

Human Rights Watch

Torture, Former Combatants, Political Prisoners, Terror Suspects, & Terrorists

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Tripolis No-Torture Promise Provides Insufficient Protection

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The United States should not return Guantanamo detainee Abdul Ra'ouf al-Qassim to Libya, where he will face a real risk of torture and other abuse, Human Rights Watch said today. The US government's reliance on a no-torture promise from Libya, a country that the US State Department has condemned for its poor record on torture, is insufficient to protect al-Qassim from abuse.

The US government claims that al-Qassim, a 32-year-old Libyan who has been held at Guantanamo Bay for more than five years, has associated with the Libyan Islamic Fighting Group (LIFG), an organization committed to the overthrow of Libyan leader Mu'ammarr al-Qadhafi and banned under Libyan law. Now, the United States intends to send al-Qassim back to Libya in reliance on promises of humane treatment by the Libyan government, despite al-Qassim's fears that he will be tortured and possibly even killed if returned there.

"The US is ignoring al-Qassim's credible fear of torture by relying on a promise of no-torture from Libya, a country with a documented record of torture," said Jennifer Daskal, senior counterterrorism counsel for Human Rights Watch. "This is not sufficient protection for anyone, let alone someone accused of being part of a group that wants to overthrow the Libyan leader."

According to the US State Department's most recent country report on Libya, the Libyan government is currently detaining hundreds of prisoners - many incommunicado - due solely to their association with banned groups, such as the LIFG. The State Department report also describes Libyan security personnel as having "routinely tortured" persons in custody.

Human Rights Watch has documented serious allegations of torture in its 2006 report on Libya, "[Words to Deeds: The Urgent Need for Human Rights Reform](#)." Fifteen out of 32 prisoners interviewed by Human Rights Watch reported having been tortured during interrogations by Libyan security personnel in recent years. Prisoners reported being subjected to electric shocks, hung from walls, and beaten with clubs and wooden sticks during interrogation.

A [special British immigration court](#) faced with a similar situation ruled in April 2007 that the United Kingdom could not send two Libyans home - both of whom were, like, al-Qassim, accused of being members of the Libyan Islamic Fighting Group - in reliance on no-torture promises from the Libyan government. The British court conducted an exhaustive examination of the human rights situation in Libya and concluded that there was a "real risk" that the Libyan government would fail to abide by its promises of humane treatment, and that there was "too little scope for a breach ... to be deterred." The UK government has appealed the decision.

"The British court ruled to stop returns of at-risk Libyans and the US should make the same decision in al-Qassim's case," said Daskal. "There is no reason to think that Libya's no-torture promise to the US will be any more reliable than a no-torture promise to the UK."

Al-Qassim's wife and daughter live in Afghanistan, making him potentially eligible for Afghan citizenship. Both he and his wife have expressed a wish to be reunited, and al-Qassim is currently pursuing an application for Afghan citizenship. The US government should allow al-Qassim to pursue his citizenship application in Afghanistan and not take the unlawful step of sending him to real risk of torture and abuse in Libya, said Human Rights Watch.

The US government notified al-Qassim of his pending transfer in December 2006 as a requirement of a court order then in place. A federal judge in Washington, DC temporarily halted his transfer after al-Qassim expressed a fear of torture if returned to Libya. But in April 2007 the court concluded it no longer had jurisdiction over the case under the habeas-stripping provisions of the [Military Commissions Act](#) enacted by Congress in September 2006. This law strips federal district courts of their statutory jurisdiction to hear habeas corpus claims brought by anyone who has been labeled an "enemy combatant" - a term that has been applied to al-Qassim and the hundreds of other detainees still being held at Guantanamo Bay.

"It is high time for the United States to set up a transparent system in which detainees can raise a fear of torture and challenge the

reliability of any promises of humane treatment," said Daskal.

The US is a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The treaty prohibits torture, as well as the transfer ("refoulement") of persons to countries where there are substantial grounds for believing that they would be in danger of being subjected to torture. Under international law, the prohibition against torture and refoulement is absolute and cannot be waived under any circumstances.

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