

LIBYA

@Amnesty International's prisoner concerns in the light of recent legal reforms

Introduction

In March 1988 Colonel Mu'ammur Gaddafi officially released 400 political prisoners, including prisoners of conscience, under an amnesty. Many of them were serving long prison sentences and some had been sentenced to death after trials which failed to meet international standards for fair trials. Others had been held without trial for many years, detained beyond the expiry of their sentences, or held despite trial and acquittal.

Amnesty International had been campaigning on behalf of many of those released for several years. It had sought the release of prisoners of conscience and clarification about the cases of political prisoners. It had also repeatedly expressed concern about apparent irregularities in the trials of political prisoners and about arrest and detention procedures.

In declaring the amnesty, Colonel Gaddafi publicly recognized that people had been wrongly imprisoned and executed. In a speech on 9 March 1988 before the General People's Congress (GPC), Libya's highest legislative authority, he stated that "some people who were in prison - even sentenced to death - are innocent". A few days earlier, in a similar address to the GPC, he had said that in the past some people were sentenced to death by courts "and perhaps regrettably ... were executed".

He blamed these human rights violations on the lack of adequate safeguards in the country's legislation and the abuse of authority by various state bodies. In a speech on 28 March 1988, he referred to state of emergency measures practised by various authorities:

"... in the past the Military Intelligence used to practise this emergency state of affairs. The Military Police used to do so. The Investigation Department used to do so. The Revolutionary Committees also used to do so. This means there were a number of parties which were responsible for discipline. They used to make arrests, interrogate and issue verdicts."

In a series of speeches in March 1988, Colonel Gaddafi suggested a number of reforms which he said would make Libya a place where "human rights are respected". His recommendations included changes to arrest and detention procedures, and abolition of the extraordinary courts. He called for these recommendations to be consolidated through permanent and durable legislation. In the 28 March speech he said:

"I want these ... decisions to be written down and to be made law by the people so that they can have legislative character and so that everyone can feel secure that there will be no return to emergency measures."

Accordingly, three legislative measures were decreed by the GPC. In March 1988 the GPC passed Law 5 which reconstituted the People's Court and outlined trial procedures for political and

economic offenders. In June 1988 the *Great Green Document on Human Rights in the Era of the Masses (Great Green Document)* was approved in an extraordinary session of the GPC. This document restricted the scope of the death penalty and set its total abolition as an aim of Libyan society. It also outlawed degrading punishment and ill-treatment of prisoners, and proclaimed the right to a fair trial. In March 1989 a Law on the Consolidation of Liberty (LCL) was adopted. This was to codify the principles of the *Great Green Document* into specific rules to be legally binding for all institutions.

In June 1988 Colonel Gaddafi commuted all outstanding death sentences. Among the beneficiaries were six political prisoners who had been under sentence of death for many years, one of them since 1970. Their names are listed in *Appendix II*, Nos. 2 to 7. Amnesty International had repeatedly called for the commutation of their sentences.

In May 1989 Libya became a State Party to the first Optional Protocol of the International Covenant on Civil and Political Rights (ICCPR) and the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Libya had become a State Party to the ICCPR itself on 15 May 1970. It has also been a State Party to the African Charter on Human and People's Rights since 19 July 1985 and was the first State Party to submit a biennial report on measures it had taken to implement that treaty.

Amnesty International welcomed the releases of the prisoners and the commutation of death sentences, and was encouraged by the legal reform initiatives in so far as they might have the effect of bringing Libya's legislation and practice into line with international human rights standards. In public statements and direct talks with Libyan officials during a visit to the country in June 1988, Amnesty International specifically pressed for an end to arbitrary arrest and detention without trial, denial of the right to fair trial for political prisoners, and called for the introduction of safeguards against torture and ill-treatment. However, the reforms undertaken so far have not accomplished these objectives and moreover they have largely not been implemented. There are at least 467 political prisoners, including prisoners of conscience, reported to be currently held for reasons or under conditions which are contrary to international human rights standards. Amnesty International has received the names and details of 427 of these political prisoners. The Libyan authorities have been reluctant to disclose information about them or redress their violated rights despite repeated appeals from Amnesty International.

Attached to this paper are five appendices. The first three contain the names and details of 427 political prisoners and detainees currently believed to be held: two of these appendices give details of 35 cases which have been chosen as a representative sample from at least 75 political prisoners and prisoners of conscience who did not benefit from the March 1988 amnesty. Five of the 35 are prisoners of conscience, who have been imprisoned for life since 1973 for membership of an illegal political party. The 30 others are political prisoners, although some may be prisoners of conscience held solely for the non-violent expression of their conscientiously held beliefs. One of these is held despite trial and acquittal; six are serving prison sentences imposed after trials which may have fallen short of international standards for fair trial. The 23 others are said to be held without trial, one of them reportedly for over 15 years.

The names and details of 392 other political detainees, reported to be held incommunicado, are contained in *Appendix III*. They were reportedly arrested between January 1989 and April 1990, in various towns and cities, particularly in and around Benghazi and Tripoli. Their arrests followed at least two demonstrations and a number of clashes between opponents of the authorities and members of the security forces and the Revolutionary Committees (local committees set up to support official policies).

Most of those arrested were apparently not involved in any violent activities. They are thought to be held simply on account of their religious activities or on suspicion of being opponents of the government. They were reportedly arrested by various authorities, including members of the Revolutionary Committees, apparently without warrants. They have since been held incommunicado, without trial and possibly without charge. One prisoner is said to be held in Abu Salim Prison in Tripoli; the whereabouts of all the others are unknown. Amnesty International is concerned that these detainees are held incommunicado, a condition known to facilitate torture and ill-treatment, and which is inconsistent with Article 9 of the ICCPR and other international standards. The organization is also concerned that many of them may be held solely for the non-violent expression of their conscientiously held beliefs and as such would be prisoners of conscience.

Amnesty International has continued to call for the release of all prisoners of conscience and has sought prompt and fair trials for all political prisoners. The organization has also sought assurances that all prisoners and detainees are guaranteed access to relatives, lawyers and, if necessary, medical attention, as required by international standards. However, the organization's efforts have not been met by any substantive cooperation from the Libyan authorities. In a letter addressed to Colonel Gaddafi, dated 2 July 1990, Amnesty International again expressed its concern about the lack of substantive responses to its communications since June 1988, particularly with regard to prisoners currently held, and urged an early reply. To date no response has been received.

Amnesty International is issuing this paper with recommendations designed to improve safeguards against human rights violations in Libya. The organization appeals to the Libyan authorities to give immediate consideration to the implementation of these recommendations.

Legal situation: summary of past practices and the recent reforms

Past practices

Before March 1988 political prisoners and prisoners of conscience were frequently subjected to arbitrary arrest, detention without trial and torture. They were routinely sentenced to lengthy prison sentences after unfair trials. Some prisoners were sentenced to death after such trials and executed. References to such practices may be found in the entries on Libya in Amnesty International's annual reports and in two papers: *Violations of Human Rights in the Libyan Arab Jamahiriya* (AI Index: MDE 19/05/84), and *Summary of Amnesty International's Prisoner Concerns in the Great Socialist People's Libyan Arab Jamahiriya* (AI Index: MDE 19/05/87). All political activities, including the non-violent expression of conscientiously held beliefs, were strictly banned by specific legislation (see Appendix IV). The punishment for political activities under these laws included the death penalty and life imprisonment. Those accused of breaking these laws had no legal guarantee of judicial supervision when faced with arrest and were often subjected to arbitrary practices. According to Article 30 of the Code of Criminal Procedures (CCP), arrests could only be carried out by the authority empowered to do so by law. However, the article did not stipulate which particular authority was exclusively invested with the power of arrest. In practice, as Colonel Gaddafi later stated, arrests were carried out by more than one authority, including by members of the Revolutionary Committees. The arrests were often made without judicial warrant and without informing the suspects of the reasons for their arrest. Arrest warrants did not seem to

be a requirement in Libya's legislation. Articles 107 and 108 of the CCP contained reference to such a warrant only in the context of arrests ordered by the investigation judge.

Incommunicado detention was a common practice. Political prisoners and prisoners of conscience were frequently held for prolonged periods without access to the outside world, including contact with defence counsel, a mandatory right under Article 121 of the CCP. Families were often not informed of the whereabouts or the fate of their detained or imprisoned relatives. However, the scale of this practice over the years appears to have varied according to the general level of political repression in the country.

Before May 1984 some prisoners were denied family visits or their families were not informed of their whereabouts. This apparently happened most frequently immediately following arrest and during investigation, which usually lasted for several months. After this initial period of arrest and investigation, the number of visits allowed varied from prison to prison. A former prisoner of conscience who served 10 years' imprisonment for membership of an illegal political organization told Amnesty International that he received only three family visits during his first three months of detention in Judayda prison in Tripoli in 1979. These took place at the Office of the Revolutionary Security Prosecution and not in the prison where he was held in solitary confinement throughout this period. Afterwards he was allowed weekly visits at the prison. In late 1980 he was transferred to Tripoli Military Prison. He said that here family visits were allowed only once every three months, or limited to national and religious festivities, and even then they were subjected to unexplained bans.

In May 1984 there was a major armed clash between an opposition group and members of Colonel Gaddafi's security forces in Bab al-'Aziziya in Tripoli. Following this, family visits were completely banned for almost all prisoners of conscience and political prisoners. The ban lasted until March 1988. According to consistent reports and testimonies by former prisoners and their relatives received by Amnesty International, the prisoners' contact with the outside world throughout this period was strictly limited to a three-line written message to and from the family once every three months. The messages were alleged to have been heavily censored by the prison authorities.

Even this limited contact appears to have been denied to some families. Some prisoners were executed or died in prison without their relatives being officially informed of their fate. One such prisoner was Muhammad Hilal, a prisoner of conscience, who was executed in 1984 or 1986. His family has never been officially informed of his execution. He was sentenced to death in July 1983 by the Permanent Revolutionary Court in a retrial on charges for which he had earlier been acquitted by a criminal court - membership of the pro-Iraqi wing of the Ba'th Party. In another case, Husayn Hadiya Suwayd, sentenced to life imprisonment in 1983 for religious activities, had reportedly died in 1986. He may have been executed, but no official clarification of his fate is known to have been given.

According to the testimonies of former prisoners and first-hand accounts received by Amnesty International, prisoners of conscience and political prisoners held in incommunicado detention were routinely tortured in order to extract "confessions". Among the methods of torture described were beatings all over the body, *falaqa* (beatings on the soles of the feet), electric shocks and burning with cigarettes.

In the majority of the cases of prisoners who have died in custody, torture was alleged to have been the cause of death. Among such victims were 'Abd al-Wahid al-Zanqi and Rafiq al-Bishti, who allegedly died in June 1985 while in the custody of members of the Revolutionary Committees. In this and other similar cases, Amnesty International urged that the cause of death be

investigated, the findings made public and those found responsible for torture and ill-treatment be brought to justice. The organization has not received any response.

Information received by Amnesty International suggests that in practice some prisoners of conscience and political prisoners held in Abu Salim Prison before 1988 were denied regular access to proper medical facilities or regular medical supervision. In some cases prisoners are alleged to have died as a result. One such case reported to Amnesty International was that of Abdul Aziz Muhammad Al Gharabli, a prisoner of conscience, who died in 1983 in Abu Salim Prison. He had been serving life imprisonment since 1973 for belonging to an illegal political group. Amnesty International has sought official clarification of the circumstances of his death, but has not received a response. However, according to a former prisoner who was detained with him, Abdul Aziz Muhammad Al Gharabli had developed a liver-related disease in 1974, about a year after his arrest. He apparently sought access to medical attention, but his requests were denied by the prison authorities. By early 1983 his health had deteriorated. Fellow prisoners apparently signed a petition threatening to go on hunger-strike if he was not admitted to a hospital. As a result, he was taken to Tripoli's main hospital in al-Zawiya Street where he was said to have had a major operation. Two days after the operation he was returned to prison where his medical condition was not supervised. Forty-five days later his health deteriorated again and he was readmitted to hospital, where he died shortly after.

Political prisoners and prisoners of conscience were detained for years without trial or sentenced to heavy sentences after trials which fell short of international standards, particularly Article 14 of the ICCPR. Among the courts before which the trials took place were the People's Court, the Permanent Revolutionary Court and courts set up by the Revolutionary Committees or the Basic People's Congresses (BPCs).

The People's Court was introduced by the RCC Decision of 26 October 1969, officially known as the Revolutionary Command Council Decision to Try Those Responsible For Political and Administrative Corruption. According to Article 4 of this decision, the court was entitled to try all cases concerning offences listed in the decision as well as any other cases referred to it by the RCC. Article 5, part 4 invested it with special powers to follow its own procedures without abiding by the rules of the CCP or the Penal Code. It also entitled it to criminalize acts previously not considered as such within the limits of the RCC decision. Its verdicts were, according to Article 9, subject to approval by the RCC, but were not subject to any form of appeal. In accordance with the Revolutionary Command Council Decision of 29 June 1970, this court was composed of five members, only one of whom was a member of the judiciary. The other four were two military officers (one of them court president), one police officer, and one civilian. Cases before this court were initially brought by the ordinary public prosecution, which had been assigned this duty by the RCC decision of 6 October 1970. In 1975 this task was assigned to the Revolutionary Security Prosecution, which was set up that year by Law 84 solely to investigate political and state security offences. Article 4 of this law empowered the Revolutionary Security Prosecution not to abide by the rules of the CCP. The Libyan CCP guarantees a number of rights for detainees, including the right not to be interrogated without the presence of a lawyer (Article 106) and the right to be accompanied by a lawyer throughout the investigation process and to have access to his file (Article 61).

The Permanent Revolutionary Court was introduced following a decision taken by the Revolutionary Committees in February 1980 and was not known to have followed any publicly known laws. The decision introducing it simply stated that its law "will be the law of the Revolution which derives its legitimacy from the revolutionary legitimacy itself".

In practice, cases tried by this court known to Amnesty International have failed to meet international standards for fair trial. For example, in July 1983 a number of people who had been acquitted by an ordinary criminal court on charges of membership of the pro-Iraqi Ba'th Party were retried by the Permanent Revolutionary Committees Court on the same charges. Many of them were found guilty: three of them, Farid Hasan Ashraf, Muhammad Hilal and Mustafa al-Nawari, were sentenced to death. Muhammad Hilal and Mustafa al-Nawari were later executed. Farid Hasan Ashraf was released in March 1988. Others were sentenced to long prison terms. All of them had reportedly been denied proper legal defence during the trial or the right of appeal.

Other political prisoners and prisoners of conscience tried by *ad hoc* courts set up by the Revolutionary Committees or the BPCs were denied the basic minimum standards of fair trial such as the rights of defence and appeal. In some instances defendants received death sentences and were executed. For example, in June 1984 at least eight people were summarily tried and executed by the BPCs in various towns and cities. They were found guilty on charges which included membership of the Muslim Brotherhood movement. The only evidence produced against them during the trials, which were televised and attended by large crowds, appears to have been their "confessions". Having been denied legal representation and the right to appeal against their convictions and sentences, they were reportedly all executed at the scene of the trials.

The reforms and Amnesty International's concerns

Amnesty International welcomed Colonel Gaddafi's reform initiatives in the hope that they would end past human rights violations and ensure that prisoners of conscience and political prisoners were treated in accordance with international human rights standards. However, the organization believes that despite the reforms introduced since March 1988, the Libyan authorities have failed to bring the country's legislation into line with international human rights standards. Prisoners of conscience and political prisoners continue to be subjected to the arbitrary treatment practised in the past.

Amnesty International also continues to be concerned about laws which were not amended in March 1988 and which for many years have been used to imprison people for the non-violent expression of their conscientiously held beliefs.

Arrest and detention: procedural reforms and continued arbitrary practices

The legal reforms proposed or introduced since March 1988 included changes to arrest and detention procedures, aimed at protecting detainees from being subjected to arbitrary treatment during the early stages of legal proceedings. They also included changes to court procedures intended to guarantee political prisoners a fair trial. However, these reforms have been too limited and, to Amnesty International's knowledge, they have not been implemented. As a result detainees continue to be subjected to arbitrary arrest and incommunicado detention practices and are still denied the right to a prompt and fair trial.

The reforms introduced to arrest and detention procedures focussed on two main areas: the plurality of the authorities with the power of arrest, and incommunicado detention. These reforms fall short of international standards and fail to address significant problems with current legislation and practice.

Arbitrary arrest

International standards prohibit arbitrary arrest or detention. Article 9(1) of the ICCPR states: "Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law."

Libyan law and practice, which permitted a wide range of authorities to arrest or detain persons without adequate supervision of a prosecutor or a judge and which permitted arrests without a warrant, facilitated arbitrary arrest or detention. With regard to the plurality of arresting authorities, Colonel Gaddafi recommended in his speech on 9 March 1988 that this practice should come to an end. He added that: "detention should take place only at the request of the public prosecutor". However, his recommendation does not appear to have been fully incorporated into subsequent legislation and the authority empowered with exclusive power of arrest remains unclear in law. Article 19 of Law 5 of 12 May 1988, which invests the right of investigation of political offences in the Office of the People's Prosecution to the exclusion of all other authorities, does not mention whether this includes exclusive power of arrest. The rules of the CCP, which Law 5 stipulates that the Office of the People's Prosecution should abide by in all matters not covered by its own clauses, remain unclear as to the authority with the exclusive power of arrest. Article 30 of the CCP, which categorically forbids the arrest of any person by anyone other than the authority empowered to do so by law, has not been modified to define or identify such authority.

The new laws also fail to provide that arrests are always carried out with a warrant. The CCP, Articles 107 and 108 of which require such a warrant when arrests are ordered by the investigation judge, has not been modified to make such a requirement applicable to all authorities of arrest. In light of past practice, the power to arrest without a warrant in non-emergency cases may facilitate continued arbitrary arrest or detention.

Further, neither the new laws nor the CCP seem to guarantee that the arrested person is notified of the charges and informed of his or her rights. This is contrary to Articles 9(2) and 14(3)(a) of the ICCPR. Moreover, to exercise one's rights effectively one must know that these rights exist. Principle 13 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Body of Principles) states:

"Any person shall, at the moment of arrest and at the commencement of detention or imprisonment, or promptly thereafter, be provided by the authority responsible for his arrest, detention or imprisonment, respectively, with information and an explanation of his rights and how to avail himself of such rights".

In particular, both the ICCPR and the Body of Principles require notification of the right to legal counsel. Article 14(3)(d) of the ICCPR requires the accused "to be informed, if he does not have legal assistance" of the right "to defend himself in person or through legal assistance of his own choosing". Principle 17(1) of the Body of Principles requires that the detained person should be informed promptly after the arrest of this right.

This apparent inconsistency between Colonel Gaddafi's recommendation and existing Libyan laws is further manifested in the continued practice of arrest and detention without judicial supervision. According to reports received by Amnesty International, hundreds of political detainees, particularly religious opponents of the authorities held since 1989, were arrested by various security authorities and by members of the Revolutionary Committees. Many were reportedly arrested at night or at dawn. No arrest warrants from a judicial authority were issued and none of the detainees was informed of the reasons for arrest or of any charges brought against them. To date their families are said to be unaware of why they were arrested and detained or

where they are being held. Amnesty International's requests for clarification of the reason for their arrests and about any judicial proceedings which may have been followed in their cases remain unanswered by the authorities.

Incommunicado detention

Regarding incommunicado detention, Colonel Gaddafi indicated in his speech of 9 March 1988 that when someone is arrested "his family knows and can visit him tomorrow and attend his trial. Everything should be clear". In a direct reference to past cases where families were not even informed of the death of their imprisoned relatives, he said in his speech of 28 March 1988:

"The Revolutionary Committees passed sentences against them and they were liquidated. What can we say? Generally the people who died in prison have gone. As for those who died naturally, it would have been better if they [the authorities] informed their next of kin. Let us hope that this will not be repeated in the future."

Shortly after this speech, the practice of communication by short written messages referred to earlier was ended and most prisoners were reportedly allowed regular family visits. However, Libya's legislation and practice continue to be inconsistent with international human rights standards regarding the right of detained or imprisoned persons to communicate with the outside world and to have access to medical facilities. Neither the *Great Green Document* nor Law 5 of 1988 mentions the right of the detainee to communicate with the outside world. This right is regulated by Law 47 of 1975 concerning prisons and by the CCP, and varies according to whether the detainee is imprisoned or held in pre-trial or preventive detention. Those imprisoned, according to Article 52 of Law 47, are in principle guaranteed the right to communicate with the outside world and receive visits. For those held in pre-trial or preventive detention, this right is expressly guaranteed only in one instance - access to defence counsel. In this respect, Article 121 of the Code of Criminal Procedures states that:

"The public prosecution and the investigating judge ... may order [that] the detainee not be visited by anyone without, however, prejudice to his right to always contact his defence counsel in private".

Thus, the right of a detainee to receive family visits is left to the discretion of the prosecution or the investigating judge.

With regard to medical care, Articles 44 to 48 of Law 47 of 1975 which regulate such facilities in Libyan prisons do not provide for the prisoner's mandatory right of access to them as formulated in international standards.

Each of these provisions governing access to the outside world falls short of international human rights standards. Rule 92 of the Standard Minimum Rules for the Treatment of Prisoners (Standard Minimum Rules) provides:

"An untried prisoner shall be allowed to inform immediately his family of his detention and shall be given all reasonable facilities for communication with his family and friends, and for receiving visits from them, subject only to restrictions and supervision as are necessary in the interest of the administration of justice and of the security and good order of the institution".

Similarly, Principle 16(1) of the Body of Principles provides that detainees are entitled to notify members of their families about their detention promptly after they have been taken into custody. Principles 15 and 16(4) of the Body of Principles make clear that, even in exceptional circumstances, communication with families may not be delayed for more than a matter of days.

The Standard Minimum Rules and the Body of Principles provide that pre-trial detainees must have access to a doctor promptly after they have been detained. The Standard Minimum Rules provides in Rule 24 that the detention facility's "medical officer shall see and examine every prisoner promptly after his admission and thereafter as necessary, with a view particularly to the discovery of physical or mental illness and the taking of all necessary measures". Rule 91 provides that prisoners in pre-trial detention are entitled to see their own doctors and dentists. Similarly, Principle 24 of the Body of Principles requires that "[a] proper medical examination shall be offered to a detained or imprisoned person as promptly as possible after his admission to the place of detention or imprisonment, and thereafter medical care and treatment shall be provided whenever necessary".

Article 9(3) of the ICCPR guarantees that "anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power...". Article 9(4) of the ICCPR guaranteeing the right to *habeas corpus* states that "anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful". The Human Rights Committee of the United Nations has explained in its General Comment 8 that Article 9(3) requires that delays in being brought before a judge "must not exceed a few days". The Body of Principles has a similar guarantee, in Principle 37, of prompt access to a judicial or other authority which "shall decide without delay upon the lawfulness and necessity of detention." Moreover, under Principle 32(1) "[a] detained person or his counsel shall be entitled at any time to take proceedings according to domestic law before a judicial or other authority to challenge the lawfulness of his detention in order to obtain his release without delay, if it is unlawful".

Amnesty International has concluded that immediate notice to families and prompt access to families, lawyers, doctors and judges is essential both because it is necessary to ensure a fair trial and because incommunicado detention is one of the main preconditions for torture. Torture most often occurs during a detainee's first days in custody. When these vulnerable hours are spent in incommunicado detention, security forces maintain total control over the fate of the detainee. Some detainees may be held in secret, their whereabouts known only to their captors. The authorities may deny that certain detainees are held, making it easier to torture or kill them, or make them "disappear".

The Human Rights Committee has found that among the safeguards which may make control of torture effective are provisions against incommunicado detention. Indeed, the United Nations Special Rapporteur on Torture recommended in his most recent report that "since a great number of the allegations received by the Special Rapporteur referred to torture practised during incommunicado detention, incommunicado detention should be prohibited". In particular, he recommended that "a[ny] person who is arrested should be given access to legal assistance no later than 24 hours after his arrest; his relatives should be informed promptly of his arrest and the place of where he is detained" and that "a[ny] person who is arrested should be medically examined immediately after his arrest".

Amnesty International has received reports that family visits have been denied to some prisoners after they were resumed in March 1988. Ahmad 'Abd al-Qadir al-Thulthi, for example, who has been detained since April 1986 without conclusive trial, has apparently had no family visits since about March 1989. Also reported to have been denied family visits are at least 392 people arrested between 1989 and early 1990. The whereabouts of all but one of these detainees are said to be unknown to their relatives.

Amnesty International is concerned that the medical complaints of prisoners, particularly chronic ailments, may be neglected. Muhammad al-Majrab, a lecturer aged about 40 who has been held since May 1984, is said to be suffering from diabetes and anaemia. 'Imad al-Hasaydi, also held since May 1984, is reported to be in very poor health. Ahmad 'Abd al-Qadir al-Thulthi, detained since April 1986, is said to be suffering from acute rheumatism.

Amnesty International's concerns are compounded by the case of Abdul Qadir Muhammad Al Ya'qoubi, a prisoner of conscience serving life imprisonment since 1973 for membership of the Islamic Liberation Party (ILP), who reportedly died in prison at the end of 1988. He became insane while in prison a few years before his death. Amnesty International sought confirmation and clarification of the circumstances of his death, but received no answer from the Libyan authorities.

In the light of past experience, Amnesty International is concerned that the prisoners currently held incommunicado are at real risk of being subjected to torture and ill-treatment, and that they will not be able to prepare adequately for trial. This concern is compounded by the lack of response from the Libyan authorities to the organization's requests for assurances that all those detained since 1989 are allowed regular access to family, lawyers and medical attention, and that they are humanely treated.

Denial of the right to fair trial

In his speeches on 2 and 9 March 1988, Colonel Gaddafi announced the abolition of all extraordinary courts except for two, the former Revolutionary Court and the People's Court. In the first speech he promised abolition of all extraordinary courts except for the People's Court. In the second speech he specifically stated that:

"the revolutionary courts, which spread in order to try people in revolutionary, political and economic cases,...are terminated from now on."

After this announcement and following clarifications made by the Libyan authorities to an Amnesty International delegation which visited Libya in June 1988, the organization understands that Colonel Gaddafi's stated abolition of extraordinary courts applied to the *ad hoc* courts set up by Revolutionary Committees or the BPCs to try political opponents of the authorities.

Amnesty International welcomed the abolition of these courts and to its knowledge no trials have since been held before them. However, the organization is concerned at subsequent public statements by Colonel Gaddafi which seem to cast doubt on the abolition of the role of the BPCs as extraordinary courts. For example, in a speech before the GPC on 7 October 1989 he said in reference to members of religious opposition groups that:

"From now on the sentences issued by the People's Congresses for anyone who is found guilty of not knowing God properly will be to crush him immediately - there will be no retreat."

While announcing the retention of the Permanent Revolutionary Court, Colonel Gaddafi indicated that it would be maintained with a jurisdiction limited to trying offences committed by members of the Revolutionary Committees and would have nothing to do with the public at large. He stated in this respect that:

"The Permanent Revolutionary Court will remain to try revolutionaries, to assist revolutionaries with regard to their activity inside the Revolutionary Committees only. This has nothing to do with the rest of the people."

Amnesty International is concerned about the retention of this extraordinary court which has not abided by the Libyan Code of Criminal Procedures or any other publicly known judicial

procedures. The organization sought further clarification of the status of this court during its June 1988 visit to Libya, when the authorities again assured Amnesty International delegates that the court had been retained as a disciplinary court for members of the Revolutionary Committees only.

With regard to the People's Court, Colonel Gaddafi explained that this would be reconstituted to try political cases and to look into complaints of abuses against people by officials of the state. According to Article 5 of Law 5, members of the court are independent and responsible only to the law and their conscience. This guarantee is further contained in Principle 8 of the *Great Green Document* and was called for in the Draft Law on the Consolidation of Liberty. By contrast, the old court did not have this guarantee and was directly responsible to the RCC. However, this principle of independence is weakened by the required criteria for staff members of the court and the method of their recruitment. According to Article 3 of Law 5, members of the court are not explicitly required to be members of the judiciary or trained lawyers. Article 2 stipulates that they are elected by the GPC on a periodic basis. These two provisions appear to be inconsistent with the Basic Principles on the Independence of the Judiciary, adopted by the seventh UN Congress on the Prevention of Crime and the Treatment of Officers, in September 1985 and approved by the 40th Session of the UN General Assembly in November 1985. According to Principle 10, "Persons selected for judicial office shall be individuals of integrity and ability with appropriate training or qualifications in law" and "any method of judicial selection shall safeguard against judicial appointments for improper motives". Moreover, Principle 11 provides the term of office and independence of judges "shall be adequately secured by law".

The structure of the new court consists of the court itself, and the people's prosecution, which replaced the Revolutionary Security Prosecution. According to Article 5 of Law 5, the court comprises an appeal division composed of a president and four members, and divisions of first instance, each composed of three members. The People's Prosecution is the sole authority empowered to investigate political offences (Article 19). However, it remains unclear whether this exclusive right of investigation also includes judicial supervision of arrest and detention of political suspects to the exclusion of all other authorities.

With regard to procedures, the court is required to apply publicly known laws, including the Code of Criminal Procedures and the Penal Code in all matters not contained in Law 5. Law 5 also guarantees the right of defence, publicity of trials, and the right of appeal and cassation. Article 16 permits appeal of verdicts by the divisions of first instance, then the appeal division which can be followed by cassation before the Supreme Court. Finally, pre-trial and preventive detention, previously unlimited, has been limited to a maximum of 90 days, under Article 22 of Law 5.

Unlike the former court, which had an open-ended jurisdiction, the new court's jurisdiction is more defined. According to Article 9 of Law 5, the court's competence comprises:

1. Cases arising from crimes stated in the following laws:
 - a) Part One of Book Two of the Penal Code;
 - b) Law 3 of 1970 concerning unlawful acquisition (*al-kasb al-haram*);
 - c) Law 71 of 1972 prohibiting party activities;
 - d) The crimes stated in the RCC Decision of 11 December 1969 Concerning the Protection of the Revolution;
 - e) Articles 4 and 11 of Law 2 of 1979 concerning economic crimes
 - f) Law 6 of 1985 concerning crimes of intercession and favouritism (*al-wasata wa al-mahsubiya*);

- g) Law 22 of 1985 against the misuse of occupational or professional authority or deviation in "popular elevation" (*al-tas'id al-sha'bi*);
- h) Law 3 of 1986 concerning illegitimate accumulation of wealth (*min ayna laka hadah*);
- 2. Appeal against the (Basic) People's Congress' decisions which are issued in contravention to decisions and laws by the General People's Congress;
- 3. Appeals of abrogation, or repossession or compensation relating to deviated implementation of the dictum/sayings of the Revolution (*al-Maqulat al-thawriya*);
- 4. Complaints against procedures or decisions harmful to the liberty and other fundamental rights of the citizen;
- 5. Appeals concerning "popular elevation" (*al-tas'id al-sha'bi*);
- 6. Appeals against decisions of the people's courts set up by the (Basic) People's Congress within its jurisdiction;
- 7. Any other cases referred to it by the Secretariat of the General People's Congress or those in which its competence is stated by laws.

In his speech of 28 March 1988, following the reconstitution of the court, Colonel Gaddafi added: "Any Libyan who says 'I have been unjustly treated', should come forward to the People's Court so that it can re-examine his case." Further, in direct reference to past abuses he said that: "these things should be looked into by the People's Court".

However, since its reconstitution the People's Court has failed to redress past human rights violations or to guarantee fair trial for political prisoners and prisoners of conscience currently in prisons.

In addition, Amnesty International's delegation which visited Libya in June 1988 raised the cases of the 75 or so political prisoners, including prisoners of conscience, who continued to be held after the March 1988 amnesty. It was assured that the cases would be reviewed, possibly by the People's Court. To Amnesty International's knowledge, neither this pledge nor those made by Colonel Gaddafi in his public address have been fulfilled.

According to Amnesty International's information, many political prisoners continue to serve sentences imposed after unfair trials. Among them are five prisoners of conscience whose release Amnesty International has been seeking for many years. They were arrested in 1973 and tried by the previous People's Court in 1977. Their trials were held *in camera* and they were not allowed to appeal (see *Appendix I*).

There are also many detainees who are still held without trial after several years. They include dozens of people arrested prior to March 1988, and hundreds reportedly arrested between January 1989 and the beginning of 1990. They include Rashid 'Abd al-Hamid al-'Urfia, a law graduate, and 'Umran 'Umar al-Turbi, a dentist. They were suspected of belonging to illegal opposition groups and were arrested in 1982 and 1984 respectively. They both continue to be held in Abu Salim Prison without trial. Among those who were arrested in early 1989 and who are reported to be held without trial are Fathi Mahmud 'Atiya al-'Abbar, an electrical engineer, and Muhammad 'Ali Mamash, a technician at the university of Benghazi.

Retention of laws restricting freedom of expression and association

Certain legislation which has been used in the past to detain and imprison political prisoners and prisoners of conscience has been retained and incorporated unaltered in Law 5 of 1988. This includes the RCC Decision of 11 December 1969, officially known as the RCC Decision relating to

the Protection of the Revolution; Law No. 71 of 1972 relating to the Crime of Party Activities; and a number of Articles from Part One of Book Two of the Penal Code (PC) of 28 November 1953 as amended by Law 80 of 1975, relating to offences against the security of the state. The details of these Laws and Articles are outlined in *Appendix IV*.

Prisoner cases

At least 467 political prisoners, including prisoners of conscience, are currently held in Libyan prisons. Some were arrested before the March 1988 amnesty, but the majority have been held since 1989 and early 1990.

Prisoners held since before March 1988

Amnesty International believes there are at least 75 political prisoners who were not released under the March 1988 amnesty. Colonel Gaddafi referred to them as people who had been found guilty or were in the process of being prosecuted for "treason and connection with foreign quarters...". He did not reveal their identities and Amnesty International's repeated attempts to obtain details about these prisoners remain unanswered by the Libyan authorities. However, the organization knows of the details of five prisoners of conscience among them, and has received from independent sources the names and details of 30 others.

Prisoners of Conscience

The five prisoners of conscience who did not benefit from the March 1988 amnesty and who continue to be held were all arrested in April 1973, following the declaration that month of the "Popular Revolution" which introduced the Popular Committees as Libya's primary administrative units. The five were charged with membership of a political party, the Islamic Liberation Party (ILP), under Articles 1, 2, and 3 of Law 71 of 1972, and with carrying out activities hostile to the authorities, under Articles 2 and 3 of the RCC Decision of 11 December 1969. They faced a number of trials. One, which took place *in camera* before the People's Court, sentenced them in February 1977 to between five and 15 years' imprisonment. However, all sentences were increased to life imprisonment by the RCC. They were not allowed to appeal.

In 1984 four other members of the ILP - Hassan Ahmed Al Kurdi, Abdullah Bilqassim Al Misalati, Salih Ali Al Zarouq Nawal and Muhammad Muhadhab Haffaf - were reportedly retried by a Revolutionary Committee's court and sentenced to death. They have since been executed. A fifth ILP member, Abdul Qadir Muhammad Al Ya'qoubi, had apparently become insane and died at the end of 1988.

Political prisoners

The 30 political prisoners whose cases are detailed in *Appendix II* were all arrested between 1970 and 1986. Six of them are serving prison sentences, one is held despite trial and acquittal, and 23 are held without trial.

The six tried political prisoners include five members of the military, four of whom were convicted of alleged coup attempts and one of whom was convicted on charges related to the Bab al-'Aziziya clash of 8 May 1984. The sixth, a civilian, was found guilty of charges connected with political opposition activities. They are all believed to be held in Abu Salim Prison in Tripoli. Two of the six, Fathi al-Sha'iri, an air force officer, and Mahmud al-Shaltat, a non-commissioned officer, were reportedly arrested in 1981 in connection with an alleged plot to assassinate Colonel Gaddafi in Derna, east of Benghazi, where he was expected to open a new supermarket. They were detained without trial until February 1985, when they were said to have been brought to court in connection with the alleged plot and sentenced to death. Amnesty International does not know which court tried them, and the Libyan authorities did not give any substantive response to the organization's requests for details about the trial. However, reports received by the organization indicate that they were not allowed access to a defence lawyer and that only their relatives were allowed to attend the trial. Their sentences were later reduced following Colonel Gaddafi's commutation of all such outstanding sentences in June 1988.

Marzuq al-Majdhub al-Fakhri, aged about 35, was reportedly arrested in 1981 while he was an army conscript, apparently in connection with a coup attempt alleged to have occurred in 1980. He was reportedly sentenced to death but this has been commuted.

Ahmad al-Zubayr al-Sanussi, an army officer aged about 50, was reportedly arrested in 1970 in connection with a coup attempt said to have occurred that year. He was reportedly tried by the People's Court later that year and sentenced to death. He was not allowed appeal, but his sentence was commuted in June 1988.

Usama al-Sanussi Shalluf, an air force officer, was reportedly arrested on 15 May 1984. He was said to have been held incommunicado for a month during which he was allegedly subjected to severe torture. He was shown on television confessing to having links with opposition abroad. He was then tried by a revolutionary court and sentenced to death. The exact charges brought against him are not known to Amnesty International, but they are said to have been formulated under the RCC Decision of 11 December 1969 Concerning the Protection of the Revolution. Two years later he was apparently retried, but the reasons and the outcome of this trial are not known to Amnesty International. His death sentence was commuted in June 1988. Amnesty International has received reports that he may have been released at the end of 1990, but is unable to confirm this.

The sixth tried prisoner, Hassan 'Ali Yahya Mu'ammam, a teacher in his forties, was reportedly arrested on the day of the Bab al-'Aziziya clash. He was detained without trial in Abu Salim prison and was allegedly tortured. In 1987 he was summarily tried by a revolutionary court and sentenced to death, reportedly on charges of contacting opposition groups abroad and possessing weapons. His death sentence was commuted in June 1988.

At least one prisoner is reportedly still held despite having been tried and acquitted. 'Abdullah Menina, a company employee in his thirties, was reported to have been arrested in May 1984, in the wake of the Bab al-'Aziziya clash, along with three others. They were apparently held in detention until June 1985 when they were brought to trial for the first time on charges believed to be connected with the clash. In November that year all four were reportedly acquitted, but continued to be held. In March 1988 three were released but 'Abdullah Menina continues to be detained, possibly in Abu Salim Prison. Amnesty International has repeatedly sought official clarification of his case, demanding his immediate and unconditional release if he is not charged

with a recognizably criminal offence and given a prompt and fair trial. The Libyan authorities have not replied.

The remaining 23 of the 30 are reported to be held without trial: one since the mid-1970s, one since 1982, one since 1983, 17 since 1984, and three since 1986. They include 'Abdullah 'Ali al-Sanussi al-Darrat, a journalist aged about 45, reportedly arrested in 1974 or 1975. His whereabouts are unknown. Rashid 'Abd al-Hamid al-'Urfia, a law graduate in his thirties, was reportedly arrested in February 1982, along with 20 others, on suspicion of having founded a religious opposition group which aimed to overthrow the system of government. The 21 were all detained without trial in Tripoli Central Prison until 1984, then in Abu Salim Prison. In March 1988 all but Rashid al-'Urfia were released. The reason for his continued detention have never been revealed by the authorities. Amnesty International has over the years sought clarification of the reasons for his continued detention and has urged his immediate and unconditional release if he is not charged with a recognizably criminal offence and given a prompt and fair trial. No reply has been received from the Libyan authorities.

The 17 detained since 1984 include Nuri al-Falah, a former political exile who was forcibly returned to Libya from Morocco. He was arrested on arrival in Tripoli. Two other former exiles - 'Umar al-Mahishi, a former member of the RCC who reportedly led an abortive coup attempt in 1975 and escaped, and Muhammad al-Sulimi, a singer - were also said to have been forcibly returned with Nuri al-Falah. 'Umar al-Mahishi was apparently executed on arrival and Muhammad al-Sulimi was reportedly detained until March 1988. Nuri al-Falah was allegedly tortured after arrest. Most of the other 16 are believed to have been arrested either in connection with the Bab al-'Aziziya clash or on suspicion of having links with the opposition abroad. Among them are Wanis Idris al-'Isawi, an oil company employee in his thirties, and Hassan Nashnush, a university lecturer. Both were arrested in the wake of the Bab al-'Aziziya clash and were allegedly tortured and shown on television confessing to having been members or associates of opposition groups abroad. They have been detained ever since, reportedly without trial. They are said to be in Abu Salim Prison. Dr 'Umran 'Umar al-Turbi, a dentist who was also arrested at that time, remains in detention, and has apparently not been informed of the reasons of his arrest or detention.

The three arrested in 1986 are Ahmad 'Abd al-Qadir al-Thulthi, a mechanical engineer born in 1955; Yusuf Hassan al-Huwayl, born in 1957; and Najm al-Din Muhammad al-Naquzi, a former employee of al-Bariqa Oil Company, born in 1956 or 1957. All have reportedly been brought before a court a number of times but have not been sentenced. The exact charges brought against them are not known to Amnesty International, although they are said to include membership of an illegal organization, sabotage and possession of weapons. Three others arrested with them were released in March 1988. Amnesty International does not know why these detainees continue to be held. Najm al-Naquzi and Ahmad al-Thulthi were allegedly tortured following arrest. They had apparently not been allowed family visits until March 1988. However, Ahmad al-Thulthi, who is said to be suffering from rheumatism, has reportedly been again denied family visits since the beginning of 1989. He is also said to have been frequently subjected to food rationing, solitary confinement and restricted hygiene facilities.

Prisoners held since 1989

Amnesty International has received the names and details of 392 people said to be among many more reportedly arrested between January 1989 and April 1990. They have been held

incommunicado without trial and possibly without charge. The whereabouts of all of them except one are unknown to Amnesty International and are also said to be unknown to their families.

Their arrests followed two demonstrations and at least four armed clashes between opponents of the authorities, and members of the security forces and the Revolutionary Committees, said to have occurred in January and April of 1989. The two demonstrations had reportedly taken place in Tripoli. One was said to have been held on 9 January 1989 apparently by religious students at al-Fatih University in Tripoli. The other was reportedly held during the second half of January, apparently in protest against the authorities' decision to concede a World Football Cup qualifying match to Algeria. During the second demonstration security forces reportedly fired into the crowds and at least one demonstrator, Taha Jalul, a medical student, was allegedly killed.

At least 211 detainees are reported to have been arrested in Tripoli and towns within its vicinity following these demonstrations and the armed clash in Ajdabiya which is described below. They include Sheikh Yusuf Muhammad Hussein, a student, who was reported to have been arrested on 10 January, the day after the demonstration at the al-Fatih University. They also include 'Abdul-Naser al-Bashir Abu-Lseyen, a doctor born in 1961, who was arrested on 19 or 20 January.

The clash which was reported to have occurred in Ajdabiya on 14 January between members of the security forces and an armed religious group, reportedly known as *al-Jihad* apparently resulted in deaths on both sides. In apparent reference to this incident in a speech on 7 October 1989, Colonel Gaddafi said:

"In the past months some individuals came and said we saw a group of people whom we suspected.

If someone approaches them, they open fire on him. Where? They said south of Ajdabiya. They have a car, they dug a hole, he who passes by ... they open fire on him ... Some security men went to them and ... fire was opened on them and it killed them. Another group came and encircled them. They exchanged fire. Some died and those remaining were arrested".

At least 24 of the detainees are said to have been arrested in Ajdabiya following the clash, some in January and others in the following months. 'Abd al-Salam al-Mashiti, an office employee, was reportedly arrested on the day of the incident. Kamal Jubeyl, apparently a member of the religious group involved in the clash, was said to have been arrested on 2 February.

Two other clashes between security forces and opponents of the authorities were reported to have occurred in January in Benghazi shortly after the Ajdabiya incident. One was said to have taken place near the motorway to Benghazi Airport. At least one detainee, Fathi Mahmud 'Atiya al-'Abbar, an electrician born in 1961, is believed to have been arrested during the confrontation. Another detainee, Muhammad 'Umar Salim Kraim, an accountant aged about 39, is said to have been arrested shortly after. He apparently was not involved in the fighting. The other clash apparently took place in Benghazi at the house of the detainee Salim 'Umar Hifter. Security forces went to his house searching for two political opponents, Sa'id Madi and Muhammad al-Fiqi, who apparently were hiding there. Fighting broke out during the search and the two men hiding were reportedly killed. Salim 'Umar Hifter was arrested.

The fourth clash reportedly took place in April that year between members of the Revolutionary Committees and students at Qar Yunis University in Benghazi. At least 57 detainees, including Fathi Mahmud 'Atiya al-'Abbar, Muhammad 'Umar Salim Kraim and Salim 'Umar Hifter, are known to have been arrested in Benghazi following these clashes. In addition, at least 28 others are known to have been arrested in Derna, al-Bayda and Tobruq to the east of Benghazi, and nine in Misrata to the east of Tripoli. The place of arrest of the remaining 63 of the 392, including 15 arrested in March or April 1990, is unknown.

Most of the 392 were reportedly not involved in the clashes or any other violent activity. They are said to have been arrested because they were suspected of being active political opponents to the authorities or supporters of the opposition, particularly religious groups. The religious groups are said to include the Muslim Brotherhood movement (*al-Ikhwan al-Muslimun*), *al-Jihad* (Holy War), *al-Da'wa* (The Call), *Jama'at al-Tabligh* (The Preaching Group), the Islamic Liberation Party (*Hizbul-Tahrir al-Islami*) and followers of the *Wahabiyya*, an Islamic Sunni doctrine founded in Saudi Arabia in the 18th century by Muhammad bin 'Abd al-Wahab and followed today by the Saudi Arabian ruling family. Colonel Gaddafi has frequently described such religious groups as "... more dangerous than AIDS or Cancer or TB". In an address before members of Libyan Youth Camps on 19 July 1990, he told his audience that "If you find among you one who says: Da'wa or Jihad or ... Ikhwan, then you should cut his head and throw it in the street as if you found a wolf, a fox or a scorpion". The arrest of these detainees were reportedly carried out by various authorities, including the Revolutionary Committees. Some were carried out at night or at dawn. No arrest warrants were said to have been produced to any of the detainees informing them of the reasons for their arrest or of any charges brought against them.

All 392 are reported to be held incommunicado, without access even to lawyers. Amnesty International is concerned that many of them may be prisoners of conscience. It is also concerned that they are vulnerable to torture and ill-treatment as they are held incommunicado.

Amnesty International has on numerous occasions since June 1989 sought confirmation of the arrest and detention of these prisoners and clarification of any legal proceedings which may have been followed in their cases. It has also sought assurances that they are given access to relatives, lawyers and medical attention. No substantive reply has been received.

Conclusions and recommendations

Amnesty International has welcomed the release of prisoners, the restriction of the scope of the death penalty and the commutation of the death sentences introduced as part of the reforms initiated by Colonel Gaddafi since March 1988. However, the organization is concerned that the legal reforms have been too limited and to a large extent have not been implemented. Laws providing heavy punishments for the non-violent expression of conscientiously held beliefs are still in force. At least five prisoners of conscience arrested in 1973 and sentenced under such laws continue to be held despite a 10-year campaign by Amnesty International for their release. Hundreds of other prisoners currently held have been denied the right to fair trial and many of them may be prisoners of conscience. The organization has been unable to assess their cases as the authorities continue to withhold all information about them.

Procedural changes undertaken with regard to arrest and detention procedures remain ambiguous or unimplemented and, in many aspects, contravene international human rights standards. Despite Colonel Gaddafi's unequivocal recommendation that authority of arrest be exclusively invested in the public prosecution, Libya's laws remain ambiguous in this respect. In practice, arrests are said to be still carried out by various authorities. The hundreds of detainees held since January 1989 are believed to have been arrested by members of *Amn al-Jamahiriya* (State Security) and members of the Revolutionary Committees.

In addition, while the CCP provides for arrests to be carried out on the basis of a warrant, this does not appear to be respected in practice. No judicial warrants were said to have been produced

during the arrest of hundreds of political suspects between January 1989 and April 1990, and the detainees were apparently never informed of the reasons for their arrest or any charges brought against them.

The practice of incommunicado detention with its grave consequences of rendering detainees vulnerable to torture, death under torture, or cruel, inhuman or degrading treatment, continues unaltered by any legislation or rigorous preventive measures. Only one of the three internationally recognized preventive rules against such detention is a statutory right in existing Libyan legislation - the lawyer's right to contact the detainee. Any other contacts with the outside world are left to the discretion of the investigating judge. The right of access to medical facilities as laid down in the Body of Principles and the Standard Minimum Rules is non-existent in Libyan laws. All the detainees held since 1989 are said to be denied these rights, including contact with lawyers. Amnesty International is extremely concerned that prisoners currently held under such circumstances might be subjected to torture.

The abolition of extraordinary courts, particularly the *ad hoc* courts set up by the Revolutionary Committees and the BPCs, represents a positive development. However, hundreds of prisoners continue to be held in prolonged detention without trial for years. In addition, many political prisoners and prisoners of conscience convicted after unfair trials by the abolished extraordinary courts continue to serve long term prison sentences. The Libyan authorities' undertaking to review all the cases of political prisoners and prisoners of conscience held from before March 1988 has not been fulfilled to Amnesty International's knowledge. Colonel Gaddafi's pledges that the new People's Court would redress past human rights violations relating to torture and deaths in custody have apparently not been carried out.

Amnesty International has consistently brought to the attention of the Libyan authorities its continuing concerns in the country. However, it has not received any substantive cooperation in this regard. The organization has issued this report to reiterate its prisoner concerns and calls on the Libyan authorities to implement the following recommendations aimed to redress the violated rights of currently held prisoners and bring Libya's legislation and practice into line with international human rights standards.

Recommendations

Amnesty International urges the Libyan authorities to take immediate steps to implement the following recommendations:

The release of all prisoners of conscience

1The government should release immediately and unconditionally the five prisoners of conscience whose names are listed in *Appendix I* and any other prisoners currently held solely for the non-violent expression of their conscientiously held beliefs.

The repeal of all legislation which permits the detention of persons solely for the non-violent expression of their conscientiously held beliefs

2The government should repeal all laws, particularly the RCC Decision of 11 December 1969 Concerning the Protection of the Revolution, Law 71 of 1972 Concerning the Crime of Party Activities, and Part One of Book Two of the Penal Code Law 80 of 1975 amending the

Penal Code, which permit the detention of persons solely for the non-violent expression of their conscientiously held beliefs. Alternatively, the government should amend such laws to bring them into line with Articles 19(1 and 2), 21 and 22 of the ICCPR.

An end to arbitrary detention

3The government should end the plurality of authorities of arrest as Colonel Gaddafi recommended in March 1988 and place all such authorities under the effective supervision of the judiciary in accordance with Principle 4 of the Body of Principles.

4The government should ensure that all arrests are carried out with a warrant as required in Articles 107 and 108 of the CCP except in those exceptional circumstances where time does not permit the authorities to obtain a warrant.

5The arresting authorities should immediately inform all persons whom they arrest of the reasons for their arrest and promptly inform them of any criminal charges in accordance with the requirements of Article 9(2) of the ICCPR. The authorities should also provide arrested persons with access to records concerning their arrest as required by Principle 12 of the Body of Principles.

Prompt access to the outside world

6The arresting authorities should immediately notify families of arrested persons of the arrest and place of custody, as well as all transfers from one place of custody to another, as required by Rule 92 of the Standard Minimum Rules and Principle 16(1) of the Body of Principles.

7The arresting authorities should ensure that arrested persons have prompt access to their families as required by Principles 15, 16 and 19 of the Body of Principles and Rule 92 of the Standard Minimum Rules.

8The arresting authorities should ensure that arrested persons have prompt access to their lawyers as required by Principles 15 and 18 of the Body of Principles and Principle 7 of the Basic Principles on the Role of Lawyers. This would help implement Article 121 of the Libyan CCP which recognizes the right of access to a lawyer.

9The arresting authorities should ensure that all arrested persons are brought promptly before a judge or other officer authorized by law to exercise judicial power, as required by Article 9(3) of the ICCPR and Principles 11 and 37 of the Body of Principles.

10The Government should enact legislation which implements the requirements of Article 9(4) of the ICCPR that "anyone who is deprived of his liberty shall be entitled to take proceedings before a court, in order that the court may decide without delay on the lawfulness of his detention and order his release if the detention is unlawful."

11 The authorities holding arrested persons in custody should ensure that all arrested persons have prompt access to independent medical attention as required by Rules 22 to 26 and 91 of the Standard Minimum Rules and Principles 24 to 26 of the Body of Principles.

Prompt and fair trials or the release of political prisoners

12 The government should immediately release all political detainees held without trial if they are not charged with a recognizably criminal offence and given a prompt and fair trial in accordance with Articles 9(3) and 14 of the ICCPR and Principle 8 of the *Great Green Document*. Such detainees include the 23 listed in *Appendix II*, and the 392 listed in *Appendix III*, as well as any other persons held under the same circumstances.

13 The People's Court should immediately review the cases of all political prisoners who were convicted in unfair trials including those listed in *Appendix II*, with the aim of releasing them or providing them with a fair trial in accordance with Principle 8 of the *Great Green Document*, Article 14 of the ICCPR and Principle 5 of the Basic Principles on the Independence of the Judiciary. The government should ensure that all persons who have been detained in violation of any of the rights recognized by the Body of Principles be adequately compensated as required by Principle 35 of those Principles and that anyone who was unjustly convicted be adequately compensated as required by Article 14(6) of the ICCPR.

Glossary

GPC	General People's Congress
<i>Great Green Document</i>	<i>Great Green Document on Human Rights in the Era of the Masses</i>
LCL	Law on the Consolidation of Liberty
ICCPR	International Covenant on Civil and Political Rights
CCP	Code of Criminal Procedures
BPC	Basic People's Congress
RCC	Revolutionary Command Council
Body of Principles	Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment
Standard Minimum Rules	Standard Minimum Rules for the Treatment of Prisoners
ILP	Islamic Liberation Party
PC	Penal Code
<i>al-Ikhwan al-Muslimun</i>	Muslim Brotherhood movement
<i>al-Jihad</i>	Holy War (a religious group)
<i>al-Da'wa</i>	The Call (a religious group)
<i>Jama'at al-Tabligh</i>	The Preaching Group (a religious group)
<i>Hizbul-Tahrir al-Islami</i>	Islamic Liberation Party
<i>Amn al-Jamahiriyah</i>	State Security
<i>Jam'iyat al-Da'wa</i>	Islamic Call Association (a legal association)
<i>al-Islamiya</i>	
<i>Haj</i>	Pilgrimage to Mecca
<i>al-'Umra</i>	Pilgrimage to Mecca outside the <i>Haj</i> season
<i>Imam</i>	Preacher and leader of prayers
<i>Salat al-Fajr</i>	Dawn Prayers
<i>Wahabiyya</i>	Islamic Sunni doctrine founded in Saudi Arabia in the 18th century by Muhammad bin 'Abd al-Wahab and followed today by the Saudi Arabian ruling family

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LIBYA

Amnesty International's prisoner concerns in the
light of recent legal reforms

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