

URGENT ACTION

MAN SEIZED IN LIBYA FACES DEATH PENALTY IN USA

A Libyan man seized by US forces in Libya on 15 June is being held incommunicado in US custody at an undisclosed location, possibly a ship. He could face the death penalty in the USA, where he has been charged with alleged participation in an attack on the US diplomatic mission in Benghazi in 2012 in which four US nationals were killed.

US military forces, working with the Federal Bureau of Investigation, seized **Ahmed Abu Khatallah** near Benghazi, eastern Libya, on 15 June. On 17 June the US Department of Defense said that this was a “unilateral United States mission”, that the Libyan authorities “were notified about the capture operation”, and that “the United States has taken Khatallah to a secure location outside Libya”. US authorities have not said where he is being held, but he may be on board a US navy ship, as occurred in the case of Nazih Abdul-Hamed al-Ruqai, also known as Abu Anas al-Libi, who was initially said to be held in a “secure location outside Libya” after being abducted by US forces in Tripoli in October 2013.

This new case may also have constituted an abduction in violation of international law, and the already days-long incommunicado detention of Ahmed Abu Khatallah raises concern. Abu Anas al-Libi was held incommunicado on a ship for a week, during which time he allegedly received veiled threats of worsening treatment, 24-hour lighting in the “pod” where he was held without a bed or toilet, transfer to an interrogation pod while blindfolded and handcuffed, and effectively subjected to sleep deprivation as a result of back to back interrogations. His interrogation was cut short as a result of ill-health and he was transferred to the USA for trial.

The US authorities have said that Ahmed Abu Khatallah will be brought to the USA to stand trial in federal court, although they have not said when. He has been charged pursuant to a July 2013 criminal complaint with alleged involvement in the 11 September 2012 attack on the US Special Mission and Annex in Benghazi, which resulted in the deaths of four US nationals, Ambassador J. Christopher Stevens, Sean Smith, Tyrone Woods and Glen Doherty. The murder charges (killing a person during an attack on a federal facility) are punishable by death in the USA. Any pursuit of the death penalty in a federal trial has to be authorized by the Attorney General. There are also concerns about Ahmed Abu Khatallah’s treatment if and when he is transferred to the USA for trial, as inmates in pre-trial detention in the federal system have been held in cruel conditions of solitary confinement.

Please write immediately in English or your own language:

- Calling on the authorities to provide Ahmed Abu Khatallah immediate and ongoing access to legal counsel, independent medical care, consular assistance, his family and the International Committee of the Red Cross;
- Calling for him to be treated in full compliance with international human rights law and standards, including in any pre-trial custody in the USA;
- Urging that the US government not seek the death penalty against him in any forthcoming trial;
- Acknowledging the serious nature of the crimes with which Abu Ahmed Khatallah is charged.

PLEASE SEND APPEALS BEFORE 20 JULY 2014 TO:

Charles Hagel, US Secretary of Defense
1000 Defense Pentagon, Washington
DC 20301-1000, USA
Fax: + 1 703 571 8951
Email: via website
<https://kb.defense.gov/app/ask>
Salutation: Dear Secretary of Defense

Eric Holder, US Attorney General
Department of Justice, 950 Pennsylvania
Avenue, NW, Washington DC 20530
0001, USA
Fax: + 1 202 514 4507
Email: AskDOJ@usdoj.gov
Salutation: Dear Attorney General

And copies to:

John Kerry, US Secretary of State
Department of State, 2201 C Street
N.W., Washington DC 20520, USA
Fax: + 1 202 647 2283
E-mail, via website: http://contact-us.state.gov/cgi-bin/state.cfg/php/enduser/std_alp.php

Also send copies to diplomatic representatives accredited to your country. Please insert local diplomatic addresses below: Name

Name Address 1 Address 2 Address 3 Fax Fax number Email Email address Salutation Salutation

Please check with your section office if sending appeals after the above date.

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ADDITIONAL INFORMATION

At a media briefing on 17 June, the US Department of State spokesperson was specifically asked whether the Libyan Government was “informed ahead of time” of the detention operation. The spokesperson responded only that “this was a unilateral US operation. I’m not going to get into specifics concerning our diplomatic communications, but it was US-run and done under the operations of the United States”. On 18 June, however, the Libyan Minister of Justice condemned what it referred to as the “abduction of Ahmed Abu Khatallah” and said that the government had not received advance warning, adding that it was only notified after the operation had taken place. The Libyan government called on the US authorities to hand Ahmed Abu Khatallah over to Libya to stand trial before Libyan courts. In the meantime it called on the US authorities to ensure his health and safety and guarantee his right to a fair trial in conformity with international standards, consular assistance and legal representation.

The international legal prohibition of abduction is absolute, and cannot be derogated from, even in a time of emergency which threatens the life of the nation. Similarly, the prohibition of arbitrary deprivation of liberty and deviations from fundamental principles of fair trial, including the presumption of innocence, are non-derogable. Abductions, followed by interrogations during incommunicado detention, undermine the presumption of innocence. In this particular case, the abduction of Ahmed Abu Khatallah also undermines Libya’s efforts to establish the rule of law at a time when the country is in need of international support to rebuild its institutions significantly weakened by the 2011 armed conflict. Ahmed Abu Khatallah is also wanted for crimes perpetrated in Libya. According to the Libyan Minister of Justice, an arrest warrant was issued against him, but had not been implemented due to security challenges in Benghazi.

In response to the question as to whether Ahmed Abu Khatallah was being interrogated, the US National Security Council spokesperson said: “I can’t comment on the specifics, but as a general rule, we will always seek to elicit all the actionable intelligence and information we can from terrorist suspects taken into our custody”. Interrogation methods that can be authorized in US law for use in such cases under Appendix M of the US Army Field Manual include prolonged isolation and limiting or disrupting the detainee’s sleep. Prolonged incommunicado detention can itself amount to cruel, inhuman or degrading treatment in violation of international law.

The USA has long resorted to abduction to gain custody over certain suspects, and this practice predated the attacks of 11 September 2001, although the USA’s response to those attacks included adapting the practice of “rendition” to send individuals to interrogation by agents of other countries. An example of a pre-9/11 abduction by the USA was of Pakistan national Mir Aimal Kasi. Wanted for the murder in 1993 of two CIA employees shot outside the CIA headquarters in Virginia, he was seized in 1997 by FBI agents from a hotel in Karachi, hooded, gagged, shackled, and removed from Pakistan without judicial oversight, flown to Virginia and handed over to the state authorities, tried, sentenced to death, and executed in 2002.

The US Department of Justice has said that “upon his arrival to the US”, Ahmed Abu Khatallah will be promptly presented before a federal judge in Washington, D.C., and appointed counsel”. The administration has made clear that it will not transfer Ahmed Abu Khatallah to detention or trial in Guantánamo, despite calls from certain US Senators that it should do so.

Amnesty International opposes the death penalty in all cases, unconditionally. Today 140 countries are abolitionist in law or practice. The world has agreed that even for the most serious crimes prosecuted in international tribunals – crimes against humanity, genocide and war crimes – the death penalty cannot be an option. The UN General Assembly has passed repeated resolutions calling for a global moratorium on executions as a first step towards abolition.

Name: Ahmed Abu Khatallah

Gender m/f: m

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