

LIBYAN ARAB JAMAHIRIYA

CCPR A/33/40 (1978)

50. The Committee considered the initial report submitted by the Libyan Arab Jamahiriya at its 51st meeting on 18 January 1978 (CCPR/C/SR.51)

51. The representative of the State party read out a new report, subsequently issued as document CCPR/C/1/Add.20. It differed from the one submitted earlier by his country (CCPR/C/1/Add.3 and Corr.1) in that the latter contained texts which had been nullified following the repeal, in March 1977, of the Constitutional Declaration, the provisions of which had been replaced by the Koran, in which all texts concerning human rights were to be found. In answer to a question, he said that, apart from that difference, the substance of both reports remained the same and that the penal code had not been affected by the constitutional changes.

52. The representative was asked whether ratification of international agreements by the Libyan Arab Jamahiriya, such as the International Covenants on Human Rights, entailed the incorporation of their provisions in national law and if it did not, what legislative procedure had been followed in order to incorporate the provisions of the International Covenant on Civil and Political Rights into national substantive law.

53. Clarification was requested on the details of the legal effects of the constitutional changes and on the recourse available to individuals for contesting any decision or act by the courts or legislative or administrative authorities, which might infringe rights recognized by the Koran.

54. Information was sought on the implementation of article 3 of the Covenant, which related to the equal right of men and women to the enjoyment of the civil and political rights set forth therein. Some members asked what difference there was in that respect between the old and the new constitutions, to what extent equality existed with regard to participation in political, social and cultural life as well as to marriage, and whether the country's cultural traditions impeded equality of men and women.

55. Some members requested more details concerning the categories of serious crimes punishable by death, the role of the Mufti, as well as some statistics on the application of the death penalty during the last few years. The representative was asked whether that penalty was applicable to acts other than voluntary homicide, such as incitement to change the Government or régime.

56. In connection with article 7 of the Covenant which prohibits torture, the question was asked, could Libyan courts order corporal punishment and, if they could under what conditions and for what crimes?

57. Some members noted that the provisions in force in Libya concerning pre-trial detention were inadequate to ensure compliance with the principles set forth in article 9, paragraph 3, and article 14, paragraph 3 (c), of the Covenant. More information was requested on the circumstances in

which pre-trial detention could be prolonged and of the relative powers of magistrates and courts of first instance in that respect. It was noted that citizens needed to know not only what authority was component to order their arrest or detention, but also in what circumstances they became guilty of offences under the law; from that viewpoint, article 396 of the Penal Code was considered too vague.

58. One member observed that the principle of legality was dependent on the existence, in accordance with article 14 of the Covenant, of independent and impartial courts, and wished to know how judges were appointed, whether they were appointed for life or could be dismissed, and, if they could, by what authority. Another member of the Committee noted, however, that the best means of guaranteeing the independence of the courts and judges consisted not so much in appointing judges for life as in giving every citizen the possibility of becoming a judge.

59. The representative was asked whether special procedures were to apply when a state of emergency had been proclaimed and whether emergency courts dealt with political crimes.

60. Information was sought, in accordance with article 14, paragraphs 3 (d) and 3(e), on the right of the accused to be present at his trial, to defend himself in person and to interrogate witnesses for the prosecution.

61. Some members observed that, in relation to the freedom of religion as embodied in article 18 of the Covenant, the report seemed to deal exclusively with the Moslem religion. Questions were asked concerning the extent of rights enjoyed by adherents of other religions or by non-believers and whether the repeal of the Constitutional Declaration and its replacement by the Koran entailed any changes in their status.

62. Clarification was sought on information given concerning freedom of opinion and expression, provided for in article 19 of the Covenant. Restrictions arising from “the interests of the people” and “the principles of the Revolution” were thought to be broader than those arising from “public order” (ordre public) as envisaged in the Covenant. The representative was asked whether those principles had been established in official documents, whether they had any legal status, whether they were binding on a judge and whether the judicial authority or the executive authority had to decide what was meant by them.

63. Some members asked what acts were considered political crimes in the Libyan Arab Jamahiriya since it was noted that article 19 of the prison code, quoted on page 19 of the report, referred to persons convicted of political crimes. What régime governed the treatment of political prisoners? Were any persons, other than those convicted of such crimes, being held without trial in the Libyan Arab Jamahiriya for political reasons and, if they were did they have any means of recourse?

64. More information was requested on the enjoyment in the Libyan Arab Jamahiriya of the right of everyone to freedom of association referred to in article 22 of the Covenant, and in particular the right to form and join trade unions, and on the legal régime governing occupational relations.

65. Some members asked about the position of ethnic, religious or linguistic minorities as well as that of aliens and, in particular, the right of the latter to leave the country.

66. One member sought information concerning the implementation of the right to vote and to be elected at periodic elections by universal and equal suffrage and by secret ballot, set out in article 25 of the Covenant.

67. The representative of the Libyan Arab Jamahiriya stated that the replies to some questions might be found in his introductory statement. However, in view of the number of questions asked and the importance of them, he would prefer to reply to them in writing.

CCPR A/50/40 (1995)

123. The Committee considered the second periodic report of the Libyan Arab Jamahiriya (CCPR/C/28/Add.16) at its 1275th, 1276th, 1376th and 1377th meetings, held on 26 October 1993 and 28 October 1994, and adopted 11/ the following comments:

1. Introduction

124. The Committee welcomes the opportunity to renew its dialogue with the State party, as 15 years have elapsed between the consideration of the Government's initial report and the submission of its second periodic report. The Committee, however, regrets this considerable delay. It regrets also that the reporting guidelines have not been met. The report does not give sufficient information about the restrictions or limitations imposed on rights or about factors and difficulties affecting the enjoyment of rights and the implementation of the Covenant in the Libyan Arab Jamahiriya. In addition, the report lacks information about abuses affecting human rights in the country which have been acknowledged even by the head of State; and also about administrative and other measures adopted to give effect to the rights provided for in the Covenant.

125. The Committee welcomes the additional written information provided by the Libyan authorities to reply to the questions raised by the members of the Committee during the first part of the consideration of the report in October 1993, while regretting that the late submission of that information did not make it possible to have the document available in all the working languages of the Committee. The Committee takes note with satisfaction of the efforts made by the Libyan Government to reply to its questions and to clarify certain issues, both in writing and orally through the Government's representatives. Those efforts clearly indicate the willingness of the Government to continue the dialogue with the Committee.

2. Factors and difficulties affecting the implementation of the Covenant

126. Among the factors affecting the implementation of the Covenant, the Committee notes economic difficulties and the existence of extremist movements. The Committee also notes that the embargo on air travel, imposed by the Security Council on the Libyan Arab Jamahiriya since April 1992, is considered by the Libyan Government as a difficulty affecting the implementation of certain provisions of the Covenant.

3. Positive aspects

127. The Committee notes with satisfaction that the Covenant is part of the domestic law of the Libyan Arab Jamahiriya and that certain aspects of the Covenant have been included in the Great Green Charter of Human Rights of the Jamahiriyan Era (1988), in the Promotion of Freedom Act of 1991 and in the draft Constitution. It welcomes the fact that the Covenant has been published in the Official Bulletin and publicized in the media, while noting that the information provided to the

11/ At its 1383rd meeting (fifty-second session), on 3 November 1994.

Committee was not sufficient to clarify the precise application of the Covenant provisions or the practical steps open to people to enforce rights or to obtain remedies in case of violation.

128. The Committee also notes with satisfaction the measures taken in the Libyan Arab Jamahiriya to overcome discriminatory attitudes towards women and the initiatives introduced in the country to advance women's rights, to ensure their greater involvement in public life and to improve women's equality in employment and in marriage.

129. The Committee further welcomes the information in the report about the release of certain political and other prisoners, the demolition of certain prisons, the cancellation of the lists of persons banned from travelling and the proposed abolition of the special courts.

4. Principal subjects of concern

130. The Committee is seriously concerned that although the report mentions the objective of eliminating the death penalty, a large number of offences remain punishable by the death penalty in the Libyan Arab Jamahiriya, including economic crimes and other crimes which appear to go beyond the limitations of article 6 (2) of the Covenant. The Committee deplores that there appears to be have been an increase in the number of executions in the last year.

131. The Committee is seriously concerned at information it has received from United Nations and other reliable sources concerning summary or extrajudicial execution and torture perpetrated by the Libyan security forces. It deplores the introduction of cruel punishments such as flogging and amputation. The practice of arbitrary arrest and detention, the detention of persons sentenced after unfair trials and the length of pre-trial detention are also matters of serious concern. The Committee regrets the lack of information about certain identified people who are said to be held in incommunicado detention without trial for lengthy periods and about persons who oppose the Government and are said to have disappeared.

132. The Committee is also concerned at certain restrictions imposed in the Libyan Arab Jamahiriya on the freedom of opinion and expression, the right of assembly and the right to freedom of association, which are not in conformity with articles 19, 21 and 22 of the Covenant. These restrictions also unduly limit the rights to participate in the conduct of public affairs, including the opportunity to criticize and to oppose the Government.

133. Lack of information makes it difficult for the Committee to assess the effectiveness in practice of safeguards protecting the rights of detainees and of those charged with criminal offences. The lack of independence of the legal profession and doubts about the openness and fairness of trial procedures remain concerns of the Committee.

134. In regard to women the Committee remains concerned about their lack of equality in certain areas of law such as inheritance rights and nationality. It also regrets the lack of specific information concerning the equality of women.

135. Another area of concern is that of freedom of religion. The severe punishments for heresy (which are said not to have been used) and the restrictions on the right to change religion appear to

be inconsistent with article 18 of the Covenant. The lack of provision for conscientious objection to military service is another concern.

136. A general concern of the Committee is that in regard to many of the rights under the Covenant the basic law allows for broadly defined exceptions to these rights and no information has been provided as to the way in which those exceptions have been incorporated in specific laws or as to whether their application is in conformity with the Covenant.

5. Suggestions and recommendations

137. The Committee encourages the State party to take the necessary steps to adopt legislative or other measures to give effect to the rights recognized in the Covenant, as provided for by article 2, paragraph 2, of the latter. The Committee emphasizes that these rights represent minimum standards of universal application. This will require a detailed examination of specific laws and practices to ensure that they are fully consistent with the Covenant and do not impose limitations on rights other than those permitted by the Covenant.

138. Noting the statement in the report that the objective of Jamahiri society is to abolish the death penalty, the Committee encourages the State party to move forward with its plans to abolish the death penalty so that it may accede to the Second Optional Protocol to the Covenant.

139. The Committee calls on the Libyan Arab Jamahiriya to investigate all allegations of summary or extrajudicial execution, disappearances, torture and incommunicado detention, including those referred to by the Committee, and to ensure that those responsible for violations of articles 6, 7 and 9 of the Covenant are prosecuted and that appropriate remedies are provided to the victims. It should implement effective measures to prevent further violations of those provisions of the Covenant and to ensure that the rights of detainees are respected and that the requirements of fair trial are met.

140. The Committee recommends that the State party review its laws which impose limitations on freedom of opinion, expression, association and assembly, to ensure that the restrictions on those freedoms conform to the limits permitted under articles 19, 21 and 22 of the Covenant.

141. The Committee urges the State party to continue with its programme to secure full legal and de facto equality for women in all aspects of society. It should also ensure that its obligations to respect freedom of religion in accordance with article 18 of the Covenant are met. In this connection, the Committee draws attention to its general comment on article 18 of the Covenant.

142. The Committee finally recommends that more detailed information about specific laws and more concrete and factual information about the enjoyment of rights be provided by the Libyan Arab Jamahiriya in its next periodic report so as to enable the Committee to clearly understand the progress made in the implementation of the Covenant in the State party.

143. The Committee urges the State party to discharge, in future, its reporting obligations under article 40 of the Covenant on a more timely basis.

CCPR A/54/40 (1999)

121. The Committee considered the third periodic report of the Libyan Arab Jamahiriya (CCPR/C/102/Add.1) at its 1712th and 1713th meetings (CCPR/C/SR.1712-1713), held on 27 October 1998, and adopted the following concluding observations at its 1720th meeting (CCPR/C/SR.1720), held on 2 November 1998.

1. Introduction

122. The Committee welcomes the timely report submitted by the Government of the Libyan Arab Jamahiriya and the willingness of the State party to have a continued dialogue with the Committee. The Committee notes with regret that the report, while providing information on legal norms and enactments governing the obligations set out in the Covenant, lacks information on the implementation of the Covenant in practice. The Committee notes that the third periodic report of the State party does not address the concerns expressed by the Committee in its concluding observations on the second report of the Libyan Arab Jamahiriya and does not provide the data requested on that occasion. It notes, however, the State party's undertaking to submit additional written information in response to the Committee's questions which remained unanswered so far.

2. Factors and difficulties

123. The Committee notes that the embargo on air travel, imposed by the Security Council on the Libyan Arab Jamahiriya since April 1992, is considered by the Libyan Government as creating economic difficulties and affecting the implementation of certain provisions of the Covenant.

3. Positive aspects

124. The Committee welcomes the principle of direct applicability of the Covenant and the possibility of invoking it directly before the courts.

125. The Committee welcomes the concrete efforts made by the State party to enact legislation reducing inequalities between men and women in the field of personal status. The Committee also welcomes the measures taken to improve the situation of women in public life and civil society, particularly in the workplace and in access to education.

4. Principal subjects of concern and recommendations

126. The Committee is concerned by the lack of clarity about the legal status of the Covenant, in particular about the hierarchy between the Covenant, the Great Green Document on Human Rights and the Constitutional Proclamation. Neither in examining the report of the State party nor during the dialogue with the delegation could the Committee gain a clear understanding of how conflicts between the Covenant and domestic law are solved or of the role of the Supreme Court in this respect.

127. The Committee is deeply troubled by the allegations, from various reliable sources, of

extrajudicial, arbitrary or summary executions perpetrated by State agents as well as of a high incidence of arbitrary arrest and detention, including long detention without trial. The Committee expresses its regret at the lack of transparency on the part of the State party in responding to these concerns. The Committee recommends that all such allegations be fully, publicly and impartially investigated, that the results of such investigations be published, that the perpetrators of those acts be brought to justice and that the victims and their families be duly compensated. The Committee urges the State party to include in its next report information, including names and statistics, about disappeared persons, cases of extrajudicial, arbitrary or summary executions, and about persons kept under detention without charge, in situations of indefinite detention without trial or following acquittal by a court.

128. The Committee is particularly concerned about the excessively vague wording of article 4 of the Promotion of Freedom Act, which stipulates that the death penalty may be imposed "on a person whose life endangers or corrupts society" and similar wording in the Great Green Document, thus leading to the imposition in the State party of the death penalty for offences which cannot be characterized as the most serious, including political and economic offences, in violation of article 6, paragraph 2, of the Covenant. Furthermore, the Committee deplores that retribution is legally accepted as a ground for the imposition of the death penalty. In its next report, the State party is asked to furnish information on the number of executions which have taken place in the last 10 years, the type of offence for which the death penalty has been imposed, and the manner in which the execution has been carried out. The Committee recommends that urgent steps be taken to reduce the number and type of crimes entailing capital punishment and to repeal all provisions incompatible with article 6 of the Covenant.

129. The Committee is concerned at the high rate of maternal mortality and requests the State party to provide information in its next report on measures taken to reduce it.

130. The Committee is deeply concerned over persistent allegations of systematic use of torture and cruel, inhuman or degrading treatment or punishment. The Committee takes positive note of the data offered by the delegation about investigations carried out in some cases and of punishment of those responsible for such acts, as well as of the indemnity given to victims. The Committee recommends that the State party enforce a more efficient system for monitoring treatment of all detainees, so as to ensure that their rights under articles 7 and 10 of the Covenant are fully protected. It urges the State party to ensure that all cases of alleged torture or ill-treatment are investigated by an impartial body, that the results of such investigations be published and that officials responsible for torture and ill-treatment be prosecuted and, if convicted, severely punished. The State party is asked to include in its next report information on steps taken in this respect as well as on prison conditions. The Committee also recommends that training courses on human rights be conducted for law enforcement personnel.

131. Furthermore, the Committee recalls that flogging, which is recognized in the Libyan Arab Jamahiriya as a penalty for criminal offences, is incompatible with article 7 of the Covenant. The imposition of such punishment should cease immediately and all laws and regulations providing for its imposition should be repealed without delay. Amputation, although not used in practice, according to the delegation, should be formally abolished.

132. The Committee stresses with deep concern that the law enacted in 1997 known as the "Charter of Honour", which authorizes collective punishment for those found guilty of collective crimes (including "obstructing the people's authority [and] damaging public and private institutions"), violates several articles of the Covenant, including articles 7, 9 and 16. It recommends that the application of this law be suspended without delay and that steps be taken to repeal it.

133. The Committee reiterates its concern about the excessive duration of remand in custody and undue prolongation of pre-trial detention and urges that all necessary measures be taken to reduce the length of such detention and to improve judicial oversight.

134. The Committee considers that serious doubts arise as to the independence of the judiciary and the liberty of advocates to exercise their profession freely, without being in the employment of the State, and to provide legal aid services. The Committee recommends that measures be taken to ensure full compliance with article 14 of the Covenant as well as with the United Nations Basic Principles on the Independence of the Judiciary and the Basic Principles on the Role of Lawyers. Training in human rights law should be given to all judges and members of the legal profession. In its next report, the State party is requested to provide detailed information on the jurisdiction, composition and activities of the Revolutionary Security Courts, as well as on the organization of the legal profession.

135. The Committee expresses its deep concern about the numerous restrictions, in law and in practice, on the right to freedom of expression, and in particular on the right to express opposition to or criticism of the Government, of the established political, social and economic system and of the cultural values prevailing in the Libyan Arab Jamahiriya. The Committee urges the State party to undertake a truly critical analysis of restrictions to articles 18, 19, 21, 22 and 25 and their effect in practice, with a view to fulfilling its obligations under those articles. More specifically, the Committee stresses that article 25 provides for genuine elections with secret ballot and that the State party must comply with this requirement. It recommends that the application of provisions of the Publication Act (1972) which are incompatible with article 19, of the Covenant, should be immediately suspended and that steps should be taken for its revision.

136. Notwithstanding the statement contained in the State party's report and reiterated by the delegation that "all Libyans are Muslims by birth and heredity", the Committee stresses that it is incumbent on the State party to ensure that all individuals subject to its jurisdiction enjoy their right to freedom of thought, conscience and religion under article 18 of the Covenant.

137. The Committee notes with concern that, in spite of the Government's efforts, inequality between men and women persists in a number of areas, such as inheritance, freedom of movement, acquisition and transmission of nationality and divorce. It was also concerned to receive from the delegation information that polygamy may still be practised under certain conditions. The Committee regrets that the law still does not provide adequate protection to women in respect of domestic violence and rape. While recognizing the progress achieved as far as equality in the workplace is concerned, the Committee emphasizes that much remains to be done to reach full equality, including equal wages. The Committee recommends that the State party intensify its efforts to guarantee full equal enjoyment by men and women of all their human rights.

138. The Committee expresses its concern over the persistence of discrimination in law and practice against children born out of wedlock, which is incompatible with articles 24 and 26 of the Covenant. It recommends that attention be paid to the prompt rectification of this situation with regard to all rights to which children are entitled.

139. The Committee takes note with concern of the statement contained in the State party's report and reiterated by the delegation that there are no ethnic, religious or cultural minorities in the Libyan Arab Jamahiriya. It draws the attention of the State party to its General Comment No. 23 (50), which lays down various objective elements for establishing the existence of minorities in a State party. The Committee regrets the lack of information on the protection of persons belonging to those minorities and requests that specific information on minorities be included in the State party's next report.

140. The Committee observes that although the Libyan Arab Jamahiriya became a party to the Optional Protocol in 1989, only two communications and three contact letters have been addressed to the Committee. This may suggest that the people living in the State party are not aware of their right to use this mechanism. The Committee urges the State party to take urgent steps to disseminate the Covenant and the Optional Protocol to the public at large, to persons in detention and to the legal community.

141. Noting with regret that no information was submitted by Libyan non-governmental organizations on the Government's report, the Committee regrets that it did not receive satisfactory information on the existence and functioning of non-governmental human rights organizations in the Libyan Arab Jamahiriya. Urgent steps should be taken by the State party to allow the free operation of independent non-governmental human rights organizations.

142. The Committee fixes the date for the submission of the Libyan Arab Jamahiriya's fourth periodic report at October 2002. It recommends that the next report contain material which addresses all concerns and recommendations expressed in the present concluding observations. The Committee further recommends that the text of the State party's third periodic report and the present concluding observations be published and widely disseminated among the public in all parts of the Libyan Arab Jamahiriya.