

# Libyan Detainee, Fearing Torture, Fights Transfer Home

## Abuse Concerns Slow U.S. Effort To Empty Prison

By JOSH WHITE  
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Abdul Ra'ouf Omar Mohammed Abu al-Qassim has been held at the U.S. detention facility at Guantanamo Bay, Cuba, for more than five years, and he longs to leave it. But the one place the U.S. government is willing to send the "enemy combatant" — his native Libya is the country Qassim fears most.

Having exhausted all possible legal remedies in U.S. courts — including a petition to the Supreme Court in April — Qassim is facing possibly imminent transfer to Libya, a country that the State Department deems a regular abuser and torturer of its captives. Qassim, accused by U.S. officials of being part of a terrorist group that aims to overthrow Libya's leader, expects that returning there means torture and perhaps death.

Qassim is one of the first detainees deemed an "alien enemy combatant" who is publicly fighting his departure from Guantanamo. His attorneys and at least one member of Congress have pleaded with U.S. officials to spare him from transfer to a country known for its human rights transgressions.

Qassim is among about 80 detainees at Guantanamo who have been cleared for release or transfer, and he represents a problem that could recur many times as the United States tries to clear out the facility: sending the men into the custody of nations known to employ torture.

Human rights groups estimate that there are more than a dozen men at Guantanamo slated to go to countries with spotty rights records. Absent court intervention, the men have no choice but to go where the United States sends them.



Khiria, with mother Rahima, shows a picture of her father, Abdul Ra'ouf Omar Mohammed Abu al-Qassim, a detainee at Guantanamo Bay, Cuba, who has been cleared to be sent home to Libya. Qassim is concerned that he will be tortured in Libya and has fought the transfer in U.S. courts.

"It's a huge problem," said Shayana Kadidal, a lawyer with the Center for Constitutional Rights who represents Qassim. "It's the number one crisis we're dealing with. A large number of people who are cleared for release are cleared to go to countries where they likely will be tortured. They will be suspect just for the fact that the U.S. has detained them for such a long period of time."

State Department officials said they will not return detainees to their home countries unless the nations guarantee them humane treatment. However, such negotiations occur in pri-

private and are hard to enforce.

Numerous detainees at Guantanamo have not been returned to their home countries for fear of torture, but so far no third country has been willing to accept a detainee whom the United States has deemed an enemy combatant, a senior State Department official said.

"We take very seriously our commitments under international law and our policy obligations, and we want to ensure everyone is treated humanely upon return to their home country," the official said. In cases where detainees cannot be sent home, the official said, the Unit-

ed States is seeking other options: "We will continue to pound the pavement and look for countries who will be willing to take them as a humanitarian gesture."

The relationship between Washington and Tripoli has improved dramatically over the past year, and the Bush administration considers Libya a close ally in fighting terrorism. Libya was pulled from a U.S. list of states that sponsor terrorism in June 2006, though it is unclear what assurances the United States has regarding abuse.

Libyan Embassy officials in Washington did not return calls

this week. U.S. officials declined to discuss Qassim's case but said several Libyan nationals could be transferred from Guantanamo as soon as next week.

Rep. Edward J. Markey (D-Mass.) has urged the State Department not to send Qassim to Libya and to consider other options. Qassim, now in his early 40s, is married to an Afghan woman. They have a daughter, entitling him to apply for citizenship in Afghanistan.

Markey, in a letter to the State Department this week, said it would be a "grave injustice" to send Qassim to Libya, because the State Department has re-

ported that the country engages in torture, including electric shocks and suffocation. Markey said in an interview that Qassim — by virtue of his alleged connection to a group that opposes the Libyan government — is at particular risk for abuse.

"The State Department doesn't have a leg to stand on if they're going to contradict their own analysis," Markey said.

Qassim contends that he was never a terrorist or a member of the Libyan Islamic Fighting Group (LIFG), as U.S. and Libyan officials allege. He wrote in a sworn statement that he was trained in weaponry while a conscript in the Libyan army, deserted in 1989 and went to Afghanistan in 1993. He and his pregnant wife fled Kabul for Pakistan when the U.S. bombing raids began in the fall of 2001.

"I did not participate in any hostilities against the Americans," Qassim said. "I especially did not endorse the September 11th attack."

"For all these years, I have been fleeing persecution, arrest and torture or death at the hands of the Libyan government," Qassim said. "I cannot go back to Libya because the risk is too great."

Human Rights Watch representatives believe there must be an open process that addresses detainees' fears of torture. So far, only five ethnic Chinese Uighurs have succeeded in avoiding transfer to China amid torture worries, but they were considered "no longer enemy combatants." The five went to Albania last year.

"While the vast majority of detainees want to go home and don't want there to be any more hurdles to slow down that process, there are a small number of individuals who have a credible fear of torture and who should not be sent home, based on no-torture promises from known torturers," said Jennifer Daskal, of Human Rights Watch.

Staff researcher Julie Tate contributed to this report.