

Institute for **Cultural Relations Policy**



ICRP Research Paper Series

May
2014



Issue #6

The Institute for Cultural Relations Policy publishes online research papers and essays that reflect multidisciplinary fields, contribute to influencing and expanding the body of research on cultural relations policy, and enhance dialogue among researchers, policy makers and the public.

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WOMEN'S RIGHTS IN LIBYA DURING AND AFTER GADDAFI: WOMEN'S RIGHTS LOST IN TRIBAL STRUGGLE?

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Introduction

Libya found itself in the focus of Western media coverage throughout 2011 for its internal armed conflict and respective international implications, such as large numbers of immigration towards Southern Europe or the doubtful NATO military intervention based on the “Responsibility to Protect” principle. Nevertheless, after Muammar Gaddafi’s death Libya suddenly disappeared from the news, but the ending of the Gaddafi regime did not put an end to the violence.

The “revolution” did not bring about deep social changes as the popular discourses would imply but the revolution in Libya’s case was more about **new distribution of power within the tribal framework** that the country is based upon. As Rózsa and Zoubir suggest, one can safely argue that Gaddafi’s Jamahiriyya, as well as the monarchical system that preceded it, operated within this tribal framework. This is why, as noted by Rózsa and Zubir, the 2011 “revolution” in Libya is not considered as a real, deep-rooted social revolution, but was an attempt to challenge the system of power distribution, and as such can and should be understood as a **tribal struggle**. The rebellion was more about power than about socioeconomic concerns, as was the case in Tunisia and Egypt. By putting forward its claim to become the new centre, Benghazi was in fact fighting a regular tribal, patrimonial war for power (Rózsa, Zubir, 2012, p.1271).

The reason why I chose this particular country to analyse is on the one hand, based on my interest in the Maghreb region where countries share unique common features in terms of women’s rights. On the other hand, particularly because of the above mentioned lack of information about the human implications of the recent Libyan conflict particularly, what happened to Libya’s women before the 2011 conflict in terms of violence and in what way the situation changed since then. Women generally face considerable disadvantage in North

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Africa compared to the status of man but the conflict and changes in the governance structure have put additional pressure on them. I argue that although Gaddafi's system was from many aspects an oppressive regime, thereby unsustainable and undesirable, but the transition from it, as mentioned above cannot be seen as a "democratic" transition towards a more liberal structure of society, but rather the emergence of new coalitions to control of natural resources. Therefore, it cannot be seen as a "liberating factor" for Libyan women. So keeping this angle of the Libyan conflict in view I would like to try to make my contribution for those women who are not frequently talked about and their plight is often pushed under the carpet.

The social context: Libyan society and its implications on women's rights

"Allah will not oppress women and others, but men do that, especially simple men who are themselves victims of ignorance and injustice." (Sadiq al-Naihum, modernist Libyan essayist and critic, in Ahmida, 2005, p.55)

To be able to understand the situation of Libyan women, it is essential to take a look at Libya's social context. The country provides us with a lively example of how women can become essential part of debates around social models, how traditions and the misinterpretation of religious regulations can result in the inferior position for them, as well as how an international intervention can exacerbate an existing conflict also in terms of gender issues. The three important features I would highlight about the society are its **collectivistic tribal culture, Sunni Islam and modernisation**. As Rózsa puts it, "The Libyan tribal organization encompasses Arab, Berber and African traditions, Islam and the moral law of the desert, while rejecting every outside force and model. Although change derived from modernization and globalization is recognized, the basis of legitimacy remains the Libyan tribal pattern of social organization" (N. Rózsa, Zubir, 2012, p.1271). Therefore, given multiple reasons it is understandable that gender equality and the question of individual human rights as Western concepts trigger considerable suspiciousness and can result in the feeling of neo-colonialism and threat to Arabic-Muslim values (Martín Munoz, Messaoudi, 1995, p.XII). As Shuftan likewise formulates it, in many poor countries, gender equality and women's rights are a mere whim of rich countries, or worse, an expression of Western decadence (Shuftan, 2010, p.437). The Universal Declaration of Human Rights itself was written at the time when there were still colonies and it did not take into account the contradictions which might arise in this particular region (Martín Munoz, Messaoudi, 1995, p.16).

Arab cultures, so is the Libyan, rely on the family as the main source of physical, emotional, and mental support. In addition, the concept of family goes beyond the nuclear unit to include extended relatives and tribal relations. Other cultural characteristics cited by researchers include family honour, dependence over individuation, and physical discipline (Abou-Hatab, 1997). Given the social order, in which family and group dynamics play such an important role, women play an even more significant and symbolic role. As Weiss puts it, in the postcolonial world women have become potent symbols of identity, society and the nation (Weiss, 2003, p.583). The honour of the entire family rests upon the extent to which its female members comply with social and moral norms.

Because of the hybrid system of the state which is a modern state with international conventions ratified, but the cultural entity is predominant. A highly important factor is the the Maliki school of Sunni Islam jurisprudence. It is more than a private belief but a social order in which the *umma*, the community of the people exists that does not permit a dichotomy between civil society and religious society. The laic state as a skeleton is in conflict with the content, which is a combination of traditional and religious prescriptions which go back much longer in time than the modern nation state. Islam has a symbolic value which represents citizenship, a source of law, an element that determines their identity and which ultimately also implies fidelity. Therefore a common characteristic of Maghrebi cultures is that the base of group identity is less connected to the country or to the nation but rather based on being part of the same cultural-religious community, **the umma** (Martín Muñoz, Messaoudi, 1995, pp.10–12). Family is a mini model of society traditionally, in which men dominate women and old men dominate young men. Family in Arabic is *aila*, meaning support, which presupposes the idea of mutual compromise and a relation of reciprocity (Martín Muñoz, Messaoudi, 1995, p.5). As we can see, the original concepts are being mistreated and sometimes work as alibi for the subordination of women. Given the above mentioned structure, it is even more difficult to address women's issues in the region. Although the structure is given but can be shaped in terms of more rights to women and as women's groups are communicating across national boundaries and are strengthening the global women's movement there is, simultaneously, greater pressure within the international arena for states to improve conditions confronting women in their respective countries (Weiss, 2003, p.582). Article 5 of the CEDAW asserts that States Parties must strive to modify 'the social and cultural patterns of conduct of men and women' to eliminate prejudice based on

stereotyped beliefs of the inferiority of women. Here we can see that CEDAW blurs the lines separating the public and private spheres (Weiss, 2003, p.584).

Women's rights during the Jamahiriya

“Violence against women and girls is pervasive and experienced in a wide range of settings, including the home, community, and situation of armed conflict.” (Rosenfield, 2010, p.3)

The status of women is among the poorest in the developing world and due to Libya's traditional structure of society, their status is one of the lowest in the Maghreb region. As for women's right in Libya during the Jamahiriya, part of Gaddafi's bid was to overhaul Libyan society and therefore he sought to promote the status of women, thus encouraging them to participate in the Jamahiriya project, which undoubtedly challenged the prevailing conservatism in Libya. Despite the attempts for more gender equality, in many cases “disobeying the husband” still means defending individualism instead of the community (the *umma*). Consequently, it is perceived that the woman is choosing passion instead of reason. (Mernissi, 1995, p.201) Feminist movements are seen as tools for destroying the Muslim hierarchy (Mernissi, 1995, p.203).

Gaddafi's Green Book promotes the equality between genders and denounces discrimination, thus seeks to provide women with greater access to education and employment. This can be seen as an attempt against the extremely patriarchal traditions and tribal culture but one should not forget the gap between the regime and society, meaning that initiating liberal values without consent would manifest in strengthened adherence to conservatism and traditional religious principles. At first glance, it seems that more rights were guaranteed but in the organizational level for example, independent organizations were not allowed to function. According to a law of 1972 membership in any group or organization not authorized by the state was punishable by death. Therefore, **no genuinely independent women's rights groups in Libya** were allowed to function. There was practically one organization initiating programs, called Al Wattasima with close ties to authorities. The founder was Aisha al-Qaddafi, Gaddafi's daughter (Kelly, 2010, pp.284–285). Sources suggest that there was a big gap between rhetoric and reality.

It is noteworthy that despite everything, there were attempts to promote a greater **awareness of domestic violence**, which counts as the most silenced issue. Gaddafi merged Sharia and

civil courts although men and women became equal in court but they find themselves in disadvantaged situation due to **cultural tradition**. Another manifestation of that is that men taking legal action on behalf of woman are still in practice. In the Penal Code it is stated that in the event of adultery, if a relative kills a female relative he receives lighter punishment; if he commits bodily harm on female relative, the consequent prison sentence is limited to a maximum amount of two years, whereas if light injury is committed on the women, it should not be penalized at all. Another striking example of gender based discrimination is that before the court the statement of one male witness is equal to that of two female witnesses (Kelly, 2010, pp.287–288).

The problem of domestic violence

“Your wives are your partners, not your servants.” Prophet Muḥammad

Although data is quite scarce, it can be stated that spousal abuse is pervasive and widely accepted in North Africa and the Middle East. Quranic passages on many occasions are taken out of context to create a religious “alibi” to justify gender-based violence. Both men and women in the Middle East and North Africa justify wife beating and hold women partially responsible for the abuse they suffer. This can be on one hand explained by the lack of financial support from the side of women. Women’s education can be therefore a tool to overcome also domestic violence. Intimate partner violence is often not reported or is hidden by victims because they fear isolation or being shunned and moreover, many women have been conditioned to believe the violence is not only justified but also is their fault, based on infidelity or disobeying the husband (Boy, 2008, pp.57–59).

The problem of domestic violence is one of the most striking issues in terms of gender in the country for the taboo nature of the question. As Kelly and Breslin’s broad description suggests, wives when beaten by their husbands, evidence of injury is needed to prove the assault, which is in itself shameful, thus bringing dishonour upon the victim and the entire family. The fact that domestic violence is taking place is kept in secret and as a highly **private issue**. A statement from the Social Affairs Secretariat demonstrates it well, “We do not have violence against women, if there was violence, we would know it.” The regime’s denial to the existence of violence is striking. In the General People’s Congress Amal Safar stated in 2005 that “violence and rape is very rare. You might find two cases (in Libya) from people belonging to non-Libyan cultures.” (Kelly, 2010, p.290) Therefore, the first step towards

solution-oriented approaches would be the willingness to **publicly acknowledge the presence of the problem**. This should be the case ideally but given the post-conflict situation, it is going to be a question of whether Islamist coalitions get closer to power and impose their limited view on women.

Many women do not raise complaint because of social stigma and the fear of being rejected. Based on the private nature of the question, victims are likely to be held responsible for the crime. **Rape victims themselves risk prosecution for extramarital sexual relations if they attempt to press charges.** 99% of victims who filed domestic violence eventually withdrew their cases. In the most extreme case, a rapist is expected to marry his victim “to save her honour” as a „social remedy”. The woman’s consent is theoretically needed but given the reality of social pressure she has in many cases practically no option but to marry the perpetrator (Kelly, 2010, p.296). Although Libya acceded to CEDAW in 1989 and ratified the optional Protocol to CEDAW in 2004, through which the UN’s CEDAW Committee can be petitioned if individual/group’s rights violated but these are nonbinding recommendation.

Interventions for IPV (Intimate Partner Violence) victims are limited in the Middle East and North Africa. Few countries have enacted laws against IPV but they are yet to be implemented, and social services have restrictions on the help they can offer. Influence over issues of family life, a wife has no legal right to object to abuse, whereas a husband has a right to punish his wife under circumstances that are often broadly interpreted. Most Arab societies impose major restrictions on a woman’s ability to obtain a divorce, with physical violence seldom constituting sufficient grounds. **Empowering women is an essential first step.** The latter requires cooperation from governments, religious leaders, community members, NGOs. Victims must be led to believe that IPV violates their human rights and the abuse does not have to be accepted (Boy, 2008, pp.64–66).

Women’s rights since 2011

After having looked at how scarce is the information on gender based violence in the region in general, I still did not want to conclude that there was no data available for assessing women’s rights development after Gaddafi. In two years’ time since the conflict took place, online resources suggest that women’s rights deteriorated due to the quite chaotic transition and with political Islamist ideologies taking over. I could rely merely on online resources and the Human Development Report of Arab states, which only consists of a gender section with

four different sections: adolescent fertility rate, Gender Inequality Index, labor participation rate and shares in parliament. In terms of GII, data implies that from 2005 to 2011 gender equality was gradually decreasing but there is no data from 2011 onwards. (Gender inequality index 0.31, which is one of the lowest in the region.)¹

Online articles suggest that women fighting in the ‘revolution’ for the fall of Gaddafi, now suffer even more disadvantage and some advocating for women’s rights had to leave.

“Upon her return to Libya, she advocated for gender equality to be incorporated into any new Libyan constitution. She never had a chance. The tribes are tied to traditions that are strongly patriarchal. Also, the chaotic nature of post-revolution Libyan politics allowed free play to extremist Islamic forces that saw gender equality as a Western perversion.”²

As divergent tribal forces are now mobilized and given arms, those who had been so long kept in check by the Gaddafi dictatorship, is a deteriorating factor for women.³ Even if the fall of the Qaddafi regime was a long-awaited development in the MENA region, the inherent risks in the possible succession struggle are much more problematic. The civil war has left most of the population armed. The absence of a centralized and organized military force capable of restoring the stability of the country and, eventually, of leading the transition, may threaten not only the political process, but also the unity and integrity of the country (Rózsa, 2012, p.1274).

Conclusion

According to the World Bank gender equality is a core development issue and the advancement of women need to be supported for an overall successful economic outcome. Women’s discrimination is a flagrant discrimination because it has negative effects on the well-being of their families, communities. But in the case of Libya with a traditional society and for fear of the reproduction of Western values, women’s rights become a core element for the maintenance of traditions. Instead of the secularization as predicted by modernization scholars, the Islamic social and political movements emerged as the main oppositional forces in Egypt, Algeria, (...) and now gaining support in Libya (Ahmida, 2005, p.70).

“Gender equality is a sensible goal also in business terms because gender inequality hinders economy of the country as well, therefore poor countries cannot afford not to use this

¹ <http://www.arab-hdr.org/data/indicators/2012-34.aspx>

² <http://www.globalresearch.ca/post-gaddafi-era-libyan-women-losing-rights/5315104>

³ <http://www.bbc.co.uk/news/world-africa-20595841>

opportunity.” (Shuftan, 2010, p.438) Libya’s new government has to realize that reducing gender equality creates a fairer society, and must be promoted for the well-being of their society. Gender equality and the reduction of gender based violence is a long process and it has to become reality because although in most cases women have equal rights in legal terms, the practice is still different (Ahmida, 2005, p.55). Even if a new tribal leadership/alliance will certainly lead the country and control its oil wealth, the challenge for the Libyans is to build new state and civil society institutions and begin acting as citizens to express their demands.

Recommendations to the Libyan government

I would urge the Libyan government to take the following measures for the protection and improvement of women’s health:

1. Taking into account the transitional nature of governance in Libya, the next government should take further steps in combating conservative interpretations of the Maliki Islam jurisprudence, not letting Islamist interpretation to dominate the discourse on women’s rights.
2. Acknowledgment of gender based and domestic violence as an existing and broad problem.
3. Spousal rape has to count as crime. The government should introduce laws that specifically define and criminalize domestic violence and rape, with special emphasis on spousal rape.
4. Establishment of shelters for victims of violence.
5. **Promoting understanding of and sensitivity to the use of violence against women** in post-conflict and refugee settings, and work to prevent and discourage such violence. Raising awareness of domestic violence can be achieved through media campaigns, including for instance soap operas to combat the taboo surrounding the issue.
6. As Intimate Partner Violence is a highly underreported problem, conditions have to be established for women to report their abuse. Family members should be taught that **violence is not the fault of the victim**.
7. Initiating public education campaigns by the country’s religious authorities, thereby eliminating the false perception of misinterpretation of Quranic teachings that violence against women is religiously acceptable.

8. Adequate training of the police force on how to deal with domestic violence and rape cases with sensitivity. Besides, setting up special units within police forces to handle these crimes would be a complementary further measure.
9. Offering free legal advice for women could be carried out in support centers set up in major cities of Libya.
10. The existing social rehabilitation centers should be changed, thus ensuring that women are not sent to or held in such facilities against their will. The substituted units should be rather support centers providing women with education, childcare, training. The newly established facilities can be a shelter for women who might become ostracized from their families because of dishonor.
11. Nongovernmental organizations should be free to operate.
12. **The removal of laws that discriminate against women**, especially in the family realm.

Furthermore,

13. Lengthening and strengthening girl's education, helping improve women's access to income-generating income opportunities, which is a beneficial factor for the overall economy of the country.
14. To achieve security demographic: supporting improvements in the legal, educational and economic status of women because improvements in women's status can influence social environments, help change cultural norms, and ultimately speed demographic transition.
15. Encouraging social and political reforms that help girls stay in school, offer women economic opportunities and reward achievement regardless of gender – qualified women in important and visible diplomatic and military roles also serve as models for changes in attitudes at home and abroad
16. Gender budgeting: examination of budgets for their potential impact on women and girls

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