

LAW NO. 29 OF 2013 ON TRANSITIONAL JUSTICE

The General National Congress

Upon taking note of the:

- Interim Constitutional Declaration of 3 August 2011 and its amendments;
- Penal Code and Criminal Procedure Code as well as their amendments and their supplementary laws;
- Military Penal and Procedure codes and their amendments;
- Civil Code;
- Code of Civil and Commercial Procedure and its amendments;
- Law No. 2 of 2005 on Combatting Money Laundering;
- Law No. 6 of 2006 on the Judicial System and its amendments;
- Law No. 24 of 2010 on the Provisions of Nationality and its implementing regulations;
- Law No. 17 of 2012 on Laying the Foundations of National Reconciliation and Transitional Justice, and its amendments;
- Law No. 38 of 2012 on Transitional Period Special Measures; and
- International agreements concluded between Libya and other states and within the scope of regional and international organizations;
- Conclusions of General National Congress' 128th ordinary meeting on 22 September 2013;

the following Law was enacted:

Chapter One - General Provisions

Article 1 - The Concept of Transitional Justice in Libya

When applying the provisions of this law, transitional justice is meant to address severe and systematic violations of the basic rights and liberties to which the Libyans were subjected by state affiliated apparatus under the former regime. This will be done through legislative, judicial, social and administrative measures, in order to reveal the truth, hold perpetrators accountable, reform institutions, preserve the national memory, seek reparation and compensate for the mistakes for which the state is responsible for compensating.

The concept of transitional justice in this law includes some of the effects of the 17 February Revolution, namely:

1. Positions and acts that led to a breach in the social fabric;
2. Acts which were necessary to reinforce the revolution, and which were accompanied with some behaviour that did not adhere to its principles.

The objective is to reach national reconciliation, restore ties, strengthen social peace and lay the foundations for the state of rights and the rule of law.

Article 2 - Definition of Severe and Systematic Violation

Severe and Systematic Violation: violating human rights through murder, abduction, physical torture or confiscation or damage of funds, if committed by an order of an individual acting out of a political motive. It also means the violation of the fundamental rights in a manner that results in severe physical or moral consequences.

Article 3 - Events to Which the Law is Applicable

The provisions of this law shall apply to events that took place as of 1 September 1969 until the end of the transitional period when parliamentary elections will be held based on the permanent Constitution.

Article 4 - Objectives of the Law

This law aims to achieve the following:

1. The legal recognition of the just character of the 17 February Revolution, and as a right of the Libyan people as well as the recognition of the corruption and tyranny and to criminalise the former era.
2. Preserve and strengthen civil peace.
3. Accountability for human rights violations committed under the guise of the state, any of its institutions or individuals acting in its name.
4. Reassure the people and convince them that justice exists, and that it is effective.
5. Identify the responsibility of state bodies or any other parties for human rights violations.
6. Investigate, document, and preserve events covered by transitional justice and deliver them to the competent national authorities.
7. Repeal unjust laws that violated human rights and enabled tyranny in the country.

8. Seek reparation for the victims and those harmed by the events included in the concept of transitional justice according to this law and compensate them for the damages for which the state is responsible for compensating.
9. Achieve community reconciliation.
10. Expose and document the suffering of Libyan citizens under the former regime.
11. Reform state institutions.

Article 5 - Components of Transitional Justice

Achieving transitional justice in Libya shall be based on the following aspects:

1. Issue laws and constitutional texts revealing the just character of the 17 February Revolution and the injustice of the former regime and the illegality of unjust laws
2. Reveal truths of public and collective nature
3. Reveal individual truths
4. Criminal accountability
5. Consensual reconciliation
6. Legislative amnesty and general amnesty
7. Reparation
8. Displaced persons' issues

Article 6 - Annulment of Unjust Legislation and Their Illegitimacy

The suspension of constitutional life in Libya is considered injustice and aggression. The legislation issued by the former regime as an expression of its own wishes without a legitimate or constitutional basis is considered an unjust legislation. Such legislation shall be considered void and unconstitutional since its drafting. They cannot be used to oppose established rights, and their negative effect on individuals and the society should be addressed.

Chapter Two - Fact-Finding Commission

Article 7 - Establishment and Mandate of the Commission

An independent commission that is affiliated with the General National Congress (GNC) and that enjoys legal personality and financial independence shall be established under the name of the Fact-Finding and Reconciliation Commission. Its headquarters shall be the city of Tripoli, and it shall be affiliated with the GNC. Its tasks shall be:

- Conduct fact-finding on severe and systematic human rights violations and determine the identity of those involved in them.
- Draw a complete picture of the nature, causes and scope of the severe human rights violations during the former regime.
- Collect the points of view of victims and publish them.
- Document the verbal accounts of victims.
- Study the conditions of both internally and externally displaced persons, and adopt decisions for the application of the necessary measures to ensure a dignified life for them; enable them to enjoy their rights as other Libyans, and to prevent any discrimination against them.
- Seek to return externally displaced Libyan citizens in addition to solving the issue of internally displaced persons.

- Examine the issue of missing persons and detainees, issue adequate decisions in order to take the necessary measures to address it as well as measures needed to ensure a dignified life for their families.
- Cooperate with civil society organizations working in parallel with the justice and reconciliation law
- Issue adequate reparation decisions for victims in all its forms, such as material compensation, memorialisation, treatment or rehabilitation as well as the provision of social services. These decisions shall be binding.

Article 8 - Departments of the Commission

The commission shall establish specialized departments according to the components of transitional justice as defined in this law as follows:

1. Department for revising the legislation relevant to transitional justice. It is concerned with repealing unjust laws and regaining legal life according to the Constitution and the *sharia*.
2. Fact-finding department on public and collective violations of human rights during the former regime. The results of the investigation shall be presented in a comprehensive report that includes evidence, applications, affected persons and recommendations. It shall be widely published in the media.
3. Fact-finding department on individual violations: It exposes individual violations
4. Fact-finding department on human rights violations after the fall of the Qadhafi regime. The Commission shall dedicate a special office for fact-finding concerning events accompanying the 17 February Revolution. It shall document information in a manner that guarantees the rights of all.
5. Department of Displaced Persons
6. Department of Arbitration and Reconciliation; it will be calling for consensual reconciliation, legislative amnesty and general amnesty. It shall have constant contact with reconciliation committees, and wise men of the regions to restore national solidarity and achieve the conditions of reconciliation between regions.

Article 9 - Duration of the Commission

The duration of the commission shall be four years from the date of the launching of its work. This duration can be renewed for one year following a request by the Commission submitted to the legislative authority three months before the expiration of its term.

Article 10 - Board of the Commission

The Commission shall have a Board that comprises a Chairperson and eight members who are known for their independence, impartiality and competence. They shall be appointed by the GNC. The Board shall be considered the supreme authority of the Commission, and it shall undertake the management of its affairs and represent it in its relations with others as well as before the courts.

Article 11 - The Mandate of the Board

The Board shall undertake the following tasks:

1. Establish the departments according to the necessary components of transitional justice: fact-finding, reconciliation, addressing the issue of refugees and displaced persons or missing persons, and establishing committees as needed.

2. Develop rules of procedure for the Commission and its committees.
3. Form an administrative apparatus to handle administrative, financial and technical issues; and resort to local and international expertise, especially in the areas of training and resources management.
4. Review reports submitted by the departments and develop the final report upon completion of its work as well as take the necessary measures or decisions within the competence of the commission as stipulated in the law.

Article 12 - Conditions for Membership of the Board

All those selected for membership of the Board, director of any affiliated department or member of one of its committees shall meet the following conditions:

1. Hold the Libyan nationality.
2. Not affiliated to any political party.
3. Was not an active member of the Revolutionary Committees Movement, or a member of the Revolutionary Guard, the internal or external security agencies, military intelligence, purging committees, the so called League of the Leader's Comrades, or anyone who worked as a judge in the People's Court, State Security Court or took the position of General Prosecutor or General Military Prosecutor.
4. Was not convicted of a crime related to a public post or a profession, a dishonourable crime or a breach of trust offence.
5. Was not dismissed from a position or a profession based on a disciplinary order.
6. Has not less than 30 years of age.
7. The member is not subject to the criteria of occupying posts as stipulated in Law No. 13 of 2013 on Political and Administrative Isolation.
8. Disclose financial assets.

Article 13 - Budget of the Commission

The Commission shall have an independent budget that it submits to the Council of Ministers. It shall be approved by the GNC in the name of the Commission.

Article 14 - Remunerations

The Chairman and members of the Board of the Fact-Finding and Reconciliation Commission shall receive a monthly remuneration determined by a GNC decision.

The commission shall set a table of salaries and remunerations for people appointed or utilized by the Commission to perform some tasks. [It shall also determine] the conditions and modes of appointment which shall be approved by the Council of Ministers.

Article 15 - Oath Taking

The Chairman and members of the Board of the Fact-Finding and Reconciliation Commission and the members of affiliated departments and committees shall take the following oath before commencing their tasks:

"I swear by Almighty God to perform my duties with honesty, sincerity and integrity and to respect legitimate rights and the Constitutional Declaration."

The oath shall be taken before the President of the GNC in the case of Commission members, while members of department [and] committees shall take the oath before the Chairman of the Commission.

Article 16 - The Commission's Fact Finding Powers

- The Commission has the power to order individuals, search locations, seize and seal documents and evidence and visit locations of relevance to the investigated facts. The individuals determined in a decision issued by the Chairman of the Board of the Fact-Finding and Reconciliation Commission shall hold powers of police in this regard. The Commission may seek the assistance of police officers and other local administration officials.
- The Commission and its committees may request anyone to reveal any information, document or material relevant to the subject the Commission is examining. It may interrogate any witness and may ask him to take the decided legal oath.
- The Commission may seek information in another country. The Ministry of Foreign Affairs shall seek the approval of the intended country.
- The Commission may adopt amicable approaches and conduct good will efforts to solve conflict, including mediation and arbitration. It may seek the assistance of the Sheikhs and wise men known for their effective role in solving civil conflict in traditional methods.

Article 17 - Reports of the Commission

Upon concluding each file, the Commission shall submit:

1. A comprehensive report that includes general recommendations
2. Detailed reports for each file separately, which shall be attached to the comprehensive report, provided that the detailed report includes the following:
 - a. A comprehensive statement consolidated with evidence.
 - b. Results reached through examination and investigation, including a specific determination of the amount of damage, the responsibility and the individuals in relation to it.
 - c. What was done by the commission to reconcile the parties.
 - d. Issuing recommendations on how to handle the violations or solve the disputes, including taking actions or measures or referring persons or facts to the competent authority.

Article 18 - Submission of Cases to the Commission

The Commission shall look into whatever is referred to it by:

- General National Congress
- The Government
- Civil society organizations concerned with human rights and victims of violations
- The parties to a dispute or one of them. Submission may be carried out by their representatives or lawyers based on special powers of attorney
- The Minister of Justice

The Commission may take the initiative to look into any case if it deems appropriate.

[Unofficial translation by UNSMIL]

Article 19 - Re-investigating

If it becomes evident to the Commission that the investigations suffer shortcomings, deficiencies or contradictions, it may then return the report to the assigned committee for further study, investigation, and evidence gathering. It may refer the report to another department or committee.

Article 20 - Referral by the Commission

Decisions on entitlement for compensation shall be issued by departments or special committees. The Commission shall refer the compensation decision upon its endorsement to committees that are established to determine the compensation and specify its type and method of payment.

The commission may also refer [cases] to civil or criminal courts, or refer them to arbitration, reconciliation and amnesty commissions.

Article 21 - Disclosing Secrets

Individuals who work in the entities mentioned in this Law shall be prohibited from disclosing secrets, information or data, or leaking any documents that reached them as a result of carrying out their duties.

Article 22 - Witness Protection

The Commission shall take the necessary actions and measures to protect witnesses and encourage them to submit their statements before the competent committees.

Chapter Four - Reparations

Article 23 - Eligibility for Reparation and its Types

Anyone subjected to severe and systematic human rights violations shall obtain adequate reparation from the state. The reparation shall be in one or more of the following forms:

1. The payment of monetary compensation for material damage, resulting from the loss the claimant incurred except the loss of earnings. This shall be in case the misdeed which caused the damage was committed for a political motive.
2. Commemoration as decided by the Commission.
3. Treatment, rehabilitation and provision of social services.
4. Any other form decided by the Council of Ministers upon a proposal submitted by the Fact-Finding and Reconciliation Commission.

Article 24 - Compensation Estimation Committee

The compensation shall be determined by a decision of a committee appointed by the Board of the Commission, chaired by a judge. It shall consist of five members to estimate the compensation. The decision shall be approved by the Commission.

Article 25 - Compensation Fund

A fund shall be established by the GNC under the name of the "Victims' Compensation Fund". It shall have an independent legal personality and financial independence. It shall assume payment of due

compensation according to this law after the Fact-Finding [and Reconciliation] Commission concludes its work.

The decision establishing the fund shall specify resources of the fund and methods of its financing. A regulation shall be issued by the Council of Ministers organizing the fund, provided that it includes the method and manner of compensation payment as well as the beneficiaries. The fund replaces the eligible party when demanding compensation from those obligated to pay it.

Except for the appointment stipulated in the first paragraph of this article, the fund may start paying instant compensation for cases the Commission decides to expedite. The regulations shall organize its conditions.

Article 26 - Ending Detention

The ministries of Justice, Interior and Defence shall adopt all necessary measures to end the detention of those associated with the previous regime who are accused of crimes. Within 90 days of the promulgation of the law, they [should] be referred to the competent public prosecution or released. The previous period of detention is not to be considered illegal if there is sufficient evidence that they committed crimes according to the law.

Article 27 - No Statute of Limitation for Political Crimes

Crimes committed before the enforcement of Law 11 of 1997, and those committed for political, security or military reasons shall not lapse or be halted by [the statute of limitation].

Chapter Five - Supporting Transitional Justice

Article 28 - Commission for Redressing Land Property Grievances

An independent commission shall be established to redress land property grievances in accordance with a law to this effect.

Article 29 - Annulment of Some Nationality Decisions

A legal committee shall be established by a decision of the President of the GNC so as to examine the decisions pertaining to the granting of Libyan nationality. It may, to that end, take all the necessary measures, especially proposing the following:

- To revoke the Libyan nationality of any person who was granted nationality based on decrees issued as of 15 February 2011.
- To revoke and strip the Libyan nationality of any person who was granted nationality for military or political purposes during the previous regime.
- To revoke and strip Libyan nationality from any person who was granted nationality in violation of the applicable legislation in effect during the period of the issuance of the [nationality] granting decision.

The revocation and annulment shall be in accordance with reasoned decisions issued by the executive authorities in accordance with the general rules pertaining to the loss of nationality. The competent authorities shall implement the decisions issued by this Committee. Also, the Committee may exercise the necessary powers to achieve this, [including] challenging the constitutionality of laws and decisions based on which the Libyan nationality was issued.

Article 30 - Encouraging the Returning of Illicitly Gained Public Funds

If illicitly gained funds are returned voluntarily, the criminal proceeding regarding these funds will become extinct. If it was proven at any time that the defendant has funds that he did not return, public prosecution shall initiate criminal proceedings.

Chapter Six - Final Provisions

Article 31 - Criminalizing Declining to Assist the Commission

Anyone who refrains from allowing authorities in charge of implementing this law to examine any evidence or documents in his possession, or refuses to appear before the Fact-Finding and Reconciliation Commission or its committees without an acceptable excuse shall be punished by imprisonment for no more than six months or a fine not exceeding 1,000 Dinars.

Article 32 - Repealing Law 17

Law No. 17 of 2012 on Laying the Foundations of National Reconciliation and Transitional Justice, and its amendment, shall be repealed; all assets of the Commission established based on it as well as its staff shall be referred to the new Commission established by this Law.

Article 33 - Executive Regulations

The executive regulations for this Law shall be issued by a decision from the GNC according to a proposal from the Fact-Finding and Reconciliation Commission, provided that it explains what procedures are necessary for the implementation of the provisions of this law.

Article 34

The provisions of this Law shall be effective as of the date of its promulgation, and all provisions that contradict [this law] shall be repealed. This Law shall be published in the *Official Gazette*.

General National Congress – Libya

Promulgated in Tripoli on 28 Muharram 1434/2 December 2013.