

# LIBYA



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## Gender Justice & The Law

DOES THE LAW ENSURE GENDER EQUALITY AND PROTECTION FROM VIOLENCE?

The colour-coded representation below provides a comparison of the laws identified in the country profile with international human rights standards, the recommendations of the UN Committee on the Elimination of Violence against Women and country recommendations under the country's respective Universal Periodic Reviews.

### YES

The law provides for gender equality and/or protection from gender-based violence and is substantially compliant with international standards. A green category does not indicate that the law is perfect or that gender justice in the relevant topic area has been fully achieved.

### NO

The law does not provide for gender equality and/or there is no or minimal protection from gender-based violence.

### Partly

Some gender justice aspects of the law have been addressed, but important gender inequalities remain.

No available data or inadequate information.

## Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

Libya acceded to CEDAW in 1989 and maintains reservations to Article 2 and Article 16(c) and (d) as well as a general reservation that accession cannot conflict with personal status laws derived from Sharia. Libya is party to the CEDAW optional protocol allowing for individual complaints.

## Constitution

Article 6 of the Interim Libyan Constitution states that Libyans shall be equal before the law, enjoy equal civil and political rights, have the same opportunities in all areas, and be subject to the same public duties and obligations without distinction, including on the grounds of gender.

## NATIONALITY LAW

### NATIONALITY

Libyan women do not have the same rights as men to pass their nationality to a child or a foreign spouse.

## CRIMINAL LAWS

### Domestic violence

Libya does not have domestic violence legislation.

### Abortion for rape survivors

Abortion is prohibited by Articles 390–395 of the Penal Code, including for women who have been raped. The penalty is reduced if the abortion is performed to save the honour of the person performing it or the honour of a relative.

### Adultery

Law No. 70 of 1973 criminalizes adultery and zina, which is defined as sexual intercourse between a man and a woman who are not bound to each other by marriage. The penalty for zina is flogging with 100 lashes.

### Marital rape

Marital rape is not criminalized.

### Sexual harassment

Article 12 of the Labour Relations Law prohibits employees from performing or inciting acts of sexual harassment. Articles 368–398 of the Penal Code criminalize physical and sexual assaults in public.

### Female Genital Mutilation / Cutting (FGM/c)

There is no legal prohibition. There are no documented cases.

### Sexual orientation

Law No. 70 of 1973 criminalizes all forms of consensual sex and indecent acts outside of marriage. Articles 407 and 408 of the Penal Code were amended in 1973 to criminalize consensual sex and indecent acts.

### Rape (other than of a spouse)

Article 407 of the Penal Code criminalizes rape as an offence against honour and morals. The penalty for having carnal connection by force or threats is imprisonment for a period not exceeding ten years.

### Honour crimes: Mitigation of penalty

Article 375 of the Penal Code allows for reduced punishment of eight years' imprisonment for a man who kills his wife, daughter, or sister if the crime is perpetrated immediately upon finding the woman engaged in adultery.

### Human trafficking

Libya does not have comprehensive anti-trafficking legislation. The Penal Code punishes international trafficking of women for sexual exploitation in some circumstances.

### Exoneration by marriage

Article 424 of the Penal Code exonerates a rapist if he marries his victim and does not divorce her for a period of three years.

### Protective detention

The government operates Social Rehabilitation Centres for the mandatory detention of women and girls who have been raped or abandoned by their families. This form of protection is not supportive of gender justice because it restricts the liberty of women and girls.

### Sex work and anti-prostitution laws

Prostitution is prohibited by the Penal Code, and the Law against adultery and zina, Law No. 70 of 1973.

## PERSONAL STATUS LAWS

### Minimum age of marriage

Article 6 of the Family Law stipulates that the minimum age for marriage for women and men is 20. The court may allow persons under 20 to marry if there is a specific reason, benefit, or necessity for the marriage.

### Guardianship of children

The legal position is unclear. Both mothers and fathers have guardianship of their children according to Law No. 17 of 1992. The position after divorce is unclear. Principles of Islamic law apply to resolve issues relating to guardianship.

### Male guardianship over women

A woman requires consent of her male guardian to enter marriage. However, a guardian cannot force a woman to marry against her will or prevent her from marrying the husband of her choice. The guardian's consent is needed if the woman wants to travel.

### Custody of children

The mother has custody of her sons until they reach puberty and her daughters until they marry. However, a divorced woman who remarries risks losing custody of her daughter.

### Marriage and divorce

A wife has domestic responsibilities and must ensure the comfort of her husband. In return, she is entitled to maintenance from her husband and to be free from violence. Only judicial divorces are recognized. A woman can divorce on specified grounds, or through a khul'a divorce if she forgoes her financial rights.

### Inheritance

Sharia rules of inheritance apply. Women have a right to inheritance, but in many cases receive less than men. Daughters receive half the share that sons receive.

### Polygamy

The Family Law permits polygamy. As a result of a Supreme Court judgment, polygamy is allowed without conditions.

## LABOUR LAWS

### Right to equal pay for the same work as men

Article 21 of the Labour Relations Law No. 12 of 2010 states that there should be no discrimination in wages based on sex.

### Domestic workers

Domestic workers are included within labour legislation. Chapter 3 of the Labour Relations Law addresses domestic work. Employers must ensure equality of domestic workers with other workers in areas such as leave entitlements and social protection rights.

### Dismissal for pregnancy

Article 25 of the Labour Relations Law prohibits employers from dismissing women because of pregnancy.

### Paid maternity leave

Article 25 of the Labour Relations Law provides that women are entitled to 14 weeks of maternity leave, which the government is required to pay. This conforms to ILO recommendations.

### Legal restrictions on women's work

Women are restricted from being employed in some occupations. Article 24 of the Labour Relations Law states that women shall not be employed in types of work that are unfamiliar to their nature as women.