



Stakeholder Report to the United Nations Human Rights Council Universal Periodic Review- Libya

Disability Rights

Submitted by The National Libyan Organisation for the Development of People with Disabilities

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KEY CONCERNS

- Throughout the last four years, limited efforts have been made by the Libyan state to ensure that disability rights are protected.
- Libya's domestic laws fail to safeguard or guarantee disability rights in compliance with international human rights standards.
- The Libyan state has adopted new laws and regulations that undermine disability rights, and increase discrimination.
- The right to education, healthcare, work, political participation and health care remain curtailed.

INTRODUCTION

1. This stakeholder report is a submission by The National Libyan Organisation for the Development of People with Disabilities. The organisation is an independent Libyan organisation that advocates for the rights of people with disabilities and promotes their development.
2. Seven recommendations concerning the human rights of persons with disabilities were put forward by Member States during Libya's last Universal Periodic Review (**UPR**).
3. These recommendations concerned the need for Libya to take steps to accede to the Convention on the Rights of Persons with Disabilities (**CRPD**) (93.1; 95.3), to make efforts to integrate persons with disabilities into society (93.29), to improve education materials for those with special needs (93.54), and to adopt special measures to reduce certain costs for those with disabilities (93.30; 93.31; 93.32).
4. The State has failed to implement any of these recommendations, five of which enjoyed its support: 93.1 to "take necessary measures to accede to CRPD"; 93.29 to

“continue their efforts in enhancing the role of persons with disabilities in society”; 93.30 to “continue its efforts towards people with special needs, and ensure that they are exempted from paying some expenses; 93.31 to “speed up the adoption of the draft law on exempting disabled” and 93.32 to “continue to implement its decision No. 908 of 2007 regarding the coverage of certain costs for persons with special needs.” As well as recommendation 95.3, to “accede to CRPD,” which it agreed to examine. It has since failed to provide a follow-up response. In fact, Libya failed to provide any mid-term reports since its last UPR.

5. This report will highlight key failures of the Libyan state in relation to the rights of persons with disabilities over the period of review.

BACKGROUND

6. The last available census, from June 2012, states that 91,322 people in Libya are registered with the Public Fund for Social Security as a result of living with disabilities. 34% of this group are between the ages of 15 and 35 years old.

7. The primary legal protection for the rights of those living with disabilities in Libya is currently provided, indirectly, by the Constitutional Declaration of 3 August 2011. Although it does not contain any provisions which expressly deal with persons with disabilities, Article 6 states that all “Libyans shall be equal before the law” and Article 8 provides that 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 work, education, medical care, and social security.” The lack of express constitutional protection for persons with disabilities is concerning and provides a substantial obstacle to the full enjoyment by persons with disabilities of their inherent rights and human dignity.

8. Law 5 of 1987 related to people with disabilities is currently still in force. Article 2 of the law defines people with disabilities as “those who suffer from a permanent inability to conduct their work completely or partially or to behave normally in society.” This includes mental, psychological or physical disability at birth or attained.

9. Libyan law has a paternalistic approach to caring for persons with disabilities. Article 7 of Law 5 of 1987, for example, suggests that persons with disabilities should reside with their family and only be provided with accommodation when necessary. Whilst the role of the family as care giver should be acknowledged and supported by the state, it should not be at the expense of undermining the autonomy and fundamental human dignity of those with disabilities. It should also not deduct from the state’s responsibility to take the necessary steps to provide suitable care to ensure the protection of the human dignity of persons with disabilities.

10. Libya is signatory to CRPD but has yet to “ake necessary measures to accede to CRPD,” as stated in recommendation 93.1, which enjoyed Libya’s support in the last UPR.

11. The only legislative development directed towards persons with disabilities, since Libya’s UPR in 2010, has been the adoption of Law 4 of 2013 related to peoples with disabilities from the liberation battle. This law provides support to those who have developed disabilities as a result of injury during the 2011 Uprising, specifically between 15 February 2011 and 23 October 2011. This Law is not consistent with Law 5 of 1987, as Article 1 of Law 4 of 2013 creates another class of people with disability, those who sustained permanent disability fighting for the 2011 Uprising and against the previous regime or sustaining injuries as civilians from attacks by that regime. Such a distinction highlights inequality in the treatment of people with disabilities as well as discriminating between them on the basis of political association. It contravenes Article 5 of the CRPD to promote equality and non-discrimination between people with disabilities. Additionally, Law 4 of 2013 does not include any harmonisation mechanisms with Law 5 of 1987, which may result in persons with disabilities being disenfranchised from certain protections and benefits.

THE RIGHT TO EDUCATION

12. Two recommendations relating to improving education for people with disabilities in the last UPR have not been implemented despite enjoying Libya’s support. They are recommendation 93.54 to “improve education materials used in schools” and recommendation 93.57 to “continue its efforts in improving the right to education, especially education for people with special needs.”

13. Article 8 of the Constitutional Declaration recognises the right of all Libyan citizens to education. Libya has failed to ensure that students with disabilities are able to access state funded education and to provide specialist staff and equipment where necessary. This is more vital because children under the age of 18 represent 19.2% of the total number of people registered with disabilities, which highlights the need of the state to act promptly given the significant proportion of young persons with disabilities.

14. Public schools in Libya are rarely equipped to accommodate students with disabilities in the classroom. Students with severe disabilities simply are not able to access school buildings, which is a significant obstacle to the right to education. UNICEF, in collaboration with Libyan Ministry of Education, conducted an assessment of all Libyan public schools in 2012. The review concluded that only 1% of public schools have functional toilets for children with disabilities, less than 5% offer any provisions for students with special needs in the classroom and 50% of schools stated the need for additional textbooks, and visual and audio aids to improve teaching standards.

15. Libya has failed to meet its obligations under Articles 29 and 31 of the Convention on the Rights of the Child (**CRC**) to protect children's rights to play and to help development talents and abilities. There are no sporting activities or facilities available for disabled children between the ages of 3 and 6, nor are there trained staff to conduct such activities. This is worrying because sporting activities are essential for the healthy development of young children especially those with physical disabilities. The Libyan state has failed to meet its obligations under Articles 29 and 31 of the CRC, even though it is a party to the CRC.

16. The number of facilities which specialise in providing education for people with disabilities is insufficient to support the number of those registered with different types of disabilities. There are currently only nine centres located in Tripoli, Benghazi, Tobruk, Aljmeil, Zwara, Sebha, Alshat'e, Brak and Misrata, which specialise in educating blind students. In addition, there are only five schools, located in Tripoli, Benghazi, Misrata, Zawia and Sebha, which specialise in providing education to deaf students, even though there are 12,528 persons registered with impaired hearing. Also, there are only 12 schools that specialise in neurological development issues. In addition, these schools have a lower standard of teaching in comparison to other state schools. The state has also failed to provide such schools in rural areas across the country.

17. Domestic law related to education and people with disabilities is discriminatory and promotes inequality between these groups. Article 33 of Law 5 of 1987 states that authorities shall coordinate with specialist agencies to put in place rules to accommodate the weighting of certificates gained by disabled people from special centres with those certificates gained from regular institutions. This reflects the systematic shortcoming of treating persons with disabilities as secondary citizens instead of ensuring facilities which provide equivalent levels of education and qualification.

THE RIGHT TO WORK

18. The Libyan state's failure to provide sufficient access to education for persons with disabilities places those persons at a disadvantage when seeking employment. The low standards of education provided to people with disabilities as well as the limitations drawn by domestic law, result in other forms of discrimination and alienation. Not being able to access jobs due to limited qualifications leads individuals to rely on the limited social security provisions provided by the state.

19. Article 4 of Law 5 of 1987 provides that persons with disabilities should be provided with "a suitable job". Failure to further define this term has led to its use as a further means of discrimination. The fact that such a provision is still in force demonstrates the state's failure in meeting its positive obligations to assist people with disabilities to compete in the job market equally. As a result, instead of being judged on the basis of their qualifications, experiences, or interests, persons with

disabilities are assigned roles on the basis of their physical abilities alone. This contravenes Article 6 of the International Covenant on Economic, Social and Cultural Rights (ICESCR).

20. On 3 May 2012, the Minister of Labour and Capacity Building released statement number 1 of 2012 that introduced a 5% quota for persons with disabilities in state administrative jobs. As of yet, there has been no mechanism to suggest how it will be implemented or reviewed. Furthermore, the quota is limited to administrative jobs and fails to go far enough to advance roles for persons with disabilities in other public and private sectors.

POLITICAL PARTICIPATION

21. Recommendation 93.29 encourages Libya to “Continue their efforts in enhancing the role of persons with disabilities in society.” However, this has not been the case. The ability of persons with disabilities in Libya to engage in democratic processes has been extremely limited by lack of facilitative arrangements on behalf of the state.

22. In 2012, during the General National Congress (GNC) elections, polling stations were not adapted to accommodate persons with disabilities. During the Constitutional Drafting Assembly (CDA) elections in 2014, there was a slight improvement by equipping 195 polling stations around the country by providing ramps and lowering voting booths. During the House of Representatives elections in 2014, this figure was reduced to 165 polling stations adapted to people with disabilities similar to methods used in the CDA elections. Although the needs of some people with some disabilities were addressed, the needs of persons with other types of disabilities are yet to be met. For example, the needs of those with disabilities such as blindness were not taken into account despite being relatively straightforward to address. Article 29(a) of CRPD requires states to ensure that persons with disabilities are able to vote by secret ballot by “facilitating the use of assistive and new technologies where appropriate” and “assistance in voting by a person of their own choice”.

23. In addition, persons with disabilities have yet to be targeted or actively included in any state led political engagement effort. As a result some have limited access to awareness raising and informative activities which were organised to encourage participation in the electoral process. This has further undermined the inclusion of persons with disabilities in elections. This also violates Article 29 (b) of the CRPD.

24. Decision Number 161 of 2013 provides one seat to people with disabilities in each local council. However, for the purposes of the decision, people with disabilities are defined as only those who fought in, and for, the February 17 Revolution. This decision differentiates amongst people with disabilities and discriminates based on political affiliations, not allowing all people with disabilities an equal opportunity to participate or compete politically.