

**PUBLIC**

**ANNEX 8.29**

**Cour  
Pénale  
Internationale**

**International  
Criminal  
Court**



Le Bureau du Procureur

The Office of the Prosecutor

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## Translation of Evidence

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### **Special Courts**

The monarchist regime in Libya, during its entire 18-year period of rule, never had special courts, whether civilian or military. From the September 1969 'revolution' onwards the judicial system was beset with a number of special military and civilian courts:

#### **1. The People's Court (26 October 1969)**

This court was established following a resolution of the Revolutionary Command Council issued on 26 October 1969. The court was set up to try those responsible for political and administrative corruption during the monarchist period. This followed on from a decree of the Revolutionary Command Council dated 29 July 1969. The court consisted of its chairman Major Bashir Al-Saghir Huwadi (a member of the Revolutionary Command Council) and its membership was made up of an officer in the armed forces, a police officer, the Sheikh of the Islamic University ('Al-Jami'a Al-Islamiya') and an adviser from the High Court. Prosecutions were brought before the court by another member of the Revolutionary Command Council, Major Omar Abdullah Al-Mahishi.

230 accused were brought before this court in the five cases presented between 1971 and 1974, all civilian and military personnel from the monarchist regime.

This court was restructured following the Revolutionary Command Council decree of 18 December 1976 when its chairmanship was awarded to Major Ahmad Mahmud Al-Zawi and included were two new members: Captain Abdul Salam Abu Qila (from the armed forces) and Captain Muhammad Ali Al-Misrati (from the police). This court tried 70 citizens accused of party-political affiliations who had been arrested in the aftermath of the 'people's revolution' of April 1973 and also students arrested in the aftermath of the student uprisings of April 1976.

#### **2. The First Military Special Court (11 December 1969)**

This court was established following the Revolutionary Command Council decree on 11 December 1969. Its chairmanship was awarded to Major Muhammad Najm, a member of the Revolutionary Command Council and its membership consisted of two military officers: First Lieutenant Abdul Fatah Yunis and First Lieutenant Miftah Rashid. The court tried 30 officers accused of involvement in a military coup attempt, included among them Lieutenant Adam Al-Howaz and Lieutenant Musa Ahmad (the latter having been the first Minister of Defence and Interior following the September 'revolution'). The prosecutions were brought by the Prosecutor's Office of the People's Court.

#### **3. The Second Military Special Court (8 August 1970)**

This court was established on 8 August 1970 under the chairmanship of Captain Sulaiman Shuaib and its members were First Lieutenant Miftah Rashid (a member of the previous

special military court) and Lieutenant Abdullah Hijazi. Cases were brought before the court by Lieutenant Abd Al-Fatah Yunis (who had also been a member of the previous special military court). This court was made responsible for retrying those convicted under the previous court for the coup attempt.<sup>129</sup> On the 18 October 1970, harsher sentences were delivered, up to and including the death penalty, which was issued on three of the accused.

#### **4. The Third Military Special Court (3 July 1971)**

This court was established following the Revolutionary Command Council decree dated 3 July 1971. Its chairmanship was awarded to Lieutenant Yusuf Abu Hajar and its membership comprised First-Lieutenant Abdul Salam Abu Qila and Second-Lieutenant Salih Abu Farwa. Cases were brought before the court by First-Lieutenant Muhammad Salih Darhub. This court was charged with reviewing with a case of conspiracy, Number 1 of 1390 (*hijri*)

#### **5. The Fourth Military Special Court (3 July 1971)**

This court was established on the same day as the previous Military Special Court. Its chairmanship was awarded to Major Ali Al-Fayturi Al-Warfali and its other members were First-Lieutenant Al-Mahdi Al-Arabi and First-Lieutenant Abdul Rahim Salih. The case was brought before the court by First-Lieutenant Al-Ramah Al-Jarad. This court was responsible for trying those accused of conspiracy in case Number 1 of 1390 (*hijri*). The number of accused totalled 101, being both civilians and military personnel. They were charged with participation in more than one coup attempt and activity opposed to the September revolution. The verdicts were issued on 17 May 1972.

#### **6. The Fifth Military Special Court (12 February 1972)**

This court was established following the Revolutionary Command Council decree dated 12 February 1972. Its chairmanship was awarded to Major Abdul Man'am Al-Huni, a member of the Revolutionary Command Council and its other members were Major Khairi Nuri Khalid and Colonel Yusuf Al-Dabari. This court dealt with prosecuting those responsible for the torture and physical victimisation which had taken place at the central prison in Tripoli and which led to the Investigating Committee<sup>130</sup> charging them with committing such acts and which had led to death and injury to some political detainees.<sup>131</sup>

<sup>129</sup> This case was a clear violation of established law in retrying people for the same crime, the original verdicts having been final, as Adam Howaz himself was told. That this is a violation is confirmed by Chapter 14 Paragraph 7 of the First Charter of Civil and Political Rights.

<sup>130</sup> The Revolutionary Command Council had issued an order on 3 December 1971 to form an investigating committee, under the chairmanship of Colonel Umhamad Abu Bakr Al-Maqrayef (a member of the Revolutionary Command Council himself) and with a membership including the Minister of Justice Muhammad Ali Al-Jadi, to investigate the torture and physical abuse which had taken place in the central prison in Tripoli. The Investigating Committee decided to charge a member of the Revolutionary Command Council, Colonel Mustafa Al-Kharubi, and a number of the Free Officers with torture and physical abuse of political detainees.

<sup>131</sup> On this subject, refer to the further details in the section entitled 'Interference in Court Rulings' also in this study.

## 7. The Permanent Military Court

This court was established under the chairmanship of Major Sha'ban Abdul Wanis and its other members were Major Muhammad Said Zakri and Major Abdul Hadi Al-Kawafi to try those implicated in the military coup attempt uncovered in August 1975. 61 were charged. The prosecution case was brought before this court by Major Abdullah Hijazi. The verdicts were issued on 20 December 1976, 23 of which were death sentences and two of those death sentences were issued *in absentia*.

## 8. The Military High Court <sup>132</sup> (Court of Appeal)

This court was established with Major Muhammad Al-Fayturi as its chairman and Major Al-Hadi Amberish and the legal adviser to the Chief of Staff, Muhammad Al-Khudar. It was responsible for dealing with the appeal of the officers accused of the August 1975 military coup attempt. Its ruling was issued at the end of February 1977 which was the death penalty for 36 of the accused, that is more than the 13 originally given that sentence.

These special and military courts operated without being confined by the laws applicable to pleading or criminal proceedings in the Law of Punishments, without even basic respect for the requirements of justice, which constitutes a flagrant act of aggression on the judicial authority in the country and in its role in the protection of civil rights and the defence of the principle of the 'rule of law'.

There is no doubt that the 'revolutionaries' used these courts and their unjust sentences to show their supremacy and as a way of intimidating and terrorising citizens. In this regard it is enough to indicate the numbers indicted from the time the regime was founded until the beginning of 1977.

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<sup>132</sup> The creation of this court was in accordance with Law 101 of 1976 dated 20 December 1976 which amended Section 30 of the Law on Military Operations No. 29 of 1974.

**Summary of the Number of Accused Tried  
before Special Military Courts during the Years  
since the Coup until the beginning of 1977**

<b>Year(s)</b>	<b>No. Indicted</b>	<b>Courts Involved</b>
1970	30	First and Second Special Military Courts (included four death sentences <sup>133</sup> ).
1971*	277	People's Court; Third and Fourth Special Military Courts (including one death sentence on King Idris, may God have mercy on him <sup>134</sup> ).
1972	56	People's Court (Two cases of corrupting the opinions and in connection with the demonstrations of 1964).
1973	45	People's Court (corrupting the army case).
1974-77	139	People's Court (party-political and student movement Cases <sup>135</sup> ); Permanent Special Military Court (August 1975 attempted military coup <sup>136</sup> ).
<b>TOTAL</b>	<b>547</b>	<b>(including 230 from the monarchist regime)</b>

<sup>133</sup> These sentences were issued by Major Adam Al-Howaz and Major Musa Ahmad and Major Al-Hadi Bilqasim Al Arabi and Colonel Umr Muhammad Al-Wahidi.

\*One could describe this as the year of the trials.

<sup>134</sup> This ruling was issued by the People's Court in the Case of the Royal Palaces where the number of accused was 22.

<sup>135</sup> The number of accused was 70 and four were sentenced to death: Omar Muhammad Dabub, Muhammad Al-Tayib bin Saoud, Umar Al-Sadiq Al-Warafili ('Al-Makhzumi') and Ahmad Fuad Fathallah (an Egyptian worker).

<sup>136</sup> The number of accused was 69 and 23 were sentenced to death.