

## Universal Periodic Review

(22<sup>nd</sup> session)

### Contribution of UNESCO to Compilation of UN information

(to Part I. A. and to Part III - F, J, K, and P)

#### Libya

#### I. BACKGROUND AND FRAMEWORK

##### **A. Scope of international obligations: Human rights treaties which fall within the competence of UNESCO and international instruments adopted by UNESCO**

1. Table:

<i>Title</i>	<i>Date of ratification, accession or succession</i> <i>dd/mm/yyyy</i>	<i>Declarations /reservations</i>	<i>Recognition of specific competences of treaty bodies</i>	<i>Reference to the rights within UNESCO's fields of competence</i>
Convention against Discrimination in Education (1960)	09/01/1973, Ratification	<i>Reservations to this Convention shall not be permitted</i>		Right to education
Convention on Technical and Vocational Education (1989)	Not state party to this Convention			Right to education
Convention concerning the Protection of the World Cultural and Natural Heritage (1972)	13/10/1978 Ratification	Declared not to be bound by the provisions of Article 16(1)		Right to take part in cultural life
Convention for the Safeguarding of the Intangible Cultural Heritage (2003)	Not state party to this Convention			Right to take part in cultural life
Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)	Not state party to this Convention			Right to take part in cultural life

## II. Input to Part III. Implementation of international human rights obligations, taking into account applicable international humanitarian law to items F, J, K, and P

### Right to education

#### Constitutional Framework:

2. Within the framework of the Revolution of 2011, the interim Transitional National Council promulgated a **Constitutional Declaration**<sup>1</sup> that entered into force on 03/08/2011, “to be the basis of rule in the transitional stage until a permanent Constitution is ratified in a plebiscite.” Part Two of this draft is dedicated to Rights and Public Freedoms. It states in **Article 7** that “Human rights and his basic freedoms shall be respected by the State. The state shall commit itself to join the international and regional declarations and charters which protect such rights and freedoms. [...]”. According to **Article 8**, “The State shall guarantee for every citizen equal opportunities and shall provide an appropriate standard of living. The State shall also guarantee the right of [...] education [...]”.

#### Legislative Framework:

3. Due to the actual conflictual situation in Libya, we do not have access to sufficient official relevant legislative data.

#### Policy Framework:

##### i) **General information**

4. “UNICEF, with funding from the European Union (EU) supports the Ministry of Education in developing an **Education Management Information System (EMIS)** that will make it possible for Libya to have regularly updated information on the country’s education system. The EMIS will be an excellent tool to monitor effectiveness and efficiency of the Libyan education at Kindergarten, primary and secondary education levels; and it will strengthen data collection, analysis, use and dissemination. Education planners, administrators, as well as policy makers will be able to form their decisions based on reliable data and evidence.”

See also: <http://www.edu.gov.ly/>

#### Cooperation:

5. Libya is **party** to the 1960 UNESCO Convention against Discrimination in Education since 6 January 1973.

6. Libya did not report to UNESCO on the measures taken for the implementation of the 1960 UNESCO Convention against Discrimination in Education within the framework of the:

- a) **Sixth Consultation** of Member States (covering the period 1994-1999)
- b) **Seventh Consultation** of Member States (covering the period 2000-2005)
- c) **Eighth Consultation** of Member States (covering the period 2006-2011).

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<sup>1</sup><http://www.unesco.org/education/edurights/media/docs/d28af0d749d3b3ad97d473c8df556f11ee89e2a7.pdf>, Accessed on 09/12/2013

7. Libya did not report to UNESCO on the measures taken for the implementation of the 1974 UNESCO Recommendation concerning Education for International Understanding, Cooperation and Peace and Education relating to Human Rights and Fundamental Freedoms within the framework of the:

- a) **Fourth Consultation** of Member States (covering the period 2005-2008)
- b) **Fifth Consultation** of Member States (covering the period 2009-2012).

8. Libya did not report to UNESCO on the measures taken for the implementation of the 1976 UNESCO Recommendation on the Development of Adult Education within the framework of the **First Consultation** (1993). However, Libya reported to UNESCO within the framework of the **Second Consultation** of Member States (2011).

9. Libya is **not party** to the 1989 UNESCO Convention on Technical and Vocational Education.

### **Freedom of opinion and expression**

#### Constitutional and Legislative Framework:

10. Freedom of opinion and expression is in state of flux in Libya since the start of the civil unrest in 2011. Freedoms of opinion, communication, press, media, and expression are guaranteed under Chapter II Article 14 of the Libyan Constitution (2011).<sup>2</sup>

11. In May 2012, the National Transitional Council (NTC) introduced Law 37/2012 which criminalized defamation against the state of Libya and its institutions including the Islamic religion, as well as any support for the former regime of Muammar Gaddafi. Offenses under the new law are punishable by imprisonment of an indeterminate duration. The Libyan Supreme Court ruled Law 37/2012 unconstitutional on 14 June 2012.

12. Article 262 and Article 439 of the Libyan Penal Code considers defamation as criminal offence punishable by a minimum prison term of one year to the possibility of life imprisonment<sup>3</sup>. On 5 February 2014, the General National Congress (GNC) amended the Penal Code which contains imprisonment up to 15 years for defamation of the revolution which ousted Muammar Gaddafi<sup>4</sup>.

13. There is yet to be a freedom of information law in the country.

#### Media Self-Regulation:

14. The existence of professional organizations such as General Union for Libyan Journalists and the Libyan National Media Union provide a basis for further development of self-regulatory mechanisms of the media in Libya.

#### Safety of Journalists:

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<sup>2</sup> [https://www.constituteproject.org/constitution/Libya\\_2011](https://www.constituteproject.org/constitution/Libya_2011)

<sup>3</sup> Libyan Penal Code at

<https://ia600704.us.archive.org/25/items/LibyanPenalCodeenglish/LibyanPenalCode.pdf>

<sup>4</sup> [http://www.gnc.gov.ly/legislation\\_files/635272597678442556.pdf](http://www.gnc.gov.ly/legislation_files/635272597678442556.pdf)

15. UNESCO recorded seven killings of journalists in Libya between 2008 and 2013.<sup>5</sup> including Azzedine Qusad, Tim Hetherington, Chris Hondros, Mohammed al-Nabbous, Ali Hassan Al-Jaber, Saleh Haifyana, and Radwan Gharyani. The Director-General of UNESCO condemned these killings and called on the government to inform UNESCO, on a voluntary basis, of the actions taken to prevent the impunity of the perpetrators and to notify the Director-General of the status of the judicial inquiries conducted on each of the killings condemned by UNESCO<sup>6</sup>. No information has been received so far by UNESCO concerning the status of the investigation of the cases.

16. After an initial opening of freedom of expression following the ouster of the Muammar Gaddafi regime, the level of freedom of expression has declined. Since the start of the civil conflict, freedom of expression in Libya has been negatively affected due to the worsening situation of the safety of journalists. The media sector also suffered from the prolonged conflict and instability coupled with introduction of repressive laws.

### **Cultural rights**

#### **A) Normative Framework: constitutional and legislative frameworks**

17. Article 1 of the Constitutional Declaration, the current interim supreme law of Libya, specifies that “the State protects the linguistic and cultural rights of all components of Libyan society”. The elaboration of the new Constitution started with the work of the Constitutional Drafting Assembly. Steps have been taken by the Ministry of Culture and Civil Society to advocate for the integration of cultural rights and cultural diversity into the Constitution. The cultural sector has its own norms and policies, in particular related to Antiquities (whether terrestrial or underwater, moveable or immovable heritage), Museums, Ancient Cities and Historical Buildings. Although provisions do not explicitly ponder cultural rights and in particular access to cultural life, some provisions look instead at ensuring access to protected property, whether in public or private hands, for scientific research and study purposes, and for temporary public fruition/exhibitions thereof.

#### **B) Institutional framework:**

18. The overall implementation of cultural policies is coordinated by the Ministry of Culture and Civil Society and its specialized institutions, in coordination, at local level, with the designated entities depending from the Ministry of Local Governance (Historic Cities Authorities), as well as the Local Councils. For the management of the protected property, the national legislation recognizes sectorial oversight competent authorities (Department of Antiquities, Historic Cities Authorities, Authority of the Ancient city of Tripoli, Benghazi and Ghadames), which have a capillary presence on the ground. The newly opened scientific Institute dedicated to the Amazigh language (Spring 2014), under the Libyan Research and Scientific Authority, promotes the conservation, development and diffusion of science and culture, encouraging international contacts and cooperation in these fields.

#### **C) Policy measures:**

19. The Ministry of Culture and Civil Society with its specialized institutions is in charge of ensuring the implementation of UNESCO’s conventions in the field of culture. The

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<sup>5</sup> See the statements made by UNESCO Director-General Irina Bokova at <http://www.unesco.org/new/en/communication-and-information/freedom-of-expression/press-freedom/unesco-condemns-killing-of-journalists/countries/libya/>.

<sup>6</sup> See Resolution 29 adopted by the 29th General Conference of UNESCO in 1997.

Ministry's Department of International Cultural Cooperation is in charge of facilitating the implementation of joint projects and of promoting new international contacts. Universities, scientific authorities and societies are entitled to contribute to the organization of specialized museums for study purposes and scientific research in coordination with the Competent Authority. Within the Ministry of Culture among the specific directorates, headed each by a Deputy Minister, one is dedicated to creative industries and one to cultural diversity. They are supported in their work by the National Commission for UNESCO, which is part of the Ministry of Education.

#### **D) Work with civil society:**

20. The interlinked relationship between culture and civil society is officially recognized in the title itself of the 'Ministry of Culture and Civil Society'. The specialized institutions (i.e. Department of Antiquities) are now putting emphasis on the formulation of outreach and education strategies.

21. The Creative sector has been suffering for decades from the isolation of cultural producers and practitioners, the banning of public use of other language than Arabic in the education system, as well as the interdiction to artists and writers to freely express themselves, among others. Since 2012, the increasing number of independent NGOs, cultural associations and cultural events progressively attract more attention and funds from sponsors and donors. Libyan cultural life has been nurtured by the reactivation of public events (i.e. international book fair, 2013), looking to international partnerships and intellectual debates. The participation of civil society in cultural life is promoted through the formal education system, flanked by minor initiatives to create opportunities for improved socio-cultural cohesion, such as the recognition by the Ministry of Culture of new Cultural Centres and public Cafés with open libraries, the latter so far mainly in Tripoli.

### **III. RECOMMENDATIONS**

#### **Right to education**

22. **Recommendations made within the framework of the first cycle of the Working Group on the Universal Periodic Review, considered on (please check the date on the following web site: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx>)**

23. **The recommendations formulated during the interactive dialogue and listed below have been examined by the Libyan Arab Jamahiriya and enjoy its support:**

- i) A - 93.9. *Continue its efforts in promoting **human rights education** and national human rights protection mechanisms (Egypt);*
- ii) A - 93.13. *Consider giving **more role to the private sector in developing the national education** and health-care systems (Islamic Republic of Iran);*
- iii) A - 93.17. *Consider **inviting the Special Rapporteur on the right to education** and the Special Rapporteur on the sale of children, child prostitution and child pornography, within a framework of mutual cooperation, as a constructive step towards the consolidation of greater protection for this vulnerable group (Bolivarian Republic of Venezuela); Recommendation as read during the interactive dialogue: "Consider inviting the Special Rapporteur on the right to education, and the Special Rapporteur on trafficking in persons, especially in women and children; within a framework of mutual cooperation, as a constructive step towards the consolidation of a greater protection to this vulnerable group" (Bolivarian Republic of Venezuela).*

- iv) A - 93.28. *Step up efforts to **enhance the participation of women** in all spheres of socio-economic life, in line with the progress made in education (Bangladesh);*
- v) A - 93.49. *Continue to make progress in education and health care, with a **particular focus on women and girls, in order to achieve quality education** and a quality health-care system (Myanmar);*
- vi) A - 93.53. *Pursue ongoing action in favour of **training for qualified teaching staff**, and provide **education opportunities for all** segments and social groups in various regions (Algeria);*
- vii) A - 93.54. *Improve **education materials** used in schools **for people with special needs** in order to ensure their full integration into society, economically and socially (Syrian Arab Republic);*
- viii) A - 93.55. *Continue its efforts to further strengthen the education sector (Democratic People's Republic of Korea);*
- ix) A - 93.56. *Enhance and improve education, in particular by continuing to work towards the **improvement of education through information technology** (Bahrain);*
- x) A - 93.57. *Continue its efforts in improving the right to education, especially education for people with special needs (Saudi Arabia);*
- xi) A - 93.58. *Continue human rights education and awareness-raising programmes undertaken by governmental and non-governmental organizations to disseminate a culture of human rights (Saudi Arabia);*
- xii) A - 93.59. *Continue strengthening its successful education policy, in conditions that ensure access to **education with full equality** (Bolivarian Republic of Venezuela);*

### **Freedom of opinion and expression**

24. Libya is recommended to decriminalize defamation and place it within a civil code that is in accordance with international standards<sup>7</sup>.
25. Libya is encouraged to start the process to introduce a freedom of information law that is in accordance with international standards<sup>8</sup>.
26. Libya must ensure that journalists and media workers are able to practice the profession in a free and safe environment as part of their fundamental human rights in accordance with international standards<sup>9</sup>. It must investigate all attacks on journalists and media workers, and ensure full implementation of the rule of law.

### **Cultural rights**

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<sup>7</sup> See for example, General Comments No 34. of the International Covenant on Civil and Political Rights (ICCPR), 2006 Recommendation of the 87<sup>th</sup> Session Human Rights Committee, the recommendations of the UN Special Rapporteurs on the Right to Freedom of Opinion and Expression, and Resolution 1577 (2007) of the Parliamentary Assembly of the Council of Europe.

<sup>8</sup> See for example, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (ICCPR), the recommendations of the 2000 Report of the UN Special Rapporteur on Freedom of Opinion and Expression, the 1981; 2002 Recommendation of the Committee of Ministers of the Council of Europe, the 2002 African Commission on Human and Peoples' Rights Declaration of Principles of Freedom of Expression in Africa and the 2000 Inter-American Commission on Human Rights' Declaration of Principles of Freedom of Expression.

<sup>9</sup> See for example, UN General Assembly Resolution A/RES/68/163 and Human Rights Council Resolution A/HRC/21/12

27. National efforts in ensuring that cultural rights are properly integrated into the new Constitution should find their accomplishment and, as a cascade effect, provide an opportunity for reviewing the current law on cultural heritage with a view to implementing constitutional and policy principles.

28. Security and governance issues represent important challenges and obstacles, with increasing attacks, since 2011, by sectarian groups targeting in particular historic Sufi *marabout* shrines. Although condemned by the national authorities, intolerance in religious practices and cultural heritage expressions represents a threat for which mitigating measures shall be reinforced, fostering an inclusive and inter-cultural dialogue.

29. Among the key challenges is the need to address the aspirations of youth and insufficient employment opportunities, encouraging new approaches in heritage management and youth and women participation in cultural life, while putting local communities at the heart of heritage protection.

30. A national policy review in the education system should be undertaken with a view to foster access to cultural heritage and the recognition and respect for cultural diversity and improve linkages between cultural rights and civic education.

31. Although Libya has not yet ratified the UNESCO *Convention for the Safeguarding of Intangible Cultural Heritage* (2003) and the UNESCO *Convention on the Protection and Promotion of the Diversity of Cultural Expressions* (2005), steps have been taken to initiate this process. In 2013 the Ministry of Culture provided a positive advice, and both Conventions were presented to the National Congress. It is expected that the forthcoming new Parliament will deliberate on the ratification. Libya is therefore encouraged to lead this process to completion.

#### **Freedom of scientific research and the right to benefit from scientific progress and its applications**

32. With regard to contribution of science and technology to development, Libya is encouraged to report to UNESCO within the framework of the on-going consultations with Member States on the monitoring of the implementation and the proposed revision of the 1974 Recommendation on the Status of Scientific Researchers, in particular on the measures undertaken in the country to implement such principles of the Recommendation as the obligation of state authorities to ensure that scientific researchers have the responsibility and the right to work in a spirit of intellectual freedom; to participate in the determination of the aims, content and methods of research, which should be compatible with respect for universal human rights and fundamental freedoms, as well as ecological and social responsibility; to creativity, occupational mobility, international cooperation for furtherance of international peace, cooperation and understanding, etc.