

[Trial of Gaddafi regime a 'missed opportunity for justice,' says new UN report](#)

21 February 2017 – Pointing out that the recent trial in Libya of members of Colonel Muammar Gaddafi's regime fell short of international fair-trial standards, the United Nations human rights wing and the UN mission in the North African country called on authorities to address flaws identified in a new report.

In the report issued today, the Office of the UN High Commissioner for Human Rights (OHCHR) and the UN Support Mission in Libya (UNSMIL) also recognized the challenge of trying former members of the regime, especially amid armed conflict and political polarization, but noted that the trial raised concerns such as serious violations of due process, including prolonged periods of incommunicado detention for the defendants amid allegations of torture which were not properly investigated.

“Holding perpetrators responsible for violations is vitally important but accountability should be the result of due process and a fair trial,” said UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein in a news release detailing the report's findings on the trial proceedings that examined violations of human rights during the 2011 civil uprising that toppled the long-time Libyan leader's regime.

“This trial was a missed opportunity for justice and for the Libyan people to have the chance to confront and reflect on the conduct of the former regime.”

Of the 37 members of the former regime under trial – including Colonel Muammar Gaddafi's son Saif al-Islam Gaddafi, former intelligence chief Abdullah al-Senussi, and former Prime Minister Al-Baghdadi al-Mahmudi – six defendants were sentenced to death; eight given life sentences; 15 others jail terms of five to 12 years; four were acquitted on all charges; and one was referred to a mental health institution.

UNSMIL and OHCHR closely monitored the case from the pre-trial phase through the court proceedings, which began in March 2014, to the verdict in July 2015. They also interviewed many of the defendants and their relatives and lawyers, reviewed the case dossier and judgement, and had extensive discussions with Libyan officials and Libyan and international experts.

They noted that the public prosecutor's office, in particular, provided documentation and was available for discussion of the trial throughout the process. However, they also said that the defendants' lawyers complained repeatedly of difficulties in meeting defendants in private and accessing documentation.

The right to defence was also undermined by the fact that no prosecution witnesses were called to testify in court the prosecution's case was only briefly presented during the court sessions and the court restricted each defendant to two witnesses, noted the news release.

In addition, the Libyan judicial system does not allow for a full appeal but only cassation a review focused on points of law only.

[We urge] the Court of Cassation to take into full account the due process violations identified in the report and provide effective remedies, pending the adoption of reforms needed to bring Libyan trials into full compliance with international standards, the two UN entities noted.

Among other specific recommendations, the report also called for a review of the Penal Code and the Code of Criminal Procedure to ensure all crimes are clearly defined, access to lawyers during interrogation is guaranteed and other fair trial safeguards are strengthened.

The report also said the Libyan authorities should also ensure the surrender of Saif al-Islam Gaddafi to the International Criminal Court (ICC), in compliance with Libya's international obligations.