

LIBYA

DISAPPEARANCES IN THE
BESIEGED NAFUSA
MOUNTAIN AS THOUSANDS
SEEK SAFETY IN TUNISIA

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Amnesty International Publications

First published in May 2011 by
Amnesty International Publications
International Secretariat
Peter Benenson House
1 Easton Street
London WC1X 0DW
United Kingdom
www.amnesty.org

© Amnesty International Publications 2011

Index: MDE 19/020/2011
Original Language: English
Printed by Amnesty International, International Secretariat, United Kingdom

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INTRODUCTION



Dhehiba: Protest in UAE Red Crescent camp © Amnesty International

The Nafusa Mountain area in the far west of Libya, where people have largely declared their allegiance to the opposition forces controlling Benghazi, has been under siege and under fire since early March 2011. In mid-April 2011, as fighting intensified in the area between forces loyal to Libyan leader Colonel Mu'ammār al-Gaddafi and the *thuuwar* ("revolutionaries", as the opposition fighters are known), thousands of people fled across the nearby border into Tunisia – nearly 55,000 according to the UN Office for the Coordination of Humanitarian Affairs. The UN Refugee Agency (UNHCR) has reported that since 21 April 2011 an average of 657 Libyans a day have crossed into Tunisia at Wazin and Dhehiba.¹ Most are being hosted by Tunisian families in Dhehiba, Jerba, Medenine, Remada, Tataouine, Zarzis and other cities, although some are living in camps set up by UNHCR and the Red Crescent Society of the United Arab Emirates (UAE), or in youth hostels.

The Nafusa Mountain hosts a cluster of towns and villages, where most residents belong to the Amazigh minority who speak Tamazight. Opposition to Colonel al-Gaddafi has grown as local demands to end perceived repression and discrimination against the Amazigh community have gone unanswered for decades. The Libyan authorities have persistently tried to erase the Amazigh cultural identity and language. For instance, children can only be given

Arab names, not Amazigh ones, and are not allowed to learn Tamazight at school. Several people have been prosecuted for peacefully promoting their identity or undertaking academic research on Amazigh heritage.² The region also has relatively poor infrastructure and services, including education and health care.

Since the siege began, scores of people, mostly young men, have “disappeared” in the Nafusa Mountain area at the hands of forces loyal to Colonel al-Gaddafi and have not been seen from or heard of again – they are victims of enforced disappearance. They are believed to have been transferred to detention facilities in and around Tripoli, and there are serious concerns about their safety and wellbeing.

During a fact-finding visit to Tunisia between 6 and 20 April 2011, Amnesty International met some of the people who had fled from the mountain region. They described many cases of enforced disappearance, as well as other problems in the besieged mountainous area – particularly the growing difficulty of surviving on supplies smuggled in from Tunisia and the dangers of travelling to areas controlled by forces loyal to Colonel al-Gaddafi. As the fighting has spilled over the border, the last lifeline of the smugglers’ route has looked to be at risk.

Assessing the impact of the fighting and siege in the Nafusa Mountain area has been severely impeded by the absence of independent observers there, coupled with the disruption of communication lines. This highlights the urgent need for all sides to guarantee the safe passage of humanitarian organizations to the area, in particular to respond to the needs of the civilian population.

The UN World Food Programme (WFP) reported on 12 May 2011 that the ongoing fighting is blocking access to the Nafusa Mountain, where the WFP believes the need for food could be immense. The WFP has reported that, while supplies have reached several affected places, the most affected areas around Yefren and Zintan are not yet accessible.

LIVING UNDER SIEGE AND SHELLING



Dhehiba: Libya-Tunisia border © Amnesty International

After several cities in the Nafusa Mountain area declared their allegiance to the Transitional National Council (TNC), based in Benghazi, and the security forces withdrew, in late February 2011 the *thuuwar* attacked the military barracks in the forest of al-Kashaf,³ as well as premises of the government's Internal and External Security Agencies and of the Revolutionary Committees (Al-Lijan al-Thawriya). During such attacks, they seized weapons. In late February 2011, skirmishes broke out between the *thuuwar* and al-Gaddafi forces, particularly around checkpoints as the latter attempted to regain control of the mountain.

On 3 March 2011, forces loyal to al-Gaddafi forces attempted to retake Zintan⁴ by shelling the outskirts of the city.⁵ Attacks continued for three days, including against Yefren⁶ and Nalut,⁷ but the opposition forces prevented al-Gaddafi forces from entering the cities. However, al-Gaddafi forces surrounded the area and positioned mobile Grad rocket launchers on the outskirts of the cities. Since then, the three cities have been besieged but have not fallen to al-Gaddafi forces.

Witnesses told Amnesty International that Grad rockets were fired into Nalut, Zintan and

Yefren and the surrounding villages, destroying several houses and in some cases killing civilians inside. Amnesty International cannot confirm these reports. According to the interviewees, civilian objects, including hospitals, houses, mosques and schools in the villages surrounding the towns, were shelled and partly destroyed. Among the villages affected were al-Qalaa,⁸ Arrujban,⁹ Jadu,¹⁰ Kikla,¹¹ Nalut, Takut,¹² Yefren and Zintan.

Grad rockets are indiscriminate weapons and al-Gaddafi forces appear to have fired them from tens of kilometres away from their supposed target. Even at much closer range, these rockets cannot be directed accurately at a particular target. Mortars and artillery shells have also been used – weapons designed to be used against massed infantry or enemy tanks and artillery. They too are not suitable for attacking a precise target, especially in the vicinity of civilians, and should never be used in residential areas.

Women from the Nafusa Mountain told Amnesty International that they had been living in constant fear of shelling and were terrorized by the sounds of explosions. A 30-year-old woman from Nalut said she suffered a miscarriage on 11 April 2011 after the outskirts of the city were shelled. That same afternoon, she fled with her family to Tunisia. She was bleeding, but only realized that she had miscarried when she went to a clinic in Tataouine, Tunisia.

Residents of Takut, a village on the outskirts of Nalut and about 30km south-east of Tiji where al-Gaddafi forces are believed to be positioned, have been seriously affected by the shelling. A 43-year-old man from the village told Amnesty International:

“The attacks on Takut were indiscriminate; several houses were destroyed, including mine. People hid in dawamis [a plural of damus – ancient, troglodyte Amazigh houses in the mountainside] and fortunately nobody was harmed. I took my family to Nalut, where we stayed in hiding about three days and then we left for Tunisia. I will leave them here and go back. All our cattle have been either killed or lost. Our farms were also destroyed by cars and tanks. The kata`ib [Colonel al-Gaddafi’s armed forces] took what they could from the farms for their own consumption and then they destroyed what they couldn’t take... we are surrounded; we are besieged. We can’t get food, fuel, medicines, and milk for children... Takut is not the target itself, al-Gaddafi and his forces want to destroy Yefren; they can’t reach there because they are in the mountains, so the shells fall on Takut... They want to cut off supplies to oblige the thuuwar to surrender. We will never surrender, we want to be free.”

Al-Qalaa has also been affected by shelling and tank-fire. For two days in early April 2011 al-Gaddafi troops surrounded it and fired Grad rockets at it. According to reports, the hospital and mosque as well as several houses were shelled, farms were destroyed and livestock killed. A 30-year-old woman who fled al-Qalaa told Amnesty International:

“I was with my family; I have two children aged three and five. We were in al-Qalaa when the shelling started. They were very scared; they could not sleep properly and were always crying because of shelling. I could not leave them for a second. On 2 April; at around 2pm, we went to al-Qalaa al-Ulya where we spent three nights in hiding in a damus. We were scared to go out. I was preparing food on firewood because we didn’t have gas. We never left the house; we were living on stocks...”

“Shelling continued on al-Qalaa. On 11 April, we left to Rehibat,¹³ where we spent five days.

Then we were told to leave because kata'ib were approaching with tanks and Grad launchers. On our way to Rehibat, we saw cows and sheep killed, lying on the ground, farms destroyed – tanks and cars had driven over the crops. Many houses and mosques were shelled. Some are partly destroyed, others completely. On 16 April, we left Rehibat fearing retaliation of al-Gaddafi people. We went to Nalut and then the next day escorted by the thuuwar we reached Tunisia using back roads...”

ACCESS TO FOOD, ELECTRICITY, WATER, MEDICINE AND FUEL

Families have told Amnesty International that in the Nafusa Mountain area there is an increasingly serious shortage of basic necessities. Food, fuel and medical supplies from Tunisia have been severely restricted since attacks started on 14 April 2011 on the paved roads leading to areas controlled by al-Gaddafi forces, and travelling on unpaved back roads escorted by *thuuwar* has become unsafe.

People told Amnesty International of dwindling food supplies, particularly fresh produce and baby milk. They said that water was running short as al-Gaddafi forces had deliberately destroyed some water wells and that the main water wells, in areas controlled by al-Gaddafi forces, were damaged.

Internet and phone networks have been disrupted since the start of the unrest. Electricity was reported to have been cut by al-Gaddafi forces after they surrounded the area, although the *thuuwar* partly re-established supplies using generators. However, generators depend on fuel that is in short supply because of the siege. Residents also reported shortages of qualified medical personnel and medicines.

A woman from Zintan told Amnesty International that shells from al-Kashaf barracks had hit houses in the Beshima neighbourhood of Zintan. She said that families were initially moved to school buildings, then to the university buildings, and then to houses hosting other homeless families. After shelling began from the north of the city, some families decided to flee to Tunisia:

"We didn't have city water; it was cut when the problems started. We had little water in tankers that we have saved during the rainy season. We had little food, we were economizing. Children do not have enough milk, as supplies through Tunisia are stopped due to attacks on the roads. My mother is sick, she has a cancer, and in Zintan we could not find any medicines for her. She also needed an urgent surgery. We waited a few days to make it to Tunisia; we were told several times that the road was not safe. We have to go first to Nalut where we stayed two days. And then we arrived here [Dhehiba] on 12 April 2011."

The siege continues to prevent supplies and aid from Tunisia from reaching Nafusa Mountain and the already dire situation looks set to deteriorate further. The repeated attacks and battles to control Wazin, 3km from the Tunisian border, also show the determination of al-Gaddafi troops to interrupt the exodus of people to Tunisia and to cut off supplies to the besieged towns.

INTERNAL DISPLACEMENT

Many people from Nafusa Mountain have been displaced several times because of attacks and shelling. Families have also fled as rumours spread of sexual assaults by al-Gaddafi troops and mercenaries in besieged and retaken cities and villages. Amnesty International has not been able to confirm these allegations or interview any survivors of such attacks.

A mother from Zintan who fled to Dhehiba camp with her two daughters aged 15 and 16 told Amnesty International:

“We did not participate in the demonstrations, our society is conservative. When the first offensive started our father took us to Tiji area. Ten days later, the offensives stopped in Zintan and the situation became calm; we were taken back.

“Three days later, the shells started and hit our house. Fortunately none of us was harmed. We were taken to Rehibat. In Rehibat there are both sides, those who support al-Gaddafi and those who do not. But they managed to live together until al-Gaddafi forces, about 17 days after our arrival, deployed there. We were obliged to move again.

“We went to Nalut: we spent one night hosted by the community, and then we fled to Tunisia seeking a safe place. I am taking my daughters, for fear that something bad will happen to them, we have heard about women and girls being raped in other cities in the east and after offensives at the hand of mercenaries... We also heard about rapes that took place in Kikla and Zintan.”



Top and above, Dhehiba youth hostel © Amnesty International

PROTESTS IN NAFUSA MOUNTAIN



Dhehiba: Protest in UAE Red Crescent camp ©
Amnesty International

In the main towns in Nafusa Mountain – in Zintan, Nalut and Yefren – protests started between 16 and 20 February 2011, reportedly in support of the calls made by the Benghazi-based opposition for greater freedoms and against the killings and detentions of demonstrators in eastern Libya. They also condemned corruption and the marginalization of the Amazigh population in the Nafusa Mountain area, demanding improved infrastructure, education and health care. Eyewitnesses reported that protesters looted and set fire to the premises of the Revolutionary Committees, Internal Security Agency and police in several towns and villages. People told Amnesty International that these institutions represent 40 years of repression and human rights violations.

In Zintan, for example, protests began on 16 February 2011. Youths and men marched towards the al-Souk area in the centre of the town and then gathered at a roundabout, chanting slogans in support of the Benghazi-based opposition. Between 1pm to 4pm, the demonstrators set fire to the premises of the local Revolutionary Committee, police station and Internal Security Agency. According to an eyewitness, there were no casualties. The demonstrators then returned to the roundabout. At around 5pm, anti-riot forces and police tried to disperse the gathering using tear gas and sticks, but no firearms, as far as Amnesty International can determine. The demonstrators retaliated by throwing stones at the security forces, who apparently fled.

About 600 demonstrators then staged a sit-in at the roundabout and erected tents. Early the next morning, at around 3am on 17 February 2011, eyewitnesses told Amnesty International that members of the Revolutionary Committees arrived in armoured cars carrying pistols and kalashnikov rifles. They fired several times in the air, and at gunpoint took away 16 protesters to an unknown destination. Demonstrations continued for the next four days, demanding in particular the immediate release of the 16 detainees.

Sentiment against Colonel al-Gaddafi intensified and demonstrators began demanding the end of his government. The flag of the Socialist People's Libyan Arab Jamahiriya was replaced by one endorsed by the opposition, and all symbols linked to al-Gaddafi rule were

burned or destroyed.

On 22 February 2011, following negotiations between tribal leaders and the Revolutionary Committees, the 16 detainees were released. Several bore marks of torture and other ill-treatment, including physical assaults that they said were inflicted by security forces in Tripoli.

A 32-year-old man injured during fighting on 15 April 2011 in Zintan, and who participated in demonstrations from the beginning, told Amnesty International:

“We Amazigh living in Nafusa Mountain have been discriminated against for 40 years. We can’t speak our language, we can’t give Amazigh names to our children... When demonstrations started, we took the opportunity to express our anger against a regime that oppressed us for so long. Libya is full of resources, but no infrastructure, no services. What future is al-Gaddafi offering to our children? Nothing but ignorance... I joined the thuuwar and got injured. I would like to offer better future for my children.”

ENFORCED DISAPPEARANCES

Since 21 February 2011, al-Gaddafi forces have been deployed at military barracks in al-Kashaf forest about 20km north-east of Zintan, and have set up several checkpoints. These forces have searched families and apparently arrested several men and teenagers under 18. Nafusa residents believe that soldiers have the names of people involved in the protests, or are arresting people for their alleged support of the opposition or for organizing supplies to the besieged cities.

Family members told Amnesty International of relatives who were detained by al-Gaddafi forces when they ventured beyond the opposition strongholds to buy petrol or basic necessities and whose fate or whereabouts remain unknown. They said that others were subjected to enforced disappearance on their way to or from Tripoli. Some of the disappeared have subsequently appeared on Libyan state television “confessing” to being pressured to act against the country’s best interests, but most have simply vanished. Amnesty International has met relatives of several of the disappeared, but must withheld their names for fear of reprisals against them and their families.

A man told Amnesty International that his brother, a 37-year-old father from Nalut, together with a relative and a friend, “disappeared” after he drove south from Nalut to Tiji to get spare parts for his car in early March 2011. When he did not return, his family started calling him repeatedly. He eventually answered, hastily saying: “I am going to Tripoli, take care of the kids.” Since then his phone has been switched off. His family believes that he is being held in Ain Zara Prison in Tripoli. His distraught brother showed Amnesty International delegates a video of his brother waving the opposition flag during peaceful protests in Nalut, just days before his apparent enforced disappearance.

In another case, a man in his fifties was driving from Yefren on 26 March 2011 to get petrol in Gherian, a town controlled by al-Gaddafi forces, when he was stopped at a checkpoint. He was on the phone with his wife as he approached the checkpoint, but his phone was suddenly disconnected. Since then, his wife and five children have had no news of his whereabouts. Prior to his disappearance, he had been distributing goods to families in Yefren.

People from Zintan have also related similar experiences to Amnesty International. For instance, a 37-year-old married man was stopped at a checkpoint in Gherian while driving home from Tripoli on 21 February 2011. Since then, his relatives have been unable to trace his whereabouts.

A man from Nalut who sought refuge in Remada Camp said that his brother and uncle – both fathers in their early thirties – left Nalut to go to Tiji to buy fuel on 27 February 2011, but never came back. Three days later the family was told that the two men were first detained in Salaheddine Prison and then Abu Salim Prison, both in Tripoli. The man also said that in early March 2011, two male neighbours aged 30 and 35 who went to Tiji to buy fuel also disappeared. Three days later, he said, another man from Nalut went to Tripoli to bring his family home, fearing for their safety there, but never reached them. His wife, who was

awaiting him in Tripoli, last received a phone call from him at the Tiji checkpoint.

A woman from al-Qalaa told Amnesty International that her 29-year-old son-in-law was apprehended by al-Gaddafi forces on 21 February 2011 in the area of New al-Qalaa while he was out with friends, and that there had been no news of him since then. The friends managed to escape.

Amnesty International has documented numerous cases of enforced disappearances across Libya in the build-up to the planned protests on 17 February, and such abuses became more frequent as the unrest intensified. This pattern of serious human rights violation is reminiscent of the 1990s, when widespread enforced disappearances took place of people believed to oppose Colonel al-Gaddafi or to be members of Islamist groups. The failure of the authorities to investigate these past crimes and bring those responsible to justice serve as a strong reminder that impunity invariably leads to repetition of crimes.

PROHIBITION ON ENFORCED DISAPPEARANCES

Article 2 of the International Convention for the Protection of all Persons from Enforced Disappearance defines an enforced disappearance as “the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.” Libya is not a party to the Convention, which came into force in December 2010.

However, as a state party to the International Covenant on Civil and Political Rights, Libya is obliged to prevent arbitrary arrest and detention; to respect the rights of those arrested to be promptly informed of the charges against them; to bring them before the judicial authorities within a reasonable time; and to allow them to challenge the lawfulness of their detention (Article 9).

Libyan legislation includes some safeguards against enforced disappearance and arbitrary detention. For instance, Law No. 20 of 1991 on the Promotion of Freedom includes a number of principles intended to guarantee the protection of human rights in the administration of justice. For example, Article 14 stipulates: “No one can be deprived of his freedom, searched or questioned unless he has been charged with committing an act that is punishable by law, pursuant to an order issued by a competent court, and in accordance with the conditions and time limits specified by law.” The same article states: “Accused persons must be held in custody at a known location, which shall be disclosed to their relatives, for the shortest period of time required to conduct the investigation and secure evidence.”

Article 7 of the Rome Statute of the International Criminal Court, which reflects customary international law, makes clear that when enforced disappearances are committed as part of a widespread or systematic attack directed against a civilian population, with knowledge of the attack, they constitute crimes against humanity.

RECOMMENDATIONS



Dhehiba: Youth hostel © Amnesty International

Amnesty International calls on the authorities in Tripoli to:

- Ensure that forces under their control do not carry out direct attacks against civilians or civilian objects, or attacks that do not distinguish between military targets and civilians or civilian objects (indiscriminate attacks); or attacks which, although aimed at a legitimate military targets, have a disproportionate impact on civilians or civilian objects;
- Ensure that government forces do not use inherently indiscriminate weapons, including cluster weapons, anti-personnel landmines and Grad rockets; and end the use of artillery and mortars in residential areas;
- Lift arbitrary restrictions to access to water, electricity, fuel and other basic necessities in the Nafusa Mountain towns and villages;
- Ensure that the families and lawyers of those detained are informed immediately of the place of detention and the specific allegations against the detainees, and allow immediate independent access to these places of detention;

- Immediately and unconditionally release all those detained solely on account of their opinions or peaceful activities in support of the protests or opposition, and guarantee them safe passage to their homes; and
- Take immediate steps to ensure that any alleged or known fighters captured are treated humanely in accordance with the requirements of international law and ensure that their families are informed of their capture and place of detention and are allowed to communicate with them.

Amnesty International calls on the authorities in Tripoli and other parties to the conflict to:

- Take all necessary measures for the immediate establishment and operation of effective humanitarian corridors enabling urgently-needed supplies and humanitarian workers to reach the affected populations, including through the establishment of neutral zones and negotiated routes, clearly defined in terms of space, time and scope;
- Take all necessary measures to ensure that any civilian wanting to leave the country be immediately allowed safe passage in dignity and safety;
- In allowing safe passage and providing humanitarian assistance, be mindful of the needs and risks of those who may have greater difficulties in Libya and at the borders, including families with young children, unaccompanied or separated minors, women at risk of physical, sexual or psychological violence or exploitation, survivors of torture, people with urgent medical or other special needs, the disabled and the elderly, and refugees and asylum-seekers; and
- Guarantee unfettered access to UNHCR and other humanitarian agencies in Libya.

Amnesty International calls on the International Community in a spirit of responsibility and burden sharing with the Tunisian authorities to:

- Maintain open land, air and sea borders, including through the creation of neutral zones and negotiated routes. Allow anyone fleeing Libya immediate access at the border – be it a land, air or sea border – without discrimination and irrespective of their background;
- Commit the necessary resources in response to calls from UNHCR and the International Organization for Migration (IOM) for additional assistance to continue carrying out the repatriation of foreigners fleeing Libya; and

Respond immediately and generously to UNHCR's call for an emergency resettlement effort by offering resettlement places to assist in meeting the protection needs of refugees and asylum-seekers in Libya and in neighbouring countries which do not have protection and assistance systems in place.

ENDNOTES

¹ United Nations Office for the Coordination of Humanitarian Affairs (OCHA), “Humanitarian update – Nafusa Mountains”, 3 May 2011:
<http://northafrica.humanitarianresponse.info/Portals/0/Reports/Misrata%20Fact%20Sheets/OCHA%20Libya%20Nafusa%20Mts%20Factsheet%20-20%20May.pdf>, accessed 22 May 2011.

² Amnesty International, “Libyan Prisoner Tortured” (Index: MDE 19/002/2011), 4 February 2011:
<http://www.amnesty.org/en/library/info/MDE19/002/2011/en>, accessed 23 May 2011.

³ The forest al-Kashaf is 7km north-east of Zintan.

⁴ Zintan is 170km south-west of Tripoli and 100km south-west of Gherian.

⁵ That day, about 40 military trucks and armoured cars armed with anti-aircraft weapons were seen around 30km north of Zintan.

⁶ Yefren is 135km south-west of Tripoli.

⁷ Nalut is 200km south-west of Tripoli and 63km from the border town of Dhehiba in Tunisia.

⁸ Al-Qala is a cluster of four villages: al-Qalaa Dhaher, al-Qalaa al-Ulya, al-Qalaa al-Wadi and al-Qasba.

⁹ Arrujban is 29km west of Zintan.

¹⁰ Jadu is 30km west of Zintan.

¹¹ Kikla is 25km west of Yefren and 60km east of Zintan. Troops loyal to Colonel al-Gaddafi took control of the town on 4 April 2011.

¹² Takut is 19km north of Nalut.

¹³ Rehibat is 50km south-west of Zintan.

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