

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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LIBYA: AMNESTY INTERNATIONAL COMPLETES FIRST FACT-FINDING VISIT IN OVER FIVE YEARS

A human rights fact-finding team from Amnesty International visited the Great Socialist People's Libyan Arab Jamahiriya from 15-23 May 2009, the first such visit to the country by the organization that the Libyan authorities have permitted since 2004.

During the visit, which was undertaken at the invitation of and facilitated by the Gaddafi International Charity and Development Foundation (GDF), headed by Saif al-Islam al-Gaddafi, Amnesty International's delegates discussed the organization's longstanding human rights concerns with senior government officials, met representatives of civil society institutions and obtained access to a number of prisoners held on security grounds or detained as irregular migrants. However, Libyan security officials prevented two Amnesty International delegates from travelling to Benghazi, as planned, in order to meet families of victims of enforced disappearance and also denied them access to several prisoners.

In meetings with senior government officials, including the General Secretaries of the People's Committees (ministries) of Justice and Public Security (interior), the President of the High Court and other judicial officials, Amnesty International sought clarification of the powers and practices of the security forces, notably the Internal Security Agency (ISA), and urged that the security forces be subjected to independent oversight and be held fully accountable under the law. Currently, the ISA appears to have unchecked powers in practice to arrest, detain and interrogate individuals suspected of dissent against the political system or deemed to present a security threat, to hold them incommunicado for prolonged periods and deny them access to lawyers, in breach even of the limited safeguards set out in Libya's Code of Criminal Procedure. Such detainees may then be charged with public security offences and tried before the State Security Court, created in 2007, whose procedures do not satisfy international standards for fair trial and which is reported, in some cases, to have sat within the confines of Tripoli's Abu Salim Prison.

Amnesty International urged the authorities to take concrete steps to prevent torture or other ill-treatment of prisoners, including detainees being held incommunicado for interrogation who are particularly at risk, and to clarify the fate and whereabouts of victims of enforced disappearance.

In Tripoli, Amnesty International delegates were permitted access to prisoners being held at three prisons, Jdeida Prison, which is administered by the General People's Committee of Justice, and 'Ayn Zara and Abu Salim prisons, apparently under the control of the General People's Committee of Public Security. Amnesty International was not permitted access to several other prisoners, however, on the grounds that their cases were said to be still before the courts.

At Abu Salim Prison, site of a notorious incident in 1996 in which up to several hundred prisoners are reported to have been killed by guards in circumstances that still remain unclear, Amnesty International interviewed several prisoners who have been held since they were returned to Libya by US and European authorities in 2005-2007. They included former inmates of secret US detention centres who were held in prolonged, unacknowledged detention at secret sites as

suspects in the “war on terror”. Another prisoner held in similar circumstances, Ali Mohamed Abdelaziz Al-Fakheri, known as Ibn Al Sheikh Al Libi, was reported by the Libyan media to have committed suicide on 10 May 2009 while held in Abu Salim Prison, having been detained since he was returned to Libya in late 2005 or early 2006. Amnesty International was not permitted by the Libyan authorities to interview the prison guards in whose custody he was at the time of his death or the forensic doctor who examined his body, or to obtain a copy of the autopsy report.

The prisoners at Abu Salim interviewed by Amnesty International also included a former detainee at Guantánamo Bay, Cuba, who the US authorities returned to Libya in 2007. However, another former Guantánamo inmate also now held at Abu Salim Prison, declined to be interviewed by Amnesty International. The continuing imprisonment of former Guantánamo Bay detainees following their release by the US authorities and return to Libya provides grounds for concern that other Libyans currently being held in Guantánamo may also face immediate arrest and indefinite imprisonment without trial or after unfair trials if they are returned to Libya by the current US administration.

Amnesty International was also able to undertake a brief visit to the Misratah Detention Centre, some 200 kilometres from Tripoli, in which several hundred alleged irregular migrants from other African countries are held in severely overcrowded conditions, and to interview several of those held there. Many have been detained since they were intercepted while seeking to make their way to Italy or other countries in southern Europe, which look to Libya and other North African countries to staunch the flow of irregular migrants from sub-Saharan Africa to Europe.

Worryingly, Misratah, like Abu Salim Prison in Tripoli, appears to be controlled by the General People’s Committee for Public Security rather than the Justice Committee, and to be outside the jurisdiction of the public prosecutor or other judicial authorities. Those held there may include refugees fleeing persecution, but as Libya has no asylum procedure and is not a party to the Refugee Convention or its 1967 Protocol, foreigners, including those in need of international protection, may find themselves outside the protection of the law. There is also virtually no opportunity for detainees to lodge complaints of torture and other ill-treatment to competent judicial authorities.

In its meetings with government officials, Amnesty International expressed concern about the detention and alleged ill-treatment of hundreds, possibly thousands, of foreign nationals whom the authorities assume to be irregular migrants, and urged them to put in place proper procedures to identify asylum seekers and refugees and afford them appropriate protection. As well, Amnesty International urged the Libyan authorities to cease forcible returns of foreign nationals to countries at which they are at risk of serious human rights violations, and to find a better alternative to detention for those foreigners whom they are not able to return to their countries of origin for this reason. Some of the Eritrean nationals who comprise a sizeable proportion of the foreign nationals detained at Misratah told Amnesty International that they had been held there for two years.

Sadly, while the visit was in progress, Amnesty International learnt of the death in an Amman hospital of Fathi el-Jahmi, a prisoner of conscience who had been held continuously since March 2004 but was then flown from Libya to Jordan for urgent medical treatment in early May 2009. The organization had previously raised concerns that the deterioration of his health might be due to a long period of detention, large parts of it incommunicado, and to the reported denial of adequate medical care while in custody of the Libyan authorities. The precise cause of his death, and the circumstances in which he became seriously ill while detained at the Tripoli Medical Centre, where he had been held since July 2007, should be clarified at the very least to Fathi el-Jahmi’s family members.

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