

## **Amnesty International**

# **LIBYAN ARAB JAMAHIRIYA BRIEFING TO THE UN HUMAN RIGHTS COMMITTEE**

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### **Introduction**

Amnesty International submits this summary of concerns for the consideration of the Human Rights Committee (HRC) at the pre-sessional meeting in July 2007 in connection with its upcoming examination of the Libyan Arab Jamahiriya's (Libya's) fourth periodic report on implementation of the International Covenant on Civil and Political Rights (ICCPR). This briefing summarizes some of Amnesty International's concerns during the period since Libya's last examination by the HRC in October 1998, as documented in the organization's public material, in particular the report *Libya: Time to make human rights a reality* (AI Index: MDE 19/002/2004), April 2004, and the public statement *Libya: Six foreign medics should be released* (AI Index: MDE 19/002/2007), 30 January 2007. It also provides updates on issues which appear in the documents and information on developments not covered by them. For ease of reference the two documents are enclosed. The organization highlights in particular its concerns about the failure of the state party to fully comply with its obligations under Articles 2, 6, 7, 9, 10, 13, 14, 19, 21 and 22 of the ICCPR.

### **Arrest and detention procedures**

**Articles 9**

#### ***Legal framework***

The Libyan government's report to the HRC sets out in paragraphs 12 some of the legal safeguards regarding arrest, detention and trial existing in the Great Green Charter of Human Rights of the Jamahiriyan Era, adopted in June 1988, and Law No. 20 of 1991 on the Promotion of Freedom, "regarded as a kind of basic law". As the report says, the Criminal Procedure Code "establishes the procedures with which law enforcement officers (the police, others vested with similar functions similar to prevailing laws, and the Department of Public Prosecutions) must comply".

According to Article 26 of the Criminal Procedure Code, in most circumstances, "the officer must promptly hear the accused person's statement and, if the accused person says nothing that proves his innocence, must refer him, within 48 hours, to the Department of Public Prosecutions which must question the accused within 24 hours and then issue an order for his detention or release". According to the same article, law enforcement officers may hold individuals suspected of offences against the state, such as undermining state security, for a longer period of seven days before referring them to the Department of Public Prosecutions. Paragraph 13 of the Libyan government's report indicates that the same period applies to those accused of certain drug offences.

Again according to Article 26 of the Criminal Procedure Code, the Department of Public Prosecutions "must question the accused within 24 hours and then issue an order for his detention or release". The detention order is valid for six days (Article 175). Paragraph 13 of the Libyan government's report indicates that a longer period of 30 days applies to those accused of certain drug offences and that extensions of up to 45 days can then be sought from

the competent court “until the investigation is concluded”. Other provisions regulating the length of preventive detention are found in Articles 122, 123 and 176 of the Criminal Procedure Code. Suspects have the right to be informed of the charges against them on their first appearance before the examining magistrate (Article 105) and not to be questioned without legal counsel unless the suspect has been caught *in flagrante delicto* or unless there is a fear that evidence will be lost (Article 106).

The Criminal Procedure Code also includes safeguards concerning: the need for security officers to hold a warrant from the competent authority when arresting or detaining a suspect (Article 30); the requirement to detain suspects in prisons designed for that purpose (Article 31); and the right of detainees to challenge the legality of their detention (Article 33). In addition, Article 53 of Law No. 47 of 1975 on prisons provides the right to lawyers to visit their clients in custody.

### ***Incommunicado detention***

In theory, the legal guarantees outlined above provide reasonable protection to suspects. In practice, however, they are routinely flouted, particularly in the case of political detainees. At the heart of a series of violations lies the widespread practice of prolonged incommunicado detention. For periods of weeks or months, and in some cases even years, detainees in Libya have been held, often without charge, with little or no contact with the outside world, putting them at serious risk of torture and other ill-treatment. During this period, their families and legal counsel usually do not know where they are being held. In the majority of political cases, detainees are held by the Internal Security Agency, which reports to the General People’s Committee for Public Security, in what appear to be their own places of detention.

The majority of the cases of political detainees referred to in this briefing involve such concerns. Fathi al-Jahmi has been held in an undisclosed location, reportedly a special facility of the Internal Security Agency on the outskirts of Tripoli, since his arrest in March 2004. He has had only irregular contact with his family during this time and reportedly allowed no visits from them since August 2006. Abdurrazig al-Mansouri was, after arrest in January 2005, reportedly held for over three months without charge in an undisclosed location believed to be a facility of the Internal Security Agency and denied access to his family or lawyer. Idriss Boufayed and 11 others arrested in February 2007 were reportedly held for over two months by the Internal Security Agency without access to their families or lawyers and without being informed by a judicial authority of the charges against them. For details on other cases, see Section 2.2 of Amnesty International’s report *Libya: Time to make human rights a reality* (AI Index: MDE 19/002/2004), April 2004. Opinions No. 13/2005 and No. 27/2005 of the UN Working Group on Arbitrary Detention, which concluded that two individuals, respectively Abdenacer Younes Meftah Al Rabassi and Muhammad Umar Salim Krain, were being detained arbitrarily, point to similar violations of legal procedures.

The UN Working Group on Arbitrary Detention made a request to visit Libya in January 2003, but, to Amnesty International’s knowledge, is yet to receive a positive response from the authorities.

## **Prohibition of torture and cruel, inhuman or degrading treatment or punishment**

**Articles 7, 10**

### ***Legal framework***

Article 2 of the Great Green Charter of Human Rights of the Jamahiriyan Era states:

“Jamahiriyan society prohibits any and all injuries, whether physical or moral, against the person of a prisoner. It condemns any and all speculations and experiments, whatever their nature, to which he might be subjected.”

Article 17 of Law No. 20 of 1991 on the Promotion of Freedom states:

“It is prohibited to inflict any form of corporal or psychological punishment on the accused, or to treat him with severity or degradation, or in any manner which is damaging to his dignity as a human being.”

According to the Libyan Penal Code, torture is considered a crime. Article 435 stipulates that “Any public official who orders the torture of the accused or tortures them himself is punished by a prison term of three to 10 years.” However, Libyan legislation does not define the crime of torture or make explicit that it is absolutely prohibited under all circumstances.

### **Political detainees**

Amnesty International has received dozens of allegations of torture or other ill-treatment against political detainees in recent years. From the testimonies collected by Amnesty International, it appears that if a detainee “confesses” quickly, they are usually subjected to light beatings or other forms of ill-treatment. However, if a detainee refuses to “confess”, torture may be used in order to extract a “confession”. The most frequently reported techniques are beatings with electric cables, beatings on the soles of the feet (*falaqa*), the use of electric shocks and being suspended by the arms.

For details on allegations of torture against dissidents arrested in February 2007, see the case of Idriss Boufayed and 11 others in the section on “Freedom of expression and assembly” below. For details on allegations of torture in the case of the five Bulgarian nurses and Palestinian doctor arrested in 1999 and sentenced to death for a second time on 19 December 2006 and that of members of the Muslim Brotherhood arrested in 1998, see Section 2.3 of Amnesty International’s report *Libya: Time to make human rights a reality* (AI Index: MDE 19/002/2004), April 2004. See also Amnesty International’s public statement *Libya: Six foreign medics should be released* (AI Index: MDE 19/002/2007), 30 January 2007.

In some cases, the conditions in which political detainees are held may amount to ill-treatment. A medical assessment of Fathi el-Jahmi conducted in Tripoli in February 2005 by a medical doctor and prison health expert sent by Physicians for Human Rights and the International Federation of Health and Human Rights Organisations reported that his isolated confinement and sporadic and inadequate treatment constituted cruel, inhuman and degrading treatment (see case of Fathi el-Jahmi in the section on “Freedom of expression and assembly” below).

### **Migrants, asylum-seekers and refugees**

In recent years, there have been persistent allegations of migrants, asylum-seekers and refugees being exposed to torture and cruel, inhuman and degrading treatment on arrest or in detention. Between February and May 2007, the organization received reports concerning several hundred foreign nationals, including dozens of minors, who were held in detention centres in Misratah, some 200km east of the capital Tripoli, and al-Marj, some 1,000km east of Tripoli. Sources from inside the centres alleged that conditions did not meet international human rights standards, with reports of poor hygiene and a shortage of food and medical treatment. Several of the detainees were said to be pregnant women, who reportedly had to pay bribes to receive adequate drinking water.

Amnesty International has received recent reports indicating that dozens of Eritrean nationals, some of whom are believed to be individuals who have fled Eritrea for fear of persecution on account of their political beliefs, are being held in Misratah, some 200km east of the capital Tripoli, and al-Marj, some 1,000km east of Tripoli, and are currently at risk of deportation. To the organization's knowledge, they have not been allowed access to UNHCR officials in Libya. Some reports also indicated that an Eritrean government representative was allowed to enter the detention centre in Misratah in February 2007 and speak to Eritrean detainees to try to persuade them to sign papers that would facilitate their deportation. Allegedly none of the detainees agreed to do so and were punished by the prison guards as a result. Sources from inside the detention centre indicated that the punishment included beatings with iron rods, death threats and, in several cases, sexual abuse against women detainees. (See also section on "Protection against arbitrary detention" below.)

### ***A context of impunity***

The General People's Committee for Foreign Liaison and International Cooperation has told Amnesty International that any allegations of torture or ill-treatment received by the Department of Public Prosecutions are investigated and the suspect perpetrators brought to justice. In a communication dated 23 February 2006, it said that, during the year 2004, "43 cases of alleged torture were investigated" and that "48 defendants were referred to court accordingly". It pointed out that "it is worth mentioning that some individuals allege that they were tortured to escape punishment." However, no more details were provided and Amnesty International is not aware of similar figures for other recent years.

In all the cases known to Amnesty International, the only one in which the organization is aware that investigations have been carried out and suspected perpetrators prosecuted in connection with alleged torture or ill-treatment is that concerning the five Bulgarian nurses and Palestinian doctor arrested in 1999 and sentenced to death for a second time on 19 December 2006. The medics have repeatedly testified that they were tortured in pre-trial detention in 1999 to force them into making "confessions". (For further details, see Amnesty International's public statement *Libya: Six foreign medics should be released* (AI Index: MDE 19/002/2007), 30 January 2007.) Amnesty International has a number of concerns regarding the investigation, the prosecution and subsequent events.

Eight members of the security forces and two others, a doctor and a translator, were tried in connection with the allegations of torture against the health professionals and acquitted in 2005. However, in Amnesty International's view, the investigation and trial proceedings were irregular. Firstly, the investigation into the allegations of torture was not adequately conducted. On the one hand, the medical examinations of the medics were ordered only some three years after the alleged acts of torture were committed. On the other, the evidence of a Libyan doctor appointed by the prosecutor, who said that they found traces on the medics' bodies resulting from "physical coercion" or "beatings" or both, was successfully refuted in court without the medics being re-examined by a doctor. Secondly, the right of the medics to counsel of their choice was violated. Foreign lawyers acting on behalf of the Bulgarian nurses did not have access to their file, could not meet them despite repeated demands and were not able to obtain visas to attend key hearings of the trial in Libya during May 2005.

In 2007, four of those tried and acquitted in connection with the torture allegations filed complaints that the six health professionals had falsely accused them of torture. They demanded compensation equivalent to several million US dollars each for the distress caused by the accusations. On 11 February 2007 the six medics were brought before a court in Tripoli charged with defamation and faced maximum penalties of several years' imprisonment. Amnesty International does not have the full details of the complaints, but understands that they related mainly to statements made by the medics during their second

trial in 2006, when they reaffirmed statements made before and during their first trial, which ended in 2004, that they had been tortured in custody to force them to “confess”. The plaintiffs’ reportedly claimed that, since they had been acquitted of the torture charges, the medics’ continuing allegations amounted to defamation. The medics were acquitted of the defamation charges on 27 May 2007, but the plaintiffs have reportedly appealed against the verdict.

Amnesty International is concerned that the defamation case brought against the medics amounted to a form of intimidation. The Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, recommended to governments by UN General Assembly resolution 55/89 of 4 December 2000, states: “Alleged victims of torture or ill-treatment... shall be protected from violence, threats of violence or any other form of intimidation that may arise pursuant to the investigation.”

Furthermore, this case risks having wider implications. To Amnesty International’s knowledge, only a tiny proportion of victims who allege that they were tortured in custody by Libyan security personnel make formal complaints. The organization is concerned that the threat of prosecution for making such allegations, coupled with the risk of being exposed to an unfair trial, will further dissuade people from doing so and reinforce impunity for such crimes.

The UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment made requests in 2005 and 2007 to visit Libya, but, to Amnesty International’s knowledge, is yet to receive a positive response from the authorities.

### ***Corporal punishment***

Corporal punishments provided by law remain in force. Amnesty International has received information that corporal punishments, including the amputation of the right hand and the left foot, have been carried out in recent years. For further details, see Section 2.3 of Amnesty International’s report *Libya: Time to make human rights a reality* (AI Index: MDE 19/002/2004), April 2004.

## **Protection against arbitrary expulsion**

### **Article 13**

In recent years, the government has arrested and forcibly returned tens of thousands of foreigners who are suspected of having entered the country illegally. In November 2006, on the occasion of a Euro-African conference on migration and development held in Tripoli, the Libyan authorities announced that they had significantly increased repatriations of migrants. They said they had deported 64,430 irregular migrants so far that year, compared to figures of 47,991 and 4,947 for 2005 and 2004 respectively. Many are migrant workers, but the authorities appear to make little attempt to differentiate between migrants, refugees and asylum-seekers.

In terms of the legal framework, Libya is a party to the 1969 Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa. Article 11 of Libya’s Constitutional Declaration of 1969 states that “The extradition of political refugees is prohibited.” Article 21 of Law No. 20 of 1991 on the Promotion of Freedom states that:

“The Great Jamahiriya is a refuge for oppressed people and those struggling for freedom and, therefore, refugees seeking protection may not be surrendered to any authority.”

However, Libya is not a party to the 1951 Convention related to the Status of Refugees or its 1967 Protocol. Although the UN High Commissioner for Refugees (UNHCR) has an office in Tripoli and on 26 February 2007 announced that it had received a pledge of support from the chairman of a Tripoli-based organization known as the International Organization for Peace, Care and Relief, it still has not, to Amnesty International's knowledge, signed a cooperation agreement for a formal UNHCR presence in the country. In practice, therefore, those wishing to present an asylum claim to UNHCR have little opportunity to do so. In national legislation, there are no procedures which would allow asylum-seekers to present an application for recognition of their refugee status by the Libyan authorities.

There are continuing concerns about the nature of deportations by the Libyan authorities. According to Amnesty International's information, those suspected of entering the country illegally are deported collectively without access to a lawyer or adequate translation facilities, without an assessment of their individual cases and without the opportunity to appeal the decision to deport them.

In some cases, Amnesty International is concerned that the deportations constitute acts of *refoulement* to countries where the individuals may be at risk of torture or other serious human rights violations. Of particular concern in recent years has been the deportation of hundreds of Eritreans, some of whom have faced persecution on their return. On 21 July 2004, the Libyan authorities deported some 110 Eritrean nationals, most of them asylum-seekers fleeing from military conscription, reportedly at the request of the Eritrean authorities. On arrival in Eritrea, they were reportedly arrested, detained incommunicado and tortured in secret military prisons. On 27 August 2004, the Libyan authorities attempted to deport a further 75 Eritrean nationals, including six children. Claiming that they were afraid of the risks they might face on return, some of the passengers hijacked the plane taking them to Eritrea and forced it to land in Sudan. Sixty of the passengers sought and obtained refugee status from UNHCR in Sudan. UNHCR made a statement on 21 September 2004, in which it said:

“The group [of 60 asylum-seekers interviewed by UNHCR] said that they had been detained without charges for a prolonged period of time in the Libyan town of Kufra, and had endured repeated physical abuse. They also said that, despite their request to see UNHCR, they had not been given access to any asylum procedure. Additionally, the group was never informed of the decision to deport them to Eritrea, were forced to board a special charter flight, and only found out after their plane took off that the destination was their country of origin.”

It went on to note:

“The deportation of potential refugees from Eritrea on 27 August constitutes a severe violation of the OAU Convention and clearly goes against the norms of international protection and the principle of *non-refoulement*.”

Between February and June 2007 Amnesty International received reports indicating that dozens of Eritrean nationals, some of whom are believed to be individuals who have fled Eritrea for fear of persecution on account of their political beliefs, were being held in Misratah, some 200km east of the capital Tripoli, and al-Marj, some 1,000km east of Tripoli, and were at risk of deportation. To the organization's knowledge, they had not been allowed access to UNHCR officials in Libya. Some reports also indicated that an Eritrean government representative was allowed to enter the detention centre in Misratah in February 2007 and speak to Eritrean detainees to try to persuade them to sign papers that would facilitate their deportation. The detainees allegedly all refused to do so and were punished by the prison guards as a result. Sources from inside the detention centre indicated that the punishment included beatings with iron rods, death threats and, in several cases, sexual abuse against

women detainees. (See also section on “Prohibition of torture and cruel, inhuman and degrading treatment or punishment” above.)

## **Trial procedures**

### **Article 14**

#### ***Special courts***

In an important and welcome move, the People’s Court, a special court before which many political suspects had received grossly unfair trials in previous years, was formally abolished in January 2005. The authorities announced that all cases being tried before the People’s Court at the time of its closure, either at first instance or on appeal, would be transferred to ordinary criminal courts, but have not since published figures on the number of cases affected.

Some cases on which the People’s Court had handed down a final ruling were subsequently reviewed by the Supreme Court. The case of the 86 individuals arrested in 1998 and convicted of affiliation with the Muslim Brotherhood is one such example (see section on “Freedom of association” below). However, the authorities have not published information on the number of people who were convicted by the People’s Court in previous years and who remain in prison without the possibility of having their cases reviewed. Amnesty International is concerned that hundreds of individuals may be in such a situation and that, given that their trials before the People’s Court were likely to have been grossly unfair, continue to be imprisoned on the basis of unsafe convictions. For further details on concerns about trials before the People’s Court, see Section 2.4 of Amnesty International’s report *Libya: Time to make human rights a reality* (AI Index: MDE 19/002/2004), April 2004.

In addition, Amnesty International has received reports that an ad hoc court was established to try some of the cases previously examined by the People’s Court. One such case was that of the Muslim Brothers, which was retried after being reviewed by the Supreme Court. Information received by Amnesty International indicated that the trial was being conducted at an ad hoc court in the grounds of the Police Academy in Tripoli, where the People’s Court used to convene, and that the presiding judge had been transferred from the People’s Court. However, in a communication dated 26 July 2006, the Libyan authorities told Amnesty International that the trial had not taken place before an ad hoc court, but before the Criminal Court in Tripoli, following the procedures set out in the Criminal Procedure Code. The authorities did not, however, indicate whether the trial was held in the main building of the Criminal Court in Tripoli or whether it did indeed take place in the grounds of the Police Academy in Tripoli, perhaps in a building considered by the authorities as an annexe of the Criminal Court.

## **Right to life**

### **Article 6**

#### ***Death penalty***

Article 8 of the Great Green Charter of Human Rights of the Jamahiriyan Era states that “the goal of the Jamahiriyan society is to abolish capital punishment” and Libyan leader Mu’ammarr al-Gaddafi and other senior Libyan officials have expressed their personal opposition to the death penalty on several occasions in recent years. However, these statements of principle are not matched by the stand of the Libyan authorities on the issue at the international level. Libya has not supported resolutions calling for the abolition of capital punishment and a moratorium on executions which were tabled at recent sessions of the UN Commission on Human Rights, most recently in 2005. On the contrary, it has not only voted against the resolution but also supported statements of disassociation from it, sponsored by Saudi Arabia.

At the national level, Amnesty International remains extremely concerned that capital punishment continues to be prescribed in Libyan legislation for a large number of offences, including for activities which merely amount to the peaceful exercise of the rights to freedom of expression and association (for further details, see the sections on “Freedom of expression and assembly” and Freedom of association”), and that death sentences continue to be handed down and carried out. Nowadays, the firing squad appears to be the preferred method of carrying out the death penalty, though, up until around 2000, hanging was also widely used.

The General People’s Committee for Foreign Liaison and International Cooperation told Amnesty International, in a communication dated 27 June 2006, that the application of the death penalty was being studied by the relevant authorities and would be discussed publicly at the time of the presentation of a draft new Penal Code, which, it said, would restrict the death penalty to the most serious crimes. The Committee did not, however, indicate which crimes would fit this description. The Libyan government’s report to the HRC states, in addition, that, in the draft Penal Code, “the scope of the death penalty is reduced and is confined to persons whose life poses a threat to others”. Amnesty International notes, however, that the version of the draft Penal Code which it was given by the Libyan authorities in February 2004 contained 26 articles prescribing the death penalty. It maintained the death penalty for a wide range of offences, including activities merely amounting to freedom of expression and association. The organization does not have information about any subsequent changes to the draft Penal Code.

Libyan law provides certain safeguards for the application of the death penalty. According to Article 81 of the Libyan Penal Code, offenders under the age of 18 cannot be sentenced to death. According to Article 436 of the Libyan Criminal Procedure Code, pregnant women and new mothers cannot be executed until two months after they have given birth. All death sentences have to be reviewed by the Supreme Court, which can overturn the ruling in favour of the accused. When a death sentence is confirmed by the Supreme Court, according to Article 131 of Law No. 51 of 1976 on the organization of the judiciary, as amended by Law 10 of 1425<sup>1</sup>, it cannot be implemented without the consent of the Supreme Council of Judicial Bodies.

However, death sentences continue to be handed down after proceedings which violate international standards for fair trial. A case in point is that of the five Bulgarian nurses and Palestinian doctor sentenced to death by firing squad for a second time on 19 December 2006 after being convicted of knowingly infecting hundreds of Libyan children with HIV in a hospital in Benghazi in 1998. For further details, see Amnesty International’s public statement *Libya: Six foreign medics should be released* (AI Index: MDE 19/002/2007), 30 January 2007.

The Libyan authorities continue to carry out the death penalty, but neither publish details of the numbers of those sentenced and put to death, nor provide such information when requested by organizations such as Amnesty International. Most recently, unofficial sources reported that nine Libyan citizens were executed on 17 April 2007, but, as far as Amnesty International is aware, no official statement was issued to provide details of their names, their ages, the trials which led to their sentencing or the manner and place of their execution.

Four Egyptian nationals – Arafa Ali Abd al-Latif, Barakat Abd al-Zaher, Basyouni Ahmed al-Tayyeb and Maged al-Sayyid Mohamed – were executed in July 2005 after being convicted for murder and robbery in three separate cases. Two Turkish nationals – Selim

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<sup>1</sup> The year 1425 according to the Libyan calendar used in official documents at the time covered approximately the period from 9 August 1995 to 27 July 1996.



Aslan and Yunus Özkan – were executed in July 2005 for a murder committed in 1995. The Libyan authorities told Amnesty International, in a communication dated 27 June 2006 that all six foreigners had been sentenced to death in fair trials and that the decisions were confirmed by the Supreme Court and the Supreme Council of Judicial Bodies. Given the lack of access to reliable information on trial proceedings in Libya, Amnesty International is not able to make an assessment of whether the executions violate Libya's obligations under the ICCPR.

For further details on Libya's application of the death penalty, see Section 2.5 of Amnesty International's report *Libya: Time to make human rights a reality* (AI Index: MDE 19/002/2004), April 2004.

### **Unlawful killings**

Amnesty International has received a number of reports of unlawful killings during the period under review and sets out information below regarding the key incidents into which it has conducted research. The killing of journalist Daif al-Ghazal in 2005 was a possible extrajudicial execution. Other potentially unlawful killings include deaths during demonstrations in Benghazi in 2006 and a disturbance in Abu Salim Prison the same year.

Investigations have been opened by the authorities into each of the incidents, but Amnesty International believes that they may not be in line with international human rights standards, such as the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. In particular, the organization is concerned that the investigative body in each case, the Department of Public Prosecutions, which reports to the Secretary of the General People's Committee for Justice, lacks the necessary impartiality and independence to carry out the investigations effectively. Amnesty International is also concerned that, as far as it is aware, neither in these cases nor other incidents of suspected unlawful killings in previous decades, have the results of such investigations, including a list of the dead and injured and the methodology used, been made public. Furthermore, those officials suspected of having committed, ordered or failed reasonably to prevent any human rights violations have not been prosecuted, and those injured as a result of unlawful acts and the families of those killed unlawfully have not been provided with reparation, such as financial compensation.

### **Killing of journalist Daif al-Ghazal**

Journalist **Daif al-Ghazal** was killed in circumstances which gave rise to concerns that he was extrajudicially executed for the content of his writing. His mutilated body was found near Benghazi on 2 June 2005, 12 days after he was reported to have been arrested by two men who identified themselves as officials of the Internal Security Agency. A friend witnessed his arrest. According to the autopsy report, he had been shot in the head, his body was covered with bruises and stab wounds and most of his fingers had been severed.

In March 2005, he had left his job as a journalist on *al-Zahf al-Akhdar* (The Green March), the official newspaper of the Revolutionary Committees, apparently because of his concern about corruption. However, he had continued to denounce corruption and call for political reform on news websites such as the UK-based *Libya Today*. On 16 May 2005 he posted an article in which he announced that he would soon be publishing documents in his possession which revealed corruption in Libya.

The Libyan authorities have told Amnesty International, most recently in a written communication dated 26 July 2006, that there was no state involvement in the killing and that an official investigation into the murder is in progress. Security officers and witnesses have reportedly been questioned by the Benghazi Prosecutor's Office, but the results of the investigation appear to be pending. The Special Rapporteur on extrajudicial, summary or

arbitrary executions sent an allegation letter on 10 June 2005 with the Special Rapporteur on freedom of expression and, in his annual report of 2006, expressed regret that the Libyan government had failed to respond.

### **Killings of Benghazi demonstrators in 2006**

At least 12 people were killed and many more injured on 17 February 2006 when police opened fire on demonstrators in Benghazi protesting against the publication of cartoons depicting the Prophet Mohamed in a number of European newspapers and the actions of an Italian government minister who appeared on Italian television wearing a T-shirt showing one of the cartoons. According to official statements, the demonstration by several hundred protestors began peacefully but became violent when a group of demonstrators attacked the Italian Consulate in Benghazi with stones and clashed with police protecting it, who then opened fire with live ammunition. Further demonstrations then took place in Benghazi and other eastern cities, including Tobruk and Darna, in the following days and were also dispersed with excessive force by the security forces, reportedly resulting in at least five more deaths.

The authorities publicly denounced the excessive use of force and dismissed the Secretary of the General People's Committee for Public Security. In June 2006 they reported that the Department of Public Prosecutions had undertaken the necessary investigations immediately after being informed of the incident and had charged 10 senior officials with various offences, including giving orders for the illegal use of gunfire. However, Amnesty International is not aware that, to date, either the officials have been tried or that the results of the investigations have been published.

### **Killing at Abu Salim Prison in 2006**

On 4 October 2006 one prisoner, Hafeed Mansur al-Zwai, died and several others were injured when security forces clashed with detainees at Abu Salim Prison in Tripoli. A week later, the Department of Public Prosecutions announced that it had opened an investigation, but to date Amnesty International is not aware that it has been completed or that its results have been published.

Initial reports indicated that the death was caused by a bullet, but the official autopsy stated that it resulted from a blow to the head. The Department of Public Prosecutions stated that three other prisoners – al-Sanussi Muhammad al-Bishari, Iman Muhammad Ali al-Busayfi and Fadhllallah Muhammad al-Maghrabi – and six police officers – al-Najeh Khalifa Abdallah, Osama Milad Muhammad al-Alus, Muhammad Izz el-Din Salem Ben Faraj, Muhammad Bashir Ghaith Hamid, Murad Salem Ali al-Rabbani and Mahy el-Din Ashur al-Sabuni – had required hospital treatment. However, unofficial sources reported that another six prisoners not mentioned in the statement of the Department of Public Prosecutions – Abd al-Mun'em Ahmad Abd al-Rahman, Hafeed al-Amami, Ashraf al-Fazzani, Rida al-Hariri, Abd al-Wahab al-Katshi and Khaled al-Mansuri – had also been taken to hospital for treatment of bullet wounds and other injuries.

The incident occurred after dozens of prisoners were returned to the prison following the postponement of a trial hearing at a criminal court specializing in terrorism-related crimes, at which the defendants faced charges of belonging to a banned organization, reportedly the Libyan Islamic Fighting Group, and terrorism-related offences. The court had reportedly been ordered to retry the cases by the Supreme Court, which overturned previous sentences, including the death penalty and life imprisonment, handed down by the People's Court. Many of the prisoners were reportedly arrested in the second half of the 1990s, after which they were reportedly held in prolonged incommunicado detention. Some allege that statements they made during the investigation of their case were extracted from them under torture or other ill-treatment.

On their return to prison, some of the prisoners demanded to meet senior prison officials. An altercation then ensued between prisoners and some of the prison guards. Some reports indicated that, at this point, the prison administration called in security forces from outside the prison to assist the guards in controlling the situation. It appears that the situation became more serious and that law-enforcement officials fired tear-gas grenades and then live ammunition at some of the prisoners. Amnesty International was not able to ascertain whether the shots were fired by prison guards or security force personnel who had been called into the prison or both.

Later the same day, a delegation including senior security officials Abdullah Sanussi and al-Mu'atassim al-Gaddafi reportedly visited Abu Salim Prison and, together with the Director of Abu Salim Prison, Abd al-Hamid al-Sayah, met a group composed of several representatives of the prisoners. The official delegation apparently expressed regret over the death and injuries which had occurred and informed the prisoners that they would ensure certain measures were taken in response to the events, such as a change of personnel within the prison guards.

## **Freedom of expression and assembly**

**Articles 19, 21**

### ***The legal framework***

Libyan law provides certain, limited guarantees concerning the right to freedom of expression. Article 13 of the Constitutional Declaration of 1969 states that "Freedom of opinion is guaranteed within the limits of public interest and the principles of the Revolution." The Great Green Charter of Human Rights of the Jamahiriyan Era, adopted in June 1988, refers obliquely to the right in Article 19: "The Jamahiriyan society is a society of splendour and fulfilment. It guarantees each person the right of thought, creation and innovation." Article 8 of Law No. 20 of 1991 on the Promotion of Freedom states that "Every citizen has the right to openly express his opinions and thoughts in the Peoples' Congresses and in the Jamahiriyan media."

However, all forms of public expression, including the Peoples' Congresses and the print and broadcast media, are tightly controlled by the authorities. Article 1 of Law No. 76 of 1972 on Publications allows freedom of expression, but only insofar as it falls "within the framework of the principles, values and objectives of society". Along with Law No. 120 of 1972 and Law No. 75 of 1973, Law No. 76 of 1972 imposes severe restrictions on the freedom of the press, effectively preventing the formation of independent newspapers. The state also owns virtually all national broadcast media. A single privately owned radio station opened recently, but reportedly limits its broadcasting to popular music and official news agency reports. In August 2006, Saif al-Islam al-Gaddafi, head of the Gaddafi Development Foundation and son of Libyan leader Mu'ammr al-Gaddafi, criticized the continuing restrictions, including the domination of the media by four state-owned newspapers.

Furthermore, Article 8 of Law No. 20 of 1991 on the Promotion of Freedom, despite its initial guarantees, goes on to place vaguely worded restrictions on the expression of opinions even within the official forums, leaving those who challenge the system from within, as well as those who use unofficial forums, at risk of punishment:

"No citizen shall be questioned as regards practising this right [to openly express his thoughts and opinions in the Peoples' Congresses and in the Jamahiriya media] unless he uses it in violation of the people's authority or for personal motives. It is prohibited to secretly promote or spread thoughts or opinions or to force them upon others by means of allurements, coercion, terror or fraud."

A number of provisions in the Penal Code severely restrict the right to freedom of expression and have been used to repress those suspected of being opposed to or critical of the current political system. Article 178, for example, prescribes life imprisonment for the dissemination of information considered to “tarnish [the country’s] reputation or undermine confidence in it abroad.” Article 207 states:

“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.”

Few foreign publications are available in Libya. Those that are available are reportedly often censored or prevented from being distributed. Satellite television is widely available, although the government reportedly sometimes censors foreign programming. Internet access is available through a single state-run service provider. The government appears to sometimes block certain websites. In the aftermath of demonstrations in Benghazi on 17 February 2006 in which at least 12 protestors were killed, for instance, Amnesty International received reports that several independent websites carrying detailed information on the incidents were no longer accessible within Libya, allegedly as a result of censorship by the authorities.

The right to freedom of assembly is severely restricted. Article 1 of the Law on Public Assemblies and Demonstrations of 1956 stipulates:

“Individuals have the right to meet peacefully. Policemen are not to attend their meetings and they do not need to notify the police about such gatherings.”

The law also provides for the right to hold public meetings in accordance with the regulations set by the law. However, in practice, public assembly is tolerated only when the protestors are demonstrating in support of the government’s positions.

### ***Imprisonment and intimidation of dissident voices***

Journalists, writers and political activists who criticize the authorities or seek to organize meetings or demonstrations to protest against the government are at risk of arrest and detention, as well as other forms of intimidation or harassment. In some cases, such as that of Fathi el-Jahmi, they have been charged with vaguely worded offences. In others, such as that of Abdurrazig al-Mansouri, the charges appear to have been trumped up. In many cases, they have been held for extended periods of detention with little or no contact with the outside world. There are frequently concerns that they have been subjected to torture or other forms of cruel, inhuman or degrading treatment. Several government critics, such as Idriss Boufayed have been arrested or otherwise intimidated when they returned to the country, in some cases apparently after receiving official assurances that they would not be.

In one case known to Amnesty International in the period under review, a journalist was killed in circumstances which gave rise to concerns that he was targeted by the state for the content of his writing (see case of Daif al-Ghazal in the section on “Unlawful killings” above).

The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression made a request in June 2004 to be invited to Libya. While a visit is apparently under consideration, it has reportedly been postponed. Amnesty International is not aware of the reasons for this postponement.

## **Fathi el-Jahmi**

Political dissident **Fathi el-Jahmi** remains in detention at an undisclosed location, reportedly a special facility of the Internal Security Agency on the outskirts of Tripoli. He was arrested and detained on 26 March 2004 after he criticized Libyan leader Mu'ammarr al-Gaddafi and called for political reform in international media interviews. The General People's Committee for Foreign Liaison and International Cooperation told Amnesty International in a written communication dated 26 July 2006 that he was being tried on charges of "exchanging information with employees of a foreign state causing harm to the interests of the country and providing them with information with the aim of their states attacking the Great Jamahiriya" and "scheming with a foreign state in peacetime". The Committee also stated that Fathi el-Jahmi had access to a lawyer. However, they did not disclose where he was being tried.

It is Amnesty International's assessment that the charges against Fathi el-Jahmi relate to his contact with US diplomats before his arrest and to his outspoken interviews in March 2004 to satellite news channels, including Dubai-based Al Arabiya and US-based Al Hurra. The organization believes that he has been detained solely for acts which involved the non-violent exercise of his right to freedom of expression and that he is therefore a prisoner of conscience.

Amnesty International is also concerned that the current conditions of Fathi el-Jahmi's detention may amount to cruel, inhuman and degrading treatment or punishment. Since late 2004, when the Libyan authorities released his son, Muhammad al-Jahmi, in September and then his wife, Fawzia Gogha, in November, Fathi el-Jahmi appears to have been held in isolated confinement with minimal contact with the outside world. The situation appears to have worsened in recent months, in that reportedly no member of his family has been allowed to visit him since late August 2006. Moreover, he is apparently permitted neither to receive mail nor read books or newspapers.

In addition, according to the findings of a medical assessment conducted in Tripoli in February 2005 by a medical doctor and prison health expert sent by Physicians for Human Rights and the International Federation of Health and Human Rights Organisations, Fathi el-Jahmi had up to then been receiving only "sporadic and inadequate medical treatment", despite "suffering from several chronic and mutually adverse conditions (diabetes, hypertension, coronary artery disease) that are independently life threatening and difficult to control". On 22 March 2005, Physicians for Human Rights received a response from Fathi el-Jahmi's government-appointed doctors confirming the seriousness of his condition, but giving assurances that he was receiving "reasonable medical service". Physicians for Human Rights and the International Federation of Health and Human Rights Organisations stated in an addendum to their March 2005 report that they remained concerned, however, that the continuity and quality of his long-term care would not be adequate and that the Libyan doctors had not addressed the conditions of his isolation and confinement without trial.

Fathi el-Jahmi was previously detained between 2002 and 2004 for peacefully expressing his political views. For further details, see Section 2.1 of Amnesty International's report *Libya: Time to make human rights a reality* (AI Index: MDE 19/002/2004), April 2004.

## **Abdurrazig al-Mansouri**

Writer and journalist **Abdurrazig al-Mansouri** spent nearly 14 months in detention in 2005 and 2006 on an apparently trumped-up charge. He was arrested on 12 January 2005 at his home in Tobruk. After an initial period of incommunicado detention in an undisclosed location believed to be a facility of the Internal Security Agency, he was reportedly transferred to Abu Salim Prison in Tripoli. Until he was presented to the public prosecutor on 28 May 2005, he was reportedly neither permitted access to his family or lawyer nor informed by a judicial authority of the charges against him. He was sentenced to 18 months'

imprisonment on 19 October 2005 for possessing an unlicensed pistol and ammunition. He says that the weapon was an old pistol belonging to his father, which no longer functioned and which he kept as a memento, and that the ammunition consisted of used bullets his father had collected on the seashore.

Amnesty International believes that Abdurrazig al-Mansouri was targeted by the authorities for writing critical articles about politics and human rights in Libya that were published on the UK-based *Akhbar Libya* news website shortly before his arrest. This assessment is supported by the fact that, according to his family, the pistol was apparently only found by Internal Security Agency agents the day after his arrest. However, ISA agents reportedly confiscated his computer, papers, floppy and compact discs and later questioned him about the articles he had written. Amnesty International consequently believes that Abdurrazig al-Mansouri was probably a prisoner of conscience held solely for the non-violent exercise of his right to freedom of expression. He was released, along with some 130 other detainees, following an amnesty on 2 March 2006.

Amnesty International wrote to the Libyan authorities on 19 August 2005 to express concern that Abdurrazig al-Mansouri was being denied adequate medical care after reportedly falling from his prison bunk bed and breaking his pelvis around 7 August 2005. No response was received. During his detention, Abdurrazig al-Mansouri's family said that the Libyan authorities had intimidated them, by asking them to denounce him as mentally deranged.

### **Idriss Boufayed and 11 others**

Amnesty International is concerned that 12 individuals appear to have been arrested and detained in February 2007 in view of their peaceful political opposition to or criticism of the government. None of these men seems to have been arrested pursuant to a recognizable criminal charge. The organization has received reports that they have been held in incommunicado detention for prolonged periods of time since their arrest and that at least two of them have been subjected to torture.

**Idriss Boufayed**, a government critic formerly in exile in Switzerland, was reportedly arrested at around 1am on 16 February 2007 by officers of the Internal Security Agency. Idriss Boufayed, along with three other men, al-Mahdi Saleh Hmeed, Ahmed Youssef al-Abidi and Bashir Qasem al-Hares, had issued a communiqué to news websites announcing that they were planning a peaceful demonstration in Tripoli on 17 February 2007, to commemorate the first anniversary of the killing of at least 12 people and the injuring of many more during a demonstration in Benghazi. The Libyan authorities said in 2006 that 10 senior officials had been charged in connection with the incident, but Amnesty International is not aware that any have yet been brought to trial.

Idriss Boufayed had been recognized as a refugee in Switzerland, where he co-founded the National Union of Reform (NUR), which has been critical of the political situation in Libya. However, he returned to Libya in September 2006, after being issued a passport and reportedly receiving assurances from the Libyan embassy in Bern that he would not be at risk from the authorities. He was initially arrested on 5 November 2006 and detained incommunicado until 29 December 2006, when he was released, apparently without charge. During his detention, the authorities reportedly did not tell his family why he had been arrested or where he was being held. Amnesty International wrote to the Libyan authorities on 21 December 2006 to express concern that he might be a prisoner of conscience. On 15 January 2007, Idriss Boufayed issued a public statement pledging to continue the struggle for a "modern, democratic Libya".

Shortly after Idriss Boufayed's arrest on 16 February 2007, his brother, **Jum'a Boufayed**, described the incident in a telephone interview for the *Libya al-Mostakbal* news

website. He said that on the day of Idriss Boufayed's arrest, a group of armed men arrived at the family home and broke down the door when nobody answered, taking his brother away. Jum'a Boufayed said that he had recognized the officer apparently in charge of the operation as the head of a local branch of the Internal Security Agency. Jum'a Boufayed said he did not know where they had taken his brother, and added that he feared he would be arrested too, because of the information he had revealed in the interview and other phone calls. He was reportedly arrested a few hours later.

**Al-Mahdi Saleh Hmeed** was reportedly arrested in the afternoon of 16 February 2007. Earlier the same day, his father's house had been set on fire by a group of young men, allegedly colluding with the authorities, who reportedly also assaulted members of his family. His brothers **Adel Saleh Hmeed**, **Ali Saleh Hmeed**, **Faraj Saleh Hmeed** and **al-Sadeq Saleh Hmeed** were also arrested.

The two other organizers of the demonstration, **Ahmed Youssef al-Abidi** and **Bashir Qasem al-Hares**, were also reportedly arrested on 16 or 17 February, along with several others, **Alaa al-Dressi**, writer **Jamal al-Hajji** and writer **Farid Mohammed al-Zwai**. None of these men was arrested pursuant to a recognizable criminal charge according to the law, and it appears that all were arrested and detained in view of their planned peaceful demonstration or recent criticism of the government on the Internet.

All 12 men are reportedly still in detention. On 20 April 2007, more than two months after their arrest, Ahmed Youssef al-Abidi, Adel Saleh Hmeed, Ali Saleh Hmeed, Faraj Saleh Hmeed, al-Mahdi Saleh Hmeed and al-Sadeq Saleh Hmeed were reportedly charged by a court in the district of Tajoura in Tripoli with offences such as possession of weapons with the intention of carrying out subversive activities, incitement to demonstration and communication with enemy powers. They were transferred to al-Jadida Prison in Tripoli, where they are said to be held in solitary confinement. Idriss Boufayed, Jum'a Boufayed, Alaa al-Dressi, Jamal al-Hajji, Bashir Qasem al-Hares and Farid Mohammed al-Zwai are reportedly being held in a detention centre operated by the Internal Security Agency in Sikka Street in Tripoli, but Amnesty International is not aware whether they have been charged or not.

Amnesty International is concerned that all 12 men are being held for exercising their rights to peaceful expression of their political views, or attempting to organize a demonstration criticizing the government. Their detentions may therefore be arbitrary. If so, the organization would consider them to be prisoners of conscience.

According to Amnesty International's information, all 12 men have had little or no communication with their families. So far it appears that none of the men has received a visit from his family. Amnesty International is particularly concerned about reports that at least two of the detainees, Faraj Saleh Hmeed and al-Mahdi Saleh Hmeed, have been subjected to torture during their detention. Amnesty International has received a report that, on at least one occasion, Faraj Saleh Hmeed and al-Mahdi Saleh Hmeed received medical treatment after an interrogation session during which the two men were punched, beaten with wooden implements, subjected to *falaqa* and placed in a coffin as a form of intimidation.

## **Freedom of association**

### **Article 22**

#### ***The legal framework***

Libyan law guarantees the right to freedom of association for protecting professional interests, but fails to protect associations of a social or political nature. According to Article 6 of the Great Green Charter of Human Rights of the Jamahiriyan Era, "the members of the

Jamahiriyan society are free to form associations, trade unions and leagues in order to defend their professional interest”. Article 9 of Law No. 20 of 1991 on the Promotion of Freedom states that “Citizens are free to establish unions and federations or social associations and charities and to join any of these in order to safeguard their enterprises or to achieve legal motives for which these were established.”

However, other legal provisions severely restrict the right to freedom of association and have been used to repress hundreds of those suspected of being opposed to or critical of the current political system. Law No. 71 of 1972 on the Criminalization of Parties bans any form of group activity based on a political ideology opposed to the principles of the al-Fateh Revolution of 1 September 1969. Article 3 of the Law provides for the death penalty for forming, joining, financing or supporting such groups, and for “encouraging that by whatever means”.

Law No. 19 of 1369<sup>2</sup> deals with the formation and activities of associations providing services of a social, cultural, sporting, charitable or humanitarian nature. It requires those wishing to establish such an association to present a statute signed by at least 50 founding members to the secretariat of the General People’s Congress, if it plans to work nationwide, or to the provincial People’s Congress, if it proposes to restrict its activities to a particular province. The law does not set a time limit on the state to respond to applications, nor permit an association’s members the right of appeal against a rejection of their application.

Article 206 of the Penal Code provides for the death penalty for those who call “for the establishment of any grouping, organization or association proscribed by law”, and for those who belong to or support such an organization. Article 208, which bans forming or joining an international association, states:

“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.”

### ***Human rights organizations***

Amnesty International’s assessment continues to be that there are no independent human rights organizations operating within Libya.

The Libyan government’s report to the HRC draws particular attention to two organizations which it describes as “civil human rights associations” and lists the goals of their work, without making any reference to their activities. The first is the Libyan Arab Committee for Human Rights in the Age of the Masses, which it terms a “civil, non-governmental organization”. However, as far as Amnesty International is aware, the Committee was set up by the government in 1989 and, since then, has not released any report on human rights issues.

The second is the Human Rights Society, a subsidiary of the Gaddafi Development Foundation, formerly known as the Gaddafi International Foundation for Charitable Associations. The Human Rights Society, until earlier this year headed by Giuma Atiga, a lawyer and former political prisoner, has become an important voice for human rights and protection in the country. In recent years, it has carried out prison visits to push for better conditions. It has advocated the release of political prisoners it considered not to have been involved in violence or its advocacy. It has campaigned against torture and adopts positions

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<sup>2</sup> The year 1369 according to the Libyan calendar used in official documents at the time covered approximately the period from 4 June 2001 to 23 May 2002.



distinct from those of the Libyan authorities on such cases as that of the Bulgarian and Palestinian medical staff sentenced to death for a second time in 2006 for deliberating infecting children with HIV in a hospital in Benghazi. The Gaddafi Development Foundation also facilitated visits to Libya by Amnesty International in 2004 and Human Rights Watch in 2005.

However, it would be difficult to describe the Foundation as independent. It is headed by Saif al-Islam al-Gaddafi, one of the sons of Libyan leader Mu'ammār al-Gaddafi and considered a possible successor. He also plays a senior diplomatic role, having played a key part in negotiating with foreign states on behalf of the Libyan authorities the payment of billions of dollars to the victims of the Lockerbie and UTA bombings. Furthermore, the Foundation on occasion makes statements which appear to be aimed simply at defending the reputation of the authorities. On 20 October 2005, for instance, the Foundation issued a comprehensive denial that torture occurs in Libyan prisons, despite the existence of repeated allegations to the contrary.

In addition, the Libyan government's report to the HRC mentions "a number of non-governmental committees" operating within officially sanctioned professional bodies. Amnesty International notes the importance of the work of bodies such as the Bar Association in contributing, for instance, to the abolition of the People's Courts, but is not aware that any of the committees have recently made statements critical of the Libyan authorities on human rights issues or undertaken actions that do not conform to the latter's views. In addition, there are continuing reports of government interference in the work of some of the professional bodies, such as the journalists' and lawyers unions.

### ***Political bodies***

Libyan law, as outlined above, prohibits the formation of political parties or associations outside the existing political system. Dissident movements are forced to operate in secret or, otherwise, face heavy sanctions. In recent years, members of movements such as the Libyan Islamic Group, better known as the Muslim Brotherhood, and the Islamic Alliance Movement have been sentenced to long prison terms and, in some cases, death for belonging to unauthorized political bodies. Many were released in government amnesties in 2005 and 2006, but reportedly had to pledge that they would not again become involved in politics as a condition of their release

On 16 February 2002, 86 individuals were convicted by the People's Court in Tripoli following a grossly unfair trial on charges relating to their affiliation to the Muslim Brotherhood, under Law No. 71 of 1972 on the Criminalization of Parties. Two were sentenced to death, 73 others to life imprisonment and 11 more to 10 years in prison. They had been arrested in 1998 and spent more than two years in incommunicado detention, during which time some of the defendants allege that they were tortured by members of the Internal Security Agency. For further details, see Sections 2.1 and 2.3 of Amnesty International's report *Libya: Time to make human rights a reality* (AI Index: MDE 19/002/2004), April 2004. The sentences were overturned by the Supreme Court in September 2005, but reimposed by a lower court in February 2006. On 2 March 2006, all – with the exception of one individual who had died in custody – were released in an amnesty. The Gaddafi Development Foundation had concluded that they had neither used nor advocated violence, echoing Amnesty International's opinion that they were prisoners of conscience, imprisoned solely for the peaceful expression of their ideas and for meeting to discuss those ideas with others in private. The authorities maintain, however, that they were fairly convicted in a regular criminal court on charges of setting up a banned secret organization with the aim of overturning the political system. Finally, their release appeared to be conditional, as the Muslim Brothers were reportedly forced to sign pledges that they would not engage in any political activity in the future.

## **Freedom from discrimination**

Articles 26

### ***Women's rights***

Men and women are generally treated as equals under Libyan legislation. Article 21 of the Great Green Charter of Human Rights of the Jamahiriyan Era states:

“The members of Jamahiriyan society, whether men or women, are equal in every human respect. The distinction of rights between men and women is a flagrant injustice that nothing whatsoever can justify.”

Article 1 of Law No. 20 of 1991 on the Promotion of Freedom stipulates that: “Citizens in the Great Jamahiriya, male and female, are free and equal in rights.”

However, inequalities and discrimination remain in Libyan legislation, especially with regard to marriage, divorce and inheritance. For instance, polygamy is still permitted, under judicial supervision, although the practice is believed to be limited.

Women have the same rights as men regarding the right to acquire, change or retain their nationality. However, Libyan women do not have the same rights as Libyan men to transfer their nationality to their foreign-born spouses or children. While children of a Libyan father and non-Libyan mother are given Libyan nationality, children of a Libyan mother and a non-Libyan father are not and reportedly require visas to enter the country.

## **Remedies for gross human rights violations of the past**

Articles 2, 6, 16

### ***Enforced disappearances and killings***

The legacy of gross human rights violations committed in the past, particularly during the 1970s, 1980s and 1990s, continues to cast a long shadow on Libya's human rights record. The violations include notably the enforced disappearance of hundreds of individuals, many of whom are feared to have died in custody while detained on political charges, and the killing of dozens of Libyan dissidents inside and outside the country in circumstances suggesting that they were extrajudicially executed by members of the security forces or by agents working on behalf of the Libyan authorities. Some of these violations are described in Amnesty International's reports *Libya: Time to make human rights a reality* (AI Index: MDE 19/002/2004), April 2004, and *Libya: Gross human rights violations amid secrecy and isolation* (AI Index: MDE 19/008/1997), June 1997.

The Gaddafi Development Foundation has made several statements in recent years calling for investigations into cases of certain prisoners who had died in custody in unclear circumstances, but there has been so far very little attempt by the Libyan authorities to address the gross human rights violations of the past.

One incident that has received particular attention concerns events which occurred in June 1996 at Abu Salim Prison in Tripoli, during which an unknown, but allegedly large, number of prisoners died. For many years, the authorities refused to acknowledge that such events had taken place. Amnesty International first received official recognition that they had occurred when it met Libyan leader Mu'ammār al-Gaddafi in February 2004. The authorities claim that the security forces responded appropriately to an uprising and escape attempt and states that casualties and deaths included both prisoners and guards. By contrast, testimonies from former prisoners indicate that, following the outbreak of disturbances sparked by appalling prison conditions, security forces shot prisoners in their cells. Estimated figures of

the number killed range from ten to hundreds. One source has suggested that up to 1,200 died. The authorities told Human Rights Watch delegates visiting Libya in May 2005 that a committee had been established to investigate the events and, in a written communication to Amnesty International dated 26 July 2006, reported that the investigation was ongoing. Amnesty International called for the committee to have full powers to investigate and to recommend prosecutions of perpetrators and compensation for victims or their families, and for its findings to be made public. However, no details have been made available regarding the timing, nature, scope or methods of the investigation, or who is carrying it out.

Regarding enforced disappearance cases, thorough, independent and impartial investigations are not known to have taken place into any individual cases and those responsible have not been held to account. Family members remain without clarification of the fate of their relatives. In one case, that of Iranian-born Shi'a religious leader Imam Musa al-Sadr, who disappeared while visiting Libya in 1978, the Libyan authorities appear also to have failed to cooperate effectively with a foreign investigation. The case has been the subject of legal action in Lebanon, where Imam Musa al-Sadr holds citizenship. A Lebanese examining magistrate called for Mu'ammar al-Gaddafi and other Libyan officials to appear before his court in March 2005, but they declined to do so.