

# DETENTION ABUSES STAINING THE NEW LIBYA

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*Cover photo:* Wooden stick and rope found by Amnesty International delegates at a detention centre in western Libya, September 2011. A guard said that they would use it to tie detainees' feet (so that they can be beaten on their soles) but "only to scare" detainees, not to beat them.

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# CONTENTS

Introduction .....	5
About this briefing .....	6
Arbitrary arrests.....	7
Sub-Saharan Africans and black Libyans at risk .....	8
People from Tawargha targeted.....	11
Torture and other ill-treatment .....	14
Discrimination in detention.....	17
Women in detention .....	17
Absence of legal process.....	18
Libya's obligations under international and domestic law .....	19
Conclusions and recommendations.....	21
Endnotes .....	24



# INTRODUCTION

Armed militia opposing Colonel Mu'ammr al-Gaddafi have captured and detained about 2,500 people in the capital Tripoli and surrounding areas since the National Transitional Council (NTC) took control of these areas in late August 2011. Those detained include al-Gaddafi soldiers and alleged loyalists, commonly known as the "fifth column". Among them are members of the Internal Security Agency, Revolutionary Committees and Revolutionary Guards – bodies associated with the worst repression of Colonel al-Gaddafi's 42-year-old rule – as well as "volunteers", including children (under 18 years), who responded to calls by Colonel al-Gaddafi to join his forces. Sub-Saharan Africans suspected of being mercenaries comprise between a third and a half of those detained in Tripoli, its suburbs of Janzur and Tajura, and al-Zawiya, a city about 100km west of Tripoli.

Detainees are being held in former prisons as well as in makeshift detention facilities such as schools, football clubs and apartments. These are not overseen by the Ministry of Justice and Human Rights, but are simply controlled by local councils, military councils and brigades (*kataeb*), or by the Free Libya Armed Forces (members of the regular armed forces who took sides against Colonel al-Gaddafi and civilians who took up arms).

Beatings and other ill-treatment are common, particularly upon capture and in the first days of detention. Impunity for such abuses remains entrenched. Libyan and foreign detainees have also complained of torture at the hands of their captors and guards. At least two guards in two different detention facilities admitted to Amnesty International that they beat detainees in order to extract "confessions" more quickly. In one detention centre, Amnesty International delegates found a wooden stick and rope, and a rubber hose, of the kind that could have been used to beat detainees, including on the soles of their feet, a torture method known as *falaqa*. In another, they heard the sound of whipping and screams.

Detainees are held without legal orders and, with rare exceptions, without any involvement of the General Prosecution, as the justice system remains paralysed. In at least two cases known to Amnesty International in al-Zawiya and Tripoli, officials responsible for detentions ignored release orders issued by the judicial police and prosecution.

In meetings at the Ministry of Justice and Human Rights, including with Acting Minister Mohamed al-Ailagi on 10 September, NTC officials reiterated their commitment to reform the justice system and to ensure that prosecutions and trials would happen normally without further delays. NTC Chairman Mostafa Abdeljalil had given similar assurances in a meeting with Amnesty International delegates in May 2011. However, even in Benghazi, which came under NTC control in February, trials of individuals detained by NTC supporters had yet to start at the time of writing in mid-September. Investigations into alleged crimes and decisions to detain or release individuals continue to largely fall under the remit of various committees and individuals – some with little or no legal expertise or knowledge of human rights law and standards.

The NTC faces numerous challenges in its efforts to gain control over the whole of Libya and in reining in various armed militias, some of them operating independently and on their own

initiative. The NTC has publicly committed to respect international human rights law, and called on its supporters to treat captives with dignity and to avoid revenge attacks and other reprisals. On 13 September, in response to Amnesty International's report *The Battle for Libya: Killings, disappearances and torture*,<sup>1</sup> which documented abuses by all parties to the conflict, the NTC condemned abuses "by all sides" and committed to "putting its efforts to bring any armed groups under official authorities and will fully investigate any incidents brought to its attention".<sup>2</sup>

The NTC needs to act swiftly and take concrete measures to translate these pledges into reality. Among other things, it must investigate abuses by its supporters as well as by al-Gaddafi forces, and bring to justice those responsible for human rights abuses.

## ABOUT THIS BRIEFING

Findings in this briefing are based on visits to 11 detention facilities in western Libya, namely Awlad Agina School, Bir Terfas School and al-Zawiya detention centre previously used for irregular migrants, all in al-Zawiya; Ain Zara Open Prison, Jdeida Prison, the detention centre in Mitiga Airport and the Noflin National Army detention facility, all in Tripoli; the General Security Offices in Janzur suburb, used to hold detainees until their transfer in early September to other detention centres; the Hufra detention centre in Tajura suburb; and the Wahda and Sa'doun schools in Misratah.

At the time of Amnesty International's visit to Libya between 18 August and 21 September, some 2,500 people were held in detention facilities in Tripoli, its suburbs and al-Zawiya – all arrested since late August 2011. About 1,130 detainees were held in Misratah in mid-September; some had been detained for months, others had been arrested since late August when Zliten, Khums and Tripoli fell under NTC control. During these visits, Amnesty International delegates met detention administrators and interviewed about 300 detainees without the presence of guards. The delegates also interviewed a number of released detainees, and relatives of individuals still held in western Libya.

In early and mid-September, Amnesty International shared its concerns in meetings and through written memoranda regarding arbitrary detention and torture or other ill-treatment with high-ranking NTC officials, including Acting Deputy Prime Minister and Minister of Oil and Finance Ali Tarhouni, Acting Minister of Justice Mohamed al-Allagi, Acting Minister of Interior Ahmed Darrat, President of the Tripoli Military Council Abdelhakim Belhaj, and head of the Supreme Security Council Abdelmajid Saif al-Nasr. In May 2011, Amnesty International had communicated to NTC officials including to NTC Chairman Mostafa Abdeljalil its concerns about similar patterns of abuse by forces opposing Colonel al-Gaddafi in areas that fell under NTC control earlier in the year, including eastern Libya and Misratah.

Names of individuals whose cases are included in this report, as well as the detention facilities where they were interviewed, are withheld to protect people from reprisals.

## ARBITRARY ARRESTS

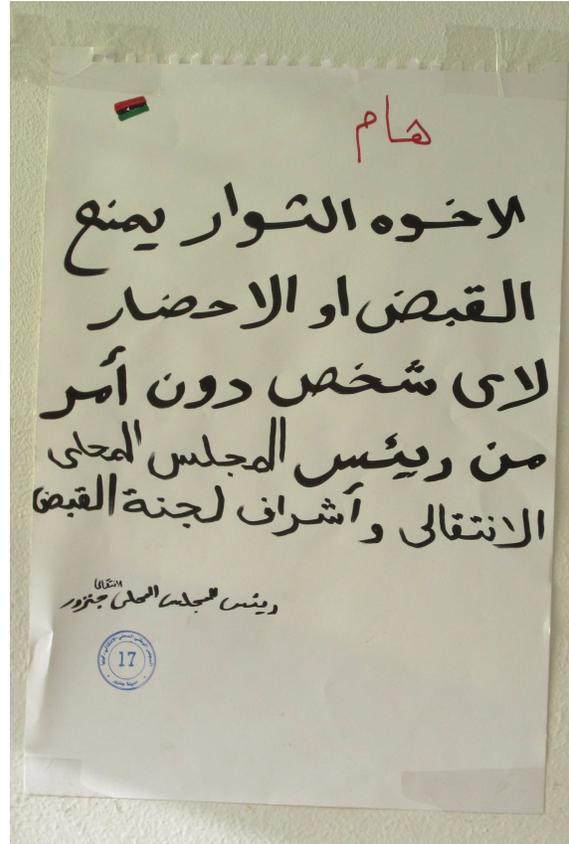
Groups of armed *thuwwar* (revolutionaries, as fighters opposed to Colonel al-Gaddafi are commonly known) have “arrested” many individuals suspected of being al-Gaddafi fighters or loyalists as well as alleged “African mercenaries”, although such “arrests” are better described as abductions. In all cases documented by Amnesty International, no arrest warrant was presented, even when suspects were taken from their home, and the captors never identified themselves. The individuals have then been taken away either in unmarked pick-up trucks with anti-aircraft machine-guns mounted on them or in regular vehicles. In some cases, captives have been thrown into car boots. Usually, no reason has been provided for their “arrest” and no indication given to their relatives as to their destination.

Children have not been spared. Some have been “arrested” alone; others have been taken along with their relatives. They have been held in the same facilities with adults, and treated as adults. Among the children interviewed by Amnesty International were Libyan “volunteers” and foreign nationals suspected of being mercenaries.

Hundreds of people have been seized at their homes, workplaces and checkpoints or simply from the streets. Many have then been beaten with sticks and rifle butts, kicked, punched and insulted, at times while blindfolded and handcuffed. In some cases, detainees said they were shot in the legs after capture. During house raids, many reported that items such as mobile phones, cars, money and identity documents were taken. Sometimes, property was destroyed in what appeared to be revenge attacks against suspected al-Gaddafi loyalists.

A 40-year-old man, who was detained along with his two brothers and another relative on the evening of 10 September, told Amnesty International that a group of armed men came without a warrant and searched his house in western Libya. He continued:

*“They didn’t explain anything. They just said: ‘You loved al-Gaddafi and helped him during the conflict. Show us what al-Gaddafi will do for you now.’ They searched the house, and took away all our identity documents. The house was already destroyed and looted, as another*



Sign at a former detention facility in Janzur urging the *thuwwar* not to carry out arrests without orders from the head of the local council © Amnesty International

*group of armed men came in around 23-24 August [days after the *thuwwar* first took control]. They broke the doors, smashed some appliances, and set the place on fire. We then sent the women and children away for safety, and we [the men] came back about a week later to start fixing the house and salvaging whatever could be salvaged. We were arrested almost immediately. When they captured us, they slapped us, kicked us, and insulted us.”*

Such “arrests” have been made by groups of *thuwwar* affiliated to local councils and, in some instances in Tripoli, by groups of *thuwwar* from other cities, such as *thuwwar* from Misratah and al-Zawiya. In Janzur suburb, local council officials told Amnesty International that “arrests” were being made on the basis of lists compiled at the neighbourhood level. In other cases, it appears the “arrests” have been random.

Officials at the Ministry of Justice and Human Rights, the Ministry of Interior and the Tripoli Military Council acknowledged concerns regarding various groups of armed people carrying out functions of the judicial police without official authorization, and confirmed their commitment to reinstate the judicial process and deploy a police force.

### SUB-SAHARAN AFRICANS AND BLACK LIBYANS AT RISK

Sub-Saharan Africans and black Libyans remain particularly vulnerable to arbitrary arrest on account of their skin colour and the belief that al-Gaddafi forces used African mercenaries to fight forces loyal to the NTC. While al-Gaddafi forces used foreign fighters – particularly towards the end of the conflict – the targeting of dark-skinned individuals is based on widely exaggerated claims about mercenaries made early in the conflict by forces opposed to Colonel al-Gaddafi, and fuelled by discriminatory attitudes in Libyan society.

During visits to detention centres in al-Zawiya and Tripoli, Amnesty International noted that between a third and a half of detainees were Sub-Saharan African nationals, many of them migrant workers. For instance, in the three largest detention facilities in Tripoli – Jdeida Prison, Ain Zara Open Prison and the Mitiga Airport detention facility – officials told Amnesty International that about half of the approximately 1,300 detainees were foreign nationals, including people from Chad, Mali, Niger, Nigeria and Sudan. In al-Zawiya detention facility, visited by Amnesty International on 11 September, about a third of the some 400 detainees were foreign nationals, according to officials there.

Detention and NTC officials told Amnesty International that they had released some Sub-Saharan African nationals once their employers confirmed their identity. This practice corresponds to patterns documented in the east and in Misratah, where hundreds of foreign nationals detained earlier in the year were released after no evidence was found to substantiate their alleged involvement in fighting. At the time of Amnesty International’s visits to detention facilities in Misratah and Benghazi in May 2011, only about 10 foreign nationals continued to be detained.<sup>3</sup>

Most Sub-Saharan African nationals, both men and women, interviewed by Amnesty International were seized at home or at checkpoints, not captured in battle. None of those interviewed by Amnesty International wore uniforms or had weapons with them when they were detained. For instance, a group of 14 Nigerian men and 12 Nigerian women arrested together in eastern Tripoli at a checkpoint by a group of armed men – some in civilian clothes and others in military fatigues – on 1 September as they were trying to flee to Tunisia said

that they had been carrying all their belongings at the time of their arrest. All 26, who were interviewed separately by Amnesty International, had Nigerian passports but no residency permits for Libya. They were held together with al-Gaddafi soldiers and loyalists, and with individuals suspected of being “African mercenaries”. One of the women told Amnesty International:

*“All we want is to go home now. It is too insecure for us blacks in this country. I don’t understand why we are held; nobody questioned us or explained anything to us... When we were first brought to this detention centre, we were beaten in the courtyard with sticks all over our bodies.”*

Harsher treatment was reserved for the men in the group, who were beaten with sticks and whips not only on arrival at the detention facility, but also during the night of 6 September, when a group of about six armed men entered their cell, called them “slaves” and dragged them outside for a beating. The detainees showed Amnesty International bruises and scars consistent with their testimonies. The incident was confirmed by cellmates interviewed separately, who said that the Nigerian men were called “mercenaries, killers of Libyans, and al-Gaddafi lovers” by their abusers.

In another case, armed *thuwwar* raided houses in the al-Madina al-Kadima neighbourhood of Tripoli on 26 August. They searched the houses, looking for weapons and money, and then seized dozens of black Libyans and Sub-Saharan African nationals from Chad, Mali, Niger and Sudan. Twenty-six of those taken from their homes that day told Amnesty International that their hands were tied with metal wire and that they were blindfolded. They said they were beaten during the raid, and then at a football club near al-Madina al-Kadima to where they were taken. There, they were forced to lie face-down on the ground and were beaten with rifle butts, sticks and electric wires. When Amnesty International interviewed them some nine days after the beatings, they still had marks consistent with their testimonies. A detainee recounted that his cousin was shot three times while tied, and then driven to an unknown place. His fate and whereabouts remain unknown.

In a similar incident, a group of Malian nationals said that they were kicked and beaten in their home in Tripoli on the morning of 21 August by about a dozen armed *thuwwar*, and then taken by truck to an unknown location where they were stripped and again beaten.

Black Libyans are also at high risk of arbitrary detention. Like Sub-Saharan Africans, they are often automatically assumed to be fighters for or loyal to Colonel al-Gaddafi. They come from towns and regions that include Obari, Sabha and Tawargha, which are assumed to largely support Colonel al-Gaddafi.

A 26-year-old black Libyan detained since 21 August in three different facilities in western Libya told Amnesty International that he was captured by a group of armed men near a mosque in the Abu Salim area of Tripoli, site of the most violent confrontations in the city and widely seen as an al-Gaddafi stronghold. He said:

*“I was seized by a group of thuwwar driving around in pick-up trucks with ‘thuwwar Misratah’ written on them. The pick-up truck had anti-aircraft machinery mounted on it. They put plastic handcuffs on my wrists, and started hitting me with their rifle butts inside the truck. I*

*was first taken to Mitiga [airport detention facility] where I was thrown on the ground and beaten for about an hour with sticks and electric cables. I don't know how many people were hitting me as the punches and beatings kept raining down. They told me: 'You bushra samra [dark skin] will be eliminated, there is no place for you in Libya. Say you killed, or we will kill you.'*"

On 24 August, in a separate incident, a group of *thuwwar* entered a house in Abu Salim where two brothers from Sabha, both in their early twenties, were staying. The brothers said that after searching the house, the *thuwwar* tied their hands behind their backs and then beat them while taking them to Ali Ureit School in the Abu Mashmasha area of Tripoli. The elder brother recounted:

*"They beat us several times using their rifles. They also whipped us. When they transferred us to Mitiga [airport detention facility], they forced us to walk on our knees to the vehicles while they insulted and beat us. They accused us of being mercenaries."*



Detainees at the Ali Ureit School in Tripoli, pictured above, complained of beatings © Amnesty International

## PEOPLE FROM TAWARGHA TARGETED



Tawargha deserted, September 2011 © Amnesty International

People from Tawargha region, who are black Libyans, have been at particular risk of reprisals and revenge attacks by *thuwwar* from Misratah because the region was a base for al-Gaddafi troops when they were besieging Misratah and reminds Misratah residents of serious violations by al-Gaddafi forces. The town of Tawargha was deserted when Amnesty International visited it on 16 September, its residents having fled to various cities across Libya in search of safety.

Amnesty International knows of dozens of people from Tawargha who were taken by armed men from their homes, checkpoints and even hospitals. Many of them were abused during apprehension.

For instance, a 45-year-old man from Tawargha, married with four children, told Amnesty International that at about 10pm on 28 August he and a relative with whom he was shopping were stopped in al-Firnaj area of Tripoli by four armed *thuwwar*, who then took them to the Mitiga Airport detention facility. One told Amnesty International that during the journey there they were threatened and beaten, including with a rifle butt. He said:

*“My only sin is my skin colour... Thuwwar from Misratah warned us to never return home to Tawargha.”*



Burned home in Tawargha, September 2011 © Amnesty International

Two other men from Tawargha, who were being held in a detention facility in Tripoli, told Amnesty International that they were seized at their home in Tripoli on 28 August. One of them, the owner of the house, told Amnesty International that a group of five armed men barged into the house, searched it, and took him and one of his relatives. The other man had fled Tawargha along with 11 other relatives in mid-August. He continued:

*“Those who arrested us called us ‘slaves’ and said that we should go back to Africa because there is no place for us in the new Libya.”*

Another man from Tawargha detained at the same facility told Amnesty International that he was taken at a checkpoint on 21 August by a group of armed men driving in a pick-up truck with “Misratah *thuwwar*” written on it. He told Amnesty International that he was handcuffed with a plastic strip, hit with rifles, especially on his back, and called a “slave and a killer”.

A Tawargha man in his twenties told Amnesty International that he was taken by a group of armed men on 25 August from a street in the Abu Salim area of Tripoli, where he was living. He was thrown into a car and driven around for about an hour until the car stopped at the coast. There, the *thuwwar* put a cable around his neck and pulled it in a mock execution. They also punched his ears. He was eventually taken to the Mitiga Airport detention facility, where he said *thuwwar* frequently beat him with rifle butts and whipped him at night. He was eventually taken to another detention facility.

Internally displaced people from Tawargha were also seized from makeshift camps in Tripoli,

where they had been sheltering since fleeing their homes. According to camp residents, dozens of men were taken by the *thuwwar* on two separate occasions, about 14 in late August and around 70 on 9 September. Witnesses who had moved to another camp in search of safety described the second occasion. They said that during the morning of 9 September, a group of *thuwwar* believed to be from Misratah entered the Mashru' camp in Tripoli, where around 130 families were living. They started firing in the air using anti-aircraft machine-guns and kalashnikov rifles. After ordering the men to gather, they warned: "You should find shelter somewhere else. We are in charge here and we want you out by tomorrow morning. Anybody found here after 10am [tomorrow] will assume his own responsibility." The armed men left taking with them some 70 men and boys as young as 16. Camps residents promptly fled and settled at another camp under the protection of a brigade from Benghazi.

Several people from Tawargha arrested in Tripoli in September were transferred to Misratah for questioning by groups of *thuwwar*. Many were beaten upon arrest and in the first days of detention. At least one person died as a result. Saleh Ahmed Abdallah Haddad, aged 21, died on 15 September in Misratah reportedly as a result of internal bleeding after being beaten and trampled on by his captors. According to his cellmates, several days after beatings left him paralysed from the waist down, he started vomiting blood and he died shortly after being taken to hospital.

## TORTURE AND OTHER ILL-TREATMENT



Detainee in Tripoli shows Amnesty International scars as a result of beatings, September 2011 © Amnesty International

When Tripoli and its suburbs first came under NTC control, captured individuals were detained in makeshift detention centres, including Ali Ureit School and a football club in al-Madina al-Kadima, where detainees were particularly vulnerable to torture and other ill-treatment. There have since been efforts to hold people in official facilities such as Jdeida Prison and Ain Zara Open Prison.

It appears that in general the risk of torture and other ill-treatment decreases after the initial days in detention. However, several detainees told Amnesty International that were still being beaten sporadically and were frequently threatened and insulted. Impunity for such behaviour remains entrenched, and new arrivals are particularly vulnerable to a “welcome” that frequently involves beatings and other abuses. Treatment of detainees seems to largely depend on the guards on duty – detainees say that some guards treat them with dignity, while others abuse them.

Amnesty International welcomes the access granted to the International Committee of the Red Cross to such detention facilities. Nonetheless, the lack of oversight of the facilities by the Ministry of Justice and Human Rights and the General Prosecution increases the risk that abuses will go on unchecked by the central government.

In general, the prison administrators in detention facilities visited by Amnesty International had little legal knowledge or expertise in running detention facilities, and were unfamiliar with international human rights and humanitarian law. With the exception of the Hufra detention facility, none was even keeping up-to-date records of the detainees being held.

Many detainees told Amnesty International that they had been beaten, particularly before being transferred to official detention facilities, including with sticks, whips and rifle butts. Several revealed bruising consistent with their testimonies. Two guards openly admitted to Amnesty International delegates that they had beaten detainees because they would not “confess”. In one office at the entrance of the Hufra detention facility, Amnesty International saw a wooden stick with a rope and a rubber hose nearby. A guard said they would use this stick to tie detainees’ feet (so that they can be beaten on their soles, a torture method known as *falaqa*) but “only to scare” detainees, not to beat them. The guard added that a detainee was threatened in that way the day before and therefore “confessed” that he was a Gaddafi loyalist. At the al-Zawiya detention facility, Amnesty International delegates heard screams and the noise of whipping.

The most frequently reported methods of torture and other ill-treatment included beatings all over the body with belts, sticks, rifle butts and rubber hoses; punching; kicking; and death threats. Before beatings, detainees have been made to lie on the ground, or forced to face a wall or kneel. Two detainees said cigarettes had been extinguished on their flesh. It appears that detainees have been abused to force them to “confess” or to punish them for alleged crimes during the conflict.

Amnesty International interviewed a 17-year-old boy from Chad who was accused of rape and being a mercenary. He was taken from his home in August by a group of armed men who were looking for his relative, a dual Libyan-Chadian national, who was allegedly involved in recruiting foreign fighters for al-Gaddafi forces. The boy said that he was handcuffed, slapped and dragged on the ground when apprehended, and then while detained at a school was punched and beaten with sticks, belts, rifles and rubber cables, mostly on the head, face and back. He said:

*“The beatings were so severe that I ended up telling them what they wanted to hear. I told them I raped women and killed Libyans... Now I am no longer beaten, but every night people are beaten here – both Libyans and foreigners.”*

When Amnesty International interviewed him some two weeks after his beatings, there were still visible scars on his body.

A man from Niger, who was presented by the guards as a “mercenary and a killer”, initially told Amnesty International that he was paid 450 dinars a month to fight and kill for al-Gaddafi. As the interview progressed, the man broke down and explained that he had signed a paper and “confessed” his crimes after being beaten nearly continuously for two days and denied being involved in fighting.



Detainees in Tripoli show Amnesty International their scars © Amnesty International

Beatings are not only reserved for foreign nationals. A 30-year-old Libyan from Tripoli told Amnesty International that he was seized and beaten by a group of armed *thuwwar* in his neighbourhood as he was making his way home. He recounted:

*“As I entered the office [a telecommunication office to where he was initially taken], they immediately started beating me with their fists and with sticks. They accused me of being a supporter of the regime. It is true that my father is known in the neighbourhood as a supporter of al-Gaddafi – but none of us was involved in fighting. Two other detainees held with me – including one Sudanese – were also beaten... Upon arrival here [a detention facility in Tripoli] a guard of the *thuwwar* pulled me by my shirt and he started beating and kicking me. The guards told me: ‘You are a rat. You are no human being’... On about 1 September I was severely beaten by one of the guards – including with the butt of his rifle.”*

The man had extensive bruising when he spoke to Amnesty International delegates.

Another Libyan man, also in his thirties, who was captured in Tripoli by a group of armed *thuwwar* on 25 August on suspicion of killing an anti-al-Gaddafi protester, said that he was tortured for days while he was detained at the Shat al-Ghanshir School. He recounted:

*“The *thuwwar* did not believe me [when I said I didn’t kill the man], and they beat me every day. They used wooden sticks, electric wires and rifle butts. They took me to each classroom where others were detained and ordered other detainees to beat me. They also tied my hands and feet to a bed and kept beating me for hours with a whip and a stick... While handcuffed and blindfolded, they placed a burning candle on my head until it burnt my hair. This was done to stop me sleeping... They did not spare a moment to punish me for a murder that I did not commit. I want justice.”*

Amnesty International observed scars and bluish bruises all over his body, particularly on his back. Other detainees, interviewed separately, confirmed that *thuwwar* had forced them to beat the man.

# DISCRIMINATION IN DETENTION

Conditions in detention were over crowded and unhygienic for all male detainees, but Amnesty International observed noticeable discrimination against Sub-Saharan African detainees in some detention facilities, including the General Offices in Janzur, Ain Zara Open Prison and Jdeida Prison. For instance, Libyan detainees had mattresses to sleep on, while Sub-Saharan African nationals did not.

In addition, family visits, permission for families to bring necessities to their relatives in detention and access to telephones were granted to some detainees at the whim of guards or prison officials. Discrimination in such cases appeared to be on the basis of the family connections of detainees and their personal relationship with guards.

## WOMEN IN DETENTION

At detention centres in al-Zawiya, Tripoli (including Tajura) and Misratah, Amnesty International delegates interviewed 49 women and one girl: 21 Libyans, 27 Nigerians and one Gambian. The women from Sub-Saharan Africa said that they had been seized from the street or their homes without proof of their involvement in fighting. The Libyans said that they were mostly “volunteers” who had responded to calls to support Colonel al-Gaddafi’s government; several had worked at checkpoints alongside Revolutionary Guards. Many of the Libyan women interviewed were heads of households and were struggling to make ends meet.

Although the female detainees reported less abuse than their male counterparts, some said that they had been sexually fondled by male *thuwwar* during transfers or by guards, and had been slapped across the face and insulted by some guards. Two of the women interviewed said that they had been raped by unidentified men before being detained.

All of the women complained about the absence of formal investigations and charges, and about their lack of understanding for the reason for their detention. All wanted to be brought before a judicial authority without further delay. One woman said that she had been coerced and intimidated into falsely confessing to killing NTC fighters.

Amnesty International is concerned about the absence of female guards in all detention facilities apart from al-Zawiya. Under the UN Standard Minimum Rules for the Treatment of Prisoners, women prisoners are to “be attended and supervised only by women officers”.

## ABSENCE OF LEGAL PROCESS

At the time of writing in mid-September, people were still all being detained without an order from the judicial police or General Prosecution. Detainees, including civilians, have no opportunity to challenge the legality of their detention and are not granted access to lawyers. Trial proceedings have been suspended since the beginning of the unrest, even in areas that fell under the control of the NTC in February.

For the most part, criminal investigations into alleged crimes and decisions to detain people fall within the remit of various committees and individuals – some without any legal expertise – with no co-ordination and oversight and, in some case, little or no involvement by the General Prosecution. Some detainees told Amnesty International that they were forced to sign or thumb-print statements without being allowed to read them.

On 5 September, Khalifa Jahmi of the Ministry of Justice and Human Rights told Amnesty International that in the coming period investigations will be conducted by members of the judicial police, who will then refer cases to the General Prosecution or the Military Prosecution, as appropriate. He said that individuals, including soldiers, facing criminal charges will be given fair trials and all others will be released.

Later on 15 September the newly appointed head of the Supreme Security Committee, Abdelmajid Saif al-Nasr, told Amnesty International that a justice committee – comprising a judge, a prosecutor and a member of the judicial police – will be established with the mandate to issue detention orders, investigate alleged crimes, and make decisions. Since then, a committee has been established headed by the General Prosecutor, and some releases have taken place. The interface between this committee and the regular criminal justice system remains unclear. Several officials also referred to plans to establish a sub-committee under the Supreme Security Committee mandated to address detention concerns and conduct unannounced visits to detention facilities.

A commitment to improve prison conditions and ensure a functioning justice system was reiterated by the Acting Minister of Justice, Mohamed al-Allagi, and the Acting Deputy Prime Minister, Ali Tarhouni, in early September.

The vast majority of detainees interviewed by Amnesty International have either never been questioned or have been questioned only by prison officials or *thuwwar*. Two detainees in Ain Zara Open Prison and al-Zawiya detention facility told Amnesty International that they had appeared before the judicial police and the prosecution, respectively. However, in both cases, the detainees said that orders to release them were not implemented by the *thuwwar* physically detaining them. Officials recognized that in addition to reforming the justice system, a key challenge for the NTC will be to ensure the proper functioning of the security and law enforcement apparatus, to guarantee that decisions by the judicial authorities are respected and implemented.

# LIBYA'S OBLIGATIONS UNDER INTERNATIONAL AND DOMESTIC LAW

The NTC has publicly promised to respect Libya's obligations under international human rights law.<sup>4</sup> As a state party to the International Covenant on Civil and Political Rights (ICCPR) and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Libyan authorities must prevent torture, investigate whenever there are reasonable grounds to suspect acts of torture and other ill-treatment have occurred – even when no official complaints have been made, bring those responsible to justice, and provide reparation to victims.

The authorities are also required to take concrete measures to prevent torture and other ill-treatment, including by granting independent bodies the right to monitor the situation of detainees in all prisons and other places of detention.

As a state party to the ICCPR, Libya is obliged to prevent arbitrary arrest and detention and to allow anyone deprived of their liberty an effective opportunity to challenge the lawfulness of their detention before a court (Article 9 of the ICCPR). It must ensure that those arrested are promptly informed of any charges against them. Those charged must be brought before the judicial authorities within a reasonable time. Libya's Code of Criminal Procedure sets 48 hours as the limit for referring suspects to the General Prosecution, extending the limit to seven days for "offences against the state".

Some safeguards against torture, arbitrary arrest and detention are included in Libyan law. For instance, Article 14 of Law No. 20 of 1991 on the Promotion of Freedoms stipulates: "No one can be deprived of his freedom, searched or questioned unless he has been charged with committing an act that is punishable by law, pursuant to an order issued by a competent court, and in accordance with the conditions and time limits specified by law". Other safeguards include the requirement for security officers to hold a warrant from the competent authority when arresting or detaining a suspect (Article 30 of the Code of Criminal Procedure), the requirement to detain suspects only in "prisons designed for that purpose" (Article 31), and the right of detainees to challenge the legality of their detention (Article 33).

As long as the armed conflict continues, the Libyan authorities are also bound by their obligations under international humanitarian law, which provides fundamental guarantees for civilians, as well as fighters or combatants who are captured, injured or otherwise rendered unable to fight (*hors de combat*). Between them, common Article 3 and other provisions of the 1949 Geneva Conventions, the 1977 Protocols and customary international humanitarian law provide, among other things, the following fundamental rules applicable to all sides in all types of armed conflict:

- people to be treated humanely at all times;
- prohibition of discrimination in the application of the protections provided by

international humanitarian law;

- prohibition of torture, cruel or inhuman treatment and outrages on personal dignity (particularly humiliating and degrading treatment);
- prohibition of arbitrary detention;
- no one may be convicted or sentenced except pursuant to a fair trial affording all essential judicial guarantees; and
- prohibition of collective punishments.

# CONCLUSIONS AND RECOMMENDATIONS



Poster in Benghazi: “Yes to a country of law and institutions” © Amnesty International

The NTC faces considerable challenges in its efforts to reform the judicial system and control the numerous armed militias that have largely taken the law into their own hands. In a period of transition, it is imperative that the NTC firmly demonstrate its commitment to turning the page on decades of gross and systematic violations in Libya. It must uphold human rights in Libya and exercise the necessary political will to investigate abuses committed by anti-Gaddafi forces, prosecute those responsible, and ensure that individuals found guilty of abuses are held to account for their actions and removed from positions that would allow them to repeat such abuses. The NTC must also send a strong signal to its supporters – including through further public appeals – and to the public at large that torture and other ill-treatment will not be tolerated and that the same human rights standards will be applied to its supporters and its opponents.

To stop abuses of detainees, Amnesty International calls on the NTC to implement the following recommendations as a matter of priority:

**Arrest and detention**

- Issue clear orders not to apprehend suspects without arrest warrants issued by the General Prosecution.
- End arbitrary arrests and detentions immediately, and ensure that no one is deprived of their liberty except in accordance with procedures and on grounds prescribed by law.
- Ensure that all those detained are given an opportunity to challenge the lawfulness of their detention before a court or are released.
- Ensure that release orders by the General Prosecution and other judicial authorities are respected.
- Establish clear structures and procedures for policing and the detention of captured soldiers and criminal suspects.
- Place all detention facilities under the oversight of the General Prosecution and the Ministry of Justice and Human Rights.
- Ensure that civilian detainees have prompt access to their families and lawyers.
- Facilitate communication for captured soldiers with their families and ensure they are granted access to the International Committee of the Red Cross.
- Ensure that female detainees are supervised by female guards.
- Ensure that children are held in appropriate facilities and that unaccompanied children are not held with adult detainees.

**Torture and other ill-treatment**

- Ensure that all those detained by *thuwwar* and other forces loyal to the NTC are treated humanely, receive necessary medical treatment, and are protected from torture and other ill-treatment.
- Ensure that detainees undergo medical examinations when transferred to official detention centres and are provided with medical certificates describing any injuries.
- Take immediate steps to identify any survivors of sexual assault in detention and provide them with access to appropriate psychological and medical treatment, including for sexually transmitted diseases, and to emergency contraception.
- Ensure that prompt investigations are conducted into all known or reported cases of torture and other ill-treatment. Such investigations should be impartial and independent, and conducted by individuals with expertise in investigating such cases; if necessary, international assistance should be sought. Suspected perpetrators of such crimes should be brought to justice in proceedings that meet international standards for fair trial.
- Publicly condemn torture and other ill-treatment of detainees and the targeting of Sub-

Saharan Africans and black Libyans, including in forums widely accessible to Libyans such as national television and radio.

- Take steps to counter racism, xenophobia and discrimination against individuals with dark skin, including by acknowledging that reports on the use of African mercenaries by Colonel al-Gaddafi were widely exaggerated and by celebrating the diverse ethnic make-up of Libya and the positive contribution of migrants, including from Sub-Saharan Africa.

## ENDNOTES

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<sup>1</sup> Amnesty International, *The Battle for Libya: Killings, disappearances and torture* (Index: MDE 19/025/2011), 13 September 2011: <http://www.amnesty.org/en/library/info/MDE19/025/2011/en>

<sup>2</sup> National Transitional Council, "Response to Amnesty Report on Libya", 13 September 2011.

<sup>3</sup> See *The Battle for Libya: Killings, disappearances and torture*.

<sup>4</sup> NTC, "A vision of a democratic Libya": <http://www.ntclibya.org/english/libya/> (accessed 27 July 2011.)





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## DETENTION ABUSES STAINING THE NEW LIBYA

Militia fighting against Colonel Mu'ammr al-Gaddafi have detained about 2,500 people in the capital Tripoli and surrounding areas since taking control of these areas in late August 2011. Detainees have been held in former prisons as well as in schools, homes, sports clubs and other detention centres not overseen by the Ministry of Justice and Human Rights. Most have been held without legal orders and many have been beaten and otherwise ill-treated, especially in the first days of detention. Black Libyans and Sub-Saharan Africans have been particularly targeted and generally face worse treatment in detention.

The new Libyan authorities – the National Transitional Council (NTC) – face numerous challenges in their efforts to gain control of Libya and to rein in various militia, some of them operating independently. The NTC has promised to respect international human rights law, and has called on its supporters to treat captives with dignity and to avoid revenge attacks. In this report, which is based on extensive research conducted in Libya in August and September 2011, Amnesty International urges the NTC to take urgent and concrete measures to translate these pledges into reality, including by investigating abuses by its supporters as well as by al-Gaddafi forces, and bringing the perpetrators to justice.

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