



Stakeholder report
United Nations Human Rights Council
Universal Periodic Review 2019
Libya

Women's Rights - Submitted by I am Libyan, but My Child is Foreigner Organisation

Key Concerns

- The Libyan state failed to provide Libyan women married to non-Libyans their fundamental rights including their civil and political rights and violated its obligations under international laws and standards.
- The Libyan state failed to provide the children of Libyan women married to non-Libyans key fundamental rights including the rights to citizenship and education and accordingly violated its own national laws and international laws and standards.
- The Libyan state failed to implement the 17 recommendations it accepted in the last UPR in relation to the rights of Libyan women married to non-Libyans and their children and on equality before the law.¹
- The Libyan state facilitated and paved the way for the children of Libyan women married to non-Libyans to be exploited and harassed, and placed them in a legally precarious situation where they are vulnerable to be recruitment by militias and other armed groups.

Introduction

1. I am Libyan Woman, but my child is Foreigner is a Libyan NGO that mainly works with women that were affected due to their marriage to a non-Libyan.
2. Libya accepted 17 recommendations in the last UPR related to the rights of the Libyan mother married to non Libyan national and her children. It has not implemented any of these recommendations and failed to provide Libyan women married to non Libyan nationals with their fundamental rights.
3. Libya is a state party to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights that ensures gender equality.

¹ To access to the recommendations, please visit https://www.upr-info.org/sites/default/files/document/libya/session_22_-_may_2015/recommendations_and_pledges_libya_2015.pdf

4. The 2011 Constitutional Declaration also ensures that citizens shall be equal before the law without discrimination on the basis of sex and gender.

Civil and Political Rights

5. Libyan women married to non-Libyans are disenfranchised, as they have their rights to vote taken away upon marrying a non-Libyan. This is a clear breach of Libya's obligations under the International Covenant on Civil and Political Rights (the **ICCPR**), which Libya signed and ratified in 1970. It is also a breach of the 2011 Constitutional Declaration (the **Constitutional Declaration**) that ensured in its article 6² that "Libyans are equal before the law and shall enjoy equal civil and political rights."
6. Libya's nationality law, Law 24 of 2010/1378 on Libyan Nationality (**Law 24 of 2010**), discriminated against Libyan women married to non-Libyans. Article 3 of Law 24 of 2010 does not grant Libyan women married to non-Libyans the right to confer their nationality on to their children. According to the same article, Libyan men, by contrast, are able to confer their nationality on to their children irrespective of the nationality of their wives. This is in violation of Libya's obligations under Article 9(2) of the Convention on the Elimination of all Forms of Discrimination Against Women (**CEDAW**) to grant women equal rights with men with respect to the nationality of their children. It is also a violation to article 6 of the Constitutional Declaration which provides that all Libyans are equal before the law and that the Libyan State shall not discriminate against its citizens on the basis of gender.
7. Article 11 of Law 24 of 2010 provides that the children of a Libyan mother married to a non-Libyan father may be granted Libyan nationality. It further added that the executive regulations to this law shall determine the guidelines to the implementation of this article. However, when looking at articles 6, 7 and 8 of the executive regulations number 594 of 2010 to Law 24 of 2010, they show that they are too administratively burdensome and it is almost impossible for the children to get the Libyan nationality. The executive regulations states that the children of Libyan mothers and non-Libyan fathers can only apply to receive Libyan nationality once they are 18 years old, unless the father is dead or missing. However, the Libyan State has to approve their application as well as the marriage of the parents that was concluded earlier. Further, the regulations states that, if the father is a Palestinian national then the children can never apply to the Libyan citizenship.
8. The regulations also entitle the children of the Libyan mother married to a non-Libyan father to residency in Libya, however this residency will be revoked shall the Libyan mother dies, which places the children in an uncertain situation regarding their legal situation in the country.

² Article 6 of the Constitutional Declaration, 2011. <https://security-legislation.ly/node/32001>

Economic, Cultural and Social Rights

9. Libyan women married to non-Libyans are banned from any benefits provided by the Libyan State including subsidised commodities, financial assistance, and family allowances. This is a clear violation of the International Covenant on Economic, Cultural and Social Rights (**ICESCR**) and article 8 of the Constitutional Declaration that stipulates that the Libyan State shall ensure fair distribution of national wealth on its citizens.
10. The children of a Libyan mother and a non-Libyan father are treated like foreigners with regard access to education because they don't possess the Libyan nationality as stated above. Thus, they have to pay fees to be able to access primary, preparatory, and secondary education. In contrast, the children of a Libyan father and non-Libyan mother enjoy their full rights to free education because they are Libyan nationals. This is again a clear breach of Libya's obligations under the ICESCR, CEDAW and article 6 of the Constitutional Declaration that ensures that everyone is equal before the law and the Libyan State shall not discriminate against people on the basis of sex. It is also a breach of article 8 of the Constitutional Declaration that ensures that everyone shall have the right to access education.
11. Regarding access to higher education, the interim government of the east of Libya passed Ministerial Decree no. 346 of 2018, that was only circulated on 22 September 2019, where it states that children of Libyan mother and non Libyan father shall be treated like Libyan nationals and shall be exempted from university tuition fees. It is not clear at the time of writing this report whether this decree is enforced and enacted. Further, the decree only applies to universities and does not mention anything in relation to primary, preparatory or secondary education. Further, this decree was issued by the Ministry of Higher Education in the interim government of East Libya. However, no similar provisions appear to exist in areas under the control of the Government of National Accord.
12. As stated above, the children of a Libyan mother and non-Libyan father are not entitled to nationality and are only entitled to limited rights of residency in Libya. This leaves the children in a legal uncertainty because without nationality or residency in the country they cannot access education and are considered illegal residents in the country. This lack of access to education has in fact facilitated and paved the way for these children to join "terrorist groups" and militias because it does not leave these children with any other choice. Further, this also exposes these children to exploitation because their illegal status in the country makes them take on work that is not protected and regulated under Libyan labour laws and accordingly they are at high risk of exploitation in their work places.