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Widespread Torture in Detention

(Benghazi) – [Libya](#)’s internationally recognized government and its allied forces are responsible for widespread arbitrary detentions and for torture and other ill-treatment in detention facilities that they control in Eastern Libya.

In January and April 2015, Human Rights Watch received rare access to visit detention facilities in al-Bayda and Benghazi controlled by the Libyan Army and the Justice and Interior Ministries, and interviewed 73 detainees individually without guards present. Many detainees said that interrogators had forced them under torture to “confess” to serious crimes. They described other abuses, including lack of due process, absence of medical care, denial of family visits, lack of notification of families about their detention, and poor conditions. The detainees included children under 18.

“Government ministers, military commanders, and prison directors should immediately declare a no-tolerance policy against torture and hold anyone who abuses detainees to account,” said [Sarah Leah Whitson](#), Middle East and North Africa Director. “They should understand that they face a risk of international investigation and prosecution if they don’t call a halt to torture by the forces under their command.”

In the three detention centers visited, the Libyan Army and the Interior Ministry’s Counter Terrorism Unit are holding about 450 “security detainees” in connection with the current conflict. Of those visited, 35 detainees told Human Rights Watch that they were tortured on arrest, under interrogation, or during their detention. Thirty-one said interrogators forced them to “confess” to crimes; four said that the authorities then broadcast their “confessions” on TV, leading to reprisal attacks on their families. All of the detainees Human Rights Watch interviewed said they had not been given access to lawyers, taken before a judge, or formally charged despite many months of detention.

The most common method of torture reported was beating with plastic pipe on their bodies or the soles of their feet, but some had been beaten with electrical cable, chains, or sticks. Detainees also reported electric shocks, prolonged suspension, insertion of objects into body cavities, solitary confinement, and denial of food and hygiene facilities. Detainees also alleged that there had been at least two deaths in custody as a result of torture.

Those interviewed in military and Interior Ministry prisons included people suspected by the authorities of terrorism or of belonging to extremist groups such as Islamic State (also known as ISIS) and Ansar Al-Sharia. They also included members of the Libya Shield Forces that are fighting against the internationally recognized government and suspected members of the Muslim Brotherhood or other Islamist movements. Detainees in both military and Justice Ministry prisons included nationals of other Arab and African countries.

Since the current [armed conflict](#) broke out in May 2014, Libya has been engulfed in a struggle between the internationally recognized government based in the eastern cities of Tobruk and al-Bayda, which has the

support of the Libyan Army, and a self-proclaimed government supported by the armed militias of the Libya Dawn Alliance, which controls Tripoli and most of western Libya.

The lack of central government authority has spawned a widespread breakdown in law and order and the virtual collapse of the justice system, resulting in arbitrary detentions, Human Rights Watch said. The fighting has killed thousands of people, including [civilians](#), displaced hundreds of thousands, and destroyed vital civilian infrastructure.

Sahar Banoon, deputy justice minister in the internationally recognized government, told Human Rights Watch at a meeting on April 14 that the criminal justice system in eastern Libya had collapsed, with no criminal courts functioning, and that Benghazi's attorney general had ordered the appointment of a committee of prosecutors to review the cases of those detained. Faraj al-Juweifi, the head of military prosecutions in al-Bayda, said that his staff was still conducting investigations, and that the al-Bayda military court was still operating with one judge. He said the Benghazi military court had ceased operating, however.

All detainees should be brought before independent judges, Human Rights Watch said. The authorities should release those against whom there is no credible evidence of crimes, and bring formal charges against others, but discount confessions made under torture or other duress. Authorities should protect all detainees from torture or other ill-treatment, and hold those who commit torture to account. Authorities should grant independent monitors such as the United Nations Support Mission to Libya (UNSMIL) unfettered access to places of detention under their control.

All parties to the conflict in Libya are required to abide by international humanitarian law, the "laws of war." Certain serious violations of these laws, such as torture, when committed with criminal intent, are war crimes. Certain crimes, when committed on a widespread or systematic basis as part of a state or organizational policy to commit the crime can constitute crimes against humanity during conflict or peace. These crimes include torture and arbitrary detention.

Those who commit, order, assist, or have command responsibility for war crimes or crimes against humanity are subject to prosecution by domestic courts or the International Criminal Court (ICC).

In a [letter on November 5, 2014](#), Human Rights Watch urged the ICC prosecutor, Fatou Bensouda, to consider serious ongoing violations in Libya beyond the scope of her current investigation, which is limited to cases from 2011 involving officials of the former Gaddafi government. Bensouda, who has jurisdiction over war crimes, crimes against humanity, and genocide committed in Libya since February 15, 2011, has not pursued a further investigation, [citing](#) instability in Libya and lack of resources as obstacles to more probes in the country by her office. In the face of mounting atrocities, the ICC prosecutor should urgently exercise her mandate and [pursue an additional investigation](#) into ongoing crimes, Human Rights Watch said.

In August 2014, the UN Security Council adopted [resolution 2174](#), which threatens those responsible for serious crimes in Libya with sanctions, including travel bans and asset freezes. Given the virtually complete impunity for abuses by all sides in the conflict, Security Council members should accelerate implementation of the resolution.

Human Rights Watch also [urged](#) the UN Office of the High Commissioner for Human Rights to speed up the deployment of an investigative mission created by the UN Human Rights Council in March 2015, tasked with investigating serious crimes in Libya since 2014, and to ensure that it looks into the patterns of arbitrary detentions, torture, and other ill-treatment in detention facilities in Libya.

"Security Council members have failed to address the rampant serious crimes in Libya, allowing carte blanche for further abuses," Whitson said. "They should send a clear message to all parties that those who commit torture or other serious crimes will not escape justice and will be held accountable internationally."

Detaining Authorities

Many different authorities and groups operate detention facilities in eastern Libya.

The Justice Ministry of the internationally recognized government administers the al-Kweifiyah Prison complex in Benghazi. The Interior Ministry and the Libyan Army each control several sections of the prison. In April, Human Rights Watch visited one section of the prison under Justice Ministry control with 19 female detainees but due to lack of time was not able to visit another section holding 695 male detainees with 30 serving sentences imposed prior to February 2014. Human Rights Watch also visited the section under control of the Libyan Army holding 150 male detainees, including both Libyan and foreign nationals.

Human Rights Watch did not gain access to the sections of the al-Kweifiyah Prison complex holding 30-40 detainees controlled by the General Security Apparatus (also known as Internal Security), nor to the section for irregular migrants controlled by the Interior Ministry, which held about 200 detainees.

Fathi Mansour, head of Military Prosecution of the Green Mountain Region in eastern Libya, told Human Rights Watch during a meeting on April 18 that the Military Police no longer controlled the Bouhdeima Military Prison in Benghazi, and that the extremist group Ansar Al-Sharia had taken control of it around October 15, 2014, during clashes with the Libyan Army. Mansour said that at the time of the takeover, the prison held about 150 detainees from the 2011 conflict, but their current whereabouts are unknown.

In January, Human Rights Watch gained access to Garnada Prison, in al-Bayda. The prison is administered by the Justice Ministry and at the time held 170 male detainees, including foreign nationals. On another visit to Garnada Prison in April Human Rights Watch gained access to a section of the prison under the control of the Libyan Army. It held 150 detainees, all from the current conflict.

Abdelrazeq al-Nadhouri, Libyan Army chief of staff, confirmed to Human Rights Watch that the army controls only two prisons, the military sections of al-Kweifiyah and Garnada Prison.

The Interior Ministry's Counter Terrorism Unit controls Bersis Prison, on the eastern outskirts of Benghazi, the prison's director Faraj al-Abdali told Human Rights Watch. He said the prison only came under government control earlier in 2015.

Detainees referred to other detention facilities that Human Rights Watch was not able to access as places of torture or other ill-treatment, including the police Criminal Investigation Department and the Security Directorate in Benghazi; the al-Abyar and al-Rajma military camps; the al-Fuweihat facility of the Army Special Forces 21; the Counter Terrorism Unit in Bourzeina; the former Military Police Headquarters in Benghazi controlled by army special forces under the command of Salem Afarit; the Internal Security facility in Tocra, east of Benghazi; the Military Police headquarters in Tobruk; and police stations in al-Bayda and al-Marj.

Human Rights Watch also received allegations of informal detention facilities in Benghazi used by militias opposing the internationally recognized government that include groups that pledged allegiance to ISIS and Ansar al-Sharia, but was not able to gain access to any of the areas controlled by the militias.

Arbitrary Arrests and Detention

All of the detainees interviewed in military and civilian prisons in Benghazi and al-Bayda, except for three serving sentences imposed prior to February 2014, said that the authorities had brought no formal charges against them, that they had no access to legal counsel, that they had not been seen by a judge, and that they had no means or opportunity to legally challenge their detention.

Lieutenant Mohamed al-Thinni, director designate of al-Kweifiyah Prison, told Human Rights Watch during a meeting on April 16: "The most important issue is re-activation of prosecutions. Possibly half of the prisoners may be released if that happens. We have cases of people detained for drinking alcohol, which carries a maximum sentence of six months, yet they have been detained for over a year because there are no functional courts."

Colonel Saleh al-Abdali, head of the Judicial Police in Benghazi, the body responsible for administration of prisons under the Justice Ministry and for providing security in courts, told Human Rights Watch on April 16 at a meeting in al-Kweifiyah Prison: "The Benghazi General Prosecution suspended its work in February 2014 and has not re-started the work yet. Anyone arrested after that date has not been prosecuted."

Human Rights Watch interviewed a group of 13 men at al-Kweifiyah prison who had been arrested between October and December 2014 and accused involvement in extremist militias such as Ansar al-Sharia either directly or indirectly because of the involvement of a relative. Most had been moved among several military interrogation units in and around Benghazi and were among a group of 34 men transferred from Bersis Prison on April 4. None had been formally charged.

A 50-year old father of eight said he had been arrested at his home on December 14 or 15 after a neighbor contacted the army:

I was arrested and taken to Tocra facility because my neighbor accused my 15-year old son of being with Ansar al-Sharia. My son is now dead. In Tocra, I had to lie down on a metal bed as four people beat me with a plastic pipe until the bed broke. When I passed out, they poured water on me. I spent 11 days in an individual cell without food, they only gave me dates and the water was not drinkable. I was blindfolded when they made me fingerprint a document.

Thousands of detainees arrested in relation to the 2011 uprising are still held in arbitrary detention in prisons across Libya. Of the 6,000 detainees held by the Justice Ministry alone beginning of 2014 only 10 percent had been sentenced. The rest were all in pre-charge detention.

Torture, Other Ill-Treatment, Deaths in Custody

Of the 73 detainees interviewed 35 said they were tortured or ill-treated at some point during their arrest and detention, others were too intimidated to speak about their treatment.

One woman held in al-Kweifiyah Prison said that female guards beat her and other women detainees on the soles of their feet as punishment.

A detainee at Garnada Prison said that members of the Libyan Army's special forces unit 21 had severely beaten him at a facility in al-Fuweihat:

I was arrested at my home on December 27, 2014, and brought to al-Fuweihat and stayed there until January 4. During that time, I was severely beaten and tortured by members of Brigade 21, who accused me of being a member of the Muslim Brotherhood. They beat me on my face and kept me in solitary confinement. No one here has a lawyer. No one offered me a lawyer and there are still no charges against me.

A detainee at Garnada Prison said Military Police officers tortured him over four days in November at their headquarters in Tobruk for allegedly "inciting public opinion" against Libya's House of Representatives:

For four consecutive days, I was tied up for hours each day from 4 p.m. to 11 p.m. with metal handcuffs to the door of the cell and was beaten with a plastic pipe, always by the same people. They would beat me with the plastic pipe from the waist down. My legs got swollen and I am now having problems with my shoulders as a result. They wanted a confession from me.

One detainee at Garnada Prison showed Human Rights Watch marks on his body that he said were caused by torture at the prison but declined to describe what had occurred because he feared repercussions by the guards. Another said he was afraid to ask for a chance to call his family for fear of being beaten by guards.

A detainee in the military section of al-Kweifiyah prison said he was beaten severely by a guard when he arrived on April 15:

Upon transfer into Kweifiyah [prison] I was beaten on my upper left arm, my left leg just above the knee, my left shoulder, and my back before my interrogation started. I was already beaten upon my arrest in November 2014 at Bersis Prison. I was beaten with a plastic pipe on my head. The marks are still visible.

Two detainees in the military section of al-Kweifiyah Prison said that Rami Kamal al-Fitori, a 30-year old man from Gharyounis, died under torture at the Criminal Investigation Department in Benghazi at the end of March and that his family came to collect the body. The two detainees said al-Fitori was accused of being a member of the Libya Shield Forces.

Another detainee interviewed at al-Kweifiyah Prison said that while he was detained earlier at Bersis Prison, one detainee there, Saad Bin Hmeid, had died after he was tortured and left in an individual cell. The detainee did not remember the date of the incident. He added that another detainee had committed suicide at Bersis by hanging himself after he was tortured, though he did not know the man's name and could not remember when the incident occurred.

Human Rights Watch was not able to independently verify these deaths.

The commander of the Counter-Terrorism Unit in control of Bersis Prison told Human Rights Watch on April 17: "Don't blame us for anything. We don't get any support from the government. They don't even supply food. I paid for the construction of this prison [Bersis] myself. Even the land is mine. We use tough methods sometimes. We don't allow detainees to shower and we use tough language with them."

Forced Confessions

Thirty-one detainees said that authorities had forced them to confess to crimes they did not commit, or continued to try to obtain a confession by torture. Four said prison authorities had filmed and broadcasted their "confessions" to killings and other crimes at the Criminal Investigation Department in Benghazi and at Bersis Prison. Two said their homes were attacked and set on fire immediately after the broadcasts. All said they had no access to legal representation before or during the filming, and none had been seen by a judge or charged.

Al-Nadhour, the army chief of staff, told Human Rights Watch on April 18 at his headquarters in al-Marj, 100 kilometers east of Benghazi: "There is some severity in treatment, but beating is not allowed. The televised confessions [of detainees] were an ill-studied project by the General Intelligence Agency to try and raise awareness on the dangers of terrorism, yet it ended up being a double-edged sword. The families of victims had a strong reaction. I've said in two TV statements that violations will not be tolerated and that we will be prosecuting anyone for wrongdoing."

At Bersis Prison, two 17-year-old minors, one of whom was arrested on February 15 and the other on

December 27, told Human Rights Watch they had confessed to killing 17 people each and after the confessions were broadcast on TV victims' relatives burned down their family homes.

One detainee interviewed in al-Kweifiyah Prison on April 18, said that while he was detained at the Criminal Investigation Department in Benghazi in mid-March, authorities there forced him to appear on a local TV Station, Libya Awalan, to confess to crimes he did not commit:

I used to be a member of a brigade, [called the] Protection Brigade but I left even before the Dignity operation started. They arrested me at my house and are accusing me of being a fighter. A TV crew came to the prison and filmed me. The correspondent, his assistant, and an officer were all present in the room when the filming was under way. They stopped filming three or four times and the officer would beat me because they wanted me to "confess" that I consider the army and the police to be apostates. The correspondent would say "this detainee is not yet ready" and the beatings would continue.

A detainee at Bersis Prison told Human Rights Watch on April 17 he had appeared four or five times on television and that he had confessed to killing 82 people, kidnapping the Jordanian Ambassador, and killing of the US ambassador [in September 2012] among others. Marks on his upper arms appeared consistent with his allegations that he had been beaten in detention; he said that he had "marks on all of the body."

Another detainee held at Bersis Prison since beginning of March said he had been tortured to confess:

I am accused of being a member of Ansar al-Sharia. They [Bersis Prison authorities] are trying to get me to confess to killings. If you confess, they will let you be, otherwise they will beat you with a plastic pipe all over your body, they will electrocute you and they will pour cold water over you

International Law Provisions

All parties to the armed conflicts in Libya – including non-state armed groups – are obligated to observe international humanitarian law (IHL), the laws of war applicable in situations of armed conflict, as well as to respect international human rights law, applicable at all times. Any detention is subject to strict due process, in particular informing the person of the reasons for arrest, basing detention on clear domestic law, prompt appearance before a judge to be charged or released, and opportunity to challenge the lawfulness of the detention. Failure to respect such procedural safeguards makes a detention arbitrary.

Under human rights law, which applies even during states of emergency, detainees are entitled to judicial review of the legality of their detention, and all the rights to a fair trial, including the right to be tried and convicted for a criminal offense only by a court of law. Unacknowledged detention is prohibited.

Warring factions in Libya are bound by Common Article 3 to the four Geneva Conventions of 1949, applicable during non-international armed conflicts, which requires protecting anyone in custody, including captured combatants and civilians, against "violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture" and "outrages upon personal dignity, in particular humiliating and degrading treatment." No sentences may be handed down except by a "regularly constituted court" that meets international fair trial standards.

Certain serious violations of the laws of armed conflict, such as torture, when committed with criminal intent, are war crimes. Certain crimes, when committed on a widespread or systematic basis as part of a state or organizational policy to commit the crime, can constitute crimes against humanity during conflict or peace. These crimes include torture and arbitrary detention.

Those who commit, order, assist, or have command responsibility for war crimes or crimes against humanity are subject to prosecution by domestic courts or the International Criminal Court (ICC), which has jurisdiction over war crimes, crimes against humanity, and genocide committed in Libya since February 15, 2011.

Libya is also a party to international and regional treaties that impose legal obligations regarding the treatment of detainees. The International Covenant on Civil and Political Rights (ICCPR) [states](#) that anyone detained shall be brought promptly before a judge or person exercising judicial power. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, [obligates](#) Libya to investigate and prosecute all those responsible for torture in its territory. Both Covenants prohibit anyone from being compelled to testify against themselves or to confess guilt. The Convention Against Torture [obligates](#) states to ensure that any statement "made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made."

Libya has also ratified the African Charter on Human and Peoples' Rights. The Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, drawn up by the African Commission on Human and People's Rights, stipulate that a person can only be detained according to the law and by people authorized by law to detain prisoners, and that every detainee should be brought before a judicial [authority](#).

No exceptional circumstances may justify torture and ill-treatment, and international law requires that anyone responsible for it be investigated and prosecuted.

International law also requires respecting a detainee's rights to judicial review of his or her detention and to a fair trial even during national emergencies. The Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa state: "No circumstances whatsoever, whether a threat of war, a state of international or internal armed conflict, internal political instability or any other public emergency, may be invoked to justify derogations from the right to a fair trial." Anyone deprived of liberty must be provided with adequate food, water, clothing, shelter, and medical attention. Detained women must be held in quarters separate from those for men. Children deprived of their liberty, unless with their families, must have quarters separate from adults.

Note on Methodology

On January 25, 2015, a Human Rights Watch researcher visited the civilian section of Garnada Prison in al-Bayda, which was under the control of the Justice Ministry. At that time the researcher was denied access to the military section of the prison, which is under the control of the Libyan Army. But on a subsequent visit to al-Bayda between April 13 and 20, Human Rights Watch was granted access to the military section of the prison. During the same period in April Human Rights Watch also visited, in Benghazi, the military prison in al-Kweifiyah, which is under the control of the Libyan Army, and the women's prison in al-Kweifiyah, which is under the control of the Justice Ministry. In addition, Human Rights Watch was granted access to the detention facility of the Counter-Terrorism unit, also known as Bersis prison, which is under the control of the Interior Ministry. Human Rights Watch also conducted telephone interviews in March with families of victims or people who were previously detained and had been released. Fathi Mansour, the director of the Military Prosecution of the Green Mountain, authorized the visits to the military sections of the prisons of al-Kweifiyah and Garnada. The head of the Military Police, Colonel Abu Baker Sultan, approved access to Garnada Prison. Deputy Justice Minister Sahar Banoon authorized visits to detention facilities under Justice Ministry control in the eastern region. The head of the Counter Terrorism Unit in Benghazi, Faraj al-Abdali, authorized the visit to Bersis Prison.

Human Rights Watch was able to meet with the detainees in private, without the physical presence of a guard. Detainees consented to publishing the information. Human Rights Watch decided not to name any detainees to prevent retaliation against them.

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