

PUBLIC

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UA 227/03

Forcible return / fear for safety / fear of torture

25 July 2003

LIBYA

Zacharias Michael Belay (m)

Misghina Siyoum (m)

Mesfin (m)]

Rezene (m)]

Yonas (m)]

Michael (m)]

Abel (m)]

(second names not known)

The seven Eritrean nationals named above, who are currently detained in Libya, are reported to be at imminent risk of being forcibly returned to Eritrea. Should they be returned, they could face torture, secret and incommunicado detention without charge as well as possible extrajudicial execution.

The men are said to be military conscripts aged in their 20s, who deserted the army because of the indefinite extension of their military service. They reportedly escaped to Sudan in 2002 and travelled to Libya, hoping to reach a country of asylum in Europe. According to the information received, they were arrested by the Libyan authorities on 11 August 2002, as they attempted to cross the Mediterranean Sea. They were later sentenced to three months' imprisonment after being convicted of illegal entry. Four Eritrean women arrested with them were released after serving a similar prison term, but the seven men remained in detention.

The Libyan authorities are reportedly intending to deport them to Eritrea in cooperation with the Eritrean embassy in Libya.

BACKGROUND INFORMATION

National service is compulsory in Eritrea for all men and women aged 18 to 40, with further reserve duties later. It consists of six months military service and 12 months development service. The internationally-recognized right to conscientious objection to military service is not recognised in Eritrea – three Jehovah's Witnesses, for example, have been detained for almost 10 years for refusing military service. Hundreds or more conscripts and many others seeking to avoid conscription, have fled to Sudan since the Eritrea-Ethiopia war of 1998-2000 in order to seek asylum there or elsewhere.

The punishment for deserters could be death, although there are no known cases of captured deserters or draft evaders being given a trial by a military court. Instead, the actual punishment for draft evaders has been torture and detention without charge, followed by forced military service. There have also been reports of the rape of female conscripts by army officers.

Between 30 September and 3 October 2002, Malta returned some 220 Eritreans to Eritrea, who are believed to have been mainly conscript army deserters and evaders. They were detained on arrival and have not been seen since, as the government has denied their families, journalists and foreign embassies access to them. However, the Maltese government stated to Amnesty International in October 2002 that it was "not in possession of any evidence that any ill-treatment was afforded to the Eritreans repatriated from Malta". A number of other Eritreans still detained in Malta, have appealed to the Constitutional Court against deportation orders which are currently suspended.

In Eritrea, there is a widespread ongoing pattern of arbitrary secret detentions of political opponents, including dissident government ministers, journalists and former liberation movement fighters and soldiers.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in Arabic or your own language:

- urging that Zacharias Michael Belay and the six other Eritrean nationals detained in Libya after completing three-month prison sentences for illegal entry are not forcibly returned to Eritrea where they would be at risk of torture, detention without charge or possible execution;
- reminding the Libyan authorities of Libya's obligations under the 1969 Organization of African Unity Refugee Convention and under customary international law which prohibit the forcible return of anyone to a country where they are at risk of serious human rights abuses such as torture;
- calling for an urgent review of the continued detention of these seven persons who have apparently completed their prison sentences, with a view to their immediate release;
- requesting that they are given access to representatives of the Office of the United Nations High Commissioner for Refugees (UNHCR) to enable them to apply for asylum if they wish to do so.

APPEALS TO:

His Excellency Mu'ammar al-Gaddafi
Leader of the Revolution
Office of the Leader of the Revolution
Tripoli

Great Socialist People's Libyan Arab Jamahiriya
Telegrams: Colonel al-Gaddafi, Tripoli, Libya
Telexes: 70 0901 20162 ALKHASU LY
Salutation: Your Excellency

His Excellency Muhammad Ali al-Misrati
Secretary of the People's Committee for Justice and General Security
Secretariat of the People's Committee for Justice and General Security
Tripoli

Great Socialist People's Libyan Arab Jamahiriya
Telegrams: Muhammad Misrati, Tripoli, Libya
Salutation: Your Excellency

COPIES TO:

Dr. Muhammad 'Abduallah al-Harari
Secretary for Legal Affairs and Human Rights of the General Peoples' Congress
P.O. Box 84662
Tripoli
Great Socialist People's Libyan Arab Jamahiriya

and to diplomatic representatives of Libya accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 5 September 2003.