





REPORT OF THE AFRICAN
COMMISSION'S WORKING GROUP ON
INDIGENOUS POPULATIONS/COMMUNITIES

RESEARCH AND INFORMATION VISIT
TO LIBYA

11-25 August 2005

The African Commission on Human and Peoples' Rights adopted this report
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African Commission on
Human and Peoples' Rights
(ACHPR)



IWGIA

International
Work Group
for Indigenous Affairs

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PREFACE

The African Commission on Human and Peoples' Rights (ACHPR or African Commission), which is the human rights body of the African Union, has been debating the human rights situation of indigenous peoples since 1999. Indigenous peoples are some of the most vulnerable and marginalized groups on the African continent, and their representatives have, since the 29th Ordinary Session of the African Commission in 2001, participated in the ACHPR's sessions. The indigenous representatives have given strong testimonies about their situation and the human rights violations they suffer. Their message is a strong request for recognition and respect, as well as a call for improved protection of their civil, political, economic, social and cultural rights. It is also a request for the right to live as peoples and to have a say in their own future, based on their own culture, identity, hopes and visions. Indigenous peoples, moreover, wish to exercise these rights within the institutional framework of the nation-state to which they belong. The African Commission has responded to this call. The African Commission recognizes that protecting and promoting the human rights of the most disadvantaged, marginalized and excluded groups on the continent is a major concern, and that the African Charter on Human and Peoples' Rights must form the framework for this.

In order to achieve a better basis on which to advance discussions and formulate recommendations, the African Commission set up a Working Group on Indigenous Populations/Communities (Working Group) in 2001. The Working Group implemented its initial mandate by producing the comprehensive document "Report of the African Commission's Working Group of Experts on Indigenous Populations/Communities" on the human rights situation of indigenous peoples and communities in Africa (the full report can be downloaded from <http://www.achpr.org>). The report was adopted by the African Commission in November 2003, and published in book format in 2005. The report is the African Commis-

sion's official conceptualisation of indigenous peoples' human rights in Africa.

In 2003, the Working Group was given the mandate to:

- Raise funds for the Working Group's activities, with the support and cooperation of interested donors, institutions and NGOs;
- Gather information from all relevant sources (including governments, civil society and indigenous communities) on violations of the human rights and fundamental freedoms of indigenous populations/communities;
- Undertake country visits to study the human rights situation of indigenous populations/communities;
- Formulate recommendations and proposals on appropriate measures and activities to prevent and remedy violations of the human rights and fundamental freedoms of indigenous populations/communities;
- Submit an activity report at every ordinary session of the African Commission;
- Co-operate when relevant and feasible with other international and regional human rights mechanisms, institutions and organizations.

On the basis of this mandate, the Working Group has developed a comprehensive activity programme. This programme includes undertaking country visits, organising sensitisation seminars, cooperating with relevant stakeholders and publishing reports, all with a view to protecting and promoting indigenous peoples' rights in Africa.

This report is part of a series of country-specific reports produced by the Working Group and adopted by the African Commission on Human and Peoples' Rights. These country-specific reports emanate from the various country visits undertaken by the Working Group, all of which have sought to engage with important stakeholders such as governments, national human rights institutions, NGOs, intergovernmental agencies and representatives from indigenous communities, both women and men. The visits have sought to involve all relevant actors in dialogue on indigenous peoples' human rights, and to provide information on the African Commission's position. The reports not only document the Work-

ing Group's visits but are also intended to facilitate constructive dialogue between the African Commission, the various African Union member states, as well as other interested parties.

To date, the Working Group has undertaken visits to Botswana, Burkina Faso, Burundi, Central African Republic, Democratic Republic of Congo, Gabon, Namibia, Niger, Libya, Republic of Congo, Rwanda and Uganda. These visits have been undertaken during the years 2005-2009, and the intention is that the reports will be published once adopted by the African Commission. Hopefully, the reports will contribute to raising awareness of indigenous peoples' situation in Africa, and prove useful for establishing dialogue and identifying appropriate ways forward for improving this. Unfortunately, the report of the visit to Libya has, for logistical reasons, only been published in 2009, four years after the visit took place.

It is hoped that, via our common efforts, the critical human rights situation of indigenous peoples will become widely recognized, and that all stakeholders will work to promote and protect indigenous peoples' human rights in their respective areas.

Commissioner Musa Ngary Bitaye
Chairperson of the African Commission's Working Group
on Indigenous Populations / Communities

EXECUTIVE SUMMARY

The African Commission's Working Group on Indigenous Populations / Communities conducted a research and information visit to Libya from 11 to 25 August 2005. The Libya research and information visit was undertaken by Mr. Khattali Med Ag M. Ahmed, who is a member of the Working Group.

The information resulting from the visit was obtained from discussions and interviews with Libyan officials, indigenous representatives and indigenous delegates from Mali and Niger who were making an official visit to Libya at the time of the Mission's visit.

It has to be noted that the information obtained from the Mission's visit is not as comprehensive as could have been wished for. The local expert, whom the Mission was supposed to conduct the visit in cooperation with, unfortunately had to travel abroad at the time of the Mission's visit. The Working Group decided to continue the visit without the local expert's assistance but lost a whole week in Tripoli and it was therefore not possible to visit as many indigenous communities as planned. Despite this setback, the Mission managed to complete the visit by restricting it to Tuareg communities in Ubari prefecture¹. Although it would have been preferable to visit other indigenous Amazigh communities, the information on the situation facing the Tuareg is likely to apply to other Amazigh groups given that they live under the same system, which disregards their specific nature and within which they experience discrimination.

The aim of the visit was to

- Inform the Libyan government, regional and local authorities, national human rights organisations, media, civil society organisa-

¹ Ubari is situated approximately 1,000 km south of Tripoli at the other end of Oued Targa and some 30 km from Garama, ancient capital of the Garamantes. Covering an area of 466,000 km², this prefecture has 75,645 inhabitants, the majority of them Tuareg. It is made up of 11 self-managed municipalities, namely: Ubari town, Algaerat, Laghrepha, Germa, Brek, Gagra, Lafjij, Lagraya, Raguiba, Beit Baya and Labiad.

tions and associations, development agencies and other interested players about the report and the efforts of the African Commission on Human and Peoples' Rights with regard to indigenous peoples;

- Collect all information relating to the human rights situation of indigenous peoples in Libya with a view to providing an in-depth report to the African Commission on Human and Peoples' Rights;
- Distribute the African Commission's report on indigenous peoples to key individuals and institutions.

Libya covers an area of 1,759,540 km², and has a population of 5.8 million, most of whom are Arab. There is also a large Amazigh minority representing around 10% of Libya's total population. The Tuareg form part of the Amazigh peoples who live in the Sahara between Mali, Niger, Burkina Faso, Algeria, and Libya. In Libya, the Tuareg are estimated at about 60,000 inhabitants.

Since 1977, Libya's doctrine has been "The Green Book", written by Colonel Kadhafi and which is the ideological framework for the system of "direct democracy". Although there is an implicit recognition, albeit limited, of the Amazigh population, they are not constitutionally recognised as a people. All Libyans being equals, it implies no discrimination, either positive or negative. Until recently, the official rhetoric clearly indicated that only one people exists in Libya, the Arab people, who are considered an integral part of the Arab Nation. Demands for recognition of the Amazigh as distinct peoples have been likened to treason and conspiracy with the colonisers.

The Amazigh issue, and thereby also the Tuareg, has been on the political agenda since the middle of the last century. Although demands by the Amazigh have not been noted until recently, the Amazigh population has been excluded and marginalized since independence. The process of assimilation that has taken place since Libya's independence, aimed at making the indigenous groups an integral part of the nation, gradually led the Amazigh population to abandon their traditional nomadic way of life and settle in permanent settlements. Although the settled life does provide an easier life for the indigenous population, voices of discontent and a wish to recover their culture and identity are heard.

The Amazigh population generally enjoys the same level of socio-economic rights and the right to development as other citizens of the country

and a number of development projects in Amazigh areas have been implemented. In contrast to socio-economic rights, the cultural and political rights of the indigenous population are limited, largely due to the lack of explicit recognition of the country's indigenous peoples, the lack of associations defending their rights, the lack of awareness-raising among those principally concerned, and the lack of freedom of expression outside of the official political structures. The Mission did not come across any human rights organisations, apart from one chaired by Colonel Kadhafi's son, Seif Alislam.

Some signs seem to raise hopes for the recognition of indigenous populations in the wake of the changes that seem to be slowly taking place in Libya. Colonel Kadhafi has taken the initiative to revive regional cooperation between the Tuareg of the Maghreb countries and those of Sub-Saharan Africa. Signs of the recognition of a distinct indigenous population also exist in political discourse and legal texts. One example is a language decree which provides for the teaching of African languages, including indigenous languages, in the education system. The extent to which it is being carried out in practice is, however, questionable because the Libyan authorities, as well as the indigenous elites, are delaying the implementation of these rights. Hence, administrative inertia and a lack of awareness raising prevent the Tuareg community from fully benefiting from the regime's overtures, however small, and the confidence placed in them by the Libyan authorities.

In light of this report's findings, the African Commission's Working Group on Indigenous Populations/Communities makes the following recommendations:

1. Encourage Libya to ratify ILO Convention 169 on the Rights of Indigenous Peoples;
2. Urge Libya to grant cultural and political rights to all its citizens, including indigenous populations;
3. The Libyan State should raise awareness among its Amazigh population, including the Tuareg, of their right to preserve their identity and their culture by opening up the mass media to them and by helping them to form associations;
4. Encourage Libya to show more interest in Amazigh culture and language, and to allow this culture and language to flourish. Libya

- should thus seek to promote and preserve the Amazigh cultural heritage, language and history in Libya;
5. Urge Libya to recognise Tamazight as one of the national and official languages and create an institution responsible for promoting this language²;
 6. Call upon the country to include references to the Amazigh history and culture in school curricula;
 7. Encourage Libya to ensure that the Amazigh regions overcome their economic backwardness in relation to the rest of the country;
 8. A meeting of the Working Group should be held in the Amazigh region of Libya (Ghât or Ifren) in order to dispel the fear that the Amazigh feel, despite the clear and positive changes in the country;
 9. Urge Libya to conduct a widespread dissemination of the report of the African Commission's Working Group on Indigenous Populations / Communities and the African Charter on Human and Peoples' Rights;
 10. Encourage Libya to report back to the next session of the African Commission on the decisions it has taken to implement these recommendations.

This report is subdivided into five sections, preceded by an executive summary and followed by a conclusion and recommendations. The first section gives a general overview of Libya. The second section presents the various meetings held in Libya by the Mission. The third section gives information about the indigenous populations in Libya, and the fourth section deals with some key thematic issues, constitutional and legislative recognition, socio-economic rights, the right to work, the right to health, the right to establish associations and unions, the right to housing, the right to education, cultural and linguistic issues, government programmes aimed at improving the situation of the indigenous population and gender issues. The final section describes an emerging regional cooperation between the Tuareg.

2 As in Morocco with the *Institut de l'Amazighité*.

I. GENERAL OVERVIEW OF LIBYA

Libya is situated in North Africa. Bordering the Mediterranean Sea to the north, Libya lies between Egypt to the east, Sudan to the south-east, Chad and Niger to the south and Tunisia and Algeria to the west. It has a total surface area of 1,759,540 km², and a population of 5.8 million, most of whom are Arab. There is also a large Amazigh minority, which includes the Tuareg.

Since the 8th century BC, many civilisations have left their mark on the country. The indigenous Imazighen³ intermingled with these civilisations, to a limited extent with the Greeks, Romans and Byzantines but more significantly with the Arabs, who conquered the land in the 7th century.

In 1911, Libya was colonised by Italy and gained its independence in 1951 after a relentless struggle by the Libyans under the leadership of the celebrated martyr, Omar El-Mokhtar. King Idriss 1, who led the country following independence, was overthrown in 1969 by a group of “free officers” under the leadership of Colonel Kadhafi, then a lieutenant. In 1977 Colonel Kadhafi proclaimed the establishment of “people’s power”, which was to be governed by the “power of the masses”, and changed the country’s name to the Great Socialist People’s Libyan Arab Jamahiriya⁴.

1.1 The system of “direct democracy”

Libya is governed by Sharia law. The doctrine for Libya’s political/administrative system is described in “The Green Book”⁵, which is the ideological framework for the system of “direct democracy”. The Green Book was written by Colonel Kadhafi, outlining his views on democracy and his political philosophy. The book consists of three parts:

3 Plural of Amazigh

4 The term Jamahiriya was created by Colonel Kadhafi and means a republic ruled by the masses.

5 For more information please see: <http://www.mathaba.net/gci/theory/gb.htm>

The problem of democracy: In this chapter, the author endeavours to demonstrate that Western democracy is in fact none other than a dictatorship in disguise. The party or candidate who wins 51% of the votes does not represent all the people and yet he behaves like an autocrat. Parliamentary representation is nothing more than a subterfuge and parties have to be banned because they represent the interests of the dominant classes. His proposed solution to the issue of power is the exercise of direct democracy through people's congresses and committees whereby power is exercised by the people, without any intermediaries.

The problem of socialism: The means of production, wealth and arms, according to the author, must be in the hands of the people; if not, the party that holds them will subjugate those who do not.

The social foundations: The family, the tribe and the nation are the basic foundations of society.

1.2 The political structure

At the level of each village or neighbourhood, all citizens are enrolled in a Local People's Congress in each of the 1,500 urban wards. The Local People's Congresses elect their own leadership and secretaries. At the level of each of the 32 Sha'biyat (municipality), the different Local People's Congresses send representatives in proportion to their number to form the municipal-level people's congress (Sha'biyat People's Congresses), which, in turn, elects a people's committee as executive body.

A general congress is established at the national level (the National General People's Congress), which acts as a parliament. It comprises representatives from the Local People's Congresses, the Sha'biyat People's Congresses and unions. It elects specialist committees from among its members, each of which has a secretary who acts as minister, plus a general people's committee, which operates like a government. This is also led by a secretary who acts as prime minister.

There is also another structure known as the "*Direction des commandements populaires*"⁶, which brings together the tribes and traditional au-

6 Which is the same, in relative terms, as an Ombudsman.

thorities in structures parallel to those of the people's congresses. In addition to this, there is a member of the people's congresses at all levels.

In relation to decision-making, the Local People's Congresses take decisions on matters that fall within their competence and then entrust their implementation to the people's committees. They can also make proposals for issues dealt with by the General People's Congress. Laws are passed by the National General People's Congress. Regulations are made by the General People's Committee, which acts as a government. The secretaries of the national-level technical committees – in other words the ministers – pass decrees on issues within their area of competence.

Since the coup that brought Colonel Kadhafi to power in September 1969, he has in practice been Head of State. However, he refrains from calling himself Head of State, preferring to use the official title of "Guide".



MAP OF LIBYA*

* <http://en.wikipedia.org/wiki/Libya>

II. MEETINGS HELD

2.1 Meetings with Tuareg delegations from Mali

The first meeting was with the Tuareg delegation from Mali, invited by the Libyan authorities. This comprised deputy Bey Ag Hamdi from Tessalit (north of Mali) along with three other people accompanying him. The discussion focused on the new dynamic present in inter-Tuareg and cross-border relations due to the benevolent action of Colonel Kadhafi. ACHPR's new initiative to protect indigenous peoples' rights, as well as the research and information visit to Libya, was also discussed.

The second meeting was with another delegation of Malian Tuareg led by Mohamed ag Intalla. He is a deputy in Mali's National Assembly, elected at Tin-Essako in northern Mali. He was accompanied by Khadija, head of coordination between Libyan and Malian Tuareg women, and Bajan Ag Hamato, Tuareg deputy in Mali's National Assembly. The Mission discussed the Tuareg situation in Mali and Libya, along with the new dynamic facilitate by Colonel Kadhafi. There was general agreement that the establishment of inter-Tuareg relations right across the Sahara, from Mali to Libya, was a good initiative as it enabled the Tuareg to regain their vital space. The delegation was informed about the work accomplished by the Working Group and the objective of its visit to Libya.

Finally, the Mission met with two Tuareg delegations: one from Mali, led by deputy Mohamed Ag Intalla, and the other from Niger, led by Rhissa Boula, ex-minister of tourism. Present was also Mr. Moussa Alkouni, appointed to deal with Tuareg Affairs in Libya. The Mission explained the process initiated by the African Commission on behalf of indigenous peoples as well as the terms of reference of the visit to Libya. Having been encouraged, Mr. Alkouni reiterated his support to the Mission and stated his willingness to provide his assistance during the visit.

2.2 Meetings with officials and the Office for Studies and Research into Saharan Affairs

The Mission had a private meeting with Mr. Moussa Alkouni, a Tuareg from the Libyan Imanghassatan tribe appointed by the Libyan government to handle Tuareg affairs. The Mission discussed Libya's new policy of establishing contacts and links between the Tuareg, along with the development programmes Libya has just agreed to finance exclusively for the Tuareg in Mali and Niger. Discussions also focused on the ACPHR's work and the visit to Libya. Mr. Alkouni informed the mission that the Libyan authorities would appoint an institution to consider the issue of indigenous peoples.

The Mission also met with Dr. Mohamed Said Alguichat, Secretary of the *Bureau d'études et de recherches sur les affaires sahariennes* (Office for Studies and Research into Saharan Affairs). Dr. Alguichat, a former Ambassador to Saudi Arabia, is not a Tuareg himself but has written about the Tuareg and was in charge of handling the Tuareg influx into Libya in 1980. After a fruitful discussion regarding the visit, he gave some useful advice along with a recommendation to the local authorities.

2.3 Meetings with indigenous representatives

The first meeting with Libyan Tuareg was in the "Cambo Tiouri" shanty town in Sebha. After explaining the African Commission's process to them and handing out copies of the report of the African Commission's Working Group on Indigenous Populations / Communities, the people raised many complaints, particularly relating to housing. They asked for the report in Arabic as only a few of them could read English.

In Ubari, the Mission met the secretary of the people's committee, along with members of the committee, Mr. Bawa Abeid Azzintani (governor), and the General Secretary of the People's Congress (deputy). After a fruitful discussion about the visit, the committee provided information on the rights of the indigenous Tuareg tribes of Ubari.

The mission also held two meetings; one with the chiefs of the Ubari tribes, namely the Great Amenokal (i.e. supreme chief) Moulaye al

Kamari, and the chiefs of the Imanghassatan and Ihaggaran tribes, Abdelkrim Mohamed saleh Assoki and Hussein Maniou Mostapha, accompanied by a large entourage, and the other with chiefs of the Tuareg tribes from the Malian Sahara to whom Libya has just collectively granted nationality of origin. These included Khibbida Mohamed Bouka Oumar, Chief of the Ifoghas; Bachir Souleyman and Alhousseyni ag Boujakka, Chiefs of the Kel-Essouk tribe; Khamminna ag Mossa, Chief of the Kel Taghlit tribe; Ahmed Assouki, Chief of the Chaman Ammas tribe; and Bilal Ahmed, Oumar Kabba. During these two meetings, the African Commission's work on indigenous peoples and the problems they are facing in Libya was discussed. It should be noted that the Libyan authorities did not attend these meetings.

In all these meetings, the mission gave information about the African Commission and its Working Group and distributed the report of the Working Group on Indigenous Populations / Communities. The mission also explained the concept of indigenous populations and what their rights are. The Mission had to apologise at all the meetings that there were no copies of the report of the African Commission's Working Group on Indigenous Populations / Communities available in Arabic. It was promised that as soon as it became available it would be sent to them.

III. INFORMATION ABOUT THE INDIGENOUS POPULATIONS OF LIBYA

Libya is home to a substantial Amazigh minority⁷ representing around 10%⁸ of Libya's total population of 5.8 million. It should however, be mentioned that there has been no official census of the Libyan Amazigh population, which makes it difficult to know their exact numbers. Amazigh is the common term used for the indigenous peoples of Northern Africa that share similar cultural, political, and economic practices. The term Berber is also often used but, for many Amazigh people, this term has a derogatory connotation. The term Berber was the name given to the inhabitants of North Africa first by the Greeks and later by the Romans, whilst the term Amazigh is the name the indigenous peoples give themselves and which means "free man".

The Tuareg are part of the Amazigh peoples who live in the Sahara between Mali, Niger, Burkina Faso, Algeria, and Libya. Their language is Tamazight. They initially received the name 'Tuareg' from the Arabs, and later also from the Europeans. The Tuareg from Adhagh in northern Mali also call themselves 'Kel Tamachaq', whilst those living in north-eastern Mali and Niger call themselves 'Imagehan'. The Tuareg living in Algeria and Libya also call themselves 'Imouhagh'.

In Libya, the Tuareg, estimated to number 60,000, have never formed the object of a specific census. They are divided into the following tribes: Imanghassatan, Iwraghan, Imanan, Ibattanatan, Imaqerghissan, Ihaggaran, Kel-Oulli, Ifilalen, Ilamtayen, Iwarzatan, Kel-Essouk, Ifoghas, Imghad, Idnan, Chamanammas, Kel-intassar, Imouchar, Iraganatan, Taghat Mallat and Kel Tinalkom.

7 There is also a small Toubou population that has not declared itself indigenous and about which there is little information.

8 See www.ajam6.persianblog.com.



Areas where significant numbers of Tuareg live⁹

The Tuareg are traditionally Bedouins and household tasks are shared between husband and wife. The wife is traditionally in charge of fetching water and small ruminants, whilst the husband takes care of the camels and commerce. The Tuaregs' commercial activity mainly focuses on exchanging meat, game, camels and rock salt with dates, clothes, tea, sugar, and food. The Tuaregs' nomadic pattern is primarily guided by the availability of rain and pastures for their camels. They use their camels as a mean of transport, but also benefit from the milk and meat provided by the camels. However, in Libya, much of this traditional way of life belongs to the past. Colonel Kadhafi's revolution in 1969, amongst others, advocated a sedentary lifestyle for the Tuareg, which means that many of them have abandoned their nomadic lifestyle to live in the towns in southern and western Libya, mainly in Sebha, Ubari, Ghât and Ghadamès.

Although urbanised, most Tuareg still have herds of camels tended by herders in the Sahara. According to informants in Ghât, this situation has come

⁹ <http://en.wikipedia.org/wiki/Tuareg>

about primarily because of the qualitative breakthrough in terms of their standard of living during the 1970s and early 1980s, when the State provided them with almost everything. Most of the people interviewed welcomed “the benevolence of the Libya of the masses towards them” but some informants questioned whether this was not all done by design. It was the perception of the Mission that people were afraid to openly raise critique because, outside of group debates, some of them confided bitterly: “We hope to recover what we have lost - our identity, our culture and, above all, to shake off the fear that Arabo-Islamism gives us”. Given the hegemony of the advocates of the extremist Arabo-Islamist ideology, only a continuation of Colonel Kadhafi’s current policy of openness¹⁰ can prevent further assimilation of the Amazigh population in general and the Tuareg in particular, an assimilation that has been planned to take place since the country’s independence.

3.1 Developments in issues relating to indigenous peoples (Tuareg/Amazigh) in Libya

The Amazigh, and thereby also the Tuareg, issue has been on the political agenda since the middle of the last century, particularly under the two successive regimes of King Idris 1 and, later, Colonel Kadhafi.

Although demands by the Amazigh have not been noted until recently, the Libyan Imazeghan population has felt excluded and marginalised since independence. This has been due above all to basic education programmes that are not taking into account the Amazigh culture and history and their presence on the territory before the Islamic conquest, to the negative attitude of the state-run mass media and to the limitation of political decision-making only to the people’s committees and congresses with no or little inclusion of the Amazigh population.

Under the monarchy (1951 – 1969)

Under the monarchy from 1951 to 1969, the marginalization of Amazigh populations in education and information was evident. The fervour of

¹⁰ Clear signs of a will to open up can be seen through the different speeches of Kadhafi. However, the old guard who still hold with the slogans of integral Arabism which deny the existence of every ethnic group, is still very active, according to the citizens the mission met in Ubari.

Arab nationalism imported from Nasser's Egypt quickly became imprinted on school curricula, quite simply ignoring the existence of any culture or people other than the Arabs. In fact, the Libyan kingdom looked solely to Egypt for its supplies of school textbooks. As an illustration of this imposition of Arab identity and ideology to the detriment of that of the Imazighen one has but to look at the textbooks of this time, particularly the 7th year basic education reader, which states:

*"We have endeavoured to ensure that this textbook comprises all elements that will ensure that the pupil believes a new spirit has entered his body, creating in him a pride in the Arabic language and Arab nation".*¹¹

In another chapter, the same book adds:

"Your country and your State are the ones in which you live, but your nation is the Arab nation and you are above all Arab, belonging to this Arab Oumah that stretches from the ocean to the Gulf".

Despite an ignorance of Amazigh culture and language, which the mass media also did nothing to change, Amazigh individuals occupied important political positions under the monarchy, including prime ministers, ministers and members of parliament. It should, however, be noted that the Imazighen who were selected for these political positions were not selected to officially represent the Amazigh population.

Under "The Great Socialist People's Libyan Arab Jamahiriya" (State of the Masses) (1969 – today)

Following the 1969 coup, the new leadership of Libya, called "free officers", led by Colonel Kadhafi and ideologically influenced by Nasser, adopted Arab Socialism as the State ideology. For the new leadership, only one people exists in Libya, the Arab people, who are considered an integral part of the Arab Nation. According to this ideology, the Imazighen were Arabs who migrated in successive waves from Yemen and Arabia and the Amazigh language is simply an old pre-Islamic Arabic that is

¹¹ *Aljazeera net*, bulletin December 4, 2005.

of no interest to save. This ideology was explained unofficially by Mr. Moussa Alkouni, Libyan consul in Kidal, North Mali, and is confirmed by the following quotes:

*"The Tuareg are Libyan Arab tribes and Libya is their country of origin. These tribes came more than 5,000 years ago from the Arabian Peninsula. They are either Himyarites from Yemen or Phoenicians from Lebanon, so I call upon them to return to their country of origin".*¹²

This point of view is also held by some Libyan intellectuals. Dr Said Alguichat,¹³ whose doctoral thesis is entitled: *"Les Touaregs, Arabes du Désert"* (The Tuareg, Arabs from the Desert) has said, *"There is no doubt that the Tuareg are Arab tribes who emigrated in three successive waves. The first with the breaching of the Ma'arib dyke in Yemen and the second with the Muslim conquests of Africa, while the third dates from the invasions of the Beni Hilal in the 11th century under the Fatimides"*. Dr Ahmed Mohamed Alasbahi¹⁴ goes further by saying, *"The Imazeghan or Amazigh issue is no more than an attempt by the Western colonialists to exert their domination once more by falsifying history and playing with consciences. The Imazighen and the Arabs together form the Arab Nation"*.¹⁵ For Dr Ali Akhchim, a well-known Libyan academician, *"There is no Amazigh issue in Libya. The Imazighen are simply early Arabs and no-one speaks Amazigh in our country"*.¹⁶

This denial along with the lack of freedom of expression and association outside of the official state machinery, has led to the creation of associations, particularly abroad, to defend the Amazigh culture. This includes the following: *Association Culturelle Tawalt* (Tawalt Cultural Association), Libyan Tamazight Congress (www.alt-libya.org), Tawiza: (www.tawiza.net), Tamazgha (www.tamazgha.fr)¹⁷, *Le Mouvement culturel ber-*

12 Press conference by Colonel Kadhafi on September 9, 1990 at Janet in Algeria, following a quadripartite meeting with the Algerian, Malian and Niger Presidents regarding the Tuareg conflict in Mali and Niger, reported in the people's newspaper September 14, 1990.

13 At the time of the Mission's visit, he was director of the Office for Saharan Studies but he is now Ambassador to Yemen and Saudi Arabia.

14 Deputy Secretary-General of the People's General Congress (Vice-president of Parliament), conference held at the International Centre for Study and Research into the Green Book, August 2, 2004. Published by al-methaq.net.yet.

15 Own translation.

16 *Des avis sur la question amazigh en Libye*, July 15, 2005. Own translation.

17 Tamazgha covers the whole of North Africa.

bère (Amazigh Cultural Movement) and *Le Congrès mondial amazigh* (World Amazigh Congress).

It is apparent that the situation initially worsened under the State of the Masses as demands for recognition of the Amazigh as distinct peoples were likened to treason and conspiracy with the colonisers. This demonization can be seen in various comments, such as Mr. Ali Hassanein, ex-minister, who stated, “*There have never been any problems between Amazigh and Arabs; the Amazigh issue is an invention of Italian Orientalism, which created an evangelization institute at Zouara and wrote a book on the Amazighs...*”¹⁸ In August 1997 Colonel Kadhafi said “*The Imazighen who demand their language are the henchmen of colonialism and must be combated*”.¹⁹ This declaration alone would be sufficient to deter any demands or creation of Amazigh cultural associations hence, perhaps, the reason for the lack of such associations in the country.

18 *Almanara* satellite TV station (*Aljazeera net*, July, 15 2005). Own translation.

19 *The Almaarifah* newspaper, in *Aljazeera net*, November 27, 2005.

IV. OVERVIEW OF THE SITUATION OF THE RIGHTS OF INDIGENOUS POPULATIONS IN LIBYA

4.1 Constitutional and legislative recognition

There is no legislative text that explicitly recognises the existence of an indigenous Amazigh people distinct from the Arab people of Libya. Two texts do, however, need to be considered:

1. One is an official and historic speech by Colonel Kadhafi, made on 15 October 1980 before the people of Ubari, in which he called on all the Tuareg tribes living in Mali and Niger to return to their “mother country, Libya”. He told the Tuareg tribes of Ubari to “seize their lands and their futures along with arms for their self-protection”.²⁰
2. The other is Article 16 of the Great Green Charter for Human Rights in the Jamahiriyan Era. This key document of constitutional standing recognises minorities: “The right to preserve their cultural identity and heritage” and prohibits “all infringements of their legitimate aspirations as well as all recourse to force aimed at assimilating them into or merging them with other different communities”.

Although there is implicit recognition, albeit limited, of the Amazigh population, they are not constitutionally recognised as a people. They are considered on a par with the rest of the population, i.e. no discrimination either positive or negative. They enjoy all the rights of other Libyan citizens. Although there appears to be no discrimination along ethnic lines, except in relation to language and culture, Libya is, however, in violation of Article 18 of the African Charter on Human and Peoples’ Rights by legally failing to recognise its indigenous peoples.

²⁰ Own translation.

Around 95% of the Libyan population is Arabic-speaking and there is no cause for alarm when one talks of “Libyan Arabic-speaking people”, provided that safeguards are in place to protect the indigenous peoples, namely the Imazighen. This is, however, problematic since there is a wide discrepancy between the above mentioned texts and what happens in reality, particularly in terms of the right of association and the cultural and linguistic rights of the Amazigh population. Moreover the Tuareg, despite being close to the regime, do not escape this cultural and linguistic discrimination, both *de facto* and *de jure*. This will be discussed in more detail later.

4.2 The right of political representation

Despite the lack of constitutional recognition of the Amazigh population, their presence can be noted in governing bodies such as the people’s congresses and committees, in addition to the army.²¹ This is illustrated by the following examples:

- The head of Sebha²² military zone, General Ali Kanna, from the Imanghassatan tribe, is Tuareg.
- At Ubari, the head of government, Bawa Abeid Azzintani, Secretary of the People’s Committee, is a Tuareg from the Kel Tinalkom tribe. This region’s deputy is also Tuareg, as are the majority of the members of the regional people’s committee (local government).
- Mr. Houssein Alkouni from the Tuareg Kel Tinalkom tribe is currently secretary of the People’s Committee (i.e. Governor) of Ghât, having been Libya’s ambassador to Niger for 18 years.
- The security forces are run by Tuareg officers, the head of whom is Commander Waqui, from the Iraganatan tribe.
- The general delegate for inter-Tuareg relations is Moussa Al Kouni, appointed by Colonel Kadhafi to revitalize relations between the Tuareg throughout the Sahara so that they can develop whilst at the same time preserve their tribal structures.

21 Since Imazighen are not recognised as distinct from the Libyan Arab people, there are no statistics on their representation at national and local level.

22 Located in the southern region of Libya.

The level of participation of the Tuareg in the political administration indicates that they enjoy the same right of representation as other citizens. However, the impossibility of expressing themselves in their language within the State institutions remains a form of discrimination, and places them in a weaker position compared to the Arabs. This is hence a form of domination and of long-term assimilation that runs counter to the African Charter on Human and Peoples' Rights, in particular Article 2 on the prohibition of discrimination, including discrimination based on language, Article 13 on participation in public life, Article 19 on equality of peoples and Articles 20 and 22 on the right to freely determine their own development.

4.3 Socio-economic rights

Socio-economic rights are provided to the Tuareg up to a certain point. The economic backwardness of Fezzan in the south-western desert region compared to the rest of Libya should, however, be noted. By way of example, there is no gas main in Ubari or Ghât, areas where oil abounds. Furthermore, according to the local people, the road and telecommunications networks in these areas are not adequate to meet their needs, in a country as rich as Libya. It should also be noted that pastoralism, the traditional Tuareg way of life, has almost disappeared although the sedentary lifestyle has not truly assimilated the Tuareg. This is despite some Tuareg having made the choice to settle down in town areas because life is easier in the settlements compared to the harsh life of the Sahara, particularly during the prosperous years of the Revolution.

Overall, the oil-rich regions where the majority of the Imazighen live are the least developed in the country. And yet the community people's congresses, formed of a majority of Tuareg in Ubari and Ghât, are consulted with regard to the budget. This situation is most likely due to a lack of information on the part of the Imazighen themselves, or perhaps due to a fear of expressing themselves. In any case, it is the State that should have compensated for this failure, in order to avoid being in violation of the African Charter on Human and Peoples' Rights, particularly Article 9 on the right to information and expression, Article 19 on equality of peoples, Article 20 on the right to freely determine their own socio-

economic development and Article 21 on disposal of their resources in the exclusive interests of the people.

4.4 The right to work

Article 11 of the Great Green Charter for Human Rights in the Jamahiriyan Era stipulates: *"The society of the masses guarantees work, which is both a duty and a right of all people, and everyone has the right to choose such work as suits them."*²³ In practice, many Libyans do work but their net salaries are very low in comparison to some less well-off African countries. By way of example, a secondary school teacher earns around 180 USD, a little less than his/her counterpart in the Ivory Coast. This is difficult to understand in a country as rich as Libya, even though it must be acknowledged that free health-care and accommodation make a difference in Libya. This is a very real provision in Libya and was only interrupted by the embargo.²⁴

Unemployment in 2003/2004 affected around 30% of the active population.²⁵ This rate alone reveals a structural dysfunction, given that more than 1.5 million foreigners work in Libya. The Amazigh population, marginalized through ostracism of their culture, has a higher unemployment rate than the Arabic-speaking majority. According to experts, the reason for the high unemployment in general is the refusal of young people to work anywhere other than in the administration. In addition, it seems they are not competitive on the labour market due to their lack of specialisation, itself due to discrepancies between training and employment. To remedy this situation, Libya recently (16 April 2005) introduced a national employment fund, the aim of which is to give job seekers, such as recent university and vocational graduates, work opportunities. It also aims to grant loans to civil servants to encourage them to move into the private sector.²⁶

Despite a higher unemployment rate, people interviewed noted that the Tuareg are treated in the same way as other citizens.²⁷ However, when the language required to access work is not one's own, equal opportuni-

23 Own translation.

24 The country was under an embargo from 1992-1999.

25 As stated by Choukri Ghanem, Libyan prime minister, at www.Nidaly.org, in *Alahram Hebdo*, July 20, 2005, Rue Algaala- Cairo- Egypt

26 *Panapress*, April 17, 2006.

27 The surprising unanimity among the people interviewed is perhaps a consequence of fear caused by the criminalisation of Amazigh demands.

ties cannot exist. This places the Imazighen generally, and the Tuareg in particular, in a weaker position compared to the Arabs. There is thus discrimination that is contrary to the articles of the Great Green Charter for Human Rights in the Jamahiriyan Era relating to equality, and Article 15 on equal right to work.

4.5 The right to health

Article 14 of the Great Green Charter for Human Rights in the Jamahiriyan Era stipulates: *“The society of the masses is a supportive one as it guarantees its members a modern level of health care, it provides care of the mother and the child and protection of the elderly and disabled.”*

Progress in the area of health has been striking. In 1969, there was only one health post in Ubari whereas now there is a large hospital with 120 beds, three large health centres and 28 health posts (one per village). It must, however, be noted that the embargo seriously affected health infrastructure and that, according to some people, skills are not in line with the standard of living of a country as rich as Libya. This situation would appear to apply to the whole country. In fact, a study by the Alfatah University's Centre for Study and Scientific Research in Tripoli notes that life expectancy increased from 46 years in the 1960s to 70 years at the end of the 1990s, whilst the mortality rate fell from 118 per 1,000 in 1973 to 24.4 in 1995.²⁸ In 2002 the country had 7,100 doctors and 23,000 nurses and 4.4 beds per 1,000 inhabitants. Nonetheless, Libya still depends 90% on foreign countries for specialist medical care.

Given the denial of Amazigh identity, it is difficult to assess the proportion of Imazighen in these statistics. It should also be noted that state-of-the-art hospitals are concentrated along the coast while the desert areas are less well-served, despite the fact that Libya has made a huge leap forward in terms of providing free health care to the population. Hence the issue of respect for equal right of access to public services as mentioned in Article 13(3) and Article 16 of the African Charter on Human and Peoples' Rights arises, in addition to the denial of the Amazigh language, which creates an imbalance in relation to all public services.

²⁸ Dr. Ali Alhawat in *Développement humain en Libye*, Tripoli University, 2002.

4.6 The right to establish associations and unions

Article 16 of the Great Green Charter for Human Rights in the Jamahiriyan Era states that: *"The sons of the society of the masses are free to establish associations, unions or any relationship to defend their professional interests."*²⁹

Unions exist in the Tuareg areas and particularly in Ubari. They express their points of view and grievances within the community people's congresses, where a summary is made for submission to the regional and national levels. However, the Mission did not come across any human rights organisations, apart from the one chaired by Seif Alislam, son of Colonel Kadhafi. Nearly all Libyans with whom the Mission raised this issue stated that it was because there is no need for such organisations, arguing that as power is concentrated in the hands of the people, there is no one they need to defend their rights from, all the more so as there is already a state-run human rights association.

It should also be noted that all recognised organisations in Libya are affiliated to the people's congresses.³⁰ Although debate is free and open within these people's congresses and committees, it is impossible outside of these structures. This clearly represents a violation of the freedom of association and shows a disregard for Article 10 of the African Charter on Human and Peoples' Rights.

4.7 The right to housing

The Green Book, the official doctrine of the Libyan government, proclaims throughout the streets of all Libyan towns: "The house belongs to those who live in it". Article 12 of the Great Green Charter for Human Rights in the Jamahiriyan Era also specifies: *"The sons of the society of the masses are freed from the feudal system and each of them has the right to use and derive profit from the land by working it, cultivating it, using it as pasture for his animals for the length of his life and that of his heirs, until their needs are satisfied"*.

²⁹ Own translation.

³⁰ Grassroots organisations in the Libyan political hierarchy are made up of people of a single neighbourhood or company.

Every Libyan has the right to a plot of land and an interest-free loan to build on it. In Ubari, the Tuareg governor, Mr. Bawa Abeid Azzintani, provided the following statistics on his town of 75,645, largely Tuareg, inhabitants:

- The State has built complete homes with a field and tractor for every citizen in the different areas of Ubari.
- In 1975, Colonel Kadhafi inaugurated agricultural projects in what was formerly known as “the valley of death”³¹ in the region of Ubari. The Tuareg families of this valley each benefited from 10 hectares, a house, a tractor and 10 head of cattle and goats.
- Housing has also been built for the population as follows: 37 at Al-abiad, 300 at Al-hamra, 23 at Qbiya, 43 at Algraya. Agricultural lands have been distributed at Ubari as follows: 1500 ha at Dissa, 300 at Fejj, 650 at Algraya and 300 at Qbuya. This seems to be sufficient for the beneficiaries’ subsistence living.

It should, however, be noted that there are two neighbourhoods, both shanty towns, that form an exception to these efforts; one in Sebha, known as “Cambo Tiouri” and the other in Ubari “In Tlaquin”, which in Tuareg means “rows of hovels”. These two shanty towns are the very epitome of desolation and poor hygiene, especially in Sebha. People admitted they had left the desert to move here, attracted by the promise of the modern towns that would be built for them by those in power, and for which they have been waiting a long time. They live in hope that the loans promised by the State will be provided so they can escape their hovels, the sanitary conditions of which leave much to be desired. The situation is better in Ubari, where the secretary of the people’s committee showed the Mission the programme planned for the area, namely granting of plots for housing and long-term interest-free loans with which to build new houses. The tribal chiefs that the Mission met separately confirmed the existence of this project. It should also be clarified that the Mission saw both the achievements that have been made and the hovels mentioned above.

31 The ‘valley of death’, later re-named the ‘valley of life’ refers to 165 km of uninterrupted agricultural projects between Sebha and Ubari.

4.8 The right to education

Article 15 of the Great Green Charter for Human Rights in the Jamahiriy-an Era proclaims: “Education and knowledge are a natural right for all individuals and everyone has the right to choose, without any constraint, the education that suits him”.³²

This is an area in which the Libyan State has done a great deal (in quantitative terms), with a school enrolment of 24,228 pupils in Ubari - of which 12,422 are girls - and a total of 4,630 teachers. To understand the quantitative leap forward made in terms of education, it must be recalled that in 1969, the five *chaabiat* (prefectures) in the south had only 15 pupils and there was only one higher secondary school. Today, in one of these five prefectures alone, in this case Ubari, there are 1,800 students distributed between a faculty of arts, a teacher training institute and an advanced health training centre. There is also a higher institute for vocational training with 500 students. At secondary school level, Ubari has 29 schools and at primary school level, Ubari now has 53 basic primary schools and 280 pre-school groups. This quantitative progress is reflected at the national level.

It must, however, be noted that the educational syllabus makes no reference to the Amazigh of Libya. This denial of a part of this people's history belies the interest that Colonel Kadhafi shows in the Tuareg and forms a considerable moral prejudice in violation of the provisions of the African Charter on Human and Peoples' Rights, particularly Article 3, which stipulates the equality of all. In fact, the Imazighen in general and the Tuareg in particular are prejudiced by the education system, which quite simply ignores their existence.

4.9 Cultural and linguistic issues

The Amazigh culture and language has been marginalized for a long time, in particular by the mass media and within the educational system.³³ Despite the fact that Colonel Kadhafi in 1981 proclaimed Libya as

³² Own translation.

³³ The media tend to present the Tuareg in a folkloristic manner, which is mainly of particular interest to tourists.

the fatherland of all the Tuareg, the Tuareg culture, language and alphabet (Tifinagh) are entirely missing from school and television programmes.

Whilst the Tuareg culture and language in practice suffers from ostracism and non-Arab cultures are *de facto* subjected to assimilation, Libya in theory protects minorities and prohibits their forced assimilation through the Great Green Charter for Human Rights in the Jamahiriyan Era. The Charter states in Article 26: “ ... minorities in the Libyan Jamahiriya have the right to preserve their identity and their cultural heritage. It is not permissible to suppress their legitimate aspirations nor to resort to forcing them to assimilate into other ethnic groups”.

As for language, Decree No. 131 must be noted because it specifies the teaching of African languages. This decree, issued by the deputy Secretary for Services, i.e. the vice-minister for social affairs, states:

- Article 1: In accordance with the provisions of this decree, African languages (Tuareg, Toubou, Swahili and Peulh) will be taught as minor subjects in basic education seemingly from 1999 and the teaching of these languages to pupils must continue into higher education.
- Article 2: The national institute for scientific teaching is responsible for preparing the necessary programmes for the teaching of these languages.
- Article 3: The people's committees of the prefectures are responsible, each to the extent of its geographical sphere of influence, for recruiting the necessary skills for this teaching. They are responsible for implementing the effective teaching of these languages in schools.
- Article 4: This decree shall come into force on the date of its signing and the competent authorities shall be responsible for its application.

The Tuareg and Toubou languages, which, like Arabic, are languages of the Libyan population, are presented alongside Swahili and Peulh, both African languages. The sidelining of the Tuareg language with other African languages indicates the relatively small importance officially placed on the language of the indigenous peoples and questions the

Libyan authorities' intention to promote the Tuareg language, which seems to have been postponed indefinitely. In the eyes of many Libyans, this situation represents an injustice and it is indeed one in the context of Article 2 of the African Charter of Human and Peoples' Rights, which prohibits all segregation on the basis of language, among other things.

The language decree, which raises expectations as to the teaching of minority indigenous languages, has not been implemented despite the clear provisions of Articles 2, 3 and 4. There are a number of reasons why the Tuareg language is not taught in Libya, and particularly in Ubari:

The executive and legislative authorities of Ubari prefecture are both run by Tuareg. It is therefore difficult to understand why a decision coming from such a high authority has remained dead letter. The head of the Ubari regional executive, Mr. Azzintani, to whom the Mission posed this question, maintains that it is due to lack of skills that the Tuareg language is not yet being taught.

The tribal chiefs that the Mission met, although delighted with this decree, did not seem overly concerned with putting it into practice. There seemed to be a lack of motivation, even interest, among those it primarily affected. Judging by the meeting the Mission had with some of the customary chiefs, it seems that the primary responsibility for this situation lies with the education authorities, who are not yet in tune with the changes decreed by the higher authorities.

Lack of awareness raising among the Tuareg community itself also appears to have something to do with this situation as the Tuareg should have been demanding application of a decree that is to their advantage.

The language decree is thus virtually obsolete because the Tuareg language is not taught anywhere in Libya and it appears that no one dares to demand it.

One has but to watch Libyan TV to notice that many Tuareg cultural events are organised, but they are above all aimed at tourists. The lack of an association to defend the Tuaregs' cultural, linguistic and other rights is quite unfortunate. Mr. Alkouni, a Tuareg appointed by Colonel Kadhafi to deal with Tuareg affairs, argued that nothing was preventing people from forming this kind of association and, as proof, he mentioned the work of Colonel Kadhafi himself in creating a pan-Tuareg tribal associa-

tion.³⁴ However, promoting Tuareg culture and language appears to be the last concern of the authorities. This opinion was confirmed by the unofficial position of the Libyan authorities met during the visit, who stated that there is only one people in Libya, the Arab people, and those who are called Berbers or Amazigh are Arabs who arrived in successive waves from Yemen and Arabia. The officials also pointed out that Amazigh languages in general, and the Tuareg language in particular, is not taught because it is difficult to translate Arabic scientific and technological terms into the Tuareg language and because nobody is calling for this language to be promoted in Libya.

4.10 Government programmes aimed at improving the situation of the indigenous population

The “valley of death” project, renamed “valley of life” by Colonel Kadhafi in 1975, demonstrates the efforts being made by the State on behalf of the inhabitants of Ubari and Sabha and Libyan Tuareg in general.³⁵ A number of other projects being implemented on behalf of the Ubari population must also be mentioned.³⁶ The head of government in this prefecture, surrounded by six of the heads of local administration, provided the Mission with the following information during our meeting. In Ubari, apart from the projects already mentioned previously, there are currently two types of project. One is the agricultural production projects, which are divided into districts of 50 hectares each, as follows: Meknoussa project involves 91 districts, Barjuj project involves 61 districts and Irawan project involves 50 districts. The other type of project is construction projects through which the State is building houses and providing fields and tractors plus 10 head of livestock to families. These projects are: Addissa project involving 1500 ha, Afajij project involving 300 ha, Al graya

34 In fact, the Mission met with Tuareg delegations from Mali, one of which comprised 25 people, who were visiting Libyan Tuareg country to establish contact with the Tuareg in Libya. Colonel Kadhafi has, moreover, just opened a consulate in Kidal in northern Mali to implement development projects with the Tuareg. These projects have already commenced.

35 Albeit relative, given the wealth of Libya in general and of this region, in particular, as it is a region rich in oil and gas.

36 These projects are not specifically implemented for the Tuareg but for the Libyans of the area, the majority of whom are assumed to be Tuareg.

project involving 650 ha, Argueiba project involving 300 ha, Alabiadh project involving 200 ha and Alhamra project involving 300 ha.

It should also be noted that, over the last two years, the Ubari Agricultural Bank has granted projects to nomadic populations to an amount of 11,920 Libyan Dinar, benefiting 570 families. As for the savings and financial investments bank, over the last two years it has issued loans totalling 88.4 million LYD, benefiting 2,210 people.

The impact of these projects is perceptible among the beneficiaries. The exact number of Tuareg beneficiaries is not known but, according to the Governor of Ubari, Bawa Abeid Azzintani, they are numerous. One of the complaints from the affected populations is that the projects did not continue long enough to involve everybody. This was, however, partly due to the embargo the country experienced between 1992 and 1999. Others also commented on the lack of maintenance and most expressed their worries following the announced suppression of the subsidies on basic necessities and farm inputs, especially in light of the very low salaries.

It must, however, be noted that these development programmes in no way take into account the indigenous specificities of the Tuareg, neither their culture nor their language. On the contrary, they support an excessive Arabisation to the detriment of the indigenous Tuareg language and way of life.

4.11 Gender issues

In Libya, gender equality is dealt with both on a legislative level and in practice. In terms of legislation, Article 21 of the Green Charter for Human Rights in the Jamahiriyan Era stipulates: *“Men and women of the society of the masses are equal, for discrimination between men and women, in terms of rights, is a serious and unjustifiable injustice. The household is an association between two partners who remain equal, and neither of them has the right to marry or divorce the other without their consent. A mother may not be deprived of her children or her home.”*³⁷ Law 20 dated 1 September 1991 on strengthening freedom guarantees women the right to work. In fact, Article 28 of this law states: *“Women have the right to a job that is suitable for them and must not be put in a position that compels them to undertake work contrary to*

37 Own translation.

their nature."³⁸ These two texts clearly indicate the privileged position granted to women, particularly in comparison with some neighbouring countries.

At a practical level, women occupy positions at all levels of the civil, military, technical and legislative administration. They are army generals, ministers, deputies, prefects, doctors, teachers etc. Moreover, Colonel Kadhafi's bodyguards are mainly women. In the Tuareg area of Ubari, the number of girls attending school is higher than the number of boys (11,806 boys and 12,422 girls), which is one of the best rates in Africa. Furthermore, the involvement of Libyan women in socio-economic activity has risen from 4% in 1964 to 20% in 1995 and they make up 47% of the workforce in the health sector. As for illiteracy among women, this fell from 87% in 1964 to 27% in 1995.

On a political level, women make up 35% of the people's congresses. However, discrimination in terms of employment and education related to identity, culture and language affects Amazigh women in general and Tuareg women in particular, who must become committed Arab nationalists if they are to climb the career ladder.³⁹

38 Idem.

39 It is difficult to obtain statistics on the number of women present in the administration but Colonel Kadhafi, on a visit to Bamako in 1987, went with a bodyguard of 400 women, the commander of whom was also a woman.

V. REGIONAL COOPERATION

Since the 1980 appeal by Colonel Kadhafi calling on all Tuareg to return to their Libyan motherland, the country has made a great effort to further regional cooperation among the Tuareg.

Colonel Kadhafi supported the Tuareg during a quadripartite meeting held in 1991 in Algeria, organised to prevent the emerging Tuareg uprising in Mali and Niger. In April 2005, Colonel Kadhafi invited all chiefs of the Malian and Niger Tuareg tribes to visit Libya and put them in touch with the Libyan Tuareg in Segha and Ubari. This was most likely the first time an Arab leader had tried to bring all the Tuareg together. The appointment of a Tuareg such as Mossa Alkouni to head a mission reporting directly to Colonel Kadhafi for development of the Tuareg regions of Mali and Niger is a further sign of confidence. Projects presented seem to have gained the requested funding. During the Mission's visit, a number of Libyan experts travelled to Kidal in northern Mali to sink a well to provide much needed drinking water for the Tuareg population.

Colonel Kadhafi's intention would seem to be to ensure the development of the Tuareg so that they can preserve some of their ancestral virtues. In fact, Colonel Kadhafi has apparently asked all the Tuareg delegations he has received to reject drugs, arms, terrorism and religious extremism. He has apparently also asked them to cultivate their ancestral values: truth, moderation, piety and peace, to name but a few. But although Colonel Kadhafi pays particular attention to the Tuareg, hence his popularity among them, the Libyan State is taking its time to compensate them for injustices related to their history, language and culture.

VI. CONCLUSION

The indigenous peoples of Libya, the Amazigh population, generally enjoy the same level of socio-economic rights and the right to development as other citizens of the country. Some development projects aiming at improving the situation of the Tuareg population have been implemented. Although these projects have not taken into account the indigenous specificities of the Tuareg, they have contributed to improving their living standards.

All the Tuareg whom the Mission met, including those in the miserable shanty towns of “Cambo Tiouri” and “Tilaquine”, expressed their support for the country’s current authorities. For them, the authorities represent a real hope, particularly now that the embargo has been lifted and the country is opening up to investment and tourism. The development projects implemented in areas with a large indigenous population, as well as the role played by Colonel Kadhafi in promoting African Amazigh unity, is likely to be part of the reason for the stated support.

In contrast to socio-economic rights, the cultural and political rights of the indigenous population are limited, due largely to the lack of explicit recognition of the country’s indigenous peoples, the lack of associations defending their rights, the lack of awareness raising among those principally concerned and the lack of freedom of expression outside of the people’s congresses. The country’s denial of an essential component of its identity, of its culture, its language and its history, including Amazigh, remains a violation of not only the African Charter on Human and Peoples’ Rights but also a large number of international conventions to which Libya is a party.

At least in some parts of the administration there is a political will to help the Tuareg preserve their traditional structures, through such initiatives as the efforts to revive regional cooperation between the Tuareg of the Maghreb countries and those of Sub-Saharan Africa. Paradoxically, their culture, language and way of life do not enjoy the same attention.

The new Libyan diplomacy, aimed at rehabilitating the Tuareg chieftaincies throughout the whole of the Sahara and encouraging relations between them, is thus proof of a reigning confusion. On the one hand the Tuareg are being helped to develop and promote their ancestral virtues and traditional structures and, on the other, there is a denial of their history, culture, language and specific nature.

The process of assimilation that has taken place since Libya's independence to make the indigenous groups an integral part of the nation gradually led the Imazighen to abandon their traditional nomadic way of life and settle in permanent settlements. Although the settled life does provide an easier life for the indigenous population, voices of discontent and a wish to recover their culture and identity are heard.

The Amazigh of Libya, including the Tuareg, have suffered a denial of their existence and continue to endure marginalization in terms of their culture and language. And yet some signs seem to raise hopes for their recognition in the wake of the changes that seem to be slowly taking place in Libya. For the Tuareg, the first signs of their recognition exist in political discourse and legal texts. One example is a language decree, which provides for the teaching of African languages, including Tuareg, in the education system. To what extent this is being carried out in practice remains doubtful because the Libyan authorities as well as the Tuareg elites are taking their time in turning these rights to their benefit. Hence, administrative inertia and a lack of awareness raising prevent the Tuareg community from fully benefiting from the regime's overtures, however small, and the confidence placed in them by the Libyan authorities.

VII. RECOMMENDATIONS

In light of this report's findings, the African Commission's Working Group on Indigenous Populations/Communities makes the following recommendations:

1. Encourage Libya to ratify ILO Convention 169 on the Rights of Indigenous Peoples;
2. Urge Libya to grant cultural and political rights to all its citizens, including indigenous populations;
3. The Libyan State should raise awareness among its Amazigh population, including the Tuareg, of their right to preserve their identity and their culture by opening up the mass media to them and by helping them to form associations;
4. Encourage Libya to show more interest in Amazigh culture and language, and to allow this culture and language to flourish. Libya should thus seek to promote and preserve the Amazigh cultural heritage, language and history in Libya;
5. Urge Libya to recognise Tamazight as one of the national and official languages and create an institution responsible for promoting this language⁴⁰;
6. Call upon the country to include references to the Amazigh history and culture in school curricula;
7. Encourage Libya to ensure that the Amazigh regions overcome their economic backwardness in relation to the rest of the country;
8. A meeting of the Working Group should be held in the Amazigh region of Libya (Ghât or Ifren) in order to dispel the fear that the Amazigh feel, despite the clear and positive changes in the country;

⁴⁰ As in Morocco with the *Institut de l'Amazighité*.

9. Urge Libya to conduct a widespread dissemination of the report of the African Commission's Working Group on Indigenous Populations / Communities and the African Charter on Human and Peoples' Rights;
10. Encourage Libya to report back to the next session of the African Commission on the decisions it has taken to implement these recommendations.