



Words to Deeds

The Urgent Need for Human Rights Reform

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I. Summary

This report addresses the current state of human rights in Libya. It documents some important changes in recent years, analyzes reforms currently under discussion, and highlights what the Libyan government must do to meet its obligations under international human rights law.

Despite some improvements, the government still bans political parties and groups, non-state-run media and independent civic organizations working on human rights or political affairs. Government critics are arrested and detained in violation of Libyan and international law, and the fate of many political prisoners remains unknown. Interrogators sometimes use torture to extract a confession.

The Libyan government says it needs time to reform, and that change will come within the context of the country's unique political system, known as Jamahiriya, or "state of the masses." Still, political will seems in short supply. Libyan leader Mu`ammar al-Qadhafi and his inner circle appear unwilling to implement genuine reform, especially in the areas of free expression and association, which might weaken their three-decade grip on power.

The report is based largely on research conducted during a visit to Libya by Human Rights Watch in April-May 2005—the organization's first to the country. The government's willingness to allow such visits after years of denying human rights groups entry is a positive sign. Human Rights Watch enjoyed access to top-level government officials, and was able to visit five prisons, where it conducted private interviews with prisoners and pre-trial detainees. Authorities were less forthcoming about access to Libyan citizens and foreigners in Libya who might harbor complaints. Libya's extensive security apparatus prevented our staff from making unauthorized contacts. The fear among ordinary Libyan citizens was palpable and intense, and even government officials were sometimes nervous to discuss the sensitive issue of human rights.

Despite the restrictions, a picture emerged of a country undergoing gradual change after years of strict repression and global isolation. Human Rights Watch hopes this report will encourage further reform and help bring Libya into compliance with international human rights norms.

* * *

“The right to demonstrate is a right in the traditional sense. But that implies there are two sides, the rulers and the ruled. But when we talk about one group, there is no need.”

—Libyan official explaining why freedom of association and assembly are not required in a political system based on “popular power,” May 2005.

Civil and political rights in Libya are severely curtailed. Individuals are not free to express views critical of the government, the unique Jamahiriya political system, or the country’s leader, Mu`ammar al-Qadhafi. Those who do express criticism or try to organize opposition political groups face arbitrary detention and long prison terms after unfair trials. Despite improvements, torture remains a serious concern. A pervasive security apparatus monitors the population to a high degree.

Some of Libya’s laws are at odds with the country’s international human rights commitments, specifically the International Covenant on Civil and Political Rights. Most notably, Law 71 bans any group activity based on a political ideology opposed to the principles of the 1969 revolution that brought al-Qadhafi to power. Violators of the law can be put to death. This and other legislation effectively prohibit the establishment of political parties and genuinely independent nongovernmental organizations.

Torture is a crime under Libyan law, and the government has repeatedly claimed that it investigates and prosecutes cases in which torture is alleged. Despite these statements and legal guarantees, fifteen out of thirty-two individuals Human Rights Watch interviewed in prisons said that Libyan security forces had tortured them during interrogations, usually to extract a confession. Six of the alleged torture victims were migrant workers from sub-Saharan Africa who were arrested for the possession or dealing of drugs or alcohol. But Libyan political prisoners were also among the group. In only one case Human Rights Watch investigated (involving six people) are the authorities known to have conducted a criminal investigation, and in that case all ten alleged torturers were acquitted.

The most prominent political prisoner is Fathi al-Jahmi who strongly criticized al-Qadhafi in interviews with international media in March 2004. The Internal Security Agency has been holding him without trial ever since, and in incommunicado detention since June 2005. Eighty-six members of the Muslim Brotherhood, a political and social organization publicly committed to peaceful political change, have been in prison since 1998 for violating Law 71, after trials that violated Libyan and international law. The government has sentenced its two leaders to death, although they and the other

members have been granted a retrial. Five Bulgarian nurses and a Palestinian doctor were sentenced to death for allegedly infecting more than 400 Libyan children with the HIV virus, despite credible claims of being tortured to extract confessions. In December 2005, the Supreme Court overturned the sentences and granted the defendants a new trial.

In the past, the government imprisoned political prisoners for ideological crimes “against the revolution.” Today the government primarily employs the rhetoric of anti-terrorism to imprison critics. Armed Islamic opposition groups exist, but the government has used them to justify the silencing of legitimate political dissent.

The media is strictly controlled. There are no private radio or television stations, and government authorities or the Revolutionary Committees Movement, a powerful ideological organization that promotes the values of the al-Fateh Revolution, control the country’s main newspapers. The only sources of uncensored news and discussion are satellite television programs and the Internet, both of which have proliferated in recent years. The government has occasionally blocked some Internet sites, and in 2005 an Internet writer, `Abd al-Raziq al-Mansuri, was sentenced to one-and-a-half years in prison, apparently due to his critical writings.

Freedom of association is also curtailed. Libyan law explicitly bans any group activity opposed to the principles of the al-Fateh Revolution, and violators of the law can be put to death. Libya has many organizations and associations, including at least three dealing with human rights, but all have ties of varying degrees with the government. There is no functioning civil society in the sense of independent organizations that express views or undertake actions that do not conform to the leadership’s views and goals. On at least three occasions in 2005, the government reportedly interfered in the functioning of professional unions. Some lawyers called for amendments to Law 19, On Associations, to facilitate the registration of nongovernmental organizations.

At the same time, Libya has taken some positive steps in recent years to improve human rights. In 2003 the government promised Libyans who had left the country for political reasons that they could return safely without fear of prosecution, although in one known case the authorities arrested a returnee (they said he had resumed his “terrorist activities.”) The government reduced the number of days authorities could hold a person in detention before appearing before a judge from forty-five to thirty.

In 2004 the government divided the General People’s Committee (Ministry) for Public Security and Justice into two separate bodies, in order to, in the words of one justice

official, “protect the independence of the judiciary.” Prisons were placed under the control of the new General People’s Committee for Justice. The country’s top legislative body, the General People’s Congress, created a Committee for Legal Affairs and Human Rights, although Libyan lawyers complained to Human Rights Watch that it was a cosmetic creation rather than a legitimate body to promote and protect human rights.

Libya periodically has opened itself to international scrutiny from human rights groups. Amnesty International sent a mission in February 2004, the organization’s first since 1988. And the U.S.-based Physicians for Human Rights sent a doctor one year later to examine the political prisoner Fathi al-Jahmi.

In January 2005 the government abolished the People’s Court and its prosecution office, an institution that had tried most political and security cases and was notorious for failing to distinguish between perpetrators of violent acts and government critics seeking peaceful political change. The court routinely violated defendants’ rights to a fair trial by limiting access to defense lawyers, allowing lengthy periods of pre-trial detention and accepting evidence based on forced confessions after torture. The cases before the court at the time of closure were transferred to the regular courts, but it remains to be seen whether these courts will provide the defendants with the fair trials that Libyan law guarantees. Most of the people already imprisoned by the People’s Court remain behind bars.

In September 2005, the government released five long-term political prisoners who were serving prison terms up to life for participation in a banned political group. Around the same time, a government committee recommended that 131 political prisoners be released because they no longer posed a threat to society, among them the eighty-six members of the Muslim Brotherhood. As of January 10, 2006, all of the 131 men remained in prison but the Supreme Court had ordered a retrial for the members of the Muslim Brotherhood.

The government also has pledged to examine some human rights abuses of the past. The head of Libya’s Internal Security Agency told Human Rights Watch that the government had formed a committee to investigate the 1998 deaths of prisoners in Abu Salim prison at the hands of guards. The government says that guards responded properly in the incident, which followed a failed revolt in which some prisoners escaped. Libyan human rights groups abroad and a former prisoner interviewed by Human Rights Watch say security forces executed hundreds of prisoners after the authorities had regained control of the prison.

Some of Libya's laws are currently under review by legal experts and, according to the Secretary of Justice (Minister of Justice), there is an "ambitious plan to reform legislation to bring it into line with international human rights standards."

Legal experts are drafting new penal and criminal procedure codes, and officials told Human Rights Watch the General People's Congress would review the drafts by the end of 2005. As of January 10, 2006, no known review had taken place. The goal of the new draft penal code is to minimize as much as possible imprisonment as a punishment, the Secretary of Justice said. And the death penalty "will be reduced to the greatest possible extent." It would remain, he said, for the "most dangerous crimes" and for "terrorism."

The Libyan government did not provide Human Rights Watch with a current draft of the proposed penal code. Articles of a draft from 2004, however, suggest the government might enact a definition of terrorism so broad that it could be used to imprison people who are expressing peaceful political views.

Despite government claims that it will not execute anyone until the new penal code comes into effect, the state continues to execute those on death row, most recently two Turks and four Egyptians sentenced to death for murder. Human Rights Watch has called on the government to impose a moratorium on executions, and for the new penal code to abolish the death penalty altogether.

II. Methodology

This report is based primarily on a three-week visit to Libya in April-May 2005. The Libyan government provided access to top-level officials, including the General Secretary of the General People's Congress (Prime Minister), the Secretary of Public Security (Interior), the Secretary of Justice, the Deputy Secretary of Foreign Liaison and International Cooperation (Foreign Affairs), the General Prosecutor, the Director of the Prison Authority, and the head of the Internal Security Agency. The organization also met judges, lawyers, police officials, immigration officials, academics, journalists, and charitable organizations.

Human Rights Watch visited five prisons, known as rehabilitation centers, and interviewed thirty-two prisoners and pre-trial detainees of its choice in one-on-one settings. Libyan officials guaranteed that none of the individuals who spoke with Human Rights Watch would suffer any repercussions for sharing their views.

Human Rights Watch had a much more difficult time speaking independently with Libyan citizens or foreigners in Libya. The delegation's host, the General People's Committee for Public Security, insisted that representatives of the office escort the delegation at all times, and explicitly said the government must arrange all meetings. In one case, the police arrested a Liberian man one hour after he spoke with Human Rights Watch without prior permission. The police released the man the next day after Human Rights Watch complained, and assured the organization that they had arrested him because he did not possess the proper residency permit, which was the case. But Human Rights Watch believes his arrest was due to his having spoken with the organization. The individual has since left Libya because he felt monitored and under threat.

III. Recommendations

Human Rights Watch urges the Libyan government to accelerate human rights reform—to turn words into deeds—so that Libya meets its obligations under international human rights law.

On some issues, such as torture and use of the death penalty, the government has stated its commitment to reform, and the remaining issue is more rigorous implementation. In other areas, however, promises of reform have been stymied by official invocations of the inviolability of state ideology. However perfect Libyan officials may find that ideology, it should not be a basis for human rights violations, such as the arrest of people for expressing their views or seeking to form independent associations.

Many violations in Libya today are also justified as necessary measures in the fight against terrorism. Human Rights Watch urges Libyan authorities to use human rights standards as a yardstick: while those who plan and carry out violent attacks should be prosecuted, authorities must draw and maintain a clear distinction between perpetrators of violent acts and those who advocate peaceful political change, however radical their message might appear to Libyan officials. The government should not use the contemporary rhetoric of counter-terrorism to justify the suppression of legitimate political dissent.

In particular, Human Rights Watch calls on the government of Libya to:

Regarding the People's Court

- Release all prisoners convicted by the People's Court for having peacefully expressed their political views;
- Retry all other cases tried by the People's Court since its inception with full transparency and due process guarantees. Such trials were marred by due-process violations including long periods of pre-trial detention and unreasonable restrictions on access to lawyers;
- Investigate due process violations by the People's Court during its tenure and hold accountable judges, prosecutors, and other court officials who violated Libyan law.

Regarding the Death Penalty

- Abolish the death penalty in the new penal code currently being drafted, as called for in the Great Green Charter for Human Rights;
- Declare an immediate moratorium on executions until the new penal code comes into effect;
- Become a party to the Second Optional Protocol of the International Covenant on Civil and Political Rights (ICCPR), which aims at the abolition of the death penalty.

Regarding Political Prisoners

- Immediately release the 131 individuals deemed political prisoners by the Libyan committee that examined the issue;
- Immediately release the political prisoner Fathi al-Jahmi, who was arrested for criticizing the government and insulting Mu`ammar al-Qadhafi;
- Immediately inform the family members of all prisoners, political and otherwise, of the location of their imprisoned relatives. If the prisoner is deceased, the government should provide a death certificate and, if possible, the body or mortal remains.

Regarding Freedom of Expression

- Repeal Law 71 of 1972, which bans any group activity based on a political ideology opposed to the principles of the 1969 al-Fateh Revolution;
- Repeal articles of the penal code that criminalize free expression;
- Release all individuals imprisoned or detained solely for exercising their right to free expression;
- Allow for the establishment of private media outlets. Libyan citizens should be free to receive and impart information through the media of their choice;
- Cooperate with journalists associations to introduce a Publications Law that facilitates a free press;
- In the state-run television, radio and press, provide a spectrum of news and programming that reflects alternative views;
- Cease blocking Internet websites that carry material protected by the rights to free expression and free information.
- Release the Internet writer `Abd al-Raziq al-Mansuri, who was sentenced to one-and-a-half years in prison, apparently due to his critical writings.

Regarding Freedom of Association

- Pass legislation that facilitates the registration of non-governmental organizations by a non-political body, with the right to appeal;
- Repeal Law 71 of 1972 and related articles of the penal code that criminalize free association;
- Allow unions and professional organizations to appoint their leadership without government interference;
- Allow all Libyan citizens to engage freely in human rights work, including by forming independent human rights groups.

Regarding Torture

- Promptly investigate all allegations of torture and ill-treatment in a thorough and impartial way;
- Ensure that confessions and other forms of evidence obtained by means of torture are not admissible in a court of law;
- Hold accountable all those found guilty of using torture or ill-treatment against prisoners and detainees;
- Sign and ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT);
- Extend a standing invitation to all of the human rights specialists (“special procedures”) of the U.N. Commission on Human Rights, facilitate their visits to Libya, and implement their recommendations.

Regarding the Draft Penal Code

- Eliminate the death penalty as a punishment;
- Eliminate all articles that criminalize peaceful acts and forms of association and expression protected by international human rights law;
- Define “terrorism” in a focused and narrow way to exclude peaceful acts and expressions critical of the government.

Regarding the Committee to Investigate the 1996 Deaths in Abu Salim Prison

- Make public the names of the committee members and the manner in which they will work, including the time frame for their investigations; make public the findings of the Committee;

- Hold accountable all officials found to have used excessive force in Abu Salim, or in any other way to have violated Libyan law;
- Inform the families of killed prisoners about the cause of death, and, where possible, provide them with the mortal remains of their deceased relatives;
- Compensate the families of prisoners who are found to have died from the unlawful use of force by security forces.

Regarding International Human Rights Treaties

- Sign and ratify the 1951 Convention relating to the Status of Refugees and its 1967 Protocol;
- Sign and ratify the Rome Statute of the International Criminal Court.