

Libya: Military courts sentence hundreds of civilians in sham, torture-tainted trials

Military courts have convicted hundreds of civilians in eastern Libya in secret and grossly unfair military trials, aimed at punishing real or perceived opponents and critics of the Libyan Arab Armed Forces (LAAF) and affiliated armed groups, Amnesty International said today. At least 22 were sentenced to death and hundreds of others to imprisonment between 2018 and 2021. Many defendants were subjected to torture and other ill-treatment in pre-trial detention.

Civilians tried by military courts in the LAAF stronghold of eastern Libya include two individuals targeted solely for their journalistic work, a group who took part in peaceful protests, and tens of people who defended human rights or shared criticism of the LAAF or affiliated armed groups on social media.

Former detainees who spoke to Amnesty International detailed a catalogue of abuses, including being abducted and detained for up to three years before even being referred to the military prosecution, held incommunicado for up to 20 months in circumstances akin to enforced disappearance, being beaten, threatened and waterboarded. Some said they were forced to sign “confessions” to crimes they did not commit.

“Military trials of civilians flout [international](#) and [regional](#) standards and are inherently unjust. In eastern Libya, such trials take place in secret and sometimes in the absence of lawyers and defendants, undermining any semblance of justice. The use of military trials for civilians is a blatant smokescreen by which the LAAF and affiliated armed groups are exerting their power to punish those who oppose them and instill a climate of fear,” said Amnesty International’s Deputy Director for the Middle East and North Africa, Diana Eltahawy.

“The Government of National Unity must immediately put an end to the military trial of civilians, and order investigations into torture and other crimes under international law committed by armed groups.”

Under international law, the use of military courts must be restricted to trying military personnel for breaches of military discipline. Military trials of civilians are problematic because the prosecutors and judges are serving members of the military and subject to its hierarchy and therefore lack independence and impartiality.

In interviews with 11 individuals, including former defendants, human rights defenders and lawyers, Amnesty International found that those facing military trials were unlawfully held for months or even years, tortured and subjected to grossly unfair proceedings.

One man sentenced by a military court in 2020 said that men affiliated with the “military police,” an armed group allied to the LAAF, beat him, threatened him with rape and put a hood over his head before pouring water over him to simulate the feeling of drowning.

Facing military trial for peaceful criticism

Among those facing proceedings by military courts is a woman who was abducted by an armed group from her home in February 2020 over a social media post criticizing the LAAF. Neither her family nor lawyer were allowed to visit her before her provisional release in April 2021 pending trial.

Amnesty International also learned that at least 18 men arrested in connection with September 2020 protests against armed groups have been referred to military trial.

Sham trials

Proceedings before military courts in eastern Libya flouted multiple fair trial rights, including the rights to legal counsel before and during trial; to remain silent; to a fair and public hearing in front of a competent, independent and impartial court; to be present at trial; to a reasoned judgement and to a genuine review, among others.

Defendants routinely described being denied access to a lawyer in pre-trial detention and sometimes even during their trial. Lawyers have also been targeted. According to Libyan Crimes Watch, a Libyan human rights group, two lawyers [were arrested](#) and detained for several days in March 2020 on the basis of complaints against them by Slim al-Fergani, the head of the permanent military court in Benghazi. In a complaint, examined by Amnesty International, one lawyer accused Slim al-Ferjani of barring lawyers from examining case files or from presenting defence arguments in court.

In May 2020, a military court sentenced journalist [Ismail Bouzreeba Al-Zway](#) to 15-years imprisonment on charges of supporting terrorism. Amnesty International believes he was punished for content found on his phone, including messages critical of the LAAF and communication with media outlets abroad. He was prevented from contacting his family and lawyer throughout his pre-trial detention and was tried in his absence.

In several cases, defendants were not told of the exact charges against them until trial, were tried in closed hearings, and were not granted access to the casefiles or evidence against them, or to reasoned judgements once convicted.

Furthermore, verdicts by military court can only be appealed by a higher military court.

Both military prosecutors and judges lack independence and impartiality, as they are affiliated with the LAAF or allied armed groups. For example, [Faraj Al-Soussa'a](#) the current head of the military prosecution in eastern Libya is also [representing](#) the LAAF in the [UN-mediated](#) Libyan (5+5) Joint Military Commission talks, while [Khairi al-Sabri](#) the head of the General Military Judiciary Authority previously led the [military intelligence](#) under the LAAF. In turn, the judge of the permanent military court in Benghazi is [subordinate](#) to the head of General Military Judiciary Authority.

Death penalty

Between 2018 and 2020, military courts sentenced at least 22 people to death following unfair trials according to statements by [UNSMIL](#) and [the LAAF](#). According to Libyan human rights organizations, at least [31](#) death sentences were issued.

Amnesty International opposes the use of the death penalty under any circumstance. According to international law, proceedings in capital cases must scrupulously observe all relevant fair trial standards and carrying out executions after unfair trials violates the right to life.

"We call on Libya's Government of National Unity to quash all convictions and sentences on civilians passed by military courts. All those held for peacefully exercising their human rights must be immediately released and those lawfully detained should be protected from torture and granted access to their families and lawyers. Any civilians charged with internationally recognizable offences must be tried before civilian courts in fair proceedings and without resorting to the death penalty," said Diana Eltahawy.

Far-reaching consequences for convicted civilians

Civilians released after serving sentences said their prosecutions had tainted their lives, including their prospects of finding employment. The fear of further arrests also hangs over their heads.

Ibrahim el-Wegli, a doctor who worked in a public sector hospital in Benghazi told Amnesty International that after his release his public sector contract had been nullified because of the verdict by a military court against him.

Two men convicted by military courts also told Amnesty International that after their release, they received constant verbal threats of further arrests and harsher sentences from individuals affiliated with the "military police". This prompted them to flee Libya.

Dubious legal grounds

In 2017, members of the House of Representatives (HoR), Libya's last elected parliament, passed Law No.4/2017 which established jurisdiction for the military courts over civilians accused of "terrorism" and crimes committed in "military areas." At the time, the country was divided between two competing entities, with the Tobruk-based HoR allied with the LAAF, in control of much of eastern Libya, and at odds with the internationally-recognized Government of National Accord (GNA), based in Tripoli.

In November 2018, a spokesperson for the LAAF [stated](#) that the 2017 amendments provided a legal basis for trying individuals accused of "terrorism" by military courts.

However, in 2020, the then GNA Minister of Justice [claimed](#) that the law passed by the HoR was not in force and affirmed that only civilian courts have jurisdiction over civilians.

The present Government of National Unity has yet to publicly comment on the validity 2017 amendments to military legislation or on the trial of civilians by military courts.

Background

The Libyan Political Dialogue Forum led to the nominal unification of Libyan institutions and the Government of National Unity sworn in by the HoR on 10 March 2021. In practice, the LAAF and allied armed groups continue to exercise effective control over eastern Libya.