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Libya: Cease Arbitrary Arrests, Abuse of Detainees

The National Transitional Council (NTC), the de facto authority in most of Libya, should work to stop militia groups from making arbitrary arrests and abusing detainees in prisons and makeshift detention facilities across western Libya, Human Rights Watch said today.

Human Rights Watch visited 20 detention facilities in Tripoli and interviewed 53 detainees. The detainees reported mistreatment in six facilities, including beatings and the use of electric shock, and some of them showed scars to support the claims. None had been brought before a judge.

The NTC, with the help of its international supporters, urgently needs to set up a justice system able to provide prompt judicial review of all detainees, a task that has not been given sufficiently high priority, Human Rights Watch said.

“After all that Libyans suffered in Muammar Gaddafi’s jails, it’s disheartening that some of the new authorities are subjecting detainees to arbitrary arrest and beatings today,” said Joe Stork, deputy Middle East and North Africa director at Human Rights Watch. “The NTC owes it to the people of Libya to show that they will institute the rule of law from the start.”

Since the fall of the Gaddafi government in late August, 2011, local brigades, militias, and other security groups aligned with the NTC have arrested thousands of people and held them without proper legal review, Human Rights Watch said. Those suspected of the most serious crimes, such as killing and rape, have received some of the worst treatment by arresting forces and prison guards, some of which may amount to torture.

Many of those arrested are [dark-skinned Libyans and sub-Saharan Africans](#) accused of having fought for Gaddafi. In some cases, guards at detention facilities have illegally forced sub-Saharan Africans to perform manual labor.

A key problem is the array of security forces operating in Tripoli and western Libya without effective oversight or experience, Human Rights Watch said. Some appear to have performed well, with one apparently issuing arrest warrants, but others have abused detainees and used unnecessary force at the time of arrest.

Mahmoud Jebril, the de facto prime minister and head of the NTC executive committee, told Human Rights Watch on September 23 that he and the NTC believed the detainee situation required urgent attention. "Prisoner abuse of any kind is not acceptable," he said. "We joined the revolution to end such mistreatment, not to see it continue in any form."

Jebril's commitment to end prisoner abuse is encouraging, and he and the NTC should implement the commitment quickly, Human Rights Watch said. Bringing the various neighborhood militias and security brigades under a unified command, and setting clear standards for their conduct, should be a top priority, Human Rights Watch said.

Between August 31 and September 29, Human Rights Watch inspected eight prisons in Tripoli and twelve smaller detention facilities, among them two private homes where local security forces were holding detainees. The sites included the two wings of Jdeida prison, as well as Tajoura prison, Moftuah prison, and several facilities located on the Matiga air base. Detainees previously detained in four other Tripoli facilities described their treatment in those places. Ayn Zara and Abu Salim prisons remain empty following the late-August escape of detainees held there by the Gaddafi government.

Human Rights Watch interviewed 37 Libyans and 16 sub-Saharan Africans. The 53 people included 16 women, 4 children, and 5 people considered "high value" because of their positions in the Gaddafi government. Eight of the interviewees had been previously detained in Tripoli by brigades and militias aligned to the NTC. In all but a few cases, officials gave Human Rights Watch unrestricted access to speak with detainees in private.

The detainees who reported abuse said guards had beaten them, sometimes on a daily basis. Seven prisoners in two facilities, including women, said guards had subjected them to electric shock. Two detainees who had been at one facility reported beatings on the soles of their feet – a torture technique commonly used during Gaddafi's rule. The names of facilities where mistreatment was found are being withheld to protect detainees from possible reprisals.

The detainees accused of rape and killing appear to have suffered the worst treatment while their interrogators pressed them to confess.

In one of the six facilities, detainees said that the treatment was improving. In another, abusive guards had been arrested and a new group placed in charge, detainees and officials said.

Sub-Saharan Africans in detention said that prison guards forced them against their will to perform manual labor, including carrying heavy materials, cleaning, and renovation jobs around Tripoli or on military bases.

Fewer than half of the 53 interviewed detainees said they had been questioned, and none had been investigated by the police or brought before a judge. None said they had been able to speak with a lawyer.

No NTC official with whom Human Rights Watch spoke was able to provide an estimated number of detainees held in Tripoli, or a list of the city's many detention facilities. As of September 27, the two wings of Jdeida prison alone held approximately 1,500 detainees.

In recent weeks NTC authorities have attempted to concentrate the detainees arrested by the various security forces in the main prisons, such as Jdeida and Tajoura. They have closed or downsized some makeshift facilities, but military brigades and neighborhood militias still hold captives in some local facilities, Human Rights Watch said. The brigades also transferred some detainees out of Tripoli to facilities in Zintan, Misrata, and Zawiya. Families often do not know how to find their relatives who have been detained.

Most of the prisons and makeshift detention facilities in Tripoli visited by Human Rights Watch appeared to be overcrowded and undersupplied, especially the prison cells holding sub-Saharan Africans.

NTC authorities in Tripoli attribute detention problems to the chaos that followed the takeover of the government and the need to build security after four decades of Gaddafi's rule. The delays in forming the interim government have compounded the shortcomings, Human Rights Watch said.

The NTC has been running [eastern Libya](#) since March, but the criminal justice system is still not functioning well enough even there to give detainees a prompt judicial review, Human Rights Watch said.

Only 50 percent of investigators and prosecutors who worked under the Gaddafi government in Tripoli have returned to work, the NTC says, and the new government has yet to define their priorities. Few of those who have returned to work have begun processing cases.

"The NTC leadership needs to solve this problem together with the military brigades, local authorities, the police, and justice ministry," Stork said. "Governments and international organizations supporting Libya's transition should make a functioning criminal justice system a top priority."

Jebril said the NTC is working to ensure the humane treatment of all prisoners and to establish a judicial process to review their cases. "In the meantime, we will step up our efforts to communicate with all parties about the need to respect the rights of detainees, and to uphold the values that distinguish us from the Gaddafi regime," he told Human Rights Watch.

Abuses in Detention

Detainees from six detention facilities reported mistreatment at the hands of guards and investigators, including beatings and the use of electric shock.

Because the detainees expressed fear of reprisals, including some who said they might face beatings for talking with a Human Rights Watch researcher, Human Rights Watch is withholding their real names.

A dark-skinned Libyan, Abdulatif, said that guards in one Tripoli detention facility used electric shock to force him to confess to crimes he said he had not committed:

The rebels were taking turns. There were too many to count. Every day, there was a new face. They zapped me with an electric stick on my legs and on my arms. They did that twice. They asked me questions when they did this.... They asked me again and hit me. I said "No, I swear I didn't," so they started electrocuting me. They wanted me to confess but in the wrong way. They hit me every day. They used *falaga* [beating on the bottom of the feet] and hit me on my back, all over my body, and slapped my face. They did this three times.

Another dark-skinned Libyan, Juma, showed Human Rights Watch his wounds and talked of his interrogation at a large Tripoli prison:

They used cables and engine belts [to beat me].... They hit me every day. The first days, they beat me for six to seven hours. I fainted. They beat me until I lost consciousness. They were still beating me, but I couldn't feel it. They poured a bucket of water on my head twice, so I woke up. When I woke up, they would leave me alone, but then they started beating me

again....They put the electric stick on my side, my thighs, my shoulder, my back. If you fall, they put it on your body, anywhere. They use it right away when you fall. I can't tell you how many times they did this.

The pronounced scars he showed Human Rights Watch were consistent with his claims.

One sub-Saharan African, Mohammed, wept as he showed Human Rights Watch welts on his arms, back, and neck that he said were from beatings by guards at a small detention center. Another African migrant said that guards twice extinguished a cigarette on his arm. "Every day they frighten me," he told Human Rights Watch. "They say they will slaughter me."

One Libyan detainee, Ahmed, described daily beatings and mistreatment while he was held at a neighborhood detention center that Human Rights Watch did not visit:

They took an electric cable and started hitting me with it. They didn't use electricity, but they said that if I didn't talk, they would...They hit me with a butt of the Kalashnikov. They kicked me in the face and in the chest. One scratched me with the knife [bayonet] of the Kalashnikov."

Ahmed showed Human Rights Watch scars on various parts of his body, including from cigarette burns.

Arbitrary Arrests

Military brigades and neighborhood militias operating in Tripoli, sometimes not in uniform and answering primarily to their local command, are making arbitrary arrests, including of large groups.

Representatives of the Brigade Saraya Hamra in Tariq Swanee, which Human Rights Watch visited, produced its own version of an arrest warrant. But most detainees interviewed by Human Rights Watch said that local forces had arrested them without any warrant, on mere suspicion that they fought for Gaddafi or were complicit with the government.

Some detainees said that security forces arrested them for being related to a wanted suspect, or to obtain information on a suspect who the forces were trying to find. In one case, arresting units apparently shot suspects by accident before taking them to the detention facility.

Many of those arbitrarily arrested are dark-skinned Libyans, accused of fighting for Gaddafi, or sub-Saharan African migrant workers, whom many Libyans accused of serving Gaddafi as mercenaries.

On September 4, an unknown brigade in the Salahaddin neighborhood detained 36 Nigerians, including 19 women, one of the detained Nigerians said. The group was not taken to a prison, but they are not allowed to leave the military base where they are being held.

On September 5, two witnesses told Human Rights Watch, an unknown military brigade in the Abu Salim neighborhood arrested more than 90 Nigerians and Ghanaians, 30 of them women. The group had been transferred to the area from Salahaddin for their safety. The arresting forces accidentally shot at least three of the Nigerians under unclear circumstances, the witnesses said.

As of September 28, officials had brought no formal charges against any of the Nigerians or Ghanaians detained on September 4 or 5.

On September 10, a brigade from Misrata went to a displaced persons camp in the Abu Salim neighborhood and arrested approximately 85 men from the town of Tawerga, separating them from their families, according to one of the arrested men and two witnesses. "They asked if you were from Tawerga but they didn't ask for your identification," one of the witnesses said. The detained man, Faraj, told Human Rights Watch that the forces from Misrata also beat the group.

"When they brought us in for interrogation as a group, they lay us on the ground and started hitting us with whips on our backs," Faraj said. He showed Human Rights Watch pronounced marks on his back consistent with the beating he had described. As of September 29, Human Rights Watch was aware of the release of only one of the 85 men.

Sub-Saharan Africans under Threat

Representatives of five groups of detainees from sub-Saharan Africa in different detention facilities told Human Rights Watch that their captors were forcing them to perform manual labor under guard, including strenuous jobs around Tripoli and on military bases. The Africans said guards singled out young African men for such labor. No Libyan detainee told Human Rights Watch that he was forced to work, although some did chores in the prisons, such as cooking or cleaning.

Some detention officials went to great lengths to hide the presence of sub-Saharan detainees. During a Human Rights Watch visit to a transit detention facility at Tripoli's international airport on September 20, the official in charge denied that any "Africans" were in his custody. When a Human Rights Watch researcher noticed three dark-skinned men, apparently sub-Saharan Africans, in a small side room, the official denied a request to interview them.

At another detention facility in downtown Tripoli, the official in charge said no "Africans" were in his custody. When a Human Rights Watch researcher said he had information that five people from other African countries were present, the warden said the men had left the day before. On a brief tour, the researcher saw guards marching the five men up a staircase at gunpoint. One of them said that a Misrata brigade had detained him for two weeks without charge. The others declined to talk after a warden burst into the room and ordered the men to say they held paid jobs at the facility.

Detention Conditions

Conditions vary among the detention facilities visited by Human Rights Watch, but the most apparent problems are overcrowding and insufficient food. Some places have barely enough floor space for detainees to sleep. Cells with sub-Saharan Africans frequently had fewer mattresses and blankets.

Many detainees complained of being hungry and receiving only two small meals a day. Detainees said that the lack of proper ventilation was stifling. In some facilities, the detainees are not allowed to leave their cells for fresh air, although in other places the detainees said that guards gave them time outdoors every day, or every few days. In a few cases bathroom and toilet facilities appeared unsanitary.

Women detainees in Jdeida and Tajoura prisons were kept in their own communal cells, separate from men. In Tajoura and Jdeida prisons, Human Rights Watch interviewed three boys and one girl under 17 who were held with the adults. When told of this on September 5, the prison director at Tajoura said he would try to accommodate the three boys in his custody in a separate room.

Recommendations

Libyan authorities face significant challenges in establishing a new justice system in the wake of war and four decades of dictatorship, and coping with a large influx of detainees into a barely functioning system, Human Rights Watch said. Still, the NTC can take immediate steps to address the problems, including:

- Issue strong and unambiguous orders to all military commanders and detention facility officials that physical or mental abuse at the time of arrest or during detention is strictly forbidden and will be punished appropriately, and that commanders will be held responsible;
- Expedite efforts to bring the many military councils, brigades, and local militias under a unified civilian command;
- Make clear who has the lawful authority to detain people, and treat detentions by anyone else as a crime;
- Establish a unit to investigate the criminal acts of torture and other abuse of detainees and unlawful detention;
- Direct all investigators, prosecutors, and judges who have returned to work to investigate the cases of detainees, and release all those who were detained without just cause;
- Ensure that all those detained receive a prompt judicial review;
- Place those accused of serious crimes, such as rape and killing, in the custody of a special unit to protect them from abuse by guards and other prisoners.

Libyan and International Law

Under Libyan law, the police must have a warrant to make an arrest. The police can hold a person for up to 48 hours, and the prosecution has up to six days to file charges, although a judge can extend this period for up to 30 days. Defendants have the right to be informed of the charges against them and to have access to a lawyer from the moment of arrest.

Libya is bound to apply the International Covenant on Civil and Political Rights (ICCPR) and African Charter on Human and Peoples' Rights, which prohibit arbitrary detention and torture, and inhuman and degrading treatment. Notably the ICCPR states that anyone detained shall be brought promptly before a judge or person exercising judicial power. As a state party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Libya is committed to investigating and prosecuting all those responsible for torture in its territory.

The International Criminal Court continues to have jurisdiction in Libya, and would be able to prosecute crimes under its statute. These would include the crimes against humanity of torture or imprisonment in violation of international law, where these are committed in a widespread or systematic manner, as part of a state policy.

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