

## **ADVANCE QUESTIONS TO LIBYAN ARAB JAMAHIRIYA – Add.3**

### **NETHERLANDS**

#### **Capital punishment**

- As referred to in paragraph 22 of the OHCHR compilation, the Human Rights Commission expressed in 2007 its concern that the death penalty can be applied to offences which cannot necessarily be characterized as the most serious crimes. It recommended the State take urgent steps to reduce the number of crimes for which the death penalty can be imposed. As is stated in art. 8 of the Great Green Charter of Human Rights and as stated in paragraph 92 of the national report; abolition of the death penalty remains a goal of Libyan society. Although capital punishment is not imposed widely and improvements have been made in the last decades to limit the imposition of the death penalty – as also is stated in the National report submitted by Libya - still some improvements might be possible in this field. In which way does Libya strive to complete the progression that has been made regarding the policy on capital punishment?

#### **Torture**

- Despite being banned by law, as referred to in paragraph 24 of the OHCHR compilation, the Human Rights committee remained concerned at continuing reports of systematic use of torture and cruel, inhuman or degrading treatment or punishment and the lack of information regarding the prosecution of these cases. A large number of complaints have been reported to the Gaddafi Foundation in 2009. All agents who were accused of torture have been acquitted by Libyan Courts. What will the Libyan Government undertake to end the widespread practice of torture and the policy of impunity for security forces?

#### **Cruel, inhuman or degrading treatment or punishment**

- In light of paragraph 25 of the OHCHR compilation, the HR committee remained concerned that corporal punishment such as amputation and flogging as prescribed by law even if rarely applied in practice. A number of laws passed since the 1970's have introduced corporal punishment including flogging, amputation and cross amputation. Courts have continued to sentence people to corporal punishments in recent years. These corporal punishments do not comply with Libya's international obligations, which arise from the Convention against Torture and other Cruel, Inhuman or Degrading Treatment (CAT). Which measures will Libya undertake to make these laws comply with the CAT?

#### **Impunity for past human rights violations**

- In paragraph 23 of the OHCHR compilation the HR Committee expressed concern that 11 years after the event in the Abu Salim prison, the state of Libyan Arab Jamahiriya 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. Despite the fact that in 2008 the Great Leader Gaddafi acknowledged that killings did take place in the Abu Salim prison and that an

investigation would be carried out, according to our information up to this date there has been no full independent investigation into this affair. In addition, the North Benghazi Court of First Instance (Civil Division) has ordered the Government to reveal the fate of 33 of the prisoners. What will be done to carry out the judgement of the Court and the promises made by the Great Leader Gaddafi to investigate the Abu Salim killings?

### **Freedom of press**

- In reference to paragraph 95 of the national report, Article 1 of the Publications Act No. 67 of 1972, which regulates press activity, printing and publication, provides that ‘every journalist has the right of freedom to express his opinion through the various media and within the framework of the principles, values and objectives of Libyan society’. In practice there are several newspapers (printed or on the internet) and access to satellite channels is widely spread under the Libyan population. Generally it can be said that over the last years a positive trend in this field is discernable. Recently there have been made some restrictions on the freedom of press however, as for instance the blocking of several website (YouTube). What can be done to resume the positive trend regarding the freedom of press?

### **Freedom of association and assembly**

- The Netherlands commends Libyan Arab Jamahiriya for the developments that have taken place in civil society as a result of the political and economic policies pursued by the State as mentioned in paragraph 37 -42 of the national report. In the note verbale of 28 April 2010, the Libyan Arab Jamahiriya commits itself to strengthening cooperation and to establishing a constructive dialogue with all civil society organizations and non-governmental organizations active in the field of human rights. Up to this day the Human Rights Society of the Gaddafi International Charity and Development foundation (GDF) has undertaken great efforts to further improve human rights standards in the Jamahiriya. The lack of independent NGO’s is however concerning. According to paragraph 43 of the OHCHR compilation UNDP reported that there were no independent non-governmental human rights organizations in the country. CESCR made a similar observation; what explanation is there for this lack of fully independent NGO’s and what can be undertaken to create a more favourable climate to establish politically and financially independent NGO’s in the human rights field?

### **Gender-based Discrimination, Economic participation of women**

- Since the Revolution of 1969 significant attempts have been made to improve women’s rights and to abolish all discriminatory practices against women. Especially when taking into account the representation of girls and women at schools and universities, Libya stands out as an example for all of us. Despite these measures and the number of legislative enactments as referred to in paragraph 69 of the national report to eliminate gender-based discrimination, advancing the status of women and securing all of their rights, affirming as it does the principle of equal rights, women’s economic activity remains low. Although action has been undertaken – as for instance Decision No. 258, 1989 of the General People’s Commission – these measures do not seem to be as effective as desired. Traditional stereotypes regarding the roles of women and

men in the labour market and in society at large remain persistent as stated in paragraph 16 of the OHCHR compilation. Which actions can be undertaken to bridge this gap between theory and reality regarding to position of women in the labour market and society at large?

### **Family matters**

- Despite the great improvements that have been made considering women's rights – as is referred to in the note verbale of the Jamahiriya (28 April 2010) - these improvements do not wholly include family matters. This is however in contradiction with art. 21 of the Great Green Charter of Human Rights, which states that men and women are equal in every human aspect. Recently great progression has been made by allowing Libyan women to transfer citizenship to their offspring. More improvements can however be made in this particular field, for example CEDAW has expressed concerns that Libyan women married to non-Libyan nationals are not granted equal rights with respect to the nationality of their children as referred to in paragraph 16 of the OHCHR compilation. Will this positive trend regarding women's rights in family matters be continued over the next years to more areas?

### **Consensual sexual relations outside of wedlock**

- As Amnesty International (AI) noted in paragraph 18 of the summary of 9 stakeholders' submissions to the UPR, Consensual sexual relations outside of wedlock are criminalized in Libya. This also seems to apply to same-sex partners. While taking into consideration the specific Islamic character of the Jamahiriyan society and laws, these provisions (art 407 and 408 of the Penal Code) do not comply with international treaties in which the right to private life is guaranteed (ICCPR). What will be done to de-criminalize consensual sexual relations outside of wedlock, including same-sex partners?

### **Minorities' rights**

- The 1969 Constitutional Declaration defines the Libyan Arab Jamahiriya as an Arab nation and acknowledges Arabic as the country's only official language. While it is undeniable that the majority of the inhabitants of the Jamahiriya are of Arab origin, some 10 percent of the Libyan population is estimated to be of Amazigh (Berber) origin. In light of paragraph 54 of the OHCHR compilation, CESCR has expressed concerns that the Amazigh population was not recognised as a minority and that its language does not have any legal status. This is however not in line with Libya's international commitments as laid out in the ICCP, ICESCR and the International Convention on the Elimination of All forms of Racial Discrimination, to which Libya is a state party. What can be done to improve the integration of Amazigh people in Libyan society, while allowing them to keep their own cultural identity?

### **Refugees**

- Despite Libya's great contributions to counter human trafficking and illegal immigration as elaborated in paragraphs 80-89, there is an important downside to the current Libyan immigration policy; Libyan authorities do not make the distinction between refugees, asylum-seekers and other migrants. This current policy does not comply with provisions regarding the rights of refugees and asylum-seekers as laid down in the African Charter on human and Peoples'

rights (1986), to which Libya is a state party. Which efforts will Libya make to comply with these legal obligations regarding the acknowledgement of refugees and asylum-seekers? Could the Libyan authorities elaborate on the established committee in 2007, which drafted asylum legislation and sought technical and legal assistance from UNHCR? As mentioned in paragraph 34 of the stakeholders' submission, when will the proposed draft be presented to the General's People's Congress for adoption?