

Law No. (17) of 2012
on the rules of national reconciliation and transitional justice

The National Transitional Council

Upon review of:

- The Victory Statement of the 17 February Revolution issued on 22 February 2011;
- The Constitutional Declaration issued on 3 August 2011;
- The internal regulation of the National Transitional Council);
- The Civil Law;
- The Code of Civil and Commercial Procedure;
- The Penal Code and its supplementary laws;
- The military legislation in force;
- Law No. (19) of 1989 on approving the benefits of victims of military operations, missing persons and prisoners;
- Law No. (6) of 2006 on the judiciary, and its amendments;
- Law No. (4) of 2010 on conciliation and arbitration;
- The National Transitional Council's statements on public freedoms and human rights;
- The proposal of the Justice Affairs and Human Rights official at the executive office;
- The deliberation of the NTC session held on Sunday 26/02/2012;

Issued the following law:

Chapter (1)

General Provisions

Article (1)

Definitions

In this law, the following terms shall have the indicated meaning ascribed to them:

Transitional justice: A set of legislative, judicial, administrative, and social procedures designed to address the incidents that occurred in Libya under the former regime and the government's violation of human rights and fundamental freedoms, and to achieve amicable reconciliation between social groups.

FFRC: The Fact-Finding and Reconciliation Commission set forth by this law.

Incidents: Any act that constitutes a crime or human rights violation.

Article (2)

The provisions of this law shall apply to the incidents that occurred from 1 September 1969 until the intended objectives of this law are achieved. They shall not apply to those who achieved reconciliation under the former regime nor to disputes settled by judicial verdicts that have been executed.

Article (3)

Objectives

This law aims to achieve the following objectives:

1. Consolidate social peace.

2. Prevent human rights violations.
3. Spread reassurance among people and convince them that justice is established and effective.
4. Determine the responsibility of State institutions for human rights violations.
5. Document and preserve the incidents subject of transitional justice, and submit the same to competent national authorities.
6. Indemnify the victims and the injured.
7. Achieve social reconciliations.

Chapter (2)

Fact-Finding and Reconciliation Commission

Article (4)

A national commission affiliated with the National Transitional Council (NTC) shall be established under the name “Fact-Finding and Reconciliation Commission” (FFRC). The FFRC shall have its headquarters in Tripoli and shall possess independent legal personality and financial liability, with a branch in every local council's jurisdiction. The FFRC's duties are the following:

1. Conduct a fact-finding investigation of incidents related to human rights violations committed during the period specified in Article (2), and take the necessary procedures in this regard, including the recommendation to refer culprits to the competent judicial authority.
2. Study and investigate mass incidents, acts of violence, systematic or random assaults committed by official or non-official groups or bodies, and the resulting casualties and damages to dignity or property.
3. Produce a report on every incident submitted thereto. Such report shall include:
 - a. A complete account of the incidents with corroborating evidence.
 - b. The findings of the study and investigation, including an accurate determination of responsibility and persons involved.
 - c. The FFRC reconciliation attempts between the parties.
 - d. The FFRC recommendations regarding the handling of the situation or dispute resolution, including the recommendation to refer persons or incidents to competent courts.
4. Continue to look into cases of forced disappearance, uncover the fate of the disappeared, and find the proper solutions for cases of non-confirmed death.
5. Present proposals to initiate disarmament, demobilise militants and integrate them in society.
6. Develop and enhance the dialogue mentality, lay the foundations for reconciliation in support of the democratic transition, communicate with civil society organizations, and promote the FFRC and its functions.

Article (5)

The FFRC shall have a board of directors composed of a chairman and six members to be appointed by an NTC resolution. The Board of Directors shall be considered the supreme authority of the FFRC and shall handle its affairs and representation in its relations with third parties and before courts.

Article (6)

The Board of Directors shall perform the following duties:

1. Nominate the chairman and members of subcommittees within the jurisdiction of local councils.
2. Lay down the internal regulation regarding the activity of the FFRC and its affiliated committees.
3. Review committees' reports and prepare the final report upon completion of their work.

Article (7)

Members of the FFRC or its affiliated committees must meet the following criteria:

1. Hold Libyan nationality,
2. Have the necessary expertise, competence, impartiality, knowledge, wisdom and capacity to perform the job.
3. Be of good conduct and behaviour.
4. Not to have been involved with the Revolutionary Committees Movement, or a member of the Revolutionary Guard, People's Guard or secret services of the former regime.
5. Not convicted of any crime related to a public position or occupation or any crime of moral turpitude.
6. Not to be dismissed from a position or occupation by disciplinary action.
7. At least forty years of age.

Article (8)

Before taking office, the chairman and members of the FFRC and its affiliated committees shall take the following legal oath:

“I swear by Almighty God to perform my duties with loyalty, honesty, and integrity”

The chairman and members of the Board of Directors shall take the oath before the NTC whereas committee members shall take the oath before the chairman of the FFRC Board of Directors.

Article (9)

The FFRC and its affiliated committees shall take the necessary actions to look into disputes, which shall be submitted thereto by:

1. The Minister of Justice or the Minister of Interior
2. The Prosecutor General
3. One or all of the disputants. The dispute may be submitted by their representatives in accordance with the provisions of the Code of Civil and Commercial Procedure. The FFRC shall have the power to determine the capacity and eligibility of the parties to the dispute.

Article (10)

The FFRC and its committees shall have the right to examine all documents and evidence, regardless of the entity by which they are held, and hear the testimony of whomever they deem necessary.

Article (11)

Sessions of the FFRC and its subcommittees shall be public unless decided otherwise for considerations of public order or morals.

Article (12)

None of the provisions of this law shall prejudice the right of the victim or the representative thereof to seek judicial justice for the damages resulting from the violations committed against the victim or his representative by preventing the Public Prosecution from filing a criminal action against the persons accused of such violations.

Article (13)

The FFRC shall approve the subcommittees' substantiated decisions and make them legally enforceable. In the event of any deficiency or failure in the investigation or diminishing results, the FFRC has the right to return the report to the concerned subcommittee for further examination, fact-finding and evidence collection, taking into account whatever it deems appropriate with respect to the issue in question. Furthermore, the FFRC shall look into disputes from which a conflict of jurisdiction of more than one subcommittee arises.

Article (14)

Without prejudice to the provisions of the aforementioned Law No. (19) of 1989, whoever has suffered damages due to the crimes of the former regime shall have the right to proper compensation. Financial and moral compensation shall take one or more of the following forms:

1. Payment of a financial compensation
2. Assault on behalf of the victim, or acknowledgement of the transgressions or violations committed against the victim
3. Commemoration in the manner determined by the Cabinet.
4. Any other form prescribed by a Cabinet decree at the proposal of the FFRC.

The abovementioned compensation shall be determined by a substantiated decision of the FFRC in accordance with the standards and rules stipulated by the executive regulation of this law. The FFRC decision shall be legally enforceable.

Article (15)

A fund under the name Victim Compensation Fund (VCF) shall be created and shall possess independent legal personality and financial liability. The VCF shall disburse the compensations stipulated by this law. The VCF's resources and financing means shall be determined by a NTC resolution, and the organisation thereof shall be set forth by an executive regulation issued by the Cabinet provided that such regulation includes the method, schedule, and manner of disbursement of compensations. The VCF shall act as the right holder in claiming compensation from the party bound to pay the same.

Subject to the provisions of Article (88) of the Civil Law, the VCF shall have the right to carry out administrative distraint procedures on the debtor in accordance with the provisions of Law No. (152) of 1970 on administrative distraint.

Article (16)

Any person who refuses to allow the authorities responsible for the implementation of this law to examine any evidence or documents in his possession, or destroys or conceals the same, or refuses to appear before the FFRC shall incur the penalties stipulated by law, subject to the amnesty procedures in force in this respect.

Article (17)

The executive regulation of this law shall be issued by a Cabinet decree.

Article (18)

This law shall enter into force from its date of issuance. Any contrary provision shall be repealed. This law shall be implemented by all parties each within their mandate. The transitional government and local councils shall be notified, and it shall be published in the media.

Interim National Transitional Council – Libya

Tripoli

Sunday 26/02/2012