



International Covenant on Civil and Political Rights

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Human Rights Committee

List of issues prior to submission of the fifth periodic report of Libya*

A. General information on the human rights situation, including new measures and developments relating to the implementation of the Covenant

1. Please report on any significant developments in the legal and institutional framework within which human rights are promoted and protected that have taken place since the adoption of the Committee's previous concluding observations (CCPR/C/LBY/CO/4), including measures aimed at ending impunity for human rights violations and addressing human rights violations in territories where the State party does not exercise effective control. In this regard, please: (a) indicate whether the new Penal Code has been adopted and report on any new provisions in it that may have been introduced to bring it into conformity with the Covenant; and (b) report on the progress of the reform of the Code of Criminal Procedure.

B. Specific information on the implementation of articles 1 to 27 of the Covenant, including with regard to the previous recommendations of the Committee

Constitutional and legal framework within which the Covenant is implemented (art. 2)

2. Please describe the steps taken to implement and disseminate the Committee's previous recommendations. Please also explain the existing procedures for the implementation of the Committee's Views under the Optional Protocol and the measures taken to ensure full compliance with the Views adopted in respect of the State party. Please also clarify the status of the Covenant in the internal legal system and indicate whether its provisions can be directly invoked before and/or applied by the national courts. Please also report on the status of the draft Constitution and indicate when the planned referendum is to take place. Please report on the measures adopted to disseminate the Covenant among judges, lawyers, prosecutors and law enforcement officials. Please also provide information on the status of the National Council for Civil Liberties and Human Rights, which, according to reports, ceased to function in 2016.

Fight against impunity and past human rights violations (arts. 2, 6-7 and 14)

3. Please report on the steps taken to investigate human rights violations perpetrated prior to 2011 and indicate the number of prosecutions conducted, sentences imposed and reparations granted to victims. In this regard, please describe the efforts made to: (a) implement Law No. 31 (2013) on the martyrs of the Abu Salim prison massacre in 1996 and the results; (b) address the reported shortcomings of the trial of Saif al-Islam Gaddafi and 36

* Adopted by the Committee at its 130th session (12 October–6 November 2020).



other members of Muammar Gaddafi's regime; and (c) enforce the arrest warrants issued by the International Criminal Court for Saif al-Islam Gaddafi, Mahmoud al-Werfalli and Al-Tuhamy Mohamed Khaled in relation to war crimes and crimes against humanity committed since 2011. Please also describe the legal measures taken to repeal the "Charter of Honour" of 1997 authorizing collective punishment and report on the investigations carried out in cases where such punishment has been applied.

4. Please report on the work carried out by the mechanisms established pursuant to Law No. 29 (2013), including a fact-finding and national reconciliation body, a fund for victims and an ombudsperson's office, to address the systematic human rights violations perpetrated since the beginning of the Gaddafi regime (1 September 1969) and by the 17 February Movement during the 2011 revolution. Please also report on the results, including the reparations awarded to victims, of the work of the specialized fact-finding committee and the reparations fund established in 2014 pursuant to Ministerial Decree 119 and Resolution 904, respectively, to address the situation of victims of sexual violence committed during the 2011 uprising. Please also indicate whether the State party has revised Law No. 1 (2014) on care for martyrs and missing persons of the 17 February revolution in order to extend reparation to all victims, regardless of affiliation. Please also describe the measures taken to ensure that amnesties are not granted to persons responsible for serious international crimes and indicate the date from which Law No. 38 (2012) is applicable.

Non-discrimination (arts. 2 and 26–27)

5. Please describe the legislative and other measures taken to prevent and combat discrimination, in particular against migrants, internally displaced persons, persons harassed, threatened or prosecuted because of their sexual orientation or gender identity and persons belonging to minorities, including the Amazigh, Tuareg and Tebu ethnic groups and the Tawurghan community, especially in the areas of health care, education, citizenship and participation in public affairs. In particular, indicate the grounds of discrimination that are prohibited in national legislation, including in Law No. 10 (2013) and in the Penal Code, and indicate whether the State party intends to adopt comprehensive anti-discrimination legislation that contains all the grounds prohibited under the Covenant. Please also indicate whether it plans to decriminalize same-sex consensual relations.

Gender equality (arts. 2–3 and 25–26)

6. Please indicate the measures taken to ensure, in law and in practice, equality between men and women and to improve women's participation in the political, economic and social spheres of life. In particular, please report on: (a) measures taken to eliminate discrimination against women with regard to marriage to non-nationals, transmission of nationality, divorce, custody of children, inheritance, male guardianship and polygamy; (b) measures taken to end traditional discriminatory practices and stereotypical attitudes about the roles of women and men in the family and society; (c) the number and proportion of women in parliamentary and ministerial positions; and (d) the steps taken to ensure the meaningful participation of women in conflict resolution efforts.

States of emergency (art. 4)

7. Please provide information on the existing legislation applicable during states of war or emergency and indicate whether it specifically prohibits derogation from any of the rights listed in article 4 (2) of the Covenant. Please describe the main restrictions on the exercise of rights protected under the Covenant that have been introduced in connection with the coronavirus disease (COVID-19) pandemic, the legal basis for the restrictions and their compatibility with the Covenant. Please also report on the whereabouts of the Libyan nationals who have been subjected to rendition to Libya.

Counter-terrorism measures (arts. 2, 4, 9, 14 and 17)

8. Please describe the current definition of terrorism under Law No. 3 (2014) and indicate to what extent counter-terrorism legislation and practices are in conformity with the Covenant.

Violence against women and domestic violence (arts. 2–3 and 6–7)

9. Please describe the steps taken to prevent and combat all forms of violence against women, including against migrant women, internally displaced women and women in detention. In particular, please report on the measures taken to: (a) criminalize all forms of violence against women, including domestic violence, sexual violence and rape, including marital rape; (b) ensure that the perpetrators of violence against women receive appropriate penalties and, in particular, that penalties for so-called honour crimes are not mitigated and that perpetrators of rape are not exonerated if they marry the victim; (c) ensure that women victims of rape are not punished by being detained in facilities known as “social rehabilitation centres” or prosecuted for adultery; (d) provide women victims of sexual and gender-based violence with adequate support services; and (e) facilitate and encourage the reporting of cases of violence against women, including rape. In this respect, please provide information, disaggregated by sex and age, on the number of: (a) complaints received in relation to acts of violence against women, investigations carried out, prosecutions conducted, judgments handed down and measures of redress granted to victims; and (b) prosecutions conducted and sentences imposed for adultery.

Voluntary termination of pregnancy (arts. 6–7)

10. Please provide information on the penalties for abortion stipulated in the Penal Code and the prosecutions and sentences imposed for this offence under the Code. Please describe the grounds under which abortion is permitted and indicate whether the State party intends to provide exceptions to the prohibition of abortion, including in cases where women and girls have been victims of sexual violence.

Right to life (arts. 3 and 6–7)

11. Please explain the full range of offences that are punishable by the death penalty and provide data for the period since the Committee issued its previous concluding observations, disaggregated by sex, age and ethnic origin, on the number of: (a) death sentences imposed; (b) executions carried out, specifying the offences for which the sentences were imposed; (c) death penalty cases in which a pardon or commutation was granted; and (d) persons held on death row. Please also indicate whether the State party intends to accede to the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty, to introduce a moratorium on the death penalty and to commute all death sentences to terms of imprisonment.

12. Please provide information on the legal regulation of the use of force by the police, including during demonstrations, and indicate whether the relevant laws comply with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990) and the United Nations Human Rights Guidance on the Use of Less-Lethal Weapons in Law Enforcement (2020).

13. In the light of a reported increase in indiscriminate shelling of civilian-populated areas, please describe the measures taken to ensure the protection of civilians in conflict areas. Please report on the investigations and criminal proceedings initiated in connection with serious violations of international humanitarian and human rights law, including possible war crimes and crimes against humanity, that have occurred since 2011, notably a large number of enforced disappearances, unlawful killings, arbitrary detentions without judicial review, indiscriminate attacks against civilians, sexual violence and cases of extrajudicial, summary or arbitrary executions. In this connection, please report on: (a) the investigations carried out into the attack on the Daman complex in Tajoura in July 2019, in which at least 53 migrants and refugees were killed; and (b) any efforts made to reach a peace agreement that will bring an end to the current conflict and its devastating impact on human rights.

Prohibition of torture and other cruel, inhuman or degrading treatment or punishment (arts. 6–7)

14. In the light of numerous reports of torture in places of detention, including in immigration detention facilities, leading to death in many cases, please indicate the measures taken to prevent and combat the use of torture and cruel, inhuman or degrading treatment or

punishment. In this respect, please indicate any steps taken to establish an independent mechanism to promptly, thoroughly and impartially investigate all allegations of torture and ill-treatment and provide information on the number of complaints filed, investigations carried out, prosecutions conducted and convictions handed down concerning such cases, as well as the remedies provided for victims and their families, including rehabilitation and compensation. Please also describe the steps taken to repeal any legislation that provides for the imposition of corporal punishment, including amputation or flogging.

Right to liberty and security of the person, treatment of persons deprived of their liberty (arts. 6–10 and 14)

15. Please provide data on the number of persons deprived of liberty in the State party, including in immigration detention facilities, disaggregated by age, sex and nationality, indicating the number of persons held in pretrial detention. Please also indicate the number and location of official and unofficial places of detention in the State party. Please indicate whether all persons detained are duly registered immediately after their detention and report on the measures taken to ensure that convicted prisoners are held separately from persons in pretrial detention and that adults are separated from minors.

16. Please describe the measures taken to reduce the severe overcrowding and improve the reportedly appalling and inhumane conditions in places of detention, especially in migrant detention centres, in particular with regard to access to adequate food and water, sanitation, adequate health care and medical treatment, particularly for women and migrant children. In connection with the COVID-19 pandemic, please indicate the number of persons released from detention facilities, disaggregated by sex and age, and report on any other measures taken to protect persons deprived of liberty from the pandemic. Please also indicate whether places of deprivation of liberty, including immigration detention centres, are subject to regular independent monitoring and provide information on the current mechanisms for monitoring places of deprivation of liberty.

17. Please comment on reports of: (a) thousands of persons being held in prolonged arbitrary detention without charge in official and unofficial places of detention, including in immigration detention centres, without access to judicial authorities and without being afforded fundamental legal safeguards, including contact with family or access to counsel; (b) women and children being arbitrarily detained based on their tribal or family links and perceived political affiliations; (c) sexual violence, rape, forced labour, solitary confinement and incommunicado detention in places of deprivation of liberty, including in immigration detention centres; and (d) refugees and migrants being held in detention centres near active combat zones, putting their lives at risk during indiscriminate or targeted attacks. In this regard, please provide information on the complaint mechanisms available for persons deprived of their liberty to report violations of their rights, the investigations carried out and their results.

18. Please describe the steps taken to reduce the length of pretrial detention, including for crimes committed against the State and terrorism-related charges. Please also indicate the average length of migration-related detention and the conditions under which migrants, including children, can be deprived of liberty and for how long.

Trafficking in persons (arts. 7–8 and 14)

19. Please describe any legislative and other measures taken to prevent and eradicate trafficking in persons and to protect victims from trafficking and abuse by smugglers, including measures to ensure that victims of trafficking are correctly identified and treated as such, are not punished for activities carried out as a result of being subjected to trafficking and have access to all the necessary support. In this respect, please report on the investigations carried out by the Office of the Prosecutor General into cases of human trafficking and abuse by smugglers, sentences imposed and reparations awarded to victims. Please also describe the measures taken to address reported cases of corruption concerning representatives of State institutions, including those involving collusion and complicity with smuggling and trafficking networks.

Internally displaced persons (arts. 2, 6–7, 9–10 and 12)

20. Please indicate the total number of internally displaced persons in the State party and provide information on their current situation and the measures taken to address their needs, including access to documentation, adequate accommodation, basic services and humanitarian assistance. Please also describe the steps taken to find lasting solutions, including the safe return of internally displaced persons to their place of origin, and provide updated information on the current plans for the populations of Tawurgha, Gwalesh, Mashashiyah, Benghazi and Warshefanah to return home. Please respond to reports of numerous human rights abuses committed by several parties to the conflict against internally displaced persons, including arbitrary arrest, torture, sexual assault, rape, unlawful killings, indiscriminate attacks, abductions, kidnappings and enforced disappearances. Please also describe the measures taken to protect internally displaced persons from such abuses, the investigations carried out and their results.

Treatment of aliens, including migrants, refugees and asylum seekers (arts. 2–3, 7, 9, 12–13, 24 and 26)

21. Please provide information, disaggregated by age, sex and country of origin, on the number of asylum seekers, refugees and stateless persons in the State party. Please describe the existing legal and administrative framework regulating asylum in the State party, explaining the existing registration and status determination process for refugees, and indicate how it complies with international standards. Please describe the mechanisms and criteria applied before the extradition, expulsion or deportation of aliens from the State party to evaluate and verify the risk of being subjected to torture, other ill-treatment or other serious human rights violations upon their return. Please also provide data on the number and type of sentences imposed for irregular entry, stay and exit from the State party, disaggregated by age, sex and nationality.

22. Please provide information, including with regard to outcomes, on investigations carried out into the numerous reports of serious human rights abuses against migrants, including arbitrary detention, unlawful killings, torture and ill-treatment, enforced disappearances, attacks, sexual violence, rape, sexual slavery and sale into slavery, allegedly committed by public officials, traffickers, smugglers and criminal gangs. Please indicate how the State party guarantees that victims of these acts, and particularly undocumented migrants, given that irregular entry into and stay in the State party are considered as criminal offences, are able to report them and obtain access to justice without discrimination based on their migration status. Please also describe the measures taken to protect irregular migrants from abuse from employers.

23. Please respond to the numerous reports of: (a) vessels carrying migrants being intercepted by the Libyan Coast Guard in the Mediterranean Sea and returned to the State party against the will of the persons on board, in “pullback” operations; and (b) the Libyan Coast Guard putting the lives of migrants at risk by using firearms, physical violence or conduct that causes boats to capsize or individuals to jump into the water without life jackets and hindering rescue operations conducted by humanitarian organizations in international waters. In this respect, please report on any investigations carried out and their results and on the procedures in place to identify persons who may be in need of international protection in this context. Please also provide information on national legislation governing the use of force and firearms by the Libyan Coast Guard during interception and rescue operations in waters of the State party and in international waters.

Access to justice, independence of the judiciary and fair trial (arts. 2 and 14)

24. Please describe the method of appointment and the period of tenure of judges and the measures taken to guarantee the independence of the judiciary and the right to a fair trial and due process, including the right to appeal. Please indicate whether the convictions and sentences handed down by the People’s Court and the State Security Court have been reviewed by the State party’s judicial authority and, if so, provide information on the results. Please also indicate the steps taken to review the laws and practice of *qisas* (retribution) and *diyah* (payment).

25. Please provide information on the number of courts currently active in the State party and their location and report on the current situation of the courts in Darnah, Sirte, Benghazi and Tripoli, which ceased their activities in 2014 as a result of intimidation of, threats against and attacks, including killings, on judges, prosecutors and lawyers. Please indicate the measures taken to ensure the protection of judges, prosecutors and lawyers against such attacks and provide information on the investigations carried out and their results.

Freedom of conscience and religious belief (arts. 2, 18 and 26)

26. Please provide information on the limitations imposed on members of minority religions, in particular Christians, in practising their religion and explain how these limitations comply with article 18 of the Covenant. Please also indicate the steps taken to investigate and prosecute the many attacks that have taken place against religious minorities, in particular Christians, Sufis and Ibadis, and their religious sites and to provide protection from such violations in the future. In this respect, please report on the investigations carried out into the mass beheading of 20 Egyptian Coptic Christians in 2015.

Freedom of expression, association and peaceful assembly (arts. 7, 9, 19 and 21–22)

27. Please describe any efforts made to ensure that any restrictions in national legislation on the rights to freedom of expression, association and peaceful assembly, including those contained in Law No. 76 (1972) on publications and in Law No. 3 (2014) on counter-terrorism, are in strict compliance with the Covenant and provide information on the existing legal framework regulating the exercise of these rights. Please also indicate whether any steps have been taken to decriminalize defamation.

28. Please report on the measures taken to ensure the protection of human rights defenders, humanitarian workers, political activists, bloggers and media professionals, especially women, against reported violence and harassment, including threats, intimidation, abductions and assassinations, so that they can carry out their work without fear. Please provide information on the investigations carried out, prosecutions conducted, sentences handed down and reparations awarded to the victims, in particular with regard to the killings of Muftah Abu Zeid, Salwa Bugaighis, Tawfik Bensaud, and Sami al-Kawafi.

Rights of the child (arts. 23–24 and 26)

29. Please indicate the steps taken to combat discrimination against children born out of wedlock and children whose mothers are married to non-Libyan nationals, in particular with regard to access to nationality and education. Please describe the measures in place to ensure that all children born in the State party, including children born out of wedlock and children of migrants, refugees and asylum seekers, are registered at birth, including in rural areas and the areas most affected by the conflict. Please indicate the measures taken to address the use and/or recruitment of children into armed conflict by all parties to the conflict, including measures to detect, eradicate and investigate such practices and prosecute the perpetrators, and to rehabilitate and reintegrate children who have been thus recruited.
