NPWJ has been present in Libya since September 2011 and opened a permanent office in Tripoli in early March 2012, from which we operated until September 2014, when we had to move most of our personnel to Tunisia, due to the deteriorating security situation. In the last four years, NPWJ supported a network of Libyan governmental and civil society representatives to engage different sectors of Libyan society on transitional justice. On the one hand, in collaboration and partnership with the Libyan Ministry of Justice and Libya’s National Bar Association, NPWJ provides specific training for Libyan judges and prosecutors and for young lawyers. On the other, NPWJ supports and assist local civil society organisation on themes linked to transitional justice and accountability.

In my intervention I will focus on the issues of the transitional justice process and the status of the judicial system in the country, as outlined in the three shadow reports that NPWJ, together with its Libyan partners, submitted in October 2014.

Libya’s political future and long-term stability will be defined by what is happening now. The way in which the current political and humanitarian crisis is handled will have serious consequences for the development of political and societal institutions and their ability to protect and expand the civil and political rights of Libyans. The few seeds of transitional justice mechanisms already implanted in the Libyan legislative system have the potential to channel current tensions and frictions into inclusive and open processes, fostering a culture of dialogue, responsibility and accountability within Libyan political dynamics. Rudiments of transitional justice mechanisms are present in the Libyan legislative system, such as Law no. 29/2013 on Transitional Justice and the 19 February 2014 Ministerial Decree on Legislation to Redress the Situation of Victims of Rape and Violence, which aims at establishing transitional justice mechanisms in cases of sexual and gender-based violence (SGBV).

Focusing on the implementation of these legislative instruments will provide Libyan political forces and civil society actors with achievable and concrete goals. It will help build-up mechanisms of reconciliation and pacific resolution of conflicts. Ensuring that transitional justice mechanisms remain at the center of the national dialogue is one of the main tools for the Libyan authorities to build up those critical State institutions, such as the justice system, that can guarantee equality in front of the law, accountability and personal responsibility for all citizens. These are fundamental elements without which a democratic, peaceful and stable regime cannot be established or sustained.

Libyan institutions also need to focus on understanding of the vast scope of violations that have occurred in Libya for nearly five decades. This encompasses the systematic cruelty of 42 years of...
dictatorship, the brutal suppression of the 2011 uprising by the regime and crimes committed after the Revolution, including torture of detainees and revenge attacks against communities perceived to be supporters of the former regime. With this understanding, the Libyan authorities will be able to act on their responsibility to hold accountable all those who have committed human rights violations and crimes, whether they are members of the regime or revolutionary forces. Together, strengthening the legislative framework and understanding the past are critical elements for achieving an inclusive and comprehensive transitional justice process.

NPWJ urges the Human Rights Council members to use the forthcoming 22nd UPR session to highlight and stress the importance to act swiftly on the following critical issues:

- take all necessary steps to ratify the Rome Statute of the International Criminal Court and enact implementing legislation to incorporate Rome Statute crimes in Libyan law and provide for cooperation with the Court as well as ratify and implement the Agreement on Privileges and Immunities of the ICC. In the meanwhile, Libya should cooperate fully with the International Criminal Court in its ongoing cases and investigations.
- announce a moratorium on all executions imposed by military and civilian courts and ensure full compliance with the restrictions prescribed in particular in article 6 of the ICCPR, including by limiting the use of the death penalty only to the most serious crimes and by ensuring scrupulous respect of due process guarantees, including fair trial guarantees in capital cases.
- regularise the prison system and ensure that all prisons and detention facilities are managed and controlled by Libyan State authorities alone.
- address past and ongoing violations of the human rights of women, in particular with respect to their full empowerment in civic and political life and sexual and gender-based violence, which continues to be widespread, ill-documented and under-reported and ensure the effective implementation of the provisions of United Nations General Assembly Resolutions 67/146 and 69/150 by adopting and enforcing laws and regulations banning female genital mutilation.

The 22nd UPR session in May 2015 can ensure that the Libyan political discourse focuses its attention on developing shared, open and fair transitional justice mechanisms. This would go far in weakening the negotiating position of those who are seeking and retaining power through the commission of violations. The United Nations Human Rights Council has an important role to play in this respect and we urge you to realise this potential to its fullest extent.