

LIBYA: TEETERING ON THE EDGE: ONGOING HUMAN RIGHTS VIOLATIONS AND ABUSES IN LIBYA

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Teetering on the edge: Ongoing human rights violations and abuses in Libya

Amnesty International is alarmed at the scale of ongoing human rights violations and abuses in Libya perpetrated with impunity by state security forces, state-affiliated militias and non-state groups. Libya is rapidly descending into chaos as attacks against government institutions, including the General National Congress (GNC) continue, and the cycle of militia clashes, extensive destruction of property, abductions and targeted killings escalates. The organization urges the Human Rights Council to condemn ongoing abuses; call for accountability and legislative reform to protect human rights, and request the Office of the High Commissioner for Human Rights (OHCHR) to report on the human rights situation in Libya.

Amnesty International recognizes the challenges facing the Libyan authorities as a result of the armed conflict and decades of authoritarian rule; these will not be overcome without the assistance of the international community. In particular, Libya needs help to reform the security and justice systems, and deal with a legacy of serious human rights violations under the rule of Colonel Muammar al-Gaddafi. In this context, technical assistance provided by the UN Support Mission in Libya (UNSMIL) and its role in the promotion and protection of human rights has been crucial. Still, Amnesty International believes that monitoring and reporting on the human rights situation in Libya by OHCHR would encourage the Libyan authorities to tackle current challenges more decisively and ensure the authorities receive the support and expertise needed to undertake ambitious reforms and reinstate the rule of law.

Despite a public commitment to human rights, the Libyan authorities have failed to ensure accountability for human rights abuses. Measures to combat impunity are largely unimplemented, while repressive legislation remains in use. New laws restricting freedom of expression, association and assembly have recently been adopted. Thousands of conflict detainees remain held without due process. Some perceived al-Gaddafi loyalists have faced unfair trials, which resulted in the imposition of the death penalty. Killings of unarmed protesters, deaths under torture, abductions, enforced disappearances and assassinations, including of political activists, at least eight judges and journalists have gone unpunished. No solution has been found to the forcible internal displacement of entire communities.

Worryingly, violations are also perpetrated by state security forces as former militia members were allowed to be integrated into state institutions. Urgent action is needed to ensure that these practices do not become institutionalized.

Arbitrary detention: Thousands of conflict detainees remain held in detention centres across the country with varying levels of government control. The majority has been held without charge or trial since 2011, judicial review and access to lawyers. When control of detention facilities was handed to the government, militia members were allowed to enter state institutions without adequate vetting. In many cases, militia members recognize the government's authority only nominally. Law 29/2013 on Transitional Justice requires the authorities to charge or release all detainees "affiliated to the former regime" by 2 March 2014 but Amnesty International believes that this deadline has not been fully met. State-affiliated militias still arbitrarily detain individuals in ordinary criminal cases or following armed clashes.

Amnesty International urges the Council to call on the Libyan authorities to close all unofficial places of detention and place all detention facilities under governmental authority with provisions for independent monitoring. The authorities should ensure that disarmament, demobilisation and reintegration processes include an independent vetting mechanism to prevent individuals suspected of having committed crimes under international law entering state institutions.

The organization also urges the Council to call on the Libyan authorities to immediately release detainees held without charge, or charge them with recognizably criminal offences and promptly bring them to trial in proceedings that meet international fair trial standards and without recourse to the death penalty.

Trials of al-Gaddafi officials and perceived loyalists: Libyan courts have faced difficulties in processing cases of conflict detainees due to public and militia pressure. Prosecutors, judges and lawyers defending perceived al-Gaddafi loyalists face intimidation, threats and violence. Ahmad Ibrahim, a former education minister, was sentenced to death in 2013 on charges of incitement to discord and civil war, and incitement to abduction and murder, following an unfair trial. His lawyers were harassed, threatened and denied the right to see him in private. Ahmad Ibrahim was interrogated without the presence of his lawyer; his defence was not allowed to examine witnesses. In October 2013 the Pre-Trial Chamber of the International Criminal Court (ICC) decided that Abdallah al-Senussi, the former chief of Military Intelligence, can be tried in Libya, raising concern that he may face an unfair trial resulting in the death penalty.

Collective punishment and forcible displacement: Some 65,000 persons remain internally displaced across the country after they were driven out from their towns during and after the conflict for their perceived allegiance to Colonel al-Gaddafi. Militias subsequently looted and vandalized civilian property to render these areas uninhabitable. The Tawargha, a community of approximately 40,000 black Libyans, were driven out of their town in August 2011 after Misratah militias accused them of committing war crimes on Colonel al-Gaddafi's behalf. Hundreds of Tawargha men and boys as young as 15 were arbitrarily detained and routinely tortured and otherwise ill-treated. Many reportedly died under torture. Most displaced Tawargha live in poorly resourced camps. The Libyan authorities have failed to end forcible displacement and protect the Tawargha from retaliatory attacks, and perpetrators have not been brought to justice.

Amnesty International urges the Council to call on the authorities to find an immediate and durable solution to internal displacement in Libya in line with international standards and provide victims with justice and reparations.

Torture and other-ill-treatment: Torture and other ill-treatment remain widespread in state and militia-run facilities. While treatment has improved in certain facilities, in some torture remains widespread and in others it is systematic. In 2013, detainees reported beatings with hoses, rifle butts, electric cables, water pipes, in some cases while being suspended in contorted positions. Some also reported electric shocks, burns with cigarettes, heated metal or boiling water, threats with murder or rape and shootings with assault rifles on their limbs. Amnesty International has documented 22 cases of deaths under torture since September 2011, while UNSMIL provided details of 11 such cases in 2013 alone. Amnesty International is not aware of any case of a militia member or member of a state agency being brought to justice on charges of torture or other-ill-treatment since the end of the conflict, despite the adoption of Law no.10/2013 on "Criminalizing torture, ill-treatment and discrimination" in April 2013.

The organization urges the Council to call on the Libyan authorities to investigate all allegations of torture and other ill-treatment, bring perpetrators to justice, and ensure that detainees are treated humanely and are protected from abuse.

Undue restrictions on freedom of expression, association and assembly: Laws placing undue restrictions on freedom of expression and association remain in force. Some articles of the Penal Code prescribe harsh sentences including the death penalty. At least one individual was sentenced to three years in prison for taking part in a peaceful anti-NATO demonstration in London in June 2011. Measures that unduly restrict freedom of expression, association and assembly were recently enacted to protect the “17 February Revolution”. In particular, a ban on satellite television stations that broadcast views considered “hostile to the ‘17 February Revolution” was imposed. Article 195 of the Penal Code was amended to criminalize any act perceived as “an attack against the 17 February Revolution”; insults to officials, the state’s emblem and flag. Several provisions of Law no. 65/2012, which regulates the right to peaceful protest, fail to uphold international human rights law and standards.

The Libyan authorities should repeal or amend all laws, including relevant articles of the Penal Code that impose undue restrictions on the right to freedom of expression, association and assembly.

Abuse of migrants, asylum-seekers and refugees: Thousands of migrants, asylum-seekers and refugees face arbitrary arrests, indefinite detention, torture and other ill-treatment, exploitation and remain at risk of *refoulement*. Detained foreign nationals, including unaccompanied children, found to be in Libya irregularly are never brought before a judge. Libya continues to lack asylum legislation and system. Deportations are carried out without procedural safeguards, including in some cases on health grounds. Detainees are held in overcrowded cells with irregular access to fresh air, washing and sanitary facilities, drinking water and hygiene products; and inadequate medical care. Detainees report verbal abuse, beatings with metal bars or plastic tubes, whippings with electric cables and punches, and shootings with assault rifles. Female detainees reported strip searches by men, including of their private parts.

Amnesty International urges the Council to call on the Libyan authorities to end the detention solely for immigration purposes of all asylum-seekers and take steps to ensure that foreign nationals are treated humanely in adequate conditions free from torture, ill-treatment and exploitation.

Lack of accountability: Impunity persists for grave human rights violations and abuses committed by armed militias and state security forces. Law 28/2012 on Some Special Procedures grants a blanket amnesty to any crimes committed by militias in the name of promoting or protecting the “17 February revolution”. To date, no meaningful investigations were carried out by the authorities into alleged war crimes and serious human rights abuses committed during and following the armed conflict. The Fact-Finding and Reconciliation Commission and other accountability mechanisms are yet to be established under the Law on Transitional Justice. Perpetrators of politically motivated killings of security officers, judges, activists and journalists, which have plagued Libya since the end of the conflict, have not been held accountable.