



المنظمة الليبية
للمساعدة القانونية
LIBYAN NETWORK
FOR LEGAL AID



Observations from civil society representatives on the draft political accord

To:

**The Special Representative of the Secretary-General and Head of the United Nations Support Mission in Libya (UNSMIL) ; and
Members of the National Dialogue committees**

Prior to 2011, Libya experienced four decades of despotic rule, during which grave human rights violations were perpetrated. After the revolution, criminal and social justice was not realized through state institutions, and no effective instruments were put in place to permit national reconciliation and restitution for harm. Serious mistakes were also made during the first transitional period by nascent institutions, among them the financial support offered to various military formations in the absence of a strategy to integrate them into the state based on clear, transparent standards and mechanisms. This gave rise to a parallel security apparatus and various militias that threatened social peace and the security of Libyan citizens under cover of government sanction. These militias have also been responsible for grave human rights violations.

The various negotiation courses sponsored by the UN offer the sole ray of hope that may prevent Libya from sliding into a large-scale, protracted civil war, which would thwart the chance for social peace and set back the democratic transition by decades.

All political factions must rise above their differences. They must consider the hundreds of Libyans who have lost their lives and the fertile environment created for the growth and spread of terrorism due to conflicts between militias and politicians, and their refusals to find a lasting, peaceful solution. The political dialogue offers Libya the opportunity to evade the clutches of civil war and the sway of terrorist groups.

In light of the third draft agreement to emerge after four months of dialogue, all parties must come together as soon as possible to draft a final accord. The accord must require all parties to end armed conflict, establish clear bases for the reintegration and rehabilitation of armed formations on an individual basis, and link counterterrorism efforts to a framework of full respect for human rights. All extralegal detention facilities must be turned over to official state bodies, detainees released, and the fate of the disappeared exposed, and instruments must be established for transitional justice and national reconciliation.

In this context, a group of civil society organizations and human rights defenders have undertaken to offer a rights-based perspective on the draft accord. Since civil society groups have no seat at the dialogue session and have not been empowered to observe the various discussions, **meetings were held in the Tunisian capital on May 6 and 7, 2015 that brought together representatives of civic associations, human rights defenders, and independent representatives taking part in the Morocco-Algeria dialogue. The meetings were organized by the Defenders Network, a coalition of five Libyan associations, and the Cairo Institute for Human Rights Studies.**

As such, we present to you proposals for the draft accord which we believe are of the utmost importance for inaugurating a transitional phase that honors truth and brings justice to victims and functions as the foundation for a nation of law, justice, and institutions. These proposals set the stage for an end to political infighting and armed conflict, for which citizens have paid the price, and allow the participation of all Libyans without discrimination or exclusion.

The draft accord cites principles related to human rights and the rule of law, among them: “affirmation of respect for the judiciary and its integrity and neutrality”; “the state’s commitment to international human rights law”; “the condemnation of violations of human rights and international humanitarian law, including the targeting of civilians and civil institutions”; and “putting an end to impunity.” The draft also affirms important constitutional principles, including “3: the separation of powers” and “5: equality and equal opportunity,” as well as “9: Affirmation on the renunciation of violence and incitement,” “15: the criminalization of arbitrary detention or arrest, the criminalization of torture,” and “17: enacting instruments for transitional justice and national reconciliation.” All of these points are vital for bringing stability and peace to Libya. We must also underscore the need to create mechanisms to ensure the application of the accord. The draft must also affirm efforts to combat impunity and disallow amnesty and statutes of limitations in allegations against perpetrators of grave human rights violations, in accordance with the conventions and standards of international human rights law and international humanitarian law.

In these proposals, we raise the vitality to give Libyan civil society organizations and the National Council for Civil Liberties and Human Rights an effective, genuine role to facilitate the adoption of a peaceful agreement and guarantee its implementation, in this regard the undersigned organizations call the all Libyan parties and UN to include the following recommendation the draft of the political agreement :

1. Include human rights and transitional justice measures:

- Affirm the importance of revising the transitional justice law to allow the input of civil society and associations of victims’ families, in order to produce a national law that is fair and just to all victims and achieve the desired objective.
- All parties must affirm their full commitment to accountability for perpetrators.
- Empower the judicial branch and the committees formed pursuant to the transitional justice law to monitor all detention facilities subordinate to the Justice Ministry, Defense Ministry, and Interior Ministry.
- Vet the personnel lists of the Interior Ministry and Defense Ministry to identify persons responsible for serious crimes.
- Affirm a commitment to the neutrality and independence of the judiciary.

2. Empower the role of the National Council for Civil Liberties and Human Rights as a national human rights instrument:

- As a national, independent body working with civil society, the National Council for Civil Liberties and Human Rights must have a defined role in monitoring the implementation of the rights-based aspects of this accord.
- All parties must commit to ensuring the independence of the Council and empower it to perform its mission under the law of its establishment and pursuant to the Paris Principles.

3. Assure the cooperation with the investigation mission formed pursuant to UN Human Rights Council resolution during March session 2015:

It is vital to reference the status and prerogatives of this commission in the draft accord and for all parties to commit to enabling the commission members to undertake their inquiries and meet with and protect witnesses and victims, as well as ensure the cooperation of the national judicial authorities.

4. Amend article 60 in the draft to include a provision excluding from public office and positions in the security and military establishments any person proved to be involved in human rights violations or persons still under investigation in such cases in both the national courts and the International Criminal Court.