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Libya: time to take further steps towards the abolition of the death penalty

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Tomorrow, a verdict is expected in the appeal hearing of scores of professionals and students charged in connection with the banned Libyan Islamic Group, *al-Jama'a al-Islamiya al-Libiya*. Amnesty International today expresses hope that the two death sentences handed down in the original trial which proved to be grossly unfair will be quashed.

"The Libyan authorities have long ago announced that they were working towards the abolition of the death penalty. Now is the time to take further concrete steps in this direction", Amnesty International said today.

The Libyan authorities continue to state that abolishing the death penalty remains their aim. As early as 1988, Colonel Mu'ammar al-Gaddafi, Leader of the Revolution, stated his intention to abolish the death penalty. However death sentences continue to be handed down by Libyan courts.

On 16 February 2002, two academics, Salem Abu Hanak and Abdullah Ahmed Izzedin were sentenced to death after an unfair trial before a People's Court in Tripoli of 152 men arrested around June 1998 on suspicion of supporting or sympathizing with the banned Libyan Islamic Group. According to Amnesty International's information, 73 others received sentences of life imprisonment and 11 received ten years' imprisonment. Sixty-six others were reportedly acquitted.

The appeal trial, which has repeatedly been adjourned since its opening in summer 2002, is scheduled to reconvene on 9 April 2003 before a People's Court in Tripoli. According to Amnesty International's information, the appeal trial includes all defendants, including those acquitted, as both the prosecution and those convicted appealed against the verdict.

"The Libyan authorities must reform legislation which provides for the death penalty for a number of crimes, including activities that are non-violent, such as those relating to exercising the right to freedom of association", Amnesty International said. "In the meantime the authorities must ensure that nobody is sentenced to death for exercising this fundamental right".

The defendants are reportedly charged under Articles 2 and 3 of Law 71 of 1972 and Article 206 of the Penal Code. Law 71 defines party activities in a way which encompasses almost any form of group activity based on a political ideology opposed to the principles of al-Fatih Revolution of 1 September 1969. Article 3 of Law 71 and Article 206 of the Penal Code state that "execution" is the punishment for those who

call "for the establishment of any grouping, organization or association proscribed by law", and even for those who belong to or support such an organization.

Amnesty International calls on the Libyan authorities to comply with their obligations under Article 6(2) of the International Covenant on Civil and Political Rights to restrict the application of the death penalty to the '*most serious crimes*'. These have been interpreted by several United Nations Commission on Human Rights resolutions, the latest of which is resolution 2002/77 which requires ensuring that the notion of "*most serious crimes ... does not go beyond intentional crimes with lethal or extremely grave consequences and that the death penalty is not imposed for non-violent acts such as ...expression of conscience*".

Amnesty International also calls on the Libyan authorities to announce a moratorium on executions in line with the call by the Commission on all States that still maintain the death penalty "*to establish a moratorium on executions, with a view to completely abolishing the death penalty*"(United Nations Commission on Human Rights, Resolution 2002/77 adopted on 25 April 2002). The Commission which is currently in session is expected to renew this call later this month when it adopts the annual resolution on "the question of the death penalty".

Background

In its concluding observations issued in November 1998, the United Nations Human Rights Committee expressed particular concern about the laws imposing the death penalty "*for offences which cannot be characterized as the most serious....*" (Concluding observations of the Human Rights Committee: Libyan Arab Jamahiriya. CCPR/C/79Add¹101, Para 8).

In April 2002 the Secretary of the People's Committee for Justice and General Security, Muhammad al-Misrati reportedly declared the original trial to be "fair". However, Amnesty International fears that the necessary measures have not been taken to ensure that, in the appeal trial, the accused are granted the right to a fair trial, denied to them in the original trial, including the right of a defendant to choose a lawyer and the right to a public hearing. Despite allegations of torture raised by some of the defendants, no independent, impartial and thorough investigations are known to have been conducted.

For more than two years after their arrest in 1998, the 152 men were held in secret detention. They were deprived of their rights to legal counsel and to receive visits from relatives. Since the original trial, which opened in March 2001, family visits have been severely restricted: on a number of occasions, families were reportedly prevented from visiting their relatives for several months. The men sentenced in February 2002 are believed to be imprisoned in Abu Salim Prison in Tripoli.

Salem Abu Hanak, born in 1956 and father of five, was the head of the Chemistry Department at the Faculty of Science of the University of Qar Younes in Benghazi. He was arrested on 5 June 1998. Abdullah Ahmed Izzedin, born in 1950 and father of four, was a lecturer at the Engineering Faculty of the al-Fatih University in Tripoli when he was arrested on 7 June 1998.

Amnesty International repeats its call on the Libyan authorities to ensure a fair trial before an impartial and independent court in conformity with international human rights treaties to which it is a state party.

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