



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 (partial)* of the 417th meeting

Held at the Palais Wilson, Geneva, on Thursday, 4 April 2019, at 3 p.m.

Chair: Mr. Tall

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* No summary record was prepared for the rest of the meeting.

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The discussion covered in the summary record began at 3.35 p.m.

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

Initial report of Libya (CMW/C/LBY/1; CMW/C/LBY/QPR/1)

1. *At the invitation of the Chair, the delegation of Libya took places at the Committee table.*
2. **Mr. Abousalah** (Libya) said that, on behalf of his delegation, he wished to express his sorrow at the recent deaths of two former members of the Committee: Ms. Khedidja Ladjel of Algeria and Mr. Abdelhamid El Jamri of Morocco.
3. While Libya had acceded to the Convention in 2004, it was regrettable that many major developed nations had not yet done so, and the Committee should make every effort to make the Convention truly global. Since its accession, Libya had concluded bilateral treaties with a number of neighbouring States, including the Niger, the Sudan and Chad, with a view to controlling borders and combating human trafficking. Act No. 12 of 2010, concerning labour relations, included provision for mechanisms to settle labour disputes and safeguard workers' rights, without discrimination on grounds of nationality, while Act No. 10 of 2013 made discrimination an offence punishable by law. A new Labour Code providing improved protection for migrant workers was shortly to be placed before the legislature.
4. Persons who entered the State unlawfully could regularize their status if they fulfilled certain legal requirements and the Ministry of Labour had made it possible for irregular migrants to find employment in domestic service or manual labour. Under current regulations on the employment of foreign workers, employers were responsible for paying compensation for any deaths or injuries that occurred in the workplace. Inspectors from the Ministry of Labour were invested with the authority of law enforcement officials and empowered to verify working conditions and health and safety standards. The Ministry was working on legislation regulating the entry and departure of migrant workers. International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189) had been ratified.
5. The right to freedom of movement in order to search for work or to escape hunger or war needed to be balanced with respect for national sovereignty and laws. Irregular migration violated the laws of transit countries, such as Libya, which was already going through a period of political and economic instability that made it difficult to host any migrants. Nonetheless, humanitarian and moral considerations had obliged his country to open shelters for the people flowing into its territory unlawfully. Concerned that such persons might fall into the hands of human traffickers or terrorist groups, the State was cooperating with the United Nations, the African Union, the European Union and the International Organization for Migration (IOM) to promote voluntary repatriation or travel to third countries.
6. The authorities were working with the United Nations Support Mission in Libya (UNSMIL) to restore stability to the country and were looking forward to the outcomes of a meeting to be held in the coming days in Ghadames. As soon as agreement could be reached among the different sides, the country could resume its former role on the international and regional stage. In fact, prior to 2011, Libya has welcomed millions of migrant workers who had enjoyed all their rights under the law and under relevant international treaties.
7. On 19 March 2019, the Minister of Justice and the Minister of Labour had organized a workshop with other competent State agencies to discuss the questions raised by the Committee. The Government was determined to continue its cooperation with the Committee and would do everything in its power to ensure respect for human rights in the country, in line with national and international law. Libya was currently drafting its third national report under the universal periodic review mechanism of the Human Rights Council. He hoped that other Member States of the United Nations would support his country's candidacy to become a member of the Council for the term 2020–2023.

8. **Ms. Dzumhur** (Country Rapporteur) said that Libya was to be commended for its early ratification of the Convention; however, the Committee regretted the fact that the State party had failed to submit its report on time. She hoped the delegation could provide details about any recent or upcoming ratifications of ILO conventions on the part of the State. Libya was both a transit country and a country of destination for migrant workers, and she wished to know if any official statistics were available regarding the number of migrants on national territory.

9. She was concerned by the use of the term “illegal migration” and wished to know what official body was responsible for determining whether or not an individual’s migration status was “illegal”. If someone was so described, she would be interested to know how they were dealt with under the law, what treatment they received and what rights they enjoyed. What was the status of asylum seekers and how was it regulated under national legislation?

10. According to information the Committee had received, 161,000 persons had arrived in Europe by sea in 2018, most of them from Libya. She wished to hear about any efforts the authorities made to control the country’s borders and to support migrants. What details could the delegation provide about persons who had died while attempting the sea crossing? Did the coastguard receive human rights training?

11. Since most migrants transiting Libya were seeking to reach Europe, she wished to know what form of contact Libya had established with the European Union as a whole and with individual States, particularly with regard to the safe return of migrants to Libya from European countries. The Committee would like to understand how cooperation with IOM and ILO worked in practice. In the light of the ratification by Libya of the United Nations Convention against Transnational Organized Crime and its two Optional Protocols, she wished to know whether the authorities had adopted a strategic approach to combating human trafficking. Could judges and prosecutors carry out their duties freely and safely or did they face threats?

12. **Mr. Frasheri** (Country Rapporteur) said that he wished to express his appreciation for the willingness Libya had shown to engage with the Committee and with the international community as a whole, despite the challenges the country was facing. The position of international treaties in the domestic legal order was clearly defined in the Constitution as being above ordinary laws but below the Constitution itself. Although that was a sign that Libya took its international commitments seriously, he nonetheless wished to know if any efforts had been made to apprise administrators, law enforcement officials and others of the obligations deriving from the Convention that were incumbent upon them.

13. He would like to know what efforts the Government was making to ensure that migrants could exercise the specific rights guaranteed under the Convention, including the right to life, the right to health and the right “to leave any State”, including Libya itself. In that regard, he wished to know what efforts were being made to implement recommendations made by international actors, including those of the Office of the United Nations High Commissioner for Human Rights (OHCHR). He hoped the delegation could provide details about any concrete steps the authorities had taken to combat human trafficking. What measures had been put in place to ensure that international agencies could access migrant holding and processing areas?

14. **Ms. Landázuri de Mora** said that she would welcome information from the delegation regarding highly concerning footage, recorded in 2017, that appeared to show migrants being sold as slaves in Libya. She wished to know what the State party had done to prevent the repetition of those grave human rights violations, which had been condemned by the Committee in a statement and denounced by the international community. The State party should explain what action it had taken against the criminal group responsible, and comment on whether the victims had received compensation or assistance.

15. **Mr. Botero Navarro** said that the Committee had received very disturbing reports about the existence in the State party of illegal detention centres for migrants. According to several sources, some detainees had no access to lawyers or judicial authorities and were held in conditions so overcrowded and insanitary as to constitute torture. In the light of such reports, the Committee would be grateful for information on the Government’s

attempts to guarantee the personal liberty of migrants and the absolute prohibition of torture and ill-treatment.

16. He would like to know which due diligence processes might most readily be implemented to ensure that migrants taken to detention centres were aware of their rights. Moreover, he wished to know how the Government planned to implement article 16 (6) of the Convention. Regarding places of detention in the South of Libya that were under the control of local militia groups, he would be grateful for information on the measures put in place to monitor conditions and prevent migrants becoming victims of trafficking in human beings.

17. The Committee had received information that women migrants and asylum seekers were particularly vulnerable to ill-treatment in Libya. Moreover, the absence of female guards was in violation of international norms on the treatment of prisoners. The State party did not recognize women and unaccompanied minors as vulnerable groups that warranted special attention. Children were often held alongside adult detainees, which increased the risk of abuses. He wished to know what the State party was doing to protect child migrants, particularly given that the prohibition of the detention of migrant children had been established as a standard by several international bodies, including the Committee in its general comments Nos. 3 and 4.

18. **Mr. Oumaria** said that the delegation's participation in the interactive dialogue proved the State party's willingness to respect its international commitments despite the ongoing conflict in the country. He would welcome further information on the institutions mandated to protect human rights in the State party, and whether they were currently in a position to fulfil their mandates with respect to migrant workers.

19. Libya's Mediterranean coastline made it an important country of transit for migrants from sub-Saharan Africa. In addition, Libya was a country of destination for many migrant workers from neighbouring countries. It would be useful to know more about the content of the bilateral agreements concluded between the State party and other African States. In particular, he wondered what was being done to ensure that migrant workers in Libya received proper salaries, health care, and education for their children. The State party should explain whether measures were in place to facilitate the transfer of remittances.

20. The human rights violations suffered by migrants attempting to cross the Mediterranean Sea were well documented. While he appreciated that many migrants were abused by armed groups outside the State's control, he would welcome information about efforts made by the Government to treat migrants who were in transit in a manner compatible with the Convention.

21. **The Chair** said that he would welcome information on the measures put in place by the State party to enable diplomatic and consular services to provide assistance, including repatriation services, to migrants from sub-Saharan Africa. He would like to know what was being done to give effect to article 64 of the Convention. Lastly, information on the action taken against criminal groups that detained migrants would be useful.

The meeting was suspended at 4.20 p.m. and resumed at 4.55 p.m.

22. **Mr. Abousalah** (Libya) said that international conventions ratified by Libya took precedence over ordinary laws, but remained below the Constitution in the legal order. Act No. 12 of 2010 on labour relations and Act No. 10 of 2013 on the criminalization of torture, enforced disappearances and discrimination translated various provisions of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (the Convention) into national legislation.

23. In view of the serious consequences of irregular migration to the security of the State, the Libyan legislature had adopted Act No. 19 of 2010 to combat irregular immigration. The Act reflected earlier laws and regulations from 2005 and 2009 as well as amendments thereto. The State had special courts, prosecutors and other legal bodies to deal with matters pertaining to irregular migration and terrorism. A law dating back to 1987 defined all unregistered entries into Libya and stays therein as criminal offences. However, in 2010, criteria had been adopted for the regularization of undocumented stays.

24. No information was currently available regarding bilateral or multilateral agreements with other countries concerning the rights of migrant workers and their family members. The position of Minister of State for Displaced Persons' Affairs had been set up to deal with internally and externally displaced persons, in compliance with the recommendations of UNSMIL and OHCHR. Every year since 2016, his Government had collected disaggregated statistical data and qualitative information on the flows of migrants in irregular situations to and from the country, as requested by the Committee. However, very little information was available concerning regular migration.

25. The National Council for Civil Liberties and Human Rights had been established in 2011 with a clear mandate to monitor the human rights situation in the State, including that of migrant workers and their family members. The Council complied with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and thus enjoyed full independence from the executive branch. Furthermore, a team had been set up under the auspices of the Ministry of Justice to document and monitor all human rights violations.

26. The rights of migrants and their family members were covered by the annual training courses provided to staff of the Ministry of the Interior. The Ministry of Labour had developed a national strategy to inform newly arrived migrants of their rights and help them enter the labour market. Members of the judiciary and police officers also received in-service training on migrant's rights. His Government worked in cooperation with international organizations, including the International Committee of the Red Cross (ICRC) and UNSMIL to train government staff dealing with migration, including members of the coastguard and staff of the Department for Combating Illegal Migration, on how to work in accordance with human rights standards and how to combat human trafficking. Despite the economic and political challenges faced by the State, courts provided legal services free of charge to all persons, including foreigners, in all parts of the country. All members of the judiciary and the public prosecution service were able to perform their duties free from political pressures. If there had been cases of political interference, they were not the norm.

27. A dispute settlement mechanism had been established under the Labour Relations Act (No. 12 of 2010) to guarantee the rights of migrant workers without discrimination on the basis of their nationality. The country's legislation ensured the rights of migrant workers in regular status without discrimination based on gender, nationality, ethnicity or any other grounds, and acts of discrimination constituted a punishable offence in Libya under Act No. 10 of 2013.

28. As soon as unaccompanied migrant children were identified, the competent authorities contacted the embassies of their home countries in order to return them safely to their families. There was no information available on the numbers of such children, however.

29. A committee was charged with investigating allegations of offences perpetrated by law enforcement officers, such as corruption, blackmailing of migrant workers and their family members and collusion in human trafficking by non-State armed groups. The Public Prosecutor's Office investigated such cases and prosecuted those found to be responsible. While his Government did not deny such offences had been committed, they were not systematic. The Prosecutor General had investigated allegations by the media of slave markets being held in immigration detention centres but had found no proof. If any such markets were discovered and proved to exist, those responsible would be brought to justice. The Ministry of the Interior would welcome any international organization that wished to monitor the situation of migrants in shelters across Libya in order to refute those media allegations.

30. His Government did not intend to decriminalize irregular entry to or departure from the country owing to the potential threat it posed to security and stability. Migrant workers were not subject to arbitrary detention. The security forces conducted arrests of migrants in accordance with migration law. When migrants in irregular situations were arrested, they were entitled to receive free legal aid and the embassies of their home country were notified of their arrest. Such migrants were not held in immigration detention centres against their will. The Libyan authorities worked with the embassies of the migrants' countries of origin

and IOM to enable those migrants to return to their home countries voluntarily. Special shelters had been set up for migrant women in irregular situations. In any case, most immigration detention centres had been closed and work was under way to close the remaining centres. Migrants in irregular situations who had been rescued at sea and returned to Libya were offered medical treatment in cooperation with the Arab Red Crescent and Red Cross Organization and Médecins Sans Frontières.

31. The State was not party to any international conventions concerning refugees and currently had no law in that regard. However, Libya offered asylum to persons fleeing persecution in their country of origin and the Government would introduce a regulation governing the status of refugees in the future. The Ministry of Labour and the Ministry of the Interior issued documents to regular migrant workers enabling them to move and work freely. Such workers were entitled to the working conditions and wages as Libyan nationals.

32. Access to free primary and secondary education was guaranteed under Libyan law for all children residing in the country, and access to free health care was available to all without discrimination. The Libyan coastguard did not hesitate to come to the rescue of vessels in distress in Libyan territorial waters. He was not in a position to comment on reports that the authorities used force in respect of vessels carrying migrants. There were no precise figures on trafficking in persons; however, trafficking was an offence under Libyan law; alleged traffickers were investigated; reception centres were available for victims and specific measures were in place for women and children. In addition, Libya had signed agreements on border controls and anti-trafficking measures with the Niger, Chad and the Sudan. The agreement with Chad also covered clandestine migration and provided for the establishment of an operations centre. Libyan law provided for the regularization of migrants in an irregular situation, and the Ministry of Labour had taken steps to enable such migrants to obtain employment as domestic workers and in other trades. A new law was being drafted to improve the protection of all workers, including foreign nationals. Employers were urged to respect the rights of foreign workers and to provide good working conditions.

33. Libyans living abroad had the right to vote in Libya. Libya covered the cost of repatriating remains only in the case of countries with which it had bilateral agreements. The law and agreements provided for compensation in the event of death during migration. There was no information on the situation of Libyans living abroad or any known cases of Libyans being expelled or deported back to Libya.

34. **Ms. Dzumhur** said that she would appreciate information on the State party's plans to ratify the International Convention for the Protection of All Persons from Enforced Disappearance, the ILO Migration for Employment Convention (Revised), 1949 (No. 97) and the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143). It would be interesting to learn about any readmission agreements the State party had with countries of destination, especially members of the European Union, and about the process for returning to Libya and any support provided to Libyan returnees. Given that trafficking in persons was a form of organized crime, she would like to know whether the judiciary was able to function normally and safely in trafficking cases. It would be useful to know whether the national human rights institution was in line with the Principles relating to the status of national institutions and what status it had been granted. While the State party's efforts to enact legislation and harmonize existing laws with international standards could not be denied, it would be helpful to know to what extent the rights of migrants were enforced in practice. She would appreciate the delegation's comments on the content and timeline for the adoption of the new labour law and on the situation in the detention centres in Tripoli, Misrata and Zuwara. Noting the delegation's use of the term "shelters" to refer to the places where migrants were being held, she wished to know whether migrants were free to come and go or whether their only option in order to leave the facilities was voluntary return to their country of origin. Did the shelters provide adequate food, minimum medical assistance and education services?

35. **Mr. Frasher** said that the Committee recognized the challenges the State party faced and wished to lend its assistance. To that end, it needed to draw as comprehensive a picture as possible of the situation, which it did by ascertaining, first, how a State party

understood the rights enshrined in the Convention and what relevant laws, policies and programmes were in place to safeguard them and, second, their implementation on the ground. It was important for the Committee to learn more about a State's capacity to comply with its international obligations and enforce its own policies, hence the specific questions about such matters as recruitment, budgets and training. He hoped that in the second half of the dialogue the delegation would be able to provide more detailed responses so that the Committee could help the State party address its challenges and constraints.

The meeting rose at 6 p.m.