

Human rights must be cornerstone of Libya's law - CNN.com
By Peter Bouckaert, Special to CNN

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Sirte, Libya (CNN) -- I stood stunned in a Sirte hospital this morning as a man came in waving a golden gun -- a pistol he said was seized from Moammar Gadhafi as he was finally captured by forces of the National Transitional Council. The Human Rights Watch team had spent the night outside Sirte, Gadhafi's hometown, as the transitional forces mounted a final, heavy barrage against the last holdouts, snipers in the town. At 9 a.m., the rebels declared victory, and we headed to the hospital to try to document the civilian casualties after weeks of fighting.

The man with the golden gun told us that Gadhafi was wounded but alive, captured with several of his senior officials, and that he was on the road to Misrata. A few hours later came word that Gadhafi, who had ruled Libya for 42 years before being ousted by a popular uprising, had died, thereby escaping the trial and courtroom he so richly deserved.

Even after Gadhafi's hold on Libya was reduced, over the course of the uprising, to a small patch of land around Sirte, his influence loomed large. After four decades in power marked by fear and repression, Libyans will never forget him. And his death isn't the end of the story. Gadhafi didn't rule alone, and it's vital that high-level officials who survived the conflict be investigated and, if

credibly accused, be given a fair trial for their roles in the most serious crimes.

Gadhafi took power in 1969 and his rule encompassed an appalling catalog of human rights abuses, at home and abroad. The massacre of an estimated 1,200 prisoners after a failed revolt at Tripoli's Abu Salim prison in 1996 is perhaps the most notorious episode of domestic abuse. Abroad, he was best-known for his alleged involvement in the 1988 Lockerbie bombing of Pan Am Flight 103, which killed 270 people.

Since 1969, Libya has suffered forced disappearances, politically motivated arrests and the use of torture, as well as the near-total repression of freedom of expression and association. Gadhafi's Libya was one of the region's most thorough police states, and his unique political system, the Jamahiriya, or "state of the masses," obviated the need for elections.

Where are Gadhafi's assets?

Now that he is gone and Libya has officially been liberated after the fall of Sirte, the clock starts on the transition to a new government. The National Transitional Council said it plans to organize free elections and rewrite the constitution. It has pledged that Libya will respect international human rights standards.

Libya's new leaders have an extraordinary opportunity to rebuild the country based on the rule of law, where the rights of all are respected, including those of women, minorities and supporters of the old regime. It's vital, for instance, that the new constitution enshrines the right to gender equality and nondiscrimination, and that women are able to participate fully in the political process, during the transition and beyond. The new authorities will need to abolish or revise numerous laws, including those that limit free expression and association and restrict political parties. And they will need to rewrite the penal code and reorganize the judicial system and the security services.

But Libya will need international help to build a credible, unified state that can protect all its inhabitants. The transitional authorities have already spoken out against revenge attacks. They also need to ensure that those now being detained are treated humanely, and those responsible for abuses are investigated and fairly prosecuted.

Human Rights Watch has already documented some of the difficulties any new government will face, such as how to set up and administer lawful and humane detention facilities. We have investigated incidents of torture by forces allied to the transitional council, as well as revenge attacks against communities who are considered pro-Gadhafi. And we have spoken to women (and men) victimized during the conflict by sexual violence, a taboo subject in Libya. The new authorities need to ensure that appropriate care and support are offered to women and girls subjected to such violence, and help to create an environment in which people feel able to report rape and other attacks.

The Libyan authorities should be setting up independent, impartial investigations into the most serious crimes of the past four decades, and also cooperate with the International Criminal Court, which is examining abuses since February 15, 2011. There have been many, implicating both sides. On Thursday we visited the graveyard in Sirte and learned that of the 52 bodies buried this week, at

least half appeared to be victims of executions by Gadhafi forces, their hands bound behind their backs.

The biggest challenges for Libya remain ahead, and so do the tough questions: Who should be prosecuted? How to deliver real justice, not just that of the victors? How to ensure that women, minorities and other vulnerable groups are truly integrated into the transition and beyond? But today, the people of Libya are celebrating the end of an extraordinarily dark time. And the best way to leave the Gadhafi nightmare in the past is to build a new Libya based on human rights for all.

The opinions expressed in this commentary are solely those of Peter Bouckaert.

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