



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

Distr.: General
8 May 2019

Original: English

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

Concluding observations on the initial report of Libya*

1. The Committee considered the initial report of Libya (CMW/C/LBY/1) at its 417th and 418th meetings (CMW/C/SR.417 and CMW/C/SR.418), held on 4 and 5 April 2019. On the basis of information from, inter alia, other United Nations bodies and other entities, the Committee adopted at its 429th meeting, on 12 April 2019, the present concluding observations.

A. Introduction

2. Libya acceded to the Convention on 18 June 2004. The State party was under the obligation to submit its initial report under article 73 (1) of the Convention by 1 October 2005. At its twenty-seventh session, in September 2017, the Committee adopted a list of issues prior to the submission of the initial report (CMW/C/LBY/QPR/1), based on rule 31 bis¹ of the Committee's provisional rules of procedure,² which was transmitted to the State party on 9 October 2017.

3. The Committee notes the submission of a reply by the State party on 10 January 2019, but regrets that it did not respond to the list of issues prior to reporting (CMW/C/LBY/QPR/1). Replies to the list of issues prior to reporting were received on 27 March 2019. The Committee notes with appreciation the additional information provided by the high-level, multisectoral delegation. It appreciates the open and constructive dialogue held with the delegation.

4. The Committee notes that Libya has traditionally been a country of destination for migrant workers from North African and sub-Saharan countries. It has increasingly become a country of transit for migrants from sub-Saharan Africa (particularly Chad, Ghana, Mali, the Niger and Nigeria), from North Africa (Egypt and the Sudan) and from Bangladesh and the Syrian Arab Republic. The Committee further notes the existence of a large number of persons in need of international protection.

5. The Committee notes that some of the countries in which Libyan migrant workers are employed are not parties to the Convention, which may constitute an obstacle to the enjoyment by those migrant workers of their rights under the Convention.

* Adopted by the Committee at its thirtieth session (1–12 April 2019).

¹ Now rule 34.

² See *Official Records of the General Assembly, Sixty-seventh session, Supplement No. 48 (A/67/48)*, para. 26.



B. Positive aspects

6. The Committee notes with appreciation:
 - (a) The ratification of the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto, in February 2018;
 - (b) The accession to the International Convention on Maritime Search and Rescue (as amended), in April 2005;
 - (c) The ratification of the United Nations Convention against Transnational Organized Crime and the Protocols thereto, in June 2004.
7. The Committee welcomes the adoption of the following legislative measures:
 - (a) Article 10 of the 2011 interim constitutional declaration that prohibits the extradition of “political refugees” and guarantees the right of asylum;
 - (b) Article 10 of Law No. 19 on combating irregular migration, which stipulates that migrants should be treated “in a humane manner, keeping their dignity and rights, without assault on their money or assets”.
8. The Committee also welcomes the following institutional and policy measures:
 - (a) The instructions issued by the Department for Combating Illegal Migration of the Ministry of the Interior since March 2017 to detention centres under its control on the humane treatment of detainees and the closure of centres where human rights violations have been reported;
 - (b) The establishment of a registration system for migrants following interception and rescue at sea, in cooperation with the International Organization for Migration, in early 2018.
9. The Committee notes as positive the standing invitation extended by the State party to the special procedures of the Human Rights Council on 15 March 2012, including the Special Rapporteur on the human rights of internally displaced persons in 2018.

C. Factors and difficulties impeding the implementation of the Convention

10. The Committee recognizes the particularly severe effects of the ongoing conflict and the security, political, economic and social instabilities the State party is facing, which have a deep impact on migrant workers and members of their families and constitute a serious obstacle to the implementation of the rights enshrined in the Convention and obligations of other relevant parts of international law. The Committee is aware of the difficulties that the State party has in exercising government powers and control over the territory. It notes the difficulty in ensuring the rights of migrant workers and members of their families in territories where the State party does not exercise effective control. The Committee is, however, troubled by reports it has received regarding the conditions to which migrants are subjected leading to death, suffering or serious physical injury or harm to the mental or physical health of migrants. Such treatment is, according to reports, widespread in both areas under the control of the State party and where the State party does not exercise effective control. Acts of violence committed against migrants include murder, torture and other forms of ill-treatment, enforced disappearances, physical assault, deprivation of liberty and abduction, and rape, sexual violence and forced prostitution amounting to conditions of sexual slavery, which are not only serious violations of human rights but could constitute crimes under international law.
11. The Committee urges the State party and other actors that exercise territorial control to take immediately the measures necessary to protect migrants, including migrant workers and members of their families, from any conditions that might violate their rights under the Convention and international law.

D. Principal subjects of concern and recommendations

1. General measures of implementation (arts. 73 and 84)

Legislation and implementation

12. The Committee notes that the State party is in the process of drafting a new labour law with the aim of increasing protection of the rights of migrant workers and members of their families. It is, however, concerned about the lack of legislative measures taken since the signing of the Convention to bring domestic legislation into line with its provisions. It expresses particular concern that Law No. 6 (1987) regulating entry, residence and the exit of foreign nationals to/from Libya, amended by Law No. 2 (2004), and Law No. 19 (2010) on combating irregular migration, which criminalize irregular entry, stay and exit from the State party, require all non-nationals, except for individuals from some countries, to obtain a valid visa, and provide for imprisonment and deportation in absence of such a visa, have not yet been brought into compliance with the provisions of the Convention.

13. The Committee recommends that the State party adopt comprehensive legislation on migration and bring its domestic legislation into line with the provisions of the Convention and the Committee's general comments.

Articles 76 and 77

14. The Committee notes that the State party has not yet made the declarations provided for in articles 76 and 77 of the Convention whereby it would recognize the competence of the Committee to receive and consider communications from States parties and individuals concerning violations of the rights enshrined in the Convention.

15. The Committee recommends that the State party consider making the declarations provided for in articles 76 and 77 of the Convention.

Ratification of relevant instruments

16. The Committee notes that the State party has ratified almost all the major human rights treaties, as well as a number of International Labour Organization (ILO) conventions. It notes, however, that the State party has not yet ratified the International Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, the ILO Migration for Employment Convention (Revised), 1949 (No. 97), the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the ILO Private Employment Agencies Convention, 1997 (No. 181), the ILO Labour Inspection (Agriculture) Convention, 1969 (No. 129) and the ILO Domestic Workers Convention, 2011 (No. 189).

17. The Committee recommends that the State party consider ratifying or acceding to the above instruments as soon as possible.

Comprehensive policy and strategy

18. The Committee notes the establishment of the post of Minister for Migrants and Displaced Persons and the post of Deputy Minister for Human Rights Issues in the Ministry of Justice, and of departments charged with investigations on human rights violations under the Ministry of the Interior and the Ministry of Defence. It is, however, concerned about the lack of information on specific measures the State party has taken to implement the Convention.

19. The Committee recommends that the State party develop a comprehensive strategy in line with the Convention, and provide sufficient human, technical and financial resources for its implementation and monitoring.

Data collection

20. The Committee notes the registration of some migrants at disembarkation points after interception and rescue at sea since early 2018, but regrets that this registration system is not integrated with formal and informal registrations undertaken by individual detention centres and that United Nations entities and humanitarian actors do not have access to a minimum set of the data collected to enable them to carry out their mandated work. It is also concerned by the lack of statistical data on migrant workers and members of their families in an irregular situation, migrant workers in detention in the State party, and migrant workers returning to the State party, and the number of unaccompanied migrant children or children who are in the State party and have become separated from their parents.

21. The Committee recommends that statistical data collected at disembarkation points be integrated with data-collection systems of detention centres, and that a centralized and comprehensive database covering all aspects of the Convention is established and subject to measures of external oversight.

Independent monitoring

22. The Committee notes with appreciation the establishment of the National Council for Civil Liberties and Human Rights on 28 November 2011 pursuant to Law No. 5 (2011), the constitution of its board by Decree No. 185 (2011) and its accreditation in October 2014 by the International Coordinating Committee of National Human Rights Institutions with B status. The Committee is, however, gravely concerned that the term of the National Council has not been formally renewed since 2014, and that, according to reports received by the Committee, it ceased to function in 2016 following threats against its board members and staff.

23. The Committee recommends that, despite the security and institutional challenges, the State party ensure that the National Council can function as a national human rights institution that is in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles), in accordance with the commitments made by the State party within the context of the universal periodic review (A/HRC/30/16, paras. 137.54 and 137.55).

Training on and dissemination of the Convention

24. The Committee notes the measures taken by the State party to disseminate information and to provide training on the rights of migrant workers to various stakeholders, according to the information provided by the delegation. The Committee is, however, concerned that efforts have been insufficient.

25. The Committee recommends that the State party develop education and training programmes on the rights of migrant workers and members of their families under the Convention, incorporating a gender perspective, and make such programmes available to all officials and persons working in the area of migration, particularly immigration officers, law enforcement and border authorities, judges, prosecutors, national and local officials, as well as relevant consular officials, social workers and civil society organizations.

Corruption

26. The Committee is concerned at the large number of reports of collusion and complicity of some representatives of State institutions, including the Directorate for Combating Illegal Migration, the Libyan Coast Guard and non-State armed groups formally integrated into State institutions, with smuggling and trafficking networks. It is also concerned by the information received on cases of extortion involving the families of migrant workers detained in formal and informal migrant detention centres.

27. Bearing in mind the State party's primary responsibility to protect the rights of migrant workers and members of their families on its territory, the Committee urges the State party to thoroughly investigate all instances of corruption, including all cases

of collusion and complicity in smuggling, trafficking and extortion, and to adopt appropriate preventive and punitive measures, including the dismissal of public servants where appropriate. It also recommends the establishment of safe, gender-responsive spaces or mechanisms to protect complainants from reprisals.

2. General principles (arts. 7 and 83)

Non-discrimination

28. The Committee notes the delegation's statement that Law No. 10 (2013) concerning the criminalization of torture, forced abduction and discrimination makes discrimination a punishable act. It regrets, however, the lack of information on whether the constitutional and legislative framework of the State party includes provisions that cover the prohibited grounds of discrimination enumerated in the Convention (arts. 1 (1) and 7). It is also concerned about reports of discriminatory treatment and acts of physical and verbal abuse, arbitrary detention, slavery and sexual violence committed against migrant workers and members of their families, especially those from sub-Saharan Africa and belonging to religious minorities, particularly Christians, by Libyan officials, including representatives of the Directorate for Combating Illegal Migration and the Libyan Coast Guard, armed and criminal groups and private citizens.

29. **The Committee recommends that the State party take all measures necessary, particularly by amending its legislation or adopting relevant legislation:**

(a) **To ensure that all migrant workers and members of their families, whether documented or not, on its territory or subject to its jurisdiction, enjoy the rights recognized in the Convention without discrimination, in accordance with articles 1 (1) and 7 of the Convention, and adopt a law against all forms of discrimination, particularly racism, racial discrimination, xenophobia and related intolerance;**

(b) **To prevent and address violence and discrimination on racial and religious grounds by officials, armed and criminal groups and private citizens, and to ensure that acts are recorded, investigated and sanctioned, and that victims receive compensation.**

Right to an effective remedy

30. The Committee notes that the Labour Relations Act No. 12 (2010) provides mechanisms to resolve labour disputes and prohibits any discrimination on the basis of nationality. It also notes with great concern, however, the widespread impunity for violations of the rights recognized under the Convention, and that undocumented migrant workers, victims of trafficking and victims of forced prostitution are unable to seek justice for violations of their rights due to arbitrary detention or for fear of being detained for illegal entry and stay under Law No. 6 (1987) (amended by Law No. 2 (2004)), Law No. 19 (2010) and national legislation criminalizing prostitution and sexual relations outside wedlock.

31. **The Committee recommends that the State party:**

(a) **Ensure that, in law and in practice, migrant workers and members of their families, regardless of their status, have opportunities equal to those of nationals of the State party to file complaints and obtain effective redress in the courts, and launch an immediate investigation when crimes and violations of rights are brought to its attention;**

(b) **Provide assistance with legal defence, interpretation services, the right to individual consideration, gender-responsive interviewing, the right of appeal, and reparation and/or compensation to victims;**

(c) **Ensure that migrant workers and members of their families have access to justice and police services without fear of being arrested, detained or deported by the authorities.**

3. Human rights of all migrant workers and members of their families (arts. 8–35)

Freedom to leave any state

32. The Committee notes with concern the numerous reports of interceptions of vessels carrying migrants, including migrant workers and members of their families, in the Mediterranean Sea and their return to the State party, reportedly at times against their will, in so-called “pullback” operations.

33. The Committee urges the State party to end any operation by the Libyan Coast Guard or other law enforcement officials that violates the right of migrant workers and members of their families to leave any State, including the State party. It recommends that the State party adopt a rights-based approach to migration, and urges the State party to ensure that the activities of the Libyan Coast Guard are aimed at ensuring the security of migrants, including migrant workers and members of their families.

Protection from violence, physical injury, threats and intimidation

34. The Committee notes that the Penal Code (1953) and Law No. 10 (2013) concerning the criminalization of torture, forced abduction and discrimination criminalize various acts of violence. It also notes the delegation’s statement that the State party investigates, prosecutes and punishes perpetrators of such acts, including State officials. The Committee is, however, deeply concerned that:

(a) Serious acts of violence, including unlawful killings, torture and ill-treatment, rape and sexual violence, physical and verbal abuse, extortion, threats and intimidation are committed against migrant workers and members of their families, particularly those in an irregular situation, by officials of the State party, armed groups, smugglers, traffickers and criminal groups, in and outside formal and informal detention centres;

(b) Public authorities, including the Directorate for Combating Illegal Migration and the Libyan Coast Guard, are alleged to be involved in serious acts of violence, and that such crimes are frequently associated with widespread impunity;

(c) According to reports received by the Committee, excessive and unwarranted lethal force is used by the Directorate for Combating Illegal Migration and State officials in the course of law enforcement operations against migrants, including migrant workers;

(d) Traffickers, smugglers and criminal gangs subject migrants, including migrant workers, to extreme violence, including with the aim of extorting money from their relatives, and to rape and other forms of sexual violence, including gang rape and sexual exploitation in conditions amounting to sexual slavery;

(e) The criminalization of illegal entry, stay and exit from the State party pursuant to Law No. 6 (1987), amended by Law No. 2 (2004), and Law No. 19 (2010), and the criminalization of prostitution, sexual relations outside wedlock and abortion hinders survivors, including migrant workers and members of their families, from reporting such crimes.

35. The Committee urges the State party:

(a) **To enforce the Penal Code (1953) and Law No. 10 (2013) with regard to crimes committed against migrant workers and members of their families, to ensure that it thoroughly investigates those acts, taking into account State officials’ links with smuggling and trafficking networks, and to impose penalties commensurate with the gravity of the crime committed;**

(b) **To ensure that victims are identified and referred to appropriate services that are sensitive to their situation, including medical and psychosocial services;**

(c) **To take urgent steps to ensure that State officials comply with international standards on the proportionate use of force and firearms, and protect migrants from all forms of cruel, inhuman or degrading treatment;**

(d) **To adopt comprehensive measures by providing assistance and protection to migrant workers and members of their families who are victims of serious crimes, including victims of rape and gender-based sexual violence, protection and rehabilitation; to trace, locate and release persons deprived of their liberty by smugglers, traffickers and criminal groups, and disappeared persons; and, in the event of death, to exhume and identify the remains of disappeared persons and to arrange for their dignified return;**

(e) **To ensure that survivors, including migrant workers and members of their families, of such crimes are not subjected to arrest, detention or deportation on the basis of their irregular migration status and/or on the basis of national legislation regarding prostitution, sexual relations outside wedlock or abortion.**

Labour exploitation and other forms of ill-treatment

36. The Committee is concerned about reports that migrant workers and members of their families who are detained by the Directorate for Combating Illegal Migration, armed groups, smugglers or traffickers are frequently subjected to forced labour. It is also concerned that migrants in an irregular situation are frequently not paid for work performed, do not receive the amount agreed or are denounced to the Directorate by their employers after having accomplished their work.

37. **The Committee recommends that the State party:**

(a) **Prosecute persons or groups exploiting migrant workers or subjecting them to forced labour, including forced prostitution and sexual exploitation, and punish perpetrators with appropriate sanctions;**

(b) **Ensure that migrant workers and members of their families have access to independent complaint mechanisms and are provided with legal counsel, protection and reparations.**

Due process, detention and equality before the courts

38. The Committee notes that the Code of Criminal Procedure contains a number of safeguards against arbitrary arrest and detention, including the requirement of an arrest warrant and referral to public prosecution within 24 hours. It also notes that national legislation guarantees the right to a fair trial and to a lawyer. It is, however, deeply concerned that:

(a) Law No. 6 (1987), amended by Law No. 2 (2004), and Law No. 19 (2010) provide for criminal penalties, including detention and expulsion from the State party, for illegal entry, stay and exit;

(b) According to reports received by the Committee, detention as applied by the Directorate for Combating Illegal Migration and other State authorities is an automatic measure, and is not properly justified in individual cases based on necessity and reasonableness, that an unknown number of migrants is arbitrarily detained in facilities termed “sheltering centres”, which implies that they have a protective function, and that an unknown number of detention facilities are under the control of armed groups;

(c) Undocumented migrant children, including unaccompanied migrant children, are detained in detention centres for months or even years in squalid and violent conditions, in violation of the rights of the child and of their best interests;

(d) Migrants, including migrant workers, in migration-related detention are denied due process guarantees, such as immediate presentation before an independent and impartial judge and access to a lawyer, and that their detention may be considered arbitrary under the Convention and other international human rights treaties;

(e) The lack of registration of migrants renders the tracing and family reunification of migrants, including migrant workers, nearly impossible and facilitates the disappearance of persons from detention with impunity;

(f) Migrant workers are vulnerable to arbitrary detention for non-migration-related charges, such as theft, prostitution, drug-related offences, terrorism and security-related offences, and face acts of violence and a denial of due process rights.

39. **The Committee recommends that the State party ensure that its national laws, policies and practices fully respect the right to liberty and the prohibition of arbitrary detention of migrant workers and members of their families. In particular, it recommends that the State party, as a matter of priority:**

(a) **Amend Law No. 6 (1987), amended by Law No. 2 (2004), and Law No. 19 (2010) in order to decriminalize irregular migration;**

(b) **Release all migrants detained arbitrarily, in particular those detained on the grounds of their migration status; ensure that the detention of migrants is an exceptional measure of last resort applied for the shortest possible time, that grounds are specified in each case, giving the reasons why alternative measures cannot be implemented, and that the measure is reviewed in under 24 hours by an independent and impartial judicial authority; and develop non-custodial alternatives to detention;**

(c) **Prohibit, in law and in practice, the detention of migrant children, in accordance with joint general comments No. 3 and No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families / No. 22 and No. 23 (2017) of the Committee on the Rights of the Child on the human rights of children in the context of international migration;**

(d) **Ensure that migrant workers and members of their families have access to legal aid, effective remedies, justice and consular services, and that the guarantees enshrined in the Convention are upheld, in full compliance with articles 16 and 17 of the Convention;**

(e) **Establish a registration system for detained migrants that is integrated with the registration system used by the Libyan Coast Guard at the disembarkation of migrants rescued or intercepted at sea, while respecting the human rights of migrants, including their right to privacy;**

(f) **Ensure that, in administrative and judicial proceedings, including for charges not related to immigration status, migrant workers and members of their families are guaranteed due process on an equal basis with nationals of the State party before the courts and tribunals.**

Conditions of detention

40. The Committee notes the delegation's statement that most facilities where migrants are held that are not under the control of the Directorate for Combating Illegal Migration have been closed, and that facilities for migrant women have been established, ensuring conditions that respect their human rights. It is, however, concerned that, in most cases, conditions in migrant detention centres do not comply with international standards and amount to cruel, inhuman and degrading treatment.

41. **The Committee urges the State party, in exceptional cases where detention cannot be avoided, to guarantee adequate, decent conditions in migrant detention centres, and notes that the centres should not resemble a prison facility either in appearance or purpose. In particular, the Committee urges the State party:**

(a) **To put an end to overpopulation and to ensure that those detained are provided with health care, including sexual and reproductive health services, psychological care, water, sanitation and hygiene, food, sufficient space and ventilation, outdoor recreational time and basic necessities, including bedding, clothing and items of personal hygiene;**

(b) **To ensure that children are separated from adults to whom they are not related and, if born in detention, are provided with a valid birth certificate;**

(c) **To ensure that women detainees are held separately from men, are guarded only by adequately trained women officers, and are protected against sexual**

and gender-based violence, and that specific provisions are made for pregnant and nursing women;

(d) **To stipulate strict behavioural rules for guards and officials at detention facilities, to train them on human rights, gender equality, the best interests of the child and non-discrimination, and to investigate and punish in an appropriate manner State officials who violate the rights of migrants;**

(e) **To strengthen mechanisms to regularly monitor conditions in migrant detention centres, and to ensure the implementation of the policy of the Ministry of the Interior granting human rights monitors and humanitarian agencies free, unannounced and unhindered access to all migrant detention centres.**

Consular assistance

42. While noting the consular and diplomatic assistance provided by the State party to migrant workers residing abroad, the Committee is concerned that not enough practical information has been made available to the Committee on the specific assistance offered to migrant workers and members of their families.

43. **The Committee recommends that the State party take the steps necessary to ensure that its consular and diplomatic services can effectively meet the needs of Libyan migrant workers and members of their families residing abroad by protecting their rights and providing them with assistance, regardless of their status.**

Medical care and education

44. The Committee notes the delegation's statement that health care is provided without discrimination, but is concerned about reports that migrant workers, particularly those in an irregular situation, have little or no access to health services, including emergency medical care. It is also concerned about the delegation's statement that access to education is contingent upon bilateral agreements with countries of origin.

45. **The Committee recommends that the State party:**

(a) **Take the measures necessary to ensure that all migrant workers and members of their families, irrespective of their migration status, are able, in law and in practice, to have access to emergency medical care and basic health services on a basis of equality of treatment with nationals of the State party;**

(b) **Adopt concrete and effective measures to make it possible for children of migrant workers, irrespective of the migration status of their parents, to enter and remain in the education system, and that undocumented migrant children are not reported to the immigration authorities by those working in the education system.**

4. Other rights of migrant workers and members of their families who are documented or in a regular situation (arts. 36–56)

Freedom of movement and right to transfer earnings and savings

46. The Committee notes with concern the acts of violence committed against migrant workers. It is also concerned that migrant workers who are legally employed in the State party have often not been able to withdraw or transfer their salaries over longer periods of time owing to the lack of liquidity of banks in the State party.

47. **The Committee recommends that the State party:**

(a) **Protect migrant workers from any acts of violence and theft or destruction of their property, and ensure their right to freedom of movement;**

(b) **Take the steps necessary to make earning and savings accessible and to facilitate the transfer of remittances.**

5. Promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families (arts. 64–71)

International cooperation with countries of transit and destination

48. The Committee notes the existence of cooperation agreements on migration with the European Union, France and Italy, and of agreements on joint border control with neighbouring States, including Chad, the Niger and the Sudan. The Committee is, however, concerned that memorandums of understanding and multilateral and bilateral agreements may not adequately cover the provisions contained in the Convention. Given the circumstances in the State party, the Committee is concerned about the degree to which the State party is able to provide safety for migrants, including migrant workers and members of their families.

49. **The Committee recommends that the State party:**

(a) **Guarantee, in the implementation of any bilateral or multilateral agreements, the life and physical integrity of migrants, including migrant workers and members of their families, in the light of the current circumstances in the State party, and ensure that such multilateral and bilateral agreements are fully consistent with the Convention, the Committee’s general comments No. 1 (2011) on migrant domestic workers, and No. 2 (2013) on the rights of migrant workers in an irregular situation and members of their families, and joint general comments No. 3 and No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families / No. 22 and No. 23 (2017) of the Committee on the Rights of the Child on the human rights of children in the context of international migration;**

(b) **Engage with the Office of the United Nations High Commissioner for Human Rights (OHCHR) and seek technical assistance regarding the implementation of said agreements, and negotiation of future ones to ensure that they are aligned with the Convention.**

Trafficking in persons and smuggling of migrants

50. The Committee notes that trafficking in persons is prohibited by national legislation, that provisional residency permits are issued to victims of trafficking and that training is provided to government officials working on issues relating to migration, according to information provided by the delegation. It is, however, concerned that:

(a) No information is available on legislative or other measures taken by the State party to protect victims of trafficking and of abuse by smugglers, particularly with regard to the criminalization of irregular migration in Law No. 6 (1987), amended by Law No. 2 (2004), and Law No. 19 (2010);

(b) Migrant workers and members of their families in transit in the State party, particularly those from sub-Saharan Africa, have been subject to trafficking, forced labour and sexual exploitation, and sale into slavery;

(c) Insufficient efforts have been made to identify victims of trafficking and smuggling, and that the said victims are deprived of their liberty in migrant detention centres, without access to judicial authority, adequate rehabilitation or medical or psychological assistance, and are at risk of re-victimization;

(d) There is a lack of statistical data on investigations by the Office of the Prosecutor General into cases of human trafficking and abuse by smugglers.

51. The Committee recommends that the State party, in accordance with the OHCHR *Principles and Guidelines on Human Rights and Human Trafficking*, intensify its efforts to combat trafficking in persons and abuse by smugglers, and in particular:

(a) **Expediently adopt anti-trafficking measures, in accordance with the commitment made by the State party within the context of the universal periodic review (A/HRC/WG.6/22/LBY/1, para. 72);**

(b) **Scale up its campaigns for the prevention of trafficking in migrant workers, and take appropriate measures to disseminate information on the risks of transit through the State party;**

(c) **Allocate sufficient human, technical and financial resources for the effective implementation of laws and strategies to prevent and eradicate trafficking in persons, and establish a national referral mechanism to identify victims of trafficking and abuse by smugglers and provide them with protection and assistance;**

(d) **Conduct prompt, efficient and impartial investigations into all acts of trafficking in persons and abuse by smugglers, and prosecute and punish the perpetrators of such acts and their accomplices, including public officials.**

Irregular migration and interception and rescue in Libyan and international waters

52. The Committee notes that the State party cooperates with Mediterranean countries with the aim of coordinating efforts to rescue migrants in distress in the Mediterranean Sea (A/HRC/WG.6/22/LBY/1, paras. 70–71). The Committee is, however, concerned about:

(a) The increasing risk of loss of life of migrants in the State party's coastal waters and international waters off the State party's coast witnessed from 2017 to 2018, despite the State party's extension of its search and rescue zone to 94 nautical miles off its coast as of August 2017;

(b) The automatic return of any person intercepted or rescued at sea by officials of the State party to migrant detention centres, and the limited information about specific mechanisms and procedures to facilitate the identification of persons in need of international protection;

(c) Allegations that the Libyan Coast Guard frequently endangers the lives of migrants on sinking or unseaworthy vessels by using firearms, physical violence, threatening or racist language or conduct that causes boats to capsize or individuals to jump into the water without life jackets;

(d) Reports that the Libyan Coast Guard has hindered rescue operations of humanitarian organizations in international waters;

(e) The lack of 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, and on the existence and nature of an internal accountability system.

53. **With reference to the OHCHR report on the situation of migrants in transit (A/HRC/31/35) and the Recommended Principles and Guidelines on Human Rights at International Borders, the Committee recommends that the State party:**

(a) **Establish, operate and reinforce adequate and effective maritime search and rescue services, and ensure that no measures aimed at addressing irregular migration or smuggling of migrants adversely affect the human rights of migrant workers and members of their families;**

(b) **Respect the principle of non-refoulement, and to that end refrain from forcibly returning migrants to detention centres in the State party, and develop and put in place mechanisms to assess the individual situation of migrants in transit, ensuring them international protection under international law;**

(c) **Investigate and sanction all instances of abuse and death during interception and rescue operations of migrant vessels in the State party's coastal waters, its search and rescue zone and other areas of international waters in which the Libyan Coast Guard is present, and take measures to prevent such human rights violations in the future;**

(d) **Establish internal guidelines that instruct officials of the Libyan Coast Guard not to obstruct rescue operations of humanitarian organizations, and promptly investigate any instances in which humanitarian organizations allege interference by the Libyan Coast Guard in their efforts to save the lives of migrants in distress at sea;**

(e) **Ensure that the Libyan Coast Guard complies with and receives training on international standards on the use of force and firearms, and that an internal mechanism for addressing complaints and allegations is set up.**

Regularization

54. The Committee notes the delegation's statement that migrant workers and members of their families can regularize their status in accordance with Law No. 19 (2010), including those who have entered irregularly the State party. It expresses concern, however, about the lack of information on such procedures.

55. **The Committee urges the State party to provide further information on its regularization measures and to ensure the implementation of such measures, without discrimination.**

Repatriation of bodies

56. The Committee notes the delegation's response that costs for the repatriation of bodies of deceased migrant workers who are documented or in a regular situation must, according to national legislation, be borne by their employers. It is concerned about the number of disappeared, missing and unidentified migrants in the territory of the State party, including in its territorial waters, and that the repatriation of bodies of deceased migrant workers is limited to those countries with which, according to the delegation's response, the State party has concluded a bilateral agreement.

57. **The Committee recommends that the State party establish effective procedures and regulations and allocate adequate resources for the repatriation from the State party of the bodies of deceased migrant workers and members of their families, regardless of their status, and facilitate such repatriation, in close cooperation with the countries of origin. It also recommends that the State party ensure investigation and forensic protocols, dignified treatment of the bodies of deceased migrant workers and the identification and tracing of families through the safe exchange of ante-mortem, post-mortem and DNA information.**

6. Dissemination and follow-up

Dissemination

58. **The Committee requests the State party to ensure the timely dissemination of the present concluding observations to the relevant State institutions at all levels, including to government ministries, the legislature, the judiciary and relevant local authorities, and to members of civil society.**

Technical assistance

59. **The Committee recommends that the State party avail itself of international assistance for the implementation of the recommendations contained in the present concluding observations, and urges it to continue its cooperation with specialized agencies and programmes of the United Nations, including OHCHR and the United Nations Support Mission in Libya.**

Follow-up to concluding observations

60. **The Committee requests the State party to provide, within two years (that is, by 1 May 2021), written information on the implementation of the recommendations contained in paragraphs 35, 41, 51 and 53 above.**

Next periodic report

61. **The Committee requests the State party to submit its second periodic report by 1 May 2024. In doing so, the State party may wish to follow the simplified reporting procedure. The Committee draws the State party's attention to its harmonized treaty-specific guidelines (HRI/GEN.2/Rev.6).**
