

## *Chapter Eleven*

# **Libyan Women: Past, Present, and Future**

*Intisar S. Azzuz*

After World War II, Libya came under the mandate of the United Nations. With a population of about 1.5 million in a huge, mostly desert land, it was one of the most impoverished countries in the world when, in 1951, it became the first country to be granted independence by the UN. With UN supervision, a constitution was drafted, making Libya a monarchy in a federal system consisting of three states. In 1963, the constitution was amended and the federal system abolished, creating the United Kingdom of Libya.

Oil was discovered in the early 1960s and its revenue started to transform the country into a developing nation. It had an elected House of Representatives and an appointed Senate, a free and vibrant press, and an improving educational system. It was making slow but solid progress. But all of that was to change after Muammer Gaddafi and his so-called Free Officers staged a coup d'état which was to alter the face of Libya for the following four decades and beyond. Soon after taking over, Gaddafi consolidated his personal power and ruled ruthlessly, using oppression and fear, preventing any form of institutions, civil societies or free expression.

Since the revolution broke out on Feb 17, 2011, Libya has gone through three stages:

1. **The Revolutionary Struggle** from February 17, 2011 until the declaration of Liberation on October 23, 2011. This period saw the formation of the National Transitional Council (NTC), which operated from Benghazi, and an executive council, which operated from Qatar.
2. **The Post-Liberation Transition:** from liberation until the election of the General National Congress (GNC) on July 7, 2012. Until then, the National Transitional Council continued to exercise power, ceding some but not all executive power to

a transitional government and drawing a constitutional declaration to govern the post-NTC era after the election of the General National Congress (GNC).

3. **The GNC “Democratic” Stage**—and I put democratic in quotations—from the peaceful transition of power from the NTC to the 200-member elected GNC. This election was supposed to crown the achievement of the revolution and move Libya for the first time to a truly democratic system. If this happened smoothly and peacefully, it would have been a first in the history of revolutions. A so-called temporary government was approved by the GNC in November 2011.

## **The Status of Women, Past, Present and Future**

### *The Past*

*The Kingdom Era.* Prior to independence, Libya was a tribal society with an agrarian and Bedouin population dispersed mostly along the coast, with a few oases in the vast desert. In such a traditional, tribal and conservative society, women carried a large burden of caring for the family, yet worked hard in the farms. In the urban areas, women were mainly confined to their homes.

The independence constitution of 1951 gave all Libyans (including women) many human and civil rights. Article 10 reads:

Libyans shall be equal before the law. They shall enjoy equal civil and political rights, shall have the same opportunities, and be subject to the same public duties and obligations, without distinction of religion, belief, race, language, wealth, kinship or political or social opinions.

Other articles state:

Personal liberty shall be guaranteed and everyone shall be entitled to equal protection of the law;

Freedom of conscience shall be absolute. The State shall respect all religions and faiths and shall ensure to foreigners residing in its territory freedom of conscience and the right freely to practice re-

ligion so long as it is not a breach of public order and is not contrary to morality;

Freedom of thought shall be guaranteed. Everyone shall have the right to express his opinion and to publish it by all means and methods. But this freedom may not be abused in any way which is contrary to public order and morality.

But this constitution had its flaws; it failed to establish a balance of powers, provide for a strong judiciary or include provisions for the management of elections. Nevertheless, during the kingdom era, women had equal opportunity for education, holding office and the right to vote.

Since independence, Libyan leaders sought to support women's rights and opportunities within the framework of religious values. Libyan women continued to assert their rights during the 1960s. They exercised the right to vote and participate in political activity. They could own and dispense with property independent of their husbands, form their own associations (as early as 1955) and had the right to hold office.

*The Gaddafi Era.* On September 1, 1969, Gaddafi led a coup d'état that overthrew the king and ended the kingdom era. On December 11, 1969, a constitutional proclamation was made granting women equal rights with men under the law. Women became more active in education and many other professions. However, their role in economic life remained small; three percent in the 1973 census compared to 37 percent for men, which is considerably slower than in other Arab countries. In the 1980s, women's employment was only 7 percent of the national force—a two percent increase in twenty years. However, researchers claimed that women's participation in economic life was closer to 20 percent when allowances are made for full and part time, seasonal, paid, and unpaid employment. Despite significant increases in female enrollments in the educational system, including university level, few women were employed in such traditionally male fields as medicine, engineering, and law.

During the 1970s, laws were passed regulating women's employment, including equal pay for equal work. Other laws encouraged women to continue to work even after marriage and childbirth, and

allowed them to retire at age 55 with a pension. A minimum age of 18 was set for marriage, and women were given equal rights for divorce. Assets of both women and men prior to marriage were protected in case of divorce. In employment, women were overwhelmingly employed as teachers. Other vocations included nursing and clerical workers. Despite improving employment opportunities, women continued to be discriminated against in high offices and having influence in the government.

Other laws were enacted to give women the right to engage in the private business and finance sectors, and banks did not require the consent of the husband to obtain a loan. Employment for women reached 37 percent, an increase of 14 percent, between 1986 and 2006.

These gains in legislation were not without caveats. For example, while the law gave women the right to divorce, it required that women give “reasonable cause” for divorce. If a woman failed to do so, she would forgo her financial rights and custody of her children. Even if she succeeded in giving a “reasonable cause” and kept her children, she could not force her ex-husband to pay alimony if he simply claimed financial hardship. If she married again, she would automatically give up custody of her own children to her mother, and if deceased or financially incapable, to her mother-in-law.

Even though there were gains in women’s rights during this era, women suffered disproportionately under the oppressive regime because Libyan women traditionally sacrifice themselves for their family. The general conditions that prevailed were those of corruption, poor health, educational, infrastructure, and legal systems - all affected the entire society, men and women, but more adversely on women who put husband and family ahead of self. The oppressive system imposed more hardship and psychological pain on women when their father, brother, husband or son was imprisoned, tortured or forced into exile.

### *The Present*

Presently, the picture is mixed and worrisome. Libyan women played a key role in the success of the February 17 Revolution. Except for combat, they participated in every aspect of the revolution: they took part in demonstrations early on, documented human rights

abuses, were active in social and other media, and supported the fighters. Women would sew flags, prepare meals for combatants, provide logistical support, help treat the injured, and even aid in smuggling ammunitions.

In the free post-liberation environment, women formed many civil society organizations. They were active in promoting and fighting for women rights. I was personally actively involved in several of these organizations.

Women made considerable gains in the first congressional elections for the General National Congress which took office on July 7, 2012. Forty-five percent of registered voters, or 1.3 million, and nearly half the candidates, 545 of 1,246, were women. Thirty-three of the 200 elected members, or 16.5 percent, were women. However, this is somewhat deceptive since only one woman was elected as an independent candidate, while the other 32 were elected under the electoral law which had a gender parity provision requiring each party to place its female candidates in an alternating pattern with male candidates on their slates to ensure that women were elected. This still compares favorably with Egypt's elections, in which less than two percent of those elected to parliament were women.

Women have experienced increasing harassment in the major cities over the past two years, combined with the general lawlessness in the country. But the roots of such harassment go back to the Gaddafi era, as recently reported by Voice of America:

The Gaddafi family and their top officials were notorious for abducting women. Women would be summoned from their homes after they had been noticed at social events, according to a recently published book *Gaddafi's Harem* by *Le Monde* journalist Annick Cojean. That behavior spread through society, convincing men beyond the power circles that women were fair game.<sup>1</sup>

Recently, women's groups staged a protest called "Woman Scream" demanding that government authorities act on violations against women, whether in public or within the family, and bring to justice

---

<sup>1</sup>Voice of America. November 1, 2013. "Libya Women Report Increased Harassment." <http://www.voanews.com/content/libya-women-report-increased-harassment/1781596.html>

and punish those responsible for crimes of rape, violence and harassments. It placed the responsibility directly on the government for lack of enforcement and demanded accountability and enforcement of laws in this regard. In Libya, wife abuse is not brought into public life due to social norms. There is no concept of marital rape in Libyan law, and there are no laws outside the general penal code that protect the victim or punish the perpetrator.

Despite very active involvement by women in public life, strong presence in media, very active civil society organizations, good representation in the Congress and intensive campaigns to advocate their cause and assert their rights, they made very little progress in high positions in government where they could exert actual influence. Only two cabinet positions were given to women in the current 32-member interim government as well as the previous transitional one. Even though one position was the Minister of Health, women were generally limited to social and marginal ministries.

Even though women have taken advantage of their educational opportunities, it remains mostly limited to the major cities. In rural areas, girls are limited in getting education due to family restrictions. Even in cities, where women graduates greatly outnumber men in many major fields of study, such as medicine and architecture, they face limited advancement opportunities due to social conditions which place higher burdens on women for family obligations, lack of daycare services, poor transportation and inadequate support from husbands and family.

Another problem that has been facing women is in marriage. Libyan law specifies age 18 as the minimum age for marriage, yet it is widely violated in rural areas. Birth certificates can be forged to circumvent the law.

General poverty, lack of good-paying jobs and adequate housing has forced delay in marriage. Many young Libyan men migrated seeking better opportunities outside Libya and fleeing violent political conditions. This has compounded the problem for women of child-bearing age of finding suitable marriage partners, adding to their social problems.

While gains made in the legal status of women over the past half-century remain on the books, many are now under threat due to pres-

sure from some religious parties and their supporters. The Law No. 9 of 1993 went a long way toward limiting polygamy by requiring the written consent of the first wife and court permission. However, this law seems to be under threat. On his speech on the occasion of Liberation Day on November 23, 2011, National Transitional Council President Abduljaleel called for promoting polygamy.

Libya on May 16, 1989 became a state party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The signature was not debated under the then-totalitarian regime. However, in the current atmosphere of open debate, this convention has stirred strong discussion and controversy. The Dar Alifita (which issues *fatwas*, or edicts, from its leader the Mufti) has warned the legislators (GNC) against approving the convention. The debate continued between supporters and opponents, ignoring the fact that Libya is already a state party to CEDAW. Dar Alifitaa issued a proclamation stating that the convention has “destructive and unfair articles, the least dangerous of which is blowing up the family and undermining its integrity, a call to moral decay, in addition to openly breaking the laws of the Quran and Sunnah.”

The revolution of February 2011 has not brought improvement in the status of women. But neither has it brought real improvements in the political, legal or administrative infrastructure of the system. Laws still discriminate against women, such as polygamy and denying citizenship rights to children of Libyan women who marry non-Libyans. The vibrant activity in women’s civil society organizations have abated, reflecting the general mood in the country that little has changed in the system since liberation. An attitude of apathy is gripping the people. One woman reflected this attitude by saying, “What good is it to talk if no one is listening? Neither Congress nor the two governments have given any indications that women will play a bigger role now than in the past. There are important and negative changes that have transported the social awareness to a backward position, one of which is the use of religion as a tool to oppress women within society.”

### ***The Future***

Libya is now embarking on the huge task of drafting and adopting a new constitution. The General National Congress was elected and

sworn into office on July 7, 2012. It was given 18 months, and tasked with the primary responsibility of drafting a new constitution through a 60-member Constitutional Commission which was to comprise 20 members elected from each region of the country, roughly representing the three original states formed in 1951 upon independence.

The 18-month life of the GNC was supposed to end on February 7, 2014, and the election for the Constitutional Commission occurred on February 20. The lax way the GNC acted in performing its primary duty of drafting the constitution has led to strong negative popular sentiment against it, in addition to its generally perceived poor performance. The GNC voted itself a mandate extension until December 24, 2014. This has given rise to many movements opposing the extension and alternative proposal to manage the transition.

Women's groups intensely lobbied for sizeable inclusion of women into the Constitutional Commission, whose draft of the constitution will shape the form of the Libyan political, legal and all aspects of life for decades to come. Despite a heavy campaign by women groups, only six of the sixty seats in the commission (or 10 percent) were reserved for women while their percentage in the population is over 50 percent. Judging by the experience of the GNC elections, it is unlikely that more than a few women would be elected, outside the allocated six.

Some groups, both within and outside the GNC, opposed a quota system, arguing that it would violate Article 6 of the interim Constitutional Declaration of August 3, 2011, the *de facto* constitution of the post-Gaddafi era, which states that "Libyans shall be equal before the law." However, this argument is not valid because of Libya's obligations under the international legal framework. As noted above, Libya is party to CEDAW, which states that "adoption by States Parties of temporary special measures aimed at accelerating *de facto* equality between men and women shall not be considered discrimination as defined in the present Convention..."<sup>2</sup>

Libya is also party to the Protocol of the African Charter on Human and Peoples' Rights, which states that "State Parties shall take

---

<sup>2</sup>Convention on the Elimination of All Forms of Discrimination against Women, Article 4, Paragraph 1.

specific positive action to promote participative governance and the equal participation of women in the political life of their countries through affirmative action, enabling national legislation and other measures to ensure that: a) women participate without discrimination in all elections; b) women are represented equally at all levels with men in all electoral processes; [...]; 2. States Parties shall ensure increased and effective representation and participation of women at all levels of decision-making.”<sup>3</sup>

Despite gains, Libyan women face many challenges on the road ahead to improve their social and legal status guaranteed by legislative and constitutional statutes.

Some groups want to roll back women’s rights, calling for a strict traditional role for Libyan women under Sharia law, segregating them in schools and places of employment, and even confining them to home and family. They promise to enact a more conservative constitution which would deprive women of gains made over the past half century. However, despite their vociferous pressure, these groups do not enjoy wide popular support, as recent polls have shown.

Obstacles to women achieving equality will continue, since Libya remains a male dominated society and religion could be used as a tool for discrimination.

### *A Promising Sign from Tunisia*

Women’s rights could be bolstered by articles in the constitution in neighboring Tunisia approved in early 2014. Article 20 was approved by the National Constituent Assembly on January 7, 2014. One article, which was approved by 159 out of 169 lawmakers, states that “all male and female citizens have the same rights and duties. They are equal before the law without discrimination.” This upholds Tunisia’s status as having one of the most progressive laws on women rights in the Arab world.

The ruling Tunisian Islamist Ennahda Party also accepted the lack of inclusion of articles enshrining Islamic Sharia law as well as accepted the “neutrality of mosques.” In 2011, this party sparked con-

---

<sup>3</sup>African Charter on Human and Peoples’ Rights, Article 9.

troversy when it proposed gender “complementarity,” rather than equality in the constitution. The new draft constitution states that Tunisia is a secular state based on citizenship and rule of law. This decides once and for all making the Sharia one, rather than the only, source of legislation.

The struggle for women’s rights in Libya’s yet-to-be-drafted constitution and in society lies ahead. Women must remain vigilant and proactive to assert their rights and achieve measures of equality.