

Annex III: Letter to the International Criminal Court's Office of the Prosecutor

HUMAN RIGHTS WATCH

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May 5, 2025

Nazhat Shameem Khan
Deputy Prosecutor
International Criminal Court
The Hague

**Subject: Upcoming Human Rights Watch Report on the State of
the Judiciary in Libya**

Dear Deputy Prosecutor Khan,

I'm writing on behalf of Human Rights Watch to share key findings of our research on the state of the judiciary and challenges to judicial staff in Libya, to seek your response to recommendations to your Office we plan to include in the report, and to request additional information from your office to inform our findings.

As you know, Human Rights Watch is an independent nongovernmental organization that monitors and reports on the human rights situation in more than 100 countries. We have conducted extensive research and advocacy on a range of rights issues in Libya for many years, including on conditions in detention, the state of the judiciary, and the need for legislative reform.

Between April and September 2024, Human Rights Watch conducted interviews with officials and judicial personnel in Tripoli, Zawiya, and Misrata. Researchers met with the Justice Minister of the Government of National Unity, the General Prosecutor, and with lawyers and judges in Western Libya. They also reviewed and analysed relevant Libyan laws and practices and open-source information.

Our preliminary research has found that Libya's justice sector is fragmented, and many serious violations and crimes are currently going unpunished. Libya's penal code and other legislation do not adequately address international crimes and reform of outdated and abusive laws remains elusive. Military courts continue to prosecute civilians while many detainees are held in long-term arbitrary detention and government authorities have only nominal control over many prisons. Fair trial rights are not being fulfilled, particularly the right of defendants to meet with lawyers throughout the course of their judicial procedures. Legal professionals, including judges, prosecutors and lawyers, remain exposed to attacks, intimidation, and harassment by armed groups.

Consecutive Libyan authorities have failed to arrest and surrender to the ICC individuals subject to ICC arrest warrants in the Libya situation and have not effectively cooperated with the court. The office of the ICC prosecutor announced in November 2023 its intent to complete investigative activities in



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Libya by the end of 2025. Given the lack of credible domestic prosecutions of serious crimes that continue to be committed across Libya with impunity, and the absence of international oversight, Human Rights Watch is concerned that the office's intent to complete investigative activities at the end of this year is premature.

It is our practice to give relevant bodies the opportunity to provide information and respond to questions prior to publishing our research. We will endeavor to reflect timely responses in our published findings and may publish your response in whole or in part.

We would appreciate your response to the following findings and recommendations concerning the Office of the Prosecutor:

- Given the lack of credible domestic prosecutions of serious crimes that continue to be committed across Libya with impunity, and the absence of international oversight, Human Rights Watch is concerned that the office's intent to complete investigative activities at the end of this year is premature and urges the office to reassess the end of 2025 timeframe for the completion of its investigative activities in Libya to adequately deliver on its mandate under UNSC Resolution 1970 (2011) and consolidate its legacy for justice in Libya.
- Human Rights Watch urges the office to engage with national authorities to strengthen the domestic system for the investigation and prosecution of serious international crimes by addressing structural deficiencies in the current legal framework and practice.
- Human Rights Watch urges the office to conduct meaningful consultations with survivors, families of victims, affected communities, and civil society organizations to integrate their views and concerns into the office's decisions about the completion of its investigative activities in Libya.

In addition, we would welcome your responses to the following questions in order to inform our conclusions regarding the state of the judiciary:

- 1) How do you assess Libyan authorities' effective cooperation with the court on all matters, including Libya's obligations to execute the ICC arrest warrants for eight individuals in the Libya situation?
 - a. Does your office have any concerns with regard to the level of engagement of the Libyan authorities?
- 2) The Office's engagement with authorities include strengthening the domestic judicial system for the investigation and prosecution of serious international crimes, according to reports provided by the Office to the UN Security Council. Can you provide details on any progress that has been achieved in this regard that is not contained in your public reports?
 - a. Has your office identified structural deficiencies in Libya's current legal framework and practice? If so, how has the office engaged with the authorities to address them? Does your office plan to address those deficiencies before the end of 2025?

We would be grateful if you could provide us with a response to our findings and recommendations as they relate to the Office of the Prosecutor, as well as the questions we raise, by May 19.

Thank you for your attention to this important matter. We would also welcome an opportunity to meet with you to discuss our findings further. Should you have any questions or comments, please reach out to my colleague Hanan Salah via email at [REDACTED].

Respectfully,

[REDACTED]

Bassam Khawaja
Deputy Director
Middle East and North Africa Division
Human Rights Watch