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Corporate report

## Libya - Country of Concern

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Libya has made progress over the last two years, not least its first ever democratic elections in over 40 years. But the fall of the Qadhafi regime was just the beginning. It will take time for the Libyan people to rebuild their country based on a new political system and the rule of law. The Libyan authorities continue to make positive public commitments to upholding human rights in the new Libya, but they face significant challenges and are now at a critical stage in the transition.

Security and stability in Libya is a serious concern. A number of armed militia groups continue to act outside of government control, and have been involved in a number of violent clashes in the past year. The most recent clash took place in Sabha on 10 January 2014, where over 30 people were killed. This follows violence in Tripoli, on 15 November 2013, where 43 people were killed and over 400 injured, and in Benghazi on 9 June with similar numbers. Although exact figures are difficult to record, a report by the Interior Committee of Congress stated that 643 people were killed in Libya throughout 2013, most as a result of assassinations or extrajudicial killings.

Libya's security and justice challenges are exacerbated by the widespread availability of Qadhafi-era arms and ammunition. It is estimated that Libyan weapons stocks, most of which are unsecured, are 100 times greater than those found in Iraq. The Libyan government has made clear its determination to tackle these challenges.

Political divisions within Libya are hampering progress overall. It is essential that Libyans work towards agreement on a single and inclusive national dialogue process, and refrain from destabilising action that would further set back the political transition. The judiciary is functioning to a limited extent, but there continue to be reports of arbitrary arrest and mistreatment of detainees, particularly in areas outside government control. Other key concerns are women's and minority rights, freedom of religion or belief, and freedom of expression, in particular media freedom.

The UK continues to work with our international partners in Libya to provide coordinated assistance to the Libyan authorities to set up more effective and accountable security, justice, and defence institutions in Libya. In particular, the UK's human rights support to Libya includes providing human rights training for 2,000 members of a planned General Purpose Force; strategic advice on restoring public security and promoting the rule of law through police advisors working within the Interior Ministry; support to judicial police through a prisons reform project, funding training workshops for Libyan lawyers; £1.5 million to the UN elections fund and training of domestic electoral observers

focusing on women groups; support to develop two new programmes to assist capacity building of Libyan institutions for private sector development in central Libya; and support for the role of women and youth by underlining the need to protect their rights and supporting their education. We are exploring what additional support we can provide in 2014.

## **Freedom of expression and assembly**

Since the revolution, freedom of expression and assembly has improved significantly. Hundreds of new media outlets have emerged, including new TV and radio stations. Social media usage has increased dramatically, and there is greater access to information on the internet. The General National Congress (GNC) president, Nouri Abu Sahmain, has publicly confirmed that no censorship will be imposed on the media, and they will be granted complete freedom to perform their duties. The GNC has created a Ministry of Information, although its mandate is unclear. However, we are concerned about recent decrees passed by the GNC, which limit some aspects of freedom of expression, such as law 5 in Article 195 which allows people who criticise the revolution to be arrested, the banning of satellite television channels that criticise the government, and a reduction of scholarship funding for students who do not support the revolution. We also remain concerned about continuing reports of harassment of journalists by militia groups, with a number of abductions and attacks being reported since the beginning of August. The Libyan government's ability to protect journalists from harassment and intimidation is constrained by its relative lack of control over security in general.

The UK is providing some support in this area. Through the Arab Partnership/Conflict Pool, we are providing funding for a series of television programmes to promote a positive Libya and encourage free debate. There is also a broader BBC media action plan in place, the aim of which is to provide support to public service broadcasting.

A permissive environment for peaceful protest remains under the new government, which marks a departure from the Qadhafi regime, when demonstrations were permitted only in support of the regime, and protests against the regime were put down, often violently. The new government, by law, allows people to gather and demonstrate against them. There have been numerous demonstrations outside and inside the GNC Hall. Demonstrations have also occurred in cities and towns across Libya. We were, however, concerned by protests earlier in 2013 calling for Political Isolation Legislation, which forced government ministries to close for two weeks. The Political Isolation Law, if implemented to its fullest extent, could effectively lead to 10,000-20,000 civil servants, former ambassadors, and members of the judiciary, formerly connected to the Qadhafi regime, from participating fully in political life, which could have long-term implications for national cohesion and reconciliation.

## **Access to justice and the rule of law**

The Libyan judicial system has improved in the past year, but despite efforts made by the interim government to rebuild institutions, court cases still do not progress as quickly as they should, and are often adjourned, rather than dealt with immediately by judges. The deterioration in Libya's internal security has also meant that concerns remain about the personal safety of judges and lawyers. However, following an amendment to the law on the status of the judiciary in May 2013, which allows for the election by peers of 11 out of 13 members of the Supreme Judicial Council, the independence and competence of the judiciary in Libya has been considerably strengthened.

There have, however, been signs that the Libyan judicial system is beginning to operate more effectively. On 19 September, pre-trial hearings were held for 35 detainees accused of conflict-related crimes, including Saif al-Qadhafi and Abdullah al-Senussi. All except Qadhafi attended the hearing. But it remains the case that a vast majority of conflict-related detainees are not processed within reasonable time frames because of the political sensitivities related to their cases. In addition, those detainees with strong links to militia groups are not being prosecuted because lawyers and judges are fearful of reprisals by members of the militia group.

Improvements in dealing with non-conflict-related crimes have continued. Most individuals have access to lawyers, either state- or privately-funded, and straightforward civil cases are processed within reasonable time frames.

The UK is helping the Libyan authorities to provide more effective and accountable justice for its citizens, including through expert advice to the Libyan Ministry of Justice, and through the training of 1,500 judicial police.

A number of members of the former Qadhafi regime remain in detention in Libya, awaiting trial on a range of charges. They include Saif Al-Islam al-Qadhafi, son of Qadhafi, Abdullah al-Senussi, Qadhafi's former intelligence chief, and Al Mahmoudi Al Baghdadi, Qadhafi's last prime minister. For most Libyans, their detention marks an important step in bringing closure to the Qadhafi era and building a new democratic Libya. It is important that all detainees are held in accordance with Libyan and international law, by a legitimate authority, and have access to legal representation and medical care. The way in which high-profile former regime figures are treated presents an opportunity for Libya to demonstrate its commitment to ensuring fair trials, to cooperating fully with the International Criminal Court (ICC), and to meeting international standards in the protection of human rights.

The UK continues to urge Libya's full cooperation with the ICC. In May, the ICC's Pre-Trial Chamber rejected Libya's request to try Saif al-Qadhafi in Libya, and ordered his surrender to the ICC. Libya is appealing the decision on the admissibility of the case. In July, the ICC Appeals Chamber rejected Libya's request to suspend the surrender of al-Qadhafi while its appeal was pending; Libya is under an obligation to surrender al-Qadhafi to the ICC.

In October, the Pre-Trial Chamber granted Libya's application to try Abdullah Al-Senussi domestically in Libya, on the basis that Libyan authorities were both willing and able to effectively prosecute him. This was the first time the ICC had ruled that it could relinquish jurisdiction of a case in favour of national proceedings. Al-Senussi has appealed the decision. It is imperative that Al-Senussi is detained in accordance with Libyan and international law, held by a legitimate authority, has access to legal representation, and that his trial meets international standards.

## **Death penalty**

Libya still retains the death penalty and continues to pass the death sentence, although there have been no executions since liberation.

## **Torture**

Some progress has been made by the Libyan government in bringing militia-controlled detention centres under state control, but a significant proportion of Libya's detention facilities are still, in practice, run by militias. Concerns remain about conditions in detention centres, particularly those

outside government control, and the mistreatment of detainees. The International Committee of the Red Cross, Human Rights Watch, and Médecins Sans Frontières have all had direct access to detention facilities, and have raised concerns about the conditions, the treatment of individuals in them, and in particular the treatment of migrants in detention. Overcrowding, lack of food and medical supplies, and allegations of mistreatment and torture, including sexual violence, have been reported.

The UN Support Mission in Libya (UNSMIL), in concert with the UN High Commissioner for Human Rights, issued a report on 1 October on “Torture and Deaths in Detention in Libya” which highlighted a number of ongoing concerns. The report was the output of two years of monitoring activities undertaken by UNSMIL, during which time they made multiple visits to around 30 detention centres, some of which were state-controlled, and others run by militias. The report highlighted that, while conditions in state-run facilities were generally better than those run by militias, instances of mistreatment of detainees still occurred across the spectrum of detention centres. UNSMIL did, however, recognise the good intentions of the government to abide by their international legal obligations, and the difficulties they face in doing so. The report made 14 key recommendations to address the issue of torture in Libya, which it will now be for the Libyan government to act upon.

The UK has continued to raise concerns over detainees with the Prime Minister and Justice Minister, including the need to ensure that they are kept in conditions which meet international human rights standards. The International Centre for Prison Studies (ICPS) whose work the UK is funding, has also provided support to the Ministry of Justice and Libyan Judicial Police.

## **Conflict and protection of civilians**

We are concerned about the number and treatment of internally displaced persons (IDPs) who remain in Libya since the revolution. Approximately 35,000 people from the town of Tawergha remain forcibly displaced by Misratan militia groups. They are accused of supporting Qadhafi during the revolution and committing serious crimes, including rape and torture, against people in Misrata. Consequently, Tawerghans continue to be arbitrarily detained, tortured, harassed and killed by militias, mainly from Misrata. An estimated 1,300 people from Tawergha remain in detention or unaccounted for. The same militias have also prevented the residents of Tomina and Karareem, near to Tawergha, from returning home.

The status of migrants in Libya also remains a serious concern. There has been an increase in the number of migrants entering Libya who are fleeing war-torn countries or have faced persecution and threats to their lives. Libya is not a signatory to the 1951 Geneva Convention relating to the Status of Refugees, nor its 1967 Protocol, nor has it developed its own national asylum legislation.

We share concerns around the new national ID number system, which makes it difficult for groups with unclear citizenship status to obtain an ID, and therefore leaves them unable to participate in elections or benefit from state programmes, education and health facilities. Furthermore, there is no provision made for IDPs. Concerns also remain about the treatment of migrants in migrant detention centres.

## **Freedom of religion or belief**

At least 97% of the Libyan population are Muslim. The Libyan government has committed to ensuring that the new constitution reflects the rights of all minorities, including religious groups. While concerns around freedom of religion or belief in Libya remain, significant progress has been made in the last 12

months. There has been a reduction in the number of reports of attacks against religious minority groups in Libya – particularly the destruction of Sufi Shrines and Coptic Churches – while the release on 13 April of the last remaining Coptic Christians being held on charges of proselytism was a welcome development.

## Women's rights

The treatment of women remains a concern, but we welcome government efforts to address this issue. Allegations of sexual and gender-based violence during the revolution were widespread. The approval by the National Assembly of Legislation to Redress the Situation of Victims of Rape and Violence is a welcome step, but it will be crucial that the legislation is even-handed and recognises all victims of sexual violence in Libya. To help the Libyan government address this key issue, the UK will be undertaking a programme of work under the Foreign Secretary's Preventing Sexual Violence Initiative, including under our new, £62 million Security, Justice and Defence Programme.

As with minority groups, we have concerns about the relative lack of seats allocated to women on the constitutional "Committee of Sixty", but we are providing training to women's groups, and civil society more widely, to enhance their skills in leadership, provide confidence in participating in the political process, and improve their influence within the GNC.

## Minority rights

The majority of Libya's population is Arab, but there are significant minority groups including the Tuareg, Amazigh and Tebu. Under the Qadhafi regime, minority groups were often marginalised and were not afforded the same rights as other Libyans. The new government has made a commitment to ensuring that all Libya's citizens have the same rights and are treated equally. We welcome the Law Against Discrimination and Torture, adopted on 9 April, which will have positive implications for the treatment of all minority groups.

The main concern for Libya's minority groups is to ensure their rights are protected under the new constitution. Several groups are requesting that their language is officially accepted and recognised. As Libya undergoes the process of drafting a new constitution, it will be important that the minority groups' voices are heard. To this end, we welcomed the passing to the constitutional "Committee of Sixty" of the law governing how elections in July will operate, but concerns remain about the overall level of representation that minority groups will be granted within this committee. It is important that the representatives of women and minority groups participate fully in the process and have an effective voice in the constitutional drafting assembly. To that end, the UK has raised the importance of minority rights with senior government officials, and will work with minority groups as part of our wider support for civil society.

This publication is part of the 2013 Human Rights and Democracy Report (<https://www.gov.uk/government/publications/human-rights-and-democracy-report-2013/human-rights-and-democracy-report-2013>).

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