

PUBLIC

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UA 161/07 Fear of forcible return/Health concern

USA **Omar Mohammed Khalifa (m), Libyan national, aged about 36**
An unknown number of other Libyan nationals in Guantánamo

Omar Mohammed Khalifa and a number of other Libyan nationals in US custody in Guantánamo Bay, Cuba, are feared to be at risk of forcible transfer to Libya. There they could face prolonged incommunicado detention without charge, putting them at serious risk of torture and other ill-treatment. They could also be at risk of unfair trials.

On 15 June, the *Washington Post* cited US officials as indicating that several Libyan nationals were facing imminent transfer from Guantánamo. Not all of the 12 Libyan detainees believed to be held in Guantánamo necessarily fear or oppose being returned to Libya, but some have good reason to do so (see UA 149/07, AMR 51/103/2007, 15 June 2007, <http://web.amnesty.org/library/Index/ENGAMR511032007>). In the light of the *Washington Post* report, and the US government's refusal to provide any assurance that it did not intend to transfer Omar Mohammed Khalifa, his US lawyers filed an emergency motion seeking to prevent his transfer to Libya. On 22 June, the Court of Appeals for the DC Circuit summarily denied the motion. Omar Mohammed Khalifa has expressed his fear of being sent to Libya. A military officer who interviewed him in Guantánamo has related that, "When I spoke to him about being returned to his home country, he said: 'I would rather be in the worst American jail than be a minister in my country.'"

In 1994, Omar Mohammed Khalifa was reportedly arrested in Libya and interrogated under torture about his alleged political activities. He fled Libya in 1995. He lived in Sudan for two years but left after breaking his leg in a work accident. He settled in Afghanistan where he was injured in a landmine explosion in 1998 and his right leg was amputated just below the knee. In late September 2001, with US military action looming, he left Afghanistan for Pakistan. In February 2002, he was arrested in Islamabad by Pakistani police. At the time, US agents were paying rewards of up to US\$5,000 for every alleged "terrorist" handed over to them, a practice that encouraged arbitrary detentions in Pakistan. Turned over to the USA, Omar Mohammed Khalifa was held for about 10 weeks in Bagram air base in Afghanistan before being transferred to Guantánamo Bay in August 2002 where he has been held ever since, reportedly in solitary confinement. He has complained of sleep deprivation, low temperatures due to air-conditioning, and humiliating body searches.

Omar Mohammed Khalifa and other Libyan nationals have reportedly been visited by Libyan agents while held in Guantánamo. During these visits, he and some of the others were allegedly threatened that they would be tortured on their return to Libya. Omar Mohammed Khalifa has said that the Libyan delegation accused him of being a member of the Libyan Islamic Fighting Group (LIFG), an unauthorized opposition group. Amnesty International fears that this accusation, one repeated by the US authorities, puts him at particular risk of human rights violations if returned to Libya. A new report, *US responsibility for enforced disappearances in the 'war on terror'*, issued by Amnesty International and five other organisations (AMR 51/093/2007, June 2007, <http://web.amnesty.org/library/Index/ENGAMR510932007>), lists five alleged LIFG members believed to have previously been in secret US custody and whose whereabouts remain unconfirmed. Four of them are reportedly held in Tripoli after being transferred from US to Libyan custody. Muhammad Abdallah Mansur al-Rimi, who was sent back to Libya from Guantánamo in December 2006, is reportedly still detained in Libya, his treatment in custody unknown. The USA had linked him to the LIFG.

In 2006, the UN Human Rights Committee urged the USA to "take all necessary measures" to ensure that it transferred no-one to another country "if there are substantial reasons for believing that they would be in danger of being subjected to torture or cruel, inhuman or degrading treatment or punishment." In its report to the Committee Against Torture in 2006, the USA stated that it does not transfer persons to countries where it

believes it is “more likely than not that they will be tortured”, a lesser standard than international law requires. The USA, the report continued, “obtains assurances, as appropriate, from the foreign government to which a detainee is transferred that it will not torture the individual being transferred”. Amnesty International opposes reliance on “diplomatic assurances” as a basis for sending anyone to countries where they would otherwise be considered at risk of torture or other ill-treatment. Such assurances are unreliable and unenforceable.

The Committee Against Torture stressed to the USA that assurances should not be relied upon where the state was responsible for systematic violations of the Convention against Torture. The Human Rights Committee emphasised that “the more systematic the practice of torture or cruel, inhuman or degrading treatment or punishment, the less likely it will be that a real risk of such treatment can be avoided by such assurances, however stringent any agreed follow-up procedures may be.” In its most recent report on human rights in other countries, the US State Department’s entry on Libya states that “security personnel routinely tortured prisoners during interrogations or as punishment...Reports of torture were difficult to corroborate since many detainees were held incommunicado. The reported methods of torture and abuse included chaining prisoners to a wall for hours, clubbing, applying electric shocks, applying corkscrews to the back, pouring lemon juice in open wounds, breaking fingers and allowing the joints to heal without medical care, suffocating with plastic bags, prolonged deprivation of sleep, food, and water, hanging by the wrists, suspension from a pole inserted between the knees and elbows, cigarette burns, threats of dog attacks, and beatings on the soles of the feet”. The entry adds that detainees were also subjected to cruel, inhuman or degrading detention conditions and “denied adequate medical care, which led to several deaths in custody.”

In April 2007, a UK court, the Special Immigration Appeals Commission (SIAC), blocked the UK’s bid to return two Libyan nationals, allegedly linked to the LIFG, to Libya. SIAC found that the memorandum of understanding between the UK and Libyan governments had not removed the real risk that the men would be subjected to serious human rights violations in Libya. SIAC noted that “torture is extensively used against political opponents among whom Islamist extremists and LIFG members are the most hated by the Libyan Government, the Security Organisations and above all by Colonel Qadhafi.”

Omar Mohammed Khalifa’s vision in his left eye began failing after three years in Guantánamo. His treatment is reported to have been inadequate. By January 2007, he had lost the vision in that eye entirely and his right eye is now reported to be deteriorating. Without proper treatment it is feared that he will go blind. His prosthetic right leg is also reported to be broken.

RECOMMENDED ACTION: Please send appeals, in English or your own language, in your own words:

- expressing concern that Omar Mohammed Khalifa (detainee # 695) and some other Libyan nationals may be at risk of forcible transfer to Libya from Guantánamo, and opposing any such forcible transfers;
- pointing out that the US government itself has reported that torture by Libyan security personnel is routine;
- noting that the US and Libyan governments’ claim that Omar Mohammed Khalifa is associated with the Libyan Islamic Fighting Group puts him at particular risk of human rights violations upon return, including prolonged incommunicado detention, torture or other ill-treatment, and unfair trial;
- opposing the use of diplomatic assurances as inherently unreliable and unenforceable;
- calling on the USA to find another solution for Omar Mohammed Khalifa’s release from Guantánamo that ensures his treatment is in full compliance with international law;
- calling for his conditions of confinement to be immediately improved so that he is not held in isolation and for him to be provided all necessary medical care, including treatment for his failing eyesight.

APPEALS TO:

The Honorable Condoleezza Rice
Secretary of State, Department of State, 2201 C Street, N.W., Washington DC 20520, USA

Fax: +1 202 261 8577

Salutation: Dear Secretary of State

The Honorable Robert Gates, Secretary of Defense, 1000 Defense Pentagon, Washington DC 20301, USA

Fax: +1 703 697 8339

Salutation: Dear Secretary of Defense

COPIES TO: diplomatic representatives of the USA accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 27 July 2007.