

Libya (67)

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Amnesty International Canada's Concerns Regarding Returning Asylum Seekers to Libya

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INTRODUCTION

Amnesty International is very concerned about the increasing number of Libyan asylum-seekers who have exhausted asylum determination procedures and are now at risk of deportation to Libya.

Due to the United Nations sanctions against Libya, which included air flight links, forcible return of Libyans from non-Arab countries, were virtually unheard of until recently. Since the UN sanctions against Libya have been suspended in April 1999, numerous countries have established direct air flight connections with Libya.

Over the past few years several Libyan asylum seekers/refugees have been forcibly returned from countries in the Middle East, and for the past few months countries in Europe have deported Libyan asylum seekers directly to Libya. These cases included recognized refugees, asylum seekers whose decisions were pending or who had been rejected, and Libyan exiles who had obtained other forms of resident permits.

Amnesty International has followed up all cases of forcible return to Libya which have been reported to the organization since the mid-90s. In all cases we either learned that the returned asylum seeker had been detained upon return and remains in detention or we were not able to receive any information. In several cases Amnesty has received confirmed information that the forcibly returned person was subjected to serious human rights violations including torture. Therefore, Amnesty International is extremely concerned about cases of forcible return to Libya.

It has to be emphasized that follow up of the situation of forcibly returned persons in Libya is very difficult. There are no independent civil society institutions (e.g human rights organizations, professional organizations etc) existent in Libya, who could monitor cases of returnees.

ASSESSING CREDIBILITY

Amnesty International is aware that lack of credibility is often referred to in negative decisions on asylum application of Libyans. Our international office advises us that such arguments have to be treated with great caution, since it is difficult to assess functioning of the Libyan system, in particular the role of the security apparatus.

Lack of evidence is another difficulty for many Libyan asylum seekers who can rarely produce documents corroborating the harassment and persecution, they have suffered in Libya.

Clearance for Training Abroad:

Our International office further informs us that while clearance by the security apparatus for training abroad is generally required, the criteria for such a security check can vary considerably. Amnesty International has received information from individuals who have been wanted by the authorities, who have subsequently left the country using their own passport.

Religious Practices:

It is not unusual for the negative decisions for asylum seekers to be based on a presumption that devout Muslims in Libya would not be in danger unless they belong to fundamentalist Islamic groups opposed to the government. This assertion is in direct contradiction to Amnesty International's information on Libya.

The Libyan authorities are suspicious of religious activities which do not follow the official ideology. Growing a beard is perceived in Libya and several other countries of the Middle East as an expression for affiliation with political Islam, which is represented by violent or non-violent organizations. In Libya people affiliated with Islamist organizations are at risk of human rights violations, including arbitrary detention, unfair trial and torture.

According to the researcher responsible for Libya at Amnesty's International Secretariat in London, it is highly credible for someone to have been arrested after stating his opposition to government policy in a mosque. Mosques in Libya are controlled by the government and Amnesty International is aware of many people arrested after they left the mosque or in the mosque itself.

The association of individuals with fundamentalist Islamic groups is not always the basis for these arrests. Rather, it is often the perception by Libyan authorities of such an association that triggers their

response. According to Amnesty's Libyan researcher, religious fervour is no longer appreciated by the Libyan government, and was not appreciated in 1990. The US Department of State's Report on Human Rights Practices in Libya for 1998 states:

the [Libyan] government restricts freedom of religion. In an apparent effort to eliminate all alternative power bases, the regime has banned the once powerful Senusiyya Islamic sect. In its place, Qaddafi established the Islamic Call Society (ICS), which is the outlet for state approved religion as well as a tool for exporting the Libyan revolution abroad. Islamic groups at variance with the state-approved teaching of Islam are banned.

AMNESTY INTERNATIONAL REPORTS

ARRESTS IN 1989/90

Amnesty International has received the names and details of 392 people said to be among many more reportedly arrested between January 1989 and April 1990. Most of the 392 were reportedly not involved in the clashes or any other violent activity. They are said to have been arrested because they were suspected of being active political opponents to the authorities or supporters of the opposition, particularly religious groups. The religious groups are said to include the Muslim Brotherhood movement (al-Ikhwan al-Muslimun), al-Jihad (Holy War), al-Da'wa (The Call), Jama'at al-Tabligh (The Preaching Group), the Islamic Liberation Party (Hizbul-Tahrir al-Islami) and followers of the Wahabiyya, an Islamic Sunni doctrine founded in Saudi Arabia in the 18th century by Muhammad bin 'Abd al-Wahab and followed today by the Saudi Arabian ruling family. Colonel Gaddafi has frequently described such religious groups as "... more dangerous than AIDS or Cancer or TB". In an address before members of Libyan Youth Camps on 19 July 1990, he told his audience that "If you find among you one who says: Da'wa or Jihad or ... Ikhwan, then you should cut his head and throw it in the street as if you found a wolf, a fox or a scorpion". The arrest of these detainees were reportedly carried out by various authorities, including the Revolutionary Committees. Some were carried out at night or at dawn. No arrest warrants were said to have been produced to any of the detainees informing them of the reasons for their arrest or of any charges brought against them.

In early June 1998 Amnesty International expressed grave concern at a wave of arrests in a number of cities, particularly Benghazi in northeast Libya, and warned that those held in incommunicado detention were at risk of torture. However, neither an acknowledgment of the detention nor any other response was received from the Libyan Government. Detainees, mainly professionals, including university

lecturers, engineers, medical doctors and civil servants, were mostly taken by security forces from their homes at night. The majority are reportedly suspected of supporting or sympathizing with the Libyan Islamic Group, reportedly an underground non-violent Islamist movement. Thousands of suspected Islamist activists are said to have been arrested in the last few years, most of whom are still believed to be held without charge or trial. (Source: AI Index: 19/08/98 - news service 128/98)

Following the bombing of the Saudi Arabian National Guard training centre in Riyadh in 1995, scores of Islamists, both Saudi Arabian and foreign nationals, were arrested. Among those arrested were many Libyans. In the Amnesty International Report 1999, it states:

At least 31 Libyan nationals - men, women and children - who had been detained in Saudi Arabia without charge or trial for more than two years following the November 1995 bombing of the Saudi Arabian National Guard training centre in Riyadh were forcibly returned to Libya in April or May (1998). They were arrested following their arrival in Libya and their whereabouts at the end of the year are not known.

The fact that the group expelled from Saudi Arabia includes women and children strongly suggests that they were arrested as much for who they are (Islamists) and where they had been (Saudi Arabia) as for what they are alleged to have done.

In January 1998, the Libyan family of al Sayyid Mohamed Shabou, his wife Manal Hussein, and their two children traveled to Saudi Arabia from Britain on United Nations travel documents. ((AI Index: MDE 23/03/98) In November 1997, they had been granted refugee status in the U.K. The entire family was arrested and detained by Saudi security forces, along with other Libyan nationals, and in May or June of last year, expelled to Libya. Once in Libya, Manal Hussein and her children were detained and released. Mr. Shabou, however, continues to be held without charge or trial. Amnesty International believes him to be at risk of torture.

Most recently Amnesty International has reported on the forcible return to Libya from Jordan of seven Libyan men under suspicion of being sympathizers of Islamist groups (AI Index: MDE 19/01/00). On 06 April 2000, the AFP wire service reported the following:

CAIRO, April 6 (AFP) - Libyan authorities have executed three Islamic militants extradited from Jordan, a London-based Islamist group said Thursday. The three Libyans, who were among eight militants extradited from Jordan earlier this year, were executed on arrival back home, the Islamic

Observation Centre (IOC) said in a statement to AFP quoting "reports we have received." Jordan said last month it had expelled eight Libyan nationals from its territory because they had links to international "terrorist organisations," after detaining them for nearly two months. Neither Jordan nor the IOC specified when they were deported. The IOC, which has warned since March that their lives would be in danger, called on international human rights organisations to pressure Libya to free the other detained men. The group works from London with the declared aim of upholding the rights of Muslims worldwide.

HUMAN RIGHTS REPORTING

Committee against Torture (1999)

CAT/C/LIB Conclusions and recommendations of the CAT: Libyan Arab Jamahiriya, 11.05.99. (..) the Committee reiterates inter-alia the following subjects of concern:

- a. prolonged incommunicado detention in spite of the legal provisions regulating it still seems to create conditions which may lead to violation of the Convention;
- b. the fact that allegations of torture in the State party continue to be received by the Committee.

Human Rights Committee (1998)

Concluding observations of the Human Rights Committee : Libyan Arab Jamahiriya. 06/11/98. CCPR/C/79/Add.101.

(Concluding Observations/Comments):

?The Committee is deeply concerned over persistent allegations of systematic use of torture and cruel, inhuman or degrading treatment or punishment. The Committee takes positive note of the data offered by the delegation about investigations carried out in some cases and of punishment of those responsible for such acts, as well as of the indemnity given to victims. The Committee recommends that the State party enforce a more efficient system for monitoring treatment of all detainees, so as to ensure that their rights under articles 7 and 10 of the Covenant are fully protected. It urges the State party to ensure that all cases of alleged torture or ill-treatment be investigated by an impartial body, that the results of such investigations be published and that officials responsible for torture and ill-treatment be prosecuted and, if convicted, severely punished. The State party is asked to include in its next report information on steps taken in this respect as well as on prison conditions.?

Special Rapporteur on Torture

Report of the SR on torture 12.01.99
(E/CN.4/1999/61) :

By letter dated 3 September 1998, the Special Rapporteur advised the Government that he had received information on methods of torture and other forms of ill-treatment reportedly applied against detainees during interrogation to extract confessions, which in turn are used to incriminate them. Methods are said to include: beating, including falaqa, i.e., beatings on the soles of the feet, hanging by the wrists from a ceiling or high window, or being suspended from a pole inserted between the knees and elbows, electric shocks, burning with cigarettes and being exposed to aggressive dogs, resulting in bite wounds. Psychological ill-treatment reportedly includes death threats and threats of abuse against the prisoner and his/her family, particularly female relatives. In particular, political discourses are reported to be broadcast repeatedly, loudly and late into the night in Abu Salim prison, where long-term political prisoners and detainees are held. This practice is believed to be used to deprive them of sleep. Another method which seems to be constantly used is "car torture", in which the detainee is allegedly left in an extremely small room that resembles a box and is forced to sit on an uncomfortable chair for weeks, with hands tied behind the back. These methods are said to be used in detention centres and in prisons in particular, Abu Salim prison is said to have underground rooms beneath the prison administration building which are used for interrogation and torture.

CONCLUSION

Amnesty International is extremely concerned about cases of forcible return to Libya.

Given that there are no independent civil society institutions (e.g human rights organizations, professional organizations etc) existent in Libya, who could monitor cases of returnees, follow up of forcibly returned persons in Libya is very difficult. In all cases of forcible return followed up by Amnesty International since the mid 1990's, we either learned that the returned asylum seeker had been detained upon return and remains in detention or we were not able to receive any information.

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