

PUBLIC

ANNEX 8.27

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Le Bureau du Procureur

The Office of the Prosecutor

ICC Restricted

Translation of Evidence

Original Document

ERN Range	LBY-OTP-0005-0072 to LBY-OTP-0005-0080
Source Language(s)	Arabic
Number of Pages	9

Translation

ERN Range Translated	LBY-OTP-0005-0072 to LBY-OTP-0005-0080
Target Language(s)	English
Number of Pages	9

ICC Restricted

LBY-OTP-0007-0879

Chapter Two

Content of the People's Power document

It is understood from the preamble of the alleged **“Declaration of People's Power document”**³ that **it stems clearly and relies upon explicitly** on what was stated in:

- First statement of the Revolution (which was phrased by Lieutenant Muammar Gaddafi, before he became a Colonel.)
- The speech given by Colonel Gaddafi in Azwarah on 15 April 1973, in which he declared the establishment of the “People's Revolution”.
- Theses and dissertations of the Green Book (which the first chapter was published at the beginning of 1976 and was dedicated to solving the problem of democracy – conflict for power).

From reviewing the preamble, It is understood that the document was prepared **in view of what was stated in:**

- **Recommendations of the People's Congresses** (which met on behest of Colonel Gaddafi to discuss the work schedule, which he had assigned to them).
- **Constitutional declaration**, which was issued by the “Revolutionary Command Council” on 11 December 1969, and by which it granted itself all the sovereign, legislative and executive powers.
- **Recommendations of the General People's Congress** during its first and second periodic meetings (January & November 1976, which convened since the publication of the first chapter of the Green Book and on the behest of Colonel Gaddafi).

The preamble of the mentioned document confirmed its belief:

- In what the Revolution of the First of September preached, that was blown by the “Revolutionary thinker, leader and teacher” regarding the **establishment of a direct democratic regime** and that **this regime represents the pivotal and final solution for the problem of democracy**.
- That the General People's Congress embodies the people's rule in attestation of the people's power, where no other power exists.

The preamble also declared:

- The Libyan people retaining freedom and its will to defend it over its soil and anywhere in the world and to protect the oppressed for freedom.
- The Libyan people hold socialism to achieve the people's ownership.
- The commitment of Libyan people to achieve comprehensive Arab unity.

The preamble also confirmed clearly:

³ Refer to appendix No. (19) “Declaration of People's Power”.

- The Revolution's march under the **leadership** of the revolutionary thinker, leader and teacher towards:
 - **Total people's authority.**
 - **Establishing the society of the 'leader & master people' who holds the power, revolution and weapons.**
 - **Severing all connections to all types of traditional rule.**
 - **Will to crush any attempt against the people's power completely.**

Gaddafi expressed quite clearly the importance of what was in the **preamble of this document** during a speech he gave in Tripoli on the 8th of March 1977, where he said:

"The **preamble of the declaration** which now is heading towards the red brigades to be read by generations and generations. This **preamble** is an historic commitment to all Libyans, this commitment is now part of history, and it has become a moral and a promise from you. You all must adhere to **each word written in the preamble** because you all agreed to it. There is no escape from this **preamble**. He, who wants out, should relinquish his Libyan nationality and escape, because he wants to escape his responsibility. However, you Libyans on the soil of Libya are responsible for this **preamble**, even your children and children's children shall be held responsible for every word in the **preamble of the declaration of People's Power**. Each of you must read, memorise it and teach to his children at home. It shall be taught in schools, colleges and universities. A copy shall be placed in the museum to be read by future generations. It shall be documented in books and placed in international libraries as a historical document. What is its value? Its value is not in its form, or the words in it; No. Its value is that it is a **serious commitment by all Libyans by their free will to all what is in this preamble.**"⁴

After the **preamble**, that confirms clearly the **adoption of the mentioned document to all what was issued by the coup regime during the previous period** (September 1969 to March 1977) of speeches, slogans, policies, practices, threats and promises; the document presents the "**New Mass Political System**" as follows:

- First: The name of Libya shall change from "**The Arab Libyan Republic**" to the "**Socialist People's Libyan Arab Jamahiriya**".
- Second: **The Holy Quran is the society's doctrine in the Jamahiriya**⁵.
- Third: **The direct people's power** is the political system in the Jamahiriya, no other power exists. The people shall exercise its power **through** People's Congresses, People's Committees, trade unions, federations, professional associations and the General People's Congress. The law shall determine its modus operandi.
- Fourth: **Defending the homeland** is the responsibility of every citizen, through general military training; the people shall be trained and armed. **The law shall regulate the preparation of combat courses and general military training.**

⁴ National Register, Volume 8, 76/1977 p. (401).

⁵ Refer to chapter "Quran is the society's doctrine" deception in this section.

Legislation, Judiciary, Censorship And Civil Liberties

The document **“Declaration of People’s Power”** was void, even in the form of general rules and principles, of any of the following issues or matters:

- The **legislative process** and issuance of laws, legislation and other. The motto **“The Holy Quran is the Libyan society’s doctrine”** does not exclude, but necessitates the establishment of mechanism that derive rulings from the Quran and implement them on the Libyan reality.
- **Judiciary and its bodies** and what degree of independence does it enjoy in the mass regime and to what extent the People’s Congresses and People’s Committees can interfere in the work of the judicial bodies.
- **Censorship**, the role of the administrative and financial censorship apparatus.
- **Rights and Civil liberties**, including freedom of the press and media.

The document’s lack of dealing with these critical issues, even in the form of rules and principles, is, in my belief, **deliberate to lessen the value of these issues on one hand**, and, on another hand keep it ambiguous and chaotic and experimental. So that, eventually, it can be worded in accordance with the ‘ideas’ in the Green Book and **in compliance with Gaddafi’s thoughts**.

Continuation of Gaddafi as Leader of the Revolution

Revolutionary powers

The alleged **“Declaration of People’s Power”** document confirmed – as we saw – the **continuation of the Revolution under the leadership of Colonel Muammar Gaddafi**.

Despite the titles bestowed to Gaddafi by the document (Revolutionary thinker, leader and teacher⁶), the mentioned paragraph **destroyed completely** all what it claimed regarding the establishment of ‘people’s power’ or ‘mass regime’ where ‘no government, no ruler’ and where ‘the people is the master and leader’.

The document recognised the **continuation of Gaddafi as the Revolution’s Leader**, and thus recognised his **revolutionary powers**. He alone derived its meaning and guidance without relying on any logic or document of law and without being subject to any monitoring or accountability to anyone or any committee. These revolutionary powers exceeded the powers what any king, president or prince or ruler has; they also exceeded powers any structure of the alleged ‘Jamahiriya people’s structures’, has. Thus, they destroyed all claims to ‘People’s Power’.

⁶ It is wondrous that after the release of this document, which carries titles and ranks for Gaddafi, he stood peaking to participants in revolutionary literature week on 25/10/1979, saying: “We, every day say drop those matters that concern us...we say to those working in the media we don’t want a song that has someone name or a public statement, or a picture...not for thinker or examiner or teacher or any of this nonsense...” “National register, volume eleven 79/1980 p (213).

Gaddafi used these 'revolutionary powers' to give himself absolute right to:

1. Determine the number of the basic People's Congresses, their divisions and who may represent them in the General People's Congress. (This will not change the fact that these matters are determined in form with resolutions or charters or laws passed in the name of the General People's Congress.)
2. Determine the invitation and date of basic People's Congress meetings and the General People's Congress whether ordinary or extraordinary. (This will not change the fact that this invitation is issued in form by the secretary of the General People's Congress).
3. Determine the 'work schedule' of these structures and the issues they are allowed to research and discuss.⁷
4. Exercising what he termed as '**Revolutionary Direction and Guidance**' which means that Gaddafi, with each invitation to hold basic People's Congresses, and prior to the commencement of these Congresses, will give a long speech which is not restricted to specifying items of 'work schedule' for these Congresses, but stating '**how**' should these items be discussed. It is not restricted to Gaddafi doing what he calls 'interpositions' during the Basic Congress, which include more directives regarding how to discuss the items of the proposed work schedule. He would do the same during the sessions of the **General People's Congress**.

There's no doubt that these 'revolutionary powers' alone⁸, aside from the way Colonel Gaddafi practiced, made the establishment of 'People's Power' a major lie, as it has converted most of the structures of this power (congresses...) in a 'front', 'dummy' used by Gaddafi to falsify the will of the people and to rule the country by an absolute and singular rule.

When Gaddafi, during March 1979, decided to 'separate power from revolution' and dissolved the Revolutionary Command Council and relieved the remaining members of all their powers, he remained at the head of the 'Revolutionary Power'.⁹

It is evident that Gaddafi was not satisfied with what was stated in the "Declaration of People's Power" document, regarding his 'Revolutionary Powers' so he called, during his interposition in the Abi Slaim Congress in Tripoli¹⁰ on 27/1/1990 to discussing the idea of 'revolutionary legitimacy' publicly for the first time, which made the General

⁷ Colonel Gadhafi admitted in his speech on 15/1/1991 (after 14 years from the establishment of mass regime) that the People's Congresses did not put their own work schedules where this was mentioned in the speech: "...and the work schedule the General People's Congress put completely is a product of efforts that were exerted in previous years to enable the people to put its own work schedule, prior to that it was put by the secretary of the General People's Congress...for the first time we begin establishing the correct people's regime...we started putting the work schedules which is suggested to the People's Congresses, then the General People's Congress then it is discussed..

Gaddafi admitted in his speech on 19 December 2005, that the work schedules of the People's Congresses were prepared even until then without the participation of the People's Congress.

⁸ We shall discuss the remaining factors that made these structures merely a front.

⁹ We shall discuss this topic in more details and consider the 'game of separating power from revolution' in chapter two.

¹⁰ Refer to national register, volume (21), 1989/1990, p (457-472).

People's Congress passed on 11/3/1990, what was termed as '**Revolutionary Legitimacy Document**' which stipulated in its first article¹¹ that:

'All directives issued by the leader of the Revolution are binding and must be implemented.'

Of course, after this text, there's no meaning or indication or value to what is termed as establishment of People's Power and its structures.

Military powers

The document stipulated that 'the Revolution must march under the leadership of Muammar Gaddafi towards total people's power and establishing the society of people is leader and master, that holds power, revolution and weapon....'

It is known that First Lieutenant Muammar Gaddafi, was promoted by 'Revolutionary Command Council' on the 8th of September 1969 to the rank of Colonel as he was also appointed Commander-In-Chief of the Libyan armed forces. While Colonel Gaddafi appointed himself 'Supreme Leader' of these forces, leaving the post of General Commander to Lt. Col Abu Baker Yunis Jabber (member of the Revolutionary Command Council). Of course this new post (as well the post previous) gave Colonel Gaddafi absolute powers over the military establishment which occupied an enormous and growing share of the state being and its activities and consumed a large share of its budget, since the coup in 1969 and the direction to militarising everything in the country.

Some may have imagined that this document and what it claimed regarding the 'people leader and master that holds power, revolution and weapon....' That Gaddafi will give up the post of Supreme Leader of armed forces, especially after retaining the 'leadership of the Revolution' however, this did not happen. Gaddafi retained the post of Supreme Leader of the Libyan armed forces and the wide and absolute powers this post entails, which what destroyed a major part – at least – of establishing the alleged 'People's Power'.

Gaddafi overreached since the publication of the "**Declaration of People Power**" document in exercising the powers that this post entails, so he issued on 13/11/1991, as supreme leader of the Libyan armed forces, law no (1) for 1991¹². This did not happen during the period before March 1977, which contradicts also, quite blatantly; with suppose that the power to pass laws is the competency of the general popular congress.

Secretary of the General People's Congress

Gaddafi was not satisfied- claiming that establishment of 'People's Power' and 'people's rule' and 'direct democracy' – to remain at the head of the regime as a revolutionary thinker, leader, teacher and a leader for the revolutionary march and

¹¹ Refer to chapter 'Revolutionary Legitimacy Document', section six.

¹² Law No. (1) of 1991 was published in edition No. (2) of year thirty of the Official Gazette issued on 3/2/1992. Appendix No. (25) Law No. (1) of 1991.

Supreme Leader of the armed forces only; he also remained at the head of the structure called 'General People's Congress'. He tasked this Congress to pass a resolution to select him as General Secretary and selecting the remaining members of the Revolutionary Command Council¹³ as members of the general secretariat of this congress¹⁴.

The Colonel kept this post until he resigned from it on 19/12/1978 in order to be free for the "Revolution" and "**revolutionary escalation**".

"That as of now, the general secretariat shall turn to exercising the revolution, as for other administrative issues, these have been distributed to the general popular congress and the general popular committee¹⁵."

Is the declaration document constitutional?

A number of researches argued whether the "**Declaration of People's Power**" document, form a **constitutional document**? **The presence of constitutional elements in its text or lack thereof?**

Professor Abdulsalam Al Mismari stated¹⁶:

"The document referred in its preamble to the constitutional declaration, then stipulated in its four article headings or broad lines for the makings of a new political regime. Thus, it is a constitutional document in form, from the way it was written and issued. In subject, it has dealt with core constitutional issues where it specified the basic makings of the political regime and its economic and social directions. It also stipulated that the Quran is the society's doctrine that which dictates that no law is passed that contradicts its legality or sanctity."

Also, professor Mohammed Al-Alaki, in one of his interpositions¹⁷ during the discussion forum organised by the magazine 'Arajin', previously mentioned "that the position of the high court of constitutional documents was quite negative...it said of the Libyan human rights charter and the law for enforcing civil liberties¹⁸ and the Declaration of People's Power, that they are general documents that require legitimisation and legislative intervention to derive basic laws.

In summary that in light of what we have mentioned in this chapter, we are of the opinion that the Declaration of People's Power, although containing three cardinal articles that any constitution may encompass, which are the name of the state, its political system and source of legislation, it in itself is not a 'constitution' or a 'constitutional document'.

¹³ The remaining members of the Revolutionary Command Council then: Major Abdulsalam Ahmed Jaloud; Lt. Col Abu Baker Yunis Jabber, Lt.Col. Mustafa Al Kharoubi and Major Al Khuwailidi Al Hamidi.

¹⁴ Refer to edition (1) of the Official Gazette 15 March 1977, fifteenth year.

¹⁵ Gadhafi' speech on 18/12/1978. National register, volume 10, 78/1979. Refer to 'Separation of power from revolution' in this section.

¹⁶ "Libya and the need for a constitution" Arajin magazine, M.S p (65)

¹⁷ M.S p (123)

¹⁸ It will be mentioned in subsequent chapters of section six.

Did the document annul the constitutional declaration?

Gaddafi stated during his speech on 29/12/1976, on the People's Congress discussing the project of the document "Declaration of People's Power":

"The doctrine of the society is confirmed in the declaration of people's power. If you said the Quran, as you did previously, then you must discuss what it would entail. You no longer ruled by a constitutional declaration, we no longer say: after reviewing the constitutional declaration, we no longer prepare a constitution...we must know the historical things that we confirm in this declaration. There is no longer a Quran and then a constitutional declaration, or situational constitutional; after those only laws are passed...no more constitutional declaration...we will not put a situational constitution.¹⁹"

These phrases mean that adopting the alleged "Declaration of People's Power" document means annulling the constitutional declaration passed by those involved in the putsch on 11/12/1969, and cease working by it.

However, the declaration of people's power document did not categorically stipulate annulling the constitutional declaration; also, the General People's Congress, since the publication of the document did not publish what clearly annuls that declaration, that which caused controversy among researchers in this subject and whether the constitutional declaration is still valid or was annulled?

Researcher, Abdulsalam Al-Mismari, stated in his research titled "Libya, and the need for a constitution"²⁰ "that there was a jurisprudential argument over the fate of the constitutional declaration, so some said that the constitutional declaration was annulled after the publication of the declaration of people's power; while others said (which is the opinion supported by Mismari) that due to the declaration of people's power document lacking re-organising the political regime and not stating clearly and categorically the annulment of the constitutional declaration, then every text in the declaration, that does not contradict with people's power document remains valid pursuant to "implicit annulment" rules.

Mohammed Al-laki (attorney) stated during one of his interpositions in the discussion group organised by 'Arajin' magazine on 6/10/2006, under the title "From revolutionary legitimacy to constitutional legitimacy"

"The most plausible and subjective opinion is that the constitutional declaration remains, regarding the general principles, aside from 'power to the people' which was at the revolutionary command council. The constitutional declaration in its general articles remains valid."

As for Izza Kamil Maqhour, she saw in her paper titled "national legislative policy in human rights and mechanism for implementing international agreements on a national

¹⁹ National Register, volume 8, 76/1977 p (274, 277)

²⁰ Review Arajin magazine – Papers in Libyan culture, edition (6) January 2007, P (65).

scope²¹” that the declaration of people’s power document that gave a new form to the regime in the state, deemed the constitutional declaration to null and void²².

In summary, that despite the presence of a text in the declaration of people’s power document that clearly stipulates the annulment of the constitutional declaration published on 11/12/1969, and the non-publishing of any subsequent resolution by the General People’s Congress stating the same; we lean towards the belief that the constitutional declaration was voided on publication of the people power declaration on 2 March 1977; evidence to which is the regime, since then, ceasing to refer to the ‘constitutional declaration’ in the preamble of resolutions and laws published by it, as it was otherwise mentioned.

²¹ Arajin magazine, M.s p (122)

²² This is inaccurate, the declaration of people power itself did not indicate directly that the constitutional declarations is deemed null and void.