional release of the convict sentenced to a freedom-restricting penalty if he served three-quarters of the penalty period, if his conduct during his stay at the institution was worthy of trusting his intention for reform, if his release does not endanger public security and if the period he spent at the institution was not less than nine months.

In observance of commitment to implement these rights, the Law has established an organ for administrative inspection of reform and rehabilitation institutions where a number of inspectors operate. It is chaired by a Public Prosecution Director to verify abidance by systems, laws and regulations governing these institutions, examine complaints lodged and study issues as requested. This right to inspection is legally determined for the Secretary of the People's General Committee on Justice and the Prosecutor-General.

In the area of improving conditions of reform and rehabilitation institutions, many actions could be noted as follows:

**First: In the Area of Construction Works**

- 1- A health complex was inaugurated at the newly established reform and rehabilitation institution. This complex was set to house patients who are inmates of the institution. It includes a section for patients required to be medically isolated to avert disease outbreaks within the institutions.
- 2- New reform and rehabilitation institutions were typically built on health grounds in conformity with technical specifications consistent with human respect and not in conflict with human rights, and where ventilation, lighting, water networks, sanitary drainage and solar sawmills are provided to replace old institutions.

## **Second: In the Area of Development**

### **In this field, the following has been substantiated:**

- 1- Improve means of transporting inmates through provision of secure vehicles instead of old means of transportation;
- 2- Provide beds, mats and covers for inmates especially in winter where 10000 beds were manufactured by inmates;
- 3- Introduce modern automation to all departments affiliated to reform and rehabilitation institutions by providing computers through which all data on inmate affairs may be documented. Work is in progress with regard to continuously modernizing this system to ensure access to all leads of information such as inmate's imprint, personal photo and judicial position as well as changes he is likely to experience including his appearance before court in the set dates of sessions.
- 4- Put in place a personnel system for the Judicial Police staff and another for enumerating and furnishing investigation and discipline councils with experienced and efficient officers working in the Organ.
- 5- Complete and introduce improvements and maintenance works of old institutions and meet their basic requirements. These included construction of new kitchens and bathrooms, provision of potable water, renovation of water and sanitary drainage network, electricity, installation of doors and windows and supply of office furniture.
- 6- Set up some shops in fields of (mechanics – carpentry- blacksmithing- plumbing) to train and rehabilitate inmates after their release to help them return to the community and contribute to the construction movement.
- 7- Set up telephone kiosks in the institutions for inmates to contact their families for nominal fares.
- 8- Open ateliers in the reform and rehabilitation institutions for women to have a profession for them to make a living after their release;
- 9- This Organ was supplied with a sufficient number of fire cylinders and extinguishers which were distributed to the



institutions for use when necessary in anticipation of any emergency;

### **Third: In the Area of Social and Health Care**

- 1- A complaint fund was set up for institutions and under the supervision of a judge specialized in examining inmates' complaints and finding appropriate solutions to their problems;
- 2- A number of preachers were approached to give religious lectures to enlighten, guide and sensitize inmates as regards their religion and urge them to engage in charity activities with a view to return to the society as sagacious citizens;
- 3- Enable the press to hold interviews and conduct polls and provide it with information and facilities to carry out its mission;
- 4- In implementation of Law no 5/2010 on reform and rehabilitation institutions, many decisions were issued to the effect of transferring inmates to institutions nearby their families' dwellings to facilitate their visit.
- 5- Coordination with social security bodies to vaccinate accompanying children inside the institutions as well as pay basic pensions to inmates' families in application of the social care principle and in accordance with laws in force.
- 6- Several intellectual contests, social events and sports activities were organized to manifest opening up contours to incorporate inmates in the community;
- 7- A number of medical specialists in skin and internal and dental treatment were assigned on bonus track basis to improve health services extended to the inmates' and to curb the spread of epidemics and diseases within institutions.
- 8- Inmates were classified according to standards set forth in laws;
- 9- Medical teams were formed under the supervision of the Judicial Police in Tripoli, Benghazi, Al Zawya, Gherian, and Sabha who, within their realm of competence, have toured the institutions and conducted medical examinations and analyses for patient inmates together with the treatment and medical examination of serious cases and when necessary, carrying out

small surgeries and transferring cases to specialized hospitals and medical centers.

- 10- Health campaigns were launched, in coordination with specialized centers, to make sure inmates are free of infectious diseases (Aids, hepatitis, tuberculosis);
- 11- Clothes and accessories for mother and child have been provided and gifts distributed to inmates in reform and rehabilitation institutions concerned;
- 12- Advanced first-aid ambulances were made available to all branches in conformity with international standards to raise performance levels in the area of health care;

#### **Fourth: In the Field of Training**

- 1- A specialized training course on reform and rehabilitation and human rights institutions was held in the Technical School in which foreign experts took part as teachers and lecturers with the attendance of officers working at the reform and rehabilitation institutions.
- 2- Members of this Machinery participate in computer, internet and language training courses organized at the Technical School based in the Training General Department to elevate the level of staff working in this field;
- 3- A semester was planned at the level of the reform and rehabilitation institution under the supervision of specialists to train inmates in the computer to help them cope with modern technology and automation;

**Fifth: For further development and a way forward, some advanced systems were essentially construed and simulated. Many procedures were pursued to this effect:**

- 1- Participation in meetings, sessions, and foreign missions in connection with the work of the Machinery.
- 2- Holding interviews with excellent working calibers and offering them material and moral incentives;

**Sixth: In the area of festivals and recreation, reform and rehabilitation institutions affiliated with this Machinery, organize concerts and sports activities marking the occasion of national and religious events.**

Reform institutions are run by members of the Judicial Police numbering 590 officers representing different grades and are assisted by non-commissioned officers (NCOs) and individuals plus civil servants.

### **A. Prisoners Abroad**

The State's interest was not confined to prisoners within borders of the State but it was also developed to cover this category overseas. Upon a decision taken by the masses of the Basic People's Congresses, the People's General Committee was delegated to administer external communication and international cooperation by envisaging a mechanism for off-shore prisoner care. A Committee was formed to monitor status of Libyan prisoners abroad, which, since its institution, has been planning field visits to all countries where Libyan prisoners are serving sentences to be well informed of their health conditions and to render all the necessary assistance to them including judicial aid such as assigning attorneys to defend their cases through coordination with fraternity and popular offices abroad. This Committee prepares annual reports on the nature of its work and findings reached for their submission to the People's General Committee on External Communication.

### **B- Police Release and Special Pardon**

If penalty was primarily intended to ensure reform, moral justification and rehabilitation of convicts to become righteous members of the society in a way to determine or execute penalty as required, the Libyan legislation has recommended two highly important matters in motivating convicts to reform themselves: first; by deciding on conditional release where the Prosecutor-

General, upon submission by the Institution Director, will be authorized to release convicts if they behaved well at the institution level and if five years from the date of release have elapsed without the released committing any crime, only then the release shall be definitive and the penalty obliterated. Second; full or partial pardoning of the convict's penalty in accordance with controls specified by the Supreme Council of Judicial Bodies most significantly by proving sound conduct of the convict to either commute sentence or to stay of its execution. This pardoning is normally connected with national or religious events to make prisoners and their families happy on these occasions.

The Supreme Council of Judicial Bodies had issued during 2009 pardon decisions concerning some prisoners. A large number of convicts of different nationalities benefited from these decisions.

## **Part IV: Institution of Non-Governmental Organizations and Syndicate Action**

## **Part V: Establishment of Non-Governmental Organizations and Syndicate Action**

The right to establish syndicates, trade unions and vocational associations and to institute civil societies may be regarded as an action complementary to the role of State institutions in advancing the community towards building humans as a point of departure to creativity in the light of freedom and power of the people.

A human rights' advocate must be aware of the fact that the Great Jamhriya is one of the states most interested and respectful of the right to form syndicates and vocational associations and institute civil societies. For further clarification, we will present first its efforts vis-à-vis the right to institute civil societies and second its contribution to the defence of the right to establish trade unions, syndicates and vocational associations.

### **First: Right to Institute Civil Societies**

Few months after the inception of the Great Fateh Revolution, it was evidently clear how much the latter is interested in supporting civil work as embodied in issuing Law no (111) for 1970 on the formation of civil societies. Thirty years after the issuance of this Law, the legislator saw that a new legislation on civil action is required to cope with developments in the field of human rights and consistently with the Declaration on 9/9/1999 and Law no 19/2001 which provided for all parties interested in voluntary civil action the right to establish institutions for public affairs and extend social, cultural, sports, charitable, humanitarian and scientific services and others at the local and national levels.

The Law confines notarization of civil societies to the following three government agencies:

**First Agency:**

**People's General Conference Secretariat:** gives work permission to societies operating in the area of friendship and cooperation between the Libyan people and the other peoples.

**Second Agency:**

**People's General Committees for Administrative Divisions:** give work permission to societies whose terms of reference are at the level of the Great Jamhriya.

**Third Agency:**

**People's Committees for Administrative Divisions:** give work permission to societies with terms of reference at the administrative division level.

Further, whereas scientific societies are not subject to this Law, their work permission is issued by the National Authority for Scientific Research pursuant to provisions of laws in force.

The number of civil societies operating in the Great Jamhriya amounted to 400 in number with diversified activities covering defence of human rights, power of the people, social care, environment and consumer protection, enhancement of women and youth, scientific societies, fraternity and friendship societies, care for people with special needs such as the disabled and the physically disadvantaged, the deaf and dumb, and the blind, orphan and diabetic care as well as cancer-fighting, acquired immune deficiency syndrome and renal transplantation and others.

The Great Jamhriya was interested in civil action since the inception of the Fateh Revolution. Legal mechanisms in place for its regulation and activation have preceded the African Charter of Human and People's rights. There were also subsequent and amended laws following the first legislation regulating civil action, which were issued upon the promulgation of the Charter and were abiding by its provisions, therefore the Great Jamhriya was among pioneer countries

committed to the African Charter that stipulated in Article 10 that:

1-Each person has the right to freely institute societies with others provided that abidance by provisions cited in the Law is observed.

2- No person is obliged to join any of these societies provided that this is not in conflict with the commitment to the solidarity principle set forth in the Charter.

### **The Right to Establish Federations, Syndicates and Vocational Associations**

Syndicate organization in Libya was initiated in the wake of the 5<sup>th</sup> decade of last century by establishing federations when economic activity, though limited, was dominated by the Fascist Italian colonial minority. To face challenges of this period, large segments of Libyan workers had struggled for the institution of syndicates to protect and defend their rights. Some laws were issued to the effect of permitting the establishment of syndicates, including for example Law no (1) for 1962 whereby the Bar Association was founded. After the launch of the Great Fateh Revolution, all unfair rules crippling the freedom of the people were dropped, the worker became partner in administration and production processes through restructuring work relations and establishing professional, productive and craft syndicates and congresses grouping members of the one profession or craft. Codes on the institution of syndicates were subsequent, where Laws no. (111) / 1971 on the establishment of the Engineering Profession Syndicate, no. (48)/1971 on Teachers' Syndicate and no. (107)/1975 on Federations were issued respectively. The Federations Law cited in Article 1 that:

"Workers operating in one profession or industry or like professions or industries or related to each other or sharing the same production shall be entitled to institute together a public syndicate at the level of the Great Jamhira. These syndicates,



formed in accordance with the provisions of this Law, may be rallied around a general federation that shall have the legal personality."

Law no (99) for 1976 on the Establishment of Public Syndicates and a General Federation for Craftsmen was issued. Codes establishing and regulating syndicates were subsequent until Law no (23) for 1428 on federations, syndicates and vocational associations and its Executive Regulation were issued. In assertion of the right to form syndicates, the Great Green Human Rights Charter in the Era of the Masses declared on 12/6/1988 has provided that: "Sons of the mass society are free to form federations, syndicates and vocational associations in protection of their professional interests."

There are currently syndicates for professions and crafts respectively. The syndicate is formed first at the level of the basic people's congress, then at the level of the administrative division and later at the level of the Great Jamhriya. Syndicates with the same profession or craft are entitled to establish a general federation such as that of craftsmen, producers and the Great Jamhriya students. These federations are members in regional and international federations.

Considering that the political system in Libya is based on the power of the people and that this power cannot be exercised beyond the scope of the Basic People's Congress which will have to be composed of members establishing it and who confer on its decisions the binding force for their implementation. These members are the citizens who reached the legal age of this membership. The outcome is that all syndicate members will have to be members of the basic people's congresses by virtue of the right to citizenship.

This result emphasizes that the mass society in Libya or others is genuinely a civil society where there is no place for ruler and ruled, or for employer and employee, and that the so-called non-governmental organizations operating under traditional political regimes are but organizations working outside the orbits of

power – be it legislative or the executive – and thus are more like organizations opposed to the decision of the power concerned and not partner of it.

Therefore what is going on in Libya is categorically different from what is taking place in these countries, since undivided power belongs to the people of the basic people's congresses made up of citizens who, by virtue of their professions or crafts, are but members of their syndicates. Thus the syndicate and the people's congress are formed into the same fabric and revolve in the same orbit that is of the people's power. The syndicate then is in partnership rather than in opposition. Syndicate secretaries are members of people's congresses that are not cardinal which collect and formulate decisions of basic congresses, and those secretaries-general of syndicates and federations at the level of the Great Jamhriya are members of the People's General Conference where decisions of people's congresses are assembled and drafted. Hence syndicates, truly speaking, forge as the second springboard of the power of the people.

## **Part VI: Interest in Society Categories**

## **Part VI: Interest in Society Brackets**

The Great Jamhira, ever since the inception of the glorious Al Fateh Revolution in 1969, was persistently interested in all segments of the society without discrimination. Below are efforts made on the part of the Jamhira within the framework of promoting rights of some of the vulnerable categories including women, children and people with special needs.

### **First: Women Rights**

In the light of the Revolution, Libyan women have been particularly cared for. The Libyan legislator issued many laws concerned with women and developed interest in them, stressing that most Libyan codes were enacted to determine all the rights to be enjoyed by the individual in the society without discrimination between men and women. Some of these laws referred to the citizen without defining his gender alongside other laws that addressed their discourse to women in particular to regulate some of their affairs.

Laws have been issued consecutively since the inception of the Great Al Fateh Revolution starting with the Constitutional Declaration in 1969 that emphatically underlined that "all Libyan citizens are equal before the Law". The Declaration on the Power of the People, the Great Green Human Rights Charter in the Era of the Masses and the Freedom Promotion Act have all confirmed the right to exercise power for all individuals in the society without discrimination. These instruments also underpinned the principle of equality among sons of the mass society, men and women, regarding all that is humane. As for the Document governing Women Rights and Obligations in the Mass Society for 1997, it has corroborated guaranteed equal rights for men and women in the exercise of power as well as in regard of other social rights relating to marriage, divorce, motherhood, child custody, labor and social security.

In the area of personal status, the legislator has devoted special attention to women whom he was keen to place in a legal position that is not inferior to men. Law no (10) for 1984 on provisions regarding marriage and divorce and their implications on the natural right of woman to express her opinion in choosing her life partner and going to court in case of intransigence on the part of her guardian in not allowing her to get married to the one she chooses as her husband. The Law also forbids the married man from marrying another woman unless he obtains a written approval from his spouse and after his recognition in the event of divorce of her right to maintain her children custody and her matrimonial home so long her custody right holds. This right also involves woman with no guardian after her divorce or the death of her husband since she is entitled to keep staying at matrimonial home.

Social security and basic pension laws have addressed men and women alike, having been enacted to the interest and benefit of all individuals in the society without discrimination between males and females. In the field of criminal liability, the Penal Code addresses the citizen regardless of his/her gender, bearing in mind specificity of women and their biological nature as different from men. Hence were the rules distinctively devised in criminal legislation to ensure special treatment of women as feminine especially with regard to executing penalties against them.

Concerning labor and civil service, laws guarantee for Libyan women their right to labor and job opportunities without differentiation between them and men. Many regulations on women employment, training and rehabilitation were issued.

## 1- Women and Education

Laws issued in this respect since the inception of the great Fateh Revolution have acknowledged the right to education without differentiation or discrimination between individuals of the Libyan community be they men or women. The last of these laws was issued in assertion of this right, with Article 1 of Law no (18) for 2010 on Education stating that "education is the right of all and the State shall act to facilitate it for citizens under the sponsorship of public and private education institutions, by monitoring their efficiency and the quality of their outputs. The State also seeks to encourage and expand private education which is compulsory for all until the end of the basic education stage. As a result, women have effectively participated in all fields of education. The following table shows considerable increase in the number of female students in all stages of education.

Education level/ academic year	1969/1968			2007/2006		
	Total	Females	% of females	Total	Females	% of Females
Basic education stage	299798	91081	30.4	1008220	528441	48.8
Medium-level education stage	7181	944	13.1	333628	191773	57.5
University education	3663	410	11.2	318118	167836	52.8

## 2- Women and Health

The health policy in the Jamhriya is aimed to extend suitable and equitable health care for all citizens without discrimination. The Jamhriya had made notable advance in the area of health where life expectancy rate was raised from 48 years in the early 1970s to 72.5 years in 2006, 73 years old for females and 72 years old for males.

Maternal mortality rate was reduced to 40 deaths for every 100.000 live births, whereas the percentage of pregnant women receiving health care during pregnancy by trained staff has reached (96.3%). The percentage of deliveries carried out under medical supervision was (99%). Early results of the national family health survey in 2008 pointed to widespread breastfeeding in the Jamhira amounting to (94%), as well as higher percentage of married women from the age of 15 to 49 years using contraceptives that was put at (59.9%).

### Indicators of Primary Health Care

Indictor	Value
Percentage of population accessing health care services	100
Percentage of citizens accessing potable water supplies	98
Percentage of citizens accessing waste disposal services	99
Percentage of pregnant women receiving care during pregnancy by trained persons	96.3
Percentage of deliveries supervised by trained labor	99
Percentage of children supervised by trained staff	94
Percentage of married women aged 15-49 years using contraceptives	59.9
Percentage of children vaccinated against TB	100
Percentage of children vaccinated against DPT	98
Percentage of children vaccinated against polio	98
Percentage of children vaccinated against measles	98
Percentage of pregnant women receiving two doses against tetanus	45
Infant mortality rate per 1000 live births	21.5
Mortality rate of children under five per 1000 live births	27.5
Maternal mortality rate per 10,000 live births	4

### 3- Women in the field of work

All Libyan laws on labor and civil service – ever since the 1970s and up till the issuance date of Law no (12) for 2010 on work relations have provided for full-fledged rights of and all facilities to Libyan women to encourage them to enter labor markets and leverage their contribution to economic activity. Libyan labor laws have taken account of the specificity of women's status and their access to multiple benefits, given their femininity, motherhood conditions and household responsibilities as spouse, stressing in so doing:



- Women's right to labor and equality of wage;
- Women should not be employed to do jobs that do not suit their nature for protection and specificity considerations;
  - The Law decides on granting a fully paid 14-week delivery leave extendable to 16 weeks if more than one birth was given. She also has the right during 18 months from the date of delivery to enjoy no less than a total of one hour work suspension during working hours of the day for breast feeding, which are considered as paid working hours.
  - The Law obligates employers to provide well-equipped places as child nurseries;
  - No constraints are placed on women in benefiting from credit facilities or with regard to procedures of issuing license for running economic activity;
  - Women enjoy all social privileges and guarantees set forth in the Social Security Law no 13 for 1981 ensuring social protection for all Libyans, males and females, while at work and on reaching the age of retirement;

As a result, the percentage of Libyan women participation in economic activity according to the 1964 census incrementally rose by (4%) and ten years later, by (6%), doubling to (11%) for the 1984 census. It continued rising until it amounted to one fifth the number of females at the age of work in the early years of the third millennium.

The ratio of female contribution to the labor force has increased reaching 29.5% for 2006 census, compared to 14.5% in 1984.

Women participation in economic and social activities was tangibly varied to involve a wide spectrum of scientific, managerial and leadership-based professions. The Libyan women have been engaged in professions many women worldwide still find inaccessible in fields like judiciary and police.

#### **4- Women and Political Participation**

Women's position was further affirmed in basic legislation (the Declaration on the Power of the People, the Great Green Human Rights Charter in the Era of the Masses and the Freedom Promotion Act) as well as Law no (1) for 2007 on Modus Operandi of the People's Congresses and the People's Committees, citing in Article (1) that: "Sovereignty and power in the Great Jamhiryia shall be for the people. Power shall be directly exercised through basic people's congresses where all Libyans, men and women, shall be enrolled on reaching the age of 18".

Through all that, women are entitled on reaching the age of 18 upwards to participate in basic people's congresses and express their opinion freely on all issues at stake at this level, be they day-to-day activity or public life issues or issues of higher State interest. Women also have the right to take part in elaborating the people's congress agenda and to upgrade to take up leading posts in these congresses' or in people's committees' secretariats, and to become members of regulatory and executive committees or drafting committees overseeing preparations for and steering of congress sessions.

Women have taken part in political, diplomatic and consular work through functioning at the level of the People's General Committees on External Communication and International Cooperation. Women also have been upgraded in terms of job hierarchy to become Secretary of the Overseas Popular Office and to participate as representative of the Great Jamhiryia in many regional and world conferences and forums.

## **Second: Child Rights**

The Libyan legislator has long recognized the need to provide special and distinctive child treatment and care, thus interest was particularly developed in this category. Since the 1950s of last century, the legislator has focused in most laws issued during that period to date on providing child protection, care and prevention and guaranteeing all child rights in all walks of life. In his bid to further emphasize the importance of the childhood stage and the necessity of extending due care and protection in this regard, the Libyan legislator has gone so far as to ratify international conventions on human rights in general and child rights in particular.

According to Libyan legislation, the child is the human who has not reached the age of 18 as provided for in Law no (17) for 1992 on regulation of minors' status in harmony with the provisions articulated in the International Convention on Child Rights.

### **Core Child Rights Pursuant to Libyan Legislation**

- \* Right to live. Article (4) of the Freedom Promotion Act stipulates that "Life is a natural right for all humans". Article (6) of the same Act cites that: "Physical well-being is the right of every human". To secure this right, the Libyan Law incriminates acts of murder and abortion. The Child Protection Law no 5 for 1427 adds the clause of "parents shall be free of hereditary illnesses to make marital contracts." (Article 2). It also mandates that "health facilities, where deliveries are performed, shall medically check on newborns to ascertain their physical well-being, and in the event of detecting any problem, the case shall be referred to the specialized center concerned." (Article 4).
  
- \* Right to name and nationality: "Name shall be the right of every person in Libya and shall be protected by the Civil Law

(Articles 38 and 51). Name shall be normally acquired by descent. Children with unknown parents shall be named by a special committee without referring to their status (Art. 26 and 28 of the Civil Status Law). Law no 5 for 1427 mentioned above has affirmatively recognized for children with unknown parents the right to a tripartite name, to registration and to obtain identity cards, passports and family documents without limitation of concluded marital contracts (Article 8). The child shall acquire immediately on his birth the nationality of his Libyan father. He/she shall be considered Libyan whoever is born in Libya from a Libyan mother and a father of unknown or has no nationality or from parents with unknown nationality. He shall also be considered of unknown progenitor whoever is born in Libya from an unknown father unless proved otherwise."

\* Right to family care: This right shall be provided for every child who is born in wedlock. Family is a pillar of public order in Libya and is basically founded on kinship (Article 34 Civil Law). Therefore child custody in case of marriage shall be regarded as shared right of parents (Art. 62/2 of Law no 10 on Marriage and Divorce). If family does not exist, the Law shall regulate guardianship (Art.60 of Law no 10). Otherwise, social care homes shall represent the substitute for whoever has no guardian (Art. 7 of Law no 5 for 1427 on Child Protection) which has underpinned the previously-regulated settlement by virtue of Social Security Law and Freedom Promotion Act).

\*

\* Right to education: Libyan legislation asserts the right to education for all citizens without discrimination due to sex, color, language, religion or ideology. Education shall be compulsory and free for every child (male or female) in the basic education stage. The State shall extend all educational services and facilities for gratis at all education levels, including the establishment of educational institutions and meeting their educational, training and mentoring needs. For all individuals in the society to access education services, the State has taken into consideration the proximity of schools to

children homes in all regions and even in remote areas. The educational system in the Jamhriya consists of three stages, namely:

- Basic education: extending for 9 years for age category (6 -15 years); it is compulsory and free;
- Intermediate education (Secondary): extending for 3 years; it is also free but not compulsory;
- Higher education: universities and higher institutes. It is made available to all, males and females, on the basis of individual efficiency and capacity of students;

The Great Jamhriya has outperformed in the area of education in its different stages: basic, intermediate and higher. Its accomplishments are reflected in the growing number of students, teachers, schools, centers, institutes and universities spreading in all cities and villages, to say the least of large numbers of graduates in all specializations alongside noticeable reduction in illiteracy rates among Libyan citizens and obliteration of discrimination between men and women in terms of education and learning.

- \* Right to health care: Several legal provisions were introduced to this effect. Health Law no 106 for 1973 stipulates in Article 1 that "Health and medical care is an established right for citizens that is guaranteed by the State ". There is also the Social Security Law for 1980 as well as codes on handicapped care. The Law on Child Protection was issued to confirm "child right to free vaccination", stipulating that "failure to do so shall be deemed a criminal act" (Article 5).
- \* Right to social security: The legislator issued Social Security Law no 13 for 1980 as a forward-looking step along the track of substantiating the idea of interdependence and solidarity. It stresses in Article 1 that "Social security shall be the right of all citizens as guaranteed by the society." It involves social care and guidance for children with no guardian, people with special needs and cases of aberrant juvenile delinquents. This approach is entrenched in the Freedom Promotion Act citing in

Article 24 that " every citizen shall have the right to social care and social security". Further, Principle 14 in the Great Green Human Rights Charter in the Era of the Masses has underscored that "Mass society is huddled in solidarity and shall ensure for its individuals an easy and decent life as well as promoted health standards en route to a healthy community that warrants child and mother care and protects the elderly and the disabled. Society is the guardian of whoever has no guardian."

- \* The right to protection against economic exploitation: Libyan laws paid attention to the issue of juveniles' employment and set out controls for child protection against exploitation in all its forms, including inadmissibility of their use or joining labor market before they are 15 in age. Juveniles at the age of 15 - 18 may be employed in some industries or works that do not harm child health, or endanger his life and those which are not effort-consuming such as underground mining and quarrying or metal-smelting in furnaces. They shall not be put to work for more than six hours a day with a break, or to be in charge during hours from 8 p.m. to 7 a.m. or for additional hours or during holidays. Laws forbid child employment in any activity except for purposes of education and vocational training and also at the instance of the child.
  
- \* The right to be provided judicial protection and special criminal and procedural treatment: The Libyan legislator singled out rules applicable to youngsters who commit lawfully punishable acts, postulating on the premise of essentially deeming the offender liable for his criminal wrongdoing with the aim of deterring, educating and rehabilitating him to prevent recurrence of these illicit actions, Meanwhile he is not to be held fully responsible for what he did and therefore his disassociation from deterrent penalties determined for adults is adequately observed. The Penal Code has regulated treatment of child offenders in Articles (80-81-82-98-112-113-118-119-150-151-151bis).

In Article (80) of this Law, a crucial underlying rule was laid down, namely exclusion of criminal liability for the child under 14, presumably on the grounds of conscious and will inadequacy at this early stage of his life as well as refrain from taking any measure against children under 7. According to Article (81), youngsters under 14-18 shall be held liable for their criminal acts, however, their liability in this case shall not be full but incomplete, therefore they shall be punished by lighter penalties i.e. two-thirds less. Further, the Criminal Procedure Law remedied legal proceedings applicable to crimes committed by children in Articles 316 to 330 entitled: "Juveniles' Courts and Protection of Children, the Insane and Victims". The main facts highlighted in these articles were:

- \* Designation of a special court for juveniles in each Summary Court Circuit involving a magistrate judge deputized to it;
- \* This Court shall be competent to order preventive measures to be taken regarding juveniles. It shall also be competent to try youngsters at the age of 14 and those who are not yet 18;
- \* The status of the child shall be investigated first and then legal proceedings established at the ordinary misdemeanor court shall be pursued without prejudice to the application of provisions on juveniles, which further hold safeguards to the best interest of the subject juvenile.
- \* The attendance of an attorney to be chosen by the accused or appointed by the judge is mandatory. Court sessions shall be held in the Advice Chamber, and only relatives of the accused, representatives of the Justice Secretariat and charity societies interested in juveniles' affairs are allowed to be present;
- \* Speedy decision on appeals filed against verdicts related to juvenile cases;
- \* The supervising judge shall execute rulings issued against the accused juveniles;
- \* The legislator stipulates in this respect that the convicted children serve their sentences in a place particularly designated for criminally-liable juveniles. This place is governed by a special system that is intended for their education and discipline in a way that ensures their rehabilitation to become

sound members of the society; these places, known to be education and steering homes for juveniles, are (5) in number at the level of the Jamihrya.

**Table Showing the Number of Inmates in Institutions  
For Juvenile Education and Steering Homes  
According to 2007 Statistics**

Institution	Total Number of Inmates
<b>Juvenile Home Males- Tripoli</b>	36
<b>Juvenile Home Females- Tripoli</b>	14
<b>Juvenile Home Males- Benghazi</b>	51
<b>Juvenile Home Females- Benghazi</b>	11
<b>Juvenile Homes- Sousa</b>	18

### **Third: Rights of People with Special Needs**

Interest in care devoted to people with special needs was substantially enhanced and obviously brought to the fore ever since the inception of the great Fateh Revolution. Aspects of this nationwide interest can be seen in the quantitative expansion and development of educational, health, and social services extended to this category to enable its members to depend on themselves and accordingly contribute to labor and integrate in the community.

In the legal and institutional domain, the Jamhirya, in its bid to secure the rights and needs of this bracket, has proposed to dedicate an international year for the handicapped (disadvantaged) under the slogan of "full-fledged equality". This proposal was adopted by the UN General Assembly and the year 1981 was declared an International Year for the Handicapped. During that year, Law no (3) for 1981 followed by Law no (5) for 1987 on the Handicapped were issued, citing a definition of



the handicapped and their categories as well as benefits, monetary and in-kind services and other facilities relating to their access to care to ensure their rehabilitation towards their reintegration in the community.

In implementation of these laws, many regulations, decisions, work instructions and circulars on the implementation, amendment and addition of some articles on benefits determined for the handicapped were issued. Most notably of these were the Decree of the People's General Committee no (41) for 1990 on the regulation of some benefits for the handicapped, its Decree no (207) for 2006 on the addition of the deaf and hearing-impaired people under 18 to the categories set forth in the Decree of the People's General Committee no (92) for 1425 in application of Law no (16) for 1985, its Circular no (22) for 2006 on Executive Procedures to enforce Law no (5) for 1987 on the Handicapped and its Executive Regulation, Decree of the People's General Committee no (281) for 2006 approving the issuance of a regulation on some benefits determined for the handicapped (handicapped education/ rehabilitation and retraining / suitable jobs for the rehabilitated and the retrained), Decree of the People's General Committee no (26) for 2005 on the addition of the deaf and hearing-impaired people to the categories enjoying the benefit of reduced public transport fares, Circular of the People's General Committee no (3035) for 2008 on the designation of 5% of approved jobs for the handicapped, Decree of the People's General Committee no (664) for 2008 defining remuneration for domestic aid to the handicapped, Decree of the People's General Committee no (665) for 2008 on commissioning handicapped mentoring functions to the People's General Committee on Education, Decree of the People's General Committee no (666) for 2008 on Establishment of a National Council for Handicapped Rights Welfare, Decree of the People's General Committee no (667) for 2008 on addition of certain handicapped brackets under 18 to categories specified in Article 12 of Law no (16) for 1985 on Basic Pension, and Decree of the People's General Committee no

(304) for 2009 on the re-formation of the National Committee for Handicapped Care.

Institutionally speaking, a special department for the handicapped affairs was established as part of the structure of the General Authority of the Social Solidarity Fund. This Department was entrusted with addressing handicap issues and providing handicapped care, as well as supervising centers and schools concerned. Sections in different branches of the Authority numbering 16 at the administrative division level in the Great Jamhriya are affiliated to it. A number of civil societies extending their services to this category are also in place.

The total number of the handicapped in the Great Jamhriya registered in the General Authority of the Social Solidarity Fund according to the 2008 Statistics has reached (73892).

The number of institutions operating in the area of private education has reached 59 centers and schools covering all parts of the Jamhriya. These institutions are competent to provide care, rehabilitation and training to the physically disadvantaged according to their categories and type of handicap under the supervision of the Handicapped Affairs Department at the General Authority of the Social Solidarity Fund.

**Number of Handicapped Centers  
As well as Centers and Schools for the Deaf  
and People with Hearing Impairment  
And Development of Mental Abilities  
According to the 2008 Statistics**

Serial no.	Authority Branch	Number of Centers and Schools
1	Tripoli	6
2	Musrata	5
3	Al Marqab	4
4	Al Jaffra	1
5	Sahl al Jeffara	4
6	Al Jabal al Gharbi	3
7	Al Neqat al Khams	3
8	Souf al Jeen	3
9	Al Zawya	3
10	Al Wahat	3
11	Al Jabal al Akhdar	2
12	Darna	2
13	Al Batnan	3
14	Fazan	5
15	Al Fateh Complex for Social Care in Marj	3
16	Middle Region (Al Manteqa al Wausta)	2
17	Benghazi	7
Total		59

**Number of Centers and Schools  
As well as Number of Inmates and Frequenters  
According to the 2008 Statistics**

Center or School	No of centers and schools	Outpatient Section			In-patient Section		
		Male s	Fema les	Total	Male s	Fema les	Total
Mental Ability Development Centers	16	734	384	1118	25	11	36
Handicapped Re-training Centers	13	6966	7751	14653	1132	1097	2229
Care and Rehabilitation Centers for People with Multiple Disabilities	5	30	11	41	88	114	202
Care and rehabilitation centers for people with mental disabilities	1	6	4	10	66	49	115
Centers for people with special needs	3	45	37	82	95	76	171
Schools for the deaf and people with hearing impairment	14	356	277	633	-	-	-
Centers for educating the deaf and people with hearing impairment	5	380	307	687	183	96	279
Physiotherapy Centers	2	3249	3004	6253	-	-	-
<b>Total</b>	<b>59</b>	<b>11766</b>	<b>11775</b>	<b>22577</b>	<b>1589</b>	<b>1443</b>	<b>3032</b>

### **Elderly Category**

The Great Jamhirya has developed interest in the elderly category, having established a number of residential care homes distributed according to population density as shown in the following table.

Description	Males	Females
Tripoli-based Al Wafaa Home for Elderly People Care	59	31
Musrata Elderly People Care Center	11	6
Al Wafaa Home for Elderly People Care in Marj	10	-
Al Jabal al Aghadar Elderly People Care Home	110	53

By paying special attention and providing care and protection to these categories (women, children, people with special needs, and the elderly), the Jamhriya aimed to eliminate all kinds of injustice and discrimination and unleash their capacities and creativity in a society where all people are free and equal against variety of roles, jobs and responsibilities in commensurate with natural rules ordained by Allah the Almighty on earth. It also aimed to present plans and programs to all categories in the society without designation.

## **Conclusion**

In brief, we would like to express our deep thanks and appreciation to the African Commission on Human and People's Rights for its efforts to elevate the African citizen who experienced lifetime injustice and suppression for thousands of years, who resisted and struggled and never surrendered despite the tyranny of oppressors until he gained independence with dignity and pride. Today he is living the glory of his victories, gratified by his advances to the credit of the making of Africa's free sons led by African unifier Leader Moamar Qaddafi and his brethren, the leaders of Africa. All felicitations and appreciation to the sons of the Black Continent who every day write with their blood an epic of freedom and build with their toil the glory of Africa of tomorrow.

**Legal Affairs and Human Rights**