



International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

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Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families Thirtieth session

Summary record of the 418th meeting

Held at the Palais Wilson, Geneva, on Friday, 5 April 2019, at 10 a.m.

Chair: Mr. Tall

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The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 73 of the Convention *(continued)*

Initial report of Libya (continued) (CMW/C/LBY/1)

1. *At the invitation of the Chair, the delegation of Libya took places at the Committee table.*
2. **The Chair** said that he wished, on his own behalf and on that of the Committee, to express solidarity with the people of Libya in the light of the latest reports of hostilities taking place in the State party.
3. **Mr. Abousalah** (Libya), responding to earlier questions regarding Libya's engagement with the other mechanisms of the treaty body system, said that the State respected its commitments as a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Although it had not ratified the Optional Protocol to that Convention, and had therefore not signed up to the system of regular visits by independent bodies to places where people were deprived of their liberty, the Minister of the Interior had confirmed that the Government was open to receiving visits from international delegations to observe the conditions in which detainees were held at State facilities. Torture and arbitrary detention were both prohibited under national legislation and the law on transitional justice had provided for the establishment of a commission to investigate cases of arbitrary or illegal detention. Special departments had also been created within the Ministry of the Interior and the Ministry of Justice to record cases of torture and arbitrary detention and to bring those responsible to justice. The State had not ratified the International Convention for the Protection of All Persons from Enforced Disappearance. However, enforced disappearance had been criminalized and further legislation had been adopted to bring the national law into line with the international standards set forth in the Convention.
4. In regard to the Committee's specific concerns about the implementation of the provisions of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, for some time the Government had faced significant challenges, which continued to have a negative impact on the enjoyment of human rights in the State. To overcome those challenges and ensure that human rights were a reality in Libya, the Government was calling for the support of the international community. That support was needed to strengthen national security institutions in order to render them capable of restoring peace and preventing any recurrence of the acts of terrorism that had seriously violated the rights of Libyan nationals and migrants in the country.
5. The State supported the principle of freedom of movement as a basic human right. However, the mass arrival of migrants in an irregular situation was having a negative impact on living conditions in Libya and the Government was looking to its regional and international partners to ease that migratory burden. At the same time, it was imperative that the country itself remained united. The Government recognized that it was only through a meaningful dialogue with Libyan citizens that solutions could be found to bring an end to the violence and to allow everyone in its territory to enjoy their rights and live in peace.
6. **Mr. Frasher** (Country Rapporteur) said that, in the light of the latest developments in Libya, it would be useful for the Committee to receive more information on the situation on the ground and the specific ways in which those circumstances affected the State party's efforts to implement the provisions of the Convention. It was only by learning more about the challenges facing the State party that the Committee could help the Government to find more effective ways to protect the rights of the people in its territory.
7. In regard to existing policy, he would like to know more about the involvement of the European Union in the State party's efforts to deal with the migrant crisis. It would be helpful to understand the extent to which the European Union supervised both the State party's enforcement of the readmission agreement and the implementation of its national

migration policy. The Committee welcomed the news that the Minister of the Interior had pledged to grant access by United Nations agencies to places where people were deprived of their liberty. He wondered whether that was an isolated offer or whether it would become government policy to welcome independent inspections of its detention facilities. Lastly, concerning the status of the Convention within the internal legal order, clarification as to how the State party ensured that its citizens and administrative structures were kept informed about national legislation would be appreciated. In practice, how did the Government ensure that the law was implemented?

8. **Ms. Dzumhur** (Country Rapporteur) said that, in order for the Committee to provide appropriate and targeted recommendations on the State party's implementation of the Convention, it needed to understand more about the challenges presented by the situation on the ground in Libya. She therefore urged the delegation to approach the dialogue with a more open and cooperative attitude. If not, the Committee would be unable to offer effective recommendations and would be obliged to seek the information it needed from other sources.

9. **Mr. Kariyawasam** said that the geographic location of Libya in North Africa meant that the State party would always have an important role to play in regional migration flows. When the State party had acceded to the Convention in 2004, it had been a destination country. Times had changed since then but, even in the face of an evolving political climate, the overriding purpose of the Committee's work remained the same: to help States parties to serve rights holders by implementing the Convention as best they could. The Government evidently faced significant challenges, created by circumstances that were beyond its control. He therefore urged the delegation to divulge more information regarding the situation in the State party so that the Committee could formulate a set of meaningful and practical concluding observations and thereby help the Government to protect the rights of its people, its migrant workers and the foreign nationals transiting through its territory.

10. **Mr. Botero Navarro** said that he wished to learn about the main challenges and risks faced by migrants in the State party, with a particular focus on the right to life and personal integrity.

11. The United Nations Support Mission in Libya (UNSMIL) had found that the use of violence and extortion was widespread in places of detention. In that connection, he would appreciate the delegation's comments on the steps being taken to ensure that detainees were not subjected to practices that might constitute torture or ill-treatment.

12. The Committee would also welcome information on the measures in place to regularize the status of migrants who were in an irregular situation.

13. The Committee had received reports of ill-treatment of detainees that could amount to crimes against humanity and possibly give rise to criminal liability for State officials. In that connection, it remained unclear whether, in addition to the inspections coordinated by the Ministry of the Interior, any independent national or international bodies were authorized to conduct monitoring of detention facilities.

14. It would be useful to hear further details of the State party's priorities in the drafting of legislation or of agreements with other States, particularly those in Europe. He would appreciate clarification of whether such agreements included obligations with regard to protection from torture and refoulement and in connection with the right to liberty and security of person.

15. According to information received by the Committee, large numbers of migrants who had died or gone missing in the Mediterranean remained unidentified. He would be grateful for details of the mechanisms in place to coordinate rescue operations and to provide assistance to migrants who ran into difficulties, as well as of the steps taken to identify those who perished at sea and return their remains to their families.

16. It was unclear how the State party met its obligations under article 30 of the Convention, given that migrant workers and their children were permitted to gain access to education only if they were legal residents.

17. **Mr. Oumaria** said that the Committee was very interested to learn more about the content of the agreements concluded between the State party and the European Union, particularly with regard to the rights of migrants. It would also be helpful to hear about the provisions contained in the agreements between the State party and Chad, the Niger and the Sudan, in particular with respect to the right to education, health care and employment for migrants for whom the State party was a country of destination rather than transit.

18. **Mr. Soualem** said that he wished to know how many migrants were currently residing in the State party. He would be grateful for information on any agreements the State party had concluded with other States regarding the return of migrants, including whether the International Organization for Migration or other international organizations had been involved in shaping those agreements. It would be interesting to receive details of the Government's efforts to tackle organized criminal groups that were involved in human trafficking operations and of any related prosecutions.

19. **Mr. Núñez-Melgar Maguiña** said that he was concerned that any partial or full suspension of safeguards would give rise to the curtailment of certain rights and freedoms set forth in the Constitution and would have a negative impact on human rights.

20. **The Chair** said that it was crucial to decriminalize irregular migration and to ensure that all persons wishing to leave the State party were free to do so, in line with article 8 of the Convention.

The meeting was suspended at 10.55 a.m. and resumed at 11.15 a.m.

21. **Mr. Abousalah** (Libya) said that the majority of the bilateral agreements concluded by the Government were aligned with national and international legislation on irregular migration. The Ministry of the Interior had adopted a policy on access to shelters for international agencies. The State's obligations under international human rights treaties, including the Convention, would be met once peace and stability had been restored in Libya.

22. While the State acknowledged that violations of the rights of irregular migrants did occur in shelters and elsewhere, they were isolated incidents. The Government met its obligations in that respect: cases of violations were investigated, arrests were made and perpetrators prosecuted. Other agencies, including the human rights units in the Ministry of Justice and the Ministry of Defence, monitored migrant shelters and documented any violations; in addition, they conducted visits and drafted reports.

23. The Government's efforts were contingent on the security situation in the country. Once stability had been achieved, the State would be in a position to meet all its international obligations.

24. There were unfortunately no accurate statistics available on persons missing at sea. Regarding the right of irregular migrants to education and employment on an equal footing with regular migrants, measures had been taken to legalize the status of undocumented migrants. Persons whose situation had been regularized enjoyed equal access to education and employment.

25. The agreement signed by Libya, Chad, the Niger and the Sudan focused on combating illegal migration and provided for the creation of an operations centre in Chad to monitor the situation. While data on regular migrants were available, based on State records, there were no accurate data on irregular migrants in Libya.

26. With regard to the expulsion of irregular migrants, the State had no plans to decriminalize illegal entry into or departure from its territory, owing to the threat to national security and risk of transnational organized crime. All States undeniably had the right to protect their territory. Nevertheless, irregular migrants benefited from legal guarantees, including access to justice without discrimination.

27. **Ms. Dzumbur** said that the Committee's aim was to promote peace and, through its recommendations, to provide guidance for the State to implement the provisions of the Convention and to ratify other human rights treaties. The Committee also encouraged serious dialogue on migration with the Governments of destination countries, as without such engagement no change would be achieved. The Committee hoped to work in

partnership with the Government of Libya in order to improve the situation in that country and throughout the world.

28. **Mr. Frasheri** said that he welcomed the State's dialogue with the Committee, particularly given the difficult circumstances currently facing the country. The Committee appreciated the Government's willingness to meet its international obligations, particularly with regard to migration, which was a salient global issue. He welcomed the access granted to international agencies, including those from the United Nations, to monitor the situation in locations where migrants were held, as a matter of policy rather than on an ad hoc basis. In the future, it would be useful to examine policies and programmes prior to their implementation to ensure compliance with the Convention. The Committee looked forward to engaging with the State to disseminate the Convention among governmental bodies and civil society, with a view to building capacity in that regard.

29. **Mr. Taghi-Zada** asked the delegation to suggest what recommendations they would make, if they were in the Committee's place. He wished to know, from the State's point of view, what realistic recommendations would strengthen action and cooperation on migration.

30. **Mr. Abousalah** (Libya) replied that recommendations would be welcome on measures to prevent irregular migration from the southern border of Libya and its southern ports. The authorities needed to be able to intercept irregular migrants and to detect falsified or stolen documents. Moreover, it was necessary to develop international information networks, as well as strategies in countries of origin and transit, in order to combat illegal migration.

31. The Government appreciated dialogue and cooperation with the Committee and expressed the hope that such engagement would continue in the future. Although Libya currently faced serious challenges, the Government was nevertheless committed to protecting the human rights of nationals and foreigners, as well as to meeting its international obligations.

32. Practical and realistic recommendations would be welcome to support State efforts to protect the rights of migrants and to help them either to return home or to travel to third countries.

33. With regard to irregular migrants, the State tried to guarantee their security and inform them of the risks and hazards they faced, which included falling prey to criminal or people trafficking gangs.

34. Once there was peace in Libya, thousands of migrant workers would be playing a major role in rebuilding the country. Irregular migration was a worldwide problem and a global approach was required to tackle its root causes. It was vital to protect the lives and uphold the dignity of migrant workers and their families.

35. **The Chair** assured the delegation of the Committee's commitment to cooperating with the Government and welcomed the efforts made to date. He encouraged the State to take further steps to improve the situation of migrant workers in Libya and to implement the Committee's recommendations in that regard.

The meeting rose at 11.45 a.m.