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2008 Human Rights Report: Libya

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BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR
2008 Country Reports on Human Rights Practices
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The Great Socialist People's Libyan Arab Jamahiriya is an authoritarian regime with a population of approximately six million, ruled by Colonel Mu'ammar al Qadhafi since 1969. The country's governing principles are derived predominantly from Colonel al-Qadhafi's Green Book ideology. In theory citizens rule the country through a pyramid of popular congresses, communes, and committees, as laid out in the 1969 Constitutional Proclamation and the 1977 Declaration on the Establishment of the Authority of the People. In 2006 Secretary of the General People's Committee al-Baghdadi al-Mahmoudi (prime minister equivalent) and the remaining delegates of the 760-member General People's Congress began three-year terms. In practice, however, al-Qadhafi and his inner circle monopolized political power. These authorities generally maintained effective control of the security forces.

The government's human rights record remained poor. Citizens did not have the right to change their government. Remaining problems included reported disappearances; torture; arbitrary arrest; lengthy pretrial and sometimes incommunicado detention; official impunity and poor prison conditions. Similarly, denial of a fair public trial by an independent judiciary, political prisoners and detainees, and the lack of judicial recourse for alleged human rights violations were problems. The government restricted civil liberties and freedoms of speech, press (including Internet and academic freedom), assembly, and association. The government did not fully protect the rights of migrants, asylum seekers, and refugees. Other problems included restrictions on freedom of religion; corruption and lack of transparency; societal discrimination against women, ethnic minorities, and foreign workers; trafficking in persons; and restriction of labor rights.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

On May 29, Mohammed Adel Abu Ali died in custody after being returned to the country when his asylum claim was denied in Europe. According to Human Rights Watch (HRW), he was tortured in detention. London-based As-Sharq Al-Awsat reported that he belonged to the oppositionist "al-Tabu" Front for the Liberation of Libya.

There were no developments in the case of Hafed Mansour al-Zwai, a prisoner at the Abu Salim Prison who reportedly was killed in clashes between prisoners and guards in 2006. Opposition groups published articles in October 2007, the first anniversary of the clashes, criticizing the government for failing to investigate.

Daif al-Ghazal, a prominent opposition journalist and anticorruption activist, was killed in 2005. According to the nongovernmental organization (NGO) Reporters without Borders (RSF), his family stated that a Tripoli court sentenced three unnamed individuals to death in connection with the case in July 2007. On July 24, Saif al-Islam al-Qadhafi, son of Muammar al-Qadhafi, conceded that officials killed al-Ghazal but claimed they had done so without official sanction. He called for public trials for the officials. There was no further information by year's end.

b. Disappearance

In February 2007 security services arrested Abdulrahman al-Qutiwi and Juma'a Boufayed, along with 12 others who appeared subsequently in court to face criminal charges. Authorities did not bring al-Qutiwi and Boufayed to trial, and Juma'a Boufayed's whereabouts were unknown until authorities released him on May 27. They had detained him incommunicado for 15 months at an unknown location. The location of al-Qutiwi, reportedly a fourth-year medical student, remained unknown at year's end.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits such practices, but security personnel routinely tortured prisoners during interrogations or as punishment. Reports of torture were difficult to corroborate because detainees often were held incommunicado.

The reported methods of torture and abuse included chaining prisoners to a wall for hours; clubbing; applying electric

shock; applying corkscrews to the back; pouring lemon juice in open wounds; breaking fingers and allowing the joints to heal without medical care; suffocating with plastic bags; depriving detainees of sleep, food, and water; hanging by the wrists; suspending from a pole inserted between the knees and elbows; burning with cigarettes; threatening with dog attacks; and beatings on the soles of the feet.

In 2007 the United Nations Human Rights Committee noted that corporal punishments, such as amputation and flogging, were rarely implemented, although sanctioned by law. Agence France-Presse (AFP) as well as opposition Web site Libya al-Youm reported that the Libyan lawyers' union alleged that unidentified individuals abducted, interrogated, and tortured lawyer Dhaw al-Mansuri on June 29. No further information was available at year's end.

On July 24, Saif al-Islam al-Qadhafi conceded that acts of torture and excessive violence had taken place in prisons. Al-Qadhafi denied government culpability, arguing that the individuals responsible for the torture had acted on their own initiative and were being tried within the legal system. At year's end, no information had been released on the progress of trials.

Ashraf Ahmad Jum'a al-Hajuj, a Palestinian medical professional who for eight years was held on charges that he deliberately infected Libyan children with HIV was released in July 2007. In January he filed suit in France and at the UN Human Rights Commission in Geneva, arguing that he was tortured repeatedly in detention. According to testimony obtained by AFP, the torture included rape by a German shepherd, fingernails ripped off, and electric shocks. He also testified that he was present when five Bulgarian nurses detained with him were tortured. He said most of the torture occurred during the early period after his imprisonment in 1999.

In an August 2007 interview, al-Hajuj provided a detailed account of these incidents, which included beatings, electric shocks, and injections with what police officers claimed was the HIV virus. According to his account, security services first arrested him in January 1999, forced him to wear a hood, and detained him without clothes in a 12-foot-square cell for 10 months. For several days he was detained in a room with three dogs, which police officers ordered to attack him as they attempted to extract a confession. Police also bent his knees against his chest, tied his hands and feet around his legs, threaded an iron bar through the rope and spun him around the bar "like a roasted chicken." For months, police forced him to sleep hanging from the wall with his hands tied behind his back.

Prison and Detention Center Conditions

According to diplomatic missions and international organizations, prison and detention center conditions ranged from poor to adequate. Pretrial detainees, who reportedly accounted for more than half of the prison population, were held in the same facilities as convicts. Prison officials frequently held pretrial detainees for long periods.

Security forces reportedly subjected prisoners and detainees to cruel, inhuman, or degrading conditions and denied them adequate medical care.

International organizations did not have access to prisons and detention facilities in the country, except in migrant detention facilities. The International Committee of the Red Cross (ICRC) did not have an office in the country.

In March a medical doctor from the international NGO Physicians for Human Rights (PHR) and a representative from HRW visited political activist and al-Qadhafi critic Fathi al-Jahmi in the Tripoli Medical Center, where he was detained under 24-hour guard.

In November 2007 a group of Libyan activists abroad met to demand a government investigation into the 1996 Abu Salim Prison riot, in which a large but unknown number of prisoners died. The group alleged that security services killed 1,200 political prisoners in the riot. In 2005 the authorities established a committee to investigate the incident. Since 2001, according to the Swiss-based Libyan Human Rights Solidarity (LHRS) opposition group, government officials notified 112 of the 350 families in contact with the group that a family member died in the incident, but officials did not provide bodies or explain the causes of death. The remaining families did not receive confirmation from the government on the status of their family members by year's end.

According to HRW, a North Benghazi court of first instance ruled in June that the state must reveal the identities of the dead from the Abu Salim riot and investigate the circumstances of their deaths. In a speech on July 24, Saif al-Islam al-Qadhafi acknowledged excessive use of force at the prison and called for public trials for officials who had directed the government response, whom he claimed had acted on their own initiative and not under orders from the government.

Following that speech, the Web site Akhbar Libya reported that the government had agreed to compensate the families of 144 prisoners and that three families had refused the compensation.

According to the LHRS, Muhammad Bosadra, a prisoner who reportedly negotiated with guards during the incident, has been held incommunicado since 2005, when government officials moved him to an unknown facility.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, but the government did not observe these prohibitions. As in previous years, there were reports that security forces arbitrarily arrested and detained citizens during the year.

In October 2007 security services detained a regime critic, Fouad Nassar al-Mahmoudi, upon his return from a long stay abroad. At year's end al-Mahmoudi remained in incommunicado detention.

There were no developments in the case of Mahmoud Muhammad Boushima, a government critic resident abroad since 1981, whom police arrested during a 2005 trip to the country, according to an Amnesty International (AI) report.

Role of Police and Security Apparatus

The country maintains an extensive security apparatus that includes police and military units, multiple intelligence services, local revolutionary committees, people's committees, and "purification" committees. The result is a multilayered, pervasive surveillance system that monitors and controls the activities of individuals. The legal basis of security service authority is unclear; citizens have no obvious recourse if they believe security services have exceeded their authority. Frequently cited laws are the 1971 and 1972 "Protection of the Revolution" laws, which criminalize activities based on political principles inconsistent with revolutionary ideology. Although the law prohibits arbitrary arrest and detention, in practice security services can detain individuals without formal charges and hold them indefinitely without court convictions.

Security forces committed serious human rights abuses with impunity, including the lengthy extralegal detentions of Boufayed, al-Hameed, and Boushima. They intimidated, harassed, and detained individuals without formal charges and held them indefinitely without court convictions, particularly in cases involving the political opposition. In addition, they regularly enjoyed impunity from criminal acts committed while performing their duties.

In November opposition members living abroad alleged that security forces battled Toubou tribesmen in the southeastern part of the country. Other observers within the country characterized clashes in the town of Kufra as societal violence between Toubou and Zawiya tribes. According to a November 20 report in MEED Business Intelligence, the initial deployment of security forces to quell the violence was insufficient, and unrest continued for more than one week, during which time authorities cut communication networks in the area and left locals without supplies for days. There were reports that between 11 and 30 civilians were killed in the fighting.

Arrest and Detention

The law stipulates that detainees can be held for investigation after being arrested up to eight days. In practice security services can hold detainees indefinitely. Although the law requires that detainees be informed of the charges against them, it was not enforced in practice. The law states that in order to renew a detention order detainees must be brought before a judicial authority at regular intervals of 30 days, but in practice security services detained persons for indefinite periods without a court order.

By law, bail must be set for pretrial detainees, and detainees must have access to counsel. A public defender must be appointed for anyone who cannot afford a private attorney. Detainees reportedly did not receive information on their right to legal representation during interrogation.

Incommunicado detention remained a problem. The government held many political detainees incommunicado for unlimited periods in unofficial detention centers controlled by branches of the security services. The government reportedly held political detainees, including as many as 100 associated with banned Islamic groups, in prisons throughout the country, but mainly in the Ayn Zara, Jadida, and Abu Salim prisons in Tripoli. Some human rights organizations and foreign diplomats speculated there were 2,000 political detainees, many held for years without trial. Hundreds of other detainees may have been held for periods too brief to permit confirmation by outside observers.

According to a 2006 HRW report, migrants and refugees in detention centers complained consistently of not being informed of the reason for their arrest, of lengthy periods of pretrial detention, and of restricted access to a lawyer.

Women and girls suspected of violating moral codes reportedly were detained indefinitely in "social rehabilitation" homes without access to legal representation or the opportunity to contest their detention in court.

Amnesty

On April 8, authorities reportedly released 90 members of the Libyan Islamic Fighting Group (LIFG) after they renounced violence. In November 2007 Ayman al-Zawahiri of al-Qa'ida announced that LIFG had merged with Al-Qa'ida in the Islamic Maghreb that September. The released members had served six to eight years as part of their prison terms, which ranged from 10 years to life.

On August 28, as a regular part of its annual Revolution Day commemoration, the government reportedly pardoned 3,133 prisoners. Another 1,573 prisoners were pardoned on December 7 in honor of Eid al-Adha.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, but it was not independent in practice. The law stipulates that every person has the right to resort to the courts, but security forces had the authority to pass sentence without trial, particularly in cases involving the political opposition. The government used summary judicial proceedings to suppress domestic dissent.

Mu'ammarr al-Qadhafi may, at his discretion, interfere in the administration of justice by altering court judgments, replacing judges, or manipulating the appeal system. The judiciary failed to incorporate international standards for fair trials, detention, and imprisonment.

The judicial system is composed of four tiers: the summary courts, the courts of first instance, the three courts of appeal, and the Supreme Court. The summary courts hear cases involving misdemeanors. The decisions of this court may be appealed to the courts of first instance, which are composed of chambers of three judges and have the authority to adjudicate in all civil, criminal, and commercial cases. Jurors of the court of first instance apply Shari'a (Islamic law) in family law cases. Cases from the courts of first instance may be appealed to the three courts of appeal, which are composed of three-judge panels. The Shari'a court of appeals hears cases from the lower Shari'a court.

The final court of appeal is the Supreme Court, composed of five separate chambers of five judges. The court has chambers for civil and commercial, criminal, administrative, constitutional, and Shari'a cases. The General People's Congress elects the presiding judge and other members of the Supreme Court.

The Higher Judicial Council, an extrajudicial body that reviews Supreme Court decisions for political implications, has the authority to overturn Supreme Court verdicts or grant amnesty in cases involving capital punishment.

The Supreme Council for Judicial Authority is the administrative authority of the judiciary that handles appointments, transfers, and disciplinary matters.

In August 2007 the Supreme Council for Judicial Authority established a state security court of appeals responsible for hearing national security cases. The court's portfolio includes cases stemming from three laws: Law 80 of the 1975 Penal Code stipulating the death penalty for offenses against the security of the state; Law 71 of 1972, which classifies as "treason" all independent political activity; and a 1969 revolutionary council decision that prohibits all forms of peaceful political opposition. Opposition groups raised concerns that defendants in cases before the state security court may be denied access to an attorney and that cases are conducted in secret.

Trial Procedures

The law provides for the presumption of innocence, informing defendants of the charges against them, and the right to legal counsel. The presiding judge appoints defense lawyers automatically, even if the defendant has declined representation. In practice defendants often were not informed of the charges against them and usually had little contact, if any, with their lawyers.

Political Prisoners and Detainees

A large but unknown number of persons were in detention or prison for engaging in peaceful political activity or for belonging to an illegal political organization. The law bans any group activity based on any political ideology that is inconsistent with the principles of the 1969 revolution.

During the year authorities sentenced 11 men whom a state security court had convicted for attempting to foment rebellion and for conducting unauthorized communications with a foreign government; by year's end authorities released from custody nine of them. Before their arrest in February 2007 the original group of 14 men, led by Dr. Idriss Boufayed, had planned a peaceful demonstration calling for greater political openness. The group reportedly began a hunger strike in October 2007 to protest their lengthy pretrial detention in overcrowded cells and the alleged mistreatment of them.

On June 10, the court handed down prison sentences to Idriss Boufayed (25 years); Al-Mahdi Humaid, Al-Saidz Salih Humaid, Faraj Humaid, and Ali Humaid (15 years); Jamal al-Hajj (12 years); and Ahmad Yusef al-Ubaidi, 'Alaa al-Dirsi, Farid al-Zuwi, Bashir al-Haris, and Al-Sadiq Qashut (six years). Adel Humaid was found not guilty and released the same day. Juma'a Boufayed was released on May 28.

On October 8, authorities released Idriss Boufayed from custody, reportedly due to his advanced lung cancer. Boufayed was the head of the National Union for Reform, an opposition group he ran in exile for 16 years until his return to Libya in September 2006, two months before he was arrested the first time. According to opposition Web site Libya al-Yuom, the QDF facilitated Boufayed's travel to Switzerland on December 11 for medical treatment.

AI reported that authorities released eight of the remaining prisoners on December 7 and began the legal process to pardon them formally.

Two men remained in custody at year's end, Faraj Humaid and Jamal Ahmad al-Hajj, and the whereabouts of Abdulrahman al-Qutivi were unknown. HRW maintained that authorities denied consular access to al-Hajj, who holds Danish citizenship.

Political activist and al-Qadhafi critic Fathi al-Jahmi remained in custody at year's end. Although in March the government announced it had released al-Jahmi, at year's end he remained under 24-hour guard in the hospital. Authorities allowed al-Jahmi's family to visit him early in the year; after April, however, visits were significantly restricted.

With the exception of two weeks in 2004, al-Jahmi has been continually detained since 2002. Authorities rearrested him in

2004 after he called publicly for democratic reforms and gave press interviews criticizing the regime and calling for free media and free elections.

According to HRW, the government contended it arrested al-Jahmi for telephoning foreign officials and "providing them with information with the purpose of making their countries hate the Great Jamahiriya" and for conspiring to serve the interests of a foreign country. The formal charges were attempting to overthrow the government, slandering al-Qadhafi, and communicating with a foreign official without permission. Al-Jahmi's lawyer reportedly believed these charges could carry the death penalty.

The QDF facilitated the March visit of HRW and PHR to al-Jahmi. In this visit, Dr. Scott Allen, a physician with PHR, found that al-Jahmi was seriously ill. Although al-Jahmi's physical condition appeared to have improved since January, the lack of appropriate medical care before January led to a serious deterioration of his health since his rearrest in 2004. PHR reported that al-Jahmi suffered from diabetes, hypertension, and coronary artery disease. PHR assessed that despite his health problems, al-Jahmi was stable enough to be treated as an outpatient and that he should be released to seek medical care of his choosing.

According to HRW and PHR, a court ordered in 2006 that al-Jahmi be transferred to a psychiatric facility, where he was detained for approximately one year, although PHR did not find evidence of significant mood or thought disorders in its two visits. In July 2007 al-Jahmi was transferred to the Tripoli Medical Center. According to HRW and PHR, al-Jahmi's doctors said at the time of his transfer he was experiencing congestive heart failure.

There were no developments in the case of Abdel Nasser Younis Meftah al-Rabassi, who was sentenced to 15 years imprisonment in 2003 for posting an article on an Arabic-language Web site criticizing the corruption in the Qadhafi government. According to human rights activists and AI, he did not have access to adequate medical care and was tortured, held incommunicado, and unable to hire his own attorney.

Civil Judicial Procedures and Remedies

Citizens did not have access to courts to seek damages for, or cessation of, human rights violations. Security services intimidated, harassed, and detained individuals outside the legal system and without judicial oversight. In practice individuals did not have the right to seek redress for security service actions in civil court. Neither judicial nor administrative remedies generally were available for alleged wrongs.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, but the government did not respect the prohibitions. Security agencies often disregarded the legal requirement to obtain a warrant before entering a private home. They routinely monitored telephone calls and Internet usage, including e-mail communication with foreign countries.

Security agencies and the revolutionary committees oversaw an extensive network of informants engaged in surveillance for the government. The government threatened to seize and destroy property belonging to "enemies of the people" or those who "cooperate" with foreign powers. Exiled government opponents reported that authorities harassed their family members and threatened them with detention.

Authorities inflicted collective punishment on the relatives of individuals, particularly those of convicted oppositionists. Punishments by law include denial of access to utilities (water, electricity, and telephone), fuel, food, and official documents; denial of participation in local assemblies; and termination of new economic projects and state subsidies.

In November 2007 the UN Human Rights Committee noted the collective punishment of a community in Bani Walid, where security services reportedly burned the property of relatives of a political activist who had been arrested after calling for a multiparty system.

There were no reports of application of the "purge law" that provides for the confiscation of private assets above a nominal amount. The law describes wealth in excess of such unspecified amounts as "the fruits of exploitation or corruption."

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech "within the limits of public interest and principles of the Revolution," but in practice the Publication Act of 1972 severely limits the freedoms of speech and of the press, particularly criticism of government officials or policy. The government tolerated some difference of opinion in people's committee meetings and at the General People's Congress. In August 2007 Saif al-Islam al-Qadhafi called for greater openness within the People's Congress system but cautioned that all political speech must stay within four "red lines": Islam, national security, territorial integrity, and Mu'ammar al-Qadhafi's primacy in the political sphere. On August 20, Saif al-Islam al-Qadhafi reiterated the four "red lines" he had outlined in 2007 and emphasized that the primacy of Muammar al-Qadhafi was key among them.

The government prohibited all unofficial political activities. By law, many forms of speech or expression may be interpreted as illegal. The wide reach of security services and broad networks of informants resulted in pervasive self-censorship.

The government owned and controlled virtually all print and broadcast media. The official news agency, the Jamahiriya News Agency (JANA), was the designated conduit for official views. Government-controlled media neither published nor broadcast opinions inconsistent with official policy. During the year the quasi-official 1/9 Media Group, a QDF subsidiary controlled by Saif al-Islam al-Qadhafi, launched a satellite television station, a radio station, and two independent newspapers. According to RSF, most of the journalists at these newspapers also work for official media outlets, and the newspapers were printed on the government's presses. Local revolutionary committees published several small newspapers.

Foreign publications were not widely available. In 2006 the 1/9 Media Group began distributing foreign publications domestically for the first time. In February 2007 QDF began distributing foreign Arabic-language publications through select news outlets, but one month later the QDF discontinued the distribution of all foreign publications. Some outlets in Tripoli had limited quantities of international weeklies. Although the publications law in theory restricts publishing rights to public entities, private companies were able to publish in practice.

Satellite television was widely available, but the government blocked foreign programming at times.

Internet Freedom

A single government-owned service provider offered Internet access. The number of Internet users was small but growing. According to 2007 data of the International Telecommunications Union, there were approximately 82,500 Internet subscribers and 260,000 users. The government reportedly monitored Internet communications. According to a 2007 report by the OpenNet Initiative, an academic partnership, authorities regularly blocked opposition Web sites and occasionally blocked others, including those that advocated minority rights. During the year, however, most of these Web sites were accessible to users of the state-owned Internet provider; many Internet cafes operated via satellite connection to Europe, bypassing potential blocking by the state.

Academic Freedom and Cultural Events

The government severely restricted academic freedom. Professors and teachers who discussed politically sensitive topics faced the risk of government reprisal. Authorities frequently denied foreigners access to schools and university campuses.

All cultural events require advance government approval. Any group or individual seeking to organize a cultural event needs a government sponsor. The government at times denied permission for musical performances and denied visa applications for foreign musical performers to visit the country.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The law stipulates that "individuals may meet peacefully, and no police personnel are entitled to attend their meetings; moreover, they are not obliged to notify the police of such gatherings." The law also provides for the right to hold public meetings in accordance with the regulations set by law. In practice, however, the government severely restricted these rights and permitted public assembly only with its express approval and only in support of its positions.

Freedom of Association

The government restricted the right of association to institutions affiliated with the government. The government did not allow the formation of groups based on political ideology inconsistent with the 1969 revolution.

c. Freedom of Religion

Although there is no explicit law guaranteeing religious freedom, in practice the government generally respected the right to observe one's religion. Islam is the equivalent of a state religion and is thoroughly integrated into everyday political and social life.

The government regulated mosques, religious schools, and clerics to ensure all views were in line with the state-approved form of Islam. The government strongly opposed militant forms of Islam, which it viewed as a threat to the regime.

The World Islamic Call Society (WICS), an international educational institution, operated a state-run university in Tripoli that provided Muslims outside the Arab world with a broad education in literature, history, science, and religion. WICS also organized vocational training programs, offered students exposure to international academic speakers, and maintained relations with local non-Muslim religious groups, including Christian churches. On October 27, WICS held its eighth General Congress in Tripoli, which included representatives from the Catholic, Anglican, and Orthodox churches.

Although there is no law prohibiting conversion from Islam, the government prohibits efforts to proselytize Muslims and actively prosecutes offenders. The government permitted Christian churches to operate freely but imposed a limit of one church per denomination per city and monitored religious services, including Islamic services, for evidence of political discourse. There were no official places of worship for Hindus, Buddhists, or Baha'is.

A noncitizen female who marries a Muslim citizen is not required to convert to Islam, but a noncitizen male must convert to Islam to marry a Muslim woman. The government maintained the position that all citizens were Muslims.

Societal Abuses and Discrimination

There were no reports of societal violence, harassment, or discrimination against members of religious groups.

Although no statistics were available during the year, the country's Jewish population was extremely small and possibly nonexistent.

The government renovated a former Jewish school in Tripoli to serve as a city archive. There was no functioning synagogue. Discussions between the government and representatives of the former Jewish community on possible compensation for Jewish communal property the government confiscated after 1948 have been ongoing since 2004.

Mu'ammarr al-Qadhafi made statements denigrating Christians and Jews. In a March 19 speech, echoing statements in a March 2007 speech in which he declared that all those who did not practice Islam were "losers," al-Qadhafi said the Christian Bible and the Jewish Torah are forgeries and that the original versions mentioned the Prophet Muhammad. Al-Qadhafi stated in a March 2007 interview that "Jews will go extinct because everyone hates them."

For a more detailed discussion, see the 2008 International Religious Freedom Report at www.state.gov/g/drl/irf/irpt.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law stipulates that "each citizen, during times of peace, may move freely, choose the place where he or she wishes to live, and may return to the country and leave whenever he or she chooses." The government generally did not restrict the freedom of movement within the country, but freedom to travel outside the country was at times restricted by the arbitrary seizure or non-issuance of passports. When foreigners married to citizens entered the country, authorities routinely held the foreigners' passports.

The law does not allow, nor did the government impose, forced exile as a punishment. The government continued to encourage dissidents abroad to return and publicly promised their safety. There were numerous reports, however, that the government detained dissidents who returned from exile. The government reportedly interrogated students returning from study abroad and at times discouraged students from studying abroad, claiming they would be recruited to work as foreign agents against the country.

Protection of Refugees

The laws do not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government did not grant refugee status or asylum. The government also has not established a system for providing protection to refugees.

As in previous years, the government generally cooperated with the United Nations High Commissioner for Refugees (UNHCR), which has operated in the country assisting refugees and asylum seekers since 1998 and as an independent office since 2002, despite the absence of a formal memorandum of understanding.

The government operated at least 10 detention centers for undocumented migrants and asylum seekers, among others. International organizations and some foreign diplomats had occasional access to these detention centers. UNHCR and the International Organization for Migration (IOM) had regular access to asylum seekers and irregular migrants in prisons and detention facilities. UNHCR staff was allowed to conduct private interviews with asylum seekers at government-operated detention facilities with facilitation by the quasi-NGO International Organization for Peace, Care, and Relief (IOPCR). UNHCR had regular access to government officials and detained refugees through IOPCR.

International observers reported gradual improvement in migrant detention conditions since 2005, in particular in medical services.

The law prohibits the extradition of political refugees. In practice, the government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened. Although the government did not target UNHCR-recognized refugees for forcible deportation, the government regularly and forcibly deported foreigners without properly screening refugees and asylum seekers from economic migrants. AI reported that authorities took preliminary steps on June 21 to deport forcibly a group of 230 detained Eritrean asylum seekers but that UNHCR intervened on their behalf. At year's end all 230 remained in detention.

Government sources claim to have returned to their country of origin 30,940 illegal migrants in 2007 of the estimated 1.5 to two million illegal migrants in the country. In January HRW reported that the government claimed none of the undocumented foreigners in the country were refugees. During the year, according to international organizations working in the country, the government became more rigorous in differentiating between legitimate refugees and asylum seekers and other economic migrants.

During the year UNHCR registered approximately 9,000 refugees, although UNHCR estimated there were approximately

30,000 in the country. Of the total refugee population, an estimated 3,500 were in regular contact with the UNHCR mission in Tripoli. During the year UNHCR reported an increase in the number of refugee applications, which contributed to an eight month waiting period for asylum seekers to receive an appointment with the organization. The majority of refugees were Palestinians, Iraqis, and Somalis, followed by smaller but growing numbers from Sudan, Eritrea, and sub-Saharan Africa.

The government stipulates that any foreigner who enters the country illegally shall be deported. The government operated detention camps to hold noncitizens pending deportation and did not routinely inform diplomatic representatives when their nationals were detained. Persons in detention camps reportedly were abused, including reports of sexual abuse of women. On April 6, in a case reported by AFP, authorities expelled 110 undocumented Malians who alleged that authorities beat them, detained them for months, and confiscated their savings and some property before repatriating them. International organizations also reported mass deportations of irregular migrants, including more than 200 Nigerians in September and approximately 400 Malians on November 8.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The country does not have a constitution, and citizens do not have the right to change their government. The country's governing principles stem from al-Qadhafi's Green Book, which combines Islamic ideals with elements of socialism and pan Arabism. The Green Book states that direct popular rule is the basis of the political system and that citizens play a role in popular congresses; in practice, however, al-Qadhafi and his close associates monopolized government decision-making.

Elections and Political Parties

The government prohibits the creation of and subsequent membership in political parties. The 1977 Declaration on the Establishment of the Authority of the People dictates how citizens exercise their political rights. The government is structured in a pyramid of committees, communes, and congresses, each layer of which is involved in the selection of the next-higher level. Citizens participate through numerous organizations, including vocational, production, professional, and crafts congresses. Voting for leaders of the local congresses is mandatory for all citizens age 18 or older.

The elected secretaries of these various congresses and committees select the members of the highest legislative organization, the General People's Congress, which is composed of 760 members serving three year terms.

In theory, revolutionary committees, composed primarily of youth members, guard against political dissent and ensure that citizens adhere to sanctioned ideology. These committees approve candidates for the General People's Congress. In practice, however, revolutionary committees played an unclear role in enforcing official ideology, sometimes appearing increasingly marginalized and sometimes appearing active in political life.

Elections occur every three years. The people's congresses, the local bodies comprising all citizens, choose their leadership committees. The last renewal of people's congresses took place in March 2006. The election process continues through the hierarchy of people's congresses until the nationwide General People's Congress chooses the General People's Committee, which manages the daily affairs of the government.

According to a 2007 UNDP report, women held 7.7 percent of the 760 seats in the General People's Congress. No reliable information existed on the representation of minorities in the government.

Government Corruption and Transparency

Laws stipulating criminal penalties for official corruption are unclear and inconsistently applied. The Administration Monitoring Board is the government agency responsible for oversight of official activities and prevention of corrupt practices. Officials sometimes engaged in corrupt practices with impunity. Government corruption was perceived to be a severe problem, which, coupled with favoritism based on family and tribal ties, contributed to government inefficiency.

In a series of speeches in 2006, Muammar al-Qadhafi called for all senior government officials to declare their earnings and assets or risk unspecified punitive action by the state; at year's end, no clear deadline had been set for officials to comply.

The law does not provide for public access to government information, and the government did not provide access in practice to citizens or foreign media.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Numerous government-sanctioned charitable associations operate in the country, but the government prohibited the establishment of independent human rights organizations. Restrictive laws that imposed imprisonment for forming or joining international organizations without government authorization forced individuals wishing to carry out human rights work to operate abroad.

Associations engaging in unauthorized political activity were illegal. A government body known as the Libyan Arab Human

Rights Committee did not release any public reports. The Libyan Society for Human Rights, operating under the sponsorship of the semiofficial QDF, followed government policy priorities rather than operating as an independent entity.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, sex, religion, disability, or social status. The government did not enforce these prohibitions effectively, however, particularly with regard to women and minorities.

Women

The 1969 Constitutional Proclamation granted women equality under the law. In practice, however, traditional attitudes and practices continued to be used as reasons for discrimination against women. Shari'a governs inheritance, divorce, and the right to own property.

The law prohibits domestic violence, but there was no reliable information on the penalties. There was little detailed information regarding the extent of violence against women. Domestic abuse was rarely discussed publicly.

The law prohibits rape. The convicted rapist must marry the victim, with her agreement, or serve a prison term of up to 25 years.

The law does not distinguish between rape and spousal rape. According to government officials, spousal rape occurred and was resolved by "social solutions."

The law prohibits prostitution, but authorities tolerated it in practice.

The law does not prohibit female genital mutilation (FGM), which is foreign to the culture and society. There were reports that FGM occurred in remote areas of the country within African migrant communities.

Women and girls suspected of violating moral codes reportedly were detained indefinitely without being convicted or after having served a sentence and without the right to challenge their detention before a court. They were held in "social rehabilitation" homes, which provided social services, including education and health care. Many detained in these facilities had been raped and then ostracized by their families. The government stated that a woman was free to leave a rehabilitation home when she reached "legal age" (18 years), consented to marriage, or was taken into the custody of a male relative. According to HRW, most were transferred to these facilities against their will, and those who came of their own volition did so because no genuine shelters for survivors of violence exist. HRW maintained that the government routinely violated women and girls' human rights in "social rehabilitation" homes, including violations of due process, freedom of movement, personal dignity, and privacy.

The law criminalizes sexual harassment, but there were no reports on how this law was enforced in practice.

The Department of Social Affairs under the General People's Committee secretariat collects data and oversees the integration of women into all spheres of public life. Women did not hold any cabinet-level offices in the government, though the General People's Congress has a representative for women's affairs.

The General Union of Women's Associations, which the government established as a network of quasi-nongovernmental organizations, addresses women's employment needs. According to a 2005 International Labor Organization (ILO) report, 32 percent of women older than 15 years were economically active. Traditional restrictions continue to discourage some women from playing an active role in the workplace.

The government is the country's largest employer. Civil service salaries are set by education and experience. Women and men with similar qualifications are paid at the same grade for positions that are substantially similar. The emerging private sector does not formally discriminate on the basis of gender for access to employment or credit, although cultural conceptions of gender roles reduce women's involvement in the economy.

Educational differences between men and women have narrowed, but a significant proportion of an older generation of rural women did not attend school and instilled in their children traditional beliefs, such as preserving women's subservient role in society.

Children

The government generally protected children's rights and welfare.

The government subsidized primary, secondary, and university education, and primary education was compulsory until the age of 15. In July 2007 the government amended the law to impose high fees on noncitizens enrolled in primary and secondary schools, prompting many foreigners to leave the country. The UN Human Rights Committee noted that schools discriminate against children born out of wedlock.

According to a 2003 UNDP report, 96 percent of school age children attended primary school and most reached at least a sixth grade level; 53 percent of girls and 71 percent of boys attended secondary school.

The government subsidized medical care and improved the welfare of children, but general economic mismanagement led to a low standard in medical services. Boys and girls enjoyed equal access to medical care.

The law prohibits child abuse, and that prohibition was respected in practice.

Trafficking in Persons

The law does not specifically prohibit trafficking in persons, and there were reports that persons were trafficked to the country for commercial sexual exploitation and forced labor purposes.

The country was both a transit point for trafficked persons en route to Europe and a destination country for victims from sub-Saharan Africa and South Asia. International observers estimated that 1 to 2 percent of Libya's 1.5 to two million foreign residents may be victims of trafficking.

The law does not expressly criminalize trafficking for purposes of sexual exploitation or involuntary servitude, and the government provided no information on prosecutions related to trafficking offenses. On February 17, the government agreed to repatriate 26 Indian nationals whom an agent reportedly convinced to work for a local company, where they were paid low wages and locked up when they complained. The company agreed to pay five months' wages and airfare to India.

There were no reports of any government participation in, or facilitation of, trafficking in persons.

As in previous years, the government did not provide adequate protection to victims of trafficking. The government failed to screen vulnerable populations adequately to identify trafficking victims. Victims were susceptible to punishment for unlawful acts committed as a result of being trafficked, including unlawful presence in the country, working without a valid work permit, and engaging in prostitution. Trafficking victims, intermingled with economic migrants, may have been deported without receiving medical, psychological, or legal aid.

During the year the government took steps to prevent trafficking in persons by supporting a series of training workshops for members of the law enforcement community and select government-sponsored charity associations to raise awareness of trafficking.

The State Department's annual Trafficking in Persons Report can be found at www.state.gov/g/tip.

Persons with Disabilities

The law provides for the rights of persons with disabilities and provides for monetary and other types of social care. There were a number of government approved societies that care for persons with disabilities. Access to employment, education, health care, and other state services was generally protected.

National/Racial/Ethnic Minorities

Arabic speaking Muslims of mixed Arab Amazigh (Berber) ancestry constituted 97 percent of citizens. The principal minorities were Amazighs and Tuaregs. Both minority groups are predominantly Sunni Muslims but identify with their respective cultural and linguistic heritage rather than with Arab traditions. Several nomadic groups live in areas along the country's desert borders, including members of Tuareg and Toubou tribes. The country is home to an estimated 1.5 to two million foreign workers. Of those nearly one million are thought to be of Sahelian or Sub-Saharan African origin in the country as irregular migrants.

During the year the government took steps to alleviate discrimination against the country's Berber minorities. In 2007 the government abolished a law prohibiting the use of Amazigh and Tuareg names. Unlike in previous years, limited exhibitions of Amazigh culture were permitted, including a televised history program. The written Amazigh language was allowed on more signs, but reportedly was still forbidden in official contexts.

Berber Web site Tawalt.com reported that Revolutionary Committee members targeted Berber leaders near Yefren on December 24. Demonstrators reportedly chanted anti-Berber slogans, vandalized properties, and physically confronted counter protesters. Opposition Web sites alleged the individuals acted in collusion with local police.

According to MEED Business Intelligence, the Tabou minority faced discrimination in the town of Kufra. Authorities reportedly withdrew citizenship from members of the Tabou tribe in Kufra during the year, and local authorities reportedly issued decrees barring members of the Tabou tribe who did not have Libyan citizenship from access to education and health care services.

Other Societal Abuses and Discrimination

There were no reports of societal violence or discrimination based on sexual orientation.

There were no reports of societal violence or discrimination against persons living with HIV/AIDS.

Section 6 Worker Rights

a. The Right of Association

The law prohibits independent association; workers are allowed, however, to join the government-organized General Trade Union Federation of Workers. The Federation played an active role in the International Confederation of Arab Trade Unions, the Organization of African Trade Union Unity, and the World Federation of Trade Unions. The government required candidates for trade union office to be citizens. Active government employees are often enrolled automatically.

The law does not give workers the right to strike, and there were no reports of strikes during the year. Although trade unions have existed officially for more than 25 years, workers historically have seen them as idle organizations. Recent anecdotes indicate that unions are taking a more active role in petitioning for workers' rights, such as a reported 2007 intervention to secure back pay for employees of the National Oil Corporation. No information was available on any additional mechanisms to protect workers' rights.

b. The Right to Organize and Bargain Collectively

The law circumscribes the conduct of union activities, and collective bargaining is restricted in practice. For example, the government must approve all collective agreements between unions and employers to ensure that they are in line with the country's economic and social objectives.

A free trade zone in Misrata officially opened in 2004, although through year's end it was not operating.

c. Prohibition of Forced or Compulsory Labor

The law prohibits any form of forced or compulsory labor, including by children, although there were some reports of forced labor of migrant workers, particularly in the construction sector, after they were smuggled into the country.

d. Prohibition of Child Labor and Minimum Age for Employment

The law forbids children under the age of 18 from employment, except when it is a form of apprenticeship. There was no information available on the prevalence of child labor.

No information was available concerning whether the law limits working hours or sets occupational health and safety restrictions for children. The General People's Committee for Manpower, Employment and Training is responsible for preventing child labor.

e. Acceptable Conditions of Work

The labor law defines the rights and duties of workers, including matters of compensation, pension rights, minimum rest periods, and working hours. In 2006 the government shortened the legal workweek from 48 to 40 hours. The law stipulates the minimum wage, standard working hours, night shift regulations, dismissal procedures, and training requirements. The law does not specifically prohibit excessive compulsory overtime.

The Green Book forbids wages, so workers are paid in the form of "entitlements." Although some public sector categories, such as professors, have seen wage increases in recent years, a freeze imposed more than a decade ago continues to depress earnings. In 2006 the government raised the minimum wage to 130 dinars (\$105) per month for a single person, 180 dinars (\$146) for a married couple, and 220 dinars (\$178) for a family of more than two. Although there was no information available regarding whether the average wage was sufficient to provide a worker and family with a decent standard of living, the government heavily subsidized rent, utilities, and government workers received an additional 130 dinars (\$105) per month for basic food staples during the year.

Labor inspectors were assigned to inspect places of work for compliance with government-defined health and safety standards, and the law grants workers the right to court hearings regarding these standards. Certain industries, such as the petroleum sector, attempted to maintain standards that foreign companies set. There was no information whether workers could remove themselves from an unhealthy or unsafe work situation without jeopardizing their employment.

Foreign workers reportedly constituted 1.6 million of the 3.2 million person work force in 2004, but the labor law does not accord foreign workers equal treatment. Only foreign workers who have work contracts, a fraction of the total, are covered under the laws on acceptable conditions of work, as other migrants are considered to be in the country illegally. Authorities permitted foreign workers to reside in the country only for the duration of their work contracts, and they could not send more than half of their earnings to their home countries. They were subject to arbitrary pressures, such as changes in work rules and contracts, and had little option other than to accept such changes or depart the country. Many foreign workers were deported arbitrarily for not having newly required work permits for unskilled jobs they already held. In practice, the government had no practical means to track foreign workers or remittance flows, relying instead on the threat of deportation and random round-ups to exercise authority.

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