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Amnesty International Concerns Regarding Risk of return to Libya

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Amnesty International is concerned that upon return to Libya, certain individuals could be at risk of arbitrary detention and possibly torture.

Amnesty International has no detailed information on cases of torture from this year although it has received information about politically-motivated arrests and detentions, including of returnees who had been given assurances by the Libyan authorities that their safety would be guaranteed on return. In the past, however, Amnesty International has documented a pattern of incommunicado detention, often accompanied by torture, and of unfair trials before special courts.

In the majority of cases of forcible return which Amnesty International has monitored 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 of the individuals' circumstances. In several cases Amnesty has received confirmed information that the forcibly returned person was subjected to serious human rights violation including torture.

It continues to be true 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) in Libya, who could monitor cases of returnees. A climate of fear in Libya continues to prevent victims of human rights violations or their relatives from communicating information to the outside world, as they would be at risk of retaliation by the authorities.

Opposition political activity, including the non violent expression of conscientiously held beliefs is not tolerated within Libya and is forbidden outside official structures.

In 27 April 2004¹ Amnesty International reported,

¹MDE 19/002/2004, *Libya: Time to make human rights a reality*, 27 April 2004

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The Libyan authorities have publicly announced that they encourage Libyans in exile to return to the country(31), and that they would be able to resume a normal life upon return. Al-Sadeq Krimah, deputy head of the International Relations and Cooperation Department (also known as the External Security Agency, an intelligence apparatus), told Amnesty International in February 2004 that the External Security Agency had facilitated, in cooperation with the Gaddafi International Foundation for Charitable Associations, the return of Libyan nationals from countries such as Afghanistan, Pakistan and Yemen. Al-Sadeq Krimah assured delegates that scores of Libyan nationals had returned to Libya in recent years without being arrested or detained after their return.

Amnesty International delegates interviewed some of the returnees. They stated that they were usually not detained upon arrival, but were summoned for questioning by the External Security Agency. Although they have to some extent succeeded in resuming a normal life, they faced financial difficulties and continued to be under close surveillance, usually by officers of the Internal Security Agency. One of them said to Amnesty International that he had shaved his beard for fear of being arrested as part of the policy against those the authorities describe as "heretics".

Amnesty International is concerned by the fate of others who have returned to Libya and have been subjected to arbitrary arrest and detention. It is particularly disturbing to note that some Libyan nationals were arbitrarily detained upon arrival despite assurances they had received that they would be safe and able to resume a normal life.

On 2 May 2002 **Mustapha Muhammad Krer**, a Libyan national with Canadian citizenship, travelled to Libya after an absence of some 15 years. He was arrested on arrival and has been detained ever since. He initially travelled to Malta, where he was reportedly assured by members of the Libyan security forces and officials from the Libyan People's Bureau (the Libyan Embassy) in Malta that he would not be arrested on his return. Both his ticket and travel documentation were apparently provided by the Libyan People's Bureau in Malta.

On arrival at Tripoli airport, he was reportedly detained for questioning, initially in the airport and later by members of the Internal Security Agency. He has been held in 'Ayn Zara Prison for most of his detention. He first saw a lawyer on 15 March 2004, nearly two years after his arrest, when he appeared for the first time before the People's Court. He is charged alongside scores of others in connection with his alleged affiliation to the Libyan Islamic Fighting Group(32). He denies the accusations against him.

Mustapha Muhammad Krer had left Libya in 1989 after apparently being sought by the Libyan authorities and following the arrest of his brother, al-Mukhtar Muhammad Krer. He reportedly chose to return to Libya after his family was informed by the Libyan authorities in mid-April 2002 of the death in custody of al-Mukhtar Muhammad Krer.

At least three Libyan nationals were arrested and arbitrarily detained upon arrival after being returned from Sudan to Libya at the end of 2002. **'Abd al-Mun'im 'Abd al-Rahman, Muhammad 'Abd al-Hamid Rashid al-Jazawi** and **Isma'il 'Umar Jibril al-Lawati** were arrested and detained in September 2002 in Sudan and fined for illegal residency there. They were then ordered to leave the country. When Amnesty International delegates met the three men in Abu Salim Prison in February 2004, they reported that Sudanese officials had promised them a safe return to Libya after they had apparently received guarantees from the Gaddafi International Foundation for Charitable Associations and the Libyan People's Bureau in Khartoum. On 17 October 2002 the three men and their families were sent to Libya. Upon arrival in Tripoli, they were immediately separated from their families, blindfolded, handcuffed and reportedly held by officers of the External Security Agency.

In October 2005² Amnesty International reported that Mahmoud Mohamed Boushima returned voluntarily to Libya on 10 July 2005 from the UK, where he has been resident since 1981 due to his opposition to the Libyan government. He returned after reportedly receiving assurances from the Libyan authorities that he would not be at risk in Libya; however, soon after his arrival he was detained in Tripoli by members of the Internal Security Agency, Libya's secret police. Since then, Amnesty international understands that his family has been permitted no contact with him and have not been able to ascertain his place of detention, whether any charges are to be brought against him or whether he has access to a lawyer, or regarding his treatment in detention.³

Our International office has identified a number of factors which may put an individual at risk upon return;

- Those with personal or family ties or even perceived ties to Libyan political opposition groups;
- public opposition outside Libya;
- ties to fundamentalist Islamic religious groups; 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. 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. In Libya people affiliated with Islamist organizations are at risk of human rights violations, including arbitrary detention, unfair trial and torture. 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
- illegal exit, overstaying a visa, expired passport. Our international office informs us that an expired passport may cause the Libyan authorities at the

² AI Index: EUR 45/046/2005, *United Kingdom: Deportation of terror suspects Libya*, 20 October 2005

³ AI Index: EUR 45/046/2005, *United Kingdom: Deportation of terror suspects Libya*, 20 October 2005

airport to suspect that an individual has made a refugee claim. In the eyes of the Libyan government, making a refugee claim is an act of opposition, and any government opponent is at risk of arbitrary detention and torture.

- **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.

The following laws, which severely restrict the rights to freedom of expression and association, have been used to repress those suspected of being opposed to or critical of the current political system.

- **Law 71 of 1972** bans any form of group activity based on a political ideology opposed to the principles of al-Fateh Revolution of 1 September 1969. Article 3 of Law 71 provides for the death penalty for forming, joining or supporting groups prohibited by law.
- **Article 206 of the Penal Code (Law 48 of 1956)** provides for the death penalty for those who call "*for the establishment of any grouping, organization or association proscribed by law*", and even for those who belong to or support such an organization.
- **Article 208**, which bans forming or joining an international association, states that "*The punishment is imprisonment for whoever sets up, establishes, organizes or directs international non-political organizations, associations or bodies, or a branch thereof, without government authorization, or where such authorization is based on false or insufficient information.*"
- **Article 178** prescribes life imprisonment for the dissemination of information considered to "*tarnish [the country's] reputation or undermine confidence in it abroad.*"
- **Article 207** states that "*The punishment is execution for whoever spreads within the country, by whatever means, theories or principles aiming to change the basic principles of the Constitution or the fundamental structures of the social system or to overthrow the state's political, social or economic structures or destroy any of the fundamental structures of the social system using violence, terrorism or any other unlawful means.*"
- The draft Penal Code contains specific provisions providing harsh punishments, including capital punishment, for undertaking peaceful social or political activities.
- **Article 152** imposes imprisonment on any Libyan national, who while abroad publishes news or rumours constituting lies or exaggeration or creates disturbances about the internal situation in Libya in a way that harms its reputation or shakes the confidence in it or carries out an activity that in any way harms the interests of the country.

- **Article 164** imposes imprisonment on anyone who seeks to undermine the reputation of the goals of the Revolution or defames its Leader, as well as anyone who insults public authorities or the Libyan people.
- **Article 167** imposes imprisonment on anyone who spreads rumours against the governing system or who demonstrates in protest against the governing system. Terms used in this section of the law include "spreading rumours" and "insult."
- Amnesty International is concerned that individuals can be charged under Articles 2 and 3 of Law 71 of 1972 and Article 206 of the Penal Code. Law 71 bans any form of group activity based on a political ideology opposed to the principles of al-Fatih Revolution of 1 September 1969. Article 3 of Law 71 and Article 206 of the Penal Code state that "execution" is the punishment for those who call "for the establishment of any grouping, organization or association proscribed by law", and even for those who belong to or support such an organization.