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Criminal Jurisdiction Over Visiting Armed Forces

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The thoughts and opinions expressed are those of the authors and not necessarily of the U.S. government, the U.S. Department of the Navy or the Naval War College.

## APPENDIX XX

### LIBYA. AGREEMENT ON DEFENSE FACILITIES IN AGREED AREAS

Agreement between the United States and Libya on the use of Defense Facilities in Agreed Areas in Libya. September 9, 1954. 5 UST 2449, TIAS 3107.

#### ARTICLE XX

##### JURISDICTION—CRIMINAL MATTERS

(1) The United States military authorities shall have the right to exercise within the United Kingdom of Libya all criminal and disciplinary jurisdiction conferred on them by the laws of the United States of America over members of the United States forces in the following cases, namely:

(a) Offenses solely against the property of the Government of the United States of America, or against the person or property of another member of the United States forces,

(b) Offenses committed solely within the agreed areas,

(c) Offenses solely against the security of the United States of America, including treason, sabotage, espionage or violation of any law relating to official secrets, or secrets relating to the national defense of the United States of America,

(d) Offenses arising out of any act or omission done in the performance of official duty, and in every such case where such criminal and disciplinary jurisdiction exists, the members of the United States forces shall be immune from the jurisdiction of the Libyan courts.

(2) In other cases the Libyan courts shall exercise jurisdiction unless the Government of the United Kingdom of Libya waived its right to exercise jurisdiction. The Government of the United Kingdom of Libya will give sympathetic consideration to any request from the United States authorities for a waiver of its right in cases where the United States authorities consider such waiver to be of particular importance, or where suitable punish-

ment can be applied by disciplinary action without recourse to a court.

(3) The United States and Libyan authorities will assist each other in the arrest and handing over to the appropriate authority of members of the United States forces for trial in accordance with the above provisions, and the Libyan authorities will immediately notify the United States authorities if they arrest any member of the United States forces. The Libyan authorities will, if the United States authorities request the release on remand of an arrested member of the United States forces, release him from their custody on the United States authorities' undertaking to present him to the Libyan courts for investigatory proceedings and trial when required.

(4) The United States and Libyan authorities will assist each other in the carrying out of all necessary investigations into offenses, and in the collection and production of evidence, including the attendance of witnesses at the trial and the seizure and, in proper cases, the handing over of objects connected with an offense. The handing over of such objects may, however, be made subject to their return within the time specified by the authority delivering them.

(5) Whenever a member of the United States forces is prosecuted in a Libyan court he shall be entitled:

- (a) to be presumed innocent until proved guilty according to law in a trial in which he has had the guarantees necessary for his defense,
- (b) to a prompt and speedy public trial,
- (c) to be informed, in advance of trial, of the specific charge or charges made against him,
- (d) to refuse to testify against himself,
- (e) to be confronted with the witnesses against him,
- (f) to be permitted full opportunity to examine all witnesses,
- (g) to have compulsory process for obtaining witnesses in his favor, if they are within the jurisdiction of the Libyan courts,
- (h) to have legal representation of his own choice for his defense or to have free or assisted legal representation under the conditions prevailing for the time being in Libya,
- (i) to have his legal representatives present during all stages of proceedings against him,
- (j) to have, if he considers it necessary, the services of a competent interpreter,

(k) to communicate with the United States authorities and to have a representative of those authorities present at his trial, and

(l) to such other rights as are guaranteed under the constitution and laws of the United Kingdom of Libya to persons on trial in those courts.

(6) The Libyan authorities will notify the United States authorities of the result of any trial in a Libyan court of a member of the United States forces.

(7) Witnesses who are alleged to have committed perjury or contempt of court in proceedings before the United States service tribunals or authorities and who are not subject to the law administered by those tribunals and authorities will be turned over to the Libyan authorities. Provision will be made by the laws of Libya for the trial and punishment of such offenders.

(8) The Government of the United States of America will have the right to police the agreed areas and to maintain order therein and may arrest therein any alleged offenders and, when they are triable by the Libyan courts, will forthwith turn them over to the Libyan authorities for trial.

(9) Outside the agreed areas, members of the United States forces may be employed on police duties by arrangement with the appropriate Libyan authorities. The Libyan authorities shall be primarily responsible for the protection of cables carrying light, power or communications to any of the agreed areas, whether such cables are the property of the Government of the United States of America or otherwise, but they may make arrangements with the United States authorities for the employment of members of the United States forces for this purpose. In such cases, the Libyan police with whom members of the United States forces may be serving shall have paramount authority with respect to the persons and property of persons who are nationals of or ordinarily resident in Libya.

## ARTICLE XXVIII

### DEFINITIONS

In the present Agreement the following expressions have the meanings hereby respectively assigned to them :

“United States forces” includes personnel belonging to the armed services of the United States of America and accompanying civilian personnel who are employed by or serving with such

services (including the dependents of such military and civilian personnel), who are not nationals of, nor ordinarily resident in Libya; and who are in the territory of Libya in connection with operations under the present Agreement.