

**INTERNATIONAL
COVENANT
ON CIVIL AND
POLITICAL RIGHTS**



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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Initial reports of States Parties due in 1977

Addendum

LIBYAN ARAB JAMAHIRIYA^{*/}

[19 January 1978]

The Libyan Arab Jamahiriya has previously submitted a report on this matter. That report included provisions taken from the Constitutional Declaration, which was revoked after the establishment of the people's authority on 2 March 1977 and the reversion to the Holy Koran, which became the ruling constitution. Provisions mentioned in our previous report in relation to the earlier constitution are therefore no longer valid and have been replaced by principles derived from the Holy Koran, whose coverage is wider and more comprehensive than the provisions of the Constitutional Declaration.

The other provisions and articles are still in force. We should be glad to discuss the report of the Libyan Arab Jamahiriya as amended. Meanwhile we regret that we have been unable, owing to shortage of time, to submit the present report in more than one language.

^{*/} The present report constitutes a supplement to the initial report of the Libyan Arab Jamahiriya, dated 4 March 1977, which was issued in document CCPR/C/1/Add.3 and Corr.1.

Article 6

Death sentence

1. Sentence of death may be imposed legally under article 17 of the Penal Code.

CRIMES PUNISHABLE BY DEATH

1. Premeditated murder (article 368 of the Penal Code).
2. Unpremeditated murder, if committed in combination with another crime (article 273 of the Penal Code).
3. Taking up arms against the State (article 165 of the Penal Code).
4. Facilitating the entry of an enemy into the country (article 166 of the Penal Code).
5. Plotting with a foreign State to wage war against the State (article 166 of the Penal Code).
6. Sabotage of military establishments in time of war (article 179 of the Penal Code).
7. Procurement of defective arms or ammunition if it can cause the death of a person or if it takes place in time of war (article 181 of the Penal Code).
8. Exploiting State secrets in such a way as to influence the course of war (article 182 bis of the Penal Code).
9. Usurpation of a military command (article 199 of the Penal Code).
10. Employment of troops in violation of Government orders (article 200 of the Penal Code).
11. Armed revolt against the State (article 201 of the Penal Code).
12. Sabotage, loot and murder (article 202 of the Penal Code).
13. Incitement to civil war (article 203 of the Penal Code).

The sentence shall not be carried out unless it becomes final, after the exhaustion of all appeal procedures. The approval of the People's General Congress shall be sought before it is carried out (article 430 of the Penal Code).

YOUNG PERSONS AND PREGNANT WOMEN

1. The death sentence shall not be imposed on young persons below the age of 18 years, who shall be sentenced instead to a term of not less than five years' imprisonment in a reformatory (article 81 of the Penal Code).
2. The execution of the death sentence on a pregnant woman shall be suspended until two months after the date of confinement (article 436 of the Penal Code).

PROCEDURE FOR THE EXECUTION OF THE SENTENCE

1. The relatives of the condemned person shall be permitted to take their last leave of him, and religious rites of his own faith may be performed (article 432).
2. The sentence shall be carried out in a prison or in a closed place.
3. A representative of the Public Prosecutor's Department, the prison warden, a physician and the condemned person's defence counsel shall attend the execution (article 434).
4. The sentence shall not be carried out on a day which is an official religious holiday under the religion of the condemned person (article 437).
5. The Government shall defray the cost of burial or delivery of the body to the relatives of the condemned person (article 437 of the Penal Code).

Article 7

No one shall be subjected to torture or to cruel,
inhuman or degrading treatment or punishment

1. Any civil servant who, in the exercise of his functions, resorts to violence in a manner that causes humiliation or physical pain is liable to punishment (article 431 of the Penal Code).
2. Any civil servant who tortures persons is liable to punishment (article 435 of the Penal Code).
3. Article 41 of the Penal Code provides that a sentence shall be carried out in a manner conducive to the reform and education of the offender, with a view to realizing the moral and social aims of the punishment; sentences that involve deprivation of liberty shall be implemented in conformity with humanitarian principles and principles involving work and corrective training.
4. Sentences involving deprivation of liberty shall, in accordance with article 42 of the Penal Code, be carried out under the supervision of the judge and the Public Prosecutor's Department.
5. Article 27 of the Penal Code stipulates that a judge shall pass such sentence as he deems appropriate within the limits laid down by law; the reasons justifying his assessment of the sentence should be clear in his own mind; he may not go beyond or fall short of the limits prescribed by law except as established by the law itself.

Article 8

Slavery

1. The enslavement of any person or the placing of any person in a state similar to slavery is prohibited by law, and is punishable by imprisonment for 5 to 15 years (article 425 of the Penal Code).
2. The law provides that dealing and trading in slavery is prohibited and is punishable by imprisonment not exceeding 10 years (article 26 of the Penal Code).

Article 9

Guarantees concerning arrest and imprisonment

1. An offender shall be arrested in cases of felony, or in flagrante delicto, if the crime is punishable by imprisonment for more than three months and if the offender is under surveillance or is a vagabond, or in case of theft, violence, resistance to law enforcement personnel or violation of privacy (article 24 of the Code of Penal Procedure).
2. Statements by an arrested person shall be heard promptly and the person shall be released if he provides evidence of his innocence; otherwise his case shall be referred within 48 hours to the Public Prosecutor's Department, which shall interrogate him within 24 hours; the Public Prosecutor's Department shall decide either to keep him under arrest or release him (article 26 of the Penal Code).
3. No one may be arrested for crimes in which the initiation of prosecution is dependent upon the submission of a complaint (article 29 of the Code of Penal Procedure).
4. No one shall be arrested without an order issued by a legally competent authority (article 30 of the Code of Penal Procedure).
5. Complaints concerning illegal detention, whether submitted by the detained person or by a third party, shall be investigated and the detained person shall be released immediately (article 33 of the Code of Penal Procedure).
6. Any official who exceeds his powers in arresting a person shall be liable to imprisonment (article 433 of the Penal Code).
7. A prison warden who allows a person to be imprisoned illegally shall be punished by imprisonment (article 434 of the Penal Code).

PREVENTIVE DETENTION

1. Preventive detention shall be ordered where there is sufficient evidence of commission of the crime or misdemeanour for which the arrest took place (article 115 of the Code of Penal Procedure).

2. The examining magistrate may order detention for a period of 15 days, which may be extended for no more than 45 days (article 122).
3. The examining magistrate may not exceed this maximum period without referring the matter to a court of first instance composed of three judges (article 123 of the Code of Penal Procedure).
4. The Public Prosecutor's Department may not order detention for more than three days (article 175 of the Code of Penal Procedure).
5. The Public Prosecutor's Department may not exceed this period without referring the matter to a preliminary court of justice.
6. The period may not be extended beyond 45 days without reference to a court of first instance.
7. The defendant shall be brought to trial promptly.

Article 10

Humane treatment of prisoners

1. No person shall be detained except in prisons designated for this purpose (article 31 of the Penal Code).
2. Prisoners shall be classified into categories according to their status (article 14 of the Prison Code).
3. Female prisoners shall be segregated from male prisoners (article 16 of the Prison Code).
4. A prisoner sentenced to a term of simple imprisonment may be granted the advantages enjoyed by persons held in preventive detention (article 21 of the Prison Code).
5. Special treatment shall be accorded to pregnant women (article 23 of the Prison Code).
6. Procedures for the employment of prisoners shall be regulated by law (articles 25-32 of the Prison Code).
7. Procedures for the enlightenment, teaching and guidance of prisoners shall be regulated by law (articles 33-39 of the Prison Code).
8. The medical treatment of prisoners shall be regulated by law (articles 40-44 of the Prison Code).
9. Prisoners shall be entitled to visits and correspondence (articles 45-50 of the Prison Code).
10. Disciplinary action against prisoners shall be regulated by law (articles 51-54).
11. Complaints from prisoners shall receive consideration.

PERSONS HELD IN PREVENTIVE DETENTION

1. Persons held in preventive detention shall be segregated from other prisoners (article 14 of the Prison Code).
2. They shall be accommodated in special places and furnished rooms and shall be allowed to bring in permissible utensils (article 17 of the Prison Code).
3. They shall have the right to wear their own clothes and bring in their own food (article 18 of the Prison Code).
4. They shall have the right to receive books, newspapers and magazines (article 19 of the Prison Code).
5. They shall have the right to see counsel (article 20 of the Prison Code).

SEGREGATION OF YOUNG PERSONS

1. Article 1 of the Prison Code provides for the establishment of special prisons for young persons.
2. Article 16 of the Prison Code provides that young persons under 20 years of age shall be segregated from those over 20 years.
3. Article 316 of the Code of Penal Procedure provides for the setting-up of juvenile courts.
4. Article 317 of the Code of Penal Procedure provides that, in matters of felony, the action shall be initiated directly before a juvenile court.
5. Article 327 of the Code of Penal Procedure provides that an appeal shall be considered promptly.

Article 11

No one shall be imprisoned merely on the ground
of inability to fulfil a contractual obligation

The law prescribes imprisonment for felonies, misdemeanours and other offences only; it does not prescribe any punishment for failure to fulfil contractual obligations.

Article 12

A. Liberty of movement and residence in the country

This liberty is guaranteed to all persons with the exception of those whose liberty of movement or residence in a particular place is restricted under precautionary measures necessitated by security considerations (articles 152, 153, 153 bis, and 156).

B. Freedom to leave the country

1. All Libyans, whether Libyan by origin or naturalized, are entitled under article 3 of the Nationality and Passport Code to obtain passports to enable them to leave the country.
2. The holder of a passport has the right to return to the country without obtaining a special visa (article 7 of the Passport Code).

Article 13

Deportation of aliens

1. Article 158 of the Penal Code provides that an alien shall be deported if he has been sentenced to imprisonment for not less than 10 years or in other cases stipulated by law.
2. Extradition procedures are regulated by article 493.

Article 14

Recourse to the courts

1. The Holy Koran, which is the Constitution for purposes of adjudication, says: "When thou adjudicatest among people, adjudicate with justice".
2. Courts shall sit in public unless respect for public morality and public order requires otherwise (article 241).
3. Juveniles shall be tried in chambers (article 323, Code of Penal Procedure).
4. Article 244 of the Code of Penal Procedure provides that the charge shall be read out to the defendant.
5. Article 106 of the Code of Penal Procedure establishes the right of the defendant to be accompanied by a counsel.
6. Article 162 of the Code of Penal Procedure provides for the State's obligation, in cases of felony, to appoint a counsel for a defendant for whom a counsel has not been appointed.
7. Article 321 of the Code of Penal Procedure provides that a juvenile defendant shall have a counsel to defend him.
8. Article 321 of the Code of Penal Procedure provides for the right of the defendant to submit a list of his witnesses.
9. Article 210 provides that the defendant shall be present in person during the trial.
10. Article 243 provides that the defendant shall not be removed from the court unless he causes a disturbance.
11. Article 245 provides that the defendant shall have the right to interrogate prosecution witnesses.

12. Article 245 provides that the defendant shall have the right to put questions to defence witnesses.
13. Article 247 provides that the defendant shall not be interrogated unless he so agrees.
14. Article 248 provides that the defendant shall have the right to speak at the end of the prosecution.
15. Article 361 provides that the defendant shall have the right to oppose a judgement passed in absentia.
16. Article 365 provides that the defendant shall have the right of appeal.
17. Article 381 provides that the defendant shall have the right of recourse to a court of cassation.
18. Article 402 provides for the right to request reconsideration of a case upon the emergence of new facts.
19. Article 240 provides that the defendant shall have the right to claim compensation from the plaintiff in civil cases.
20. Article 221 entitles the defendant to reply to the judge.
21. The defendant has the right to object to a judge according to chapter 2, book 3 of the Code of Civil Procedure.
22. Article 416 of the Code of Penal Procedure provides that a case shall not be re-opened after a final judgement has been given.

The State shall provide the courts free of charge with all translation services required for cases to which aliens are parties.

Article 15

Retroactivity of laws

1. Article 2 of the Penal Code provides that crimes shall be punished according to the law in force at the time they were committed.
2. It also provides that, where a law more favourable to the defendant is enacted, that law shall apply.
3. It also provides that, if a law making an act no longer punishable has been enacted, the punishment shall be annulled.

Article 16

Right of individuals to be recognized as persons before the law

1. All laws in force shall be applicable to all individuals without distinction of any kind.
2. The Penal Code determines criminal responsibility according to age and mental condition.

3. The Civil Code defines legal eligibility on the same basis.

Article 17

Requirement not to interfere with privacy and not to attack honour and reputation

1. Public officials may not enter inhabited residences except as provided by law (article 34, Code of Penal Procedure).
2. Article 432 provides that unauthorized search of a person by an official shall be punishable by imprisonment.
3. Article 437, Penal Code, provides for punishment of an official who infringes the inviolability of inhabited residences.
4. Article 436 provides for punishment of any person who trespasses in another person's inhabited residence.
5. Article 244 provides for punishment of a postal employee who reads, impairs or discloses the contents of correspondence, including telegrams and telephone calls.
6. Article 438 prescribes punishment for insulting other persons.
7. Article 434 prescribes punishment for defaming other persons.

Article 18

Freedom of religion

1. The Holy Koran states: "No coercion in religion".
2. Article 289 of the Penal Code prescribes punishment for interfering with religious rites or violating sanctities held inviolable by the followers of a certain faith or by a group of the population.
3. Article 290 prescribes punishment for openly interfering with one of the religions, deliberately distorting any book held sacred by it, or ridiculing the rites of any religion.

Article 19

A. Liberty to hold opinions

1. There is no law in force in the country which obliges anybody to hold, or not to hold, a certain opinion.
2. Article 217 prescribes punishment for the violation of political rights.

B. Freedom of expression

This freedom is guaranteed except in the following cases:

1. Incitement to commit a crime (article 317 of the Penal Code).
2. Provoking religious hatred and hostility (article 318 of the Penal Code).
3. Incitement to disobedience of the law (article 318 of the Penal Code).
4. Insult (article 438 of the Penal Code).
5. Defamation (article 439 of the Penal Code).
6. Causing offence to persons or their morals (articles 471 and 472 of the Penal Code).
7. Display of indecent material (article 500 of the Penal Code).
8. Indecent acts or obscene speech (article 501 of the Penal Code).

Article 20

Prohibition of propaganda for war and incitement of
national, racial or religious hatred

1. Article 302, Penal Code, prescribes punishment for provoking a civil war in the country.
2. Article 206 prescribes punishment for seeking the domination of one social class by another or the elimination of other classes.

Article 21

The right of assembly

The right of assembly is guaranteed unless exercised in combination with a punishable crime, such as:

1. Provoking a civil war or hostility (article 470, Code of Penal Procedure).
2. Threatening justice, public safety, public order or public health (article 467).

Article 22

Union rights

Workers have the right to form trade unions to serve their interests, safeguard their rights and defend them (article 1 of Trade Unions Act No. 107/75).

Article 23

Family life

1. The State encourages marriage and grants special allowances to married persons.
2. Marriage is considered under Islamic Shari'aa to be a contract necessitating the agreement of the two parties, and one to which neither a man nor a woman shall be driven against his or her will.
3. Shirking family responsibilities is punishable by law (article 396, Penal Code).
4. Abuse of methods of education is punishable by law (article 397, Penal Code).
5. Maltreatment of family members and children is punishable by law (article 398, Penal Code).
6. Non-payment of alimony ordered by a court to be paid to a family member is punishable by law (article 398 bis a).
7. Refusal to hand over a child to the eligible custodian is punishable by law (article 398 bis b).
8. Conjugal infidelity is punishable by law.

DISSOLUTION OF MARRIAGE

Islamic Shari'aa regulates the dissolution of marriage; each party has guaranteed rights.

Article 24

Children: Protection

1. The State provides for the necessary protection and welfare of children.
2. Killing or abandoning a new-born baby is punishable by the State (articles 373 and 389).
3. Abandonment of minors is punishable by law (article 387).
4. Intercourse with minors is punishable by law (article 463).
5. Kidnapping minors for the purpose of committing lustful acts is punishable by law (article 413).
6. Instigating or forcing a minor to engage in prostitution is punishable by law (article 415).
7. Kidnapping minors is punishable by law (article 406).
8. Fraudulence in the registration of births is punishable by law (article 404).

NATIONALITY

Conditions for obtaining Libyan nationality are prescribed by the Nationality

Article 25

Participation in public life

This is guaranteed for all citizens through people's organizations.

Article 26

All persons are equal before the law without discrimination against any person or group on grounds of race, colour, religion or opinion.

Society is founded on the teachings of the Koran, which stipulates: "You people, in male and female We created you; in peoples and tribes we made you so that you know each other." The Prophet has said: "People are as equal as the teeth of a comb, no advantage for a white over a black, neither for a red over a yellow, nor for an Arab over a non-Arab except by virtuousness, all of you belong to Adam. Adam is of earth."

The law prescribes punishment for insulting other religions and for depriving others of the exercise of political rights.

Article 27

Rights of ethnic minorities

Libyan society constitutes a single unit and there are no ethnic minorities.