

UN AGENCIES CONTRIBUTION TO THE UPR FOR LIBYA

1-Introduction. This contribution is based on the concluding observations of the Committee on the Rights of the Child(CRC, Geneva July 2003), the national report submitted to the CRC (September 2002), few documents shared by GPC of Social Affairs and other official documents related to sectoral data/ statistics, in addition to UNICEF and the UN existing documents related to the Convention on the Rights of the Child (CRC) and the MDGs. Yet, direct assessment of child situation and frequent discussions with counterparts and other partners brought wealth to the subject drawing a comprehensive picture representing different views from different perspectives. This contribution has been prepared to be part of the RC consolidated report.

This contribution will not be exhaustive but rather highlighting the key issues which will contribute to enhance Government's capacity on policy development, data-evidence and knowledge management for the best interest of the Libyan child.

2-Background and framework

2.1 In Libya there is no a single Constitution framing rights, obligations, institutional mechanisms and tools to organize collective and individual rights and duties. Most of the legislation related to human rights and children's rights are based on the following instruments: the First Statement of the Libyan Revolution, Declaration of People's Authority, Reinforcement of Freedom Law, the Great Green Act of Human Rights, the Law No 5 of 1987 on Disabled People, the Labor Law, Administrative Regulations on Violence against Children and Women.

2.2 The human rights situation for migrants in Libya generally fluctuates, in accordance with the policy adopted by the country towards foreign citizens, especially coming from African sub-Saharan countries; policy which has drastically changed over the last 50 years, characterized nowadays by major access restrictions and fight to irregular immigration. While being a signatory party of ICCPR and other major international conventions dealing with human rights, Libya has been often criticized not to accomplish to them; critics which have targeted also the treatment reserved to irregular migrants, who have often reported arbitrary arrests, beatings, and other abuses during their detention and deportation. Forced deportations of foreigners who lack proper documentation frequent occur, sometimes to countries where they could face persecution, including Eritrea. Even the recent push-back policy, jointly adopted by Libya and Italy, towards clandestine boats trying to reach Europe crossing the Mediterranean Sea, has been severely criticized by international organizations as a violation of the "*non-refoulement principle*" enshrined in the international instruments governing human rights.

2.3. No specific, single and integrated law on Children Rights is available, however several laws, administrative regulations, recommendations and legal procedure rules are governing Child Rights in Libya, the most important is the law no. 5 of 6.12.1997 related to Child Protection, encompassing a broad range of 17 legal arrangements related to child definition and pre-conditions for marriage, health care for both mother and child, social protection, registration, compulsory education, limiting the age for criminal responsibility, limiting child labor age, child friendly urban planning, Childhood High Committee, budgeting for children,

creating social assistants for judiciary process and the best interest of the child principle . Most of the laws are welfare oriented rather than rights-based approach.

2.4. Libya ratified and signed 12 of fundamental international Human Rights Conventions and Optional Protocols as of May 2009, including the CRC (15 April 1995) without any reservation. Government considers ratified conventions part of the national legislation in spite of the shay mention and reference to international conventions. Social and culturally both Government and the Libyan Society are committed to support and to protect children, however few CRC concepts are still not well understood and Government did not yet shows a real interest to make required studies and analysis to evaluate the current situation and its conformity with the CRC requirements using international standards .Indeed, several areas are not well documented, based on data –evidence to determine whether the problem does exist or not. The following areas need further efforts to get some specific data required to monitor progress and challenges, in particular data on violence against children and women, data on the most vulnerable children, those in contact with the law, children involved in child labor including migrants, access and quality of education and health services to ensure that children are getting the best benefit from national investments.

2.5. In Libya the implementation of the CRC and its Optional Protocols is making good progress, however some improvements are required and necessary to ensure the best interest of the child, making efficient investment on children to ensure the development of human resources to accompany the expected global economic development based on the diversification of the national economy.

3. - Promotion and protection of child rights on the ground

Overall Coordination and Cooperation

3.1. The Childhood High Committee (CHC) created by law in 1997 as an independent body with proper budget and authority is no longer in charge of child issues. Since 2006 the GPC of Social Affairs is the only governmental institution coordinating child issues through the Childhood Care Directorate (CCD), represented in 22 Shaabiat (governorates). The local representatives of the CCD are members of the local people's committees (LPC) who discuss when necessary children issues as part of the agenda.

3.2. The GPC/CCD department is coordinating with other governmental institutions on issues related to children, in particular aspects related to the CRC implementation, in addition to other responsibilities as the preparation/coordination of the 3d. National Report to the CRC in Geneva, the celebration of the National and International Child's day, the celebration of the 20 Anniversary of the CRC, organizes several events on child rights issues, prepares/edits and disseminates documents on Child Rights, coordinate with NGOs and CSOs events and action in favor of children, suggests items on children to be discussed by the LPC and GPC in their ordinary and extraordinary meetings.

3.3. The GPC/ CCD is also active within the League of the Arab State (LAS), the African Union and the Maghreb Arab Union as well, coordinating and implementing agreed plans, strategies and joint actions, attending all regional events and providing information for regional reporting processes .

Civil Society Involvement

3.3. About 26 governmental and para-governmental institutions are working in Child Rights area in addition to more than 30 NGOs and CSOs who are also engaged in children issues, supporting different activities according to their objectives and areas of interest. Few NGOs/CSOs are covering the whole country others are limited to the big cities as Tripoli and Benghazi. The only area of HIV/AIDS is concentrating the interest and activities of 12- 15 NGOs, most of them are young volunteers, in particular women.

3.4. To improve the capacity and the role of CSOs it is important to conduct a capacity mapping to know who is doing what and how? The results of this mapping will help both Government as well as the UNS to determine the profile of the required assistance to promote child rights on the ground

3.5. The major Libyan NGOs are the Gaddafi International for Charity and Development Foundation (GICDF) chaired by Saifou al- Islam the Gaddafi's son and Waatassimu Charity Association chaired by Dr. Aisha the Gaddafi's daughter. Both are very active in children areas internally as well as internationally.

Child Rights Promotion and child participation

3.6. Child Rights issues are mainstreamed in education system, including curriculum. Yet the teachers are members of the LPCs and students in schools created their own "people's committees" to express their views on general issues but we don't know to what extent their views are considered.

3.7. Further efforts are required to promote Child Rights, in particular within civil servants staff as teachers, health workers, prison's guards, police staff, army, civil protection staff, social assistants, journalists and media in general. The High Institute of Justice, the Police Academy and the Academy of Journalism should include in their respective curriculum chapters related to Child Right issues and how to deal with children.

3.8 The Great Green Act on Human Rights in al-Jamahiriyah (12/6/1988) provides some bases for all Libyan citizens to express themselves, however some cultural and social values are still affecting child participation which requires readjustments within the educational system and the families as well, reserving enough space and opportunities to child participation on issues that affect their life and future. Libya needs to capitalize on the current youth experience and dynamic to develop a comprehensive strategy on adolescents and youth people participation providing required guidance on how to strengthen this participation to make it more effective and efficient.

Right to life, liberty security and family

3.9. According to the Libyan legislation, children under 14 years age are not under sentence of death, between 14 and 18 years their charges are reduced by 2/3, juvenile justice measures provide alternatives for rehabilitation process to facilitate social integration.

3.10. The laws number 106 / 1973, 95/1975 and 13/1980 guarantee essential health care to children and mothers, equal compulsory education to boys and girls as well as social protection. Thus an extensive vaccination programme is implemented targeting the ten (10) main diseases covering 95% of children, supported by additional specific campaigns to focus on isolated areas hard to reach within the normal/routine approach. Diseases such neonatal tetanus and polio have been virtually eradicated and measles has been largely controlled. The proportion of children that are breastfed during the first five years of their life has increased to reach 94% according to the 2007 PAFAM survey .57% of them are between 10 and 11

months age and 34% between 12 and 23 years age . However neonatal mortality is still high. The infant mortality rate declined from 27/1000 to 17.6 between 1990 and 2007, the same with the U5MR decreasing from 43 / 1000 to 20.1 deaths per 1000 during the same period.

3.11 Migrants` integration in Libya is still very primitive. Limited access to health and educational facilities, as well as to well-paid and regular jobs exacerbates such situation, leading to severe isolation of migrants communities.

3.12. The Libyan laws ,organize several aspects related to child witness, claiming to administrations and courts, the guardianship and tutelage (18 years), adoption and family changes, biological family, legal inheritance, concluding property contracts, freedom of movement and association, regulation of alcohol and drug abuse, non discrimination among human being, non discrimination between boys and girls.

3.13 Regarding HIV/AIDS, UNODC initiated a comprehensive response to HIV/AIDS prevention, treatment and care among drug users, including in prisons.

3.14. However, police offices should arrange special rooms for children when in contact with them for any reason. Schools to have social assistants well trained to assist children and families when facing any problem or affected by some difficulties. Teachers to be trained to deal with disabled children as part of the inclusive education approach.

3.15. Government is encouraging De-Institutionalization approach for children to live within families rather than creating and supporting charity institutions, however Government should verify and ensure that Targeted Social Assistance (TSA) is reaching children within the families, in particular those of early age (0-36 months) who cognitive and emotional development are critical for their future.

3.16. The Libyan laws are not reflecting any discrimination or inequality between girl and boys but empowering women still subject to some resistance and needs further joint work.

3.17. While the Libyan children are fully enjoying their rights to education and health services, children from migrant families are facing difficulties because access restrictions due to high scholarship fees, not affordable to all migrant families. About 300 migrant children are not enjoying their right to education, because their parents are not Libyans and can't pay for them. Yet, children born from a Libyan mother and foreigner father cannot have access to free of charge education because children are not entitled to the Libyan Nationality. A new law is in the process to be adopted to consent the Libyan Nationality to children from the Libyan mother. This is an important change which will allow children to have free access to education and other social services.

3.18. The item No 3 of the law No5 /1997 mentioned above, related to the pre-conditions to conclude the marriage act, affect the privacy of the persons who want to get married. Indeed the two candidates to marriage have to go through a blood examination process to check if their blood group is presenting any risk contacting transmissible diseases or genital deform, which represented in 2008, 51% of disability cases (70,721)

3.19. According to the Libyan legislation, children fewer than 14 years age are not under sentence of death, between 14 and 18 years their charges are reduced by 2/3. The juvenile justice measures provide alternatives for rehabilitation process to facilitate social integration.

3.20 Criminal justice reform is considered as a key requirement in promoting and protecting human rights. UNODC is collaborating with Libya in a project focusing on criminal justice reform, started in 2007, promoting internal debate on criminal justice reform, supporting the reform of criminal code and relate legislations such as anti-illegal migration and anti-

terrorism legislation in light of ratified human rights conventions by Libya, supporting the system of juvenile justice based on international best practice, increasing assistance to the ongoing process of penal reform focusing on the improvement of detention, rehabilitation and education facilities, and improving case management and reduce the number of unsentenced prisoners through improving accessibility of legal representation.

4. - Achievements, challenges and best practices

4.1. Libya made a remarkable economic and social progress during the last decade after the end of economic sanctions (1990) /restrictions due to the international embargo. The country is ranked No 117 in terms of U5M rate and took the 55th position on 2009 HDI ranking, advancing three places. Libya is well placed to achieve MDGs but many challenges are still impeding the full implementation of the CRC, creating a convenient protective environment for children.

4.2 Progress has nevertheless been registered in several areas, where projects carried out by International Organizations (in particular IOM) in close coordination with Libyan Authorities have proved to be successful, such as:

- 1) Counter-trafficking, in which training activities, aimed at enhancing awareness and capacities of local judiciary counterparts combating the smuggling and trafficking of human beings, have led to a revision of the legal provisions concerning the crimes of trafficking and smuggling, consistently with the international standards set out in the UN Convention against Trans-national Organized Crime and Palermo Protocols.
- 2) Upgrading of Libyan Reception Centres for irregular migrants, aimed not only at improving the living conditions of the inmates (especially on health) but also at rendering the management of such centres more transparent

4.3. The successful completion of the activities resulted in the joint recommendation of elaborating separate projects to focus on specific components of the project. Thus a project on juvenile justice was elaborated and submitted to the counterparts. A project proposal on “human rights in the administration of justice” is also being elaborated in close consultation with the Libyan counterparts.

4.4. In Libya, indicators related to basic social services are very high in terms of coverage but not very clear or not available in terms of access, efficiency and impact. Health system, which received 5% of Government budget in 2008 is well supplied and furnished in terms of equipments and infrastructure facilities (275 person / hospital bed in both Urban and Rural areas), 99% of deliveries are taking place in health centers. However maternal mortality is still high for Libya 27/100,000 live births in 2007.

4.5. **The quality of services is a concern** which requires an urgent reform to enhance the capacity and the governance of health management system, establishing solid and credible data-base system, strengthening medical and para-medical staff capacity, shifting from clinical approach to socio-community approach with special focus on preventive actions targeting families, children and youth.

4.6. Regarding education the enrollment ratio in primary education in 2007 was about 98 %, 48, 4% were girls and 51, 6% boys. However quality and efficiency of education is a concern as well as disparities among geographic regions in spite of the high financial investment devoted to education

4.7. **Data –evidence and knowledge management** to monitor progress, identify gaps and disparities implementing the CRC are critical elements requiring high attention from Government. Indeed since 2004 UNICEF and the UNCT tried to engage Government to use the Devinfo system as a tool to manage data, using appropriate indicators based on international standards to monitor MDG progress while promoting the M&E culture towards better governance and clear accountability.

4.8. Important efforts are to undertake by Government authorities, involving CSOs, academic institutions, engaging very seriously all concerned institutions to improve the quality of available basic services while paving the road to establish a comprehensive and independent monitoring mechanism system to ensure that children are enjoying their rights.

4.9. **The culture of welfare should change**, moving towards the **Right-Based-Approach** with precise accountability to create an **appropriate protective environment** for children based on the **best interest of the child**.

4.10. **Independent mechanisms** (Ombudsman) is required to avoid that Government plays the double role of “ judge and party”, this will create more transparency, neutrality and accountability on children issues, using international standards in line with the CRC spirit.

4.11. **The Target Social Assistance (TSA)** .Is a commendable efforts engaged by Government to support poor families to receive social assistance (TSA) with a special effort to make it sustainable through portfolio investments. However it is imperative to ensure that children of poor families are benefiting from this assistance to cover their essential needs, in particular those under 36 months age.

4.12. **The Early Child Development (ECD)** is an important and critical stage of the childhood life cycle which needs particular attention from Government authorities, Civil Society and families as well. This important responsibility starts from the better parenting capacity to be well prepared to play the role of father and mother which is not the general case in Libya as in other many countries within the region. Adequate father’s support for early learning and development is a new culture to be developed in Libyan as well as in most of the Arab countries where the child care/education seems to be an exclusive task and responsibility of mothers/women. Yet, a well balanced nutrition diet should be practiced by families and monitored by health authorities to reduce malnutrition consequences. The early stimulation and interaction with adults improve physical, cognitive, social and emotional development during the first year of the life, laying the foundations for a healthy and successful future in school and beyond. Without family support to learning, growth and development, children do not develop all their potential, consequently the country will loss a huge amount of economic resources and compromise its future. Few questions could be asked:

a- Is the Libyan Government aware about the cost of ECD consequences?

b- Did families have required information to behave differently Vis a Vis of ECD issues?

4.13. **Promoting transparency and anti-corruption measures**

Recognizing that preventing and combating corruption constitute fundamental measures to promote the role of law and protecting human rights, UNOD with Libyan government in this context and providing technical assistance to the Government to enhance transparency, integrity, accountability and combating corruption. The project is expected to provide assistance to the Libyan Arab Jamahiriya to establish effective mechanisms to combat corruption in its all forms and dimensions and promote judicial integrity and transparency in

the public sector through the implementation of the United Nations Convention against Corruption (UNCAC). The project will also focus on raising the public awareness on combating corruption. The project will be implemented with a number of key government counterparts led by the National Economic Development Board. The counterparts will include the GPC for Justice, the GPC for Public Security, the GPC for Finance and Planning, the media, civil society and academia.

5. Some Recommendations

From the above review and analysis few recommendations are suggested to consider by the Libyan Government, covering the following areas:

5.1. Legal reform

5.1.1. Draft and adopt one single and integrated law on children, encompassing all national and international instruments, considering the best interest of the child

5.1.2. Draft and adopt a law of State Programme on ECD

5.1.3. Review and adopt a specific law on Juvenile Justice

5.1.4. Draft and adopt a national strategy on Adolescents and Youth Participation and Development

5.2. Institutions

5.2.1. Adopt the law on the establishment of an independent mechanism (Ombudsman) to monitor the Child rights implementation

5.1.2. Consolidate the role of the GAI as an inter-ministerial mechanism to collect, analyze and disseminate data on children, including the adoption of the M&E system in each sectoral department to create data-evidence

5.2.3. Conduct in-depth studies and analysis to obtain information on issues related to Child Protection, in particular vulnerable children in Libya including migrants, Violence against Children, Child Labor, Child abuse, etc

5.2.4. Conduct a survey to map CSOs capacity and gaps to develop a national strategy to enhance CSOs capacity and role

5.2.5. Conduct further training on Child rights issues for teachers, health workers, prison's guards, police staff, civil protection staff, journalists and media professional,

5.2.6. Introduce the CRC curriculum into the teaching programme of the High Institute of Justice, the Police Academy, the Journalism School/ Faculty and other institutions/professions dealing with Children.

5.2.7. Engage the reform of health sector to improve accessibility and quality of services

5.2.8. Engage the reform of education sector to improve the quality of education and the active learning, including the adoption of Child Friendly School Initiative.

ABBREVIATIONS USED

- CRC** : the Convention on the Rights of the Child
CRC : the Committee on the Rights of the Child
GPC : the General People's Committee (ministry)
SA : Social Affairs

RC : Resident Coordinator
CHC: Childhood High Committee
CCD: Childhood Care Directorate
LPC : the Local People's Committee
CSOs: Civil Society Organizations
LAS : the League of Arab States
GICDF: the Gaddafi International Charity and Development Foundation
U5MR: under five year's mortality rate
TSA : Target Social Assistance
ECD: Early Child Development
GAI: Global Authority of Information
PAPFAM: Pan Arab Project for Family Health

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