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Agenda items 2 and 10

**Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the
High Commissioner and the Secretary-General**

Technical assistance and capacity-building

**Libya: update of the Office of the United Nations
High Commissioner for Human Rights on
cooperation in the field of human rights**

I am pleased to report to this Council pursuant to Human Rights Council resolution 19/39, which invited my Office “to inform the Human Rights Council, at its twenty-second session, under agenda item 10, on its technical assistance, capacity-building and cooperation with the transitional Government of Libya”. Since the adoption of this resolution, Libya has made significant advances, inconceivable just two years ago. Historic elections for a General National Congress in July 2012, gave Libyan men and women their long overdue right to vote for the first time in their country’s history and brought in 16 per cent women to the 200-member Congress.

Libya’s new authorities have consistently reaffirmed their commitment to the respect for human rights. However, the aspirations of the Libyan people to live in a democratic society with strong public institutions will take time to realize. The challenges are considerable after four decades of large-scale human rights violations under the Qadhafi regime and a brief but intensive armed conflict, coupled with the collapse of security structures, weapons in the hands of numerous brigades, and a breakdown in the rule of law.

In keeping with Resolution 19/39, the Libyan Ministry of Foreign Affairs requested, by a letter dated 25 April 2012, the collaboration of OHCHR in the field of human rights. Since then, my representatives, based within the Human Rights Section of the United Nations Support Mission in Libya (UNSMIL), have engaged with the authorities to identify technical assistance and capacity building activities required to address the country’s pressing human rights needs.

A main focus of the UNSMIL Human Rights Section is to work towards ending conflict-related detention, and to prevent cases of torture and ill-treatment. On several occasions, before this Council and before the UN Security Council, I stressed that detention centres in Libya should be brought under state control, and a structure and process for judicial screening of some 8,000 detainees put in place to end arbitrary detentions so that those against whom there is no evidence can be released, and others receive a fair trial. The Human Rights Section is working closely with the Ministry of Justice to achieve these goals.

Over the last year, human rights officers carried out numerous monitoring visits to places of detention. Regrettably they have not always had full access, a matter that should be addressed. Nevertheless, they documented cases of torture and ill-treatment in various locations, including: three deaths in custody in a detention facility in Misrata on a single day in April 2012; and further deaths in custody in the aftermath of the conflict in Bani Walid in October 2012.

These constitute grave violations. I welcome Minister of Justice Salah Marghani’s plans to assert his Ministry’s control over all detention facilities. The Human Rights Section will continue to assist the Ministries of Justice and Defence to identify particularly problematic detention facilities and to expedite their handover. Under Prime Minister Ali Zeidan’s leadership, this Government can and must achieve more in this regard.

Human rights officers also delivered trainings to prosecutors on screening detainees and assisted with the development of an overall prosecutorial strategy on conflict-related detentions. The Ministry of Justice is deploying additional prosecutors to Misrata, while UNSMIL has urged the creation of a new department in the General Prosecutor’s Office focusing exclusively on screening conflict-related detentions. Since the judicial police was largely dissolved with the prior regime, the Human Rights Section has trained new judicial police recruits in order to bring the prison system in line with human rights standards.

A key challenge in making progress in all these areas is the need to strengthen the rule of law. The Human Rights Section is working with the Ministry of Justice on activation of the courts and issues of court security. It is working with the Supreme Judicial Council on reform of the judiciary.

UNSMIL has been encouraging relevant treaty ratifications and commenting on draft laws, including the Criminal Code, with a view to ensuring that Libya's legal framework is in conformity with international human rights standards. In this regard, I welcome new draft laws criminalizing torture, forced disappearances and various forms of discrimination, and prohibiting trials of civilians before military courts, as proposed by the Minister of Justice. I also welcome the recent ratification by the General National Congress of the Convention on the Rights of Persons with Disabilities. Notwithstanding, significant concerns remain with Libya's current legal framework, particularly a new law restricting the right to peaceful political protests; the delegation of unclear authority to entities such as the Supreme Security Committee to arrest and detain; and a recent Supreme Court decision facilitating polygamous marriages.

Transitional justice remains a high priority for Libya. Throughout 2012, the Human Rights Section has brought thematic experts and experts from other transitional contexts to share their experiences with Libyans. In September 2012, UNSMIL released a policy paper urging Libyans to adopt a comprehensive strategy on transitional justice, including moving forward with a dynamic truth-seeking process, measures to provide redress for victims - including victims of sexual violence - and to try senior perpetrators. I take this opportunity to emphasize the importance of ensuring accountability for crimes committed before, during and after the conflict by all parties.

The absence of national reconciliation and the failure to demobilise armed groups have contributed to an eruption of violence in certain areas, resulting in civilian deaths and displacement. The entire population of Tawergha remains displaced. UNSMIL continues to investigate outbreaks of violence, such as the events in Bani Walid in October 2012. A new draft of the transitional justice law, put forward by the Ministry of Justice, takes on many of our earlier recommendations and could provide ways to address root causes of these violent outbreaks.

In order to foster a victim-based perspective, the Human Rights Section also worked closely with victim groups and the Ministry for the Affairs of Families of Martyrs and Missing Persons, to lay the ground for a new legal framework and sound forensic basis for the search for the missing and disappeared. The families of victims of the 1996 Abu Salim prison massacre, whose calls for justice lay at the heart of the Revolution, have waited too long for the fate of their loved ones to be revealed, and need a process conforming to international standards and best practices.

More broadly, the Human Rights Section also seeks to promote a human rights culture, including through building the capacity of state institutions, such as the General National Congress' human rights committee and the national human rights institution, the National Council for Public Liberties and Human Rights. In addition, staff members trained new human rights groups and activists around the country, and provided intense mentoring of newly established human rights organisations that are monitoring detentions. The need to develop a human rights culture is evident in issues such as the treatment of migrants, which remains woefully inadequate.

The Special Procedures of this Council have been engaged on the situation in Libya, including: three communications issued by several mandate holders; four visits by Working Groups and Special Rapporteurs agreed in principle; and two pending requests for visits made. I welcome the commitment made by Libya's transitional authorities to open its doors to the Special Procedures, and I encourage the General National Congress to take the necessary steps to issue them a standing invitation. Following an earlier invitation from the transitional authorities, I hope to visit Libya this year at an opportune moment.

Libya remains at a critical juncture. In the coming months, it will be important to achieve tangible results on resolving conflict-related detentions and on moving forward on transitional justice. These matters are intended to turn the page on the legacy of the past. Looking forward, in the drafting and adoption of a new Constitution, Libya will write a new page. Libyan authorities should carry out a consultative and inclusive drafting process, with the aim of adopting a Constitution that safeguards dignity, non-discrimination, equality, and human rights for all. OHCHR remains ready to assist and accompany Libya in all these endeavours.

Thank you.
