



Libya's Transition to Democracy:

An Assessment with Recommendations for British Foreign Policy

A Henry Jackson Society Strategic Briefing

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EXECUTIVE SUMMARY

The Economic Situation

- ◇ The two primary sources of revenue for Libya's transitional government are unfrozen assets and revenues from the oil industry. The international community should assist the Libyan authorities in developing the transparency and accountability mechanisms necessary to ensure that public finances in Libya are properly spent.
- ◇ The development of Libya's economy beyond its oil industry is also a priority. In addition to generating employment, economic diversification is important for improving democratic accountability that comes when a government cannot draw solely on revenues from natural resources for its income but must also rely on the enterprise of its citizens.

transitional cabinet has gone some way towards ameliorating the concerns of influential militias that their community/area be adequately represented at the decision-making table.

- ◇ The NTC's stated objective of incorporating militia into state security forces is the right one and has the potential to provide militiamen with employment and bolster the country's underdeveloped security capabilities.
- ◇ The NTC remains reticent to involve outsiders in its security affairs. However, the international community should be prepared to assist in the equipping and training of Libyan security and police forces as well as securing the large numbers of weapons, including chemical weapons, which remain unsecured at present.

The Security Situation

- ◇ Although the security situation in Libya remains uncertain, it is improving. Rival militias continue to operate beyond the control of the National Transitional Council (NTC), including in the capital Tripoli. However, the inclusive nature of the new

Political Reconciliation

- ◇ In the absence of a properly functioning police and judiciary, several thousand prisoners accused of supporting Gaddafi during the revolution are currently detained with no access to due process. Many have been abused, in particular sub-Saharan

Africans, accused of being mercenaries. A particular reconciliation failure relates to Libya's Tawerghan community.

- ◇ The international community should support the NTC both in developing the mechanisms necessary to hold and try all prisoners within the law, and also to prosecute those accused of engaging in mistreatment.

Civil Society and the Democratic Process

- ◇ Libya's civil society, which should play a vital part in the country's democratic process, is very limited at present and in urgent need of support. The EU has been given the lead responsibility for developing Libyan civil society, and the British Government has declared its intention to direct its efforts accordingly. In addition, the Government should identify worthwhile non-governmental initiatives and provide both practical and theoretical assistance.

Islamism in Libya

- ◇ A greater role for Islam in Libya's public and political life is highly likely. However, the desire for democracy in Libya appears genuine: support for al-Qaeda is limited and few Libyans wish to see the emergence of a theocratic state.

- ◇ Libya's draft constitution is avowedly Islamist, stipulating that Sharia should be the primary source of Libyan law. However, it also stipulates that Libya should be a democratic state based on a multi-party system, and commits the country to upholding international human rights law. The aspiration is a democracy wherein laws and social norms are based upon Islamic precepts.
- ◇ If an Islamist government is democratically elected and the current constitution is ratified, the British Government will be obliged to respect that. It should be far less tolerant of Islamist groups that seek to achieve power outside of the democratic process, or who attempt to subvert and go beyond the parameters of the constitution having been elected.
- ◇ The British Government should be engaging with both the authorities and civil society in Libya to ensure that internationally agreed human rights covenants are respected, whatever the composition of the new Libyan government.

Introduction

This year's events in Libya, and across the Arab World more broadly, have been remarkable. In barely two months two authoritarian regimes, in Egypt and Tunisia, were deposed in response to popular uprisings, making possible transitions to the first genuinely democratic elections in either country's history.

In Libya, Colonel Muammar Gaddafi reminded the world that he had a firmer grip on the levers of power, and that he was not afraid to use them against his people with lethal effect. The speed with which the international community rallied to prevent Gaddafi from fulfilling his pledge to "cleanse Libya house by house" resulted in the third Western-led military intervention in a Muslim-majority country in less than a decade, a wholly unanticipated phenomenon that bore witness to the uniqueness of events.

As important as the deposition of these regimes, however, has been the crumbling of the idea they were supposed to represent, namely that secular dictatorships are the surest guarantors of Western interests in the Arab world, and that democracy is not appropriate for its citizens. These revolutions have served as an overdue reminder that long-term stability is impossible in countries where oppressive and unaccountable governments deny their citizens the

possibility of regime-change through the safety-valve of the ballot box.

Of course, establishing a genuine democracy takes time, and history has known more failures than successes in this regard. Without the rule of law and the supporting structures of a developed civil society, a free press, an independent judiciary and credible political parties, elections alone count for little. Even before elections have been completed, developments in Egypt give cause for serious concern, whilst Tunisia's future under the newly elected Islamist government of Rashid Gannouchi also remains uncertain.

The purpose of this Strategic Briefing is to provide a short assessment of some of the key issues confronting Libya during this early post-conflict transition stage, as well as recommendations for British foreign policy. The issues covered include the economic situation; the security environment; the reconciliation process; and the development of Libya's civil society and the fostering of nascent democratic institutions. The briefing also provides an assessment of the future role of Islamist movements in Libya, and what the appropriate stance of the British Government towards them should be.

The Economic Situation

After 42 years of Colonel Gaddafi's dictatorship, the institutions of the Libyan state are inevitably underdeveloped and corrupt. The country ranked 168 of 182 in Transparency International's 2011 Corruption Perceptions Index, alongside Angola and the Democratic Republic of Congo, and specific support to build capacity and enhance transparency in the state's economic affairs must be considered a priority.¹

On 16 December 2011, the United Nations (UN) Security Council responded to repeated calls by Libya's National Transition Council (NTC) to unfreeze frozen Gaddafi assets, valued at more than \$150 billion, by releasing the assets of the Central Bank of Libya and its subsidiary, the Libyan Foreign Bank.² Commenting on the decision, the British Foreign Secretary, William Hague, declared that "Libya's government will now have significant funds needed to help rebuild the country, to underpin stability and to ensure that Libyans can make the transactions that are essential to everyday life".³ He added that London would now free some £6.5 billion (\$10 billion) held in the United Kingdom (UK).⁴

On one level the decision is the right one. The NTC has been badly short of funds since taking charge of Libya four months ago, and ensuring that salaries can be paid and infrastructure rebuilt is a priority. However, it is worth recalling the warning issued by the NTC's former interim oil minister, Ali Tarhouni, back in November: "We don't want this wholesale unblocking or unfreezing of assets. We cannot control and monitor these assets... So, what we want to do is

to have a targeted type of unblocking based on the identified needs that we have."⁵ A priority for the UK and others seeking to facilitate Libya's transition to democratic rule must therefore be to assist the NTC in developing the mechanisms needed to ensure that these assets, and public finances generally, are handled accountably.

The NTC has signalled its commitment to fiscal transparency and accountability through the establishment of an independent audit authority, in accordance with its Constitutional Declaration of 3 August 2011.⁶ It is envisaged that this will serve as the main body responsible for addressing corruption and ensuring transparency in government. Encouragingly, officials of the audit authority have expressed an interest in international assistance in order to successfully execute its remit, and the UK, working together with both multilateral bodies such as the UN and the International Monetary Fund (IMF), as well as relevant private-sector service providers, should be responding to this call. The importance of international assistance in this field is underpinned by the comparative lack of experience suffered by many now serving in the Libyan authorities, combined with the underdeveloped state of Libyan institutions left by Muammar Gaddafi.

Nowhere will transparency and accountability mechanisms be more needed than in the real driving force of the Libyan economy, its oil industry. Hitherto the largest in all Africa, Libya's oil industry was shut down and badly damaged by the conflict, leaving a major gap in the NTC's finances, hence the urgency of their calls for the international community to unfreeze assets in the interim. Under Gaddafi, Libya's oil industry accounted for some 95% of export earnings,

1 Transparency International, Corruption Perceptions Index 2011, 2011, <http://cpi.transparency.org/cpi2011/results/#CountryResults> (last accessed 12 December 2011)

2 CBC News, UN unfreezes assets of 2 Libyan banks, 16 December 2011, <http://www.cbc.ca/news/world/story/2011/12/16/libya-banks-sanctions-un.html> (last accessed 20 December 2011)

3 Foreign & Commonwealth Office, Foreign Secretary welcomes lifting of sanctions on Libyan banks, British Government, 16 December 2011, <http://www.fco.gov.uk/en/news/latest-news/?view=News&id=707022682> (last accessed 20 December 2011)

4 BBC, UN lifts sanctions on Libya's key banks, 17 December 2011, <http://www.bbc.co.uk/news/world-africa-16228845> (last accessed 20 December 2011)

5 Macdonald, Alastair, Oil rush aids new Libya govt, but challenges ahead, Reuters, 10 November 2011, <http://www.reuters.com/article/2011/11/10/libya-economy-idUSL5E7MA14Q20111110> (last accessed 12 December 2011)

6 The Secretary-General of the United Nations, Report of the Secretary General on the United Nations Support Mission in Libya, United Nations Security Council Report, 22 November 2011

25% of GDP, and 80% of government revenue.⁷ Since the fall of Tripoli in August 2011, output has been recovering fairly rapidly and is expected to reach 800,000 barrels per day (bpd) by the end of this year. It is forecast that oil output will reach full pre-war levels of 1.6m bpd by the end of 2012.⁸

Although this recovery is to be welcomed, two obvious concerns will be first that the tendering process for new contracts is open and transparent, and second that revenues are used for the benefit of Libyan society as a whole and not just its elites. The independent audit authority will exercise oversight of the former, and the British Government should offer support through that avenue. With regards to the latter problem, that of ensuring that oil revenues are equitably spent, the key to success will be the overall success of Libya's transition to democracy. On that measure, the UK needs to recognise that a successful recovery of Libya's oil industry, if not matched by development of the broader economy, could be as much of a hindrance as a help.

Past experience in both Libya and elsewhere has demonstrated that where a government does not need to rely on the enterprise of its citizens for its income, but can instead draw on natural resources that it controls, accountability and good governance can be dramatically reduced. To that end, the British Government should certainly be supporting efforts to develop Libya's private sector. A strong private sector in Libya will not only be to the benefit of the Libyan people in terms of greater employment and prosperity, but also in terms of necessitating greater government accountability.

The potential for a strong and successful Libyan private sector certainly exists. Libyan society is comparatively well educated, and many Libyans

possess skills in sectors such as engineering, shipping and construction. Literacy amongst men exceeds 92 per cent, and in women stands at 72 per cent.⁹ Under Gaddafi, more than 60 per cent of the workforce was employed by the state¹⁰ and 30 per cent of Libyans were estimated to be unemployed.¹¹ There is consequently significant capacity within the Libyan economy for an expansion of the private sector from which Libyans would benefit. There is only so much that governments can do to expand private sector growth; by far the most effective vehicle being the free market. The British Government could seek a role by advising the NTC on business regulations and educational initiatives, but such endeavours must be accompanied by concomitant efforts to help restore security and law and order.

The Security Situation

By most accounts, the security situation in Libya is improving. Although an unspecified number of independent militias, or "brigades", still operate, the majority of militias have now come together under the umbrellas of various Military Councils, established city by city. For instance, there is a Tripoli Military Council, comprising the bulk of hitherto-independent militias operating in and around Tripoli; a Benghazi Military Council and so forth. In an effort to unify these military councils, and to bring them in line with the NTC, each council is now supposed to send representatives to a Supreme Military Council, although the precise nature or extent of its constitution currently remains unclear.

Although many of these militias have declared their allegiance to the NTC, they are not, for the most part, controlled by them.

7 Central Intelligence Agency, The World Factbook: Libya, 2011, <https://www.cia.gov/library/publications/the-world-factbook/geos/ly.html> (last accessed 12 December 2011)

8 BBC, Libya oil output to return to pre-war levels next year, 13 November 2011, <http://www.bbc.co.uk/news/business-15712718> (last accessed 12 December 2011)

9 Central Intelligence Agency, The World Factbook: Libya, 2011, <https://www.cia.gov/library/publications/the-world-factbook/geos/ly.html> (last accessed 12 December 2011)

10 GlobalSecurity, Libya – Politics, GlobalSecurity.org, 2011, <http://www.globalsecurity.org/military/world/libya/politics.htm> (last accessed 12 December 2011)

11 Central Intelligence Agency, The World Factbook: Libya, 2011, <https://www.cia.gov/library/publications/the-world-factbook/geos/ly.html> (last accessed 12 December 2011)

Militias from the towns of Misurata and Zintan continue to prove particularly problematic for the NTC. Both retain an armed presence inside Tripoli, and control various key assets, including, in the case of Zintan, the airport. Power struggles continue, and occasionally manifest themselves in open, albeit limited conflict. On 11 December, the convoy of Libya's army chief, Khalifa Haftar, came under fire when it failed to stop at a checkpoint controlled by non-Tripoli militia.¹²

Tripoli's authorities are making concerted efforts to get the situation in the capital under control, and on 6 December, the Tripoli city council issued an ultimatum to these brigades, insisting that they had until 20 December to leave. A source inside the country confirmed that such an ultimatum had indeed been issued, in conjunction with the Tripoli Military Council, adding that the city's streets would be locked down if the external militias had not complied by then.

On 8 December, the NTC's interim prime minister, Abdurrahim El-Keib, contradicted the councils, insisting that confrontation was not the right way forwards.¹³

On the same day, however, El Keib announced that a major group of "freedom fighters" from outside Tripoli had agreed to leave the city, although he declined to reveal the identity of the group.¹⁴ Most recently, Libya's interim defence minister, Osama al-Juwali, said he believed the militias could be persuaded to disarm or leave the capital "within a month and a half, approximately", although he insisted this was not a concrete deadline.¹⁵

Whether or not the situation is resolved within that period, the nature of negotiations taking place

12 Shuaib, Ali, Armed groups clash in turf war near Tripoli airport, Reuters, 11 December 2011, <http://af.reuters.com/article/libyaNews/idAFL6E7NB06U20111211?>

13 Murphy, Francois and Ali Shuaib, Libya leader says militia to withdraw from Tripoli, Reuters, 8 December 2011, <http://af.reuters.com/article/libyaNews/idAFL5E7N84HQ20111208?> (last accessed 12 December 2011)

14 Murphy, Francois, Libyan Berbers vent rage over cabinet exclusion, Reuters, 27 November 2011, <http://af.reuters.com/article/libyaNews/idAFL5E7MR0MF20111127?> (last accessed 12 December 2011)

15 <http://af.reuters.com/article/libyaNews/idAFL6E7NJ3M020111219>

between the NTC and the militias nonetheless underlines the fact that outright confrontation with the Libyan government is not on the latter's agenda at present. The vast majority of militiamen took up arms for the purpose of supporting the revolution and deposing Gaddafi, and do not seek to perpetuate conflict in this post-Gaddafi environment.

There is also significant social pressure amongst Libyans across the country to see this revolution succeed, and the influence of such pressure on would-be maverick militias should not be underestimated.

There appear to be three primary motivations for militiamen retaining their arms at present. First, a desire to ensure that their community/area is adequately represented at the decision-making table; second, a desire to find jobs for themselves; and third, genuine security concerns.

The NTC appears to be seized of all these concerns and is acting accordingly. When announcing his cabinet on 22 November, El-Keib made a point of insisting that members had been appointed on the basis of competence and experience, not politics, but he also insisted that all regions of Libya would be represented.¹⁶

Technocrats such as the new deputy prime minister Dr Mustafa Abushagur, a founding president of the US international college RIT Dubai, and oil minister Abdulrahman Ben Yezza, previously an executive at Italian oil firm Eni, sit alongside significant regional appointees such as defence minister al-Juwali and minister of the interior Fawzi Abdelali. Immediately prior to his appointment al-Juwali was leading the Zintan Brigade responsible for the capture of Saif Gaddafi, whilst Abdelali hails from Misurata, also a major regional powerbase.

16 Ibid.

The composition of the cabinet has certainly gone some way towards assuaging regional concerns about exclusion from power in post-Gaddafi Libya, although localised protests have been seen, for instance by the country's Berber minority, who complained of not being represented in the cabinet. The NTC has responded by pointing out that a Berber has been selected as the country's top judge.¹⁷

What has been particularly notable about the cabinet's makeup, however, has been its comparatively secular character. Prior to its creation, a number of observers had predicted that the country's most prominent Islamist leader, Abdul Hakim Belhadj, who heads the Tripoli Military Council, would be given a prominent place in the cabinet, most likely as minister of defence. Belhadj, however, insisted he was not interested in a position in the cabinet, although he has declared his full support for Prime Minister El-Keib and his efforts to form a strong cabinet. "I want to serve my nation with all the power and ability I can offer", he said in an interview in mid-November, "but to choose where and how. It is too early to talk about this now."¹⁸ Given that members of the transitional cabinet are excluded from standing in the general elections taking place next year, many predict that Islamists such as Belhadj are biding their time until then.

Although the majority of major power-brokers appear to be satisfied by the NTC's diplomatic manoeuvrings for now, meeting the needs and aspirations of rank-and-file militiamen is also a priority. On 24 October, NTC Chairman Mustafa Abdel Jalil announced plans for the establishment of a commission charged with reintegrating fighters, providing support to the wounded and the families of martyrs, and collecting weapons. The commission was established by decree on 29 October.¹⁹ Ensuring that wounded fighters and

the families of those killed during the revolution have access to proper support is widely agreed as being amongst the most urgent priorities for the NTC to get right.

In terms of finding employment for militiamen that will bring them inside the state's ambit, the NTC is primarily focusing on their integration into state security forces at present. The objective here is to kill two birds with one stone; at once providing militiamen with a regular source of employment whilst bolstering the country's security forces, which by most accounts are weak bordering on ineffective. On 1st December, Interior Minister Abdelali announced plans to integrate 50,000 fighters into the defence and interior ministries' security forces, although no time-frame was given. Ultimately, the NTC plans to integrate 200,000 fighters into the security forces.²⁰

Just how effective this process will be remains to be seen. In the meantime, the NTC has resorted to paying militias to provide security in order to exert at least some influence over them. The key to the success of this strategy, and the key to the strategy of integrating them into the security forces beyond that, will be ensuring that these fighters get paid, and paid on time. Libya cannot afford a repeat of what happened in October when the NTC, either for administrative reasons or lack of funds, failed to pay the TMC. In addition to the obvious problems such a failure generates, it also sends a very negative image to the Libyan people about the NTC's competence during this critical transitional phase.

The two primary sources of funding for these salaries at present will be unfrozen assets and oil revenues. As mentioned, both oil production and oil exports are increasing at a healthy rate, and the unfreezing of assets should happen at a rate consistent with

¹⁷ Ibid.

¹⁸ Holmes, Oliver, Rival Libyan rebel commanders beat chests, Reuters, 18 November 2011, <http://af.reuters.com/article/libyaNews/idAFL5E7MI18220111118?> (last accessed 20 December 2011)

¹⁹ The Secretary-General of the United Nations, Report of the Secretary General on the United Nations Support Mission in Libya, United Nations Security Council Report,

22 November 2011

²⁰ STRATFOR, Libya: Security Forces to Integrate 50,000 Fighters, 1 December 2011, <http://www.stratfor.com/sitrep/20111201-libya-security-forces-integrate-50000-fighters> (last accessed 12 December 2011)

the NTC's capacity to ensure that they are not misappropriated. The role the British Government can play in facilitating both of these areas has been addressed in the previous section.

If the NTC can ensure that militias' salaries are regularly paid, and this is combined with a consolidation of its early progress in reconciling regional divides, as well as secular-Islamist divides, then the prospects for further improvements in Libya's security environment look positive. This in turn should set in motion a self-reinforcing cycle that will ameliorate the third reason for militias failing to disband, namely genuine security concerns. In practical terms, there is little that the British Government can do to constructively influence such developments, beyond offering advice or mediation if called for.

This is not, however, the end of the story. Also important must be enhancing the competence of Libya's security forces, and ensuring that their actions fall squarely within the rule of law. Here, in theory at least, the British Government could have a much more positive role to play. For understandable reasons, however, the NTC is reticent about publicly accepting international assistance in this particular area of responsibility. During the uprising against Colonel Gaddafi, the NTC repeatedly ruled-out hiring Private Military Companies (PMCs), although there is evidence to suggest that PMCs were in fact active at this time, though to what extent precisely remains unclear.²¹ The provision of armed mercenary personnel by any state was prohibited by UN Security Council Resolution 1970.²²

In this transitional phase, however, Libya's security forces will need external assistance, which the British Government is in a position to help provide.

²¹ Kerr, Simon, Libyan rebels to form oil protection force, Financial Times, 7 August 2011, <http://www.ft.com/cms/s/0/c23c9014-c0f5-11e0-b8c2-00144feabdc0.html#axzz1gJQk3rl> (last accessed 12 December 2011)

²² <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/245/58/PDF/N1124558.pdf?OpenElement>

In terms of both training and properly equipping Libya's underdeveloped security forces for the many diverse responsibilities they will now be expected to undertake, the experience of UK training missions and support teams garnered in theatres from Afghanistan, to Bosnia, to Iraq, to Northern Ireland could certainly be brought to bear in Libya now.

One further area in which the British Government could be of use in improving the security situation in Libya would be through helping to secure the large number of arms and related materials that remain beyond the NTC's control, and to manage stockpiles effectively. In addition to small arms, a significant concern at present is existing and newly-discovered stockpiles of chemical weapons and man-portable surface-to-air missiles.²³ United Nations Security Council Resolution 2017 has reiterated this concern, and the International Atomic Energy Agency (IAEA) has begun work to secure known stockpiles of chemical weapons. The British Government should stand ready to assist these efforts as required, but also to offer its assistance in securing non-chemical weapons stocks, which arguably pose a more imminent threat to the security situation inside Libya.

Reconciliation Efforts

From the very early days of the revolution in Libya, it was clear that success against Gaddafi would not be brought about through force of arms, but through facilitating the collapse of the regime from within. NATO airstrikes, combined with covert Western and Qatari operations, were invaluable in neutralising regime communications and weapons systems, but they alone did not bring about the fall of regime-controlled towns and cities. The strategy adopted by the NTC was the right one, and involved quietly recruiting members of the Gaddafi regime to the rebel cause, as well as encouraging uprisings in towns

²³ The Secretary-General of the United Nations, Report of the Secretary General on the United Nations Support Mission in Libya, United Nations Security Council Report, 22 November 2011

and cities as rebel forces approached.²⁴ Recognising both the need of their services in any post-Gaddafi environment, and the near-impossibility of rebel success in open conflict against regime forces, both the NTC and the UK were absolutely right in assuring pro-regime forces and officials that they would be afforded a place in any post-Gaddafi Libya. The success of this strategy was demonstrated by the speed in which a number of major towns and cities fell to rebel forces in August, not least Tripoli itself, with very few shots fired.

The limited capabilities of rebel forces when confronted with determined resistance was demonstrated during an assault on an oil refinery in Zawiya in mid-August, when a single regime sniper was able to hold up the entire rebel advance for more than a day. A still clearer example of this was the slow, indiscriminate and extremely destructive assault on Gaddafi's hometown of Sirte, which did not fall until mid-October precisely because the occupants had little to no confidence that their future would be secure in a post-Gaddafi Libya.

Since the end of hostilities, the NTC has successfully integrated a number of former regime civil servants and security personnel, consistent with the "Blueprint" drawn-up by the NTC during the conflict. That this process both continues and deepens is absolutely vital if Libya is to succeed in making the transition from conflict to lasting stability.

In spite of these positive developments, however, very significant concerns exist with regards to the capacity of the NTC to handle several thousand detainees accused of committing crimes as part of pro-Gaddafi forces during the revolution. According to the UN, "whilst political prisoners held by the Gaddafi regime have been released, an estimated 7,000 detainees are currently held in prisons and makeshift detention

centres, most of which are under the control of revolutionary brigades, with no access to due process in the absence of a functioning police and judiciary".²⁵ There have been reports of torture and ill-treatment of some of these detainees, a large number of whom are of sub-Saharan African origin, accused of being foreign mercenaries and allegedly targeted on account of the colour of their skin.²⁶

It is to be hoped that as NTC control across Libya replaces that of the militias, and the structures of the state continue to be rebuilt, that situations of this nature will reduce in both scope and severity. In the interim, the NTC must be relentless in exercising what levers of influence it does possess over the militias holding detainees to either hand them over to the NTC, or to take tangible steps to ameliorate the conditions of their confinement.

At the very least, mistreatment and torture must stop immediately, with the threat that those accused and found guilty of such behaviour will be held accountable.

The efforts to which the NTC went to assure the world that Saif Gaddafi would be afforded a fair trial inside Libya, signalling their readiness to work with the International Criminal Court (ICC) to that end, demonstrates how conscious Libya's new rulers are of their international reputation. They should be aware that the UN Secretary General's report documenting the detention of the 7,000 detainees was written up on more than 10,000 news sites in the English speaking world alone.

In order to demonstrate its commitment to resolving this situation, the NTC should announce the establishment of an investigative committee, comprised of both Libyan and international specialists,

²⁴ Grant, George, Endgame in Libya, The Henry Jackson Society, 23 August 2011, <http://www.henryjacksonsociety.org/stories.asp?id=2379> (last accessed 12 December 2011)

²⁵ The Secretary-General of the United Nations, Report of the Secretary General on the United Nations Support Mission in Libya, United Nations Security Council Report, 22 November 2011

²⁶ Ibid.

to investigate and document the condition of former Gaddafi loyalists and mercenaries now held in custody. The British Government, working together with the UN and other concerned states if possible, should be forthcoming on this point.

More broadly, the lack of a functioning judiciary and police in Libya only re-emphasises the urgent need for international assistance in developing these institutions, both through direct training and assistance to low-level personnel, and through “training the trainers”.

Perhaps the biggest cause for concern in terms of reconciliation failures, however, is the plight of the Tawerghan community. Tawergha is a town situated approximately 25 miles south of Misurata, whose inhabitants were primarily descended from black African slaves.

Prior to this year’s revolution, Tawerghans were allegedly treated as second-class citizens by native Libyans, and relations with nearby Misurata were poor. During the revolution, Gaddafi played on this resentment, arming the Tawerghans and encouraging them to join the assault on Misurata, which remained besieged by Gaddafi forces from the outset of the revolution in February to the middle of May. During this period, Tawerghans are accused of committing a series of crimes against Misuratans, including rape, looting and indiscriminate killing.

With the conflict over, Misuratans have allegedly been merciless in their retaliation. According to Human Rights Watch, there have been credible accounts of Misuratans shooting unarmed Tawerghans, and of arbitrary arrests and beatings of Tawerghan detainees. By the end of October, the entire town of 30,000 people had been abandoned, and it remains deserted.²⁷

27 Human Rights Watch, Libya: Tawergha Residents Terrorised by Militias, 27 October 2011, <http://www.hrw.org/features/libya-tawergha-residents-terrorized-militias> (last accessed 12 December 2011)

According to one informed source inside the country, the mood amongst Misuratans is that Tawerghans should be driven into the Libyan desert and not come back.

Both for moral and reputational reasons, the NTC must consider a resolution of this crisis an urgent priority. The best placed figure to effect a reconciliation is the NTC’s Chairman Mustafa Jalil. As the recognised leader of the Libyan revolution from almost the very outset, Jalil commands enormous respect amongst Libyans across all divides. He is the only senior revolutionary leader who has commanded the respect of every Libyan the author of this paper has spoken to over the past six months.

Public admonitions of Misuratan behaviour are likely to achieve little, however. Instead, Jalil must sit down in private with the key power-brokers in Misurata, not least his new minister of the interior, the Misuratan Fawzi Abdelali, to broker a settlement. The conditions of that settlement must be down to the Libyans themselves, but all sides must be aware, as they surely are, of the repercussions that this situation will have if not resolved, both internally and in terms of Libya’s international standing.

Fostering Democracy and Developing Libyan Civil Society

Unless they contravene agreed international standards, or prove demonstrably unable or unwilling to act in the best interests of their citizens, it is not the place of the international community to try and hold sovereign national governments to account. By far the most effective and appropriate vehicle through which such influence can and should be exercised is an empowered citizenry.

Generally, citizens are most empowered when they are both educated and prosperous. Generating the conditions in which a free market can flourish is the

key to the latter, whilst the former depends upon good schools and an effective civil society. Inevitably, the two are themselves closely interlinked. After 42 years of dictatorship, Libya's civil society remains extremely underdeveloped. Although a number of NGOs have been established in recent months, for the most part these are under-resourced, ill-coordinated and primarily focused on communal issues. Several hundred newspapers have also been established, but they too lack expertise and resources.

In helping to develop Libyan civil society, the international community, especially countries such as the UK with very effective civil societies, have a pivotal role to play. To date, however, very little has been achieved by the international community in this area, although there are aspirations to that end. At the governmental/multilateral level, the EU has been given the lead in helping to develop Libyan civil society. Beyond that, however, non-governmental efforts are also being undertaken. The US Agency for International Development (USAID) recently awarded a multimillion dollar contract to the development consultancy Chemonics International, although it remains unclear how far efforts have come since that time, or what precisely those efforts are.

The British Government's current stance is to support the development of civil society in Libya, but preferably through official channels, in this case the EU. Given the scale of the need, however, the British Government should also be ready to support credible non-governmental initiatives to develop Libyan civil society and help foster the institutions of democracy. In terms of specific kinds of assistance, these can be broken down by area. The Libyan media, for instance, requires training in basic areas such as the principles of effective news gathering; how to structure a news story; and in the case of editors, how to run a commercial media outlet. Aspiring politicians and political activists require assistance in everything from how to establish a political party; how

to write a press-release; how to campaign effectively; and the importance of not wearing sun-glasses on camera. This form of training can be provided either on the ground in the relevant areas, or else through workshops specifically designed for the purpose.

Finally, the UK should not underestimate the importance of theoretical, as well as practical knowledge. With very little prior experience of democracy, many Libyans need to better understand some of the basic principles of democracy and the democratic process. Issues such as "What are political parties?"; "Why a free press matters"; "Why free markets matter"; and "the Rule of Law"; are concepts that many Libyans will only be encountering for the first time in their lives. Perhaps the most effective way to disseminate this kind of knowledge will be through workshops, on a 'train the trainer' basis, as well as the dissemination of relevant materials, both in hard form and online.

Islamism in Libya

Like its neighbours in Egypt and Tunisia, Libya finds itself in uncharted waters where the future is extremely difficult to predict. Neither Libya nor its two North African neighbours has ever had a chance at transitioning towards democracy before now, and how each country will manage that transition, and what sort of society will ultimately emerge, remains uncertain.

Libya is a deeply conservative country, in which religious observance remains high: 97 per cent of Libyans are officially categorised as Sunni Muslim.²⁸ Colonel Gaddafi, like President Ben Ali in Tunisia, and President Mubarak in Egypt, was brutal, but also relatively secular. Having been afforded the opportunity to exercise greater religious freedom, therefore, it is highly likely that Libyans will seek a greater role for Islam in public and political life.

²⁸ Central Intelligence Agency, The World Factbook: Libya, 2011, <https://www.cia.gov/library/publications/the-world-factbook/geos/ly.html> (last accessed 12 December 2011)

The past few months suggest that the NTC is seeking to lay the groundwork of a state that can deliver on the desire for democracy and universal human rights that underpinned this year's revolution; how this will be balanced with the role of Islam in public policy remains to be seen.

The NTC's 'Draft Constitutional Charter for the Transitional Stage' is an avowedly Islamist document. Article 1 states unequivocally that "Islam is the Religion of the State and the principal source of legislation is Islamic Jurisprudence (Shari'a)".²⁹ However, Article 6 asserts that all Libyans "shall be equal before the law... shall enjoy equal civil and political rights [and] shall have the same opportunities", while Article 7 commits Libya to joining "international and regional declarations and charters which protect such rights and freedoms." Article 4 asserts that, "The State shall seek to establish a political democratic regime to be based upon the political multitude and multi party system in a view of achieving peaceful and democratic circulation of power".³⁰

The draft constitution appears to outline a democracy wherein laws and social norms are based upon Islamic precepts. What is not envisaged is the outright subversion of the democratic structures of the state and their replacement with a government based solely upon clerical interpretation of the Quran. If the permanent constitution reflects this draft constitution, and is subsequently ratified by popular referendum, as it is due to be in 2012, then that will represent a significant statement of aspiration and intent by both the Libyan government and its citizens.

29 National Transitional Council, Draft Constitutional Charter for the Transitional Stage – The Constitutional Declaration, August 2011, http://portal.clinecenter.illinois.edu/REPOSITORYCACHE/114/1R3bTIKEIG95H3MH5nvrSxchm9QLb8T6EK87RZQ9pfnC4py47DaBn9jLA742IFN3d70VnOYueW7t67gWXEs3XiVJjxM8n18U9Wi8vAoO7_24166.pdf

30 National Transitional Council, Draft Constitutional Charter for the Transitional Stage – The Constitutional Declaration, August 2011, http://portal.clinecenter.illinois.edu/REPOSITORYCACHE/114/w1R3bTIKEIG95H3MH5nvrSxchm9QLb8T6EK87RZQ9pfnC4py47DaBn9jLA742IFN3d70VnOYueW7t67gWXEs3XiVJjxM8n18U9Wi8vAoO7_24166.pdf

Sources inside the country maintain that very few Libyans wish to see their country transformed into a theocratic state, that the desire for democracy is genuine and that overt support for al-Qaeda is extremely limited. Analysts must also be wary of the tendency of competing groups to brand one another by certain labels in order to wield influence and achieve power. For instance, Libyan secularists such as Aref Nayed, Ambassador to the UAE, and Mahmoud Jibril, the NTC's former interim Prime Minister, have criticised the Islamist Abdul Belhaj for taking weapons from Sudan (where Belhaj's father-in-law has influence) during the revolution, whilst Ali Sellabi, another leading Islamist, has been frequently criticised for being too closely supported by Qatar.

The role of influential Islamists in Libya's future is likely to be prominent. The comparatively secular nature of the NTC's interim cabinet should not belie the fact that a number of Islamists may have chosen to wait until next year's general elections before seeking to achieve power.³¹ Members of the NTC are prohibited from standing in the elections explicitly to prevent them from using that platform to unduly obtain permanent positions of influence going forwards.

The British Government's response towards Islamists in Libya depends both on the manner of their influence, and the kind of policies they seek to advance. If an Islamist government is democratically elected next year, and the draft constitution is ratified in a referendum thereafter, then the British Government will be obliged to respect that. Likewise, opposition parties that seek to achieve power through a free and fair democratic process, and respect the limits of a constitution that has been ratified by the Libyan people, must be permitted to operate freely.

31 Hall, Richard, Libya: Islamists snubbed in 'safe, secular cabinet', *The Independent*, 23 November 2011, <http://www.independent.co.uk/news/world/africa/libya-islamists-snubbed-in-safe-secular-cabinet-6266399.html> (last accessed 22 December 2011)

The British Government should be far less tolerant of Islamist groups that seek to achieve power outside of the democratic process, or who attempt to subvert and go beyond the parameters of the constitution having been elected. The enshrinement of minority rights and the respect for fundamental human rights is paramount to any functioning democracy.

In seeking to promote democratic values in Libya, the British Government should work closely with civil society organisations whilst also engaging the Libyan Government itself. Internationally agreed human rights covenants must also be respected, whatever the composition of a democratically elected government.

Conclusion

Libya has the potential to successfully achieve a transition to democratic government. Although very significant problems remain, progress is being made both in developing the economy and improving the security situation. The country is hampered, however, by chronically underdeveloped institutions and a dearth of expertise across many sectors. It must not be forgotten, moreover, that the country is transitioning from a major conflict and attempting to implement democracy for the first time in its history. Both patience and assistance from the international community will therefore be essential.

In addition to helping develop Libya's economic and security sectors, the international community also has an invaluable role to play in helping develop the country's nascent civil society and embedding democratic institutions necessary to hold the Libyan government to account. A free press, an effective and independent judiciary and a strong civil society will be as important in ensuring Libya's future prosperity and stability as a strong economy and capable security forces.

Another priority in the coming months will be progress on the country's political reconciliation process. The Libyan government must recognise how important its inclusive strategy was in encouraging defections from Gaddafi during the revolution, and the authorities

must hold to these obligations now. Not only is the persecution of suspected former regime loyalists illegal and immoral, it could also ferment instability and anti-government hostility in the future.

Finally, the British Government and others should observe the development of Islamist movements inside Libya closely. While support for a theocratic state is minimal, it is likely Islamists will have an important role to play in Libya's future. The NTC's draft constitution envisages Shari'a as the primary source of Libyan law; however it also stipulates that Libya should be a democratic state based on a multi-party system, and commits the country to upholding international human rights law. How closely this model represents the form of government that actually emerges in Libya remains to be seen.

This report has outlined some of the ways that the British Government and others can assist Libya's transition to democratic rule. Ultimately, however, the direction that Libya takes is the prerogative of its government and its people. In addition to holding the country to its international human rights obligations, the priority for the international community must be to ensure that the Libyan people do indeed play a role in shaping their country's future, and that this ceases to be the exclusive privilege of their government.