

Joint Committee charged with the Misrata/Tawergha dossier

Road Map Document

18.12.2015

Introduction

1. The Municipal Council of Misrata and the Local Council of Tawergha proposed a Joint Committee to deal with the dossier of the two communities, in accordance with the outcome of the meeting of Libyan Municipalities held on 28-29 January 2015 in Geneva under the auspices of the United Nations Support Mission in Libya (UNSMIL).
2. Following discussions of a number of concerns affecting Libya including the issue of the return of those displaced, the meeting affirmed in its final statement on 29 January “*the right of the people of Tawergha to return to their land through the establishment of a Committee to discuss the mechanism to achieve that on the ground and to remove all obstacles and prepare all the appropriate conditions*”.
3. The meeting also agreed that UNSMIL would “*follow up this process in cooperation with the two sides*”. Accordingly, UNSMIL’s Human Rights, Transitional Justice and Rule of Law Division assisted the dialogue between the two communities, including by providing technical assistance, organizing and facilitating meetings and training workshops for both sides outside Libya in order to share knowledge and benefit from comparative international experiences.
4. The Libyan Municipalities meeting held under UNSMIL’s auspices on 23-24 March 2015 in Brussels also committed “*to the return of all internally displaced people by 31 December 2015*”. The Joint Committee notes that the need to address the issue of the return of all internally displaced within this deadline was not possible due to the prevailing situation in Libya, but hopes that the establishment of the Libyan Government would contribute to accomplishing it as speedily as possible.
5. The establishment of the Joint Committee for the two communities was confirmed at a meeting between Misrata and Tawergha representatives in Tunis on 27- 28 May 2015. The terms of reference of the Joint Committee were defined on the basis of the meeting of Misrata and Tawergha representatives in Tunis on 27 July 2015. The terms of reference included:
 - to reach an understanding of the requirements of justice for both sides;
 - to agree proposals to address the needs of victims of both sides, including reparations for the harm they suffered;
 - to work on identifying the physical conditions necessary to support voluntary and safe returns to Tawergha, al-Kararim, Tomina and Karzaz;
 - to make proposals for the maintenance of peace and the promotion of reconciliation between Misrata and Tawergha and for the good of Libya;
 - to agree a comprehensive operational plan to address these objectives.

6. The members of the Joint Committee were selected in August 2015 . The Joint Committee met several times between August and December 2015 in Tripoli, Tunis and Geneva. In addition, a sub-committee of the Joint Committee met several times to discuss specific and important issues. The governments of Germany and Switzerland supported the meetings in Tunis and Geneva facilitated by UNSMIL.
7. The Joint Committee took several initiatives during this period to build confidence between the two communities, including by encouraging the release of a number of prisoners; assisting in the transfer of civil status and student files to those concerned; distributing school materials and organizing meetings of families from both sides.
8. The Joint Committee agrees on the following as part of its efforts to arrive at a settlement on issues that have risen between the two communities during the conflict in 2011.

I. General principles

9. The Joint Committee seeks to satisfy the legitimate aspirations of both the Misrata and Tawergha communities in an effort to overcome the legacy of the past in a fair way and contribute to the building of a Libya based on the rule of law, justice and human rights.
10. In carrying out its specific tasks, the Joint Committee is ready to cooperate with the Libyan Government through the local administrations in both areas which would help accelerate the voluntary and safe return of those displaced as soon as possible.
11. The Joint Committee calls on the Libyan Government to give priority to the setting up of a comprehensive transitional justice program that includes the intrinsically linked pillars of truth-seeking, reparation, justice and reform. The Joint Committee asks the Libyan Government to accelerate the establishment of fact-finding and truth seeking committee, which would have among its priorities the examination of the events which took place during period between 17 Feb and 11 August 2011 in Tawergha, al-Kararim, Tomina and Karzaz to guarantee non-repetition of the abuses. The Joint Committee is ready to work with the Libyan Government to achieve these goals for the benefit of Libya as a whole.
12. The Joint Committee emphasizes the necessity of addressing the current humanitarian situation of the displaced.

II. Reparations for victims

13. The Joint Committee affirms the importance of addressing the needs of all victims of human rights violations.

14. The Joint Committee acknowledges that a reparation programme needs to include multiple processes such as classifying and prioritizing violations; identifying and prioritizing beneficiaries; and agreeing on the type of reparations – material and moral, individual and collective – and criteria for their determination taking into account the gravity of the violations and the harm suffered.
15. In the absence of a comprehensive national reparation initiative, the Joint Committee will design with the assistance of international experts a reparations programme that is credible, transparent, based on appropriate documentation and in line with the principles of fairness and non-discrimination. This is without prejudice to the right of victims to submit individual requests for reparations in relation to period after the agreed date, through the transitional justice mechanisms which the Libyan government will implement or through bringing cases before the national courts.

Time frame and phased approach

16. The Joint Committee has agreed that the reparation programme will in principle address the needs of victims from both sides for the period between 17 February 2011 and 11 August 2011. The needs of the victims for the period following 12 August 2011 will be addressed subsequently in the framework of a national programme to be approved by the Libyan Government.

Type of reparations

17. Reparations will include both material and moral reparations as well as providing medical and psychological support. Reparations were categorized as follows:

Material Reparations: They include financial compensation for assets, capture, torture, unlawful detention, death under torture and summary execution. Under this category, the numbers will be identified and the necessary estimation for the reparation will be prepared with the agreement of all sides without exclusion of any victim. This will be done in full transparency. In order to regulate the reparations procedure, it will be necessary to define the timeframe and to present the documents proving the harm suffered and explaining the type of harm.

Health and Psychological Reparations: It includes identifying the type of harm from the medical reports, while proving that the harm was suffered in relation to the specified events and during the agreed periods. The material value will be defined and efforts will be accomplished to allow the victim to receive treatment in an easy and continuous manner, until the end of the harm suffered, whether the treatment is inside or abroad. It includes their assistance in receiving administrative facilitation regarding entry visas, residence and covering the expenses of the treatment.

Psychological reparations will be provided in the form of psychological support through establishing psychological support units inside or outside the country, according to the case, and their support in receiving administrative facilitation regarding entry visas, residence and covering the expenses of the treatment.

The Joint Committee also considers the return of the displaced as fulfilling their right to restitution, including restoration of housing, lands and properties as part of the reparations.

Funding

18. The implementation of a reparation programme will require human and financial resources. The Joint Committee regrets that successive Libyan Governments did not address comprehensively the needs of victims and asserts that the Libyan state bears ultimate responsibility for covering the costs of reparations.
19. A trust fund supported by the Libyan government shall be established to fund the project. Donations from local and international entities that wish to support the Libyan people solving their crisis will be collected through the trust fund. The trust fund will only concern the Misrata/Tawargha file. It can be expanded to collect funds for the reconstruction of Tawargha, al-Kararim, Tommina and Kerzaz.

III. Accountability, detainees and missing persons

Judicial screening of detainees

20. The Joint Committee calls on the Libyan Government to ensure the prompt screening of the detainees to determine who should be released and who should be charged and brought to trial on the basis of Libyan legislation and international standards. The Joint Committee underlines the need for referrals to trial to be based on solid evidence and on investigations conducted by independent, impartial and professional public prosecutors.
21. The Joint Committee is ready to refer any relevant documents it receives through its work, and to facilitate the submission of information on possible crimes, to the relevant judicial authorities.
22. The Joint Committee affirms that confessions and other information acquired under torture or other form of coercion must not be used in this process.
23. Trials should be under Libyan law. The convicted have the right to an appeal. Those released from detention should be provided with documentation indicating the period of their detention, without prejudice to their right to go court, if they were not proven guilty.

Holding detainees and prisoners

24. The Joint Committee calls on the Libyan Government to ensure that the authority to arrest and hold detainees and prisoners is exercised exclusively by the competent judicial authorities, and that detainees and prisoners are held in officially recognised facilities under the effective oversight of the relevant Libyan authorities such as the Judicial Police.

Judicial pursuit of suspects not in detention

25. The Joint Committee calls on the Libyan Government and the international community to cooperate in identifying and pursuing suspected perpetrators of crimes wherever they may be, internally and abroad, in line with fair trial procedures and international agreements on judicial cooperation.

Missing persons

26. The Joint Committee is committed to cooperate with the Libyan Government and relevant bodies and international organizations in the collection of information on missing persons in order to establish their fate.

IV. Safe returns

27. The Joint Committee acknowledges the importance of ensuring the physical safety of the returnees and calls for the conduct as soon as possible of an assessment of the level of contamination from mines and explosive remnants of war (ERWs) in Tawergha, al-Kararim, Tomina and Karzaz and the development and implementation of a decontamination plan.
28. The Joint Committee will coordinate with local and international bodies to launch as soon as possible a programme to sensitize the return populations of the dangers of mines and ERWs.

Protection from acts of violence

29. The Joint Committee acknowledges that the function of protecting returnees and in general of securing law and order everywhere in Libya belongs to the relevant State institutions, specifically the police, judiciary and prison service.
30. The Joint Committee suggests the adoption of a comprehensive national programme under full state authority of the police, the army and the judiciary to secure the area against any acts and to ensure the rule of law. Pending the rebuilding of the security, military and judicial institutions, the Joint Committee may suggest to the local authorities the formation of a force under the Ministry of Interior or defense, assigned with preserving the security of the roads and the state institutions in the area, securing citizens and not allowing any breaches of the law.

V. Other conditions for returns

31. The Joint Committee commits itself to respecting the rights, needs and legitimate interests of the internally displaced and will facilitate their voluntary return in safety. The Joint Committee will work with national authorities and relevant international actors to ensure that returns are undertaken.

Voluntariness and participation

32. The Joint Committee stresses that the returns ought to be based on the informed and voluntary choices of the displaced. The Joint Committee will respect the choice of those deciding to settle elsewhere and will not regard it as a renunciation of their right to return to their places of origin at a later time or on an occasional basis. The Joint Committee will facilitate the full participation of internally displaced persons, including women, in the planning and management of their return.

Reconstruction and economic activities

33. The Joint Committee seeks national and international support for the reconstruction of Tawergha, al-Kararim, Tomina and Karzaz – including housing, schools, health centres, law enforcement and other facilities. Such reconstruction may need to be phased and involve the restoration of basic services such as water, electricity, medical facilities and schools. National and international actors should support the resumption of economic activities. The return should not be linked to the completion of the reconstruction process.

VI. Maintaining peace and promoting reconciliation

34. The Joint Committee affirms that the ultimate objective of its work is the restoration of peace and the promotion of trust and reconciliation between both communities and at the national level.
35. The agreement between Misrata and Tawergha leaders, the discussion among members of both communities and the establishment of the Joint Committee to conduct a systematic dialogue demonstrate the willingness and the commitment to amicably resolve issues of contention and pave the way for reconciliation.
36. The Joint Committee will strive to ensure that the returns and all other aspects of its work facilitate the active participation of women and take into account their concerns and specific needs.
37. The Joint Committee will also strive to ensure that the best interests of children are taken into account in the returns and all aspects of its work.

Community engagement

38. The Joint Committee recognizes the importance for the two communities of re-build relationships in the years ahead. It urges local leaders of Misrata and Tawergha to promote joint and wide discussion forums and other initiatives aimed at encouraging good communications and friendly relations, and advising on the maintenance of peace at community levels.

39. The Libyan Government, local authorities and councils of elders are invited to encourage reconciliation between the two parties. It may seek the assistance of any suitable actor to facilitate meetings between the two sides.
40. The Joint Committee calls on all segments of society to engage in reconciliation, particularly the victims due to their prominent role in establishing peace and reconciliation.
41. The Joint Committee specifically calls on all media to promote in their discourse reconciliation between the two communities and in Libya as a whole.

VII. Steps to be undertaken during the first quarter of 2016

- Continue the reparation process including the identification of the first set of beneficiaries and the nature of compensation; and initiate reparations programmes for physical and psychological rehabilitation in Libya and abroad.
 - Complete the assessment required for carrying out demining and removal of ERWs and start the actual decontamination programme.
 - Initiate awareness raising campaigns among returnees of the dangers of mines and ERWs.
 - Assess the nature of reconstruction work to be done, the resources required for that purpose, and the needs to rebuild economic activities in Tawergha, al-Kararim, Tomina and Karzaz.
 - Continue confidence-building measures between the two sides.
 - Develop an operational plan to facilitate voluntary and safe returns of Tawerghans and begin its implementation.
 - Conduct effective and inclusive consultations on this Road Map Document within each community, specifically with victims' groups and individual victims.
42. The Joint Committee will meet during the first quarter of 2016 with the facilitation of UNSMIL to carry forward the process.

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