

# TREATY BODY MONITOR

International Service for Human Rights



Human Rights Monitor Series

## HUMAN RIGHTS COMMITTEE 91<sup>ST</sup> SESSION LIBYAN ARAB JAMAHIRIYA, 4<sup>TH</sup> REPORT 17-18 OCTOBER 2007

Information submitted to the Committee.....	1
Themes and issues .....	2
Status of the Covenant in domestic law .....	2
Right to life, prohibition of torture and cruel, inhuman or degrading treatment and protection against arbitrary expulsion .....	3
Right to a fair trial.....	5
Equal rights of men and women.....	6
Counter-terrorism measures .....	7
Security of the person and the right not to be subjected to arbitrary detention .....	7
Freedom of thought and expression.....	8
Freedom of association.....	8
Protection of children .....	9
Dissemination of information regarding the Covenant ...	9
Conclusions and next steps.....	9

### Information submitted to the Committee

On 5 December 2006 the Libyan Arab Jamahiriya (Libya) submitted its 4th periodic report to the Human Rights Committee (the Committee) regarding its implementation of the International Covenant on Civil and Political Rights (the Covenant).<sup>1</sup> Libya ratified the Covenant on 15 May 1970 with no reservations. The eight page report focused on legislative modifications relating to human rights obligations under the Covenant and responding to concluding observations of the Human Rights Committee on Libya's third periodic report.<sup>2</sup> The report was extremely brief, refuted many of the previous conclusions of the Committee and conceded nothing regarding areas needing improvement.

<sup>1</sup> CCPR/C/LBY/4, 10 May 2007. Available at: <http://www.ohchr.org/english/bodies/hrc/hrcs91.htm>.

<sup>2</sup> CCPR/C/79/Add.101, 11 June 1998. Available at: <http://www.ohchr.org/english/bodies/hrc/hrcs62.htm#64th>

On 16 August 2007 the Committee provided the list of issues to the State party. The general issue on which clarification was requested concerned the relationship between the provisions of the Covenant and domestic legislation on the protection of human rights contained within the ‘Great Green Document on Human Rights’.<sup>3</sup> Other issues included equal rights for men and women, counter-terrorism measures, prohibition of torture, cruel, degrading and inhuman treatment, arbitrary detention, freedom of association and freedom of thought. Libya submitted an Arabic version of its written reply too late for translation and therefore the text was not made available to the Committee prior to the plenary meeting.

Six non-governmental organizations submitted alternative reports to the Committee on the human rights situation in Libya.<sup>4</sup> Amnesty International and Human Rights Watch compiled the most comprehensive reports. The reports were well documented, posed questions regarding specific instances of violations, and included extensive recommendations. Human Rights Solidarity provided vivid, first hand accounts documenting arbitrary arrest and detention, torture, extrajudicial courts, forced confessions and systematic political repression. Congres Mondial Amazigh addressed violations of the rights of the Amazigh<sup>5</sup> community in Libya. Conscience and Peace Tax International described the lack of provision for conscientious objection to military service and rates of conscription in the Libyan armed forces. Global Initiative listed Libya among States whose penal code provides for corporal punishment of children.

## Themes and issues

The Socialist People’s Libyan Arab Jamahiriya delegation was headed by Mr Mahmoud Abuseif, Head of the International Organizations Department of the General People’s Committee for Foreign Liaisons and International Cooperation. The only other delegates to consistently participate in dialogue with the Committee were Mr Abdelrahman Al Jetlawi, identified only as being from Social Security and Mr Adel Al Majdoub, from the General People’s Committee for Justice. Ms Hasnia Markus from the Permanent Mission of the Libyan Arab Jamahiriya in Geneva and a number of other representatives from various People’s Committees were also present.

The delegation’s opening statement proclaimed Libya’s commitment to implementation of the principles of the Covenant, citing as proof the adoption on 12 June 1988 of the Great Green Document for Human Rights. According to the head of delegation, this document is “the legal framework for all principles on human rights and freedom in Libya”. Without preamble, Mr Abuseif immediately commented on many of the themes addressed in the list of issues. Upon conclusion of his opening remarks he declared that the State had carefully read and reviewed comments made by the Committee and it was ready to provide answers and clarification.

Throughout the review Committee members almost unanimously prefaced their comments with an expression of dissatisfaction at the deficiency of the report and the limited information provided by the written replies and oral responses of the delegation. Committee member Majodina noted with disappointment that the paucity of information made dialogue extremely difficult. Committee member Khalil urged the delegation to make better use of the Committee as a resource in addressing difficulties. Committee member Wedgwood was curious about the process used in preparing the report, adding that perhaps a different method should be used in the future. Committee member Sanchez-Cerro went so far as to question whether Libya attaches much importance to international obligations.

## Status of the Covenant in domestic law

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<sup>3</sup> The Libyan charter of human rights based on the Green Book written by al-Qadhafi.

<sup>4</sup> Available at: <http://www.ohchr.org/english/bodies/hrc/hrcs91.htm>

<sup>5</sup> Indigenous non-Arab people of North Africa.

The first issue taken up by the Committee was the constitutional and legal framework under which the Covenant is implemented. The State's initial response was simply to assert that the principles of the Covenant have been established in Islamic law for over 1000 years. According to Mr al-Jetlawi, all domestic legislation is based on *Sharia*, and thus is compatible with the provisions of the Covenant. On a related point the Committee asked what steps had been taken to give effect to Communication No.1107/2002<sup>6</sup> (*Loubna el Ghar v. Libyan Arab Jamahiriya*) and Communication No. 440/1990<sup>7</sup> (*Youssef El-Megreisi v. Libyan Arab Jamahiriya*). Libya initially provided no specific information on these cases but emphasized that the judiciary safeguards the right of all people to a fair trial.

Committee member Amor noted that, although Libya was one of the first States to ratify the Covenant with no reservations, there remain many unanswered questions regarding the degree to which national legislation coincides with its provisions. He added that they should not delve into a discussion of *Sharia* since it is open to a number of contrasting interpretations. Mr Amor directed the delegation to a more useful line of inquiry by specifically asking whether the legal value given to the Covenant is equal to other legal texts. He made it clear that a valid answer to this question would require reference to specific cases in which provisions of the Covenant were invoked and took precedence over national laws.

Despite the overarching importance of this question the Committee never received a satisfactory answer. Mr al-Jetlawi simply reiterated that all international conventions were ratified through deliberation by the People's Congresses and therefore all laws contained therein can be invoked in court. Mr al-Majdoub added that whenever Libya accedes to international covenants it does so on the basis of internal decree which gives these instruments the same status as domestic law. Mr Amor frankly expressed dissatisfaction with this response. While he noted that Libya considers *Sharia* to be compatible with the Covenant, he continued to call for a more specific demonstration of how discrimination against women, amputation, flogging and the legal practices of *qisas* and *diyah* (retribution/compensation) are not deemed incompatible.

Committee member Shearer took up the issue of the two communications issued by the Committee regarding the cases of *Loubna* and *Youssef*. The Committee had asked for updated information on the case of Ms Loubna, who was refused a passport by the authorities, and the case of Mr Youssef, who was arrested in 1989 and never seen again. Mr Shearer requested clarification on the State's policy regarding the issuance of passports/visas and reiterated the need for specific information on the charges against and whereabouts of Mr Youssef. He asserted that the response of "no information" was unacceptable. Again, the Libyan reply was very limited. Ms Markus responded to the question concerning Ms Loubna by explaining that the defendant did not follow the proper application procedures. No additional information was provided concerning Mr Youssef.

In its concluding observations, the Committee called upon the State to recognize that according to the *1969 Vienna Convention on the Law of Treaties*, internal law cannot be invoked as justification for failure to fulfil obligations under treaties to which it is a party.<sup>8</sup>

## **Right to life, prohibition of torture and cruel, inhuman or degrading treatment and protection against arbitrary expulsion**

### ***Death Penalty***

Many of the Committee's questions addressed the question of the death penalty. The Committee asked about the number of executions which have taken place, the offences for which it is imposed, whether the State intends to eventually abolish the sentence, and about the legality of the *qisas* (legalised retribution where a relative of a murdered party may take the life of the killer) and *diyah* (blood tax, in which the family may accept payment in lieu of retribution). In his initial response Mr Abuseif explained that the death penalty is

<sup>6</sup> CCPR/C/82/D/1107/2002, available at: <http://www.unhchr.ch/tbs>

<sup>7</sup> CCPR/C/53/D/400/1990, available at: <http://www.unhchr.ch/tbs>

<sup>8</sup> CCPR/C/LYB/CO/4/CRP.1, available at: <http://www.ohchr.org>

imposed in cases of premeditated murder, while its invocation for other offences is being “studied” by the appropriate authorities. The means of death is always a firing squad. He also announced that there is no intention to abolish the practice and clarified that *qisas* and *diyah* do not violate the Covenant since they are always based on a fair trial and derived from the principles of *Sharia*.

Committee member Wedgwood pointed out that while offences for which the death penalty is permissible are being “studied”, people continue to be executed for slander, membership of proscribed organizations, and a wide range of other crimes. She once again urged the delegation to clarify the list of offences for which the death penalty is imposed. Committee member Majodina reminded the delegation of previous assertions from Libya that the death penalty would eventually be abolished. She wondered why this goal has apparently been abandoned. Committee member Lallah frankly stated that without statistics the Committee had no way of knowing whether Libya was giving any effect to Article 6 of the Covenant guaranteeing the right to life.

In response to these comments Mr al-Jetlawi simply explained that the death penalty is beneficial in both private and public terms. In private, its application provides justice to victims and their families, while publicly it is a powerful deterrent for others plotting criminal activity. As for *qisas* and *diyah*, he claimed that these were actually methods for limiting the number of executions. No further statistics were provided.

### ***Disappeared persons, extrajudicial execution, flogging and amputation***

Mr Abuseif stated that in accordance with Article 1 of the Convention, no crimes or offences can be punished without judicial order. He reiterated that an officially sanctioned court is the only source of sentencing decisions and insisted that not a single execution has taken place without a judicial order. Regarding amputation and flogging, he explained that these sentences are strictly for the punishment of adultery, theft and “other such crimes”, and are strictly derived from the principles of *Sharia*.

Committee member Shearer noted that in its concluding remarks on the 3<sup>rd</sup> report the Committee called for the abolition of flogging and amputation and asked when this recommendation would be put into force. In a strongly worded retort Committee member Chanet accused the delegation of arguing for legislation in direct contravention of the Covenant. Ms Wedgwood raised a 2002 case in which 4 men had their limbs removed for stealing cars.

At this point Mr al-Jetlawi interjected. He explained that the offence was not merely car theft but the formation of an organised armed gang who made a profession of robbing and killing people in isolated areas of the desert. The delegate went into a long explanation of this kind of crime and why it necessitates amputation. Interestingly, he labeled it a form of terrorism.

A number of Committee members felt compelled to reiterate that amputation is prohibited no matter how grave the offence. They were unsure how to make it any clearer that the issue of unlawful punishment is independent of the nature of the offence. On the issue of extrajudicial killings Mr Khalil again lamented the lack of specific data. He cited the well-documented Human Rights Watch report which provides detailed information on hundreds of *incommunicado* detainees whose fate is unknown, as well as highlighting a number of deaths while in police custody. This request for more information was never acknowledged.

In its concluding observations, the Committee called on the State to immediately stop the imposition of all corporal punishment and repeal legislation for its imposition without delay.

### ***Monitoring treatment in detention facilities***

Mr Abuseif stressed that all detention facilities and their staff are under legal supervision and are inspected by the Secretary General of the Popular Committee for Justice. He stated that a number of committees had been formed under the direction of the Public Prosecutors Office to study complaints and refer cases of torture for investigation. Specifically, the Committee for Rehab and Reform gives prisoners a complaint mechanism. He made it clear that the legal code prohibits torture. He also claimed that legal asylum seekers are not held in

detention and that these facilities are reserved for illegal migrants in accordance with bilateral treaties between Libya and the EU.

Committee member Chanet requested information regarding the well-known case of the Bulgarian nurses who allege that they were tortured and forced to sign a document pledging not to complain. Ms Wedgwood added that all ten prosecutions stemming from this case had resulted in acquittals. She next asked for information from the investigatory commission on the killings which took place during an uprising at the Abu Salim prison. Both Mr Khalil and Mr Rodley cited previous concluding remarks of the Human Rights Committee as well as the Committee against Torture expressing concern at the recurring allegations of torture and abuse and requesting information on steps taken to ensure the good treatment of detainees. Ms Majodina noted that thousands of migrants have been deported after having been held in detention. She specifically wanted information on the recent case of a large number of Eritrean asylum seekers who were beaten and abused before being sent back to face persecution at the hands of their home government.

The representative from the General People's Committee for Justice asserted that anyone found guilty of torture is punished under Libyan law. He cited Article 435 of the Penal Code which stipulates that officials found guilty of torture can be imprisoned for 3-10 years and Law 5 of 1973 which contains a list of actions for which security agents can be punished. The delegate insisted that violations are not systematic. In rare instances where abuse has occurred effective legal action against the perpetrator has resulted in a number of convictions. Regarding the case of the Bulgarian nurses, Mr al-Majdoub asserted that the case was carried out before the eyes of the international community and that the trial took place in the presence of lawyers as well as consular services. He questioned why, in light of these oversight mechanisms, the nurses did not claim they had been tortured until they had returned to their home country. On the issue of detention of migrants the delegation emphasized that those labelled "refugees" are in fact illegal migrants who enter the country without the approval of the authorities. It is explained that these people are arrested and collectively deported in accordance with regional agreements to fight illegal immigration. Allegations of abuse are investigated by authorities.

Committee members felt compelled to add an additional reply. Ms Wedgwood noted that it would be helpful to have clear information on how the protection of detainees is actually "operationalized" so that "a prisoner in a dark dungeon has real protection". Mr Khalil could not help noting that the Committee had still received no statistics regarding instances of torture, prosecution of perpetrators, and the sentences handed down.

### **Right to a fair trial**

Mr Abuseif stated that the new penal and criminal procedure codes have not yet been adopted. He explained that the Judicial Inspectorate has the mandate of looking into all aspects of the judiciary and monitoring the extent to which the law is being applied. This inspectorate is comprised of high-level judges from the courts of appeal. The head of delegation asserted that the members are completely independent and cannot be removed from the position except through special disciplinary action in accordance with *Law 82 of the Judiciary*. Addressing the Committee's concern at the use of "special" courts in Libya, Mr Abuseif confirmed the abolition of the infamous People's Court (widely seen as a venue for prosecution of political crimes) but maintained that its decisions were handed down in conformity with the rule of law. He explained that *Law 42 of 2007* established courts for "specialized" prosecutions in Tripoli. He clarified that these courts adhere to the Criminal Procedure Code and are used to try specific offences such as drug trafficking, agricultural, and economic crimes.

Committee member Khalil inquired about the reason for the delay in adopting the new criminal procedure code and asked when the delegation anticipated it would be completed. He went on to assert that the State response concerning special/specialized courts was inadequate. While he recognized that the abolition of the People's Court was a positive development, he regretted that decisions previously handed down by this court had not been overturned. Mr Khalil also requested that the State respond to allegations that modified "special" courts had replaced the People's Court in political and security related matters. Mr Rodley continued with this line of questioning by observing that if the decisions of the People's Court were fair then why was it

necessary to abolish the Court in the first place? Indeed, he voiced his confusion regarding the need to establish any courts beyond the ordinary ones. Mr Rodley emphasized that the Committee needed to know how these “specialized” courts are constituted, what avenues of appeal are available and what sentences they hand down. He also specifically asked about the type of the courts used to try Idriss Boufayed and eleven co-defendants.

Mr al-Jetlawi clarified that there is a difference between “special” courts and “specialized” courts. He explained that special courts are created on an emergency basis for a specific period of time, while specialized courts try general cases on specific types of crime on a permanent basis. The representative from the People’s Committee for Justice elaborated on the rules governing pre-trial detention. He explained that the Criminal Procedure Code gives a time frame of 48 hours, after which time the prosecutor’s office must opt for either release or recommend preventative detention. He further explained that preventative detention is allowed for up to 6 days before a judge must review the case and decide if further detention is warranted. He underscored that Article 434 of the Criminal Procedure Code prohibits detention for longer than the given period of time.

Mr Rodley and Mr Abuseif both wanted the last word. Mr Rodley stated that the Committee needed a comprehensive list of all “extraordinary” courts active in Libya and reminded the delegation that he had received no response to his question on the Boufayed trial. Mr Abuseif reiterated that there are no “special” courts in Libya, only “specialized” courts. He made no mention of the case in question.

In its concluding observations, the Committee called upon the State to ensure that all rights and guarantees provided under Article 14 of the Covenant are respected in the composition, functions, and procedures of the State security court, including an effective mechanism of appeal.

### **Equal rights of men and women**

Mr al-Jetlawi explained that measures adopted to address violence against women are formulated in accordance with Articles 390-398 of the Penal Code. He added that these laws additionally criminalize rape, prostitution and abduction in view of marriage. On this issue Ms Majodina questioned the delegation about paragraph 26 of the State report, which asserts that there is “no need to criminalize rape or assault by a husband, since the current laws offer adequate protection”. She also lamented the lack of statistics on the incidence of domestic abuse. Committee member Lallah followed up by urging the delegation to share their obvious difficulties in gathering statistics so that the Committee could aide them in doing so. The delegation did not take him up on the offer.

Commenting on *Law 70 of 1973* which criminalizes extramarital sexual relations, the delegation explained that this was a reflection of the Koran. Mr al-Jetlawi confirmed the existence of “Social Rehabilitation Centres” for the “protection” of woman and girls. He insisted that they are not prisons but social centres and denied that virginity exams are given (except in the investigation of allegations of rape). Committee member Majodina requested information relating to detention conditions and requested clarification on whether or not there was an opportunity to contest confinement in court. She added that depriving women in these centres freedom of movement is proscribed under the Covenant. In response Ms Markus provided a relatively lengthy answer. She labelled the facilities “women’s care centres”, explaining that they offer health and social services. Some women enter the centres of their own free will because they are orphaned or have been disowned by their families. The delegate emphasized that these individuals had the choice of whether to stay or leave. Others are kept in preventative detention stemming from criminal offences. She noted that the centres are governed by national legislation which includes the provision of educational and skill development programs to help women obtain employment. In conclusion, she underscored that laws do not distinguish between men and women and that sanctions for offences are equal.

Mr Abuseif made the observation that there are “many misunderstandings” regarding laws on inheritance and divorce. In an effort to clear these up he explained that inheritance is distributed in accordance with the Koran which states that the male gets double the share of the female. He elucidated that the exact distribution of shares depends on the specific degree of relationship and the number of descendents. In general he asserted

that the variance reflects the fact that males have a greater “financial burden” in society. He points out that in some cases it is possible for women to receive more. Without elaborating he added that *Law 10 of 1984* on marriage and divorce established an equal right for women to request divorce. Committee member Amor seemed somewhat dismayed that Libya considers the premise that the male is entitled to twice the share of the female to be compatible with the Covenant. Mr O’Flaherty referred to questions asked by the Committee for the Elimination of Discrimination against Women regarding the practice of giving custody of children to the male after divorce. In his replies Mr al-Majdoub again referred to *Law 10 of 1984* and explained that custody could go to the father or the mother as it is not decided in a systematic way. In conclusion the delegation stressed that Libyan women are fully emancipated and on an equal footing with their male counterparts.

### **Counter-terrorism measures**

The Head of delegation began a discussion on counter-terrorism measures by citing the *1967 Law on Weapons*, *Law 7 of 1981* and *Law 13 of 1993* which criminalize collective violence and stockpiling of weapons. Mr Abuseif acknowledged that Libya has no comprehensive definition of terrorism and went on to point out that the same is true at the international level since it is a concept open to a variety of interpretations.

Committee member O’Flaherty referred to a number of detailed reports that the State had submitted to the UN Security Council. He reminded the delegation of a draft Penal Code concerning terror in domestic law that was mentioned in these reports. Mr O’Flaherty noted that the draft code contains “elements” of a definition of terrorism but also brings a number of concerns to mind. According to him, the broadly worded definition risks abrogating freedom of association and of expression. He also asked about allegations of so-called “renditions” in which suspected terrorists had been apprehended in Afghanistan and Pakistan and sent to Libya for interrogation. Ms Chanet requested that the delegation provide a list of cases that could illustrate terror prosecutions under current laws. Committee member Lallah asked for information on the length of detention of suspected terrorists, the offences they are prosecuted for, and the legal rules which apply.

In his oral reply Mr al-Jetlawi merely repeated a list of terror-related laws and reiterated that there is no “watertight” law on terrorism since no exact definition has been reached. In response to a question regarding corporal punishment Mr al-Jetlawi had previously explained that a group of car thieves had their limbs amputated because armed robbery in the desert is a form of “terrorism”. Mr O’Flaherty seized on this point as a timely example of why a working definition is so vital. He noted that in common legal application armed robbery is simple criminality, not terrorism and proffered that the absence of a definition should not preclude the State from adopting acceptable standards. He also recalled that on 31 August 2002 the Libyan head of State proclaimed that those who are guilty of terrorism would not have their human rights respected.

### **Security of the person and the right not to be subjected to arbitrary detention**

Mr Abuseif stated that the ‘Great Green Document on Human Rights’ contains provisions for the prevention of arbitrary detention. He cited laws from 1991 and 2005 which set the guidelines regulating conditions of confinement. The Head of Delegation also assured the Committee that *incommunicado* detention is prohibited since the Criminal Code requires lawyers for all criminal cases and even provides “popular” lawyers when the accused cannot afford their own. Mr Abuseif advised the Committee that the *Charter of Honour*<sup>9</sup> is currently under review by a sub-commission which will provide recommendations to the relevant People’s Committee.

Committee member Shearer drew the delegation’s attention to discrepancies between the Penal Code and the more recent *Promotion of Freedom Act* regarding the legal length of pre-trial detention. One of these documents contains specific time limits while the other only proffers general recommendations. He then questioned the relevance of the legislation on this issue given the numerous NGO reports documenting systematic arbitrary detention. Mr Shearer also requested specific information on the status of al-Hafifi and al-Janni, both arrested and held *incommunicado* and without charge for years. Committee member O’Flaherty

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<sup>9</sup> Legalized collective punishment.

pointed out that the issue of collective punishment was raised in 1998 and the Committee had subsequently been informed that the *Charter of Honour* law was being reviewed. He requested a timetable for when a decision would be reached. Mr O’Flaherty also asked for information on conditions in the area of *Bin-Walid* where it has been reported that the policy of collective punishment is causing great suffering.

The State’s response to these queries was less than minimal. Mr Abdelrahman merely took the time to explain that there is a moratorium on invocation of the *Charter of Honour* and thus it has no effect in practice. Nothing further was provided.

### **Freedom of thought and expression**

Mr Abuseif explained to the Committee that *Law 20 on Consolidation of Freedom* gives everyone the right to express their opinion through the People’s Congresses or the media.<sup>10</sup> In response to the Committee’s previous recommendation calling for the release of all political prisoners, Mr Abuseif stated that the Higher Judiciary Council is the only body with the legal authority to grant amnesty and does so only on the basis of individual review. He also confirmed that the reform of the *Law on Publications* was an ongoing process and that no amendments had been enacted.

Committee member O’Flaherty wanted to know how *Law 71 of 1972*<sup>11</sup> and Articles 206<sup>12</sup> are considered compatible with the Covenant. Mr Khalil acknowledged the recent release of over 200 political prisoners and requested information on the criteria for release decisions. He also expressed his dismay at the fact that no amendments had been made to the *Law of Publications* since it was sent for review in 2005. He added that the given response provided no new information and wanted to know the reason for the delay in revising a law which so clearly violates Article 19 of the Covenant.

The delegation did not find these questions worthy of a response and instead explained that freedom of expression is adequately guaranteed through Libya’s system of direct democracy. It further claimed that the press is free from Government supervision and that the public has unfettered access to a wide array of foreign and Arab media outlets.

In its concluding recommendations, the Committee advised the State to urgently revise legislation to ensure that restrictions on the freedoms of association and expression are in strict compliance with the Covenant.

### **Freedom of association**

The delegation informed the Committee that work is being done to review *Law 19 on Formation of Groups* with a view towards expanding freedom of association and inserting an appeals process whereby a denied application can be reviewed.

Committee member Shearer emphasized that Article 22 of the Covenant does not prohibit the proscription of associations but only stipulates that it must be justified on the bases of national security or order. He requested more information on the status of the review process.

This inquiry elicited an unusually thorough response from the State party. The representative from the People’s Committee for the Labour Force, Training and Employment began by establishing a distinction between “unions” and “associations” under Libyan legislation. He explained that when the *Code of Labour* was drafted in 1970 it was in accordance with International Labour Organization (ILO) standards but since then Libya has ratified new international labour conventions and thus a new *Code* was drafted. The new *Code* specifies registration procedures, permits election of representatives and regulates union financial activity. It also deletes certain restrictions on association. He stressed that Libya had ratified all ILO conventions and that trade unions are specifically protected within the *Green Book*. The delegate conceded that *Law 19* which

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<sup>10</sup> With the stipulation that this right is not “misused”.

<sup>11</sup> The Law proscribes any organization opposed to the principles of the Revolution of 1 September 1969.

<sup>12</sup> This article lists execution as the punishment for membership in proscribed groups.

regulates non-union associations does not provide for the same guarantees but asserted that when the review process is complete it will conform to international instruments.

### **Protection of children**

Mr Abuseif assured the Committee that there is no discrimination against children born out of wedlock because the legal protection of their rights is upheld by *Law 5*, *Law 20* and the *Law on Children and Social Welfare*.

Mr O’Flaherty urged the delegation to move beyond law and to examine actual practice. He was quite convinced that children born out of wedlock suffer discrimination in Libyan society and asked what steps had been taken to change social attitudes. He also asked about allegations that children of mothers married to expatriates were not allowed into class by order of the Ministry of Education. Ms Wedgwood pointed out similar discriminatory practices which bar children with *Amazigh* names from registering for school.

Mr al-Jetlawi was offended at the use of the adjective “illegitimate” in describing children. He proclaimed that the State does not classify them in this way; to the contrary children without fathers are provided with more social services than so-called “legitimate” children. He elaborated by explaining that although it is the State which financially provides for their needs, it is society as a whole which takes responsibility for raising them. They are eligible to receive national ID cards, passports and work permits following the same guidelines as the rest of society. The delegate concluded on this issue by asserting that free public education is given to all children including *Amazigh* and therefore there is “no discrimination whatsoever”.

### **Dissemination of information regarding the Covenant**

Committee member Khalil acknowledged the positive steps taken by Libya in ratifying the *Optional Protocol to the Convention on Elimination of Discrimination against Women*, the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*, and the *Optional Protocol on the Rights of the Child*.

He expressed interest in the mediums used to convey the contents of these instruments and subsequent obligations to both governmental bodies and broader society. In addition, he requested information regarding specific mechanisms by which the Articles of the Covenant and the Committee’s recommendations are made known.

Mr Abuseif stated that upon accession to international conventions a series of national seminars and workshops are held for relevant Government ministries. He added that subsequent studies and symposiums are held to disseminate this information to the general public.

### **Conclusions and next steps**

In response to an objection raised by the delegation the Chairman of the Committee felt it important to clarify a misunderstanding regarding the rules of procedure. He stated that it is perfectly acceptable for Committee members to express dissatisfaction when they feel that information is not presented in the manner in which they had requested. Finally, he reiterated that since the Committee is impartial and objective, such observations are not made in an adversarial spirit, but only with a view to reaffirming cooperation and dialogue with the State party.

The head of the delegation thanked the Committee for their comments. He stated that the discussion had positive effects on their common objective of promoting human rights and eliminating misunderstandings. The delegation promised to provide a written version of oral replies as well as additional statistics.

In its concluding observations, the Committee noted with concern that the State report was not submitted on time, did not follow reporting guidelines, and did not provide requested data.<sup>13</sup> In its overall assessment, the Committee noted that its recommendations from 1998 had not been taken into account since almost all subjects of concern remained unchanged. Thus, the Committee urged the State party to ‘comply with all recommendations addressed to it by the Committee and take all necessary steps to ensure that national legislation and its implementation guarantee the effective enjoyment of all Covenant rights in the State party’. Recommendations concerning specific issues were quite general and only served to reiterate the Committee’s view that laws incompatible with the Covenant should be ‘reconsidered’ and ‘all necessary measures’ to protect against violations should be taken. In its final recommendation, the Committee strongly suggested that Libya publish and widely disseminate its 4<sup>th</sup> periodic report and concluding observations to the judicial, legislative and administrative authorities, as well as all civil society organizations.

A number of other UN treaty bodies made previous concluding recommendations on the same issues addressed by the Committee. The Committee on Economic, Social, and Cultural Rights urged the State to formulate a legal protective framework for asylum-seekers/refugees and also noted systematic discrimination against the Amazigh minority.<sup>14</sup> The Committee on the Elimination of Discrimination against Women recommended that the State party strengthen existing mechanisms to advance the status of women, with a view to changing social attitudes regarding gender roles.<sup>15</sup> The Committee against Torture expressed concern at numerous allegations of prolonged *incommunicado* detention and torture in the State party.<sup>16</sup> It recommended that both legislation and practice be brought in line with all articles of the Convention, that all allegations of misconduct are investigated, and that corporal punishment be abolished. Not surprisingly, all three committees expressed similar concerns as the Human Rights Committee by noting that State reports and oral replies provided inadequate data and did not substantively address subjects of concern.

*Last revised and updated: 8 November 2007.*

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<sup>13</sup> CCPR/C/LYB/CO/4/CRP.1, available at: <http://www.ohchr.org>

<sup>14</sup> Paragraphs 13 and 22 E/C.12/LYB/CO/2 (CESCR 2006)

<sup>15</sup> Paragraphs 126-185 A/49/38 (CEDAW 1994)

<sup>16</sup> Paragraphs 176-189 A/54/44 (CAT 1999).

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## **ABOUT THE PUBLICATION**

The *Treaty Body Monitor* forms part of the Human Rights Monitor Series produced by ISHR. It reports on each country reviewed by the six treaty bodies (all but the Committee on the Rights of the Child) and provides an overview of every treaty body session. It is currently an online publication that can be found at <http://www.ishr.ch/hrm/TMBs>.

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