Joint Submission to the UN Universal Periodic Review
22nd Session of the UPR Working Group

The State of Libya

The Libyan Judicial System

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September 2014

Joint Submission by the Trial Monitoring Network,
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and No Peace Without Justice
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A. Introduction

1. The Trial Monitoring Network (TMN) is a Libyan civil society organisation established in June 2013, which includes Libyan lawyers and members of the Tripoli Bar Association, playing a significant role in supporting judicial reforms and enhancing the fairness, effectiveness and transparency of the Libyan judiciary. Since its inception, the TMN has been monitoring very closely the proceedings of the trials against Mr Saif al-Islam Gaddafi and other former top leaders of the past regime before the Libyan Courts. The overall objective of the organization is to support the Libyan authorities in facing the serious challenges that affects the judicial system, believing that through the abovementioned trials as well as through an appropriate judicial reforms Libya can demonstrate its ability to break with the legacy of impunity and abuses that typified Gaddafi’s rule and replace it with a new respect for the rule of law by meeting the promise of justice and redress for the victims and their families, for a new Libya based on human rights and the rule of law.

2. The Civil Network for Transitional Justice (CNTJ) is a network of Libyan NGOs created in January 2014 to monitor the implementation of Law no. 29 on Transitional Justice. Since April 2014, the CNTJ developed contacts and working methods with a number of key actors involved in the Transitional Justice process in Libya, including GNC members and members of the Committee of the 60 (Committee for the drafting of the Constitution) in order to create productive and fruitful interactions and synergies between State institutions working on Transitional Justice and local NGOs, and develop and increase awareness on the need to enhance information-sharing and mutual confidence between civil society and public institution, also with the involvement of international organisations working in the field of Transitional Justice and Human Rights.

3. No Peace Without Justice (NPWJ) is an international non-profit organisation founded by Emma Bonino and born of a 1993 campaign of the Transnational Radical Party that works for the protection and promotion of human rights, democracy, the rule of law and international justice. NPWJ’s International Criminal Justice program focuses both on international and national efforts to restore the rule of law and provide accountability and redress for the victims of crimes under international law, be they through the International Criminal Court, or through ad hoc Courts or Tribunals, national prosecutions or other accountability processes. The overall objective of the International Criminal Justice Program is to ensure that whatever solution is adopted, it is shaped and implemented so that it can contribute to the restoration of the rule of law, it is responsive to the needs of stakeholders and it adheres to the strictest human rights standards. NPWJ has been working on the Libyan transition since early 2011 and has been on the ground since early October. It has a permanent presence in Tripoli since March 2012 and has been working to create a network of Libyan actors to engage different sectors of Libyan society on transitional justice.

4. In this document, the Trial Monitoring Network, the Civil Network for Transitional Justice and No Peace Without Justice outline urgent concerns on the issues that threatened the proper functioning of the Libyan justice system and issue recommendations that should urgently be implemented in the country.

5. Paragraphs B and C underline the difficult conditions in which the judicial system in Libya currently operates and the need to proceed with reforms aiming to establish a coherent and impartial legislation that will be effectively enforced.

6. Paragraphs D to G focus on specific concerns linked to court rulings and proceeding as well as practices linked to law enforcement that should be tackled as they are disrespectful of human rights.
7. Paragraphs H and I highlight the need for Libya to be in conformity with its international obligations stemming from the treaties and conventions to which it is party as well as with the rulings of the International Criminal Court.

B. The reform of the judiciary

The general context in Libya is one of frequent targeting of justice officials as well as institutions by armed groups, which puts the judiciary under acute stress. Nonetheless, reforms and initiatives need to be consolidated through specific sets of tools taking into account the victims of the former regime as well as the post-revolutionary ones.

8. Libya is witnessing an intense period of changes as it seeks to build a modern and effective State in the face of significant challenges to its democratic transition and the urgent need to establish the political conditions necessary to provide justice, accountability, security and good governance for all citizens based on the rule of law.

9. Ensuring a safe environment for judges and prosecutors is a fundamental necessity for the effective administration of justice. The security apparatus of the Government and the Judicial Police in particular does not yet have sufficient capacity, training or equipment to ensure the security of judicial officials. Prosecutors and judges are frequently subjected to intimidation and assaults. Prosecutors ordering the release of former regime members or the arrest of members of armed brigades are the primary target of such attacks and threats. On 6 December 2012, the Prosecutor General was assaulted by members of an armed brigade in his office for having issued an arrest warrant against one of its members. In 2013, a number of senior judges were assassinated. The most senior judge and prosecutor of the Green Mountain region were both assassinated in Derna in 2013. The bombing of the North Benghazi Court in August 2013, which followed several similar bombings in Derna and Sirt, further highlighted the vulnerability of the judiciary. In addition, armed brigades besieged the Ministry of Justice on two separate occasions in 2013. In response, judges organized a series of strikes to protest against the lack of security, which impedes the effective investigation of human rights abuses, such as torture in detention centers and other grave incidents, including the series of assassinations continuing in Benghazi and the violence against peaceful protesters, which took place on 15 November 2013 in Tripoli.

10. After the revolution, the Libyan authorities carried out a number of important initiatives to reform the judiciary and enhance its independence as well as expand the rights of Libyan citizens in the justice system. The Supreme Judicial Council abolished the State security courts and the Constitutional Declaration issued by the National Transitional Council in 2011 forbade the establishment of “special courts” and provided for the right of appeal for administrative decisions. In May 2013, the General National Congress amended the law on the status of the judiciary to allow for the election by peers of 11 out of 13 members of the Supreme Judicial Council. The law also provides for the Prosecutor General and the head of the Judicial Inspection to be ex officio members of the Supreme Judicial Council. In June 2013, the Supreme Judicial Council elected its President and is now considering proposals to further advance judicial reform.

11. To consolidate these reforms and provide impetus for additional reforms needed to strengthen the justice system, Libya has both domestic and international tools at its disposal that need to be utilised to the fullest degree possible. Domestically, Law No. 29 on Transitional Justice can be a legal and political tool to foster justice and accountability that could ensure an inclusive and comprehensive transitional justice process in the country. Internationally, the ICC can have a role in supporting accountability for human rights violations and redress for victims as a political priority, in respect of
both Libyan authorities and the international community. Both sets of tools can help the Libyan authorities ensure that political and judicial reforms are elaborated and implemented and that international standards and norms will permeate the legal and judicial system. The Libyan authorities will also have to find practical, inclusive and democratic solutions to address the grievances of past and new victims of human rights violations and abuses and ensure that these crimes will not be condoned or repeated.

C. National Legislation and the Criminal Justice System

Some of the pre-2011 laws need to be abrogated or amended as they appear inadequate or insufficient. Others laws, which do include some measures and safeguards need to be properly implemented, but currently are hindered by the extremely bad working conditions for the judiciary.

12. Articles 31 and 32 \(^1\) of the Libyan interim Constitutional Declaration \(^2\) provide that the independence of the justice system must be guaranteed and affirmed. It is up to the authorities to carry out the necessary reforms so that the justice system’s credibility and authority, and the judiciary’s independence and professionalism are beyond dispute.

13. Concerning the applicable criminal law, there appears to be a difference of opinion regarding the exact parameters of the applicable law for the prosecution of crimes. The Libyan Penal Code was put in place in 1953 and was not designed to legislate for situations such as those that occurred during the 17 February Revolution. Its provisions do not take into account different gravity of situations. This is particularly relevant in the area of punishments, which are either insufficient to properly address the conduct for which the defendant was convicted or cruel, inhuman and degrading. The Penal Code does not properly address crimes that occurred during the revolution, because its provisions do not cover the potential range of gravity of offences. A particular example is the crime of rape, for which a maximum penalty of seven years imprisonment is provided in the Penal Code irrespective of the seriousness of the circumstances of a particular rape. There is also a lack of clarity regarding the applicable law for the process of prosecuting revolution related detainees.

14. Following the 2011 Revolution, the provisions of the Penal Code and Code of Criminal Procedure have not been changed significantly, but wide ranging powers of investigation, arrest, interrogation and detention have been accorded to armed brigades affiliated to the Ministry of the Interior. The Supreme Security Committee \(^3\) has been given such powers by Ministry of Interior Decree 388 issued on 28 December 2011.

15. The committee of eleven prosecutors tasked with revolution-related detainees in Misurata is working in unprecedented conditions. Obstacles to the fulfilment of their professional responsibilities

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\(^1\) Article 31: “No offence may be established or penalty inflicted unless based on a provision and the accused shall be presumed to be innocent until proved guilty in a fair trial at which he has the guarantees necessary for exercising his right of defence and everyone shall have the right to recourse to the courts in accordance with the law.” Article 32: “The judicial power shall be independent; it shall be exercised by the courts in different types and levels; it shall have judgments in accordance with the law; the judges shall be independent and in the administration of justice they shall be answerable only to the law and to the conscience. “There shall not be any emergency courts.”

\(^2\) The Constitutional Declaration is the current supreme law of Libya. It was adopted on 3 August 2011 by the National Transitional Council, and is intended to remain in effect until a permanent constitution is written and ratified in a referendum.

\(^3\) The Supreme Security Committee (SSC) was created by Order No. 20 of the National Transitional Council in October 2011 to provide a new security apparatus to fill the security vacuum in the capital of Tripoli after the fall of the Gadaffi regime. After the formation of the transitional government the National Transitional Council transferred dependency of the SSC to the Interior Ministry.
are the lack of prosecutors to do the work, a chronic lack of resources and the fact that the daily work of committee members is split between working on cases involving revolution-related detainees and ordinary civilian prosecutions. These working conditions place a great deal of pressure on the prosecutors, resulting both in delay and haste in dealing with the cases of revolution-related detainees, with a reduced quality of work in terms of properly and fairly investigating and prosecuting the detainees. Similar conditions have been registered all throughout the country.

16. While arbitrary detention and torture under the Gaddafi regime were systematic, Libyan law dating to before the Revolution does provide safeguards for detainees. Article 14 of Law No. 20 of 1991 on the Promotion of Freedoms states: “No one can be deprived of his freedom, searched or questioned unless he has been charged with committing an act that is punishable by law, pursuant to an order issued by a competent court, and in accordance with the conditions and time limits specified by law”.

17. Safeguards provided by the Code of Criminal Procedure include the requirement for security officers to hold a warrant from the competent authority when arresting or detaining a suspect (article 30); the requirement to detain suspects only in “prisons designed for that purpose” (article 31); the right of detainees to challenge the legality of their detention (article 33); the right to have a lawyer present during interrogation in criminal cases (article 106); and the right to be assigned a lawyer if none was appointed by the defendant (article 321). The limit for referring suspects to the General Prosecution is 48 hours, extending to seven days for certain offences including those “against the State” (article 26).

18. Article 435 of the Penal Code stipulates three to 10 years’ imprisonment for “any public official who orders the torture of or tortures an accused, although this provision is limited to public officials and its formulation does not cover victims who are not being formally accused. Other relevant provisions are articles 379 to 381 of the Penal Code, punishing “causing harm to another person leading to a sickness” with up to one year’s imprisonment and a fine of 50 Libyan Dinars (LYD) if the sickness lasts less than 10 days (Article 379); up to two years’ imprisonment and a fine of LYD 100 if it causes a sickness that threatens life or causes paralysis of less than 40 days (article 380); and up to five years’ imprisonment if it causes an incurable sickness, the loss of an organ or part of the body or other disability (Article 381).

19. Despite these safeguards, the Libyan system does not currently guarantee fairness and impartiality as it struggles to deal with the over 8,000 individuals including foreign nationals detained in relation to the revolution, most of whom have been in detention since 2011 without having been investigated or charged with a crime.

D. National proceedings against high-ranking former regime officials

High level former regime members’ trials are either ongoing or about to start.

20. At the domestic level, a number of trials of senior former regime officials are currently taking place against a backdrop of security issues affecting the safety of prosecutors and judges and courts, which are not fully functioning. In May 2013, former Prime Minister al-Baghdadi al-Mahmoudi was charged with incitement to kill and corruption. Mr Saif al-Islam Gaddafi is currently being tried in Zintan for national security offences relating to his alleged escape attempt during a visit by officials of the International Criminal Court in 2012. Two other former Gaddafi officials on trial in connection with the misuse of public funds relating to the Lockerbie compensation awards were acquitted in Tripoli in June. The former Minister of Education and Information and five other former regime
officials were sentenced to death by the criminal court (*Cour d’Assises*) in Misurata in July 2013 for inciting violence and the killing of demonstrators.

21. In October 2013, the Chamber of Accusation of the South Tripoli Court endorsed the indictment of 37 high-level figures of the former regime, including Mr Saif al-Islam Gaddafi and former chief of intelligence Mr Abdullah al-Senussi. They are charged with crimes relating to the 2011 conflict. The trial begun in April 2014 and since then 5 hearings took place. As Mr Qaddafi remains detained by the Zintan brigade and not handed over the official Libyan authorities, in March 2014 the GNC passed two amendments to Libya’s Code of Criminal Procedure to allow hearings via video-link.

22. Concerns remain with respect to the compliance with international human rights standards of these trials, including in relation to access to defence counsel.

**E. Torture, Enforced Disappearances and Discrimination**

New laws against torture, enforced disappearances and discrimination have been adopted but have yet to be enforced. A number of pre-2011 laws, which provide for corporal punishments, are still in force and used in court sentences.

23. Law no. 10 of 2013 on “Criminalising Torture, Enforced Disappearances and Discrimination”, adopted by the General National Congress on 14 April 2013, clarifies that torture, enforced disappearances and discrimination are crimes and are punishable as such. While the law overall lacks detailed provisions, it does specify in article 2 that anyone who “commits torture or orders someone else to commit physical or mental suffering against a detainee under his or her custody to elicit a forced confession of a crime he or she may or may not have committed, or for discrimination of any form, or for revenge of whatever motive shall be imprisoned for a period of no less than five years.” Article 2 also prescribes the same prison term for anyone “who keeps silent on torture while having the ability to stop it.” The same article stipulates that if torture results in “grave harm”, the punishment is no less than eight years; ten for “extreme injury”; and life imprisonment if the victim dies. Under article 5, “political, executive, and administrative officials as well as military commanders or their officers-in-charge” are liable for acts of torture, among others, committed by those under their control if the superior does not take the necessary measures to prevent or refer it to the relevant authorities.

A number of laws passed since the 1970’s have introduced corporal punishment including flogging, amputation and cross amputation. Courts have continued to sentence people to corporal punishments in recent years. These corporal punishments do not comply with Libya’s international obligations.

**F. Arbitrary detention**

Arbitrary detention is a reality in Libya. While prohibited by the international instruments to which the country is party, very little is currently done to address the issue successfully, which is crucial for the success of the democratic transition.

24. Arbitrary detention remains a critical issue, including cases where legal standards of detention are not met, where detainees are held outside the authority of the State and where ill-treatment, torture and death of people in custody remain a challenge to a fair, effective and transparent judicial system. Full respect for human rights and a holistic reform of the judicial system, based on international standards and principles, are crucial elements of Libya’s democratic transition.
25. Arbitrary detention is strictly prohibited under international law, including the International Covenant on Civil and Political Rights (ICCPR), to which Libya is a party. “Administrative” detention on the grounds of security, outside the criminal law, is only permitted under narrow circumstances where there is a genuine and publicly declared state of emergency threatening the life of the nation and the government has complied with various steps set out by the ICCPR and the United Nations Human Rights Committee, including taking such measures to limit rights only as are strictly necessary to meet that emergency and the government has shown that the existing law, including the criminal law, is insufficient to address the emergency. Libya has taken none of the steps required under the ICCPR to derogate from these rights in order to justify administrative detention. The ICCPR also specifically requires that anyone subject to unlawful detention shall have an enforceable right to compensation, which again has not occurred in the Libyan context.

G. Capital punishment

Capital punishment remains in the post-2011 Libyan Penal Code and civil and military courts have issued many death sentences in the post-revolutionary years.

26. The last known executions in Libya took place on 30 May 2010, when eighteen people, including nationals of Nigeria, Chad and Egypt, were executed for premeditated murder. No information was available about judicial executions in Libya after the revolution in 2011. Since the end of the 2011 conflict, military and civil criminal courts in Misrata, Zawiyah, Benghazi, and Tripoli have issued 28 death sentences, 12 of them in absentia. These include cases related to the 2011 conflict, as well as common criminal cases, mostly for murder. In 2013, military and civil criminal courts in Misrata, Zawiyah, Benghazi, and Tripoli have issued at least 20 death sentences. On 20 December 2012, Libya voted against the Resolution on a Moratorium on the Use of the Death Penalty at the UN General Assembly.

27. The death penalty can be imposed for forming, joining, financing or supporting groups based on a political ideology opposed to the principles of the al-Fateh Revolution of 1 September 1969, and for “encouraging that by whatever means” (Article 3 of Law No. 71 of 1972 on the Criminalisation of Parties). A number of articles of the Penal Code also provide for capital punishment for those who call “for the establishment of any grouping, organization or association proscribed by law” (article 206) and for those who spread “theories or principles aiming to change the basic principles of the Constitution or the fundamental structures of the social system” (article 207).

28. In the absence of a prosecution strategy that sets out criteria for who will be prosecuted and why, the use of the death penalty against those convicted of revolution-related crimes can only serve to heighten the suggestion of biased retribution rather than impartial justice.

H. Libya’s international legal obligations and Ratification Status

Libya is party to a significant number of international conventions and instruments, while a number of other instruments remain to be signed and ratified.

29. Libya is a State party to the 1981 African Charter on Human and Peoples’ Rights and has ratified the Protocol establishing the African Court for Human and Peoples’ Rights. The African Charter prohibits torture and cruel, inhuman or degrading treatment (article 5) as well as arbitrary arrest and detention (article 6) and enshrines the right to a fair trial (article 7). Libya is not among the States who made a declaration accepting the admissibility of cases instituted directly by individuals or
non-Governmental organisations. At the international level, Libya is a State party to the International Covenant on Civil and Political Rights (ICCPR) and its first Protocol (albeit not the second on the abolition of the death penalty), the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and its Protocol on children and armed conflict, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the 1949 Geneva Conventions and several other instruments.

30. Libya has not yet ratified, inter alia, the International Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, or the 1951 Convention relating to the Status of Refugees and its Optional Protocol.

31. As a State party to the ICCPR, Libya has an obligation to prevent arbitrary arrest and detention and allow anyone deprived of their liberty an effective opportunity to challenge the lawfulness of their detention before a court (article 9). Those arrested are to be promptly informed of any charges against them and brought before the judicial authorities within a reasonable time. The Covenant also enshrines the right to life stating, “No one shall be arbitrarily deprived of his life” (article 6), prohibits torture (article 7) and provides that “All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person” (article 10). The Optional Protocol to the ICCPR enables individuals to submit communications, alleging violations of any of the rights set forth in the ICCPR, to the Human Rights Committee, the body of independent experts that monitors the implementation of the Covenant.

32. The 1984 UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment requires Libya to criminalise torture and investigate instances where there are reasonable grounds to suspect that acts of torture or other ill-treatment have occurred, even when no official complaint has been made. The State is also required to bring those responsible to justice, provide reparation to the victims and take concrete measures to prevent torture or other ill treatment, including by granting independent bodies the right to monitor the situation of detainees. The 2002 Optional Protocol to the Convention against Torture, if ratified by Libya, would allow for inspections of all detention centres by an international body, as well as requiring Libya to provide access to detention centres to independent Libyan bodies.

33. There are other instruments that are also relevant to the situation in Libya that set forth minimum standards for the treatment of persons in detention. These include the 1977 UN Standard Minimum Rules for the Treatment of Prisoners; the 1990 Basic Principles for the Treatment of Prisoners, which also prohibit torture and other ill-treatment and lay down rules relating to detainees’ hygiene, access to medical services, food, discipline and punishment; and the 1988 Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, which requires an inquiry to be held into all cases of death or disappearance of a detained or imprisoned person (Principle 34).

I. The role of the International Criminal Court

*While the implementation of the ICC decision on the transfer of Mr Saif-al-Islam Gaddafi to The Hague is still pending, the role of the ICC seems more than ever crucial in the process of establishment of a transitional justice system in Libya.*
34. On 26 February 2011, the United Nations Security Council adopted Resolution 1970 (2011) in which it decided to refer the situation in Libya to the Prosecutor of the International Criminal Court and further decided that the Libyan authorities should cooperate fully and provide any necessary assistance to the Court and the Prosecutor. On 27 June 2011, the Court issued arrest warrants and requested the transfer to The Hague of Mr Abdullah al-Senussi and Mr Saif al-Islam Gaddafi, as well as Muammar Gaddafi whose case was dropped following his death. Mr Gaddafi and Mr al-Senussi are charged by the ICC with two counts of crimes against humanity (murder and persecution) allegedly committed across Libya from 15 until at least 28 February 2011.

35. On 1 May 2012, on the basis of the ICC’s founding principle of complementarity, Libya challenged the admissibility of the cases before the Court, claiming primary jurisdiction over Mr Gaddafi and Mr al-Senussi, currently subject to domestic proceedings in Libya. On 31 May 2013, Pre-Trial Chamber I rejected Libya’s challenge and ordered Mr Gaddafi’s transfer to The Hague. The Government of Libya appealed the decision on 7 June 2013. On 21 May 2014 the Appeals Chamber of the ICC dismissed Libya’s appeal and confirmed Libya’s obligation to surrender the suspect to the Court. Conversely, on 24 July 2014, the ICC Pre-Trial Chamber decided that the al-Senussi’s case was inadmissible before the court under Article 17(1) (a) of the Statute, confirming the 11 October 2013 decision of the ICC Pre-Trial Chamber I, which ruled that the case against Mr al-Senussi was inadmissible before the ICC as he was currently subject to domestic proceedings conducted by the competent Libyan authorities and that Libya was willing and able to carry out the investigation and prosecution.

36. While the ICC decision on the Gaddafi case needs to be respected by the Libyan authorities, it remains critical that the ICC carries out a serious and well-developed outreach campaign in Libya to help promote understanding of these contradictory decisions and of its role more generally.

J. Recommendations

37. In light of the above, the Trial Monitoring Network, the Civil Network for Transitional Justice and No Peace Without Justice recommend to the Libyan authorities to:

38. Incorporate an absolute prohibition of torture and a domestic definition of torture in line with the Convention against Torture and other Cruel, Inhuman, Degrading Treatment or Punishment in Libyan legislation;

39. Take all necessary steps to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the International Convention for the Protection of All Persons from Enforced Disappearances; the 1951 Convention relating to the Status of Refugees and its Optional Protocol; the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; and withdraw all of its reservations to the Convention on the Elimination of All Forms of Discrimination against Women;

40. 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;

41. Strengthen the capacity of State institutions, such as the judicial system and the Judicial Police, to uphold the rule of law through, inter alia, enhancing security for prosecutors, judges and the courts through close cooperation between the Ministries of Justice, Interior and Defence;
42. Develop a robust legal framework for the promotion and protection of human rights by ensuring that the constitution and national legislation are fully compliant with international human rights standards, including by completing the comprehensive review of the Penal Code, the Code of Criminal Procedure and all other relevant legislation;

43. Provide legal guarantees to anyone subject to unlawful detention to have an enforceable right to compensation, as stipulated in the ICCPR, to be provided in a fair, consistent and gender-sensitive manner and without discrimination;

44. Take all necessary measures to ensure a safe environment, free of intimidation, for the trials of members of the former regime and members of the armed brigades, while ensuring accordance with internationally recognised fair trial standards;

45. Make public the conclusion of any investigation that may have taken place into incidents relating to prisoners and to ensure that an independent and impartial judge conducts such investigations and that the Internal Security Agency fully cooperates;

46. Identify those responsible for the killing of prisoners and prosecute them to the fullest extent of the law in fair proceedings;

47. Immediately cease pressuring or threatening families of victims into accepting compensation and allow them to demonstrate freely and to express their opinions about legal proceedings without intimidation or harassment from security forces;

48. Provide adequate human resources so that cases can be properly investigated and detainees either released or criminal proceedings commenced. The issue should be considered as a matter of urgency by the Parliament and should be viewed as having the potential to affect the long-term stability of Libya;

49. In order to ensure maximum efficacy from attempts to address the serious backlog of revolution-related cases, the Judicial Inspectorate should create a panel of senior members of the judiciary to provide oversight of the work of judges involved in these cases;

50. Regularise the prison system and ensure that all prisons and detention facilities are managed and controlled by Libyan authorities alone;

51. 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.