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HUMAN RIGHTS COMMITTEE

Ninety-First session

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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT**

Concluding observations of the Human Rights Committee

LIBYAN ARAB JAMAHIRIYA

1. The Human Rights Committee considered the fourth periodic report of the Libyan Arab Jamahiriya (CCPR/C/LBY/4) at its 2487th and 2488th meetings, held on 17 and 18 October 2007 (CCPR/C/SR. 2487 and 2488). At its 2504th meeting, held on 30 October 2007 (CCPR/C/SR. 2504), it adopted the following concluding observations.

A. Introduction

2. The Committee takes note of the submission of the State party's fourth periodic report and the opportunity thus offered to resume the dialogue with the State party, as well as the additional information supplied after the consideration of the report.

3. The Committee notes with concern that the fourth periodic report of the State party was not submitted in timely manner and not prepared in accordance with the reporting guidelines of the Committee. Furthermore, it notes with regret that the report did not provide the requested data on the serious concerns raised by the Committee in its previous concluding observations (CCPR/C/79/Add.101) as well as the lack of sufficient information in the written and oral responses to the list of issues dated 16 August 2007 (CCPR/C/LBY/Q/4). The consideration of the report of

the State party has thereby been significantly prejudiced. It invites the State party to fully cooperate with the Committee, in accordance with its obligations under the Covenant.

B. Positive aspects

4. The Committee takes note of the accession by the State party to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, as well as the two Optional Protocols to the Convention on the Rights of the Child.

5. The Committee welcomes the measures taken to improve the situation of women in public life, particularly in the work place and in access to education and the freedom of movement.

C. Principal subjects of concern and recommendations

6. The Committee notes with concern that its recommendations of 1998 have not been fully taken into consideration and regrets that almost all subjects of concern remain unchanged.

The State party should 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.

7. The Committee, while noting that some clarification regarding communication No. 1107/2002 (*Loubna El Ghar v. Libyan Arab Jamahiriya*) was provided in the oral presentation of the delegation, regrets the failure of the State party to provide information concerning the implementation of the views of the Committee in communication No. 4407/1990 (*Youssef El-Megreisi v. Libyan Arab Jamahiriya*).

The State party should give full effect to the views of the Committee on individual communications and inform the Committee thereon as soon as possible.

8. The Committee reiterates its concern about the uncertain status of the Covenant in the legal system of the State party, which was not sufficiently clarified in the written responses, the oral replies of the delegation, as well as the additional information provided by the State party after the consideration of report by the Committee. (art. 2)

The State party should recognize that according to the 1969 Vienna Convention on the Law of Treaties, the provisions of its internal law cannot be invoked as a justification for its failure to fulfil its obligations under a treaty to which it is a party.

9. The Committee regrets that Libyan laws permit the forced detention of women who have not been convicted in so-called social rehabilitation facilities, for their own protection according to the State party, without the possibility to challenge their detention before a court. (arts. 3, 7, 26)

The State party is urged to reconsider the legal provisions which now allow the detention of women in so-called rehabilitation facilities against their own will.

10. The Committee also remains concerned that the State party has not yet adopted legislation concerning the protection of women against violence, especially domestic violence. (arts. 3, 7, 26)

The State party should take all necessary measures to effectively combat violence against women, including the enactment of appropriate legislation. The State party is requested to provide detailed information on this subject as well as disaggregated data on prosecution in its next periodic report.

11. While the Committee takes note of some positive developments regarding the advancement of women, in particular regarding the admission of women to the judiciary and the establishment of a centre for women's studies as well as a Department for Women's Affairs, it reiterates its previous concern that inequality between women and men continues to exist in many areas, in law and practice, such as, notably, regarding inheritance and divorce (arts. 3, 17, 24, and 26).

The State party should review its laws in order to ensure equality between men and women in matters of personal status, in particular regarding divorce and inheritance. The State party should furthermore guarantee that equality is ensured in law and in practice.

12. While taking note of the State party's assurance that all counter-terrorism measures taken by the State party are in compliance with international law, the Committee nevertheless is concerned that the terrorism-related elements in the draft penal code are not fully in conformity with the Covenant, and that it lacks a clear definition of "terrorism". The Committee also regrets the lack of information regarding the safeguards provided by article 4 of the Covenant in times of emergency. The Committee also regrets the lack of information regarding the alleged rendition to Libya by other States of Libyan nationals accused of terrorist crimes (arts. 4 and 9)

The State party should ensure that the draft penal code in its application to terrorism is compatible with the Covenant and that presently applicable counter-terrorism measures are in full conformity with the Covenant. The State party should also provide the Committee with information regarding the whereabouts of the Libyan nationals that have been subject to rendition to Libya.

13. The Committee reiterates its concern that under current legislation the death penalty can be applied to offences which are vague and broadly defined and which cannot necessarily be characterized as the most serious crimes under article 6, paragraph 2, of the Covenant. It also notes that the delegation did not provide sufficient details on the full range of offences punishable by death. The Committee notes the data provided by the State party regarding executions in the past six years which were allegedly for murder and theft, without clarification of the numbers for each offence. The Committee also regrets the absence of information in respect to death sentences (arts. 6 and 15).

The State party should take urgent steps to reduce the number and to specify, also in the envisaged revision of the penal code, the types of crimes for which the death penalty can be imposed. The State party should also provide the Committee with more detailed data regarding death sentences imposed and executions carried out in the past six years. The State party is furthermore encouraged to abolish the death penalty and to consider the ratification of the Second Optional Protocol to the Covenant.

14. The Committee reiterates 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 party in this respect. The Committee is furthermore concerned that some eleven years after the event, the State party 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 (arts. 6, 7 and 9).

The State party should urgently investigate all forced disappearances and extrajudicial, summary, or arbitrary executions, prosecute and punish the perpetrators of such acts and grant effective reparation including appropriate compensation, to victims or their families. The State party should provide the statistics required in this respect by the Committee in its previous concluding observations. The State party should ensure that the inquiry into the events in Abu Salim prison of 1996 is finalized as soon as possible and that the full report is made available.

15. While the Committee notes that the oversight of detention facilities is exercised by the Public Prosecutor's Office and the Ministry of Justice, it remains concerned at continuing reports of systematic use of torture and cruel, inhuman or degrading treatment or punishment and the lack of information by the State party regarding the prosecution of these cases. The Committee is also concerned by the testimony of the Bulgarian nurses and the Palestinian doctor 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. (arts. 2, 7, 9 and 10).

The State party should take urgent and effective measures to stop the use of all forms of torture and cruel, inhuman or degrading treatment or punishment, and to 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 and rehabilitation to the victims.

16. The Committee remains deeply concerned that corporal punishment such as amputation and flogging are prescribed by law even if rarely applied in practice. They constitute a clear violation of article 7 of the Covenant. (art. 7)

The State party should immediately stop the imposition of all corporal punishment and repeal the legislations for its imposition without delay, as stipulated in the previous concluding observations of the Committee.

17. The Committee notes with concern that the continued practice and legal provisions regarding *qisas* (retribution) and *diyah* (payment), which may contribute to impunity, remain in force. (arts. 2, 7, 10 and 14)

The State party should review the laws and practice of *qisas* and the *diyah* in light of the Covenant.

18. While noting the establishment of a committee to draft a law on refugees and migrants, the Committee is concerned by reports that the State party routinely and collectively sends back refugees and asylum-seekers to their countries of origin where they might be subject to torture and other ill-treatment. The Committee furthermore notes with concern the persistent allegations by migrants, asylum-seekers and refugees of being exposed to torture and cruel, inhuman and degrading treatment upon arrest and particularly in detention centres. (arts. 7, 10, and 13)

The State party should adopt legislative and administrative structures to ensure that detention as well as extradition, expulsion or deportation of aliens do not lead to their being subjected to torture or other ill-treatment. The State party should also ensure that aliens claiming risks of torture and cruel, inhuman and degrading treatment can file an appeal against their forced removal with suspensive effects.

19. The Committee reiterates its concern at reports about the excessive length of pre-trial detention. The Committee is also concerned by the persistent reports of substantial numbers of detainees being held incommunicado, especially in cases of concern to the State security bodies. The Committee is furthermore concerned regarding reports about arbitrary arrests without judicial review and in violation of the provisions of the Covenant (arts. 9 and 14)

The State party should take all necessary measures to ensure that remand in custody and pre-trial detention is not excessively long in law and in practice, particularly through independent judicial supervision and prompt access to lawyers. The State party should also immediately stop arbitrary arrests and ensure that all persons under its jurisdiction are guaranteed the rights contained in the Covenant.

20. While noting the moratorium and the legal review of the “Charter of Honour” of 1997 authorizing collective punishment, the Committee is concerned that it had reportedly been applied to members of a community in Bani Walid. (arts. 9 and 14)

The State party should repeal the law, investigate instances where this punishment had been applied, and remedy the consequences as necessary.

21. The Committee regrets that the new draft penal code has yet to be adopted and that the State party could not provide a specific timeframe within which its adoption is foreseen. (art. 14)

The State party should ensure that the new penal code is in conformity with the Covenant and that it is adopted within a reasonable specified timeframe.

22. While acknowledging the abolition of the People’s Court in 2005, the Committee is concerned that the need for and the mandate of the new State Security Court, as well as the method of appointment and the period of tenure of the judges of this court are unclear, as is the difference between the State Security Court and the former People’s Court. The Committee regrets the reluctance of the State party so far to review the cases decided by the People’s Court (art. 14).

The State party should take urgent measures 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 that accused persons are granted the right to appeal against decisions of the court. The State party should provide the Committee with information regarding its mandate, legal basis, its composition, and its competence. Finally, the convictions and sentences handed down by the People’s Court should be reviewed by the State party’s judicial authority in the light of the guarantees contained in article 14 of the Covenant.

23. While noting the release in March 2006 of more than 100 prisoners convicted of offences against State security, the Committee continues to be concerned at the extensive limitations of the right to freedom of opinion and expression in law and in practice, particularly those imposed on peaceful opposition to, or criticism of the Government and the political system. Furthermore, the Committee regrets that the State party did not provide any indication as to when the long overdue revision of the Publication Act of 1972, which, in its present form, severely restricts freedom of opinion and expression, will be completed and adopted. (arts. 18, 19, 21, 22, 25)

The State party should urgently revise its legislation, including the Publication Act of 1972, to ensure that any limitations on the right to freedom of opinion and expression, including those of the media, are in strict compliance with the Covenant.

24. The Committee notes with concern that under Law 71 of 1972 and article 206 of the Penal Code, the death penalty can still be imposed for the establishment of groups, organizations or

associations based on a political ideology contrary to the principles of the 1969 Revolution or calling for the establishment of such groups. (arts. 6 and 22)

The State party should provide statistical information on the number of and grounds for people sentenced to death or to prison based on having violated Law 71 of 1972 and Article 206 of the Penal Code. The State party should abolish these legal provisions in light of the Covenant.

25. The Committee, while noting the revision of laws governing the registration of groups with a view to authorizing appeals, is concerned that the laws and regulations and their current application prevent the exercise of the right to freedom of association and peaceful assembly. (art. 21).

The State party should take all necessary measures to guarantee the exercise in practice of the right to peaceful association and assembly.

26. The Committee has taken note of certain information provided by non-governmental organizations about the existence of a group of Amazigh whose rights are allegedly violated. (art. 27)

The State party is invited to provide information on this question in its next periodic report.

27. While the Committee notes the legal non-discrimination provisions with regard to children born out of wedlock, it remains concerned that, in practice, there are reports of widespread discrimination against them. The Committee is also concerned about reports that children whose mothers are married to non-Libyan nationals were not admitted to school in September 2007 (arts. 24 and 26).

The State party should, in its next periodic report, provide information on its strategies and social policies to overcome prejudices within society in order to ensure non-discrimination against children born out of wedlock and children whose mothers are married to non-Libyan nationals, in law and in practice.

28. The Committee notes the absence of any information by the State party as to the dissemination of information about the submission of the third periodic report, its examination by the Committee, or its recommendations of 1998.

The State party should ensure the dissemination of information pertaining to its reporting obligations, and the recommendations by the Committee, as well as general awareness about the Covenant within all sectors of society.

D. Dissemination of information about the Covenant

29. The State party should publish and widely disseminate its fourth periodic report to the Committee and the present concluding observations thereon to the judicial, legislative and administrative authorities, and to all other organizations of the civil society, including the people's congresses.

30. The Committee reiterates that future reports should contain detailed and updated information on the extent to which each of the rights protected under the Covenant are enjoyed by the individuals under the jurisdiction of the State party. In the preparation of the next periodic report, the Committee suggests that the State party may wish to seek technical assistance from the Office of the United Nations High Commissioner on Human Rights and other United Nations entities or agencies dealing with human rights.

31. In accordance with rule 70, paragraph 5, of the Committee's rules of procedure, the State party should submit within one year information on the follow-up given to the Committee's recommendations in paragraphs 10, 21, and 23 above. The Committee requests the State party to include in its next periodic report information concerning the remainder of its recommendations, to be presented by 30 October 2010.
