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Libya: Six foreign medics should be released

Amnesty International is calling on the Libyan authorities to release the six foreign health professionals who were sentenced to death on 19 December 2006 after being convicted of deliberately infecting 426 children with HIV, some 57 of whom have since died of AIDS.

Amnesty International is making this appeal for a number of reasons. Firstly, the organization believes that the health professionals – a Palestinian doctor and five Bulgarian nurses – have now been denied the right to a fair trial on two separate occasions, despite the repeated calls that it and others have made over a number of years for this fundamental right to be respected. Secondly, it considers that, after this passage of time, there can be little prospect now of their being tried in conformity with international fair trial standards. Thirdly, the evidence that they deliberately infected children with HIV is weak and, at least, inconclusive, suggesting strongly that these foreign nationals have been wrongly accused of responsibility for the tragedy which occurred at al-Fateh Children's Hospital in Benghazi.

In a letter sent today to Mustapha Abdeljelil, Secretary of the Libyan government's General People's Committee for Justice, Amnesty International expanded on the concerns it had raised about the death sentences and the trial leading to their imposition in a press release immediately following the verdict, *Libya: Death sentences for foreign medics must be withdrawn* (AI Index: 19/007/2006).

In doing so, Amnesty International stressed two points regarding the context of this case. Firstly, the organization noted remarks made by senior Libyan authorities stressing that the death sentences could still be revised by the country's Supreme Court or rejected by its Supreme Council of Judicial Bodies. Amnesty International is aware that the Supreme Court overturned the death sentences in the health professionals' first trial and hopes that it will be able to examine the case a second time in a prompt, independent and impartial manner.

Secondly, Amnesty International emphasized that it understood the anger and anguish felt by the families of the children who were infected with HIV, having met with their representatives and lawyers during its visit to the Libya in February 2004. The organization has stressed throughout that it recognizes the right and duty of the Libyan authorities to bring to justice anyone responsible for the infection of hundreds of children with HIV and the deaths of some 57 of them after contracting AIDS. However, it has also emphasized throughout that progress towards the truth about these tragic consequences and justice for the affected families can only be achieved through a process which affords the accused the right to a fair trial.

Regarding the sentences, Amnesty International considers the death penalty to be the ultimate cruel,

inhuman and degrading punishment and opposes its application in all circumstances. The organization has welcomed publicly the reduction in the number of executions carried out in Libya in recent years and has noted with encouragement the fact that senior Libyan authorities have repeatedly stated their aim to abolish the death penalty. Amnesty International reiterates its appeal to the Libyan authorities to declare immediately that the death sentences imposed in this case will never be carried out.

Regarding the trial, Amnesty International continues to be concerned that it did not constitute a fair process, as required by international human rights law and standards, an assessment echoed by the UN Office of the High Commissioner for Human Rights, which has similarly called on the Libyan authorities not to execute the six health professionals.

Firstly, confessions allegedly extracted under torture were used as evidence against the medics. In both their first and second trials the medics denied the charges against them and repeatedly testified that their “confessions” were extracted under torture in pre-trial detention. Some of these strongly contested statements were used as evidence against the medics and helped to secure their conviction.

The six medics allege that they were tortured repeatedly following their arrests in January 1999 to make them “confess” to the crimes of which they were accused and later threatened with further torture to pressure them into confirming these “confessions” to the judicial authorities investigating their case. They say that they were too scared to report the torture during their first year of detention, when they had only intermittent access to the outside world, because of threats from those who held them in custody that they would be tortured again. They maintain that, nonetheless, they raised their allegations in court at the first opportunity.

Although the torture claims were investigated, these investigations were not conducted promptly and medical examinations were ordered only some three years after the alleged acts of torture were committed. Furthermore, the proceedings of the trial which led to the acquittal of 10 defendants accused of the torture were marked by irregularities, in Amnesty International’s view. On the one hand, the evidence of a doctor who found traces on the medics’ bodies which he argued resulted from “physical coercion” or “beatings” or both was successfully refuted in court by another doctor, despite the fact that the latter had not medically examined the medics. On the other hand, foreign lawyers acting on behalf of the Bulgarian nurses allege that they did not have access to their clients, were not permitted to meet them although they made repeated requests to do so, and were not able to obtain visas to attend key hearings of the trial during May 2005.

Secondly, the court rejected the request of the medics’ defence lawyers to allow international medical experts to testify in court to present the reasons why they believed the health professionals could not have been guilty of the crime of which they were accused. An open letter to Libyan leader Mu’ammar al-Gaddafi by 114 Nobel Laureates in the sciences appealed for this scientific evidence to be taken into consideration in the trial. Amnesty International is concerned that the court’s refusal to allow the experts to appear violated the right of the accused to call and to question witnesses, a fundamental principle of the right of defence according to international human rights law.

While noting the court’s assessment that the evidence of international medical experts was unnecessary in the light of that provided by Libyan medical experts, Amnesty International believes that it should have been taken into consideration. Crucially, new findings had come to light in 2006 appearing to strengthen the conclusions which AIDS experts Luc Montagnier and Vittorio Colizzi presented in the first trial indicating that the infections were caused by poor hospital hygiene, had started before the defendants began working at the hospital and spread after they had ceased working there. This evidence was all the more important given recent reports by international medical experts in the scientific journal *Nature* questioning the analysis of a study written by five Libyan medical experts in 2003, which was key to the prosecution’s case in both the first and second trials.

Background

Palestinian doctor Ashraf Ahmad Jum'a Al-Hajouj and Bulgarian nurses Valya Georgieva Cherveniyashka, Snezhana Ivanova Dimitrova, Nasya Stoycheva Nenova, Valentina Manolova Siropulo and Kristiana Venelinova Valcheva have been in detention since 1999. They were first sentenced to death by firing squad in May 2004 after being convicted of deliberately infecting 426 children with HIV in al-Fateh Children's Hospital, Benghazi. The death sentences were overturned on 25 December 2005 by the Supreme Court, which ordered the health professionals to be retried after noting "irregularities" in their arrest and interrogation. The retrial began on 11 May 2006 at a criminal court in Benghazi, concluding with the death sentences of 19 December 2006.

The verdict has sparked strong reactions from the international community. Former UN Secretary-General Kofi Annan expressed deep concern about the death sentences before he left his post at the end of 2006 and offered the support of the UN in all efforts to address the needs of the infected children and to find a humane solution for the fate of the medics. The Joint UN Programme on HIV/AIDS (UNAIDS) has called for the death sentences to be reviewed in the light of evidence showing that the virus circulated before the health professionals' arrival.

The EU has expressed serious concerns with regard to the basis on which the accused persons were prosecuted, their treatment while in custody and the lengthy delays in the process, while the African Union and Arab League have called on all parties not to politicize the trial and the tragedy of the affected children.