

## **Introduction**

Presenting its Fourth Periodic Report on Legislative and other measures taken to promote human rights status, the Great Jamahiriya is set to put forward its relevant leading experience for African brothers to take account of in pursuance of Article 62 of the African Charter of Human Rights and Peoples in 1981, stipulating that "each state party shall undertake, since the entry into force of this Charter, to submit a biennial report on legislative and other measures to be adopted with the aim of realizing rights and freedoms recognized and provided for in this Charter."

Since its outbreak in 1969, the Fateh Revolution has, in its first statement, declared its bias to freedom stating that "therefore from now on, Libya shall be regarded as a free sovereign republic under the name of the "Libyan Arab Republic", destined to emerge highest, with the help of Allah the Almighty, to function en route to freedom, unity and social justice, ensuring for its sons the right to equality and opening for them avenues of honorable work, with no one rendered to be disadvantaged, vulnerable or oppressed or to be treated neither as master nor as subordinate but rather as free nationals in a society on which the banner of welfare and fairness will be hoisted, God willing.

Having faith in values of freedom and social justice, the Great Jamahiriya had been doing its best at all levels domestically, regionally and internationally to develop firm rules for human rights not only in the Great Jamahiriya but also at the level of international forums including the UN and the august African Union with the testimony of all world organizations that solemnly expressed their appreciation for and held in esteem the stances of the Jamahiriya proved fully in support of issues of freedom as well as political, economic and social liberation from colonialism, hegemony, racial discrimination, inequality and exploitation, as corroborated in crucial historic documents such as the Declaration

instituting the Power of the People in 1977 that put in place the natural right to direct democracy, not to mention the Great Green Charter of Human Rights in the Era of the Masses in 1988 that carved out the full-fledged people-based individual and collective human rights theory.

Human rights status will not improve globally in general unless the ruler-ruled equation is abolished no matter the legislative or administrative measures of governments may be. The chief contradiction between the interests of rulers and the governed will remain negatively in effect as far as human rights were concerned. Further the division of the society into rich and poor certainly takes communities to infighting and dispute which on the whole will automatically lead up to exclusion and marginalization and cause crises to aggravate, reflecting adversely on public rights and freedoms.

This report is a presentation of ideas, institutions and measures that generally contributed to the creation of appropriate conditions that prompted steady improvement of human rights status in the Great Jamahiriya. In fact, legislative or administrative measures applicable in the Jamahiriya are but a redress of individual deficiencies and punishment for potential administrative abuses of individual character with a view to expand awareness base and disseminate the culture of interest in human rights.

The Great Jamahiriya, since presenting its third annual report, has pursued an array of legislative and administrative measures for the purpose of promoting freedom and reinforcing justice, all of which are contained in this fourth report with the following items cited as:

- 1- Civil and political rights including the right to life, to freedom, to participation in public affairs, to litigation, to freedom of opinion and expression, to freedom of movement and establishment and to physical and moral integrity as well as rights of Libyans abroad.

- 2- Economic rights including right to property, labor, and fight against unemployment, as well as the right to family protection and solidarity-based and pension rights;
- 3- Social and cultural rights securing right to health care and environment sanitation, housing and education;
- 4- Judicial and legal organization including judicial and legal protection, administrative organization and other guarantees;
- 5- Right to formation of civil society organizations, to syndicate action, to institution of civil societies, Federations, syndicates and professional associations;
- 6- Women and child rights and rights of persons with special needs;

The mass society, which was well-established in the Great Jamahiriya, has categorically dismissed contradiction between rulers and the governed. With its economic content based on shared and fair distribution of wealth, it has managed to diffuse economic tensions. Moreover, liberalization of material and moral needs has paved the way to a unique state of stability built around general welfare. Therefore, human rights status in the Great Jamahiriya is constantly upgraded not in view of successive legislative or administrative measures but due to strengthened mass society. The more the values of the mass society take root, the greater freedom becomes and the more safeguarded human rights are intended to be.

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Rights

# **First: Civil and Political Rights**

## **First: Civil and Political Rights**

Civil and political rights are deemed human rights in modern age, having become one of the underlying standards to reckon how far political systems and good governance are judged to be democratic.

The Great Jamahiriya is seen to be among countries most developed in terms of respect for civil and political human rights. Its political regime is rather focused on the establishment of broad-based democratic institutions that allow not only for freedom of expression but also for participation in governance and the translation of freedom of expression into practical participation in political decision-making, thereby considering respect of civil and political rights the best access to other freedoms.

Within the framework of dealing with civil and political rights, other rights can be addressed as follows:

### **1- Right to Life:**

The right to life is one of the most sacred rights enshrined in all religions and divine laws. It is a natural right that is inviolable and no human has the right to take it away from another. It is the right regulated and highly protected by the Islamic legislator to the extent that he depicted murder, without merit, as one of the most heinous crimes, with the Holy Qoran citing that "If anyone killed a person, unless it be for murder, it would be as if he killed all people".

This vision forms Libyan culture and is reflected in the Libyan legislation in regarding life as one of the most sacred of all rights that shall not be prejudiced but rather strictly punishable. The Libyan Penal Code is one of most interest in the right to life ever since creating the fetus in his mother's womb and until his death.

This has been translated in the Penal Code into viable provisions forbidding abortion of fetus, given his established right to life. This Code as well prohibits the so-called euthanasia which is applicable allegedly for reasons of ridding people of their sufferings. This justifiably confirms the right to live as sacred. It is only the Creator Who can Terminate it because it is He Who Grants and Recovers it at the hour He Wishes for a wisdom that is He alone Knows. Between fetuses and old people, millions of humans are entitled, by virtue of legislation, to protect their lives, as duly observed by the Libyan legislator.

In as much as the Penal Code develops interest in the right to life, baseline documents had been issued later with paramount devotion to this right, as stated in the Great Green Charter of Human Rights in the Era of the Masses and emphasized by the Freedom Promotion Act citing that "the sons of the mass society sanctify human life and tend to keep it safe". According to this text, the right to life is not only recognized but also its preservation is rendered an obligation every society, with all its institutions, must discharge.

Despite this deep concern about the right to life, the Libyan criminal legislation stipulates for a bigoted exception namely recognition of death penalty. Mindful of the crucial right to life, the interest of the society is above that of the aberrant person. Human right to exist should not be absolute if an individual is believed to pose a threat, and this affirms the safety of the society and the right of others to life.

The Libyan Law contains capital punishment as a penalty for particular types of crimes namely murder with premeditation, brutally committed crimes or those targeting large numbers of people. Other crimes including murder such as manslaughter, murder without premeditation, or killing for honor and money protection etc.. The Libyan Law imposes less severe sanctions since such crimes are not adequately indicative of a criminal mischievous personality involving risk or corruption for the society as a whole.

Albeit the fact that Libyan Law recognizes death penalty, it always seeks to narrow it. The Great Green Charter of Human Rights in the Era of the Masses stressed for endeavors to abolish it. The Libyan Law has introduced new procedures intended to commute capital punishment, most importantly money for blood payment and parental waiver. The latter serves to downsize cases of death penalty to a large extent. Controversy is still going on in the Great Jamahiriya between parties calling for revocation of this penalty and others recommending necessarily its sustenance in preservation of people's security and safety of their souls.

## **2- Right to Freedom**

Right to freedom, as one of the most important rights, may be directly rated second to human right to life. Since the first statement of the Great Fateh Revolution in 1969, freedom has become the permanently-sounded anthem and the most popular political literature in the Libyan society. Further the realization of freedom has become the most compelling action-driven objective of the society and its institutions, accordingly it can be safely admitted that efforts made for nearly 40 years were freedom-oriented.

The right to freedom is a complex right involving personal political, economic, social and cultural contents starting with physical freedom and ending only with the total liberation of man, of his will, mind, spirit and material and moral needs. As for political, economic and cultural institutions, they were established as tools for the realization of freedom.

Freedom is the ultimate purpose. The second principle of the Great Green Charter provides for sanctity of human freedom and intolerance of its restriction unless for greater ends and in compliance with strict legal procedures.

Despite reverence of freedom, the Libyan society, like other communities, has its laws on restricting freedom temporarily by

imprisonment and detention for example. These punitive measures were developed for those whose freedom involves danger for others' freedoms.

Though the Libyan Law recognizes these penalties, it has set out a host of measures to relieve the pain of those which interest requires their freedom to be provisionally restricted. Included as part of these measures are the following:

A. Forbidding long-term sentences. Libyan legislation is a rare example of prohibiting long-term imprisonment which, according to Libyan literature, is perceived as among elements of ignorance, backwardness, and absence of reality. It allows for reasonable prison sentences and wonders at how some legislation may sanction prison sentences that may last for hundreds if not thousands of years.

B. Methods of executing penalties and shape of institutions in which those serving sentences are deposited. These institutions are looked upon as ones of reform rather than of punishment. The Great Jamahiriya started applying the idea of open prison with its known advantages.

### **3- Right to Participation in Public Affairs (Right to Fate-Determination)**

The political system in the Great Jamahiriya is based on direct democracy providing to all citizens the right to participate uniquely as never before in the present age.

In 1977, the City of Sabha was the scene of issuing a historic declaration on the Establishment of the Power of the People, citing in its Article 3 that "the direct power of the people is the basis of the political regime, that power is for the people and no one else shall be have this power, and that it is exercised through popular congresses, people's general committees, syndicates, Federations, vocational associations and the People's General Conference." Since then, a series of legal codes, including the Great Green



Charter of Human Rights in the Era of the Masses, the Freedom Promotion Act and subsequent laws on popular congresses and committees were issued to entirely stress, at the outset of their articles, the right to participation in public affairs, while urging citizens to exercise it effectively, putting in place provisions that prohibit any constraints on this right and making citizens immune against any penalty or legal procedure that may be applicable in exercising it. It is therefore inadmissible in the Great Jamahiriya that citizens are called to account or punished for statements they deliver at the basic popular congresses or other institutions.

Participation in public affairs is not limited to the citizen's ability to express his opinion but it is rather meant to be an effective participation built around political decision-making, the design of community-based policies and contribution to taking all kinds of decisions.

To further promote the participation of Libyan men and women in the Great Jamahiriya, efforts are incessantly getting on board to prepare popular congresses to absorb citizens' views and open avenues for them to become panelists of free debates, having introduced recently the idea of setting up communes as platforms for expression, participation and decision-taking. Today there are more than 20,000 communes that are spread in the Jamahiriya, comprised of over 3 million members to deliberate on public affairs and take the most critical political and economic decisions.

The issue of participation is not at stake in the Great Jamahiriya. It is actually so in countries whose political institutions fall short of assimilating citizens' opinions and views. The Libyan political regime in place is founded on direct democracy, that is to say it is originally tailored to ensure citizens' participation and consolidate the culture of democracy.

#### **4- Right to Litigation**

Human right to file action before court for self-defence against any assault is the endowment of no one but it is derived from the divine right ordained by Allah the Almighty. Time is over for a claimant to reclaim his right by *force majeure* for self-retrieval of right is gone and it is no longer acceptable, no matter the reason was, to withhold the right of any person to sue. Courts are set to be havens for protection of rights and freedoms. It is not permissible either to abridge established guarantees for litigants. These fundamental principles were articulated as part of Libyan legislation since the outbreak of the Fateh Revolution. The Constitutional Declaration on 11/12/1969 states that "Court judgments are issued to safeguard individuals' rights, dignity and freedoms (Article 27), that "judges are independent with no superior power over their prosecution unless otherwise lawfully stipulated and conscious-dictated (Article 28), and that "every person shall have the right to go to court in accordance with the Law". Upon declaration of the power of the people, documents and laws followed in assertion of these principles where the Great Green Charter of Human Rights in Item 7 has pointed out that "the mass society shall guarantee the right to litigation and independence of the Judiciary and the accused shall have the right to stand a fair and impartial trial".

Popular congresses have underpinned this principle upon the promulgation of Freedom Promotion Act no 20/1991 citing in several articles the right of every person to have recourse to the judiciary and to be provided all the necessary guarantees including a lawyer assigned by the community or one designated from outside the court, that judges are independent with no superior power over their prosecution unless otherwise lawfully stipulated, that normal legislation provides for procedural aspects to exercise right of litigation with respect to Procedure Code, Criminal Procedure Code and Administrative Law, thus the Judiciary will remain open to whoever had his rights subjected to violation or abridgment relating to crimes, or physical or moral damage due to an illegal action by a natural or legal person, even if it were the State where its administrative decisions are deemed contestable

and subject to the Administrative Control. The Libyan Law regards publicity of the Judiciary as one of the basic principles to be taken into consideration since such publicity guarantees that citizens may exercise control over fairness of rulings.

On the other hand, default on executing court verdicts is a criminal crime. Judicature Act provides for geographic distribution of courts in a manner that ensures smooth exercise of litigation right regarding criminal, civil and administrative and family cases as well as the right to stand trial before natural justice. There are no exceptional courts to distinguish particular persons brought to justice from other defendants.

The Supreme Court, being the court overseeing law enforcement and interpretation, has endorsed the right of every person to go to court, regarding it as a general right established to enable every person to defend his rights and interests. It even sanctions that litigation should not be barred, being a natural right of man ever since his creation. It also decides that right to litigation is one of the basic rules established in human conscious as dictated by optimal rules of justice. It concedes that the individual should not be denied an established right before being informed of what was attributed to him, listening to his statements and setting up his defence to achieve safety and security. The legal principles the Supreme Court has laid down entertain high legal value. Article 30 of the Supreme Court Law no 6/1982, states that legal principles established by the Supreme Court are binding to all courts and other government agencies in the Jamahiriya.

## **5- Right to Freedom of Opinion and Expression**

International charters and national constitutions provide for human right to expression and opinion in all freedom. This is what work is proceeding accordingly in the Jamahiriya where basic documents and ordinary legislation stipulate for right of expression and opinion. The Constitutional Declaration issued immediately after the Revolution cites in Article 13 that freedom of opinion shall be guaranteed. The Declaration on the Establishment of the Power of

the People is considered a deeper and more far-reaching step than the principle of freedom of expression in its traditional form, enabling every citizen not only to express but to exercise governance and power through spelling out opinion regarding all issues put at stake at popular congresses. This was also confirmed by the Great Green Charter of Human Rights in Item 5 stating that mass society reiterates the sovereignty of every individual in the popular congress and guarantees his right to express his opinion publicly and in the open air. Item 19 as well guarantees for every citizen freedom of thought, research and innovation.

The Freedom Promotion Act stressed legal protection of the citizens' right to expression and freedom of opinion, stipulating in Article 8 that "every citizen shall have the right to express his opinion and ideas as well as to their declaration in public at the popular congresses or through mass media in the Jamahiriya. No one shall be questioned about exercising this right unless it is misused to undermine the power of the people or for personal purposes. The call shall prohibit clandestine ideas and opinions or attempts of their dissemination or imposition on others by temptation, force or terrorism".

This protection ensures for every citizen unhampered freedom to write in newspapers or publish thoughts in magazines and books. Codes regulating the press, publishing and authoring permit exercise of the right of expression and thought in full freedom. Every citizen rather may express his opinion vis-à-vis issues debated through audio-visual and on-air media. Meanwhile, journalist activity is expanding widely by way of professional or specialized press or the following daily and weekly newspapers:

### **A. Dailies**

The New Dawn (Al Fajr Al Jadeed) - the Sun Newspaper - Al Jamhiyria \_ Green March (Al Zahf al Akhder) - Ouya - Quryna  
Al Asala – Al Batnan - News of Tobruk (Akhbar tobruk)  
El Shalal (Waterfall)- Ajdabiya News - Benghazi News

Al Jamahir, Al Shatt (the coast newspaper), Ghardabaya al Sharara- Al Jabal News- Almargib– Al Jufra newspaper - Drdnil Tripoli , the Coast Valley (Wadi el Shatte'e) Five Points (Al Neqat al Khams) –Marj Newspaper –Valley of Life (Wadi el Hayah – Message of the Desert (Resalat al Sahra'a), acacus Green Flag newspaper – Western Mountain (Al Jabal al Akhdar) Aljafarah - Tripoli Advertising - Al Ghat - Sirte - Nalut - Kufra

## **B. Magazines**

Al Biyt Magazine (House Magazine) - Alamal Magazine (Journal of Hope) - Companion Magazine (Al jalis) - Journal of Media Research - Theatre and Cavalry - Heritage of the People - Green March (azzahf alakhder) - Journal of Arab Culture - Ovannin.

## **C. Professional Newspapers**

Islamic Da'wa newspaper - Al Fateh Journal - Newspaper of Justice (al Adala) - the producers - Money and Business - Journal of Youth and Sport - –Volunteer – Fighting Echo (Sada as Mokafaha)\_ Print – Mezan (Libra) -

## **D. Professional Magazines**

The Domain (Al Majal) –The Complex (Al Mojamaa) –Journal of Real Estate – Platform (Al Menbar) – The Good Example (Al Oswa al Hasana) –Communication (Al Tawasul)- Al Refqa – Customs - The Four Seasons - N Magazine (nun) - Journal of Human Sciences - Torch Magazine - and hold fast (Waetasumu) .

## **6- Right of Movement and Residence**

The right of movement within and residence anywhere in the homeland is known to be among the citizen's basic rights and freedoms which may not be derogated from or interfered with. The citizen has the absolute right to choose his domicile as well as to free movement in, departure from and return to his country anytime he wishes. This right may not be restricted and there are no administrative procedures to disrupt its exercise. The Libyan Law provides neither for visa requirements nor for prior permission that citizens need to meet for them to leave or return to the country. This right is further underscored according to basic and ordinary legislation. The Green Charter cites that "sons of the mass society are free- in times of peace- to move and reside". It was emphatically elaborated in the Freedom Promotion Act by stating that "each citizen, in times of peace, shall be free to move and choose his place of residence, and that he may leave and return to the Great Jamahiriya the way he likes".

This right is exceptionally subject to exigencies of national security. It may not be restricted in times of peace; however, in view of emergencies and national security prerequisites during war or under exceptional circumstances, some constraints may necessarily be imposed in connection with its exercise. It may be restricted temporarily for judicial reasons upon perpetration of crimes drawing investigation and trial, therefore as per the Law, competent courts shall be authorized to issue forbidding orders on interim basis to be rescinded when justifications are dismissed.

## **7- Right of Physical and Moral Integrity**

This right, in its content and term, points to prohibiting physical impairment of human body whether by torture or any other intention as well as brutal, degrading and inhuman treatment directed at any human being. Human protection, physically and morally, is deemed one of the established fundamental rights and parameters pursuant to the International Human Rights Law. This

right may not be restricted under any circumstances or by any justification. The Jamahiriya is committed to the observance, guaranteeing and protection of this human right by enactment of a battery of criminal and human rights laws. The Libyan Law prohibits torture as well as brutal, degrading and inhuman treatment.

Respect for human being and commitment to human and moral approach in mass society was promoted in the Green Charter by stipulating in Item 2 that "mass society shall prohibit sanctions violating human dignity and impairing human entity in as much as it shall forbid doing the prisoner physical or moral harm and condemn prisoner trading or experimentation." In application of this principle, Article 6 of the Freedom Promotion Act cites that "physical integrity shall be the right of every human being and conducting scientific experiments on living human body, unless on voluntary basis, shall be prohibited." It contains a set of provisions ensuring human protection in terms of body and dignity. The Libyan Penal Code stipulates for prohibition of prisoner torture or insult (Article 385).

On this basis, human protection, in terms of body and dignity, was endorsed in the Libyan Law based on religious, moral, human and legal considerations. The course of the Libyan Law is fine-tuned with requirements of the International Human Rights Law.

## **7- Rights of Libyans Abroad**

Libyan rights abroad are among rights in which the Great Jamahiriya is developing paramount interest. Accordingly, effective laws are comprised of provisions guaranteeing full enjoyment of these rights for all Libyans residing abroad.

They were enabled to partake in making decisions by forming into popular congresses, Federations and student associations overseas

to defend their rights in different arenas as well as branches of the National Organization of Libyan Youth Abroad whereby matters and issues relating to youth and student categories will be addressed and discussed.

The Secretariat of the General People's Committee on Communication Abroad was entrusted to provide full-fledged care for the rights of Libyans overseas. In implementation, the Secretariat was reorganized to include in its composition a secretary competent for expatriates' and migration affairs who will be assigned to take good care of established rights to be duly enjoyed by Libyan citizens and facilitate procedures for their return home plus procedures for off-shore investment and labor and others for the protection of their rights in countries subject of investment.

As part of the organizational structure of the External Communication and International Cooperation Sector, a department named "the General Department for Consular Affairs" has been put in place to look after and devote special care for the interests and rights of Libyan citizens and institutions abroad. The same applies to the missing, those with unknown destination or dispatched for treatment or study. The department is charged to monitor and pay regular visits to Libyan prisoners. It is committed to prepare periodic progress reports to be submitted to the masses at the basic popular congresses. Besides receiving complaints and attending to redress of difficulties faced in dealing with authorities in other countries, it facilitates processing of travel document procedures through fraternity and popular offices.



## **Second: Economic Rights**

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Economic activity is important to the life of the individual and the group, thus states and governments are interested in organizing it and enacting laws on its regulation. Similarly the right to exercise economic activity and to satisfy needs is among rights that cannot be neglected or abandoned for its relevance to human life and fate. It is for this reason that the Libyan legislator was dedicated to

securing economic rights of individuals and their release from the control of others. The Green Charter, in its economic section, emphasizes the fact that economic rights of individuals are warranted through participation and ownership-production correlation so as to eliminate all forms of oppression, arbitrariness and exploitation and thereby bring to an end the employer-employed problem.

## **Right to Property**

The right to property is guaranteed and inviolable unless necessary or public interest in accordance with laws and legislation in force.

Principle 12 of the Great Green Charter of Human Rights in the Era of Masses stresses on the protection of the right to property, citing that “Sons of the mass society are free from feudalism. Landholding is not exclusive to anyone. Each individual shall have the usufructuary right to exploit land in terms of occupancy, agro-business and pastoral activity during his lifetime and his heirs’ life within the limits of his level of effort and satisfaction of his needs”.

Item 11 paragraph 2 of the Charter reaffirms production ownership, stating that mass society is a society of partners not of the employed, and that property resulting from effort is sacred and inviolable unless for public interest and in return for a fair compensation.

Further the Freedom Promotion Act stipulates that: “each citizen shall be entitled to the usufructuary right of utilizing the land during his lifetime and his heirs’ life in terms of occupancy, agro-business and pastoral activity to meet his needs within his level of effort and without abuse of a third party. He shall not be denied this right unless he is proved to have caused erosion of this land or disruption of its exploitation”.

Within this framework, Article 1 of Law no. 11/1992 on real estate property states that “housing is an essential need for the individual and the family. It is sacred as a property that may not be prejudiced. No one shall be deprived of his housing property except in cases determined by the Law and in the manner it describes.”

## **Right to Labor and Fighting Unemployment**

The right to labor is guaranteed under consensual equal partnership.

Labor in the Great Jamahiriya is the obligation and right of every individual based on the principle of equality and equal opportunities whether among citizens or between them and other legal residents apart from coercion, ridicule and exploitation. It has been proved that the great Fateh Revolution is biased to and protective of workers against economic exploitation when the Revolutionary Command Council on the 4<sup>th</sup> week of the outbreak of the revolution on 26/9/1969 issued a decision prohibiting trading in manpower and punishing whoever violates this. Several months after the Fateh Revolution, Law no 58/1970 was issued as a token to workers on the tragic anniversary of Chicago events in 1886. This law has introduced updated provisions to those of the International Labor Law and International Labor Organization (ILO) agreements and recommendations.

This Law has regulated working relations between workers and different employers prior to the proclamation of the Green Charter that turned the worker-employer relation into one of partners rather than of the employed.

Then the Great Green Charter of Human Rights in the Era of the Masses was issued on 12/6/1988, embodying all civil, political, economic and social human rights, with Item 11 stressing that “mass society ensures the right to labor. Labor is the duty and right of every individual in view of his personal effort or in partnership

with others. Each individual has the right to choose the work that suits him. Mass society is a community of partners and not of the employed. Property resulting from effort is sacred and inviolable unless it affects public interest and in return for a fair compensation. Sons of the mass society are free from wage slavery”.

The Freedom Promotion Act as well reiterated the right to labor for every citizen as well as his right to choose freely the job that suits him and enjoy the output of his work. This has been provided for in Article 10 stipulating that “every citizen is free to choose the work that suits him individually or in partnership with others without manipulating their efforts or inflicting physical or moral injury on them.”

Article 11 underpins human right of enjoying the fruit of his effort, stating that “every citizen shall have the right to enjoy the output of his work, therefore, deduction from work output shall only be made in accordance with the amount determined by the Law in contribution to public affairs or in return to services rendered by the society.

### **Most salient aspects of ensuring work practice:**

#### **A-Effort:**

It is the right of paid labor whether mental or physical. The Law guarantees equality in labor production quotas between men and women.

#### **B-Ensuring Occupational Health and Integrity**

Chapter 4 of Part III on Labor Law no 58/1970 embraces workers’ amenities and their prevention against professional risks as represented in providing healthy housing for workers operating in remote areas, making available suitable means of transport, extending medical aid at workplace as well as treatment cost and prices of medicines, precautions necessary for the protection of

workers at work from health injury, work and machine risks, and workers' outreach as regards vocational risks and means of their prevention (Article 99-106) of the above mentioned Law, health insurance and insurance against work injuries and occupational diseases.

Given the considerable importance of workers' integrity, a special Law on Industrial Security and Workers' Integrity no 93 for 1976 was issued, including provisions obligating the employer, whatever its activity was, to take all necessary precautions to protect workers at workplaces against work risks, harms and diseases likely to be given rise as a corollary.

The same Law provides for manifold commitments regarding industrial security and occupational health and integrity including provision of means of medical treatment, emergency aid, supply of equipment and vehicles relating to occupational health and integrity for workers' use gratuitously, training of workers in utilizing preventive mediums and their sensitization about risky and harmful performances.

Working age in the Great Jamahiriya starts at 18 years old with the related Law inclusive of provisions ensuring protection for women and juveniles, as Article 92 forbids using juveniles.

### **C- Protection of Women**

Article 95 of Law no 58 stipulates that it shall not be permissible to employ women to undertake hard, dangerous or other work that is incompatible with their nature as women.

According to Article 97, a working woman who is breastfeeding her child during the 18 months following the date of delivery shall be entitled to two additional breaks daily for breastfeeding purposes with each period not exceeding half an hour and shall be considered as paid working hour. The Libyan legislation stipulates for granting a maternity leave for the pregnant woman.

As for the leave cited in Article (43) of Labor Law no 58 for 1970, it was amended by Article (25) paragraph (C) of the Social Security Law no 13 for 1980 to become a three-month maternity leave.

Concerning self-employed women workers, they shall be entitled to the above mentioned maternity leave and shall be paid short term benefits by 100% of the income assumed by the Social Security Fund in accordance with Article (25) of the Social Security Law.

#### **D- Employment Programs and Creation of Job Opportunities**

Offering work opportunities for job-seekers is given prominence as a priority issue for all world countries. The Great Jamahiriya focused its efforts and resources towards economic and social development programs, and earmarked considerably huge budgets amounting to billions of dinars for the implementation of development programs on job opportunities not only for nationals but also for citizens of neighboring and African Union member countries. During 2007, (43.122) job seekers were employed and (2385) directed to training for integration upon the expiry of their training period in workplaces in which they were trained. A number of (40762) of incoming labor from all continents of the world were employed during 2007. This number had increased in the first quarter of 2008 to reach (68208) that is by over 80%.

It is expected that this number will get higher after the conclusion of contracts of giant economic and social development programs.

(18432) new trainees were accepted for the training year 2007-2008 in addition to (38.432) trainees enrolled in advanced training centers numbering 97, with the number of intermediate training centers put at (384), comprised of (80574) trainees, of which 26761 were registered for the training year 2007-2008.

Albeit these efforts in the field of training in different and specialized training centers, off-shore training is a must to raise efficiency and transfer technology. It can be said that (1977) male and female trainees were named to go for training in technical and technological fields.

## **D- Service and Production Loans**

Easy loans were processed for youth and those willing to diversify by setting up service and production projects as well as small and medium industries through loaning and specialized banks. An employment fund was established in which diversification fund was incorporated with requisite budget. A monthly grant was also disbursed to job seekers pending their employment or loans taken out to help them institute their enterprises.

Loans processed totaled approximately 500 million Libyan dinars with a grace period of 5 years and a 20% exemption from loan interest plus a 5-year exemption of all machines, equipment and raw materials from customs duties and charges as well as income tax.

The Agrarian Bank also contributed to the loaning program for job seekers by approving during 2006-2007 a loan worth 170 million dinars from which 1073 job seekers had benefitted.

The Rural Bank, which plays a significant role in the development of rural and remote regions and creates job opportunities for residents to encourage them to settle down in these areas, had processed loans in 2007 that amounted to 19.558 in number with a total value of 86.457 million dinars, from which (5837) men and (4502) women had benefitted, (4045) of whom on partnership basis, and (4174) job seekers from both sexes.

As for the Development Bank, the number of loans processed was (681) during the period from 1/1/2007 to 30/11/2007 with a total financial value reaching (172.713.849) million dinars that contributed to the employment of (3682) citizens.

### **E- Family as well as Solidarity-based, Pension and Insurance Rights Protection**

Family is the first nucleus of the society. The Great Jamahiriya thus has devoted special attention to its preservation and the provision of adequate social protection thereof, as evidently reflected in legislation of relevance.

Item 14 of the Green Great Charter of Human Rights in the Era of Masses cites that “mass society is in solidarity and provides for its members a smooth decent life with a developed level of health standards towards a healthy community that secures child and mother care and protect old and disabled people. It can thus be admitted that mass society is the guardian of he who has no guardian.”

Item 20 of the same Charter cites in affirmation that “it is the right of every human being to be brought up in a united family and to live with mother, father and siblings and this right is sacred.”

The Freedom Promotion Act has designated special provisions on the right to form and care for a family including people with special needs. Article 24 stipulated that “every citizen has the right to social care and social security. Society shall be the guardian of whoever has no guardian, and charged to protect the needy, old-aged and orphans and guarantee for those unable to work for reasons against their will to lead a decent life”. Article 25 of the same law underscored the right to institute family, citing “every male and female citizen shall have the right to establish a family”.

The Great Jamahiriya has developed overriding interest in the provision of full-fledged social protection and care as endorsed in the Social Security Law no 13 for 1980, seen as one of the most



advanced and distinctive laws in this area. It asserts in Article 1 that “social security is a right guaranteed by the society for all citizens and in protection of all its residents who are not nationals”. The same Article has made it clear that social security covers protection and care of the individual in cases of old age, disability, illness, work injury, occupational disease, loss of guardian as well as disrupted means of living, pregnancy and delivery, and family burdens, to say the least of cases relevant to disasters, emergency and death. The Social Security System was adopted by Law no 20 for 1999 regulating realms of social care for those who have no guardian such as children, boys and girls, the handicapped and old people. It also provides for juveniles’ care and guidance in the event of delinquency and deviation. It as well includes procedures and measures for industrial security and care for cases of work injury, occupational disease, and rehabilitation of patients, the injured and the disabled. Under the above mentioned legislation, the family is believed to be subject of utmost interest and a recipient of material and moral assistance.

Law no 16 for 1985 on citizens’ basic pension guarantees in Article 1 “the right to basic pension without subscription payment on the part of beneficiaries”. Thus the relevant protection system is exemplified as pension rather than remuneration system, meaning that the subject pensioner obtains basic salary on retirement to ensure for him a decent life albeit not on prior subscription basis.

Several categories defined by the Law are eligible to basic pension; for example old and disabled people, widows, orphans and families of provisionally detained persons or those serving sentences, the missing, the absent, the captive and the released whose sentence has been served and pending his employment. Basic pension also covers migrant repatriates and other beneficiaries.

By virtue of the decision of the General People’s Committee no 277 for 2006, basic pension for eligible brackets was increased by more than double the value determined to help increase financial resources of limited income families to lead a satisfactory life. The number of these families was enumerated for distribution of

wealth. About 200,000 families accordingly benefitted from the wealth distribution program with investment portfolios from the Economic and Social Development Fund whereby cash amounts of money per family was afforded plus ownership of investment bonds in production and service companies within the framework of wealth sharing.

The Great Jamahiriya is one of the countries that ratified ILO-issued Labor Convention no (103) for 1952 on Mother Protection as well as ILO Convention no (111) for 1958 on Discrimination in Employment and Occupation.

The Great Socialist People's Libyan Arab Jamahiriya has paid much attention to people with special needs including: the handicapped whose conditions and affairs were favorably adjusted according to Law no 5 for 1987 with its provisions made applicable to mental, psychological, sensual and physical disabilities whether innate or acquired (Article 2 of the Law).

Concerning protection of child rights, the legislator reiterated provisions enunciated in Labor Law no (58) for 1970 on Juveniles' Protection. He also stressed on child protection. In line with the two Articles (3 and 9) of Law no 19 for 1992 on Regulation of Minors' Conditions, the child was identified as "who has not completed 18 years old in age", in conformity with the International Child Rights Convention ratified by the Great Jamahiriya in 1993. However the Libyan law-maker has devoted special attention to prenatal child by providing protection gratuitously to fetus in his mother's womb and guaranteeing his right to sustained growth, consistently with Article 115 of Health Law no 106 for 1973 citing that "the doctor concerned shall have to stop short of prescribing any drugs likely to cause abortion of or to carry out abortion surgery for pregnant women under any circumstances unless necessarily required to do so for reasons that have to do with maternal salvage.

For further child care, Law no 5 for 1427 Hij on Child Protection contained provisions dealing with protection of child rights and

prohibition of his exploitation economically. The Great Jamahiriya is among countries that ratified International Labor Convention no (182) for 1999 on Worst Forms of Child Labor. The Great Jamahiriya has acceded to the additional Protocol attached to this Convention, forbidding the use of children in armed disputes.

# **Third: Social and Cultural Rights**

## **Third: Social and Cultural Rights**

In realization of freedom in the Great Jamahiriya, social and cultural rights had been primarily accorded much concern as illustrated in the Great Green Charter of Human Rights in the Era of the Masses and the Freedom Promotion Act as follows:

### **First: Right to Education**

Right to education is considered one of the most cherished human rights in modern age, being characteristically marked by fastest scientific developments, subsequent innovations and competitiveness at the level of nations and peoples for the achievement of progress and welfare with science constituting its initial key. Given the importance of science for these nations and peoples, it can be safely admitted that it is as equally important to citizens being the necessary tool in the face of modern life burdens and the safe path to elevation, good living and hope-filled life.

The Libyan people have long experienced ignorance. Since Medieval Ages, they were thrown into the labyrinth of ignorance by the colonialist power. Except for limited traditional education in mosques and religious education centers, the Libyan people had known no contemporary learning. They remained for decades forcibly and arbitrarily denied enrolment in schools, institutes and universities. Until the great Fateh Revolution, there was only a limited number of schools and a single university consisting of few faculties and some hundreds of students descending from the wealthy elite who were privileged to access higher education with its difficult terms and exorbitant cost. Since its inception, the Fateh Revolution has recognized the magnitude of this challenge and the necessity of its confrontation for redress by putting in place a modern system of education that offers opportunities to young people in the area of science and knowledge and as a substantial prelude to overall development. Along this line, the Revolution early raised the slogan of ‘building humans’ as a basis of development, the success of which is contingent upon the building of the human being.

Besides its importance for development and progress, education is necessary for the exercise of freedoms and rights. In fact civil, political, social and economic rights and freedoms will remain considerably insignificant until the educated citizen who is capable of recognizing and exercising these rights and freedoms is created. How can a citizen engage in political participation or exercise freedom of expression or belief or other freedoms and rights without being well-educated and fully aware about and capable of exercising them?

The great Fateh Revolution, having recognized these dimensions, has placed the issue of disseminating education on top of its priorities. The Green Charter, being the fundamental terms of reference of the Libyan society, regards it as a natural human right. In its chapter 3, it has been stated that “education and knowledge are a natural human right”. Education is not a sheer right as much as it is a natural right man lives with from birth to death.

In the bid to embody these meanings from the legislative perspective, background documents addressed the right to education and knowledge. Principle 5 of the Great Green Charter of Human Rights in the Era of the Masses underlines that “education and knowledge are a natural human right. Every human being has the right to choose the form of education that suits him and the type of knowledge that he finds appealing without guidance or coercion”. The Freedom Promotion Act stipulates that “each person has the right to education and knowledge as well as to choose the science he deems appropriate”. It bans monopoly or forfeiture of knowledge for any reason.

While basic laws have laid down underlying principles, legislation regulating education, most importantly Laws no 174 for 1970 and no (1) for 1992 on Education and Higher Education respectively, have translated these principles into operational provisions ensuring for citizens the exercise of this right in a fabric of freedom. In order to reflect these rights, it is not enough to exclusively raise slogans or hammer out principles, the society rather must realistically pave the way for the exercise of this right by guaranteeing it legally and establishing institutions capable of responding to the citizen’s need to do this.

The right to education in the Great Jamahiriya is governed by a set of principles and rudiments ensuring acquisition of this right and mandating its exercise freely. These principles can be traced as follows:

- 1- Freedom of choice. The citizen is free to choose the field of education that suits him and the knowledge that appeals to his taste. Selection is the responsibility of the individual and the family without interference on the part of the society. The Libyan society is familiar with neither coercion nor steering.

- 2- Gratuity of education; education in its different basic and university stages is provided gratuitously. Freedom of education or the right to choose will be meaningless if education was not made available and for gratis to all citizens on a par.
- 3- Diversity of education systems ranging between community-sponsored education and civil sector-driven education. Diversity is complementary to the freedom of choosing, not to mention the citizen's freedom to opt for the field of science and knowledge he likes best which similarly applies to the system of education he deems appealing.

This approach to education and the volume of investment in this field over the past three decades were the recipe for a genuine revolution in the area of education and could transform the Jamahiriya into a unique country as evidenced through the following indicators:

- A. Obliterating illiteracy completely. With the exception of adults over 60 years in age, it can be said that the Libyan community is holistically free of illiterates;
- B. Conferring the Libyan character on sectors and labor. The Jamahiriya has succeeded in so doing as far as crucial and ordinary sectors were concerned. For long years, the Jamahiriya could apply this trend to sectors of oil, health, education, banks, aviation and others. Few rarely qualified calibers are still retained in the country.
- C. Capacity surplus which forge as a singular phenomenon even in advanced industrialized communities. If most countries sustain shortage of well-developed elements, the Libyan educational system, thanks to education gratuity and freedom of selection, a tangible surplus of engineering, medical, economic, legal and educational qualifications is in place.

If the Libyan society is today open to Arab and African brothers in the area of labor where also millions of them are settled, this is thought to be limited to ordinary employment in sectors of agriculture, construction and industries which in their entirety are the outcome of the Libyan system of education.

D. Rise in the number of male and female students enrolled in basic and secondary schools and institutes amounting to nearly one and a half million, whereas university education absorbs more than 350,000 students in faculties, higher institutes and training centers. As for post-graduate studies, the number of students is over 20,000 for Master's and PHD degrees in Libyan universities while the number of students applying for post-graduate studies abroad exceeds 10,000 who are science and technology seekers in oldest world universities.

A translation of these figures indicates that 30% of the population belongs to the category of students enrolled in schools, institutes and universities and that almost 6% of the citizens are enrolled in universities.

These ratios are considered among the highest worldwide. Besides attention paid by the Jamahiriya to its citizens, it sees the right to education and knowledge as a basic human right, which prompts it to make it accessible to non-nationals on gratuitous basis or with affordable tuition fees which is applicable nowhere else in other countries.

### **Second: In the Area of Health Care and Environment Health**

The health sector is given top priority bearing in mind its significance in the life of citizens who are the main target of economic, social and human development.

In substantiation of this principle, massive budgets were employed in this field through successive development plans and budgets where a rate of 5.7% of the total public development expenditure in addition to annual steering provisions was allocated for gratuitous treatment for all citizens without discrimination. Hence were quantitative and qualitative achievements marking considerable leaps and bounds according to the following indicators:



- The percentage of number of population accessing local health care services is 100%;
- The percentage of children vaccinated against tuberculosis is 99.88%;
- Deliveries carried out with medical care were estimated at 99%;
- Reduced infant mortality rates to 21.5 / 1000 births;
- Reduced children under 5 mortality rates to 27.5/1000 births;
- Higher average life age reaching 72 for men and 78 for women;
- Beds / 10,000 citizens rate is (100);
- Doctors/ 10,000 citizens rate is (17);
- Dentists/1000 citizens' rate is (1);
- Pharmacists/ 10,000 citizens rate is (8);
- Nursing/ 10,000 citizens' rate is (50);

Along this track, a health-based policy was developed to provide adequate and equal health care for all citizens. The policy was dwelt on the following essential components:

- 1- Primary health care for citizens and residents by developing interest in healthy categories of people and ensuring their protection against diseases while promoting health and securing good life for all on equal basis;
- 2- Upgrading of treatment services through provision of elements of success involving modern facilities, advanced equipment and state-of- the art diagnosis vehicles as well as the updating of administrative and technical performance, rehabilitating and training staff in different fields of specialization, adoption of developed scientific techniques of the referral system and linkage with evolving world institutions either through joint agreements or exchange of expertise or sending patients for treatment abroad.
  - The private civil sector, regarded as an integral part of the system ensuring extension of health services in the Jamahiriya, is being organized, its performance

enhanced, facilities provided and material and moral support lent thereto.

- Medical supply based on making available safe, good and effective medicine as well as medical supplies, modern, advanced and suitable operational materials and adequate budgets.

### **Health services are extended at three levels:**

**First level:** Covers extension of primary health care through relevant centers and units amounting to 1424 facilities and 37 combined clinics;

**Second level:** is the level of inpatient services in public hospitals with its related activities extended in major areas and covering cases referred from the first level;

**Third level:** is the level at which specialized medical services are rendered and considered to be the top-level in-patient, specialized and critical medical services;

The number hospitals is about 96 distributed as follows: (25 specialized hospitals, 18 central hospitals, 21 public hospitals, 32 village hospitals to help advance and modernize the health sector and implement the adopted health policy. To this effect, the following programs were approved and set in motion:

- Program to improve health system performance;
- Program to combat infectious and non- communicable diseases;
- Program to rehabilitate health facilities in place;
- Program to promote primary health care and referral system;
- Program for human resource development;
- Program for upgrading first-aid and emergency services;
- Transplantation Program;
- Program for enhancement of cardiovascular services;
- Program for tumor diagnosis and treatment;

- Program for the prevention of blindness and eye diseases and their treatment;

### **Third: Environment Health**

The Great Jamahiriya attaches great importance to the preservation of the environment especially in the light of emerging phenomena such as global warming, industrial pollution, desertification and others. To curb these phenomena, the Environment Public Authority, a scientific advisory control body, was established to attend to environment affairs with regard to conservation of natural resources, fight against environment pollution, maintenance of biological diversity and balance, and realization of sustainable development and integrated planning for all. In this respect, the Environment Public Authority had developed a set of procedures and measures to give effect to provisions of Law no. 15/2007 on environment protection and improvement.

One of the most important pillars in the process of preserving the environment is the program designed for environmental monitoring and protection from pollution. This monitoring will be initiated prior to the establishment of the industrial city or factory or production unit to get better acquainted with the nature of the region and the effect of industrial renaissance on the given city or factory or unit. It is upon the findings of the study that the environmental monitoring program for the region concerned will be developed, inspection of the industrial units conducted and periodic checking on related activities carried out.

Concerning training and rehabilitation of technical cadres in the area of environment, the Environment Public Authority is well aware of the fact that interest in the environment is chiefly associated with capacity-building and preparing requisite human resources on which action is based and tasks are fulfilled in connection with environment protection and improvement at different levels.

## **Work Projects and Technical Committees in the Area of Protection against Pollution**

- Pollution monitoring and tracking Project;
- Legislation updating and international cooperation Project;
- National Program for Monitoring Electromagnetic Waves;
- Integrated environment management project;
- Integrated environment management of solid waste Project;
- Environment-based education, guidance and learning Project;
- Environmental Emergency Plan;
- Integrated coastal region management Project;
- Nature protection and desertification-combating Project;
- Energy and alternative energy Project

## **Technical Reports**

Within the framework of its terms of reference in accordance with Law no 15 for 1371 Hij on Environment Protection and Improvement, the Environment Public Authority, having recognized the importance of putting in place the Environmental Monitoring Program covering different activities affecting, directly or indirectly, the surrounding environment and sanitation, the following **national program objectives** have been projected:

- 1) Monitoring non-ionized radiation emitting from different sources such as base stations for mobile phones, networks of electricity transmission lines;
- 2) Defining limits of radiation exposure to non-ionized radiation with regard to workers and people in general.

- 3) Developing environmental requirements relating to base stations for mobile phones, radio broadcasting stations and electricity transmission lines and grid and various sources covered in the Program;
- 4) Rehabilitating national cadres in the Environment Public Authority and relevant agencies in the area of monitoring non-ionized radiation and coping with scientific environmental monitoring developments the world is witnessing.
- 5) Environmental sensitization as regards health impacts of non-ionized radiation on different categories of the society;

The National Program was bent on essentially rehabilitating technical cadres by organizing a training course on monitoring for groups of engineers. Foremost among the objectives of the National Program is the focus on sensitization and outreach where all committee activities were published in the monthly newsletter of the Authority as well as on the internet. Direct dialogues with citizens via radio broadcast were coordinated to this effect.

The Committee addressed a letter to the Mail General Company to halt a project for installing 800,000 rural telephone lines with mobile specifications above schools and to find alternative locations.

#### **Technical studies and consultancies**

- 1- Study on the file of setting up a plant for collecting, sorting and compacting waste;
- 2- Study on the file of the Libyan Company for Mills and Feed;

- 3- Study on the file of the Engineering Company for Environment Health;
- 4- Study on the file of the Libyan Company for Medical and Scientific Services regarding specifications of a holocaust for disposal of waste;

#### **Fourth: Field of Development**

Fundamental human rights include provision of housing, labor, food and treatment as well as an environment for human and family life. For the sake of these rights, several agricultural projects relating to spatial development which the revolution, since its inception, has been dwelt on its achievement were established. These projects were catering for decent housing, labor and food for humans in the Great Jamahiriya. This has run parallel with the introduction of research and therapeutic equipment and centers working on the prevention of human being from animal diseases and preservation of plants as his source of food. These projects were represented in the following:

- 1- Put in place spatial development to ensure stability of the individual in the Great Jamahiriya as well as suitable localities;
- 2- Provide job opportunities since labor is a human right;
- 3- Provide and produce best quality food for humans quantitatively and qualitatively to prevent them against diseases, being also a human right;
- 4- Improve the surrounding environment of human life as reflected in projects resisting desertification, stop desert encroachment, protect land and marine organisms, create natural parks and reservations and develop further interest in green belts around cities and villages.

#### **A-Great Artificial River Project**

The Great Artificial River Project acquires special importance in a series of giant accomplishments by the great Fateh Revolution in the water resource development sector as its state-of-the-art deliverable. It is beyond doubt one of the mammoth projects man

has ever known to carry underground water via a tremendous system of dumped huge pipelines reaching around 4000 km long upon the finalization of all its stages.

The Project is aimed to transport gross quantities of potable water dumped in underground tanks in regions of Sareer, Tazerbo, Hasawna Mount to coastal areas of the Jamahiriya for usage in irrigation, public utilities and industrial movement.

The Great Artificial River Project consists of five major stages, namely:

First Stage: Extending pipeline from Sareer region to Sirte;  
Extending pipeline from Tazarbo region to Bengazi;

Second Stage: Extending pipeline from Al Haswana Mount to Al Jeffara Valley

Third Stage: Extending pipeline from Al Kafra to the region located between Tazarbo and Al Sareer;

Fourth Stage: Extending pipeline from Agdabia to Toubrok

Fifth Stage: Extending pipeline from Sirte to Tripoli

All stages of the Great Artificial River were integrated and the Project became the 8<sup>th</sup> wonder in the world in this age and the dream came true.

## **B-Agricultural Projects**

- 1- Projects of introducing green belts in the administrative divisions;
- 2- Projects for parks and natural reservations;
- 3- Palm trees and olives projects;
- 4- Agrarian settlement projects;
- 5- Cereals cultivation projects;

- 6- Pasture development and amelioration project;
- 7- Bee-keeping projects;

These projects are also designed to provide a natural environment for humans and food production, introduce spatial development, distribute farms to the needy and erect infrastructure for the preservation of the environment.

These projects undertake to produce wheat, barley, all kinds of vegetables and fruits and honey in addition to paying attention to forests and other plants.

### **C) Animal Production Projects**

These projects are represented in (cows, poultry, cattle, camels, ostrich, wild birds and rabbits) for food and clothing production like (meat, dairy products, eggs, leather and wool).

There are also marine resources and fisheries projects for the purpose of benefitting from fish and other seafood products.

Animal production projects as a whole are intended to help people easily access their right to food and create job opportunities.

### **D- Animal Health Projects and Programs and Prevention against Agricultural Diseases and Pests**

These projects and programs were represented in animal health centers, veterinary units, locust and agricultural pest resistance centers and agricultural and veterinary quarantine centers aimed to protect humans from animal and plant diseases, improve and sustain food production, and ameliorate its specifications in collaboration with research laboratories and centers operating in this field.



These projects aim at contributing to the provision of food locally and globally on self-sufficiency and contributory basis respectively as well as presenting later the above mentioned projects as a model for member states to follow suit and emulate the Great Jamahiriya in efforts intended to resist desertification and drought and find solutions to global food problem. Agricultural projects are:

Agrarian Projects	Reclaimed areas (Production 2006-2007)
Resistance to desertification and halt of desert encroachment	Undertake tree-planting campaigns targeting cultivation of (2,250,000 and 250,000 forest tree seedlings) – (1) million palm seedlings
Establishment of green belts in administrative divisions	5,007.170 million trees
Parks and Natural Reservations	62.0000 thousands
Palm trees and olives	2,085.917 million palm trees and 2,664,000 olive trees
Agrarian settlement	127.600 projects
Cereals cultivation	52.000 hectares
Pasture development and amelioration	12,244.000 million
Bee-keeping	Civil sector

### **Animal Wealth:**

Animal Projects	Production Numbers (2006-2007)	
Cows	140.000 heads	
Poultry	6,000.000 million	120,000 tons of meat/ one billion eggs
Camels	170.000 heads	255.000 tons
Cattle	6,500.000 heads	
Ostrich	10,000 birds	
Wild birds		8000 birds
Rabbits	Civil sector	

### **Marine Resources**

Projects	No. of fishing ports and harbors	2006 -2007 Production

Marine Resources and Fisheries	8	40.000 tons of fish

Water Preservation: (projects and dams)

Water Projects	Storage capacity
Great Artificial River Project	6,500.000 Cubic meter daily
Qatara Valley Dam Project	122.5 million cubic meters daily
Underground Water Tanks Project	1000 million cubic meters

In addition to civil sector contributions

### **Fifth: In the Area of Housing and Utilities**

As part of interest in development and sustainable urbanization issues and support of urban development movement the Great Jamahiriya is witnessing, the Housing and Utilities General Institution is paying attention to sustainable urbanization questions as reflected in spatial planning methods and techniques- third generation plans project- economic reform and its impact on urban development- urban environment management- urban designing – spatial data and information infrastructure in the Great Jamahiriya inclusive of geographic information, remote sensing and determined number of residential units required to meet housing needs up till 2012 which the Committee has finalized their study.

#### **1- Housing**

The Great Jamahiriya has attested over the past 30 years to a nationwide urbanization renaissance where hundreds of thousands of residential units were established by direct building and processed loaning. These units were distributed to citizens gratuitously in line with a thoughtful vision to the effect that housing is an essential need for the individual and the family. The citizen's freedom can only be reachable if he is owner rather than

tenant of his house, this ownership being sacred. Drawn upon the interest of the masses of the basic popular congresses, half a million residential units were initially implemented as of this year as part of an aggressive developmental program launched in the Great Jamahiriya, with requisite elaborate plans in terms of harnessed huge material and human potential and timely execution within the framework of policies approved by the popular congresses.

To achieve this, a special housing organ was created to supervise implementation of this plan.

## **2- Utilities**

This large-scale housing plan needs to be completed by finalizing different utilities and infrastructure involving drinking water stations, waterfall and sanitary drainage and railway roads. The Organ thus concluded more than (1000) projects in areas of infrastructure and integrated utilities.

## **Fourth: Judicial and Legal Organization**

### **Fourth: Judicial and Legal Organization**

#### **First: Judicial Organization**

In this part, we will address the nature of the judicial organization in the Great Socialist People's Libyan Arab Jamhriya, later we will move on to court types and levels and other judicial bodies. We will then take up terms of appointment of members of the judicial bodies. Finally we will come across some critical developments of the Libyan judiciary.

#### **1- Nature of the Judicial System in the Jamhriya**

The Libyan judicial system is built around the notion of the unity of the judiciary. In the Great Jamahiriya there is one judicial hierarchy composed of summary courts, courts of first instance and courts of appeal and on top of all these courts is one Supreme Court.

Judicial organization is dwelt on multiplicity of courts in response to two basic considerations; First: the vast geographic extension of the Libyan Region; Second: the desire to achieve quality justice by placing courts nearby litigants' domiciles. These courts examine civil, commercial and criminal disputes and personal status cases.

There are specialized circuits to examine some cases; for example the Department of Constitutional Jurisdiction at the Supreme Court that is exclusively competent to look into the constitutionality of laws to verify their conformity with basic laws; the Administrative Circuits at the Courts of Appeal exclusively competent to rule on requests of revoking flawed administrative decisions and determine due compensation as well as examine administrative matters relating to contracts.

All courts run their affairs in accordance with the Code of Civil and Commercial Proceedings and Code of Criminal Procedure alongside some additional provisions in the Administrative Law, Supreme Court Law, and Code of Personal Status Procedure.

**The Libyan Judiciary is currently regulating a battery of laws, namely:**

- 1- Judicature Law no 6/2006 regulating all functional affairs of the members of judicial bodies.
- 2- Supreme Court Law no 6 for 1982 amended by Law no 17/1994 regulating terms of judges of the Supreme Court and modality of forming its circuits and running its affairs fully independently from the other judicial bodies;

3- Law no 87/1971 on Department of Litigation;

4- Administrative Law no 88/1971;

5- Law no 4/1981 on People's Law Office;

6- Law no 6 for 1992 on Law Department;

**Below is an overview of respective judicial bodies:**

### **First: Courts and their Jurisdictions**

In accordance with Article 11 of Law no 6/2006 mentioned above, Courts are formed as:

- A. Summary Courts
- B. Courts of First Instance
- C. Courts of Appeal
- D. Supreme Court

**A- A Summary Court** is a first instance court and is competent to decide on some civil and commercial cases not exceeding a maximum of 1000 dinars in value and mostly personal status cases. It is also competent to examine contraventions and misdemeanors and appeal judgments issued by Courts of First Instance under its judicial circuit.

Summary Courts number (123), spread in all cities and villages, thus reflecting judicial decentralization as well as the principle of bringing litigants nearer to justice.

**B-The Court of First Instance** is competent to examine all civil and commercial lawsuits of high value as well as litigations with no specific value. It is composed of three sitting judges, each of whom is no less than grade one. It looks into

contestations filed by persons concerned regarding judgments issued by Summary Courts, and in this case, it consists of three judges, at least two of whom are no less than grade one. It maintains the general jurisdiction of examining cases, or in other words decides on all disputes and crimes, unless otherwise provided for (Article 16 of Judicature Law).

Judgments issued by the Court of First Instance are contestable before the Court of Appeal which is a higher court (Article 307 Code of Proceedings).

Verdicts issued by the Court of Appeal are contestable before the Supreme Court within certain limits. The number of Courts of First Instance is (24) spread throughout the Great Jamhriya. Each court is composed of a chairman and a number of judges.

**C- Courts of Appeal:** At the level of Appellate Court, litigation is devoted to two degrees of appeal. It is competent to examine the following cases:

- 1- Contestations lodged by persons concerned regarding judgments issued by courts of first instance other than cases of appeal against judgments issued by summary courts;
- 2- Crimes punishable by death penalty, life imprisonment or imprisonment;
- 3- Challenges regarding administrative decisions of government agencies;

Each court of appeal is composed of a chairman and three counselors. Its judgments are contestable before the Supreme Court (Article 336 Code of Proceedings).

There are currently (7) Courts of Appeal in the Great Jamhriya; in Tripoli, Benghazi, Musrata, Al Gabal Al Aghdar, Al Zawya, and Sabha.

## **D- Supreme Court**

The Supreme Court is at the helm of the Libyan judicial organization. It is basically competent to monitor proper law

enforcement by lower level courts regarding different civil and commercial cases as well as personal status, penal and administrative affairs.

The Supreme Court is composed of a chairman and an adequate number of counselors. Each circuit at the Supreme Court is formed of 5 counselors and possibly 3 when necessary. The total number of Supreme Court counselors is (45).

The current organization of the Supreme Court is based on the specialized circuit system plus the general assembly system.

As original mandate suggests, the Supreme Court is a court of laws, before which final judgments issued by trial courts are challenged, and accordingly it does not examine facts of the case. However, in the event of repealing the verdict, the litigation is returned to the court issuing the judgment for a second opinion and decision by judges other than those who issued the first verdict. (Proceedings 357)

Nevertheless, the legislator has entrusted the Supreme Court with examining some cases directly as a trial court, stipulating for its exclusive jurisdiction to look into challenges filed by persons of vested interest in regard of matters at variance with the Constitution in any crucial legal issue pertaining to the Constitution or its interpretation that might have been raised in a case examined by the court system, as well as in cases of conflict of jurisdiction, be it positive or negative, among courts, and court verdicts of death penalty. Further, if the Supreme Court was to reverse its opinion on a previously declared principle, it is differently formed into the so-called combined circuits that will be comprised of (22) counselors.

There is a prosecution office for each type of court (Summary Court, Court of First Instance and Court of Appeal) to investigate into and proceed with litigation according to the Code of Criminal Procedure. All these prosecution offices report to the Prosecutor-General at the level of the Great Jamhirya.

The Cassation Prosecution Bureau undertakes the role of the prosecution before the Supreme Court in addition to giving its



opinion regarding all contestations filed to this Court. The number of its members is 50.

### **Litigation Department**

The Litigation Department acts, by force of law, on behalf of public legal persons (the State- government agencies – public institutions - public organs - public interests) regarding lawsuits filed by or actions brought against them. Public persons according to the Libyan Law are not immune against justice. Persons with vested interest may litigate to claim a right or to revoke a State procedure or to be compensated for injury inflicted as a corollary.

It also acts on behalf of public companies which are owned either to the State or to any public legal person, provided that this should be agreed between the chairman of the Department and entities concerned. It has (10) branch offices all over the Jamhirya. It was organized by virtue of Law no 87/1971. Its functions are distributed among its members upon the decision of the chairman or the competent branch office, as appropriate.

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functions are divided among its members upon the decision of the chairman or the competent branch office, as appropriate.

## **People's Law Office**

People's Law is an unprecedented flagship idea relating to legal defence and accounts for one of the most significant characteristics and advantages of mass society thought.

This idea is considered one of the main guarantees for achieving justice. Justice simply cannot be established in the absence of a lawyer to defend the accused or claim the rights of people before courts.

This idea further is closely related to human rights. The right of defence is a basic and crucial human right. The presence of an attorney on gratuitous basis on the side of the accused ensures and facilitates protection of human rights from this perspective.

Besides the right of defence, the People's Law Office was assigned another job, namely sensitization of the people and extension of legal advice and consultancy when requested with a view to enlighten the masses vis-à-vis their legal rights, interpret laws and elucidate their provisions without remuneration.

The People's Law Office is one of the judicial bodies. Having recourse to this judicial body is not obligatory but rather left to the discretion of the person concerned who may either choose an attorney at his own expense or defend himself by himself.

The legislator has molded this idea into Law no 4 for 1981 stipulating for the (right of all citizens to assign an attorney on remuneration-free basis) regarding criminal, civil, financial, administrative, commercial and personal status cases before all courts, including the Supreme Court.

The People's Law Office is headquartered in the City of Tripoli and has (6) branches in each of the Appellate Court circuits in Tripoli,

Zawya, Musrata, Benghazi, Al Jabal Al Aghdar and Sabha, with (24) affiliated offices in most cities and villages of the Great Jamahiriya for the purpose of facilitating citizens' access to defenders needless to move to metropolitan cities.

It has field offices in all reform and rehabilitation institutions to enable inmates to seek legal defence free of charge if necessity calls for it, so that they will not have to face difficulty accessing justice, given their position inside these institutions and their inability to frequent lawyers' offices in villages and cities. As mentioned above, this Office is deemed a judicial body and its members are eligible to have the same privileges and immunities enjoyed by members of the other judicial bodies.

## **Law Department**

It is a central Department with no branches. It gives legal opinion and advice vis-a-vis cases put to it by public legal persons and public companies. It develops and reviews draft laws due to be issued as well as draft conventions to which the Jamahiriya is a party. Besides supervising legal advisors in the State, it examines disciplinary actions in respect of top level management staff as well as financial contraventions as the Supreme Disciplinary Council is headquartered in this Department. It further participates in all financial disciplinary sessions and undertakes to discipline both contract editors and summoning officers and attend to their entries in legally established registers before they are permitted to take up their jobs. It finally examines grievances and settlements of persons concerned regarding their functional affairs.

(422566) cases were examined by the judicial bodies in 2006 regarding civil, commercial, criminal and administrative issues that were distributed as follows:

- Number of cases examined by the Appellate Court was (106486);

- Number of cases examined by the Court of First Instance and its circuits was (354404);
- Number of cases examined by the Public Prosecution was (237424);
- Number of cases examined by the Litigation Department was (110510);
- Number of cases examined by the People's Law Office was (91047);
- Number of issues submitted to the Law Department for opinion was (586), number of agreements (15) and draft laws (41). The number of cases examined by the Supreme Disciplinary Council for Staff is (338), and the Contract Editors' Council (33), thus bringing the total number of issues put forward to different judicial bodies for the period covered in the Report to (900287)

### **Terms of recruitment of members of the judicial bodies:**

Members of the judicial bodies are the judges, members of the Public Prosecution, the Litigation Department, the People's Law Office and the Law Department. These bodies have respective tasks: judges decide on all disputes, members of the Public Prosecution investigate into crimes and proceed with criminal actions before courts; members of the Litigation Department defend the State and public agencies in regard of lawsuits instituted by or against them, and members of the People's Law Office are assigned to defend, on free of charge basis, persons concerned regarding all civil or criminal actions filed by or against them and others.

On the other hand, members of the Law Department give legal opinion to administrative agencies and develop draft laws, statutes and regulatory decrees as well as review draft international treaties and conventions.

The Judicature Law in Article 43 mandates that judges shall have to meet appointment requirements to which the clause of passing a

2-year qualifying training course at the Judges Institute was added to ensure their judicial rehabilitation and education. These terms shall also be met by all members of other judicial bodies such as the Public Prosecution, the Litigation Department, the People's Law Department and the Law Department.

The judicial bodies have (3375) members, (371) of whom are counselors at Courts of Appeal, and (546) as judges in other courts (primary instance and summary), while public prosecution members are (829), Litigation Department members (548), People's Law members (1045) and Law Department members (36).

The Supreme Council of Judicial Bodies manages judicial affairs in their entirety with its membership composed of the President of the Supreme Court, the Prosecutor-General, the Secretary-General of the Justice Secretariat, Head of the Judicial Bodies' Inspection Department, Chairmen of the Litigation Department, the People's Law Office, and the Law Department and the most senior chairman of the Courts of Appeal. All are members of the judicial bodies, each whose grade is no less than chairman of the court of appeal.

Pursuant to the Judicature Law mentioned above, the realm of competence of this Council has typically featured in designing judicial policies as well as in the appointment, promotion, transfer, secondment, and disciplining of members of the judicial bodies and running their functional affairs including examination of suits they file to challenge decisions issued against them. Other assignments are more specifically listed as follows:

- 1- Give opinion on all cases pertinent to judicial bodies as well as study and propose legislation on promotion of judicial systems in place;
- 2- Ratify judicial provisions which laws sanction the essentiality of their ratification;
- 3- Issue penalty-pardoning decisions;
- 4- Consider as null final administrative decisions on any of the functional affairs of members of the judicial bodies that fall within the jurisdiction of administrative justice and compensation claims arising from it;

- 5- Disputes regarding salaries, pensions and remunerations payable to members of the judicial bodies, as well as allowances and material and moral incentives;
- 6- Establish courts of all types and degrees except for the Supreme Court that was established and regulated by virtue of a respective law, being the only tribunal of this kind in the Great Jamahiriya;
- 7- Establish inclusive and summary prosecution offices;

### **Substantial Developments of the Judicial Action**

It is beneficial before finalizing talk about the judicial system to project some of the developments that were brought forth in the area of judicature in view of their unflagging significance:

**First:** The Judicature Law sanctioned many guarantees, immunities and privileges. It also underpinned guarantees already established in previous legislation, having introduced multiple benefits and updates. The most crucial points stated in the given Law can be summed up as follows:

- 1- It conferred judicial immunity on all members of the Judicial Bodies after it had been previously confined to judges and members of the public prosecution;
- 2- To ascertain accuracy of judicial action, first instance circuits have come to be composed of three judges instead of one magistrate judge;
- 3- Financial incentives were accorded to members of the judicial bodies, doubling their salaries alongside authorizing the Supreme Council of Judicial Bodies to determine allowances and remunerations for them;
- 4- The social security system for members of the judicial bodies was changed to determine their pensions on the basis of the maximum value of the salary bracket of the grade in which

they were rated even though recently reached or according to the last salary paid. This system is different from the other social security systems applicable to the rest of State civil servants;

- 5- Extending the age of retirement from 63 to 65 years old;
- 6- To raise the professional level of judges and members of the judicial bodies, a higher institute was established with the aim of organizing qualifying courses all the year round for members of the judicial bodies to modernize their profile and their real time monitoring of events and developments of judicial action;
- 7- The new Law provides for the creation of a social security fund to serve social and humanitarian purposes;
- 8- The Law decides on continued payment for three years of the salary of the judicial body member in the event of suffering a work injury plus a financial compensation with a subvention up to 100,000 dinars in case of death;
- 9- Establish legally independent social clubs for members of the judicial bodies, the revenues and financial resources of which are to be employed in improving their conditions and retain previously-determined privileges.

## **Second: Expansion in the Principle of Reconciliatory Justice (Conciliation and Arbitration):**

It is taken for granted that all countries of the world have become well-disposed to attach due importance to dispute-settlement through negotiation and reconciliation. Reconciliation certainly leads to accelerated resolution of disputes and relief of burden on courts, not to mention satisfaction of parties and sparing them the grudge of dispute. To this end, the Jamahiriya took precedence in issuing Law no 74/1975 that vested the people's committees in the jurisdiction to conciliate and arbitrate between citizens, rendering

the people's committees based in basic popular congresses competent to examine disputes regarding civil and commercial articles and personal status as well as criminal procedure articles falling within the jurisdiction of the summary court to be addressed in a popular and social perspective and how this can contribute to the smooth settlement of disputes away from court corridors. The Law thus defines simplified procedures for these committees to pursue in commensurate with the nature of litigations subject of their examination in a manner that encourages citizens to have recourse to.

The Law substantially signifies reconciliatory justice by requiring conditionally that the subject lawsuit falling within the jurisdiction of summary and first instance courts relating to civil and commercial articles and those pertinent to legal expenses, be submitted first to conciliation committees and so that if individuals fail to take this course, the Court will turn down their litigation.

In order to effectuate and cement the idea of reconciliatory justice, this Law needs reconsideration. As a consequence, Law no 4/2010 was issued with new more developed concepts of reconciliatory justice compared to the previous Law and has gone so far as to expand the competence of conciliation and reconciliation committees to include even criminal cases. The Law as well declines to associate reconciliatory justice with the administrative structure of the State. It rather renders competent non-governmental committees to be formed in every congress or residential quarter.

## **Human Rights Institutions**

In the Jamahiriya, there are certain human rights institutions operating for the protection of these rights, monitoring and tracking of related violations and redress of breaches. In addition, the said institutions are interested within the limits of their competence in giving effect to nationally, regionally and internationally agreed human rights. These institutions are:



## 1- Legal Affairs and Human Rights at the level of the Secretariat of the People's General Conference

These affairs include in their structures departments directly concerned with human rights as a human rights department plus the Legal Affairs Department. These affairs are deemed among institutional constituents of the Secretariat of the People's General Conference concerned in the first place with following up and implementing all human rights policies articulated in the Libyan legislation.

“The decision of the General Secretariat of Basic Popular Congresses no 2/2005 on in-house organization of the Secretariat has defined missions and competence assigned to it”.

2- Human Rights Committee at the People's General Committee under the chairmanship of the Secretary-General of the Justice Secretariat and with the membership of directors of legal offices at the sector level. There are associations that handle these matters at the civil level.

Civil society in the field of human rights in the Great Jamahiriya is complementary to the role of State institutions in enhancing the community and improving the performance of its individuals towards building human as a point of departure to creativity in the light of freedom and practice of direct democracy (power of the people). On the basis of entrenching religious parameters calling for righteous action and recommending cooperation for benevolence and piety, civil work historically takes root ever since the rise of Islam.

The Revolution recognized the centrality of civil action, thus issuing early after its inception Law no 111/1970 on Societies detailing in 7 parts how these societies were formed and striking the balance between founders of these societies and the administration powers, naming the judiciary as the competent authority vested in separating between the two sides.

The Libyan legislator issued the Civil Societies Law no 19/2001 which granted citizens the right to establish civil societies, conferring jurisdiction to issue licenses for creation of these societies on one of the following three entities namely:

First Entity:

It is the Secretariat of the People's General Conference. It gives permission to associations operating in areas of friendship and cooperation between the people of the Great Jamahiriya and other peoples.

Second Entity:

It is the People's General Committee. It gives work permission to associations whose scope of work is at the level of the Great Jamahiriya;

Third Entity:

It is the Scientific Research National Authority. It gives permission to associations not covered by Law no 19/2001 referred to above, namely scientific societies.

Purposes of these societies diversified covering nearly all aspects of life such as human rights, youth, women and child care, attention to people with special needs, the physically disabled and psychiatric patients as well as interest in advancing treatment for patients with chronic diseases, like societies for combating cancer, prevention against radiation, renal failure, renal transplantation, intensive care and others.

This enumeration does not normally involve trade Federations, syndicates and vocational associations because these institutions, though by the book, are considered as civil and attend to the

professional interests of their candidate members; they still constitute part of the political fabric of the Libyan society, an issue that was made clear under the paragraph (political part) of this report.

Therefore the Great Jamahiriya was foremost among countries that abided by the African Charter of Human and People's Rights, citing in Article 10 that:

1- It is the right of every person to freely form associations jointly with others provided that he abides by provisions specified by the Law;

2- No person may be forced to accede to any association provided this shall not be in contradiction with the principle of solidarity set forth in this Charter;

### **Legal and Judicial Protection of Human Rights**

Since its inception, the Great Al Fateh Revolution has devoted special interest to the enactment of legislation on the protection of citizens' rights and the harmonization of its related laws with international treaties and instruments it adheres to. Besides enacting laws to protect basic rights and freedoms of individuals, control mechanisms and organs were introduced to ensure respect for effective laws and oversee their application.

In this part of the report, we tackle legal protection as item 1, judicial protection as item 2 and control mechanisms as item 3 as follows:

#### **First: Legislative Protection**

This protection can be discernable through overriding interest the Great Jamahiriya has developed in human rights and basic freedoms in a number of basic and ordinary laws alongside its ratification of and accession to many international human rights

conventions. Aspects of this protection are dealt with in this regard as follows:

## **1- Basic Laws**

The Libyan legal system recognizes laws of basic nature which are superior in terms of legal value to ordinary laws. Among these basic laws are:

### **A- Declaration on the Establishment of the Power of the People on 2 March 1977:**

This historic declaration has firmly established the natural right of the citizen to determine his own fate and participate directly in the exercise of ruling power from the political and administrative sense of the term, citing in Item 3 that "power is but for the people and no one else. The people will exercise their power through popular congresses and people's committees." Therefore the people are authorized to enact laws and choose the executive tool (people's committees) at their different levels.

### **B- The Great Green Human Rights Charter in the Era of the Masses:**

The Charter contains an array of generic rights and freedoms as enshrined in international and regional declarations and conventions such as civil, political, economic, social and cultural rights, adding other rights and freedoms that were not mentioned before, for example human right to live in a world free of atomic, germicidal, and chemical weapons and means of mass destruction; human right to sovereignty and exercise of power directly without representation; human right to exploit land as usufructuary right; human right of not being employed by others but rather to own his production to which he has contributed his effort as long as the given activity is income-yielding in tandem with the partners-not-employees principle.

In this respect, it is worth mentioning that the Great Green Human Rights Charter in the Era of the Masses is singular in characteristics that distinguish it from other instruments and positive laws on human rights and basic freedoms:

- It is not limited to the Solemn Declaration on Human Rights and Basic Freedoms, but is resolutely dedicated to provide adequate conditions and put in place appropriate mechanisms to enable humans to verily enjoy their rights and freedoms. In assertion of the human right to exercise power and determine one's own fate, it takes forward to means securing this right as exemplified in people's congresses and people's committees. Also in assertion of human right to labor, it recognizes his full freedom to choose the type of work suiting him whether individually or in partnership with others and to enjoy the output of his effort; and in affirmation of human right to exploit land as usufructuary right in terms of occupancy, agro-living and pastoral activity, it has freed him from the yoke of feudalism by stating that "land is the property of no one".
- It has not been exclusively bound to the Declaration on Human Rights and Basic Freedoms but is persistently after harmonization and adjustment of these rights and freedoms in concert with the concept of humanization and dignity of humans. Having approached the right of freedom as sacred, it confines imprisonment as a penalty to those whose freedom poses threat or constitutes corruption to others, prohibits all degrading penalties detrimental to human dignity and sets the target of penalty to be social reform as represented in rectification, rehabilitation and advice. Meanwhile the Green Charter has made it clear that the ultimate aim of the mass society is the abolition of death penalty, thus it condemns appalling implements of execution such as electric chair and poisonous gas injection.

In emphasis of the sacredness of human rights and basic freedoms, the Green Charter provides for rights and freedoms in absolute terms and without conditions or restrictions. It has not left in the purview of the ordinary legislator to define these rights, the modality of their exercise or means and ways of enjoying them.

The Charter notes: "The sons of the mass society are free in times of peace to move and reside, that citizenship in the mass society is a sacred right that may not be dropped or withdrawn, that sons of the mass society are free to establish trade Federations, syndicates and associations in protection of their professional interests and that the mass society ensures the right of litigation and independence of the judiciary, maintaining the right of the accused to stand fair and impartial trial.

The Great Green Human Rights Charter was exclusive in stipulating for the right to compose a family and deems it a cherished right in the bid to ensure the formation of a coherent family in terms of parenthood and siblings. The human is created to be raised by his mother and his nature is only suited to her true care and breast-feeding. The child is the produce of his mother's upbringing. As its provisions were based on this right and that principle, the Charter has specifically been guided by bedrock concepts articulated in the Green Book that regards the family as the cradle of human, his origin and social umbrella.

Accordingly, it fine-tunes with the African Charter of Human Rights that singled out, unlike all regional and international instruments, in highlighting these core values in the Item on Obligations in Chapter 2 of Part I.

Perhaps the most remarkable input of the Great Green Charter is its inclusion of the right of peoples to liberation and advocacy in due regard to the subdued and the persecuted, as well as the right of incitement of peoples to face up to injustice, arbitrary practices, exploitation and colonialism. It further provides for the right of

peoples to security and peace and to shun wars and terrorism and the right of nationalities to live according to their own choices.

Finally the Charter states that the resourcefulness of rights and freedoms enunciated in it is not derived from the will of the State but rather takes root in sublime ideals and rules of natural law, citing rights as the endowment of Allah the Almighty.

### **Freedom Promotion Law no.20/1991:**

Guided by international instruments and covenants on human rights and basic freedoms and based on the Great Green Human Rights Charter in the Era of the Masses, this Law has been issued to have its articles expressly pinned, in detail, on fundamental principles embraced in the Green Charter, noting that such rights are not subject to prescription or abridgment and may not be waived. The Law stresses that its provisions are fundamental and nothing that is in contravention with it may be issued. It rather mandates amendment of whatever is deemed in conflict.

### **Ordinary Legislation (Civil, Commercial and Criminal)**

A battery of civil, commercial and criminal laws regulates relations among individuals and between the latter and government and private agencies. These laws are principally inferred from French and Italian codification alongside some Islamic Law (Shari'a) stipulations. Albeit the fact that these laws are relatively modern if compared to those applicable in other countries, it has become necessary to reconsider them in keeping with national and global developments.

Therefore, committees, numbering 14, were formed to reconsider key legislation and review laws (civil – commercial – proceedings – criminal procedure – Penal Code – labor and civil service – State financial system – administrative structuring – foreign investment – education – health – judicature – oil and others). Several laws were issued to this effect, including:

## **Most important reasons calling for reconsideration of legislation are:**

- 1- The Jamhriya is in the process of economic restructuring according to a newly-developed program for wealth distribution to all Libyans based on the argument that people are partners in power, wealth and weapon, in addition to preliminary procedures required for accession to the World Trade Organization (WTO).

The Jamhriya was committed to the other states and international organizations by ratifying or acceding to a number of international conventions, including but not limited to, fighting terrorism, transnational organized crime, human trafficking, smuggling illegal migrants, arms trafficking, combat of corruption and narcotics, and others which demanded reconsideration of provisions of criminal law and legislation regulating dealing with foreigners especially that the territories of the Jamhriya are markedly vast and sprawling.

## **Criminal Laws:**

These laws include the Penal Law and its complementary laws as well as the Code of Criminal Procedure.

The Penal and Criminal Procedure Codes were issued in 1954 and since then, interesting developments have been coupled with human rights. Committees were formed to develop a draft penal code ensuring protection of human rights

Updates of the penal system are currently being introduced as manifest in the following:

- \* Commutation of death penalty for its eventual abolition;
- \* Curbing of freedom-restricting penalties and their substitution by financial penalty such as fines;



- \* Expansion in reconciliation bids for simple and medium-level crimes (contraventions and misdemeanors) by paying an amount of money to the victim or to the State in lieu of prison sentences;
- \* Adoption of the idea of alternative sanctions by employing the convict instead of jailing him;
- \* Affiliation of reform and rehabilitation institutions (prisons) to the People's General Committee on Justice in administrative and technical terms so as to have them placed under direct judicial supervision to prevent abuse in treating prisoners.

All complementary laws were incorporated into the new draft Penal Code for smooth reference.

As for the Code of Criminal Procedure, it deals with rules regulating functions of *res judicata* officers, evidence collection, investigation and trial procedures as well as arrest and detention guarantees in protection of human rights in the Great Jamhiryia.

## **International Human Rights Treaties and Instruments**

Based on its irrevocable faith in the sacredness of human rights and basic freedoms, the Jamhiryia has ratified international conventions on human rights in their different domains.

The Libyan legal system is chiefly built around the domestication of international or regional covenants and instruments ratified by the basic people's congresses or to which the Jamhiryia accedes, once they are published in the official gazette and thus should be respected. The national judge also is committed to their application as part of the national legislation (Article 1 of the Libyan Civil Law). This indicates that the mere ratification of the subject convention or covenant necessitates its regard as internal legal rules that courts are obliged to apply to disputes under their examination. Moreover, each person with vested interest may seek effectuation of its provisions before the national judge to exclude national legal

provisions that may be in contravention with it. This goes for the African Charter of Human and Peoples' Rights to which the Great Jamhriya had been a party since 1986, as well as the Protocol establishing the African Court for Human and Peoples' Rights ratified by the Jamhriya in 2003. Given the critical importance of judicial cooperation in protecting human and peoples' rights, the Great Jamhriya has concluded a host of judicial cooperation agreements with the other states to facilitate execution of judicial writs and rulings whether issued by Libyan Courts or by courts in other states party to these agreements.

## **Judicial Protection**

Under this item, we will first present basic principles governing the Libyan Judicial System and second we will review Libyan judicial efforts in protecting human rights, as follows:

### **1- Basic Principles governing the Libyan Judicature**

The Libyan judicial system provides for a set of guarantees to ensure rights and freedoms:

- 1- Independence and impartiality of the Judiciary;
- 2- Ensuring right of litigation;
- 3- Gratuity of justice;
- 4- Separation of judicial bodies;
- 5- Multiplicity of litigation degrees;
- 6- Magistrate judge and multiple judges;
- 7- Publicity of sessions;

These basic principles are correlated with human rights and we will address them more clearly as follows:

### **1- Independence and Impartiality of the Judiciary:**

The Great Green Human Rights Charter in the Era of the Masses cites in its ninth principle that "The Mass Society ensures independence of the Judiciary", similar to the stipulation in Article

31 of the Freedom Promotion Law no 20/1991 to the effect that judges are independent and not subject to any authority. While in office, they are not susceptible to any influence. Claims of otherwise or attempt to do so is a punishable crime pursuant to articles (274-276) of the Penal Code.

Courts are not permitted to establish legal rules to become vested in the power to enact. In order to assert the judges' independence from the executive body that appoint them, the above mentioned Judicature Law has decided on a number of guarantees ensuring that judges are not liable to relief of office. It has also developed some provisions on their appointment, secondment, transfer, and discipline as well as the other remaining functional affairs since the Supreme Council of Judicial Bodies, composed of senior members of these bodies, is exclusively designated to perform the aforementioned functions.

However, independence of the judiciary means also non-interference in its affairs by any entity from outside since legislation has entrusted monitoring of judicial action to a judicial body comprised of a number of judges of higher degrees, or the so-called Inspection Department. Inspection is carried out by examining the performance of the inspector every year at the Inspection Department Headquarters or the competent branch, as appropriate, or by the inspector moving to the workplace of the member subject of inspection.

In all cases, the inspector is provided with a copy of the legal work performed by the member subject of inspection, while the latter may present to the inspector first-hand positive level of effort to indicate his efficiency. This work or level of effort is subject to evaluation affirmatively or negatively and no member of the judicial body will be entitled to promotion unless he is reported to have been evaluated at least by above average grade.

The judge applies justice in balancing legal interests of adversaries. The Judicature Law presupposes the impartiality of the judge; however he is to be prevented from examining the case once proved

to be of vested material or moral interest or if he is bound in kinship up till the fourth grade with any of the adversaries, or if he has had prior opinion on the subject case under his examination. The Libyan Law has adopted this principle to ensure smooth conduct of justice and maintain its networking with public order to which the judge is automatically committed, even without plea on the part of the adversaries.

## **2- Ensuring the right of litigation and equality before court:**

The Great Green Human Rights Charter in the Era of the Masses stipulates in its ninth principle that "Mass society guarantees the right of litigation and the independence of the judiciary and that the accused has the right to a fair trial".

This principle applies to foreigners as well. The foreigner, who goes to court, will be entitled to enjoy the same rights of the Libyan citizen except for free-of-charge defence unless he is financially unable, then he is to benefit from defence gratuity in the same way the national does.

The Freedom Promotion Law no 20/1991, in Article 1 notes: "Citizens, males and females, in the Great Jamhirya, are free and equal in rights, and their rights are inviolable".

### **Pursuant to Libyan legislation, defence tools are employed by three entities namely:**

**A- People's Law Office:** a group of members of the judicial bodies who are paid by the State and enjoy the same privileges accorded to judges be they financial, functional or immunities. They take the responsibility of defending individuals in all cases.

**B-Litigation Department:** defends the State and public legal persons in suits filed by or against them. Its members enjoy the same privileges of the judges.

**C- Private Law:** This is practiced by attorneys who work for themselves as professionals as per the law as is the case in other

countries where the same validation determined for attorneys is provided.

### **3- Gratuity of Justice**

The judges are paid their salaries from the Public Treasury and not from the adversaries. Therefore it can be safely admitted that going to court is gratuitous. If litigants are charged judicial fees in return for their having recourse to courts, it is thereby meant to assure seriousness of the case. There is the legal aid system that allows those financially unable, be they nationals or foreigners, to litigate without remuneration, including exemption from charges and attorney fees in observance of a set of substantive and formal terms defined in the Judicial Fees Law, even though these judicial fees are nominal as action-filing fees, in the early stage of suing, they do not exceed 19 dinars no matter its value was.

### **4- Separation of judicial bodies**

To ensure soundness of judicial performance, each judicial body is tasked with an independent function other than those assigned to the other bodies. While the sitting judge issues judgment, the Public Prosecution conducts investigation and institute lawsuits, the Litigation Department defends the State in suits filed by or against it since the legal system does not recognize that the State is immune against prosecution except with regard to state sovereignty. The People's Law Office defends individuals on the basis of gratuity of defence whether for those who can or cannot afford it, a system that is applicable nowhere in any country in the world.

### **5- Multiplicity of litigation degrees**

It is considered one of the underlying principles in the Libyan judicial system. The lawsuit is instituted before the Court of First Instance; the convict may then challenge its judgment before the Court of Appeal to which the dispute is brought anew for decision by final judgment which may be contested still before the Supreme

Court. The mission of this Court is to monitor enforcement and interpretation of the law, as well as soundness of litigation procedures. Its rulings are unimpeachable. Its principles are binding to all courts and administrative bodies.

## **6- Magistrate Judge and Multiplicity of Judges**

The Libyan legislator adopts the magistrate judge system for summary courts whereas the multiplicity of judges system is applicable to inclusive circuits in the Courts of First Instance as well as to Appellate Court in examining challenges against judgments issued by Summary Courts in order to ensure transparency and guarantee that the case was examined by more than one magistrate judge. This is also the case with the Courts of Appeal and the Supreme Court.

The purpose of multiplicity of judges is for the new judge to avail himself of the experience of senior judges. This multiplicity opens avenues of dialogue, enriches discussion, and helps reach the truth. It is also in agreement with the principle of decision collectivity, which results in avoiding individual abusive practices and authoritarian decision-taking.

### **1- Publicity of Sessions**

One of the most crucial litigation guarantees is the publicity of sessions i.e. conducting legal proceedings in public sessions where every person has the right to attend. Article 25 of the Judicature Law stipulates that "Court sessions shall be held in public unless ordered by the Court to be in camera in observance of public morals or in preservation of public order. Pronouncement of judgment in all cases shall be in public sessions).

### **Third: Other Guarantees**

The Libyan legal system recognizes a set of non-judicial guarantees certain to ensure protection of citizens' rights and basic freedoms and deter any excesses or assaults against them.

These guarantees are represented in the following:

### **A- Inmates' Treatment in Reform and Rehabilitation Institutions**

Law no 5/2005, replacing Law no 47/1975 on prisons, regulates the affairs of reform and rehabilitation institutions in the Great Jamhirya.

This Law identifies reform and rehabilitation institutions as places of reform and education intended to rectify and put right the conduct of convicts serving freedom-restricting sentences and rehabilitate them to be righteous members of the community, which thereby the Law has elevated penalty purport to its end to materialize in reform and rehabilitation, mindful of public and private deterrence in conjunction with modern criminal policies.

Having classified reform and rehabilitation institutions into key, local, special open and semi-open institutions, this Law provides for inmates' categorization and distribution according to the degree of crime committed and meanwhile mandates that depositing any person in a reform and rehabilitation institution should be upon a written order, signed and sealed, by the Public Prosecution. It forbids that the subject convict be retained after the expiry of the period specified in the order.

Within each institution, the Law requires that inmates be divided, in terms of treatment or accommodation, into two fully-separated categories; the first includes the provisionally detained, traffic crime and sinful offence convicts, sentenced elderly people who are past 60 years in age and convicts who are under 21. The second category covers the rest of convicts.

The Law mandates as well that provisionally detained inmates are to be accommodated in separate places in the given institution. They are also permitted to stay in paid furnished rooms.

The Law permits that inmates buy or meet their needs from outside the institution unless otherwise indicated as opposed to health or security contingencies.

It decides that if the sentence period the subject convict is serving in the institution exceeded four years, he will have to pass through a transitional period before his release to observe progressive ease of constraints for his eventual reintegration in the society.

The Law mandates separating women inmates completely from male inmates as well as inmates who are less than 21 from those older in age.

The Law permits sheltering pregnant inmates in social care institutions in lieu of reform and rehabilitation institutions upon a decision by the doctor concerned with regard to food, activity and sleep, until she gives birth and for 40 days after delivery and the inmate will be also entitled to keep her baby until he/she is two years old.

Concerning other rights of inmates, the Law confers on them the right to work and get paid for it. It relieves the inmate from work on reaching the age of 60 unless he otherwise desires and is proved physically able to continue working. Inmates, according to this Law, are entitled to have days off on religious events and official holidays. The Law also stipulates for the validity of provisions of the Social Security Law regarding injuries inflicted on inmates at work.

The Law gives inmates the right to learning and knowledge, and obligates reform and rehabilitation institutions to educate and train them vocationally in accordance with State schooling curricula.

It permits inmates in specific cases to do exams in schools outside the institution. It requires establishing a library in each institution with a view to educate and discipline inmates alongside permitting them to buy books, newspapers, magazines and others from outside which they will pay for.



According to the Law, the judicial police are required to provide different mass media to the inmates, and to hold synthesizing and recreational symposiums and workshops for them. The Law states in this regard that inmates, who seek to be better educated, shall be awarded remuneration if they managed during their stay in the institution to memorize the Holy Qoran or half of it or to obtain general or university certificate.

The Law makes it obligatory to have in each institution a preacher or more to conduct guidance activity and help in rectifying aberrant behavior of inmates to reinstate them in the community as sagacious citizens.

The Law includes the provision citing the right of inmates to medical care by having in each institution a resident doctor aided by an adequate number of assistants, whose mission is to follow up on health affairs of inmates and check on the impact of their environmental conditions such as solitary confinement or labor to take appropriate measures to prevent or redress injury.

The Law mandates that the seriously ill inmate whose life is in danger or who is threatened with physical disability shall be released on health grounds upon a Health Release Committee order approved by the Secretary-General of the People's General Committee on Justice, based on the reported medical examination of the physician concerned.

The Law as well provides for the right of inmates to social care, having established in each institution a section for social care supplied with a sufficient number of experts and specialists to examine the inmate's character and decide on the program suitable for his treatment. It stipulates for inmates' categorization, education, training and rehabilitation together with development of social researches and psychological studies on their cases.

The Law provides for granting bonus-track benefit to the released that is in need to help him meet his urgent needs after his release.

The Law stipulates for the right of the inmate to visit and correspond as well as his right to meet his lawyer in private and also his relatives or his representative or guardian even not during normal visiting hours, when necessary.

The Law provides for the right of the inmate, who is sentenced to a freedom-restricting penalty, to 8-day annual leave at intervals, maximum 4 days running at a time. He is to have the right to an emergency leave for 72 hours at most in the event of the passing away of one of his relatives up to the 2<sup>nd</sup> grade.

The Law mandates that the head of the institution accept any complaint, verbal or written, to be lodged by the inmate and take the necessary action in this respect.

The Law stipulates for conditional release of the convict sentenced to a freedom-restricting penalty if he served three-quarters of the penalty period, if his conduct during his stay at the institution was worthy of trusting his intention for reform, if his release does not endanger public security and if the period he spent at the institution was not less than nine months.

In observance of commitment to implement these rights, the Law has established an organ for administrative inspection of reform and rehabilitation institutions where a number of inspectors operate. It is chaired by a Public Prosecution Director to verify abidance by systems, laws and regulations governing these institutions, examine complaints lodged and study issues as requested. This right to inspection is legally determined for the Secretary of the People's General Committee on Justice and the Prosecutor-General.

In the process of improving conditions of reform and rehabilitation institutions, many actions could be singled out as follows:

### **First: In the Area of Construction Works**

- 1- A health complex was inaugurated at the newly established reform and rehabilitation institution. This complex was set to house patients who are inmates of the institution. It includes a

section for patients required to be medically isolated to avert disease outbreaks within the institutions.

- 2- New reform and rehabilitation institutions were typically built on health grounds in conformity with technical specifications consistent with human respect and not in conflict with human rights, and where ventilation, lighting, water networks, sanitary drainage and solar sawmills are provided to replace old institutions.

## **Second: In the Area of Development**

### **In this field, the following has been substantiated:**

- 1- Improve means of transporting inmates through provision of secure vehicles instead of old means of transportation;
- 2- Provide beds, mats and covers for inmates especially in winter where 10000 beds were manufactured by inmates;
- 3- Introduce modern automation to all departments affiliated to reform and rehabilitation institutions by providing computers through which all data on inmate affairs may be documented. Work is in progress with regard to continuously modernizing this system to ensure access to all leads of information such as inmate's imprint, personal photo and judicial position as well as changes he is likely to experience including his appearance before court in the set dates of sessions.
- 4- Put in place a personnel system for the Judicial Police staff and another for enumerating and supplying investigation and discipline councils with experienced and efficient officers working in the Organ.
- 5- Complete and introduce improvements and maintenance works of old institutions and meet their basic requirements. These included construction of new kitchens and bathrooms, provision of potable water, renovation of water and sanitary drainage network, electricity, installation of doors and windows and supply of office furniture.
- 6- Set up some shops in fields of (mechanics – carpentry- blacksmithing- plumbing) to train and rehabilitate inmates after

their release to help them return to the community and contribute to the construction movement.

- 7- Set up telephone kiosks in the institutions for inmates to contact their families for nominal fares.
- 8- Open ateliers in the reform and rehabilitation institutions for women to have a profession for them to make a living after their release;
- 9- This Organ was supplied with a sufficient number of fire cylinders and extinguishers which were distributed to the institutions for use when necessary in anticipation of any emergency;

### **Third: In the Area of Social and Health Care**

- 1- A complaint fund was set up for institutions and under the supervision of a judge specialized in examining inmates' complaints and finding appropriate solutions to their problems;
- 2- A number of preachers were approached to give religious lectures to enlighten, guide and sensitize inmates as regards their religion and urge them to engage in charity activities with a view to return to the society as sagacious citizens;
- 3- Enable the press to hold interviews and conduct polls and provide it with information and facilities to carry out its mission;
- 4- In implementation of Law no 5/2010 on reform and rehabilitation institutions, many decisions were issued to the effect of transferring inmates to institutions nearby their families' dwellings to facilitate their visit.
- 5- Coordination with social security bodies to vaccinate accompanying children inside the institutions as well as pay basic pensions to inmates' families in application of the social care principle and in accordance with laws in force.
- 6- Several intellectual contests, social events and sports activities were organized to manifest opening up contours to incorporate inmates in the community;
- 7- A number of medical specialists in skin and internal and dental treatment were assigned on bonus track basis to improve health services extended to the inmates' and to curb the spread of epidemics and diseases within institutions.

- 8- Inmates were classified according to standards set forth in laws;
- 9- Medical teams were formed under the supervision of the Judicial Police in Tripoli, Benghazi, Al Zawya, Gherian, and Sabha who, within their realm of competence, have toured the institutions and conducted medical examinations and analyses for patient inmates together with the treatment and medical examination of serious cases and when necessary, carrying out small surgeries and transferring cases to specialized hospitals and medical centers.
- 10- Health campaigns were launched, in coordination with specialized centers, to make sure inmates are free of infectious diseases (Aids, hepatitis, tuberculosis);
- 11- Clothes and accessories for mother and child have been provided and gifts distributed to inmates in reform and rehabilitation institutions concerned;
- 12- Advanced first-aid ambulances were made available to all branches in conformity with international standards to raise performance levels in the area of health care;

#### **Fourth: In the Field of Training**

- 1- A specialized training course on reform and rehabilitation and human rights institutions was held in the Technical School in which foreign experts took part as teachers and lecturers with the attendance of officers working at the reform and rehabilitation institutions.
- 2- Members of this Machinery participate in computer, internet and language training courses organized at the Technical School based in the Training General Department to elevate the level of staff working in this field;
- 3- A semester was planned at the level of the reform and rehabilitation institution under the supervision of specialists to train inmates in the computer to help them cope with modern technology and automation;

**Fifth: For further development and a way forward, some advanced systems were essentially construed and simulated. Many procedures were pursued to this effect:**

- 1- Participation in meetings, sessions, and foreign missions in connection with the work of the Machinery.
- 2- Holding interviews with excellent working calibers and offering them material and moral incentives;

Sixth: In the area of festivals and recreation, reform and rehabilitation institutions affiliated with this Machinery do organize concerts and sports activities marking the occasion of national and religious events.

Reform institutions are run by members of the Judicial Police numbering 590 officers representing different grades and are assisted by non-commissioned officers (NCOs) and individual officers plus civil servants.

## **B- Police Release and Special Pardon**

If penalty was primarily intended to ensure reform, moral justification and rehabilitation of convicts to become righteous members of the society in a way to determine or execute penalty as required, the Libyan legislation has recommended two highly important matters in motivating convicts to reform themselves: first; by deciding on conditional release where the Prosecutor-General, upon submission by the Institution Director, will be authorized to release convicts if they behaved well at the institution level and if five years from the date of release have elapsed without the released committing any crime, only then the release shall be definitive and the penalty obliterated. Second; full or partial pardoning of the convict's penalty in accordance with controls specified by the Supreme Council of Judicial Bodies most significantly by proving sound conduct of the convict to either commute sentence or to stay of its execution. This pardoning is normally connected with national or religious events to make prisoners and their families happy on these occasions.

## **C- Administrative Grievance**

The legislator has permitted individuals to lodge their grievances and complaints to administrative bodies for redress of any prejudice to their basic rights and freedoms by abolishing or adjusting relevant decisions or determining due compensation for injury incurred as a result. No formal constraints or procedures were in place to bar effectuation of this redress of administrative grievance. Under Administrative Law, it was further perceived as a determinant for setting a date for litigating nullification.

## **Part IV: Institution of Non-Governmental Organizations and Syndicate Action**

## **Part IV: Civil Society Organizations and the Right to Institute Federations, Syndicates and Vocational Associations**

Civil action and the right to establish syndicates and vocational associations in the area of human rights in the Great Jamahiriya may be regarded as an action complementary to the role of State institutions in advancing the society towards building humans as a point of departure to creativity in the light of freedom and power of the people. The Great Jamhriya is one of the states most interested and respectful of the right to institute civil societies and form syndicates and vocational associations. For further clarification, we will address first the right to institute civil societies and second the right to establish Federations, syndicates and vocational associations.

### **First: Right to Institute Civil Societies**

One year after its inception, the Great Fateh Revolution, having realized the importance of civil societies and their role in the advancement of the society, issued Law no (111) for 1970 on the formation of civil societies. Thirty years after the issuance of this Law, the legislator saw that a new legislation on civil action is required to cope with developments in this area. To this effect, Law no 19/2001 was issued to provide for all parties interested in voluntary civil action the right to establish institutions for public affairs and extend social, cultural, sports, charitable and humanitarian services and others at the local and national levels.

The Law confines notarization of civil societies to the following three government agencies:

#### **First Agency:**

**People's General Conference Secretariat:** gives work permission to societies operating in the area of friendship and cooperation between the Libyan people and the other peoples.



**Second Agency:**

**People's General Committees for Administrative Divisions:** give work permission to societies whose terms of reference are at the level of the Great Jamhriya.

**Third Agency:**

**People's Committees for Administrative Divisions:** give work permission to societies with terms of reference at the administrative division level.

Further, scientific societies which are not subject to this Law, their work permission will be issued by the National Authority for Scientific Research pursuant to laws in force.

The number of civil societies operating in the Great Jamahiriya amounted to 400 in number with diversified activities covering defence of human rights, power of the people, social care, environment and consumer protection, enhancement of women and youth, scientific as well as fraternity and friendship societies, care for people with special needs such as the disabled and the physically disadvantaged, the deaf and dumb, and the blind, orphan and diabetic care, to say the least of societies for cancer-fighting, acquired immune deficiency syndrome and renal transplantation and others.

The Great Jamahiriya was interested in civil action since the inception of the Fateh Revolution. Legal mechanisms in place for its regulation and activation have preceded the African Charter of Human and People's rights. There were also subsequent and amended laws following the first legislation regulating civil action, which were issued after the promulgation of the Charter and were espoused with its provisions, therefore the Great Jamahiriya was among pioneer countries committed to the African Charter that stipulated in Article 10 that:

1-Each person has the right to freely institute societies jointly with others provided that abidance by provisions cited in the Law is observed.

2- No person is obliged to join any of these societies provided that this is not in conflict with the commitment to the solidarity principle set forth in this Charter.

## **Second: The Right to Establish Federations, Syndicates and Vocational Associations**

Syndicate organization in Libya was generated in the wake of the 5<sup>th</sup> decade of last century by establishing Federations when economic activity, though limited, was dominated by the Fascist Italian colonial minority. To face challenges of this period, large segments of Libyan workers had struggled for the institution of syndicates to protect and defend their rights. After the launch of the Great Fateh Revolution, all unfair rules crippling the freedom of the people were dropped, the worker became partner in administration and production processes through restructuring work relations and establishing professional, productive and craft syndicates and congresses grouping members of the one profession or craft. Subsequent codes on the institution of syndicates were issued respectively, such as Laws no. (111) / 1971 on the establishment of the Engineers Syndicate, no. (48)/1971 on Teachers' Syndicate and no. (107)/1975 on Trade Unions. The Federations Law cited in Article 1 that:

"Workers operating in one profession or industry or like professions or industries or related to each other or sharing the same production shall be entitled to institute together a public syndicate at the level of the Great Jamahiriya. These syndicates, formed in accordance with the provisions of this Law, may be rallied around a general federation that shall have the legal personality."

Law no (99) for 1976 on the Establishment of Public Syndicates and a General Federation for Craftsmen was issued. Codes establishing and regulating syndicates were subsequent until Law no (23) for 1998 on federations, syndicates and vocational associations and its Executive Regulation were issued. In assertion of the right to form syndicates, the Great Green Human Rights Charter in the Era of the Masses declared that: "Sons of the mass society are free to form federations, syndicates and vocational associations in protection of their professional interests."

There are currently syndicates for professions and crafts respectively. The syndicate is formed first at the level of the basic people's congress, then at the level of the administrative division and later at the level of the Great Jamahiriya.

Syndicates with the same profession or craft are entitled to establish a general federation such as that of craftsmen, producers and the Great Jamahiriya students. These federations are members in regional and international federations.

Considering that the political system in Libya is based on the power of the people and that this power cannot be exercised beyond the scope of the basic popular congress which will have to be composed of members establishing it and who confer on its decisions the binding force for their implementation. These members are the citizens who reached the legal age of this membership. The outcome is that all syndicate members will have to be members of the basic popular congresses by virtue of the right to citizenship.

This result emphasizes that the mass society in Libya is genuinely a civil society. Given the importance of syndicates in the mass society, syndicate secretaries are members of popular congresses that are not cardinal which collect and formulate decisions of basic congresses, and those secretaries-general of syndicates and federations at the level of the Great Jamahiriya are members of the People's General Conference where the general policy of the

community is envisaged. Hence syndicates, next to basic popular congresses, truly forge as a springboard of the power of the people

Therefore what is going on in Libya is categorically different from what is taking place in these countries, since undivided power belongs to the people of the basic people's congresses made up of citizens who, by virtue of their professions or crafts, are but members of their syndicates. Thus the syndicate and the people's congress are formed into the same fabric and revolve in the same orbit that is of the people's power. The syndicate then is in partnership rather than in opposition.

## **Part V: Interest in Society Categories**

## **Interest in Society Brackets**

The principle of equality is one of the crucial humanitarian principles which nations and peoples are committed to and support regarding different aspects of life. There should not be any differences in the society that arise from human difference due to sex, color, language, religion, ethnicity or social disparity. Within this framework, the Great Jamahiriya continues to hold this sublime right in the affirmative and endeavors to translate it into reality by providing for it in many laws and as emphasized by the Great Green Charter of Human Rights.

The right to non-discrimination between different categories of the society emanates from the principle of equality pinned on the principle of non-discrimination which today constitutes a basic jus cogens and a solid nucleus on which the human right law is dependent.

In this perspective, three main brackets have been the focus of interest of the Libyan society, namely women, children and people with special needs.

### **Women Rights**

Human communities are founded on interaction and shared life between men and women. This relationship is the nucleus of every social organization be it a family, tribe or nation.

If men and women are the basis of human existence, it can be said that women have not developed in the same measure as men did, where phenomenon of exploiting women had prevailed in these communities despite numerous reform movements seeking to achieve equality between men and women, and where the conditions of women in the Great Jamahiriya were no different

from their counterparts in other communities, as they similarly suffered scourges of suppression, abuse and usurpation of freedoms and rights until the eruption of the Great Fateh Revolution that was triggered to liberate human being from all forms of arbitrariness, oppression and exploitation. Women have come to be best cared for, their status favorably promoted and their role advanced as part of the community movement through their engagement in building the mass society in its different political, economic and social domains, supported by laws evidencing the legality of this right on the basis of equality between men and women in terms of rights but not with regard to obligations, with a view to keep safe the humanity of women in realization of their natural position and in agreement with the positive discrimination principle approved in relevant international charters and conventions.

On this premise, the majority of the legislation literature in the Great Jamahiriya was endorsed in favor of the citizen's discourse no matter his gender was. The legislator issued a set of rights to be enjoyed by the citizen in all political, legal, economic and social areas without discrimination between men and women as intrinsic human rights, with no differentiation between males and females.

**As regards political participation, we outline the following documents and laws:**

1) The Declaration on the Establishment of the Power of the People in which power is vested in the people and not otherwise, thus conferring on women alongside men the right to exercise power;

2) The Green Great Charter of Human Rights in the Era of the Masses cites that "Sons of the mass society shall exercise power directly through popular congresses and people's committees;

3) Charter of Women Rights and Obligations in Mass Society issued by women activists in the Jamahiriya in 1996 in harmony with recommendations of the Women Conference held under the slogan of (Maternity – Production – Struggle) as well as previous documents and laws ensuring necessary guarantees for the protection of women rights.

4) Freedom Promotion Law reiterating in Article 2 that "Every citizen shall have the right to exercise power and fate-determination at popular congresses and people's committees.

5) Law no 1 for 2007 on the modus operandi of popular congresses and people's committees, citing in Article 1 that "Sovereignty and power in the Great Jamahiriya shall be for the people. Power shall be exercised directly through the basic popular congresses in which all Libyans, men and women may be enrolled on reaching the age of 18.

Through all that, women are entitled on reaching the age of 18 upwards to participate in basic popular congresses and express their opinion freely on all issues at stake at this level, be they day-to-day activity or public life issues or issues of higher State interest. Women also have the right to take part in evolving the people's congress agendas and to upgrade to assume key positions in these congresses' or in secretariats of people's committees affiliated thereto, as well as become members of regulatory and executive committees or drafting committees overseeing preparations for and steering of congress sessions.



Women have taken part in political, diplomatic and consular work through functioning at the level of the People's General Committees on External Communication and International Cooperation. Women also have been upgraded in terms of job hierarchy to become Secretary of the Overseas Popular Office and to participate as representative of the Great Jamahiriya in many regional and world conferences and international gatherings and forums.

Systems and laws in effect in the Jamahiriya have helped women broach all horizons as participating party in decision-making at the level of departments, divisions, universities, judiciary, police, aviation, and armed people as well as other political and social areas.

Concerning social participation, the Jamahiriya has stressed on ensuring women social rights by issuing a battery of laws including Laws no (13) for 1980 on Social Security, no (16) for 1985 on Basic Pension and no (5) for 1987 on the Handicapped as well as other laws.

These laws provide for equal rights for women and men as regards social guarantees, basic pension and social care.

In the area of personal status, the legislator issued a group of laws including Law no (10) for 1984 on marriage and divorce and their implications and Law no (17) for 1992 on the regulation of the conditions of minors and the like, and others which granted women the right to choose her husband and to have recourse to courts in case of injustice done to her by her spouse.

As far as employment was concerned, the legislator issued Labor Law no (58) for 1970 that has taken full account of the specificity of woman's status by guaranteeing her right as mother and worker to encourage her to operate for the sake of upgrading production levels in the Jamahiriya and participating actively in the development process.

The legislator issued Law no 55 for 1976 and Salaries Law no 15 for 1981 which were generally directed to civil servants whether men or women.

In affirmation of women rights, the People's General Committee issued its decision no 164 for 1988 on Libyan women employment, citing in Article 2 that "labor is the duty of women capable of discharging it towards the community. Women have the right to do business and jobs in different economic and social activities in the society." Hence as well was the decision of the People's General Committee no 258 for 1989 on rehabilitation and training of the Libyan women in different fields in support and expansion of opportunities of participation in economic activity.

Women are believed to have achieved a major victory in the field of work by virtue of Law no 8 for 1989 on women right to assume judicial functions with Article 1 stipulating for "Women's right to assume functions of the judiciary, public prosecution and litigation department in the same terms determined for men".

In the field of education, the legislator in the Great Jamahiriya asserted that education is the due right of all Libyans, males and females, having issued Law no 95 for 1975 on Compulsory Education that stated in Article 1 that "Primary and preparatory education shall be compulsory for all children, boys and girls". This educational policy, dwelt on the rule of "education is the right of all" has helped facilitate university admission rules depending on the gender equality principle and the rapid rise in the percentage of females enrolled in university education.

In brief, it can be admitted that obstacles women are facing are too insignificant if compared to legal guarantees extended to enable them to exercise their rights and enjoy their freedom, and therefore become entitled to request redress of whatever is intended to abridge these rights. Administrative laws and procedures have served to eliminate impediments related to traditional culture that had prevented them from claiming their rights. Accordingly, the more serious work initiative women are likely to take to translate decisions into realistic action, the more crucial changes in their social status and role tend to be foreseeable.

## **Child Rights:**

The Great Jamahiriya had ratified UN General Assembly resolution no 1386 for 1989 on the Declaration on Child Rights pursuant to Law no 2 for 1991, as well as the Arab Charter of Child Rights no 4 for 1986. Law no 5 for 1997 on Child Protection was issued to underpin the importance of child rights, and the Higher Child Committee was formed as per the People's General Committee's decision no 100 for 1998. The Rehabilitation and Reform Law mandates special treatment for imprisoned women in preservation of the right of the fetus and postpones execution of death penalty in accordance with the Code of Criminal Procedure. Law no 5 stated above guarantees basic child rights in compliance with provisions of international charters and Islamic Law (Sharia). It maintains for the illegitimate child his right to name and human dignity and incriminates the father or guardian or trustee who defaults on recording his newborn in the civil register, given the prejudice it involves regarding his right to name and identity in conjunction with the provisions of the Penal Code. Children shall be subject of special criminal and procedural treatment ensuring due respect consistent with their age, psychology and social circumstances. Therefore, the legislator mandated their trial in an advice room and in their absence in the attendance of their parents or guardians and representatives of civil societies for child care.

## **Rights of People with Special Needs**

Law no 5 for 1987 on Handicapped Protection and the Executive Regulation on some benefits determined for this category pursuant to decision no 41 for 1990 of the People's General Committee, establishing a number of specialized rehabilitation centers to guarantee their rights.

The above mentioned Law no 5 for 1987 in Article 3 has defined persons with special needs as: the mentally retarded, the physically disabled to act normally in the society such as the blind, the dumb and deaf, those with impaired hearing or amputated arms or legs,

the paralyzed, the wheel-chaired and chronic disease patients who are unable to do their jobs even though without apparent disability.

Chapter Two of the Law specifies gratuitous advantages and benefits the society has determined for this category including sheltering those who have no guardian or in need of special care in State-affiliated accommodation places and furnishing them with assistive prosthetic devices, while enabling them to do jobs commensurate with their abilities and subjecting them to rehabilitation, since it is not acceptable to regard them as disabled or additional category or as unused capacities in the society which necessitated provision of facilities to help them use public transport and exemption of the self-employed from taxes accrued from their business in order to encourage them.

Accordingly the established rules regulating benefits stipulated for in the afore-mentioned Law were issued to detail the rights of this category which require their realization by public executive authorities namely: social solidarity and social security obligating the processing of basic pension to people with special needs for their inability to work or throughout the period of their treatment.

In order to encourage the deaf and hearing-impaired category to exercise and protect their rights in the society, the decision of the people's general committee no 498 for 1992 on the institution of a specific federation, at the level of the Great Jamahiriya, of societies operating in the area of deaf and hearing-impaired care.

As mentioned before, the disabled belonging to the handicapped category whether their disability was total or partial are eligible for basic pension and enjoy benefits set forth in Law no 13 for 1980 on social security, modified by Law no 8 for 1985 as well as advantages and benefits cited in Law no 5 stated above.

Thus the disabled as a result of work injury is eligible for full pension if his disability was total or partial or for bonus-track subvention if his disability was partial in pursuance of provisions of Article 17 of Law no 13 (modified).

The disabled as a result of accident or illness not related to his work is entitled to full or partial pension in accordance with Article 18 of the same law.

Therefore, an inference of legal provisions ensures the handicapped category's exercise and enjoyment of their rights in a way that suits their physical and moral condition.

## **Conclusion**

In conclusion, the Great Jamahiriya, as it presents the Fourth Periodic Report to the African Human and People's Rights Committee, in implementation of Article 62 of the African Charter of Human and People's Rights in 1981, is putting forward to African brothers the most important findings concluded in this Report which may be summed up as follows

**First:** The Fourth Periodic Report dealt with all rights to be duly enforced in implementation of articles of the African Charter of Human Rights in 1981 namely:

- 1- Political rights most significantly the right to exercise sovereignty for all citizens directly via popular congresses without representation or deputizing;
- 2- Economic rights spearheaded by the right to paid work;
- 3- Social and cultural rights primarily rights to social solidarity, to child, mother and family care, and care to people with special needs, and to cultural, scientific and knowledge-based networking;
- 4- Judicial and legal organization reflecting basic rights such as the right to litigation and to fair and impartial trial for example.
- 5- Civil organizations and syndicate action. This axis includes detailed review of civil organizations as well as conditions and standards of their formation as set forth in the Law. The report also highlights mass syndicate action based on decision partnership and labor democracy. It reflects mass concept of syndicates as being among components of the People's General Conference (meeting

point of conferences, people's committees, syndicates, federations and vocational associations).

6- Interest in society brackets. This axis encompasses detailed illustration of some social categories such as women, children and the handicapped, etc... in a context that brings to light human and ethical treatment enjoyed by those under the umbrella of the Law in realization of social, economic and cultural, and in some cases, civil rights;

Second: The Fourth Periodic Report gave prominence to the mass system of human rights based on the Great Green Charter of Human Rights in the Era of Masses in 1988 as well as the Freedom Promotion Act implementing it no 20 for 1991 that derived its spirit from the First Statement of the Revolution in 1969, the Declaration on the Establishment of the Power of the People and the Third World Theory (Moammer El Qaddafi's thought).

Third: Rights and Freedoms articulated in this Report are perfectly in harmony with provisions set forth in several international charters of mandatory character as regards the Great Jamahiriya including the African Charter of Human and People's Rights in 1981;

Fourth: What distinguishes the Fourth Periodic Report from the previous reports the Great Jamahiriya presented to the African Human and People's Rights Committee is its positive response to many developments at the level of legislative mutations and of expanded area of rights at the level of mechanisms which may be obviously observed in this report.

Having reached these results and observations, the Great Jamahiriya recommends in its report:

1- The Great Jamahiriya recommends that the African Human and People's Rights Committee publicize the flagship Libyan experience in the area of human rights as enunciated in the Great Green Charter of Human Rights in the Era of Masses for lessons learnt, given its fresh vision of human rights and peoples.

2- The Great Jamahiriya recommends that the African Committee adopts the Great Green Charter of Human Rights in the Era of Masses as one of its official documents to be circulated and translated into the officially and popularly working languages of African countries and peoples in tandem with the UN General Assembly Resolution that generalized the Green Charter as an official instrument in 1989.

3- The Great Jamahiriya recommends that the African Committee devotes special interest to the rights of peoples and nations especially the indemnity rights regarding the colonialist phenomenon as a right resulting from colonialism resistance as set forth in the Great Green Charter of Human Rights and Peoples in the Era of Masses to bring about radical development and reform of North-South relations to publicize world understanding to this effect. In this respect, the Jamahiriya recommends that the African Committee endorses Italian colonialism damages to Libya as a precedent in contemporary International Human Rights Law to guide historically colonized countries in all world countries, starting in Africa.



We hope this report will be to the entire satisfaction of the Committee members and all parties concerned,

With our best regards and compliments;

**Legal Affairs and Human Rights  
at the Secretariat of the People's  
General Conference**