



Libya: Rights at Risk

September 2, 2008

Despite modest improvements in recent years, Libyans and foreign residents in Libya continue to suffer from serious violations of human rights. The continued arrests and incarceration of political prisoners, some of them “disappeared”; the torture of detainees; the absence of a free press; the ban on independent organizations; and violations of women’s and foreigners’ rights plague the country as it tries to reintegrate with the international community. The country is dominated by one leader, who tolerates no unsanctioned criticism of his rule or Libya’s unique political system.

Human Rights Watch welcomes improved relations between Libya and other governments, including with the United States, but not at the expense of human rights and the rule of law. To date, international engagement with the oil-rich country has focused on counter-terrorism and business ties, and inadequately addressed the lack of democratic reform and protection of human rights.

Below is a selection of the key human rights issues in Libya, as documented by Human Rights Watch. The material is based primarily on three visits to Libya since 2005. For more detailed information, see: <http://www.hrw.org/doc?t=mideast&c=libya>.

I. Political Prisoners

Scores of individuals are serving long terms in Libyan prisons for engaging in peaceful political activity, and some have been forcibly “disappeared.” Law 71, described below, bans independent political activity, and violators can be subject to the death penalty.

Fathi al-Jahmi

Fathi al-Jahmi is Libya’s most well-known political prisoner, and his case is entwined in Libya-US relations.

Internal security forces first arrested al-Jahmi, 66, in October 2002, after he publicly criticized Libyan leader Mu`ammar al-Qadhafi and called for free elections, a free press, and the release of political prisoners. A court sentenced him to five years in prison, but an appeals court ordered his release in March 2004, after US Senator and now Democratic Party vice-presidential candidate Joseph Biden personally raised the case with al-Qadhafi during a visit to Tripoli.

President Bush welcomed al-Jahmi’s release. “Earlier today, the Libyan government released Fathi al-Jahmi,” he said on March 12, 2004. “It’s an encouraging step toward

reform in Libya. You probably have heard, Libya is beginning to change her attitude about a lot of things.”

That same day, al-Jahmi gave an interview to US-funded al-Hurra television in which he repeated his call for Libya’s democratization. He gave another interview to the station on March 16, in which he called al-Qadhafi a dictator and said, “all that is left for him to do is hand us a prayer carpet and ask us to bow before his picture and worship him.” On March 25, he told al-Arabiyya television, “I don’t recognize al-Qadhafi as the leader of Libya.”

The next day, security agents entered al-Jahmi’s Tripoli house and arrested him, his wife, and their eldest son. The arrest was for their own protection, officials said, due to public outrage over his comments to the media.

A secret trial began in late 2005. The state apparently charged al-Jahmi with trying to overthrow the government, insulting al-Qadhafi, and having unauthorized contacts with foreign officials. The third charge, al-Jahmi told Human Rights Watch, resulted from conversations he had had with a US diplomat in Tripoli.

In May 2006, the secret court found al-Jahmi mentally unfit for trial and ordered him detained at a psychiatric hospital. Al-Jahmi’s family was not told of the decision, or of al-Jahmi’s whereabouts during the roughly one year he spent at the hospital.

Al-Jahmi’s physical health significantly declined in the psychiatric hospital, and in July 2007 the authorities transferred him to the state-run Tripoli Medical Center, where he remained under guard. Al-Jahmi suffers from diabetes, hypertension, and heart disease.

In March 2008, the Qadhafi Development Foundation, a quasi-governmental organization run by Mu`ammar al-Qadhafi’s son, Seif al-Islam, facilitated a trip by Human Rights Watch and Physicians for Human Rights to al-Jahmi in the Tripoli Medical Center. According to al-Jahmi, during the roughly one year of incommunicado detention in the psychiatric hospital, the authorities denied him access to a doctor and needed medications.

On March 13, Dr. Scott Allen, an adviser to Physicians for Human Rights and co-director of the Brown University Center for Prisoner Health and Human Rights, conducted a thorough medical examination of al-Jahmi, consulted with his doctor, and reviewed his medical records. Dr. Allen concluded that al-Jahmi’s condition had improved in recent months since his transfer to the Tripoli Medical Center, but that negligent care during his time at the psychiatric hospital, and perhaps before, had contributed to a serious deterioration of al-Jahmi’s health. According to al-Jahmi’s doctor, al-Jahmi was experiencing severe heart failure at the time of his transfer to the Tripoli Medical Center.

As of September 1, Al-Jahmi remained under guard at the Tripoli Medical Center. The last family visit was in early July.

Idris Boufayed Group

In February 2007, Libyan security agents in Tripoli arrested 14 organizers of a planned political demonstration. To Human Rights Watch's knowledge, none of the men had used or were advocating the use of violence. The demonstration was intended to commemorate the anniversary of a demonstration one year before in Benghazi, Libya's second largest city, in which 11 protesters died during clashes with police.

On May 27, 2008, the authorities released one of the men, Jum`a Boufayed, who had been missing since his arrest. A second man, `Adil Humaid, was released on June 10. A third man, `Abd al-Rahman al-Qotaiwi, has been "disappeared" since his arrest in February 2007.

On June 10, 2008, a state security court sentenced the remaining 11 men to prison terms ranging from 6 to 25 years. The court found them guilty of planning to overthrow the government and meeting with an official from a foreign government, apparently a US embassy official in Tripoli. They were acquitted on the charge of possessing arms.

The state security court, which was created in August 2007 to handle political cases, is reportedly located inside Abu Salim prison in Tripoli, a facility run by Libya's Internal Security Agency.

The main organizer of the planned demonstration, Idris Boufayed, who lived in Switzerland for 16 years before returning to Libya in November 2006, received a 25 year sentence. He reportedly suffers from advanced lung cancer. On May 28, 2008, a pro-government newspaper in Libya reported that an official "medical committee" had consented to Boufayed's release on medical grounds, but to Human Rights Watch's knowledge he remains in prison as of September 1, 2008.

The court sentenced another member of the group, Jamal al-Haji, a writer who holds Danish citizenship, to 12 years. Libyan authorities have refused to recognize al-Haji's Danish citizenship or respond to Danish government requests to visit him, in violation of Libya's obligations under the 1963 Vienna Convention on Consular Relations. A few days before his arrest, Al-Haji had published an article calling for "freedom, democracy, a constitutional state, and law" in Libya.

II. Death in Custody of Returnee from Sweden

Mohammed Adel Abu Ali, a Libyan citizen whose asylum claim was rejected by the Swedish Migration Board, was transported from Sweden to Libya on May 6, 2008. Libyan authorities took him into custody upon his arrival. According to news reports and Libyan human rights groups, on May 22 the Libyan authorities informed Abu Ali's family that he had died, and asked relatives to claim the body. The rights groups say Libyan authorities tortured him in detention.

On July 4, the Swedish Migration Board publicly confirmed that Abu Ali had died in Libyan custody. It stated that Sweden had suspended all deportations to Libya until the conclusion of an investigation into the circumstances around Abu Ali's deportation and death.

Abu Ali first applied for asylum in Sweden on November 20, 2003. After receiving his final rejection on September 8, 2005, he fled to the United Kingdom, according to a lawyer who later represented him. British authorities returned Abu Ali to Sweden, where authorities took him into custody on January 14, 2008, before deporting him back to Libya.

III. Torture

Torture is prohibited under Libyan law, its commission is a criminal offense, and the government has repeatedly claimed that it investigates and prosecutes cases in which torture against detainees is alleged. Nevertheless, reports of torture and maltreatment in detention are consistent and credible, including in the recent case of Mohammed Adel Abu Ali (see above), who died in custody.

During Human Rights Watch's research in Libya in April-May 2005, 15 out of 32 prisoners interviewed in five different detention facilities said they had been tortured during interrogation. They said interrogators had subjected them to electric shocks, hung them from walls, and beat them with clubs and wooden sticks. Confessions extracted through torture were admitted as evidence against them in court.

The US government has recognized torture as a serious concern. According to the State Department's 2007 Country Reports on Human Rights Practices, methods of torture in Libya included:

chaining prisoners to a wall for hours; clubbing; applying electric shock; applying corkscrews to the back; pouring lemon juice in open wounds; breaking fingers and allowing the joints to heal without medical care; suffocating with plastic bags; depriving detainees of sleep, food, and water; hanging by the wrists; suspending from a pole inserted between the knees and elbows; burning with cigarettes; threatening with dog attacks; and beatings on the soles of the feet.

The most prominent case involved the six foreign healthcare workers – 5 Bulgarians and one Palestinian – who were arrested in 1999 and sentenced to death for purposefully infecting more than 400 Libyan children with HIV. They were released in July 2007 following a deal with the European Union to compensate the victims' families.

During interviews in Tripoli's Jdeida prison in May 2005, four of the six foreign healthcare workers told Human Rights Watch that they had confessed after enduring torture, including sexual assault. On August 10, 2007, in an interview on al-Jazeera, Seif al-Islam al-Qadhafi said that the healthcare workers had been physically abused. The

torture of these foreign workers is the only case in which the authorities are known to have conducted a criminal investigation into torture, but the ten Libyan security officials charged with torturing the workers were acquitted in June 2005.

IV. Guantanamo Returns

In 2006 and 2007, the US government returned two Libyan citizens from the Guantanamo Bay detention facility to Libya. Both were detained upon return and held in custody without charge and apparently without access to lawyers. According to the US government, the Libyan authorities gave assurances of humane treatment prior to the returns.

On or around December 17, 2006, the US returned Muhammad Abdallah Mansur al-Rimi (aka Muhammad Abdullah Mansour al-Futury or Abdesalam Safrani), age 40, after four years in detention at Guantanamo Bay. The US alleged that al-Rimi was a member of the Libyan Islamic Fighting Group, an armed group dedicated to overthrowing Mu`ammar al-Qadhafi. Al-Rimi denied the charges but told his Guantanamo review tribunal: "I have a problem with the Libyan government and it is a long story."

According to the Qadhafi Development Foundation, al-Rimi was treated for tuberculosis upon return. Shortly after his return, a foundation official said the Libyan authorities did not want al-Rimi, and he would "go back to his family soon." As of January 2008, he was still in detention. Human Rights Watch has received no news of his release since that time.

Despite repeated requests, the Libyan government has failed to provide Human Rights Watch any information about the location of al-Rimi. The US State Department, however, told Human Rights Watch in January 2008 that US officials had visited al-Rimi on two occasions: in August 2007 and on December 25, 2007. Al-Rimi said Libyan security forces were detaining him but were treating him well, the State Department said, including medical treatment for an arm injury he sustained during a scuffle with guards at Guantanamo. Human Rights Watch could not confirm the claim, and it is unknown whether US officials have conducted subsequent visits.

The December meeting was convened in an office of the state security services, and not in the place of al-Rimi's detention. The meeting took place in the presence of Libyan officials and an official from the Qadhafi Development Foundation. Al-Rimi did not know the charges against him, and he apparently had not seen a lawyer since his return. He had received no family visits, he reportedly said.

A January 2, 2008, statement from the Qadhafi Development Foundation said the organization had visited al-Rimi on December 25, 2007, and that he was receiving medical treatment for his injured arm.

The second returnee was Sofian Ibrahim Hamad Hamoodah, 49, whom the US sent back on or around September 30, 2007, after 5 years in Guantanamo Bay. As with al-Rimi, the

Libyan authorities have failed to provide Human Rights Watch with information about his whereabouts or why he is being held.

According to the State Department, US officials first visited Hamoodah on December 25, 2007. As with al-Rimi, as of January 2008, security forces were holding him on unknown charges and apparently without access to a lawyer, but he did not complain of maltreatment. He was scheduled to receive a family visit on December 27, he told the US officials. Human Rights Watch has no news of his subsequent release.

The Qadhafi Development Foundation statement said it also visited Hamoodah on December 25, and that he was subsequently granted a family visit. The Foundation was providing a Tripoli apartment for Hamoodah's family, the statement said.

In April 2007, the US wanted to return a third Libyan from Guantanamo, Abdul Ra'ouf al-Qassim, but they took him off the transfer list after protests from members of Congress and [human rights groups](#).

On or around December 19, 2007, the US released a fourth Libyan from Guantanamo Bay, Omar Deghayes, 38, but sent him to the UK, where he has refugee status. The UK authorities initially detained him but then released him on bail. Deghayes faces an extradition request from Spain, where he could face terrorism charges.

Human Rights Watch has documented how diplomatic assurances from a state where torture and ill-treatment are routine do not provide an effective safeguard against abuse (see <http://hrw.org/reports/2005/eca0405/> and <http://www.hrw.org/backgrounder/eca/ecaqna1106/>). In two reports, the organization documented the abuse of former detainees from Guantanamo Bay and due process violations upon return, despite diplomatic assurances of humane treatment (see <http://www.hrw.org/reports/2007/russia0307/> and <http://hrw.org/reports/2007/tunisia0907/>).

The United States continues to hold 8 Libyan citizens at Guantanamo Bay.

V. Law 71

Law 71 bans any group activity based on a political ideology opposed to the principles of the al-Fateh Revolution, which brought Mu`ammar al-Qadhafi to power in 1969. Article 3 of the law imposes the death penalty on those who form, join or support such groups. Over the years, Libyan authorities have imprisoned hundreds of people for violating this law, and sentenced some to death.

VI. Death Penalty

For more than three years, Libya has said that legal experts are drafting new penal and criminal procedure codes. In 2005 the Libyan Secretary of Justice told Human Rights Watch that, in the new penal code, the death penalty "will be reduced to the greatest

possible extent,” although it will remain for serious crimes, such as terrorism. As of September 1, 2008, the government has not introduced a new penal code or code of criminal procedure. Many of the current articles impose death for activities that should be protected under the rights to free expression and assembly.

- Article 166 of the penal code imposes the death penalty on anyone who talks to or conspires with a foreign official to provoke or contribute to an attack against Libya.
- Article 206 imposes the death penalty on those who call “for the establishment of any grouping, organization or association proscribed by law,” and on those who belong to or support such an organization.

Human Rights Watch opposes the death penalty in all circumstances due to its inherent cruel and inhumane nature.

VII. Freedom of Association and Freedom of Expression

Libya has no independent nongovernmental organizations. Law 19, “On Associations,” requires a political body to approve all such organizations and does not allow appeals of negative decisions.

Freedom of expression is severely curtailed. Article 178 of the penal code orders life imprisonment for the dissemination of information considered to “tarnish [the country’s] reputation or undermine confidence in it abroad.” Negative comments about al-Qadhafi are strictly punished, and self-censorship is rife. Uncensored news is available via satellite television and Libyan websites based abroad, which the government occasionally blocks.

The exception to these rules are organizations run by Seif al-Islam al-Qadhafi, who has criticized the lack of representative government and called for a free press. His quasi-official Qadhafi Development Foundation helped negotiate the release of the six foreign healthcare workers in 2007. In August 2007, his al-Ghad company launched Libya’s first private newspapers and television station, which have at times expressed gentle criticism of government officials and policy.

VIII. Women’s Rights

While legal reforms over the past several decades have put Libya ahead of many of its neighbors in terms of gender equality, rigid social norms governing women’s status in the family consistently undermine these advances. Serious problems remain in the government’s approach to gender-based violence in particular. The government’s widespread denial of the problem combined with a lack of adequate laws and services leaves many victims of violence unprotected. There is no domestic violence law in Libya, and laws punishing sexual violence are inadequate. Only the most violent rape cases are criminally prosecuted, and judges have the authority to propose marriage between the rapist and the victim as a “social remedy” to the crime. Rape victims themselves risk

prosecution for extramarital sexual relations if they attempt to press charges. The government has not established adequate shelters for victims of violence.

Human Rights Watch's research has focused on the government's practice of arbitrarily detaining women and girls indefinitely in so-called "social rehabilitation centers." The official bylaw governing these facilities states that they are to provide housing for "women who are vulnerable to engaging in moral misconduct." Some women and girls are confined because they were accused—but not criminally convicted—of having had extramarital sex. Others had served prison sentences for engaging in extramarital sex, and were transferred to the facilities because no male family member would take custody of them. Many had been raped, and then evicted from their homes by their families.

Human Rights Watch visited two such facilities in April and May 2005: the Social Welfare Home for Women in Tajoura, near Tripoli, and the Benghazi Home for Juvenile Girls. In the operation of these facilities, Libya is violating some of the most basic principles of human rights law. The women and girls Human Rights Watch interviewed had no opportunity to contest their confinement in a court of law, and had no legal representation. The exit requirements are in themselves arbitrary and coercive. The authorities detain women and girls indefinitely until a male relative takes custody of them or they consent to marriage. Staff did not allow them to leave the compound gates. They also subjected them to long periods of solitary confinement, sometimes in handcuffs, for trivial reasons such as "talking back." Facility staff members tested women and girls for communicable diseases without consent, and forced most new arrivals to endure invasive virginity examinations upon entry to the facilities. The only education the government offers girls in these facilities is weekly religious instruction. Suffering a range of human rights abuses in the facilities, most of the women and girls Human Rights Watch interviewed said they wanted to leave, and would escape if they could.

While the number of detained women and girls in Libya's social rehabilitation facilities is small—often less than one hundred—the abusive nature of these facilities and the violations that occur within them require immediate action. In a January 2006 meeting with Human Rights Watch, Aisha al-Qadhafi, daughter of the Libyan leader, promised to investigate the abuses documented in our report on the topic. In February 2006, the government said it had established a committee to study the conditions in Libya's "social rehabilitation" facilities, including examining the physical and psychological well-being of the detained women and children. The results of the committee's work, if any, remain unclear.

IX. Treatment of Foreigners

Over the past decade, hundreds of thousands of people have come to Libya, mostly from sub-Saharan Africa, either to stay in the country or to travel through to Europe. Many of the foreigners came for economic reasons, but some have fled their home countries due to persecution or war. Once welcomed as cheap labor, sub-Saharan Africans in Libya now face tightened immigration controls, abusive detention, and deportation, even to countries where they could face persecution or abuse.

In 2006 Human Rights Watch released a report that documented how Libyan authorities have arbitrarily arrested undocumented foreigners, mistreated them in detention, and forcibly returned them to countries where they could face persecution or torture, such as Eritrea and Somalia. Foreigners interviewed by Human Rights Watch reported arbitrary arrests, beatings and other abuse during their detention and deportation. On July 8, 2007, Libya reportedly rounded up approximately 70 Eritrean men, some of whom may have fled conscription into the Eritrean military. Eritrea has no conscientious objector status and military offenders are frequently subjected to torture. Reportedly at Eritrea's request, the 70 men were photographed and made to give their names and dates of birth. They say Libyan guards have threatened them with deportation.

An overarching problem is Libya's refusal to introduce an asylum law or procedure, despite repeated promises to do so and the establishment of a committee to draft such a law in 2006. Libya has not signed the 1951 Refugee Convention, and the government makes no attempt to identify refugees or others in need of international protection.

X. Killings at Abu Salim Prison

On June 28, 1996, prisoners in Tripoli's Abu Salim prison, run by the Internal Security Agency, rose in revolt. Security forces responded that day and the next, and hundreds of prisoners died in circumstances that remain unclear.

Libyan leader Mu`ammar al-Qadhafi and other officials have admitted that security forces killed some prisoners on those two days, claiming they responded properly to the prison revolt. A former prisoner who said he witnessed the incident, however, told Human Rights Watch that security forces used sustained gunfire to kill up to 1,200 prisoners after regaining control of the prison and then disposed of the bodies. Human Rights Watch could not verify the claim, but his testimony is consistent with a report from an émigré Libyan group, which was based on the account of another witness. Twelve years after the incident, the Libyan government has failed to release important details, including the number and names of all people killed.

In May 2005, the head of Libya's Internal Security Agency told Human Rights Watch that the government had formed a committee to investigate the prisoner deaths. To date, the government has provided no further information about the committee or its findings.

Families of the missing have been increasingly vocal about getting information on the fate of their relatives, including by going to court. In June 2008, the North Benghazi court of first instance ruled in favor of the victims' families, ordering the state to reveal the identities of the dead and the circumstances in which they died. To Human Rights Watch's knowledge, the state has not yet complied with the ruling.

In a speech on July 24, Seif al-Islam al-Qadhafi stated that he had received the results of an initial investigation into the killings and that, in his opinion, "there was excessive use of force and abuse of power" at the prison. He promised that a public trial, to be open to

monitoring by “human rights organizations, journalist, activists and foreign ambassadors,” would commence but gave no timetable.