

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: +1-212-290-4700
Fax: +1-212-736-1300; 917-591-3452

October 28, 2014

HUMAN
RIGHTS
WATCH

HRW.org

Bernardino Leon
UN Special Representative in Libya
UN Support Mission in Libya
Tunis- Tunisia

RE: Necessary International Action to End Impunity in Libya

Dear SRSB Leon,

I write to you amid soaring insecurity in Libya to urge you to press for more effective international action in response to the high levels of violence and rights abuses by armed groups, who operate with impunity and no fear of accountability. Specifically we urge you to support a special session of the Human Rights Council on Libya, to create a commission of inquiry (or similar mechanism); to significantly increase public reporting and documentation of human rights abuses and international crimes by your mission; and to call for implementation of Security Council Resolution 2174.

As the international community pursues a political settlement and cessation of violence between the parties to the armed conflicts in the eastern and western Libya, little is said regarding the need for accountability for the serious crimes - including arbitrary detentions, torture, forced displacement, and unlawful killings – that have continued since the end of the 2011 revolution. Many of these violations are sufficiently organized and widespread to amount to crimes against humanity.

The armed conflicts that broke out last May in eastern Libya and in July in the west have further aggravated an already dire situation. Armed groups have engaged in attacks on civilians and civilian property that have included seizing and detaining people as well as looting, burning, and destroying property, in some cases amounting to war crimes. Yet, Libyan authorities have not investigated any of these serious abuses or prosecuted any alleged perpetrators.

Thousands of people across Libya remain in **arbitrary detention**. Only around 10 percent of some 6,000 detainees held in prisons that the Justice Ministry nominally administers, according to the ministry in April, are serving sentences imposed by the courts. The others are held in pre-charge detention, including some who have been detained since 2011. An unknown number of detainees are being held in facilities controlled

Kenneth Roth, *Executive Director*

DEPUTY EXECUTIVE DIRECTORS

Michele Alexander, *Development and Global Initiatives*
Carroll Bogert, *External Relations*
Iain Levine, *Program*
Chuck Lustig, *Operations*
Bruno Stagno Ugarte, *Advocacy*

Emma Daly, *Communications Director*
Peggy Hicks, *Global Advocacy Director*
Dinah PoKempner, *General Counsel*
James Ross, *Legal and Policy Director*

DIVISION AND PROGRAM DIRECTORS

Brad Adams, *Asia*
Daniel Bekele, *Africa*
Alison Parker, *United States*
José Miguel Vivanco, *Americas*
Sarah Leah Whitson, *Middle East and North Africa*
Hugh Williamson, *Europe and Central Asia*

Joseph Amon, *Health and Human Rights*
Shantha Rau Barriga, *Disability Rights*
Peter Bouckaert, *Emergencies*
Zama Coursen-Neff, *Children's Rights*
Richard Dicker, *International Justice*
Bill Frelick, *Refugees' Rights*
Arvind Ganesan, *Business and Human Rights*
Liesel Gertholtz, *Women's Rights*
Steve Goose, *Arms*
Graeme Reid, *Lesbian, Gay, Bisexual, and Transgender Rights*

ADVOCACY DIRECTORS

Philippe Bolopion, *Crisis Advocacy and United Nations, NY*
Maria Laura Canineu, *Brazil*
Kanae Doi, *Japan*
Jean-Marie Fardeau, *France*
John Fisher, *United Nations, Geneva*
Meenakshi Ganguly, *South Asia*
Lotte Leicht, *European Union*
Sarah Margon, *Washington DC*
David Mepham, *United Kingdom*
Wenzel Michalski, *Germany*
Elaine Pearson, *Australia*

BOARD OF DIRECTORS

Hassan Elmasry, *Co-Chair*
Joel Motley, *Co-Chair*
Wendy Keys, *Vice-Chair*
Susan Manilow, *Vice-Chair*
Jean-Louis Servan-Schreiber, *Vice-Chair*
Sid Sheinberg, *Vice-Chair*
John J. Studzinski, *Vice-Chair*
Michael G. Fisch, *Treasurer*
Bruce Rabb, *Secretary*
Karen Ackman
Jorge Castañeda
Tony Elliott
Michael E. Gellert
Hina Jilani
Betsy Karel
Robert Kissane
David Lakhdir
Kimberly Marteau Emerson
Oki Matsumoto
Barry Meyer
Joan R. Platt
Amy Rao
Neil Rimer
Victoria Riskin
Graham Robeson
Shelley Rubin
Kevin P. Ryan
Ambassador Robin Sanders
Javier Solana
Siri Stolt-Nielsen
Darian W. Swig
Makoto Takano
John R. Taylor
Amy Towers
Peter Visser
Marie Warburg
Catherine Zennström

by militias. Human Rights Watch has documented serious violations of the rights of detainees, including **torture** and other ill-treatment, and denial of due process.

The **trial of 37 former Gaddafi officials**, including Saif al-Islam Gaddafi and Abdullah Sanussi, has been on hold since July and is due to resume in November. We have ascertained through private interviews earlier this year that defendants have been denied basic due process rights including access to lawyers and to key evidentiary documents. Given that some defendants face the death penalty, we urge you to continue monitoring, visiting all the detainees, and publicly reporting when appropriate, as there's a risk of proceedings turning into a show trial.

We are also concerned by reports that parties to the current conflicts are holding detainees in facilities over which the government has no control or oversight, raising concern for their well-being. We urge you to address the situation of detainees with the Libyan authorities and the parties to the current conflicts, to safeguard detainees from torture and other abuses and press for the prompt release of all those held without charges.

Some 40,000 people from the town of Tawergha **forcibly displaced** since August 2011 continue to be prevented from returning to their former homes, mostly by armed forces from Misrata. The displaced currently reside in make-shift camps and private housing and remain dispersed around Libya, subject to arbitrary arrest and detention, attack and harassment. The forced displacement of and militia violence against the displaced population of Tawergha amounts to a crime against humanity, and the international community has a responsibility to ensure that it ceases. We urge you to address the plight of internally displaced Libyans with the Libyan authorities and parties to the conflict.

Politically motivated **assassinations** continue unabated. Libyan authorities have failed to conduct investigations, or prosecute those responsible for these unlawful killings since 2011. Human Rights Watch has tracked at least 250 such killings in Benghazi and nearby Derna since the beginning of 2014; no groups or individuals have claimed responsibility for these killings, and there have been no arrests of alleged perpetrators of which we are aware. The authorities' inaction in the face of such serious abuses is contributing to a culture of impunity that fuels further abuses.

The **International Criminal Court** has ongoing jurisdiction over war crimes, crimes against humanity, and genocide committed in Libya since February 15, 2011. Yet, the prosecutor of the ICC has failed to open any new investigations since 2011, despite spiraling violations that may amount to crimes within the court's jurisdiction and the unwillingness or inability of the Libyan authorities to conduct investigations and hold those responsible to account. 2014 has seen the near total breakdown of the justice sector in Benghazi, Derna, Sirte, and Sebha, and there is now an acute need for international action to address accountability in Libya to prevent a further deepening of the crisis.

In a statement issued on September 27, 2014, Human Rights Watch urged the UN Security Council and the Human Rights Council to conduct an **international inquiry** into individual criminal responsibility for serious abuses and violations of international human rights and humanitarian law by all sides in Libya. Subsequently, in a joint letter of October 14, 2014, Human Rights Watch and other international and Libyan organizations urged UN member states to convene a special session of the Human Rights Council on Libya, with a view **to establishing a commission of inquiry (or a similar mechanism)** to investigate serious international crimes.

With the window for justice closing in Libya, and with it the prospect of any resolution of the current crisis, we urge you to support our proposals for a special session of the Human Rights Council on Libya and the establishment of an international inquiry mechanism that will put violators on notice that the international community will not tolerate their crimes and will continue to seek justice for the victims.

In the absence of a functional domestic justice system and in view of the international community's responsibilities toward Libya's stability, we also urge for a speedier implementation of **UNSCR 2174**, adopted August 27, 2014, to sanction those responsible for perpetrating serious crimes. We also urge the human rights monitoring division of the UN mission to Libya to expand its **public reporting** on grave human rights violations committed by all parties. There can and should not be a political settlement between parties to the conflict in Libya without accountability for crimes and punishment of perpetrators.

I look forward to receiving your response and hope to arrange a personal meeting in New York or elsewhere to discuss the crisis in Libya in more detail. If there is a convenient time to meet, please do not hesitate to contact Sarkis Balkhian, +1 202-612-4363 or balkhis@hrw.org.

Sincerely,



Sarah Leah Whitson
Executive Director
Middle East and North Africa Division
Human Rights Watch