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Libya must seek justice not revenge in case of former al-Gaddafi intelligence chief

A year on from the capture and killing of Colonel Mu'ammarr al-Gaddafi, Amnesty International is calling on the Libyan authorities to hand over immediately the former ruler's military intelligence chief to the International Criminal Court (ICC) to face charges of crimes against humanity.

Despite an ICC arrest warrant for Abdullah al-Senussi being active since June 2011, he was extradited back to Libya on 5 September after being arrested in Mauritania in March of this year.

Amnesty International is concerned that since his incarceration in Libya, it appears no independent organizations, relatives or his lawyers have had access to him.

Al-Senussi's case is symptomatic of a wider situation in Libya of a justice system in disarray.

"A year after the end of hostilities, victims of serious human rights abuses – by the former government as well as its opponents – have yet to see justice. What we witness today in Libya is revenge and not justice," said Hassiba Hadj Sahraoui, Deputy Middle East and North Africa Programme Director at Amnesty International.

"Trying al-Senussi in Libya, where the justice system remains weak and fair trials are still out of reach, undermines the right of victims to see justice and reparation. Instead, he should face the ICC's charges of crimes against humanity in fair proceedings."

Although a new General National Congress has been elected in Libya, the country's justice system is virtually paralysed.

Thousands of detainees accused of having supported or fought for the toppled al-Gaddafi government remain in detention – most without charge or trial, in some cases for 18 months or longer. Many have complained of torture or other ill-treatment, and have been forced to sign "confessions" under torture or other duress.

During a fact-finding visit to Libya last month, Amnesty International met prosecutors, police, criminal investigators and other staff in the judicial sector, as well as lawyers who highlighted difficulties and threats they face in carrying out their duties in light of the prevailing security situation and the de facto authority exerted by armed militias.

Very few lawyers are willing to represent alleged "Gaddafi loyalists", either for ideological reasons or out of fear of reprisals.

Such fears are justified, as Amnesty International has documented several instances of violence, threats and harassment against lawyers defending alleged al-Gaddafi supporters. Relatives of individuals accused

of having supported the former government complained that they were either unable to find lawyers willing to represent their relatives or were asked for exorbitant fees.

Serious doubts were also cast over Libya's ability and willingness genuinely to grant fair trials to former al-Gaddafi government figures in June 2012, when an ICC legal team was arrested and detained while in the country to interview the former ruler's son Saif al-Islam al-Gaddafi.

Unlike in al-Senussi's case, the ICC's surrender request for al-Islam al-Gaddafi has been postponed pending the outcome of the Libyan government's challenge of admissibility in his case.

Background

In June 2011, the ICC issued an arrest warrant for al-Senussi, as well as Colonel Mu'ammarr al-Gaddafi and his son Saif al-Islam al-Gaddafi, on two counts of crimes against humanity – murder and persecution – allegedly committed in the eastern Libyan port city of Benghazi in February 2011. Prior to his extradition, al-Senussi had been in Mauritanian custody since March 2012, when he was arrested at the airport in the country's capital Nouakchott.

Crimes against humanity are not considered crimes under Libyan law, which presents another serious obstacle to the country's ability to conduct effective investigations and prosecutions of such cases.

Amnesty International believes that al-Senussi and other perceived loyalists of the former government face a real risk of torture or other ill-treatment in custody and Libyan law provides for the death penalty, which the organization opposes in all cases as a violation of the right to life and the ultimate cruel, inhuman and degrading punishment.

Al-Senussi has also been publicly accused of other crimes in the last four decades in Libya, including the extrajudicial execution of more than 1,200 detainees at Abu Salim prison in 1996.