

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	99
Land:	Libyen
Kilde:	U.N. General Assembly
Titel:	Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1.
Udgivet:	21. juli 2010
Optaget på baggrundsmaterialet:	13. december 2010



General Assembly

Distr.: General
21 July 2010

Original: English

Human Rights Council

Working Group on the Universal Periodic Review

Ninth session

Geneva, 1-12 November 2010

Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1

Libyan Arab Jamahiriya

The present report is a compilation of the information contained in the reports of treaty bodies, special procedures, including observations and comments by the State concerned, and other relevant official United Nations documents. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), other than those contained in public reports issued by OHCHR. It follows the structure of the general guidelines adopted by the Human Rights Council. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the four-year periodicity of the first cycle of the review. In the absence of recent information, the latest available reports and documents have been taken into consideration, unless they are outdated. Since this report only compiles information contained in official United Nations documents, lack of information or focus on specific issues may be due to non-ratification of a treaty and/or to a low level of interaction or cooperation with international human rights mechanisms.

I. Background and framework

A. Scope of international obligations¹

<i>Core universal human rights treaties²</i>	<i>Date of ratification, accession or succession</i>	<i>Declarations /reservations</i>	<i>Recognition of specific competences of treaty bodies</i>
ICERD	3 July 1968	Yes (General declaration ³ ; reservation: art.22)	Individual complaints (art. 14): No
ICESCR	15 May 1970	Yes (Declaration) ⁴	-
ICCPR	15 May 1970	Yes (Declaration) ⁵	Inter-State complaints (art. 41): No
ICCPR-OP 1	16 May 1989		-
CEDAW	16 May 1989	Yes (Reservation: art.2, 16(c)(d))	-
OP-CEDAW	18 June 2004		Inquiry procedure (arts. 8 and 9): Yes
CAT	16 May 1989		Inter-State complaints (art. 21): No Individual complaints (art. 22): No Inquiry procedure (art. 20): Yes
CRC	15 April 1993		-
OP-CRC-AC	29 October 2004	Binding declaration under art. 3: 18 years	-
OP-CRC-SC	18 June 2004		-
ICRMW	18 June 2004		Inter-State complaints (art. 76): No Individual complaints (art. 77): No
<i>Core treaties to which Libyan Arab Jamahiriya is not a party: OP-ICESCR, ICCPR-OP 2, OP-CAT, CRPD (signature only, 2008), CRPD-OP, CED.</i>			
<i>Other main relevant international instruments⁶</i>	<i>Ratification, accession or succession</i>		
Convention on the Prevention and Punishment of the Crime of Genocide	Yes		
Rome Statute of the International Criminal Court	No		
Palermo Protocol ⁷	Yes		
Refugees and stateless persons ⁸	Yes, except 1951 Convention and its 1967 Protocol		
Geneva Conventions of 12 August 1949 and Additional Protocols thereto ⁹	Yes, except Protocol III		
ILO fundamental conventions ¹⁰	Yes, except Conventions 100 and 138		
UNESCO Convention against Discrimination in Education	Yes		

1. In 1999, the Committee against Torture (CAT) encouraged the Libyan Arab Jamahiriya to consider making declarations under articles 21 and 22.¹¹
2. In 2004, the Committee on the Elimination of Racial Discrimination (CERD) recommended that the State consider the possibility of making the declaration provided for in article 14.¹²
3. In 2005, the Committee on Economic, Social, and Cultural Rights (CESCR),¹³ CERD,¹⁴ and CRC¹⁵ recommended that the State consider ratifying the 1951 Convention relating to the Status of Refugees and its Protocol. The Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) made a similar recommendation with regard to the 1951 Convention.¹⁶
4. In 2007, the Human Rights Committee (HR Committee) encouraged the State to abolish the death penalty and consider the ratification of the Second Optional Protocol to the Covenant.¹⁷
5. In 2009, CEDAW required the State to withdraw its reservations to the Convention and ratify the International Convention for the Protection of All Persons from Enforced Disappearance, as well as the Convention on the Rights of Persons with Disabilities.¹⁸
6. United Nations Development Programme (UNDP) reported that the Libyan Arab Jamahiriya had agreed to the 1990 Cairo Declaration on Human Rights in Islam and had ratified the 2004 Arab Charter of Human Rights/Amended. It has also ratified the African Charter for Human and Peoples' Rights (1986), the African Charter on the Rights and Welfare of The Child (2003); the protocol on establishing the African Court for Human and Peoples' Rights; and the protocol on the Rights of Women in Africa (2004).¹⁹ According to UNHCR, the Libyan Arab Jamahiriya is party to the Convention Governing Specific Aspects of Refugee Problems in Africa (OAU Convention).²⁰

B. Constitutional and legislative framework

7. United Nations Country Team (UNCT) noted that no single Constitution exists. Most of the legislation relating to human rights is based on the First Statement of the Libyan Revolution, Declaration of People's Authority, Reinforcement of Freedom Law, Great Green Act of Human Rights, Law on Disabled People, Labour Law and Administrative Regulations on Violence against Children and Women.²¹ It also indicated that most of the legislation on children's rights were welfare-oriented rather than based on a rights approach.²²
8. UNCT indicated that although Libyan laws do not reflect either discrimination or inequality between girls and boys, and they also provide for empowerment of women, their enforcement is still subject to some resistance.²³
9. CESCR noted that the State does not have a law on asylum-seekers and refugees. It recommended that the State adopt a law establishing national asylum procedures.²⁴
10. CRC recommended that the State enact legislation ensuring that the minimum age of criminal responsibility is consonant with international standards, and amend the Mobilization Act No. 21 of 1991 to avoid mobilization of persons under 18 years of age.²⁵

C. Institutional and human rights infrastructure

11. As of the date of this compilation, the Libyan Arab Jamahiriya does not have a national human rights institution accredited by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC).²⁶

12. CESCR recommended that the State consider establishing an independent national human rights institution, in accordance with the Paris Principles.²⁷ CEDAW²⁸ and CRC²⁹ made similar recommendations.

13. UNDP reported there are some governmental structures and some organizations attached to the Government that are concerned with women's issues, such as the Libyan Human Rights Committee. In December 1998, Al-Qaddafi International Association of Philanthropic Societies established a human rights organization that launched wide-scale campaigns for the release of political prisoners and against torture.³⁰

II. Promotion and protection of human rights on the ground

A. Cooperation with human rights mechanisms

1. Cooperation with treaty bodies

<i>Treaty body³¹</i>	<i>Latest report submitted and considered</i>	<i>Latest concluding observations</i>	<i>Follow-up response</i>	<i>Reporting status</i>
CERD	2003	March 2004		Combined eighteen and nineteen report overdue since 2006
CESCR	2004	November 2005		Third report overdue since 2007
HR Committee	2005	October 2007	Received in July 2009, supplement due in 2010	Fifth report due in 2010
CEDAW	2008	January 2009	Due in 2011	Combined sixth and seventh report due in 2014
CAT	1998	May 1999		Fourth report due in September 2010 (LOIPR)
CRC	2000	June 2003		Combined third and fourth report overdue since 2008; submitted in 2009, and scheduled for consideration in 2011
OP-CRC-AC				Initial report

OP-CRC-SC	overdue since 2006 Initial report overdue since 2006
CMW	Initial report overdue since 2005; second report due in 2010

2. Cooperation with special procedures

<i>Standing invitation issued</i>	No
<i>Latest visits or mission reports</i>	-
<i>Visits agreed upon in principle</i>	WG on Arbitrary Detention SR on freedom of expression (postponed)
<i>Visits requested and not yet agreed upon</i>	SR on torture, requested in 2005, 2007 and 2009
<i>Facilitation/cooperation during missions</i>	
<i>Follow-up to visits</i>	
<i>Responses to letters of allegations and urgent appeals</i>	During the period under review, 18 communications were sent. The Government replied to 8 communications.
<i>Responses to questionnaires on thematic issues³²</i>	The Libyan Arab Jamahiriya did not respond to any of the 23 questionnaires sent by special procedures mandate holders within the deadlines.

B. Implementation of international human rights obligations

1. Equality and non-discrimination

14. In 2009, CEDAW remained concerned about the persistence of traditional stereotypes regarding the roles of women and men in the family and in society at large, as reflected in women's educational choices, their situation in the labor market and their low participation in political and public life. CESCR expressed similar concerns.³³ CEDAW urged the State to adopt a national plan, in particular to bring about change in the widely accepted stereotypical roles of women and men.³⁴

15. CEDAW was concerned at the absence of national machinery for the advancement of women. CEDAW called upon the State to put in place an institutional mechanism that recognizes the specificity of discrimination against women and is exclusively responsible for promoting de jure and de facto equality.³⁵

16. CEDAW remained concerned that Libyan women married to non-Libyan nationals are not granted equal rights with respect to the nationality of their children. It remarked that legal provisions relating to personal status, in particular concerning marriage (including polygamy), child custody, divorce and inheritance, do not provide for equal rights for women and men. CEDAW encouraged the State to accelerate the process of legal amendments to solve these issues.³⁶ CRC made similar recommendations.³⁷

17. CEDAW was concerned that the concept of male guardianship over women seems to be widely accepted and limits women's exercise of their rights under the Convention. It called upon the State to take steps to eliminate this practice.³⁸

18. In 2010, the ILO Committee of Experts recalled that women's economic activity remained low (29.59 per cent). The Committee recalled Decision No. 258, 1989, of the General People's Committee relating to the rehabilitation and training of Libyan women, which states that all workplaces are obliged to employ women who have been referred to them by the employment offices. Decision No. 258 also established municipal employment units targeting women. The Committee expressed concern that the practical effect of certain provisions in Decision No. 258, such as "suitable to women's nature and social conditions," could result in gender inequalities in the labour market.³⁹ The Committee also recalled its previous observation in which it expressed regret regarding the lack of measures taken by the Government to address discrimination against foreign workers, especially from sub-Saharan Africa.⁴⁰ Similar concerns were expressed by CERD in 2004⁴¹ and by CRC in 2003.⁴²

19. CERD noted that the State categorically maintains that racial discrimination does not exist in the Libyan Arab Jamahiriya. It recommended that the State conduct studies with a view to effectively assessing the occurrence of racial discrimination in the country, and review its assessment accordingly.⁴³ Furthermore, CERD again took note of the discrepancy between the State's assessment, according to which Libyan society is ethnically homogenous, and information indicating that Amazigh, Tuareg and Black African populations live in the country.⁴⁴

20. CESCR was concerned about the absence of legislation prohibiting racial discrimination, and regretted that not enough information was provided on measures to guarantee that migrant workers are treated on a non-discriminatory basis. It recommended that the State adopt legislative and other measures to prohibit racial discrimination, especially against Black Africans.⁴⁵

21. CESCR expressed concern about domestic legislation prohibiting the use of languages other than Arabic or the registration of non-Arabic names for newborn children. It recommended that the State ensure the full respect of every person to use his or her own language, in private and in public, orally and in writing, freely and without interference or any form of discrimination.⁴⁶

2. Right to life, liberty and security of the person

22. In 2007, HR Committee reiterated its concern that the death penalty can be applied to offences which cannot necessarily be characterized as the most serious crimes. It recommended the State take urgent steps to reduce the number of crimes for which the death penalty can be imposed.⁴⁷

23. HR Committee reiterated its concern regarding the allegedly large number of forced disappearances and cases of extrajudicial, summary or arbitrary executions and the lack of clarification on the part of the State. The Committee was furthermore concerned that some 11 years after the event, the State was unable to provide information on the status of the work of the Commission responsible for the inquiry into the events at Abu Salim prison in 1996. It recommended that the State urgently investigate all forced disappearances and extrajudicial, summary or arbitrary executions, prosecute and punish the perpetrators, grant effective reparation as well as ensure that the inquiry into the events in Abu Salim prison in 1996 is finalized as soon as possible.⁴⁸

24. HR Committee remained concerned at continuing reports of systematic use of torture and cruel, inhuman or degrading treatment or punishment and the lack of information regarding the prosecution of these cases. It was also concerned by the testimony of a group of persons that they had allegedly been subject to ill-treatment and were forced to sign papers absolving the State from any responsibility regarding their torture or ill-treatment. The Committee recommended that the State take urgent and

effective measures to stop the use of all forms of torture and cruel, inhuman or degrading treatment or punishment, and ensure prompt, thorough and impartial investigations by an independent mechanism into all allegations of torture and ill-treatment, prosecute and punish perpetrators, and provide effective remedies.⁴⁹ On the issue of ill-treatment, the HR Committee adopted views finding violations regarding two communications against the State.⁵⁰

25. The HR Committee remained concerned that corporal punishment such as amputation and flogging are prescribed by law even if rarely applied in practice. It recommended that the State immediately stop the imposition of all corporal punishment and repeal relevant legislation.⁵¹

26. In 2006 the Special Rapporteurs on extrajudicial, summary or arbitrary executions and on the question of torture sent a communication to the Government concerning a serious incident in the Abu Salim Prison. According to the allegations received, on 4 October 2006, some 190 prisoners were brought back to Abu Salim Prison following a hearing at a court in Tripoli. Upon their return to the Abu Salim prison, some of the prisoners started to protest and an altercation ensued. One prisoner died and nine other prisoners were injured. Most of them received bullet wounds.⁵² The Government sent a detailed reply.⁵³

27. In 2007 the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal to the Government concerning the situation of fourteen men arrested on 15 and 16 February 2007 for organizing a demonstration in Tripoli, which was aimed at marking the anniversary of the death of eleven people in a clash with the police one year earlier during a protest against the publication of the cartoons of the Prophet Mohammed in a Danish newspaper. Twelve of the fourteen men detained were on trial for planning to overthrow the government, possession of arms, and meeting with an official from a foreign government; they could face the death sentence. One of the persons listed as arrested had disappeared.⁵⁴ The Government sent a response.⁵⁵

28. HR Committee reiterated its concern at reports about the excessive length of pre-trial detention. It took note of reports of substantial numbers of detainees being held incommunicado, especially in cases of concern to the State security bodies. It noted reports of arbitrary arrests without judicial review. It recommended that the State take all necessary measures to ensure that remand in custody and pre-trial detention are not excessively long in law and in practice, that it immediately stop arbitrary arrests and ensure that all persons under its jurisdiction are guaranteed the rights contained in the Covenant.⁵⁶

29. In 2006, the Special Rapporteurs on violence against women, its causes and consequences and on the sale of children, child prostitution and child pornography sent an allegation to the Government concerning the arbitrary detention of women and girls in social rehabilitation facilities, some of whom are victims of gender-based violence or have not been charged or convicted of a crime.⁵⁷ The Government sent a detailed reply.⁵⁸ CEDAW raised similar concerns and added that there was no possibility of challenging such confinement in a court.⁵⁹

30. CEDAW observed that the State had not yet adopted comprehensive legislation to protect women against violence, especially domestic violence. It recommended that the State adopt a national strategy to combat violence against women, which should incorporate data collection and research, including violence occurring in the domestic sphere. The HR Committee⁶⁰ and CESCR⁶¹ made similar recommendations.

31. CEDAW noted the widespread practice whereby marriage between perpetrators of rape and women victims of rape is encouraged, which results in impunity for the

perpetrator. It expressed concern about the lack of statistics provided in the report on violence against women and girls, and that maintenance of Law No. 70 (1973) criminalizing extramarital sexual relations may have a disproportionate impact on women. HR Committee expressed similar concerns.⁶² In its response to HR Committee the Libyan Arab Jamahiriya stated that although the Penal Code did not contain provisions which explicitly criminalize assaults against women, existing provisions did offer protection to women.⁶³

32. CEDAW remarked the lack of information regarding the extent of trafficking in women and girls and the absence of a comprehensive law and plan aimed at preventing and eliminating trafficking in women and protecting victims. It recommended that the State take measures to combat all forms of trafficking in women and girls as well as ensure that trafficked women and girls receive adequate support and protection when they testify against their traffickers. It urged the State to analyze the causes and extent of trafficking in women and girls from its perspective as a country of transit. CEDAW was also concerned about the lack of information and absence of a strategy with regard to prostitution.⁶⁴ CRC issued similar observations and recommendations regarding trafficking of children.⁶⁵

33. The ILO Committee of Experts reiterated that various provisions of the Publications Act of 1972, as well as sections 237 and 238 of the Penal Code, under which penalties of imprisonment (involving compulsory labour) may be imposed on public servants, were not in conformity with the Abolition of Forced Labour Convention (No. 105) and requested that they be amended.⁶⁶ It also reiterated its previous observation that certain provisions restricting the freedom of public servants and members of the armed forces from leaving their employment were incompatible with the Forced Labour Convention (No. 29) and requested the Government to provide a copy of the full amended text of Act No. 40 of 1974 regarding service in the armed force.⁶⁷

3. Administration of justice, including impunity, and the rule of law

34. Since 2007, UNODC has been collaborating with the Government on a criminal justice reform project to promote internal debate, support the reform of the criminal code and related legislations, improve detention, rehabilitation and education facilities as well as enhance case management and reduce the number of un-sentenced prisoners. It also supports the juvenile justice.⁶⁸

35. HR Committee regretted that the draft penal code had not yet been adopted and that there was no specific timeframe for its adoption. It recommended that the State ensure its conformity with the Covenant.⁶⁹ In 2009, the Government responded that further amendments to the draft were being considered by the People's Congress.⁷⁰

36. UNDP acknowledged the steps taken towards enhancing justice in the judicial system by abolishing the People's Court (2005), which was under constant criticism, separating the interior and justice ministries, and working on a new penal code.⁷¹

37. HR Committee was concerned that the need for, and the mandate of, the new State Security Court were unclear. It recommended that the State take urgent measures to ensure that all rights and guarantees provided under the Covenant are respected in the functioning of the State Security Court, including the right to appeal.⁷²

38. CRC was concerned about the low age of criminal responsibility (7 years), poor conditions in detention, and the Collective Punishment Law. It recommended that the State ensure that its system of juvenile justice includes the provisions of the Convention. It also recommended that deprivation of liberty be used only as a last-resort measure, that persons under 18 years of age not be detained with, or tried as, adults, that the Collective Punishment Law be repealed, and that professionals in the area of social rehabilitation of children be provided with training.⁷³

4. Right to privacy, marriage and family life

39. UNCT noted that item 3 of law No. 5 (1997) infringed on the privacy of the persons wishing to get married since they are required to undergo blood tests to check whether they present any risk of contracting transmissible diseases or genital deformations.⁷⁴

40. CRC was concerned that discrimination against certain children, their parents or legal guardians, persisted in the State party, particularly with respect to birth out of wedlock. It recommended that the State party take effective measures to ensure that all children enjoy all rights without discrimination, that it carry out comprehensive public education campaigns to prevent and combat negative societal attitudes towards birth outside marriage, and include religious leaders in those efforts.⁷⁵

5. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life

41. HR Committee was concerned at the extensive limitations of the right to freedom of opinion and expression. It also regretted that the State did not provide any indication as to when the overdue revision of the Publication Act of 1972 would be completed and adopted.⁷⁶ In its response, the Government stated that amendment of the law was the exclusive resort of the People's Congress.⁷⁷ HR Committee was also concerned that under Libyan legislation the death penalty could be imposed for the establishment of groups, organizations or associations based on a political ideology contrary to the principles of the 1969 Revolution.⁷⁸

42. CESCR was concerned about reports that freedom of access to the Internet was severely restricted. It urged the State to enable all persons under its jurisdiction to take part in cultural life and enjoy the benefits of scientific progress.⁷⁹

43. UNDP reported that there were no independent non-governmental human rights organizations in the country.⁸⁰ CESCR made a similar observation.⁸¹ CEDAW urged the State to cooperate in a systematic manner with civil society in the implementation of the Convention.⁸²

44. CEDAW remarked that women continued to be underrepresented in political and public life, particularly in decision-making bodies. It urged the State to take all appropriate measures to accelerate the increase in women's representation.⁸³

6. Right to work and to just and favourable conditions of work

45. The ILO Committee of Experts recalled that it needed information demonstrating how the principle of equal remuneration for men and women for work of equal value was applied in practice in the public service.⁸⁴ CEDAW made similar remarks.⁸⁵

46. The ILO Committee of Experts urged the Government to take immediate steps to pursue a national policy on equality of opportunity and treatment in employment and occupation with regard to race, colour, religion, political opinion, national extraction and social origin.⁸⁶

47. CESCR noted that the Government reviews all collective agreements to ensure that they are in line with the nation's economic interests, that there was no freedom for trade unions, and that labour disputes had to be referred to a compulsory arbitration procedure. It recommended that the State clarify the status of its laws relating to those matters and ensure that they fully comply with the Covenant.⁸⁷

7. Right to social security and to an adequate standard of living

48. The 2008 Resident Coordinator Annual Report stated that while the significant increase in revenues generated by the petroleum sector has been instrumental in improving the standard of living for most Libyans, a huge portion of society was experiencing increasing socio-economic disparities.⁸⁸

49. UNCT indicated that the quality of the health service is a concern which requires urgent reform to enhance the capacity and governance of the health management system, by establishing solid and credible data-base systems, building the capacity of medical and para-medical staff, shifting from a clinical approach to a socio-community approach with special focus on preventive actions.⁸⁹ It also reported that neonatal mortality was still high.⁹⁰

50. CESCR was deeply concerned about reports that HIV/AIDS had increased since 2000, and that an estimated 90 per cent of recent adult infections are the result of injection drug use.⁹¹ CRC noted the relatively high number of children with HIV/AIDS in Benghazi. CRC was also concerned at the insufficient information available on adolescent health issues, particularly in relation to mental health issues. It recommended that the State strengthen its activities to prevent HIV/AIDS, ensure that adolescents have access to and are provided with education on adolescent health issues, take appropriate measures to reduce substance dependency among young people, and seek assistance from, among others, UNICEF and WHO.⁹²

51. CESCR noted with concern that 28 per cent of the population did not have sustainable access to an improved water source. It also noted that improvements achieved, in terms of access to safe water, had not yet been made available to the Amazigh population.⁹³

8. Right to education

52. UNCT noted that enrolment in primary education in 2007 was about 98 per cent (48.4 per cent girls and 51.6 percent boys). However, the quality and efficiency of education, as well as disparities among geographic regions, are a concern despite high investment in education.⁹⁴ It also mentioned that children born of a Libyan mother and a foreign father could not have access to free education.⁹⁵

53. CERD took note of the reportedly insufficient human rights education programmes in school curricula, in particular regarding the promotion of tolerance and respect for religious and ethnic minorities. It encouraged the State to strengthen its efforts in this area.⁹⁶ CESCR⁹⁷ and CRC⁹⁸ issued similar preoccupations and recommendations.

9. Minorities and indigenous peoples

54. CESCR was concerned that the Amazigh population was not recognized as a minority and that its language does not have any legal status. It was also concerned that the teaching of the Amazigh language in school is prohibited, as is use of the language in public.⁹⁹

55. In 2006, the Special Rapporteurs on the promotion and protection of the right to freedom of opinion and expression, on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, and on the situation of human rights and fundamental freedoms of indigenous people, together with the Independent Expert on Minority Issues had sent a letter to the Government relating to information received about discrimination towards Berbers, in particular on the existence of discriminatory legislation regarding Berber culture and identity.¹⁰⁰ The Government replied in 2007.¹⁰¹ CESCR¹⁰² and CERD¹⁰³ expressed similar concerns.

10. Migrants, refugees and asylum-seekers

56. HR Committee was concerned that the State sends back refugees and asylum-seekers to their countries of origin where they might be subject to torture and other ill-treatment. It recommended that the State adopt legislative and administrative structures to ensure that aliens claiming risk of torture or ill-treatment are allowed to file an appeal against forced removal, with suspensive effects.¹⁰⁴

57. UNCT indicated that the human rights situation for migrants in the Libyan Arab Jamahiriya fluctuates. Currently, forced deportations of foreigners lacking proper documentation are frequent, sometimes to countries where they could face persecution. Even the recent push-back policy, jointly adopted by the Libyan Arab Jamahiriya and a third country with regard to clandestine boats trying to reach Europe has been severely criticized as a violation of the “*non-refoulement* principle”.¹⁰⁵

58. In 2007 the Special Rapporteurs on freedom of religion or belief, on the human rights of migrants, and on the question of torture drew the Government’s attention to information that they had received concerning 430 Eritrean nationals, including over 50 women and children. It was alleged that the majority of the detainees were conscripts who had fled Eritrea to avoid military service, and who were facing imminent deportation to Eritrea. During their detention, Libyan authorities reportedly beat and raped or sexually abused some detainees. Concerns were expressed that if they are forcibly returned to Eritrea, they may be at risk of torture or ill-treatment, as well as potential persecution with regard to their freedom of thought, conscience and religion.¹⁰⁶ The Government sent a response.¹⁰⁷

59. CERD was concerned that African migrant workers have been expelled since 2000. It recommended that the State ensure that the removal of non-citizens does not discriminate on the basis of ethnic or national origin.¹⁰⁸ CERD noted that, according to some information, deaths of African migrants have occurred during transit to settle in or via the Libyan Arab Jamahiriya towards Europe.¹⁰⁹

60. In 2008, the Special Rapporteur on the human rights of migrants sent an urgent appeal to the Government regarding the decision of Libyan authorities to immediately deport all migrants suspected of having entered the country in an irregular manner. According to the reports, the decision could lead to a collective and arbitrary expulsion of migrants, including asylum seekers and refugees, who, if forcibly returned to their countries of origin, could face torture and other serious human rights violations. These measures could affect the rights of thousands of people including women and children who would not be granted their right to access judicial procedures in order to challenge removal.¹¹⁰

61. CEDAW was concerned at reports regarding the alleged ill-treatment of undocumented migrants, including women and children. It recommended that the State implement the provisions of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.¹¹¹

11. Human rights and counter-terrorism

62. HR Committee was concerned that the terrorism-related elements in the draft penal code were not fully in conformity with the Covenant. It also regretted the lack of information regarding the safeguards provided by the Covenant in times of emergency, as well as the lack of information regarding the alleged rendition to the Libyan Arab Jamahiriya, by other States, of Libyan nationals accused of terrorist crimes.¹¹²

63. In a 2010 Joint Study on Global Practices in Relation to Secret Detention in the Context of Countering Terrorism, experts gathered information on long-standing concerns about counter-terrorist policies involving secret detention and inadequate or non-existent

legal safeguards in States in almost all regions of the world, including the Libyan Arab Jamahiriya.¹¹³ In 2009, the experts conducted an interview with an Algerian/Swiss national who had been held for three months without charge in a Libyan prison at the end of 2007. For the entire duration of his detention he was totally incommunicado and his family did not know where he was. Although held in a ‘known prison’ and although he was kept in known places, he was secretly detained.¹¹⁴

64. In *El-Megreisi v. Libyan Arab Jamahiriya*, the HR Committee found that the Government had violated the Covenant by detaining an individual for six years, the last three of which were incommunicado and in an unknown location, which the Committee considered torture and cruel and inhuman treatment¹¹⁵

III. Achievements, best practices, challenges and constraints

65. UNCT highlighted the UNODC partnership with the Libyan Government in promoting transparency and anti-corruption measures by recognizing that preventing and combating corruption constitute fundamental measures for promoting the rule of law and protecting human rights.¹¹⁶

66. UNCT pointed out that the country had made remarkable economic and social progress during the last decade, after economic sanctions were lifted, and is well-placed to achieve the MDG’s. It further noted that cooperation between international organizations and Libyan authorities has proven successful in areas such as counter-trafficking and the improvement of Libyan Reception Centres for irregular migrants.¹¹⁷

IV. Key national priorities, initiatives and commitments

Specific recommendations for follow-up

67. Regarding communication 440/1990 (*El-Megreisi v. Libyan Arab Jamahiriya*) referred to in paragraphs 24 and 64 herein, in 2007, the HR Committee requested the Government to compensate the victim for the torture and cruel and inhuman treatment to which he had been subjected. No follow-up response has been submitted. The HR Committee also recommended that the State follow-up on its views regarding communication 1107/2002 (*Loubna El Ghar v. Libyan Arab Jamahiriya*), relating to the issuance of a passport to a Libyan national abroad. In 2006, the Government responded that the author of the communication had not been refused a passport.¹¹⁸

V. Capacity-building and technical assistance

68. CERD invited the State to take advantage of the technical assistance of the Office of the United Nations High Commissioner for Human Rights for drafting legislation aimed at preventing racial discrimination.¹¹⁹

Notes

¹ Unless indicated otherwise, the status of ratifications of instruments listed in the table may be found in *Multilateral Treaties Deposited with the Secretary-General: Status as at 31 December 2006* (ST/LEG/SER.E.25), supplemented by the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, <http://treaties.un.org/>.

² The following abbreviations have been used for this document:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
OP-ICESCR	Optional Protocol to ICESCR
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP 1	Optional Protocol to ICCPR
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
OP-CEDAW	Optional Protocol to CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CAT	Optional Protocol to CAT
CRC	Convention on the Rights of the Child
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
OP-CRPD	Optional Protocol to the Convention on the Rights of Persons with Disabilities
CED	International Convention for the Protection of All Persons from Enforced Disappearance

³ "(b) It is understood that the accession to this Convention does not mean in any way a recognition of Israel by the Government of the Kingdom of Libya. Furthermore, no treaty relations will arise between the Kingdom of Libya and Israel"

⁴ The acceptance and the accession to this Covenant by the Libyan Arab Republic shall in no way signify a recognition of Israel or be conducive to entry by the Libyan Arab Republic into such dealings with Israel as are regulated by the Covenant.

⁵ The acceptance and the accession to this Covenant by the Libyan Arab Republic shall in no way signify a recognition of Israel or be conducive to entry by the Libyan Arab Republic into such dealings with Israel as are regulated by the Covenant.

⁶ Information relating to other relevant international human rights instruments, including regional instruments, may be found in the pledges and commitments undertaken by the Libyan Arab Jamahiriya before the Human Rights Council, as contained in the note verbale dated 28 April 2010 sent by the Permanent Mission of the Libyan Arab Jamahiriya to the United Nations addressed to the President of the General Assembly (document A/64/773, dated 5 May 2010).

⁷ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

⁸ 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 1954 Convention relating to the status of Stateless Persons and 1961 Convention on the Reduction of Statelessness.

⁹ Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Convention relative to the Treatment of Prisoners of War (Third Convention); Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and

relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html.

- ¹⁰ International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 105 concerning the Abolition of Forced Labour; Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise; Convention No. 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation; Convention No. 138 concerning Minimum Age for Admission to Employment; Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.
- ¹¹ CAT, *Official Records of the General Assembly, Fifty-fourth Session, Supplement No. 44 (A/54/44)*, paras. 176-189.
- ¹² CERD/C/64/CO/4, para. 18.
- ¹³ E/C.12/LYB/CO/2, para. 30.
- ¹⁴ CERD/C/64/CO/4, para. 7.
- ¹⁵ CRC/C/15/Add. 209, para. 42.
- ¹⁶ CEDAW/C/LBY/CO/5, para. 26.
- ¹⁷ CCPR/C/LBY/CO/4, para. 13.
- ¹⁸ CEDAW/C/LBY/CO/5, paras. 13, 14, and 47.
- ¹⁹ Programme on Governance in the Arab Region (POGAR) available at <http://www.pogar.org/countries/theme.aspx?t=10&cid=10>.
- ²⁰ UNHCR, Global Report 2009, available at <http://www.unhcr.org/4c08f28a9.pdf>, pp. 146-147.
- ²¹ UNCT submission to the UPR on Libya, para. 2.1.
- ²² Ibid., para. 2.3.
- ²³ Ibid., para. 3.16.
- ²⁴ E/C.12/LYB/CO/2, paras. 13-30.
- ²⁵ CRC/C/15/Add.209, para. 22.
- ²⁶ For the list of national human rights institutions with accreditation status granted by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), see A/HRC/13/45, annex 1.
- ²⁷ E/C.12/LYB/CO/2, para. 27.
- ²⁸ CEDAW/C/LBY/CO/5, para. 40.
- ²⁹ CRC/C/15/Add.209, para. 14.
- ³⁰ POGAR available at <http://www.pogar.org/countries/theme.aspx?t=10&cid=10>.
- ³¹ The following abbreviations have been used for this document:

CERD	Committee on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
HR Committee	Human Rights Committee
CEDAW	Committee on the Elimination of Discrimination against Women
CAT	Committee against Torture
CRC	Committee on the Rights of the Child
CMW	Committee on the Protection of the Rights of All Migrant Workers and Their Families
- ³² The questionnaires referred to are those reflected in an official report by a special procedure mandate holder issued between 1 January 2006 and 30 June 2010. Responses counted for the purposes of this section are those received within the relevant deadlines, and referred to in the following documents: (a) E/CN.4/2006/62, para. 24, and E/CN.4/2006/67, para. 22; (b) A/HRC/4/23, para. 14; (c) A/HRC/4/24, para. 9; (d) A/HRC/4/29, para. 47; (e) A/HRC/4/31, para. 24; (f) A/HRC/4/35/Add.3, para. 7; (g) A/HRC/6/15, para. 7; (h) A/HRC/7/6, annex; (i) A/HRC/7/8, para. 35; (j) A/HRC/8/10, para. 120, footnote 48; (k) A/62/301, paras. 27, 32, 38, 44 and 51; (l) A/HRC/10/16 and Corr.1, footnote 29; (m) A/HRC/11/6, annex; (n) A/HRC/11/8, para. 56; (o) A/HRC/11/9, para. 8, footnote 1; (p) A/HRC/12/21, para. 2, footnote 1; (q) A/HRC/12/23, para. 12; (r) A/HRC/12/31, para. 1, footnote

- 2; (s) A/HRC/13/22/Add.4; (t) A/HRC/13/30, para. 49; (u) A/HRC/13/42, annex I; (v) A/HRC/14/25, para. 6, footnote 1; (w) A/HRC/14/31, para. 5, footnote 2..
- 33 E/C.12/LYB/CO/2, paras. 14-31.
- 34 CEDAW/C/LBY/CO/5, paras. 21-22.
- 35 Ibid., para. 16.
- 36 Ibid., paras. 17-18.
- 37 CRC/C/15/Add.209, paras. 31-32.
- 38 CEDAW/C/LBY/CO/5, para.37.
- 39 ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning Discrimination (Employment and Occupation) Convention, 1958 (No. 111), 2010, Geneva, doc. No. (ILOLEX) 062010LBY111, 3rd para.
- 40 Ibid., 1st and 2nd paras.
- 41 CERD/C/64/CO/4, para. 14.
- 42 CRC/C/15/Add.209, paras. 25-26.
- 43 CERD/C/64/CO/4, para. 8.
- 44 Ibid., para. 6.
- 45 E/C.12/LYB/CO/2, paras. 12-29.
- 46 Ibid., paras. 24-42.
- 47 CCPR/C/LBY/CO/4, para. 13.
- 48 Ibid., para. 14.
- 49 Ibid., para. 15.
- 50 CCPR/C/50/D/440/1990 and CCPR/C/91/D/1422/2005.
- 51 CCPR/C/LBY/CO/4, para.16
- 52 A/HRC/4/20/Add.1, pp. 197-198.
- 53 Ibid., pp. 198-200.
- 54 A/HRC/7/14/Add.1, para. 377.
- 55 Ibid., para. 378.
- 56 CCPR/C/LBY/CO/4, para. 19.
- 57 A/HRC/4/34/Add.1, paras. 376-382.
- 58 Ibid., paras. 383-390.
- 59 CCPR/C/LBY/CO/4, paras. 9-10.
- 60 Ibid., para. 10.
- 61 E/C.12/LYB/CO/2, paras. 14-31.
- 62 CCPR/C/LBY/CO/4, paras. 9-10.
- 63 CCPR/C/LBY/CO/4/Add.1, Reply 1.
- 64 CEDAW/C/LBY/CO/5, paras. 27-28.
- 65 CRC/C/15/Add.209, paras.43-44.
- 66 ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning Abolition of Forced Labour Convention, 1957 (No. 105), 2010, Geneva, doc. No. (ILOLEX) 062010LBY105, 1st to 3rd paras.
- 67 ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning Forced Labour Convention, 1930 (No. 29), 2010, Geneva, doc. No. (ILOLEX) 092010LBY029, 2nd and 3rd paras.
- 68 UNCT submission to the UPR on Libya, para. 3.20.
- 69 CCPR/C/LBY/CO/4, para. 21.
- 70 CCPR/C/LBY/CO/4/Add.1, Reply 2.
- 71 POGAR available at <http://www.pogar.org/countries/theme.aspx?t=10&cid=10>
- 72 CCPR/C/LBY/CO/4, para. 22.
- 73 CRC/C/15/Add.209, para. 45.
- 74 UNCT submission to the UPR on Libya, para. 3.18.
- 75 CRC/C/15/Add.209, paras. 23-24.
- 76 CCPR/C/LBY/CO/4, para. 23.
- 77 CCPR/C/LBY/CO/4/Add.1, Reply 3.
- 78 A/54/44/, para. 184.
- 79 E/C.12/LYB/CO/2, paras. 21-39.
- 80 POGAR available at <http://www.pogar.org/countries/theme.aspx?t=10&cid=10>.

- ⁸¹ E/C.12/LYB/CO/2, paras. 11-28.
- ⁸² CEDAW/C/LBY/CO/5, para. 42.
- ⁸³ Ibid., para. 29.
- ⁸⁴ ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning Equal Remuneration Convention, 1951 (No. 100), 2010, Geneva, doc. No. (ILOLEX) 092010LBY100, 2nd para.
- ⁸⁵ CEDAW/C/LBY/CO/5, para. 33.
- ⁸⁶ ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning Discrimination (Employment and Occupation) Convention, 1958 (No. 111), 2010, Geneva, doc. No. (ILOLEX) 062010LBY111, 2nd para.
- ⁸⁷ E/C.12/LYB/CO/2, paras. 16-33.
- ⁸⁸ UNDG, 2008 Resident Coordinator Annual Report - Libyan Arab Jamahiriya, p. 1, available at http://www.undg.org/RCAR/2008/finalized/pdfs/RCAR_2008_LIB_NAR.pdf.
- ⁸⁹ UNCT submission to the UPR on Libya, para. 4.5.
- ⁹⁰ Ibid., para. 3.10.
- ⁹¹ E/C.12/LYB/CO/2, paras. 19-36.
- ⁹² CRC/C/15/Add.209, para. 37.
- ⁹³ E/C.12/LYB/CO/2, paras. 18-35.
- ⁹⁴ UNCT submission to the UPR on Libya, para. 4.6.
- ⁹⁵ Ibid., para. 3.17.
- ⁹⁶ CERD/C/64/CO/4, para. 17.
- ⁹⁷ E/C.12/LYB/CO/2, paras. 20, 37, 38.
- ⁹⁸ CRC/C/15/Add.209, para. 39.
- ⁹⁹ E/C.12/LYB/CO/2, paras. 22-23.
- ¹⁰⁰ A/HRC/4/27/Add.1, para. 351.
- ¹⁰¹ A/HRC/7/14/Add.1, para. 379.
- ¹⁰² E/C.12/LYB/CO/2, paras. 23-41.
- ¹⁰³ CERD/C/64/CO/4, para. 15.
- ¹⁰⁴ CCPR/C/LBY/CO/4, para. 18.
- ¹⁰⁵ UNCT submission to the UPR on Libya, para. 2.2.
- ¹⁰⁶ A/HRC/7/10/Add.1, paras. 148-149.
- ¹⁰⁷ Ibid., para. 150.
- ¹⁰⁸ CERD/C/64/CO/4, para. 11.
- ¹⁰⁹ Ibid., para. 12.
- ¹¹⁰ A/HRC/11/7/Add.1, paras. 294-300.
- ¹¹¹ CEDAW/C/LBY/CO/5, paras. 25-26.
- ¹¹² CCPR/C/LBY/CO/4, para. 12.
- ¹¹³ A/HRC/13/42, p. 3 and para. 215.
- ¹¹⁴ Ibid., para. 237.
- ¹¹⁵ Communication No. 440/1990 (CCPR/C/50/D/440/1990), para. 5.4. This case is also mentioned in the report A/HRC/13/42, para. 32.
- ¹¹⁶ UNCT submission to the UPR on Libya, para. 4.13.
- ¹¹⁷ Ibid., para. 4.2.
- ¹¹⁸ CCPR/C/LBY/CO/4, para. 7.
- ¹¹⁹ CERD/C/64/CO/4, para. 20.
-