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Libya: Prisoner of conscience to stand trial for raising abuse

On the eve of the trial of prisoner of conscience Jamal el-Haji in front of the State Security Court, Amnesty International called on the Libyan authorities to immediately and unconditionally release him as he is solely detained for exercising his right to freedom of expression.

Jamal el-Haji, detained in Jdeida Prison in Tripoli since 9 December 2009, is facing charges of insulting the judiciary following a complaint he had submitted to Mustafa Abdeljalil, Secretary of the General People's Committee for Justice. In his complaint, he recounted human rights violations he suffered during his detention between February 2007 and March 2009. He described his unlawful arrest by members of the Libyan security forces; the ill-treatment he endured in detention including unhygienic conditions and inadequate medical treatment; the denial of visits by his family and lawyer; and breaches of his right to fair trial. He also criticized the authorities' shortcomings in the administration of justice as well as their failure to uphold their international human rights obligations. He requested the intervention of Mustafa Abdeljalil to ensure that he and his family receive adequate reparation for the harm suffered.

Jamal el-Haji wrote his complaint to Mustafa Abdeljalil after being released from prison in March 2009. He was sentenced in June 2008 by the State Security Court, after an unfair trial, to 12 years' imprisonment for vaguely worded offences such as "attempting to overthrow the political system," "spreading false rumours about the Libyan regime" and "communicating with enemy powers." Jamal el-Haji was arrested and tried after the publication of a statement on news websites calling for a peaceful demonstration to be held on 17 February 2007 to commemorate the killing by the security forces of at least 12 people and the injuring of scores more during a demonstration in Benghazi, the second largest city in the country. It was reported that during his detention, he was denied regular family visits and was not able to see his lawyer outside of the courtroom.

Despite his unlawful imprisonment for over two years for attempting to organize a peaceful protest, Jamal el-Haji went undeterred and gave an interview to BBC World around the 40th anniversary of the Fateh Revolution, which brought M'uammar al-Gaddafi to power in September 1969, in which he criticized Libya's political system.

On 17 February 2010, Jamal el-Haji was brought in front of the State Security Court, where his trial was due to commence. He requested for the trial to be postponed in order to be tried in the presence of his lawyer. The trial was postponed to 3 March 2010. According to the information available to Amnesty International, his lawyer was not allowed to visit him in prison, undermining el-Haji's right to adequate defence as enshrined in Article 14 of the International Covenant on Civil and Political Rights (ICCPR), to which Libya is a state party.

Jamal el-Haji received a first summons from the State Security Prosecution Office on 5 November 2009 in relation to the complaint he sent to Mustafa Abdeljalil. At the time, no charges were brought against him after questioning. On the evening of 8 December 2009, he was told by phone to present himself the next day at 9am for questioning at the State Security Prosecution Office. He went there as instructed, and from there he was transferred to Jdeida Prison.

On 11 December, *Libya al Youm*, an online news outlet based abroad but with correspondents in Libya, reproduced a memorandum from the Public Prosecutor in relation to Jamal el-Haji's detention. In that memorandum, it was claimed that Jamal el-Haji's complaints regarding his treatment to Mustafa Abdeljalil were ill-founded and therefore constituted an offence under Article 195(2) of the Penal Code on insulting public institutions. In the memorandum, the Public Prosecutor noted that his Office's investigation, which included a visit to Ain Zara, where Jamal el-Haji was detained, the study of his medical records, and interviews with Ain Zara's prison director and a former inmate concluded that there was no evidence to support Jamal Haji's allegations.

Amnesty International calls on the Libyan authorities to drop the charges against Jamal el-Haji and to immediately and unconditionally release him. The organization is deeply concerned by the move of the Libyan authorities to prosecute Jamal el-Haji who complained about human rights violations rather than to properly investigate his complaint of ill-treatment. Jamal el-Haji's situation is sending a chilling message that those who complain about human rights violations might face prosecution and arbitrary detention.

Background

The right to freedom of expression is tightly restricted in Libya in both law and practice. A number of provisions in the Libyan Penal Code severely limit the right to freedom of expression and have been used to repress those suspected of being opposed to or critical of the current political system. Article 1 of Law No. 76 of 1972 on Publications allows freedom of expression, but only insofar as it falls "within the framework of the principles, values and objectives of society" and imposes severe restrictions on the freedom of the press and broadcast media. For instance, the Programme "Good Evening Benghazi", which addressed a number of issues of public interest including corruption and the Abu Salim Prison incident of 1996, has been off air since 14 February 2010. Its employees, four of whom have been briefly arrested on 16 February, are still prevented from entering the radio station in Benghazi, from where the programme was broadcast daily until its suspension.

The State Security Court and Prosecution Office were established in August 2007. The State Security Prosecution Office is supposed to investigate and prosecute crimes against state security, and unauthorized political activities. In 2007, the UN Human Rights Committee has expressed concerns about the State Security Court, saying that the need for it and its mandate are unclear, and calling on Libya to ensure that all rights and guarantees under article 14 of the International Covenant on Civil and Political Rights are respected.

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