

Report – Fact-finding visit to Libya June 2004 under the auspices of the Norwegian Immigration Appeals Board, the Norwegian Directorate of Immigration and the Danish Immigration Service

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Table of Contents

1. Introduction	4
2. The political situation	6
2.1 The foreign policy situation	6
2.2 The domestic political situation	7
2.3 The tribe and clan system.	8
2.3.1 Qadhafi's relationship to tribal and clan ties – ideologically and in practice	8
2.4 Corruption and nepotism	9
2.4.1 The position of Qadhafi's closest family	10
2.5 Security and surveillance	10
2.5.1 Surveillance of Libyans abroad	11
2.6 Prisons	11
2.7 Political opposition	12
2.8 The Berber minority	14
3. Human rights	15
3.1 The official attitude to the question of human rights	15
3.2 Human rights work	15
3.3 Amnesty International's report	16
3.4 The death penalty	17
3.5 Double punishment	17
4. The economy, education and health	18
4.1 Education	18
4.2 Health	19
4.3 Alcohol and drugs	19
5. The position of women	21
5.1 Family law	21
5.2 Marriage and divorce	21
6. Identity documents	23
6.1 Family books	23
6.2 ID cards	23
6.3 Passports	24
6.4 Addresses and telephones	24
6.5 Citizenship	24
7. Freedom of movement	25
7.1 Freedom to travel in and out of Libya	25
7.1.1 Visa obligation	25
7.1.2 Control on exit and entry	25
7.1.3 Does human smuggling of Libyans take place?	25
7.2 Freedom of movement within Libya	26

8. Libya as a migration country	27
8.1 Libyan emigration	27
8.1.1 Libyan asylum seekers	27
8.1.2 The return of Libyan asylum seekers	28
8.1.3 Asylum seekers without identity documents	28
8.1.4 Crime committed by Libyans abroad	28
8.2 Immigration to Libya	29
8.2.1 Migrants from Africa	29
8.2.2 Migrants from other Arab countries	29
8.2.3 Migrants from the rest of the world	30
8.3 Libya's view of refugees	30
8.3.1 The UNHCR's activities in Libya	31
8.4 Libya's role as a transit country for migration to Europe	31
References	32

1. Introduction

This report is based on information gathered by a Norwegian-Danish delegation during a visit to Libya from 4 to 11 June 2004. The delegation consisted of four members. From Norway, a head of section and a country advisor from the Immigration Appeals Board, and a regional advisor from the Norwegian Directorate of Immigration participated. From Denmark, a country advisor from the Danish Immigration Service participated. The official trip was the Norwegian and Danish immigration authorities' first visit to Libya.

The background for the visit was the steep rise in the number of Libyan asylum seekers in Norway in recent years. Seven Libyans sought asylum in 2000, 62 in 2001, 123 in 2002 and 283 in 2003. As of 30 June 2004, 56 Libyans have sought asylum in Norway. While this was a decrease from the previous year, it must be seen in conjunction with a general decrease in the number of asylum seekers in Norway. In recent years, Denmark has also received an increasing number of applications for political asylum from Libyans. The number of applications for political asylum from Libyans in 1998 and 1999 was less than 10. In 2000, 14 Libyans applied for political asylum and in 2001 and 2002 the numbers were 31 and 28, respectively. In 2003, 17 Libyans applied for asylum, while the number, as of 1 July 2004, was 10. This decrease should probably be seen in conjunction with the general decrease in the number of asylum applications in Denmark, which in the period 2002-2003 was reduced by almost a third.

The purpose of the visit was to collect information about the political and human rights situation in the country, and other relevant information for use in processing asylum applications from Libyan nationals. It was also important to obtain more information about the possibilities of returning to Libya, both for those who wish to return voluntarily and in connection with compulsory returns. The delegation also wished to obtain information relevant to the processing of immigration cases in general, for example, concerning issues such as health, education, family legislation and the position of women.

The report is organised thematically and describes the answers and impressions received by the delegation dur-

ing its stay. To prevent the report becoming unnecessarily lengthy, all information not directly related to the immigration field has been omitted.

The delegation wanted as wide a range of sources as possible within the Libyan context. Access to reliable information and independent sources in Libya is limited, however. As a result, it is difficult to achieve the level of detailed and precise information the immigration authorities prefer and endeavour to obtain. A distinctive characteristic of Libyan society is the total absence of independent Libyan and international NGOs, which are often valuable sources for Western immigration authorities. In addition, Libya is a society that appears to be under close surveillance, a factor that contributes to Libyan sources in particular being cautious in their comments. Few dare, or wish to express themselves freely. It is not only due to surveillance that people are generally cautious. It is also important in Libya, as in the other North African countries, to establish a relationship based on personal trust with possible Libyan sources. Needless to say, for a delegation staying for one week in Tripoli this was not possible.

The delegation had meetings with the following discussion partners or sources: 1) Western diplomatic sources with good knowledge of Libyan society, referred to in the report as diplomatic sources 1-10; 2) Representatives of foreign companies operating in Libya. These are referred to in the report as business sources 1 and 2; 3) Libyan sources, i.e. representatives of the Foreign Ministry, the Bar Association in Tripoli, a human rights organisation and a professor and a lawyer who met unofficially with the delegation. In addition, a meeting was held with the Palestinian Embassy and the United Nations High Commissioner for Refugees – UNHCR. In total, the delegation had 20 meetings in Tripoli.

It had been decided in advance that the delegation would write a public report. All discussion partners were initially made aware of this, but were told that consideration would be taken with respect to protection of sources. The names of the discussion partners would be omitted, and no one would be quoted directly. No one with whom the delegation spoke had any objections to this. The delega-

tion would like to take the opportunity to thank the Norwegian Embassy in Tunis, the Libyan Foreign Ministry and the Norwegian and Swedish Consulate in Tripoli for a friendly reception, professional assistance and practical help in connection with carrying out our programme.

Oslo/Copenhagen, July 2004

2. The political situation

Colonel Mu'ammar Qadhafi is Libya's leader.¹ He came to power in a military coup in 1969. Libya's political system is based on the theories set out in a political manifesto entitled *The Green Book*. Parliamentary democracy and political parties are rejected in the book; in their place a system of mass democracy is set out – *jamahiriyya*² – where all the country's citizens can participate in political decisions.

In each local administrative unit (*sha'biyya*) there is a *basic people's congress* (*mu'tamar sha'bi 'asasi*). Each basic people's congress elects a *people's committee* (*lajna sha'biya lil-mahalla*) which appoints the local representative to the *people's general congress* (*mu'tamar al-sha'b al-'amm*), which is Libya's formal legislative assembly. Political parties are prohibited in Libya.³

The people's committees also appoint the *people's general committee* (*al-lajna al-sha'biya al-'amma*) which functions as the country's government. The head of the regime is formally known as *secretary of the people's general committee*.

Parallel with this system, is a system of so-called *revolution committees* (*lijan thawriya*). The task of these committees is to monitor the above-mentioned assemblies (and media) in order to ensure that they do not deviate from the official ideology.

Qadhafi has no formal power in the system. He is merely referred to as *the leader of the revolution*. Despite the

political system, Qadhafi is, nevertheless, the real leader of Libya and all power rests with him.

2.1 The foreign policy situation⁴

Libya's relationship with the Western world has undergone a marked change in recent years.

In 1992, the UN imposed sanctions on Libya as a result of Libya's refusal to extradite the Libyan citizens suspected of being behind the bombing of an American passenger plane that crashed over Lockerbie in Scotland in 1988.

Even before the UN sanctions, Libya's relationship with the USA and the UK was characterised by unilateral economic sanctions. The US sanctions were the result of Libya being regarded as a supporter of international terrorism. The UK imposed sanctions after a British policewoman was killed outside the Libyan embassy in London in 1984, for which Libya was considered responsible. The relationship between Libya and the UK was normalised in 1999 after the country agreed to pay compensation to the family of the policewoman who was killed.

In 1994, Libya offered to extradite the two Libyans suspected of the Lockerbie bombing for trial in a neutral country. An agreement was reached to appoint a Scottish court in the Netherlands and the two suspects were extradited in 1999. The UN sanctions were then temporarily lifted.

In 2001, one of the two suspected Libyans was convicted of murder and sentenced to prison. The other suspect was acquitted due to lack of evidence.

The UN sanctions were finally revoked when, in August 2003, Libya admitted responsibility for the Lockerbie bombing and entered into an agreement to pay compensation to the families of the victims.⁵

¹ The introduction is based on the Swedish Institute of International Affairs' *Länder i fickformat: Libyen*.

² A new word in Arabic which Qadhafi himself has invented from the words *jumhuriyya* 'republic' and *jamahir* 'the masses' – i.e. a 'republic of the masses'. Libya's full official name today is *Al-jamahiriyya al-'arabiyya al-libiyya al-sha'biyya al-ishtirakiyya al-'udhma* or *The Great Socialist People's Libyan Arab Jamahiriyya*.

³ As it says in Qadhafi's *Green Book*: «Representative assemblies are a forgery of democracy» (part I I p.13), «he who forms parties betrays» and «party politics entail an abortion of democracy» (part I p.19). See Hanspeter Mattes: *Libya's Problems with Political Reform*, I.2.d. for a thorough review of the *jamahiriyya* system.

⁴ The section is based on Swedish Institute of International Affairs' *Länder i fickformat: Libyen* and various news media.

⁵ Relations between Libya and the West were, moreover, soured by the bombing of the discotheque "La Belle" in Berlin in 1986 and the bombing of a French passenger plane over Niger in 1989. See Regional Surveys of the World: *Middle East and North Africa 2004*.

Since then, Libya has voluntarily and under international monitoring discontinued its weapons of mass destruction programme. This development has also led to a situation in which the USA is now in the process of lifting its sanctions against Libya.

Libya's rehabilitation in relation to the Western world has been marked by prominent visits to Libya by, among others, the British Prime Minister Tony Blair, the Italian Prime Minister Silvio Berlusconi and the USA's Deputy Secretary of State, William Burns. Qadhafi himself has made an official visit to the EU in Brussels.

2.2 The domestic political situation

The current political situation in Libya was discussed with a number of diplomatic sources, sources from international companies operating in Libya and others. There was broad agreement among the sources that there has been a marked improvement in the situation in Libya after the sanctions were lifted. It was pointed out, among other things, that a much wider selection of goods has become available in recent years. In addition, there has been a sharp increase in the number of small privately-run businesses.

Diplomatic source 3 pointed out further examples of the opening up of Libyan society: more local investment, the possibility of buying foreign currency, the building of an international luxury hotel in Tripoli and the establishment of an English-language Libyan newspaper.

There was broad agreement among the sources that the changes in foreign policy have happened quickly. Two diplomatic sources (3/4) pointed out that, in contrast, domestic political change has been very slow, while other diplomatic sources (2/9) were of the opinion that no noteworthy change has yet taken place in the domestic political area.

Diplomatic source 7 elaborated on this by saying that there is a will to political reform, but the habitual thinking of the elite and their desire to defend their own privileges in the current system is slowing down the process considerably.

There was broad agreement among the diplomatic sources (2/3/4/5) that the appointment of the reform-friendly, Western educated economist, Shukri Ghanem, as Prime Minister is a sign of the regime's willingness to reform.

Likewise, the sources agreed that political power in the country is still, to a large extent, concentrated in Mu'ammar Qadhafi's hands, even though he is not formally head of state.

In this connection, diplomatic source 5 emphasised that Qadhafi ensures that the few reformists in the regime are "rotated" in order to maintain control of developments. Another diplomatic source (3) added that this "rotation" is intended to ensure that no one acquires a power base that can pose a threat to Qadhafi. Other diplomatic sources (2/9) pointed out that Prime Minister Ghanem's willingness to reform is meeting great resistance from the conservative members of the regime. One of these sources (9) added that the Prime Minister cannot manoeuvre freely as many of the powerful conservative members of the regime have a lot to lose in a possible reform process. This point of view was supported by another diplomatic source (3), who believed that reforms in Libya will progress slowly as long as persons within the power elite clearly benefit from the status quo.

Diplomatic source 3 emphasised that Qadhafi is very skilled at balancing between the conservative and the more reform-friendly members of the regime. Qadhafi has demonstrated the same ability in foreign policy, where he has balanced relations with, for example, China and India on the one hand and the EU and USA on the other. This view is confirmed by a majority of the sources.

Two diplomatic sources (1/3) stressed that to a certain extent the atmosphere among the general public is still characterised by fear, but also increasingly by anger and disillusionment. One of these sources (3) believed that increasing dissatisfaction among the general public is one of several reasons why the regime in Libya has instigated certain reforms and moved closer to the West. According to this source, the regime has admitted that these initiatives are a precondition for their holding onto power in the country.

In reply to the question of whether there is a power struggle within the present regime between a declared reform wing and a conservative wing, diplomatic source 4 did not consider this to be the case. According to the source, it is surprising how many persons in the regime describe themselves as reformists and how few who consider themselves conservative – given how slowly the reform process is progressing. In this connection, the source emphasised that Qadhafi dominates the regime to such an extent that, even with internal resistance, he would be able to carry out far-

reaching reforms, a viewpoint shared by another diplomatic source (7).

In the same source's opinion, the reforms which, at best, can be expected in Libya can be compared with the process which has taken place in China. This means that economic opportunities and rights, but not their political equivalents, will improve.

Several diplomatic sources (2/3/9) stated that it is essential for the current regime to hold onto power. This factor will, according to the sources, limit the extent of the reform process in Libya.

There was broad agreement among the sources that domestic reforms in the country would be very time-consuming, and several diplomatic sources (4/9) pointed out that radical economic reform is a prerequisite for any political reform.

2.3 The tribe and clan system.

The Libyan professor emphasised that clan solidarity is an essential characteristic of Libyan society, a view that was confirmed by the majority of sources with whom the delegation spoke. The professor maintained that being able to draw on clan solidarity has become a kind of alternative to a non-existing civil society⁶; the clan is the most important socialisation agent in Libya and serves as a network channel for the majority of people – this is just as pronounced in the towns as in the country. The professor pointed out that affiliation to a clan is actually of more importance in people's lives in today's Libya, than during both the 1960s and 1970s. It was also emphasised that the anthropological studies by Evans-Pritchard in the 1940s and those carried out by John Davis in the 1970s are still largely pertinent today as a description of the working of the clan system in Libya. A very important point in this context is that it is the clan's collective best interest which determines when clan affiliation, clan contacts and clan solidarity can be mobilised to enforce their demands or to resist the demands of others. Nevertheless, several sources gave examples of exceptions, whereby persons affiliated to some clans and tribes who hold positions of privilege in the current regime exploit their clan affiliation and position for personal advantage or gain, something which is *not* traditionally viewed as acceptable behaviour.

⁶ Dr. Jum'a 'Atiga of the human rights commission of the *Gaddafi International Foundation for Charity Associations* stated on his part that «the clan system is an insufficient replacement for a genuine civil society, in which clan affiliation should have no importance.»

It is important, however, to emphasise that the majority of Libyans view such behaviour as socially reprehensible, and that behaving in such a way will have negative consequences for the collective reputation of the clan – unless it intervenes to punish such behaviour.

A number of Libyan asylum seekers in Norway have alleged that they are seeking protection outside Libya because they are victims of power abuse. Many sources state that the abuse of power by persons in senior positions in the regime, or with family ties to persons in such positions, is in no way unusual. However, it is important to point out in this context that our sources unanimously agreed that *all* Libyans have the possibility of mobilising a tribe/clan network in situations where it is required. They clearly expressed the view, therefore, that in such situations Libyans can utilise clan solidarity to mobilise help, and that no Libyans are without such a network.

2.3.1 Qadhafi's relationship to tribal and clan ties – ideologically and in practice

Mu'ammar Qadhafi's view of the role of the tribes and clans in Libyan society has varied from attempts to marginalise them in the years after coming to power in 1969 – when the clans were considered nothing more than a “social umbrella” that should not have any political role – to a gradual formalisation from 1994 onwards, with the creation of the so-called *people's committee for social leadership*⁷ and *the youth association (rawabit shababiyya)*. The current tendency whereby the legal system entrusts many personal disputes to mediation by clan leaders (according to traditional principles regulated by the classical Sharia⁸ law), is also an indication that the attempt to limit the clans' influence for ideological reasons has been replaced by a more pragmatic line whereby the powers that be, endeavour to a greater extent to give the clans a role within the *jamahiriyya* system – in order to have more influence over the relations between the clans.

Diplomatic source 3 pointed out that regardless of changing ideological views of what the clans' role should be, Qadhafi has, throughout his whole period in power shown an extraordinary knack of maintaining the balance of power between the Libyan clans by awarding privileges

⁷ Hanspeter Mattes: *Libya's Problems with Political Reform*, I.1.c. and I.2.d.

⁸ Islamic case law, based on the Koran, *hadith*-collections (collections of texts about the prophet Muhammad and the way of life of the first Muslims) and Islamic legal principles.

and by rotating persons from different clan backgrounds between different positions in the state apparatus. At the same time, many sources confirm that major changes occurred in the internal balance of power between the tribes and clans as a result of the change of regime in 1969. This meant that the clans which historically enjoyed hegemony of power (associated with the monarchy and the religious *Sufi*-brotherhoods) lost influence, which to a large extent has gone to clans that were more marginal before the coup (particularly Qadhafi's clan, al-Qadhahfa), and a feeling of loss of power and marginalisation is still an important area of conflict for some clans in today's Libyan political landscape.

2.4 Corruption and nepotism

Our sources were unanimous that corruption and nepotism are phenomena which characterise everyday life in Libya to a large extent; many pointed out that in his speeches Qadhafi openly refers to corruption as a problem. Two diplomats (1/2) mentioned the education system, especially at university level, and the health system as areas where corruption is very widespread⁹. Also other areas of the civil service have a problem with corruption; another example mentioned to the delegation was that bribery could considerably speed up case processing compared with the time it would otherwise take.

Several diplomatic sources (1/4/5) mentioned the so-called Act 15 (passed in 1981) as a strong contributory cause of corruption in the civil service. This act puts a ceiling on the salaries of civil servants all the way up to ministerial level and, according to the sources, this amount has not been adjusted for several years. This means that civil servants do not earn enough to maintain a normal middle class standard of living for a family with 2-4 children, especially after the devaluation of the Libyan currency that has taken place in recent years. Diplomatic source 4 went so far as to claim that the amount has deliberately not been increased in order to engender corruption, so that the regime always has something to use against persons it wants to remove from positions of power. Diplomatic source 5 pointed out that all the money that is clearly in circulation in Libya, is in itself an indication of widespread corruption, as a result of Act 15, among other things.

⁹ He pointed to the fear that health personnel may have obtained their diplomas through bribery as one of the reasons that many Libyans travel abroad for treatment if they have the opportunity to do so.

Nepotism permeates society to a perhaps even greater extent than corruption. In practice, this means that Libyans, even more than in other Arab countries, mobilise relatives or clan members when they need something arranged at all levels – from getting simple public services performed to more serious problems with the regime. In addition to – or instead of – going through the official channels, people contact, for example a relative who works in the agency in question, or find out from relatives if anyone knows of any clan members working there who can be contacted, or contact relatives in higher positions than themselves who can do it on their behalf. As mentioned above, the Libyan professor pointed out that this form of clan solidarity has become so important in Libya precisely as a consequence of the *jamahiriyya* system which prevents a functioning civil society in which independent organisations, ombudsmen and/or an independent legal system could ensure the rights of citizens. The way Libyan society works in practice today often makes it essential for Libyans to mobilise clan solidarity in order to obtain benefits to which they are legally entitled. And while the general public does not have any choice but to continue this practice, it is clear that many would prefer a situation where clan affiliation was less crucial in so many areas as it is today.¹⁰

Given that nepotism is such an extensive phenomenon in Libya, it is to be expected that some people try to oppose the practice. Business source 1 stated, for example, that his company avoids employing the siblings, cousins etc. of employees in order to prevent nepotism becoming an internal problem.

There appears to be a certain difference in the views taken of corruption and nepotism, corruption being more generally denounced than nepotism – since nepotism at least has obvious connections to the clan structure in Libyan society, and is also associated with positive values such as solidarity, care and responsibility for kin. A Libyan lawyer in private practice stated that he had heard rumours about corruption in the legal system, but that he himself did not know of any concrete examples. On the other hand, he pointed out that it is not at all unusual for defendants to mobilise contacts and use clan solidarity with people in the legal system in order to influence the outcome of court cases. He emphasised, however, that this usually only occurs in cases where the opponent is the

¹⁰ Islamists' strong, express criticism of nepotistic structures is one important factor in the support for Islamist political parties and groups in many Arab countries.

State, for example cases where the charge is drug abuse or possession. In cases where other persons are involved, where the defendant has injured somebody or in civil disputes, it is considerably more difficult to exploit internal contacts in the legal system to influence the outcome of the case, according to the source.

2.4.1 The position of Qadhafi's closest family

Libya's future depends to a large extent on who takes over after Qadhafi when he retires or dies. Arab political commentators have, in discussions on the transfer of power in Arab republics, devised a new term, *jumlukiyya* – comprising the words *jumhuriyya* (republic) and *malakiyya* (monarchy), which can be translated as “hereditary republic”¹¹ This term is also relevant in Libya, where several sources mentioned Qadhafi's children as possible successors. His son, Sayf al-Islam, but also his daughter Aisha and son Mu'tasim were mentioned in particular.¹² Diplomatic source 3 pointed out that none of Qadhafi's nine children are presently capable of taking over, because they do not have his qualifications for balancing the power factors in the country and thereby retaining power. This source stated that, according to his contacts, there were indications that attempts were made to arrange “strategic” marriages for Qadhafi's children so as to bind other powerful persons and clans to Qadhafi's family and thereby make them better qualified for leadership positions, but this was denied by the Libyan professor.

Qadhafi's sons and daughter are said to be heavily involved in the Libyan economy, holding control over lucrative businesses. According to reports, Muhammad, his eldest son (from his first marriage), has control of post and telecommunications, while Sayf al-Islam and Sa'adi have connections to the oil industry, and Aisha to the import of luxury goods. These claims are difficult to verify,

¹¹ The debate on this topic was particularly intense when Hafiz al-Asad died and his son Bashar took over as president of Syria, but it is also relevant in Egypt where President Hosni Mubarak's son Gamal is playing an increasingly prominent political role at the same time as there is great speculation about Mubarak's health and advanced age. See the Economist 15.07.2004: *New surgeon, same old scalpels* (http://www.economist.com/World/africa/displayStory.cfm?story_id=2922918).

¹² See, among other things, Jane's Foreign Report #2775 04.03.2004: *Ghadaffi's friends and relations*; Middle East Times 08.12.2000: *Aisha Qadhafi favored to succeed her father* (http://metimes.com/-2K/issue2000-49/reg/aisha_qadhafi_favored.htm) - the article is said to be a translation of an article in the Arabic news magazine *Al-majalla*.

but such speculations appear to be the norm among foreigners in Tripoli. On the other hand, there is full openness about the various public offices that many of his children hold – Muhammad, for example, is chairman of Libya's Olympic committee and Sa'adi of Libya's football association.

Sayf al-Islam and Aisha each run a humanitarian aid organisation, *Gaddafi International Foundation for Charity Associations*¹³ and *Aisha Charity Foundation*,¹⁴ respectively. They both also maintain remarkably high international profiles while insisting that they are not representing Libya as a state, yet simultaneously work closely in many international contexts with Libyan diplomats.¹⁵

2.5 Security and surveillance

The sources with whom the delegation spoke stated that the security situation in Libya is good. According to a number of diplomatic sources, even foreigners – also women – can safely walk the streets in Tripoli at any hour of the day or night.

A majority of the diplomatic sources claimed that all communication in Libya is probably monitored by the authorities. It was pointed out that the authorities – in addition to the intelligence services – have informants everywhere.

The sources consulted stated that the Libyan intelligence services are very effective. Two diplomatic sources (2/5) pointed out that, despite the large area it covers, Libya has a relatively small population¹⁶. It is, therefore, relatively easy to control the population. According to one of these sources (5) the Libyan intelligence services have a full

¹³ See <http://www.gaddaficharity.org/>.

¹⁴ The delegation was unable to find any website run by the organisation.

¹⁵ Sayf al-Islam gave an account of his role in his evidence to a British court in connection with his libel suit against the British newspaper, The Sunday Telegraph, in 2000 because of two articles printed in 1995. This account is fascinating and has been made available on the internet by the Libyan exile Mansour O. El-Kikhia: *Saif Al-Islam Al-Gaddafi And The Telegraph* (<http://www.libya1.com/-news/n21aug2a.htm>). Sayf al-Islam won the case against The Sunday Telegraph, which retracted the articles and printed an apology. 21.04.2002. (<http://www.telegraph.co.uk/news/main.jhtml?xml=-/news/2002/04/21/napol21.xml>)

¹⁶ Libya's population was 5.5 million in 2002, cf. the Swedish Institute of International Affairs' *Länder i fickformat: Libyen*.

overview of persons critical to the regime and of potential political unrest.

Two sources (1/5) compared the Libyan intelligence system with the system which existed in the former East Germany, where the regime had a huge number of informants among the civilian population. Diplomatic source 5 believed, however, that the Libyan surveillance system is not as well developed and effective as the East German system or the Iraqi system under Saddam Hussein.

Diplomatic source 3 stated that there are approximately seven different intelligence services, and emphasised that in addition to keeping the population under surveillance, they also monitor each other. Two other diplomatic sources (5/7) argued, however, that the level of surveillance in Libya appears to have declined somewhat recently, and one of them (5) stated in that connection that this is due to the authorities feeling relatively secure about their grip on power. The other source (7) stated that Libyans are no longer as afraid to talk to foreigners as was previously the case.

As a sign of the slackening of control of the population, a majority of the sources also pointed out that satellite dishes and internet cafés are permitted in Libya today. According to the sources, this was partly an expression of less paranoia on the authorities' part in relation to information from outside Libya, and partly a recognition of the fact that, in the long run, the flow of information cannot be controlled. It was pointed out, however, that the authorities, use "filters" on the internet servers in Libya to try to limit access to websites abroad that are critical of Libya.

Diplomatic source 2 stated that Libyans consider it safer to use the internet more or less anonymously at an internet café than to use the internet at home, where this type of traffic can be more easily monitored.

The delegation saw for itself that there are satellite dishes on practically all buildings, in the same way as there are internet cafés several places in Tripoli.

2.5.1 Surveillance of Libyans abroad

The sources with whom the delegation spoke had little possibility of assessing to what extent the Libyan authorities monitor Libyan citizens abroad. In the opinion of diplomatic source 2 this takes place to a certain extent, while other diplomatic sources (1/6) were of the opinion

that the Libyan authorities still closely monitor the activities of Libyan citizens abroad. One of the sources believed that the Libyan authorities are primarily concerned with Libyan citizens' political activities abroad.

2.6 Prisons

Only very limited information is available about prisons in Libya. It is evident from the International Centre for Prison Studies' (ICPS) *World Prison Brief*¹⁷ that the prison administration in Libya falls under the *Secretariat for justice and public security* (which is equivalent to a local department of justice). According to ICPS, there were 33 prisons in Libya as of February 2004, with 9763 inmates. The official capacity of the prisons is stated to be 7000.

Amnesty International (AI) mentions the following prisons in its report from its visit to Libya in February 2004: Abu Salim (Tripoli), Aya Zara (Tripoli), al-Hawari (Benghazi), al-Kuweifiya (Benghazi), Ghiryana, Jdeida and al-Uruba (see also section 3.3).¹⁸

According to AI, Abu Salim prison is known to house political prisoners. It is situated in a military complex in a suburb of Tripoli. AI claims that this prison, as opposed to other prisons in the country, is organised directly under the intelligence service *International Security Agency*.

During its visit, AI had an opportunity to speak to a number of prisoners in Libyan prisons who, according to the organisation, were either political prisoners or were imprisoned without legal authority.¹⁹ Several of these prisoners had been imprisoned for several months without visiting rights, before they appeared in court and met their lawyers. In one case, a prisoner was in custody for almost two years before being brought before a court. Several of the prisoners had never met their lawyers.

Amnesty International mention examples of prisoners who are still imprisoned, even though they have served their sentences. AI points out that not only is this practice

¹⁷ The International Centre for Prison Studies is an institute under King's College in London.

¹⁸ Amnesty International, *Libya: Time to Make Human Rights a Reality*, p. 56.

¹⁹ *Ibid.*, p. 14-17.

contrary to international standards, but it also violates several provisions of Libyan law.²⁰

According to AI, Libyan officials estimate that more than 50 per cent of the prisoners in Libyan prisons are on remand²¹. According to the ICPS, the proportion of prisoners on remand in Libyan prisons is 62 per cent. By comparison, the proportion in Algeria is 36 per cent and in Norway 22 per cent.²²

In recent years, the Libyan organisation *Gaddafi International Foundation for Charity Associations* has also criticised conditions in Libyan prisons.

In a report dated 17 July 2003, which was handed out to the delegation during their meeting with the organisation,²³ the Libyan authorities are urged to release political prisoners. The organisation also emphasises its goal of “improving the conditions for political prisoners and prisoners of conscience” as regards the standard of cells, the right to choose one’s own lawyer, visiting rights and access to media.²⁴

Furthermore, the organisation points out that during a prison visit it has ascertained that conditions in Libyan prisons have deteriorated to such an extent that the conditions are not in compliance with human rights. It then lists a number of recommendations for improving conditions, particularly with respect to medical assistance and the standard of cells.²⁵

In a speech in April 2004, Qadhafi himself stated that prisoners shall, among other things, have the right to a lawyer and to family visits.²⁶

²⁰ *Ibid.*, p. 23.

²¹ *Ibid.*, p. 41.

²² ICPS, *World Prison Brief*.

²³ It was stated at the meeting that the organisation shall produce annual reports and that they will be published on the organisation’s website. However, the report we were given has not been available on the website.

²⁴ Gaddafi International Foundation for Charity Associations: *Report on Human Rights in Libya*. Tripoli 2003.

²⁵ *Ibid.*, p. 7.

²⁶ Amnesty International, *Libya: Time to Make Human Rights a Reality*, p. 3.

The sources with whom the delegation spoke had very limited information regarding prisons in Libya.

The Libyan lawyer stated that persons convicted of ordinary crimes serve their sentences in different prisons than political prisoners. The source stated that it is generally difficult to escape from a Libyan prison. The source added, however, that it could possibly be done with the help of bribes, for example during a hospital visit outside the prison. The source also stated that it is much more difficult, if not impossible, to escape from prisons used to house political prisoners.

Diplomatic source 5 stated that it is unlikely that it would be unproblematic for a prisoner to escape from a Libyan prison and subsequently leave the country illegally. According to the source, however, it cannot be ruled out that a prisoner could escape from prison by using bribery.

The Libyan lawyer stated that it is common practice to grant amnesty to a number of prisoners on red-letter days in Libya. Exceptions apply with respect to which prisoners can be released in amnesties; prisoners serving a drug sentence cannot, for example, be granted amnesty.

Two diplomatic sources (4/5) described conditions in Libyan prisons as generally bad. One of the sources (4) added that there are few opportunities for stimulation in the form of exercise etc., but did not believe that systematic abuse of the prisoners occurs. The source added that there are no rehabilitation programmes for released prisoners. Likewise, in its above-mentioned report, Amnesty International describes conditions in Libyan prisons as generally bad.

Several sources drew the delegation’s attention to the fact that the International Centre for Prison Studies (ICPS – see above) visited Libya in October 2003 and was the first organisation to date, to receive permission to conduct a study of conditions in Libyan prisons. The visit was part of an ongoing cooperation between British and Libyan authorities called the Prison Reform Project.²⁷

2.7 Political opposition

Political parties and organisations are prohibited in Libya. This ban is formulated in Act no. 71 from 1972 which

²⁷ The delegation was in contact with the ICPS before and after its visit to Libya. The report from the ICPS visit to Libya is not publicly available.

states that “all group activity based on a political ideology which is contrary to the objectives of the *al-fateh* revolution of 1 September 1969 is prohibited.” The establishment of, membership of, or support for organisations which are prohibited by law, qualifies for the death penalty.²⁸

The diplomatic sources with whom the delegation spoke unanimously confirmed that no organised political opposition exists in Libya. Two diplomatic sources (7/9) emphasised that any hint of opposition has been harshly suppressed so far. One of these sources added that this has primarily involved Islamic opposition groups.

Another diplomatic source (2) stated that in the Benghazi area in eastern Libya there are groups of “disgruntled persons” who are in opposition to the authorities. They include Islamists, but also elements from the historical elite in Libya, i.e. those clans that held positions of power under the monarchy and that still have traditional legitimacy, especially in the Benghazi area. These “disgruntled” groups do not officially exist, nor are they organised in any way.

Two diplomatic sources (1/7) believed that the high standard of living in Libya, compared with many of the other Arab countries, and compared with Libya a few years ago, contributes to the lack of any political mobilisation of note in the country. One of the sources (7) added that it is a deliberate strategy on the regime’s part to ensure a high standard of living in order to counteract any tendencies to political opposition.

Diplomatic source 2 considered that there is a general fear among Libyans of being associated with political opposition.

According to diplomatic source 4, there are still political prisoners in Libya, including persons who cannot be described as radical Islamists. It was, however, pointed out that the number of political prisoners in the country has declined in recent years. Amnesty International emphasises in its annual reports and in its report from its visit to Libya in February 2004, that a large number of prisoners have been released from Libyan prisons in recent years through amnesties, also including political prisoners. Ac-

ording to AI, there are still several hundred political prisoners in Libya.²⁹

In its annual reports, AI states, among other things, that several hundred prisoners have been released in amnesties in 2001 and 2002. Among those released were a number of known political prisoners who had been imprisoned for almost 30 years for participating in attempted coups in 1970 and 1973, respectively.³⁰

At the same time, AI calls attention to the trial of a large number of Libyans accused of membership of an illegal organisation (*Libyan Islamic Group*, also called the Muslim Brothers). The accused were detained in 1998, and in two cases in 2002 the accused received the death penalty while 73 accused were sentenced to life imprisonment. According to AI, the *Libyan Islamic Group* has not called for or used violence to achieve its political objectives, and the trial by a so-called *people’s court* was not in accordance with international standards. The appeal is expected to be heard in November 2004.³¹

Diplomatic source 6 stated that the appeal case has been postponed several times. According to the source, this is seen as an expression of doubt within the system about whether the people’s courts, which have been the subject of a lot of criticism, should be abolished.

According to the Libyan authorities, there are no longer political prisoners in Libya. In a speech to the nation in 2002, Qadhafi declared that imprisoned persons in Libya today are either criminals or terrorists/“heretics”.³² On the other hand, the *Gaddafi International Foundation for Charity Associations*, which is led by Qadhafi’s son Sayf al-Islam, issued a declaration in September 2003 which urged the authorities to pardon those accused in the case “as they have not called for or used violence”.³³

²⁹ Amnesty International, Annual Report, several editions; Amnesty International, *Libya: Time to Make Human Rights a Reality*, p. 13.

³⁰ *Ibid.*, p. 4.

³¹ *Ibid.*; Amnesty International 14.10.2003, *Libya: The authorities must release those detained for exercising the freedom of association and expression*, MDE 19/020/2003.

³² The Arabic term is *zindiq*; note how the term “heretic” links political opposition to religious deviation.

³³ Amnesty International 14.10.2003, *Libya: The authorities must release those detained for exercising the freedom of association and expression*, MDE 19/020/2003.

²⁸ Amnesty International, *Libya: Time to Make Human Rights a Reality*, p. 18.

In recent months, Amnesty International and a number of other sources have focused on a more recent case involving the imprisonment of a Libyan in political opposition to the regime. According to the organisation, Fathi al-Jahmi was imprisoned in October 2002, allegedly after expressing strong criticism of the Libyan regime at a meeting of a basic people's congress. After several months on remand, he was sentenced to five years imprisonment. Al-Jahmi was released, however, in March 2004 after the people's court appeal body sentenced him to a one-year suspended sentence. Fathi al-Jahmi was released shortly before the US Deputy Secretary of State, William Burns, visited Libya, allegedly following pressure by the USA.

Following his release, al-Jahmi again made critical remarks about the regime to several Arabic television stations. According to *Fédération internationale des ligues des droits de l'Homme* (FIDH), a Paris-based international umbrella organisation for human rights organisations, al-Jahmi was apprehended by a Libyan intelligence organisation in April 2004. No one has any knowledge of his present whereabouts.³⁴ According to an article in a recognised international journal, al-Jahmi has been placed under house arrest in Tripoli.³⁵

The Libyan opposition abroad comprises both monarchists, republicans and Islamic groups, but it is described by observers as being very fragmented.³⁶ In the opinion of diplomatic source 3, the Libyan regime no longer views the Libyan opposition in Cairo and London as a problem.

2.8 The Berber minority

The question of the situation for Berbers in Libya was raised with a number of sources. The Libyan professor estimated that there are between 20,000 and 50,000 Berbers in Libya. The situation in Libya *cannot* be compared with the situation in Algeria, where a large number of Berber organisations exist, many of which are very active politically, and which in recent years have been in open conflict with the Algerian authorities. According to the source, the Berber problem is not an important issue in

Libya and except for their language, the Berbers are no different from other Libyans. All Libyans, including Berbers, belong to a clan and that is the important aspect.

Diplomatic sources (4/5/6) and business source 2 stated that they have never heard of Berbers being persecuted in Libya. A diplomatic source expressed surprise at claims of discrimination against Berbers. Business source 2 considered that Berbers are well integrated in Libya.

Diplomatic sources (5/6) stated that there are no separate Berber organisations in Libya, nor are there large-scale celebrations of Berber cultural festivals.

Two diplomatic sources (4/5) stated that there are expressions of Berber culture in the country. Diplomatic source 4 stated that every year there is a Berber festival in Ghadames in western Libya on the border with Algeria and Tunisia. In addition, Libyan academics are working to register examples of the Berber cultural heritage, by recording Berber poetry among other things. According to another diplomatic source (4), many of Libya's Berbers are concentrated in Zuwara, where the Berbers speak Berber among themselves. According to this source, expressions of Berber culture do not cause any problems for those involved, as long as there is no question of organised Berber activism. It was emphasised, however, that the problem involved in such a form of organisation would be that it would involve attempting to organise politically outside the framework of the *jamahiriyya* system; the actual reason for wanting to start an organisation would be secondary.

³⁴ FIDH 20.04.2004, *Open Letter to Moammar Quaddhafi*, see http://www.fidh.org/article.php?id_article=917.

³⁵ Royal Institute of International Affairs, *The World Today* 06.2004, «Openness is Tricky».

³⁶ Cf. Hanspeter Mattes, *Libya's Problems with Political Reform*, I.4.b.

3. Human rights

The question of human rights was raised with a majority of the sources with whom the delegation spoke. In that connection, a majority of the sources referred to Amnesty International's visit to Libya in February 2004, and its subsequent report. Several of the diplomatic sources (4/6/9) referred specifically to Amnesty International's report as an accurate description of the human rights situation in Libya.

Diplomatic source 6 stressed that it is always difficult to obtain information about human rights matters as described in Amnesty International's report. This applies in particular to an official diplomatic mission.

Diplomatic source 9 considered that no progress of significance has been made in the human rights situation, and, in that connection, emphasised that there is no NGO milieu³⁷ in Libya. Another diplomatic source (4) confirmed the absence of NGOs, but considered that a little progress has been made and is still being made in the area of human rights. The source pointed out, however, that Amnesty International's report is accurate as regards the current human rights situation in Libya.

The same source (4) believed that there are limits to how extensive reforms it will be possible to carry out in Libya, but that it will probably be possible, for example, to improve protection of the law and abolish arbitrary arrests.

According to the Libyan professor, the human rights question is the most pronounced line of conflict in Libyan society. No one dares talk openly about this issue. The source emphasised that raising popular awareness with respect to human rights is an exceptionally difficult task. According to the source, this is illustrated by the fact that only very few citizens are familiar with the contents of *The International Green Charter for Human Rights*,³⁸ which give Libyan citizens a number of rights. The source also referred to studies showing that the Libyan school curriculum does not include references to human rights.

³⁷ NGO: *Non-governmental organisation*, i.e. an organisation not run by the state.

³⁸ Available in English at <http://www.mathaba.net/gci/igc.htm>.

3.1 The official attitude to the question of human rights

The delegation raised Amnesty International's report with the Libyan Foreign Ministry. It was informed that the Libyan authorities are very concerned with the issues addressed in the report. The people's committees are presently discussing what view Libya shall take in that connection. In the Foreign Ministry, it was emphasised that several of the special statutes mentioned in the report have already been abolished and that they are considering removing other laws that may limit human rights.

The Libyan Foreign Ministry also referred to *The International Green Charter for Human Rights* as an example of the human rights which Libyan citizens enjoy. Moreover, the source emphasised that Qadhafi has instructed the relevant authorities that there shall no longer be prisoners of conscience in Libyan prisons. Only criminals and "heretics" are currently imprisoned. According to AI's report, the Libyan authorities consider *all* political activity outside the established system, both peaceful and militant, to be "heresy".³⁹

3.2 Human rights work

The Gaddafi International Foundation for Charity Associations (GIFCA) is an umbrella organisation for several charity organisations. GIFCA includes a human rights commission, a commission for combating landmines etc.

Diplomatic source 4 stated that the human rights commission feels that it can speak relatively freely since it is led by Qadhafi's son, Sayf al-Islam. The source added, however, that the commission is not independent.

The delegation held a meeting with the human rights commission. The commission stated that it cannot be described as a fully independent NGO. It has existed since 1998, and is still working to establish itself as fully inde-

³⁹ Amnesty International, *Libya: Time to Make Human Rights a Reality*, pp. 13 and 16.

pendent of the authorities and the *jamahiriyya* system.⁴⁰ The commission stated itself that it has good cooperation with Amnesty International, Human Rights Watch and a human rights organisation in Egypt. Moreover, it cooperates with UNDP⁴¹ on training Libyans who want to perform voluntary human rights work. The commission carried out an extensive media campaign against torture in 2003.

The commission stated that it endeavours to work as a kind of ombudsman institution. In that connection, it accepts complaints, carries out its own studies of these cases and presents them to the authorities. As regards the human rights situation, the commission referred to its annual report which was distributed to the delegation. The report for 2003 focuses on improving prison conditions, protection of law, the elimination of torture, the release of political prisoners and consciousness-raising among the police and the prosecuting authorities with respect to human rights (see also the section on “Prisons”).

The commission emphasised that, in general, it is a considerable challenge to make the population aware of its own rights. Moreover, according to the commission it is of great importance that a civil society be introduced in Libya over and above the existing *jamahiriyya* system.

The delegation also had a meeting with the Bar Association in Tripoli. The association has a committee that is working on human rights issues. This committee had a meeting with Amnesty International during its visit to Tripoli.

3.3 Amnesty International’s report

The report from Amnesty International’s visit to Libya draws attention to a number of areas where, according to the organisation, human rights violations take place. AI focuses on conditions such as arbitrary arrests and imprisonment of people who are detained for long periods, without access to a lawyer, without being brought to trial and with no visits. It also focuses on trials and judgements that are not in accordance with international standards, the use of torture etc.

⁴⁰ The commission’s link to the authorities through its being organised under an organisation led by Qadhafi’s son Sayf al-Islam was not raised at the meeting.

⁴¹ *United Nations Development Program*.

AI points out that such violations of human rights have also affected ordinary criminals as well as persons accused of political activities against the ruling regime, including persons accused of both violent and peaceful political activity.

The report mentions a number of cases in which persons have been imprisoned for months, or in some cases years, without being put on trial or having access to a lawyer.

AI also refers to a number of cases in which imprisoned Libyans, with whom AI’s delegation met during its visit, stated that they have been subjected to torture during questioning. In several cases, according to the prisoners, torture has been used to obtain confessions. According to AI, this also applies in the case against six Bulgarians and one Palestinian (nurses and doctors) who were imprisoned in 1999, and in May 2004 were given the death penalty for intentionally infecting 426 Libyan children with HIV at a children’s hospital in Benghazi.⁴² According to the report, the protection of law is particularly poor in Libya. In this connection, AI refers in particular to the so-called peoples’ court, a tribunal that operates outside the ordinary legal system. According to the report, this court hears political cases among others, i.e. cases against persons accused of political activity outside the established system in Libya.

According to the report, the people’s court has repeatedly violated both Libyan law and international standards for fair trial, including the right to have one’s case judged without unnecessary delay and the right to choose one’s own lawyer. In addition, the report gives examples of judgements by this court in which the evidence was apparently limited to a arbitrary confessions allegedly obtained by torture or a single person’s testimony against the accused.⁴³

During its visit to Libya, Amnesty International submitted an extensive document to the authorities, pointing out the human rights problems in Libya that were identified by the organisation. According to the report, AI’s delegation received assurances from the Libyan authorities that serious consideration would be given to the recommendations presented by AI in the said document. AI’s report also

⁴² BBC 06.05.2004: *Libya death sentence for medics* (<http://news.bbc.co.uk/1/hi/world/africa/3689355.stm>).

⁴³ As regards international standards for protection of the law, Amnesty International refers to the *International Covenant for Civil and Political Rights*.

refers to a speech made by Qadhafi in Libya in April 2004 to, among others, members of the judiciary in which he recommended legal reforms in several areas, including abolishing the people's court.

3.4 The death penalty

A Libyan legal source stated that the death penalty still exists in Libya. This is confirmed by Amnesty International's report, which points out that in Libya death sentences are still handed down for a long list of offences – which, according to the report, include the exercise of freedom of speech and freedom of assembly or peaceful political activity. According to the report, the organisation still receives unconfirmed reports of cases in which death penalties have been carried out.

According to Amnesty International, for the past 15 years Libya has had the declared goal of abolishing the death penalty. In its report, AI refers to a revision of the Libyan Criminal Code that has been instigated and points out that, should the current proposal for the Criminal Code be finally passed, the death penalty would be retained for a long list of offences.⁴⁴

3.5 Double punishment

The question of double punishment was raised with several sources. The Libyan Foreign Ministry stated that Libyan authorities do not prosecute Libyans who have committed crimes abroad, if such persons have already been convicted in the country where the crime was committed.

The Libyan Bar Association and the Libyan legal source stated that Libyan law does not permit double punishment.

The Libyan lawyer and diplomatic source 4 stated that Libyans who have committed crimes abroad can only be punished in Libya if they have not already been punished.

⁴⁴ Amnesty International, *Libya: Time to Make Human Rights a Reality*, p. 3.

4. The economy, education and health

The question of the economy, the education system and the health service was raised with diplomatic, business and Libyan sources.

According to business source 1, Libyan society has only changed superficially since the change in domestic policy started in 2003. In practice, the country is run as before. Because Act 15 sets a ceiling on salary levels in the public sector, very many Libyans do not earn enough to support a family and maintain the desired standard of living. In addition, there is huge unemployment in Libya. Those who travel abroad as asylum seekers are, in the opinion of the source in question, mainly young men with some education who come from large towns and who are from a social background which means that they can afford to travel.

According to diplomatic source 1, the average standard of living is better than anywhere else in Africa. There is little conspicuous poverty, there are no real slums, and all Libyans are ensured a minimum to live on through public welfare systems – whether or not they are in work.⁴⁵ Basic goods such as flour, potatoes, sugar, oil and tea are still so heavily subsidised that they are not a great expense for Libyan families. Petrol is very cheap and domestic travel costs approx. 1 dinar (approx. NOK 5) per hour by long distance bus. Flights are also cheap. The supply of consumer goods is very good and totally different from the situation just a few years ago.

According to diplomatic source 2, there is great dissatisfaction among the majority of people because of all the revenue which the country earns and which the people never see. The average monthly salary in the public sector is 200-250 dinars (NOK 1,000-1,250). In addition, young Libyans encounter high unemployment on entering the labour market, also those with good contacts. The elite have become very wealthy, but there are also Libyans living below the poverty line. Poverty is largely not very visible, partly because it is deemed shameful and people

try to conceal the fact that they are poor from neighbours, in order to avoid gossip.

According to diplomatic source 4, the main problem is unemployment among the younger generation of Libyans. There is reason to expect cautious economic reforms in the coming years, but they will take place gradually due to all the bureaucratic and ideological obstacles.

According to diplomatic source 5, the Libyan grassroots population is not directly poor. Even though Act 15 makes it difficult to support a family, it is possible to get help in practice. Libya is a traditional Muslim society where the extended family and clan help in different ways when necessary. *Waaaf*⁴⁶ can also assist people in a difficult situation.

4.1 Education

Schooling and university education is free in Libya. There are private schools, but the vast majority of parents send their children to state schools.

According to diplomatic source 1, the educational system is experiencing problems, and it has been particularly difficult for the last 20 years. Primary education works relatively well; everyone has the right to an education and there is almost no illiteracy. Those who have the opportunity, however, send their children abroad for higher education, and many competent teachers have left Libya, precisely in order to ensure that their children receive a proper education at university and college level.

⁴⁵ According to diplomatic source 1, it can be difficult to recruit Libyan labour, for example as drivers, despite the good wage levels in private employment, because service occupations and manual work in general are unpopular among Libyans.

⁴⁶ A Muslim foundation which is responsible, among other things, for the administration of religious property and the payment of welfare payments.

The forced Arabisation⁴⁷ of the education system is in itself a problem. Higher education is not prioritised and there is often poor accordance between formal qualifications and what people actually know – corruption is common in universities and colleges. Diplomatic source 2 also indicated that corruption is a major problem in the educational system, especially at university level.

According to business source 1, the quality of schools and universities has been in decline for the last 20 years. Business source 2 pointed out that after the revolution in 1969, all English teaching was stopped in Libya. This was changed a few years ago, but the result is two generations with no command of English, which is a big problem for foreign companies operating in Libya. The national oil company is, however, trying to remedy the situation through intensive English courses.

According to the Libyan professor, socialisation through the school system has been successful and has lessened the differences in values between town and country. Social class has a much greater influence on values than whether one lives in an urban area or in the country. The quality of primary and lower secondary education is relatively good; the situation is also quite good in upper secondary schools. However, the situation in the universities is a major problem, partly because the Arabisation policy over many years has led to students not using English textbooks or having access to important information from abroad by other means. Corruption is widespread in the universities, with the forging of exam papers being one result. It is also a phenomenon in Libya that people from the security services recycle themselves as academics.

4.2 Health

Treatment in the public health service is free in Libya. All Libyans are guaranteed health services, but the sources with whom the delegation spoke claimed that the quality has declined in recent years and, as a result, Libyans' confidence in the health service has declined.

⁴⁷ There are few Arab countries where tuition in all subjects and at all levels of higher education takes place in Arabic using Arabic aids. In addition to Libya, only Syria and Iraq have carried out Arabisation at university level. One consequence of the Arabisation policy is that many Libyans have problems in communicating with foreign colleagues about their field because they do not know the international terminology in the field. This applies, for example, to doctors and engineers, who elsewhere in the Arab world primarily use Latin and English/French terminology.

According to diplomatic source 1, the public health service still functions much better than in many other African countries; there is no need for special vaccinations when visiting Libya. Those who can afford to, however, prefer to travel abroad for medical treatment, especially to Tunisia, Malta or Germany. Private clinics are available for patients who can afford to pay the costs themselves.

According to diplomatic source 2, there are major problems with corruption in the health service. The population has little confidence in health personnel, fearing that they may have obtained their diplomas and qualifications through bribery.

According to diplomatic source 5, the health system does not function well. Public hospitals and medicines are free, and Libyans use them in acute situations. Those who can afford to travel abroad, especially to Tunisia for the treatment of all non-life threatening illnesses. In recent years, a number of local private clinics have been started, but people usually prefer to travel abroad for treatment if they can.

According to diplomatic source 6, Libyans' confidence in the public health service is generally low. The quality of the doctors is good, but the conditions in the hospitals are "rather chaotic and unorganised".

4.3 Alcohol and drugs

Some Libyan asylum seekers link their asylum applications to the use of alcohol or drugs and the strict penal sanctions this can entail in Libya. All the sources with whom the delegation spoke about alcohol and drugs, stated that alcohol and drugs are available through illegal channels, and that there is widespread use both among Libyans and in foreign milieus in the country.

According to diplomatic source 1, the illegal sale of alcohol is large-scale and widespread, and large amounts of money are involved. Everyone, including Libyans, can obtain alcohol – as long as they have money and contacts. There is also reported to be a certain amount of drug abuse among the country's rich and powerful, something the authorities do not clamp down on in practice. Foreigners, on the other hand, are reported to have been deported for having sold alcohol to Libyans.

According to diplomatic source 3, the prohibition on alcohol is still strictly enforced. However, the authorities turn a blind eye if users do not behave in a provocative

fashion, i.e. do not drink or behave in an intoxicated manner in public. A blind eye is also turned to private use among foreigners and diplomats. (The latter have diplomatic immunity and are not normally subject to luggage checks on entry and exit.)

According to diplomatic source 6, any Libyan can obtain alcohol if he/she wants to. Wine is produced illegally in Libya and there is a black market on which it is sold. In practice, alcohol is tolerated as long as it is not consumed in public. The authorities do not care about use in the home; the tacit attitude is that it is «a matter between the individual and his God». Otherwise, the source was very clear that Libyan society has a drug problem.

According to the Bar Association, Libya has developed a serious drug problem in the last 10-15 years. All kinds of drugs, including heroin, are available. The authorities' list of prohibited substances defines which are regarded as narcotics. No distinction is made between soft and hard drugs, and according to the law there is no difference in principle between the use of illicit drugs and the abuse of legal medicinal drugs.

Many drug cases are heard in the legal system. The security services have a special unit which is responsible for combating drug crime.

According to the Libyan lawyer, there are many drug cases in the courts, but approx. 90 per cent of the cases end in acquittal.

5. The position of women

The question of family law and the position of women was raised with diplomatic and Libyan sources. The delegation had wanted to speak to representatives of the Libyan women's movement but was informed that there are currently no women's organisations. The official explanation is that, in today's Libya, women are equal to men, and therefore have no need for their own organisations within the political system.

According to diplomatic source 3, women have more freedom and better legal rights, relatively speaking, than their sisters in many other Arab countries in North Africa and the Middle East. There are women in the public sphere, many are in employment and the universities have many female students. On the other hand, there are a number of limiting factors. Libya is a conservative society with strong social control; should the family "put their foot down", women have their defined role and place within the framework laid down by tradition and religion. According to diplomatic source 1, women are a force to be reckoned with within the home; they have a strong position in the family.

According to the Libyan professor, the regime has clearly opened many doors for women, in legal, ideological and practical terms. Since the 1970s, there has been a large increase in the number of women taking higher education. In some of the faculties, more than half the students are women, and more and more women are teaching at university level. Women have been judges since 1991, many work as doctors and engineers in the oil industry, and there are many women in the military. However, much still remains to be done in practice. Traditional values still dominate. For example, many families are proud of their well-educated daughters; education confers status, but the family does not necessarily accept that the education is put to use. Another problem is that many women are not aware of their own rights, and in some cases do not make use of them once they become aware of them. The professor expressed a certain fear that things may change in the wrong direction if Libya takes a more Islamist direction in future. The fact that today's women have not had to fight for their rights themselves can make it difficult for them to hold on to these rights should they be put under pressure.

5.1 Family law

According to the Libyan Bar Association, the Sunni Muslim *maliki* school⁴⁸ has traditionally defined the principles of family law in Libya. The current law goes further in a positive direction for women than is provided for in traditional Sharia law.

According to the Libyan professor, Libyan women have better conditions in civil law than, for example, women in Egypt and Algeria. Family law protects women and gives them the possibility of keeping their home and children in the event of a divorce. Married women do not need their husband's consent to obtain a passport or to leave the country, as is the case in many Arab and Muslim countries.

The professor denied that forced marriages are a problem in today's Libya. Previously, arranged marriages between relatives were very widespread. For approximately the last 30 years, young people have chosen their own partners, but not totally against the will of the family. The strong family ties make it very important for Libyans to obtain their family's consent. Marrying outside one's tribe is also acceptable. Many people look for a partner outside their own clan and tribe because they are aware of the possible health problems that can result from intermarriage. Material security and male protection in a Muslim society are factors which women emphasise when choosing a partner. Well-educated women can, however, have problems finding a partner; many men do not want a well-educated (and consequently "problematic") wife.

5.2 Marriage and divorce

The marital age for women is 18 years, and 21 years for men. If the couple are younger, permission must be obtained from a court before the marriage can take place.

⁴⁸ There are four interpretation schools in Sunni-Islam, *hanafi*, *maliki*, *shafi'i* and *hanbali*. The schools recognise each other's legitimacy. The *Maliki school* is widespread in North and West Africa, the Sudan and the Sahel area.

According to the Bar Association, Libya is a traditional society, and official statistics for the number of divorces do not exist. The representatives had no firm opinions as to how widespread divorce is, but stated that all divorces must be decided by a court. Both parties can request a divorce, but the conditions are different for men and women, cf. Islamic Sharia law. The court judgement serves as a divorce decree, and both parties are given copies.

A divorce granted abroad must be evaluated and accepted by a Libyan court before it is valid in Libya.

The main rule is that the mother keeps the children in the event of a divorce. In principle, the sons stay with their mother until "they no longer need a mother's care", the daughters stay until they get married. In practice, the sons live with their mother until they become adults and can provide for themselves. A mother can lose custody if she remarries. Custody is then transferred to the maternal grandmother; next in line is the paternal grandmother and thereafter, the father. Previously, the mother's sister could be given responsibility for the children. If the maternal grandmother cannot support the children, they will as a general rule be transferred to the father. The mother can also lose custody if she "behaves immorally".

The law permits polygamy, but as opposed to previously, it is only permitted by law to have more than one wife as an exception. The husband must obtain his first wife's signature before he can marry another woman. If the wife refuses to give her consent, the husband can still obtain permission from a court, if he has a valid reason according to Islamic law, for example if the wife cannot have children. Libyan women have traditionally not been opposed to polygamy. There are many reasons for this, for example childless women wishing to avoid divorce, a surplus of women in society and the sharing of the workload in the home.

According to the Libyan professor, polygamy is common among the older generation, but not among young people in today's Libya. The requirement that a man must have his wife's written consent in order to marry another woman is, in practice, not always followed up; it is possible for men to get round the law by forging their wife's signature

According to the Libyan lawyer, both parties are issued with new family books on divorce, and both are registered as head of family for their households (women are not re-

registered in their father's family accounts). Any children are registered in the family book of the parent with whom they live.

6. Identity documents

Pursuant to the Norwegian Immigration Act section 44, foreign nationals shall help to confirm their identity.⁴⁹ Most Libyans in Norway claim not to have passports when seeking asylum.⁵⁰ The immigration authorities are often unable, for a variety of reasons, to give decisive weight to other documents that may be presented during the case processing period as confirmation of identity and nationality.

Some Libyan asylum seekers have also claimed that they cannot disclose their home addresses in Libya because no address system exists. Thus, Norwegian authorities are precluded from requesting foreign service missions to investigate whether given addresses exist and whether the asylum seeker's family actually lives at a given address.

The question of which official documents the immigration authorities can expect Libyans to submit, as well as the address system, telephones and citizenship, was raised with Libyan and diplomatic sources.

6.1 Family books

Libya does not have a central, official population register. The security service has IT-based systems that work in the same way, but they are not accessible outside the security service. However, all Libyans have a family book which they keep in their homes. A birth certificate is issued on the basis of information in the family book. Either a separate birth certificate is written out or one is given a certified copy of the relevant page in the family book.

According to the Libyan professor, the family book is in A5 format and has a blue cover. The book has a number

noted on it and its place of issue. On page 1, is a photograph of the husband and his personal details are noted there: his name, his father's name, mother's name and his place and date of birth. On page 2, the wife's personal details are noted, but without a photograph. The children follow on the following pages as they are born. When children get married and receive their own family books, it is noted in the book that the person in question has married, the date of the wedding and the fact that the person has been moved to another book. Deaths are also noted in the family book.

The Libyan professor stated that a new version of the family book was introduced in 2004. The new book has the same format, but has a green cover. It contains the same information as previously, but with more additions that strengthen women's participation in the process of issuing a family book. On page 2, there is now a photograph of the wife, and she has to attend in person in order to complete all the required forms and add her signature. It is also new that both spouses are required to be fingerprinted on issue of the book. According to the professor, there is a lot of paperwork and bureaucracy surrounding the issuing of family books, and the process may take a week.

The family book also has financial significance. Libyan parents are entitled to state support for weddings and childbirths, but in order to receive the support the children must be registered in the family book. The support, 20 dinars per person, (approx. NOK 105) is paid via employers. Only one of the spouses receives the support, usually the husband. He may, if he so wishes, sign a declaration that the amount is to be paid to his wife.

6.2 ID cards

All Libyans are obliged to have ID cards from the age of 18. According to the Libyan professor, many Libyans are in practice issued ID cards around the age of 16.

According to business source 3, responsibility for ID cards rests with the Immigration Department of the Ministry of Internal Affairs. ID cards are issued on the basis of

⁴⁹ The Norwegian Immigration Act section 44 on the duty to provide proof of identity, to appear in person and provide information. The relevant provision in the Danish Immigration Act is section 40 chapter 7 – *Control of foreign nationals' entry, residence and exit*.

⁵⁰ Swedish immigration authorities have the same experience. In October 2003, the Norwegian Immigration Appeals Board was informed by the Swedish Migration Board that at least 94 per cent of Libyan asylum seekers in Sweden lacked passports. On average, 80 per cent of all asylum seekers lacked passports/ID documents.

information in the family book. It is the *baladiyya*⁵¹ in the place of residence that actually issues the card. A Libyan who loses his/her card must notify the loss to the police. The person in question will be issued a temporary card pending a new one being issued pursuant to normal procedures. Having a lost ID card replaced is unproblematic.

In practice, all Libyan men have ID cards. According to diplomatic source 1, there are many women who do not have ID cards – even though they are obliged by law to have one. Women who do not work outside the home will not need one in practice. Nor is it usual for public hospitals or clinics to request patients to show their ID cards. According to the Libyan professor, however, women in employment and students will always have ID cards. It is also essential if one wants to have one's own bank account or wishes to travel by air – the ID card must be shown along with the ticket before a boarding card is issued. On issuing and renewing passports, an ID card is also required.

6.3 Passports

Today, having a Libyan passport issued is simple, cheap and relatively speedy. The procedures are more or less the same as in the rest of the world. Application forms are submitted to the Immigration Department at the Ministry of Internal Affairs along with other required documentation. It takes approx. one week to have a passport issued. Young men who have been called up for military service, or who are of an age where they will soon be called up, require special permission to have a passport issued. This is granted if required, for example in connection with medical treatment abroad or if the person in question is to accompany a relative on a journey abroad.

The loss of a passport in Libya must be reported to the Immigration Department.

Libyan embassies can renew passports and issue new ones if the old one has finally expired. A Libyan who loses his/her passport abroad, must show the embassy documentation that the loss has been reported to the police in his/her country of residence. If the person in question does not have a plausible explanation for the loss, the embassy will not issue a new passport. Instead, the person will receive a travel document allowing him to travel home.

According to the Libyan professor, passports are issued for five years at a time and they can be renewed once, for a further five years. On renewal, it will be noted in the passport that it has been renewed and the date of the renewal. After ten years a new passport must be issued.

6.4 Addresses and telephones

Business source 3 and diplomatic source 1 stated that Libya has an address system, but that it is deficient and badly organised. There is more order in the system in the towns than in the country. Everyone can verbally state an address which it is possible to find. Libyans who wish to be completely sure of receiving mail, get themselves a post box, which is simple and unproblematic.

There is a telephone directory, but it is not updated and is in practice useless. It is possible to phone the telephone company and ask for a phone number, but in practice Libyans have to utilise personal contacts to find phone numbers.

6.5 Citizenship

Representatives of the Libyan Foreign Ministry stated that dual citizenship is permitted in Libyan law. However, Libyans are not allowed to renounce their Libyan citizenship, and Libyan authorities continue to regard them as Libyans, also after they have been granted citizenship by another country. Children of Libyan fathers and foreign mothers automatically become Libyan citizens. A Libyan mother married to a foreign man cannot register the child as Libyan because, pursuant to Libyan law, citizenship follows the father. In reply to a question about the citizenship of children born to an unmarried Libyan mother and where the father was unknown, the representatives stated that this was an unknown problem since Libya is a conservative society. They confirmed that the legal status of children born under such circumstances has therefore not been clarified.

⁵¹ Public office at a low administrative level.

7. Freedom of movement

7.1 Freedom to travel in and out of Libya

According to representatives of the Libyan Foreign Ministry, Libyans are free to travel abroad. Diplomatic sources confirmed that it is now considerably easier for Libyans to leave the country than it was 5-10 years ago, and a Libyan lawyer said that, today, people are more or less encouraged to travel abroad – in contrast to the situation previously. Today, Libyans do not need an exit visa to leave Libya, nor do they require a return visa to return to their home country.⁵²

As already mentioned, adult women do not require formal permission from a guardian to leave Libya.⁵³ Young men liable for military service are subject to certain travel restrictions to prevent them failing to answer a call up to military service, but this is primarily regulated through the issuing of passports (see above).

7.1.1 Visa obligation

In general, Libyans are not obliged to have a visa to travel to Arab and African countries. Until 1 May, Libyans did not require a visa for travel to Malta, but because of that country's accession to the EU – and its future entry into the Schengen cooperation – a visa obligation has been introduced for Libyans. Normally, Libyan nationals require a Schengen visa to travel to Norway and Denmark. According to a fact-finding report by the Swedish Migration Board from 2002, it seems that many EU countries have a liberal visa practice in relation to Libyan nationals; the delegation received no information to indicate that this visa practice has become more stringent since the report was published.⁵⁴

⁵² Business source 1, on the other hand, stated that in general foreign nationals with residence or work permits in Libya have to apply for both an exit visa and a return visa in advance of travel if they wish to return to Libya once their journey has been completed. This process can be time-consuming and it was very unpopular among foreigners.

⁵³ Diplomatic source 1 believed that it is very unusual for a family to allow a woman to travel abroad unaccompanied. The Libyan professor on his part said that this is *not* unusual.

⁵⁴ See the Swedish Migration Board: *Libya – Impressions from a Fact-finding Trip to Libya and Malta*.

According to diplomatic source 2, the Libyan authorities and “respectable” Libyans take a positive view of European countries practising a fairly restrictive visa policy to prevent Libyans getting a bad reputation abroad as a result of the “wrong” Libyans being granted visas to Europe and committing crimes.

7.1.2 Control on exit and entry

Libyan authorities register everyone – both Libyan and foreign nationals – on exit and entry. The delegation saw for itself that information from travellers' passports was registered in a computer system at the airport in Tripoli.⁵⁵ On exit, passports are checked at least three times from arrival at the airport until boarding the plane. Business source 2 stated that control was also thorough at the border with Tunisia, but that, there, in addition to control of persons it was also checked whether people were carrying goods subject to customs duty. Diplomatic source 5 described this as «bureaucracy pure and simple».

Diplomatic source 2 considered it probable that Libyans who are being investigated or are wanted for the commission of criminal acts could slip through exit control by bribing the controlling officer.⁵⁶ However, the delegation believes that it is improbable that a controlling officer will accept a bribe to let someone through in cases where they suspect that the person may be wanted by the authorities on grounds of political activity in opposition to the regime, because this could entail major problems for the controlling officer him/herself if it were discovered.

7.1.3 Does human smuggling of Libyans take place?

As already mentioned, a majority of Libyans applying for asylum in Scandinavia state that they are not in posses-

⁵⁵ It is not known how many Libyan agencies have access to this computer system, even though there are good grounds for believing that the intelligence service does have such access.

⁵⁶ Furthermore, we were told that such persons can probably also manage to obtain a passport through bribery or acquaintances.

sion of a passport. Most of them claim that they have paid human smugglers to smuggle them into Europe by boat.

Diplomatic source 1 was of the opinion that the Libyan intelligence service operates very close surveillance of human smuggling to Europe, as of the rest of society. There are good grounds for believing that human smugglers are aware of this and that they will therefore be very careful in offering their services to Libyans who wish to leave the country without undergoing the normal exit control – particularly if the smugglers had reason to believe that the reason for this is that the Libyans in question are under the scrutiny of the authorities because of activity in opposition to the regime. It is improbable that Libyan authorities will turn a blind eye to activity that allows people who, in their eyes, are terrorists or “heretics”, to leave the country. While it cannot be ruled out that a human smuggler could take such a chance, it is improbable that a large number of Libyans leave Libya in this manner.

Nor did diplomatic source 5 find it credible that Libyan asylum seekers use human smugglers to come to Europe.

As regards the nationality of human smugglers, diplomatic source 1 stated that foreign nationals are not allowed to own boats bigger than 15 feet in length. The source also believes that all boat traffic is approved by the authorities; thus no one besides Libyan nationals can have such boats at their disposal as are required for this kind of activity. The authorities have full control over all the boats in Libya. Given the general level of control in Libyan society, and on the basis of how things work otherwise, he does not believe that refugee traffic by boat can take place without the knowledge and consent of the authorities.

7.2 Freedom of movement within Libya

According to the guide book, *Lonely Planet Libya*, checkpoints are very common all along the roads network⁵⁷ – the military forces operate checkpoints in order to get hold of men who have not completed their military service, while the police set up checkpoints to investigate whether foreign nationals are legally resident in Libya, whether a driver is wanted for involvement in a road accident, or to find stolen cars. Diplomatic source 5 stated that there are now considerably fewer checkpoints of this kind than there were just a few years ago; they are now set up

as required – for example if there are problems in a certain area, or if important persons are visiting the area or travelling through it. When the delegation drove from Tripoli to al-Khoms, 120 km east along the coast, we saw only one checkpoint, run by the police.

Business source 2 stated that Western nationals were generally just waved through at police and military checkpoints along roads. Diplomatic source 5 told us that it is primarily Libyans, other Arabs, Africans and Eastern European foreign nationals who are stopped. Moreover, the police and military have wide powers to check ID documents and to search vehicles. However, controls can sometimes be highly arbitrary – members of the controlling officers’ extended families, clan and tribe are waved through without being checked while others are checked very thoroughly.

A somewhat curious example that was mentioned by diplomatic source 1 was that, for both Libyans and foreign nationals, a special permit is required for the use of a four-wheel-drive vehicle since the authorities do not want any travel outside the road network.

⁵⁷ See Ham, Anthony: *Lonely Planet Libya*, pp 92-93

8. Libya as a migration country

8.1 Libyan emigration

There is a clear distinction between Libya as an emigration country and the other countries in North Africa. Libyans have not established themselves on a permanent basis in Europe as labour migrants, as large numbers of Moroccans, Algerians and Tunisians have done. Nor do they have a tradition of temporary labour migration to other Arab countries as is the case for Egyptians. The most important groups of Libyans are found in the neighbouring countries, Malta and Egypt. In Europe, there are groups of a certain size in the UK. According to the delegation's diplomatic sources, these milieus primarily consist of businessmen and students. These sources agreed with the Libyan sources that Libyans, due to pressure from their families and a wish that their own children should grow up in their home country, usually move back to Libya after a few years abroad. Diplomatic sources who worked in consular affairs pointed out that relatively few enter into marriage in Europe compared with other North Africans, and that many more of the Libyan students moved abroad with spouse and children than was otherwise usual for foreign students in European countries.

The motives for travelling abroad have varied somewhat in modern times – for internal Libyan reasons, as a result of general changes in immigration policy in countries to which Libyans have emigrated and, not least, because of these countries' relations with Libya seen in the light of international sanctions. The main change in the background of Libyan emigrants in recent years has been an increase in unmarried men in their twenties emigrating from Libya with more vague intentions than business people and students, both with respect to the purpose of their stay abroad and its duration. In the opinion of the Libyan Foreign Ministry they were mostly young people seeking adventure and it was confirmed by several diplomatic sources that Libyan youth are travelling to Europe on holiday in increasing numbers. One important reason is the fact that Libya no longer imposes formal travel restrictions on Libyan nationals. Another reason mentioned by several sources is that Libya is a very conservative country, and that many people therefore wish to stay in countries without Libya's restrictive legislation in relation

to, for example, alcohol and without extensive social control by the family, extended family and neighbours – at least for a while.⁵⁸ Malta and Italy are usual destinations – Malta did not require a visa from Libyans until the country became a member of the EU on 1 May 2004, and Italy's membership of the Schengen cooperation means that a visa granted by the Italian authorities now confers freedom to travel in large parts of Europe, an arrangement many Libyans with an Italian Schengen visa make use of. The increasingly high unemployment among young Libyans was to a much smaller extent given as a reason by our sources – it was only the Libyan Foreign Ministry which believed that this was an important reason.

The Libyan Foreign Ministry stated that Libyan nationals are under no formal obligation to give notification of moving abroad, or to register at the nearest Libyan foreign service mission, but that they are encouraged to do so. According to the Libyan Foreign Ministry, some nevertheless fail to register.

8.1.1 Libyan asylum seekers

The number of Libyan nationals seeking asylum in European countries has shown a marked increase in recent years. Most of them state various forms of persecution on political or religious grounds as the reason why they need protection. One possible reason for these people leaving Libya may be a wish to work from exile for a change of regime in Libya. The German Libya expert Hanspeter Mattes points out Cairo as a centre for Libyan political opposition, but emphasises that it involves relatively small and very fragmented milieus.⁵⁹ In the European context, London is a corresponding centre. According to publicly available statistical material from European countries, virtually no Libyans seek asylum in countries

⁵⁸ This phenomenon in Libya has a parallel in other conservative countries in the region, such as Saudi Arabia, Kuwait and Iran, from where people travel in large numbers to more «liberated» neighbouring countries such as Egypt, Turkey and the United Arab Emirates, and to Western countries such as the UK, France Spain and the USA.

⁵⁹ Hanspeter Mattes: *Libya's Problems with Political Reform*, I.4.b and Annex.

with large Libyan communities, such as Malta and Italy, and relatively few in the UK. More than half of them seek asylum in Sweden, Norway and Denmark. Some also seek asylum in Germany, the Netherlands and Switzerland – but the arrival figures are considerably lower there than in Scandinavia.

8.1.2 The return of Libyan asylum seekers

During its visit to Libya, the delegation met diplomats from several Western countries which also receive Libyan asylum seekers. They all confirmed that they work on the assumption that the fact of having sought asylum abroad does not in itself lead to problems with the Libyan authorities on return, provided that the person in question has not engaged in political activity that is perceived by the Libyan authorities to be in opposition to the regime – either in Libya or abroad. (Several diplomats emphasised that it is their impression that Libyan foreign service missions keep a close eye on Libyan exile milieus through informants, and that they therefore have a good overview of Libyans abroad who engage in political activity critical of the regime.)

In reply to a direct question from the delegation to the Libyan Foreign Ministry about the Libyan authorities' view of Libyans who seek asylum abroad, one of the representatives emphasised that Libya does not have prisoners of conscience and that everyone is free to express his/her views within the political system in the country – i.e. as participants at the people's congresses. Another representative of the Libyan Foreign Ministry pointed out that the Libyans who seek asylum in Europe are primarily young men with little education and little political consciousness, and that it is therefore highly unlikely that they have been politically active in Libya. Moreover, it was pointed out that the Libyan authorities have announced through press releases to the Libyan press agency JANA that both persons who have sought asylum abroad and those in political opposition are free to return to Libya.

Diplomatic source 4 believed that one can rely on the assurances from the Libyan authorities that asylum seekers who are not deemed to be in political opposition will not suffer on their return, and it was the source's impression that this also included those in political opposition who were of minor importance.

It was evident from our meetings that Western diplomats in Libya are very concerned with the issue of the return of

Libyan asylum seekers, and that it is an important topic of conversation between themselves. None of these diplomats had heard of cases in which returned asylum seekers who had been rejected on grounds of a lack of a need for protection, have suffered after their return. However, several of them emphasised that the fact that they have not heard of such cases does not rule out such things having happened. Other diplomatic sources (3/5), on their part, assume that family members would probably have made contact⁶⁰ with the relevant embassy if a returned asylum seeker had been imprisoned or disappeared.

8.1.3 Asylum seekers without identity documents

A large proportion of the Libyans who seek asylum in Scandinavia and otherwise in Europe claim not to have identity documents such as passports, identity cards and similar. Some European countries have tried to return Libyans without ID documents, with varying results. In some cases, they have been rejected at the border, in other cases they have been allowed into Libya. Diplomatic source 1 believed that persons who are returned without ID documents may risk detention while the authorities investigate who they are. They are normally released after one week. According to the same source, such detention *can* be interpreted as a kind of punitive reaction vis-à-vis young people who have failed to behave "properly" while abroad, thus contributing to the blackening of Libya's reputation.

In the Libyan Foreign Ministry, it was pointed out that they knew of citizens of other countries who had sought asylum as Libyans. A desire was expressed on Libya's part that, in such cases, the European authorities contact the relevant Libyan foreign service mission in order to clarify the correct identity and nationality of such persons prior to a possible return and arrange for the issue of Libyan travel documents in cases involving Libyan nationals who do not have ID documents.

8.1.4 Crime committed by Libyans abroad

The Libyan foreign ministry was concerned that European countries be aware that the institution of asylum is misused by criminals who have left Libya to escape criminal prosecution, and that such persons might also engage in criminal activity abroad. Moreover, the delegation has

⁶⁰ Either themselves or through contacts, for example clan members with a position in the Libyan administration, which means that they can make such contact on their behalf without fear of reprisals.

previously been given the impression that the Libyan authorities take a grave view of Libyan nationals who commit criminal acts abroad, since this can have a detrimental effect on Libya's reputation internationally.

However, none of the sources with whom the delegation spoke believed that returning to Libya was problematic for Libyans who had committed crimes abroad, since Libyan law does not allow double punishment (see the chapter *Human Rights*).

8.2 Immigration to Libya

There is net migration to Libya, and the Libyan economy is completely dependent on foreign labour. Estimates of how many they are, and how big a proportion of the population they constitute, vary greatly, but most sources indicated that foreign nationals account for 20-25 per cent of the population of 5.5 million – i.e. between 1.1 and 1.4 million people. At the same time, unemployment is rising among the fast-growing Libyan population,⁶¹ particularly among young adults. Both foreign and Libyan sources pointed out that many Libyans, also those with little education and, in part, from poor backgrounds, do not want to take over manual work or to work in the service sector, but prefer to leave such work to immigrants.

8.2.1 Migrants from Africa

With Libya's foreign policy reorientation, turning away from the Arab world and focusing on Africa, visa freedom was introduced for nationals of African countries, and in speeches Qadhafi encouraged Africans to come to Libya to work. The result is that during recent years there have been substantial numbers of immigrants from sub-Saharan Africa in Libya. This group's situation is not easy, a fact which has been focused on in international media.⁶² In September 2000, riots were reported between Libyans and African migrants in Zawiya west of Tripoli, and many Africans left Libya voluntarily afterwards – or were de-

ported.⁶³ The Libyan professor stated that many Libyans see a direct connection between the increase in crime and drug abuse in Libya and immigration from Africa, and that this is a contributory cause of local scepticism towards African migrants. They are also seen as competitors on the labour market. These issues have recently been covered by the Libyan media. The UNHCR emphasised that the Africans in Libya primarily regard the country as a temporary stopping place on their way to Europe – but where stays can be prolonged while migrants try to earn enough money to finance their journey across the Mediterranean. Moreover, the UNHCR's representatives emphasised that, seen in relation to the large proportion of migrants in Libya, there was surprisingly little conflict between migrants and the local population.

8.2.2 Migrants from other Arab countries

While large-scale migration from sub-Saharan Africa is a recent phenomenon, migrants from other Arab countries have come to Libya since the oil industry started. Arab labour migrants are very easy to integrate on the local labour market because they master the language. They largely come from Arab countries without large oil revenues, particularly Egypt, Tunisia and Morocco. In the delegation's experience, staff at hotels and restaurants in Tripoli mainly came from these countries. In addition to service jobs and unskilled work, many Arab migrants also work in jobs that require higher qualifications, in both the private and public sectors. The Palestinians in Libya mainly belong to this group. According to the Palestinian embassy, they number 20-25,000 persons.⁶⁴ As a rule, Arab migration to Libya is temporary, but given that they are closer to the local population in terms of both culture and language, it is more usual for these migrants to establish themselves with families in Libya than it is for African migrants. According to several sources, Libyan attitudes to other Arabs can be somewhat condescending

⁶¹ According to Economist Intelligence Unit's *Libya Country Profile 2004*, the average annual population increase in the period 1975-1999 was 3.1 per cent, i.e. a doubling of the population approx. every 25 years.

⁶² See BBC 30.12.2003: *Libya: Tough gateway to Europe* (<http://news.bbc.co.uk/1/hi/world/africa/3341373.stm>).

⁶³ See BBC 29.09.2000: *Libyan unrest over immigration* (<http://news.bbc.co.uk/1/hi/world/africa/949208.stm>); BBC 05.10.2000: *Nigerians tell of Libya horror* (<http://news.bbc.co.uk/1/hi/world/africa/958211.stm>); BBC 09.10.2000: *Ghanaians flee Libyan attacks* (<http://news.bbc.co.uk/1/hi/world/africa/963215.stm>).

⁶⁴ According to the Palestinian embassy, Palestinians in Libya are primarily registered as refugees in Lebanon, Syria, Egypt and Jordan, and have migrated to Libya to find work.

because they are willing to do work Libyans are too proud to do.⁶⁵

8.2.3 Migrants from the rest of the world

Immigrants from the rest of the world probably constitute the smallest group of labour migrants in Libya. Many of them work for international companies who do business in the country. The oil industry is important in this context, but also other sectors with a need for highly qualified labour, such as telecommunications, industrial production and similar. Migrants in this group are generally very highly paid, and live largely in isolation from the rest of Libyan society in separate residential areas almost exclusively inhabited by Western foreigners and some members of the local political elite. Contact between many of this group and Libyans, other than colleagues and subordinates, would appear to be limited as a result of the language barrier. Several people the delegation spoke to emphasised that Libya could be a difficult society to live in even for this privileged group, since many experience that there is little personal freedom. At the same time, it is clear that the Libyan authorities turn a blind eye to alcohol use in these circles, even though it is strictly forbidden by Libyan law. The delegation's impression was that living conditions for this group were highly reminiscent of those of corresponding groups in countries such as Saudi Arabia, Kuwait and other oil states on the Arabian peninsula.

However, there are also other labour migrants from non-western countries besides Africa and the Arabic world living in Libya. Some migrants from Eastern European countries have lived and worked in Libya since coming to the country as part of the political cooperation between Libya and these countries while they were still under communist rule. According to diplomatic source 1, many of them work without work permits and are thus in practice compelled to stay in Libya for an indefinite period, unless they wish to leave the country for good, since they will be unable to return if they first leave the country. Many of them have jobs that require qualifications, for example in the health sector. Their situation in Libya is more comparable with that of Arab migrants than with Western ones. This also applies to migrants from countries in Asia such as Pakistan and the Philippines.

⁶⁵ Many Libyans also seem to be under the impression that there are considerably more Arab labour migrants in the country than there actually are – one of the delegation's drivers, for example, claimed that there were more Egyptians in Libya than Libyans.

A glaring example of how uncertain the situation is for migrants from Arab countries and Eastern Europe is the so-called HIV trial, which has been before the Libyan courts since January 1999. In its report, Amnesty International points out that the accused have, among other things, been tortured, held in isolation, refused contact with representatives of their own countries' authorities and received limited legal assistance.⁶⁶ This shows that foreign migrants' protection under the law can be highly uncertain in Libya. According to diplomatic source 10, shock waves ran through the diplomatic community when all the six foreign accused were sentenced to death at the beginning of May 2004, while the nine Libyan accused were found not guilty, a judgement which resulted in international condemnation.⁶⁷ Another diplomat, diplomatic source 9, pointed out that the judgement is popular in Libya because many people actually believe in the conspiracy theory on which the judgement is based.⁶⁸ International experts who were brought in for the trial have stated that the tragedy most likely was due to poor hygiene at the hospital.⁶⁹

8.3 Libya's view of refugees

According to the UNHCR, very few of the foreigners in Libya are registered as refugees with them, because the migrants largely see Libya as an intermediate stop on their way to Europe. Libya has not signed the UN Refugee Convention, but did ratify the African Refugee Convention of 1969 in 1981. Despite the fact that the UNHCR's formal role in Libya has not been clarified (see below), protection is not a problem in the Libyan context – not least because of the country's "open-door" policy towards nationals of African countries. The UNHCR states that it is clear that Libya wishes continued cooperation with the organisation on refugee issues.

⁶⁶ Amnesty International: *Libya: Time to Make Human Rights a Reality*, s. 33-35.

⁶⁷ See BBC 07.05.2004: *Concern over Libya death verdict* (<http://news.bbc.co.uk/1/hi/world/africa/3692963.stm>); BBC 15.05.2004: *Bulgarians march over HIV ruling* (<http://news.bbc.co.uk/1/hi/world/europe/3718163.stm>).

⁶⁸ The court claims that those sentenced had infected around 400 children with HIV as part of a medical experiment. Qadhafi has previously claimed in a speech that the accused were part of a conspiracy led by American and Israeli intelligence (BBC 17.02.2002: *Libya court rejects HIV plot charges* (http://news.bbc.co.uk/1/hi/world/middle_east/1825777.stm)).

⁶⁹ See BBC 04.09.2003: *Medics 'did not spread Aids'* (<http://news.bbc.co.uk/1/hi/world/africa/3079508.stm>).

8.3.1 The UNHCR's activities in Libya

The UNHCR⁷⁰ has been in place in Libya since 1991 and opened an official *mission* in 2001. Libya is nonetheless the only country in the Arabic world that has not signed any *accord de siège* or *memo of understanding* with the UNHCR. Despite the lack of formalisation of their relationship, cooperation with the Libyan authorities works well according to the UNHCR's representative. Formally, the organisation works with the Libyan authorities through UNDP, and cooperates with NGO-like organisations such as *Gaddafi International Foundation for Charity Associations*, *Aisha Charity Foundation*, and *Islamic Call Society*.⁷¹ The UNHCR assesses the need for protection on an individual basis for those who contact the organisation, and supports those who are granted refugee status. The policy of making direct subsistence payments has gradually been abandoned in favour of help for self-help through vocational training, procuring employment, micro-credit and return to the country of origin where possible.⁷² The organisation works closely with the Libyan authorities in relation to developing relevant legislation, building general capacity, information work and raising consciousness about the situation of refugees. In the long-term, the representative believed that there is also a great potential for raising funds in Libya for UNHCR's work, since the country's population is relatively prosperous.

8.4 Libya's role as a transit country for migration to Europe

Diplomatic source 1 believed that human smuggling to Europe is under close surveillance by the Libyan authorities, and stated that «everyone who manages to cross the Mediterranean, has done so with the Libyan authorities' "blessing"». Given the general level of surveillance of everything that goes on in the country, he believes that it

is unlikely that anyone can operate such traffic without the knowledge and consent of the authorities. Moreover, the Libyan authorities use the traffic in illegal migrants across the Mediterranean as a means of pressurising the EU and Italy in order to gain access to military equipment for use in monitoring the coast.

Diplomatic source 4 believed that Libya shows signs of wishing to cooperate on doing something about human smuggling,⁷³ but that it is difficult to know which direction Qadhafi really wishes the country to take in this area.

The Libyan Foreign Ministry stated that Libya wishes dialogue and cooperation with the EU on this matter, and emphasised that migration from sub-Saharan Africa could not be viewed in isolation, but that it is necessary for rich countries to increase aid to this part of the world in order to do something about the fundamental causes of migration.

⁷⁰ *United Nations High Commissioner for Refugees*.

⁷¹ An organisation that performs missionary and humanitarian work in Libya and abroad, also called *al-Da'wa*, see: <http://www.islamic-call.org/>. According to information on the organisation's own website, it is partly financed by "Allocations by its first founder; the Revolutionary [Command Council], from the Jihad fund".

⁷² UNHCR's representative emphasises that this is a genuine alternative for many people, particularly in light of how dangerous it is to be smuggled to Europe across the Mediterranean. At the same time, he pointed out that it involves a great loss of face for migrants to return to their home countries without having succeeded in getting to Europe.

⁷³ This evaluation is shared by the US State Department in its *Trafficking in Persons Report 2004*, V Special Cases: Libya (<http://www.state.gov/g/tip/rls/tiprpt/2004/>).

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