



**Convention on the Elimination
of All Forms of Discrimination
against Women**

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**Committee on the Elimination of Discrimination
against Women**
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Summary record of the 878th meeting

Held at the Palais des Nations, Geneva, on Thursday, 29 January 2009, at 10 a.m.

Chairperson: Ms. Zou Xiaoqiao (Vice-Chairperson)

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In the absence of Ms. Gabr, Ms. Zou Xiaoqiao, Vice-Chairperson, took the Chair.

The meeting was called to order at 10.10 a.m.

Consideration of reports submitted by States parties under article 18 of the Convention *(continued)*

Second periodic report and combined third, fourth and fifth periodic reports of the Libyan Arab Jamahiriya (CEDAW/C/LBY/2 and CEDAW/C/LBY/Q/2 and Add.1)

1. *At the invitation of the Chairperson, the members of the delegation of the Libyan Arab Jamahiriya took places at the Committee table.*

2. **Ms. Huda Ben Amer** (Libyan Arab Jamahiriya), introducing her country's second periodic report and combined third, fourth and fifth periodic reports (CEDAW/C/LBY/2 and 5), said that, in keeping with the relevant international instruments it had ratified, the Libyan Arab Jamahiriya was founded on equality between men and women in respect of all human rights. Being derived from the Holy Koran, Libyan laws accorded great importance to respect for human rights and gender equality and consequently conformed in most respects with the Convention, in both letter and spirit.

3. The establishment of justice and the protection of human rights were among the State's most important duties. The Constitutional Declaration of 1969, the Declaration of the Establishment of the People's Authority of 1977, the Great Green Document on Human Rights in the Age of the Masses of 1988, Law No. 20 of 1991 on the enhancement of freedom and the Women's Charter of the Great Jamahiriya of 2008 affirmed the full equality of all Libyan citizens, both men and women. In fact, the gender equality guarantees contained in domestic legislation went beyond the requirements of the Convention. Under article 5 of the Constitutional Declaration, all Libyans were equal before the law. No laws prevented women from exercising their political, economic, cultural and social rights.

4. The present report had been prepared under the supervision of the branch of the secretariat of the General People's Congress responsible for women's affairs by a committee of experts from various sectors, including civil society.

5. Women were entitled to hold the same jobs and to enjoy the same benefits and services as men did. They also enjoyed full legal competence and the right to maintain separate financial assets and to manage their own financial affairs. The Government had introduced a number of special measures to help women overcome cultural stereotypes and break into fields previously closed to them. The Jamahiriya had been one of the first Muslim countries to allow women to occupy any judicial post. Women also served in the army, the police and other security forces.

6. In the political arena, the Libyan Arab Jamahiriya had been a pioneer in enabling women to participate in the decision-making process by opening membership of the basic people's congresses, the sole source of political authority in the country, to all men and women aged 18 or older.

7. In respect of economic activity, Libyan law prohibited any kind of discrimination. Women had equal access to credit and were free to dispose of their property as they wished. State capacity-building policies had succeeded in increasing women's share of the labour force to nearly a third by 2001. The proportion of women enrolled in all stages of education and training had exceeded 74 per cent by 2001, while in 2003 women had constituted slightly over half of all students enrolled in educational institutions and training programmes in 2003. The Government had also developed legislation to address women's special needs. Women were entitled to maternity leave and pregnant prisoners received special treatment. Temporary special measures had also been introduced to increase women's participation in various fields, particularly the judiciary.

8. To change negative attitudes towards women, the Government had introduced measures aimed at changing social customs and practices that were harmful to women while reinforcing those that served society and encouraged women to work in fields suited to their nature. Women's associations had been given a legal mandate to raise women's awareness of social and cultural realities in the country and to encourage women to perform their social roles both at home and in the labour force. Both the Muslim faith and Libyan social traditions prohibited any practice that could lead to women being treated as a commodity or exploited in prostitution. Islamic law treated women fairly and banned the violation of their bodies and affronts to their honour.

9. Free education had given women the skills they needed to participate in the labour force at all levels. Today, women worked in the diplomatic service and represented their country in various international forums and at international and regional conferences. Since its establishment in the 1970s, the Higher Institute for International Relations of the General People's Committee for Foreign Liaison and International Cooperation had prepared men and women to serve in the diplomatic corps. As a result, the number of women serving therein had increased dramatically over the past three decades.

10. The Nationality Act allowed both men and women to transfer their nationality to their children. In addition, a Libyan woman who married a foreign man retained her family name and her separate financial status.

11. Secondary education was mandatory for boys and girls. Enrolment in technology and vocational institutes was open to both sexes and university education was available free of charge for all. There was no distinction on the grounds of sex in services offered to students, syllabuses or exams. The Government did not hold stereotypical ideas regarding scientific education for boys and girls, and girls participated in all sporting activities, to the extent that they so wished.

12. The Labour Act and Civil Service Act ensured that women received equal pay for equal work, while the Social Security Act ensured that they received the same benefits as men in case of retirement, illness, old age or disability. Women were also entitled to a pregnancy subsidy, a lump-sum payment on delivery and equal access to family benefits. Female life expectancy had increased and maternal mortality had decreased as a result of free health care.

13. The status of rural women had improved rapidly as a result of the spread of educational and vocational centres. The basic people's congresses had made it possible for rural women across the country to participate in formulating and implementing development plans at all levels. Rural women did not differ from their urban counterparts in terms of educational attainment or training. There were also no restrictions on rural women's right to obtain credit or to own or dispose of land.

14. The Civil Service Act accorded equal status to men and women by stipulating that every person who had attained the age of majority enjoyed full legal

capacity. According to Libyan law, the age of majority was 18. Every adult, male or female, enjoyed the freedom to enter into contracts, to manage property and to initiate litigation, freedom of movement and freedom of residence.

15. No person could be compelled to marry against their will and guardians could not marry off minors without the latter's consent. Law No. 10 of 1984 on marriage and divorce accorded different rights to husbands and wives and set the minimum marriageable age at 20. Women also enjoyed the same rights as men did in respect of custody over their children and guardianship over orphans.

Articles 1 to 6

16. **Ms. Jaising** said that the reporting State's reservations to article 2 and article 16, paragraph 1, subparagraphs (c) and (d), of the Convention were incompatible with the object and purpose of the Convention and not therefore permitted under article 28. She wondered why those reservations remained in place and whether the reporting State intended to withdraw them. She also wondered why a shadow report had not been submitted by non-governmental organizations (NGOs).

17. **Mr. Flinterman** said that, while the present Committee had been informed that the Convention on the Elimination of All Forms of Discrimination against Women was part and parcel of binding domestic law and could therefore be invoked directly by the courts, the Human Rights Committee had expressed concern regarding the status of the International Covenant on Civil and Political Rights in that regard. The delegation should explain the apparent contradiction in the status of the two instruments. He also wished to know whether the Convention had primacy over conflicting domestic legislation, regardless of whether such legislation had been enacted before or after ratification of the Convention; what a judge should do if confronted with a discrepancy between domestic law and the Convention; and whether judges were obliged to verify that domestic legislation was in accordance with the Convention.

18. It would also be interesting to know what the Government was doing to raise awareness of the Convention and the Optional Protocol thereto and thereby to ensure that individual women and women's organizations were aware of the possibility of

submitting complaints regarding violations of Convention rights to the Committee. Recalling the reporting State's comment that domestic legislation contained no explicit definition of discrimination, he stressed that the phrase "discrimination against women" should be interpreted in accordance with article 1 of the Convention. Lastly, the reporting State had made no reservations to the equality and non-discrimination clauses contained in the International Covenant on Civil and Political Rights; it should consider the implications of that position with respect to its reservations to the present Convention.

19. **Ms. Gabr** asked the delegation to clarify the reasons behind reservations to the Convention; the role and powers of, and resources allocated to, the branch of the secretariat of the General People's Congress responsible for women's affairs, as well as its relationship to other Government bodies; the relationship between the basic people's congresses and women's organizations; and lastly, the reasons behind the Government's failure to adopt any temporary special measures, such as quotas, to accelerate women's advancement.

20. **Ms. Popescu**, after stressing the importance of submitting reports within the time allowed under article 18 of the Convention, said that, while the report contained ample information on legislation pertaining to women's rights, neither it nor the responses to the list of issues and questions contained information about practical measures taken to implement such legislation. Recalling the provisions of the Beijing Declaration and Platform for Action, she asked the delegation to indicate whether the branch of the General People's Congress secretariat responsible for women's affairs had drafted any programmes or action plans to ensure implementation of legislation enacted and, if so, to shed light on priorities established, obstacles encountered and progress made in that regard.

21. With regard to civil society's role in promoting women's rights, it would be useful to know to what extent the women's affairs branch cooperated with NGOs; how many women's associations there were in the Jamahiriya; whether the laws governing women's organizations also governed men's associations and professional associations such as the League of Libyan Writers and Authors; and whether the latter counted any women among its members.

22. The Committee would also be interested to know whether the Women's Charter contained a definition of discrimination against women, how the Government monitored implementation of it and how it tied in with the Great Green Document on Human Rights. Lastly, she urged the Government to establish an independent national human rights institution in accordance with the Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights.

23. **Ms. Huda Ben Amer** (Libyan Arab Jamahiriya) said that countries did not lose their unique cultural characteristics just because they ratified certain international instruments. It was wrong to judge all peoples and all cultures by the same yardstick, particularly when international human rights instruments specifically affirmed peoples' right to retain their cultural characteristics.

24. She sensed a certain insistence that her Government should adopt a definition of discrimination against women. Such a definition, though clearly needed in countries where discrimination against women existed, was not needed in the Libyan Arab Jamahiriya, since its laws did not discriminate between men and women. The only discrimination that could be said to exist was positive discrimination, which was intended solely to ensure that women could fulfil their social role.

25. Sexual discrimination was prohibited by Islam, the Koran, and the philosophies on which the State was founded. Men and women enjoyed equal rights and protection under the law, without discrimination. Any special measures adopted by the Government to accelerate women's integration were temporary in nature and in no way constituted discrimination against men.

26. **Ms. Anbar** (Libyan Arab Jamahiriya) said that her country's reservations to the Convention were designed to ensure that implementation of the Convention was without prejudice to the rights guaranteed under Islamic law. In respect of inheritance, there was a false assumption among non-Muslims that male heirs always received a greater share of the deceased's property than female heirs did. Under the sharia, such property was apportioned on the basis of a number of factors, including the heir's relationship to the deceased. The closer the relationship, the larger the share, regardless of the heir's sex. Sometimes the

female heirs inherited a greater share than the male heirs did. Lastly, that Islam placed the burden of financial support on men should be viewed not as discrimination against women, but as evidence of the respect with which women were regarded.

27. **Ms. Huda Ben Amer** (Libyan Arab Jamahiriya) said that all civil society organizations were established on the basis of freedom of association. Any group of persons wishing to work for a common cause could establish such an organization. Two delegation members were from civil society organizations. They had played an important role in the preparation of the report. In most political systems, where a specific group of persons exercised power on behalf of, or in the name of, the people, civil society organizations provided a vital means for people to defend their rights and express their opinions. Civil society played a less important role in countries such as the Libyan Arab Jamahiriya, which were ruled by direct democracy. Since every aspect of national governance and planning was rooted in the basic people's congresses and every Libyan citizen aged 18 or above was a congress member, there was less need for civil society associations in the Libyan Arab Jamahiriya than there was in other countries. The League of Libyan Writers and Authors and many other civil society organizations, labour unions and professional associations counted women among their members, with some serving in leadership positions.

28. The women's affairs branch of the General People's Congress Secretariat participated in drafting legislation and planning. Women were also active in the basic people's congresses. To ensure maximum participation of women in socially conservative areas, the basic people's congresses there held special women-only sessions. Women were still free to attend the regular, mixed sessions, if they so wished.

29. Following the promulgation of the Women's Charter in 2008, the Government had developed an implementation action plan. A review of all domestic legislation had been conducted and all laws containing provisions that discriminated against women had been referred to the basic people's congresses for review and amendment. The congresses were scheduled to convene in February 2009. The Government had also launched a campaign to raise women's awareness of those laws to ensure their informed participation in the congresses.

30. The General People's Committee for Social Affairs, the majority of whose members were women, managed the Social Security Fund, and developed and managed — and devised the budgets for — all programmes relating to women, the family and children.

31. Lastly, the long gap between her country's initial and current reports was mostly attributable to the blockade imposed on the Libyan Arab Jamahiriya. Her Government would strive to adhere to the Committee's reporting requirements in the future.

32. **Ms. Elayeb** (Libyan Arab Jamahiriya) said that, once the law ratifying the Convention had been published in the Official Gazette, the Convention had become binding on all courts and all administrative authorities. According to article 23 of the Civil Code, international instruments enjoyed primacy over domestic laws and could be invoked in any case brought before the courts. Since Libyan laws were in harmony with the Convention, the latter's provisions had never needed to be invoked in court.

33. According to Law No. 10 of 1984 on marriage and divorce, a man could seek permission from the court to take a second wife, provided his first wife gave him leave to do so before the court. Should the court grant the man's request, his first wife could still appeal.

34. **Ms. Wafa** (Libyan Arab Jamahiriya) said that the various branches of the General People's Congress Secretariat were responsible for implementing the Convention within their own spheres. They were also obliged to help women achieve equality if necessary by discriminating in their favour. The General People's Committee for Social Affairs and the branch of the General People's Congress Secretariat responsible for culture and information were responsible for raising awareness of the Convention and the Optional Protocol thereto and of women's rights. NGOs, working in cooperation with either the State or international human rights organizations, took part in such efforts. The Government had also published and distributed a large number of brochures aimed at raising awareness of women's rights and of issues of concern to them.

35. **Ms. Huda Ben Amer** (Libyan Arab Jamahiriya) said that Libyan women understood that it was up to them to claim their rights and that anything easily gained was easily lost. As they continued their struggle against backwardness, antiquated cultural attitudes, and

radical and false interpretations of Islam, Libyan women were more determined than ever to assert their rights.

36. The date on which the Women's Charter had been promulgated was not an official holiday, but rather a day on which women across the country took stock of their status, their achievements and the challenges that lay ahead.

37. Efforts to increase the number of women in leadership positions had met with limited success because many women were ignorant of their legal rights. It was incumbent on the Government to redouble its efforts in that regard. With the help of the basic people's congresses, the Government was creating a database that contained the educational background and professional qualifications of women throughout the country, with a view to increasing the proportion of leadership positions occupied by women to a level commensurate with the proportion of the general population that was female.

38. **Ms. Safia Ben Amer** (Libyan Arab Jamahiriya) said that the Office of Women's and Family Affairs of the General People's Committee for Social Affairs was the official body responsible for women's affairs. One of the core mandates of the Office, which was headed by a woman and staffed by qualified professionals, was to prepare studies on the status of women and families with a view to identifying problems and proposing solutions. It also reviewed laws relevant to its mandate in cooperation with the Office of Legal Affairs.

39. **Ms. Jaising**, lamenting the lack of statistical data in the report, requested more information on domestic violence and the remedies available to victims thereof. It was unclear to which court domestic violence victims should resort, and whether there was a law that specifically addressed domestic violence.

40. According to information received by the Committee, female victims of violence, including rape victims, were institutionalized or placed in detention centres to guard against their being stigmatized by society. Experience showed that such an approach never worked. Such women should be reintegrated into society, not treated as victims of so-called crimes of honour. In view of the foregoing, she wished to know whether the reporting State planned to reassess its approach and what steps had been taken to return victims of violence to their homes and families.

41. **Ms. Halperin-Kaddari** asked the delegation to respond to the allegation that before being placed in detention centres female victims of violence were subjected to intrusive and degrading virginity tests. She also wondered whether it was true that such women were committed indefinitely without judicial orders and could not leave unless married off to a stranger who approached the centre in search of a bride; whether it was true that such centres operated without any supervision; and whether the reporting State had followed up on the concluding observations of the Human Rights Committee regarding such centres.

42. The delegation should clarify which crimes fell under the chapter of the Penal Code devoted to family crimes; whether the law provided for emergency injunctions against abusive partners; and — given that marital rape had not been criminalized and that incidents thereof were dealt with informally — whether marital rape victims could seek redress in the courts.

43. Lastly, it would be useful to know whether a rapist could escape punishment by marrying his victim; whether the Penal Code contained provisions that permitted so-called honour killings; and whether the reporting State planned to repeal Law No. 70 of 1973 criminalizing extramarital sexual relations.

44. **Ms. Popescu** said that stereotypes were not eliminated simply by enacting legislation; practical measures were also necessary. Libyan society clearly viewed women merely as mothers and not as equal partners with men. It was incumbent on the Government to take action to dispel that and other harmful stereotypes.

45. She commended the reporting State for the actions it had already taken in respect of human trafficking, but regretted the lack of information in the report regarding its strategy to counter that phenomenon. She would be interested to know what had been done to address the root causes of human trafficking and prostitution and to protect the rights of victims thereof; whether law enforcement officials received special training in that regard; whether victims were offered protection in return for their testimony; and what had been done to rehabilitate victims and assist women wishing to leave prostitution. She would also welcome data on human trafficking.

46. Lastly, in view of information received by the Committee regarding the maltreatment of migrants,

particularly undocumented migrants, and asylum-seekers, she was curious to know what steps the Government had taken to protect women migrant workers.

47. **Ms. Chutikul** commended the reporting State for its thorough legislation on prostitution, but regretted the lack of information on practical measures to stem prostitution. She urged the Government to address that deficiency in its next report. The Committee would also be interested to know how many cases had resulted in prosecutions and how law enforcement officials dealt with prostitution and human trafficking; whether the law addressed demand for prostitution; and whether the reporting State had followed up on the recommendation of the Committee on the Rights of the Child that it should conduct research into prostitution. Lastly, she wished to know whether the Government intended to develop a definition of human trafficking and whether the Jamahiriya cooperated with other States on international human trafficking.

48. **Ms. Huda Ben Amer** (Libyan Arab Jamahiriya) said that, to fully understand Libyan society, Committee members must bear in mind that family and social relations in Arab countries were very different from those in Western countries. Arab societies and Western societies held opposing views on women's virginity because of their divergent cultural heritages.

49. She rejected the implication that rehabilitation centres were really detention centres. Women who had engaged in prostitution or committed adultery were housed in such centres to stop them being killed by their male relatives. To be placed in a centre, such women must first be found guilty of a crime and sentenced by a court. Furthermore, only women who were the subject of a judicial investigation were required to undergo a virginity test. The centres also housed widows and other women unable to live alone, with a view to their rehabilitation and reintegration into society. The Committee did not seem to understand that certain behaviour that was perfectly acceptable in Western societies was completely unacceptable in Libyan society.

50. Lastly, the courts had heard over 900 cases involving sex crimes in 2008.

51. **Ms. Elayeb** (Libyan Arab Jamahiriya) said that Libyan law prohibited all forms of violence and prescribed severe penalties for any act that threatened the life, physical safety, property or liberty of any

person. It also criminalized sexual assault and harassment and provided stiffer penalties for crimes committed against minors or persons with mental or physical disabilities, including by law enforcement officials and judicial officers.

52. Although marital rape had not been explicitly criminalized, a husband who attacked his wife could be held legally accountable for assault or for causing harm to his family under the Penal Code. In addition, the law governing marriage and divorce prohibited a husband from inflicting physical or psychological harm on his wife. Various laws, including the Constitutional Declaration and the Great Green Document on Human Rights, gave all citizens the right to a fair trial by an independent judiciary. In addition, women were entitled to seek redress in the courts for any act of discrimination committed against them.

53. **Ms. Huda Ben Amer** (Libyan Arab Jamahiriya) said that a woman seeking redress for a crime committed against her could first call on other members of society, such as her family. Many grievances were resolved privately. The nature of Libyan society and the strength of family bonds meant there were serious consequences for any man who assaulted his wife.

54. If her problem could not be resolved privately, a woman could take her case to one of the country's 20 women's courts. Because women's cases were heard apart from other cases, women could avoid the social stigma of appearing in court alongside violent criminals. Although women's courts were currently limited to Tripoli and Benghazi, the Government intended to establish more such courts throughout the country. A woman who feared that her decision to take her case to court would have social repercussions could seek refuge in a rehabilitation centre.

55. Alternatively, in the case of rape, a woman could agree to marry the person who had raped her and divorce him a few months later, thereby avoiding social stigma and restoring her prospects of marriage in the future. Such a solution was perfectly acceptable in Libyan society.

56. **Ms. Elayeb** (Libyan Arab Jamahiriya) said that a man who committed rape or adultery was not required by law to marry the woman in question. However, law enforcement officials and the courts, in keeping with accepted social practice, could force him to do so, even when the sexual relationship had been consensual. Men

and women caught committing adultery frequently requested the courts to marry them, either because they had planned to marry all along or to avoid being convicted.

57. **Ms. Huda Ben Amer** (Libyan Arab Jamahiriya) said that another reason for the insistence on marriage in cases of rape or adultery was the need to establish paternity, which was very important in Libyan society.

58. **Ms. Wafa** (Libyan Arab Jamahiriya) said that law enforcement officials received specialized training on how to deal with women victims of assault through programmes operated in cooperation with the League of Arab States and the United Nations. In addition, the Jamahiriya had recently concluded two technical cooperation agreements with the United Nations Office on Drugs and Crime which included training components on assisting sexual assault victims and preventing the spread of HIV/AIDS. Nearly 150 Libyan judges, both men and women, were currently undergoing training in the United Kingdom on a number of matters of international concern. Later, they would train their colleagues back home.

59. Research on women's issues was a top priority for academic institutions. Studies had been carried out in a number of areas, including violence against women and child labour. By participating in the meetings of international organizations, her Government hoped to increase its understanding of internationally accepted methods of data collection and presentation.

60. **Ms. Huda Ben Amer** (Libyan Arab Jamahiriya) said that Libyan women did not need to prostitute themselves because the economy was strong and poverty non-existent. Moreover, because of the nature of economic activity in the Jamahiriya, Libyan women were not required to use their bodies as human advertising boards. Condemning the increased exploitation of women as a result of economic globalization, she called on women living in developed societies to reject exploitation of the female body and to reclaim their humanity.

61. **Ms. Anbar** (Libyan Arab Jamahiriya) said that, though human trafficking was practically non-existent in the Libyan Arab Jamahiriya, there was a problem of exploitation of the many illegal migrants who crossed its territory bound for other States. The Jamahiriya had concluded bilateral agreements with a number of States, the International Organization for Migration

and the European Agency for the Management of Operational Cooperation at the External Borders with a view to finding a solution to illegal migration. It was also a party to a number of international human trafficking instruments.

62. **Ms. Ibrahim** (Libyan Arab Jamahiriya), speaking on behalf of the Hana Charitable Association for the Protection of Women, said that the purpose of her organization was to protect women's rights and to offer women legal assistance. Its representatives in the basic people's congresses reported back on the problems encountered by women. In one case, the Association had helped a young woman who had been raped and subsequently disowned by her family press charges and enrol in the Police Academy, where she currently lived and studied. The woman hoped to become a police officer so that she could prevent other young women from becoming victims of sexual assault.

63. **Ms. Huda Ben Amer** (Libyan Arab Jamahiriya) said it was unrealistic to expect the Government of a country as vast as the Libyan Arab Jamahiriya to stop all illegal migration across its borders. Migration could be controlled only through coordinated efforts between transit countries and destination countries and increased development assistance to source countries. Committee members must urge their Governments to take illegal migration seriously. That the Government provided free health care and education to all migrants placed a tremendous burden on State institutions. Destination countries should appreciate the sacrifice the Jamahiriya had made and work with it to end illegal migration.

Articles 7 to 9

64. **Ms. Belmihoub-Zerdani** asked why, given the many educated and qualified women in the Libyan Arab Jamahiriya, only 4 per cent of the General People's Congress members were women and why so few women occupied senior Government and diplomatic posts. Islamic values did not seem to have prevented women from participating in those fields in other Muslim countries. The reporting State should follow their example and fully implement all the Convention articles to which it had not entered reservations.

65. **Mr. Flinterman**, noting a discrepancy between the responses to the list of issues and questions and the delegation's opening remarks, requested clarification

as to whether a Libyan woman who married a foreign man could transfer her nationality to her children.

66. **Ms. Elayeb** (Libyan Arab Jamahiriya) said that, under Law No. 18 of 1980 on the provisions of the nationality law, the children of a Libyan man or of a Libyan woman married to a non-Libyan could apply for Libyan nationality upon reaching the age of majority. The law was currently being amended so that such children would acquire Libyan citizenship at birth. In 2002, the relevant executive regulation had been amended to allow Libyans to hold dual citizenship, provided they had prior approval from the Secretary of the General People's Committee for Justice.

The meeting rose at 12.55 p.m.