



## LIBYA

CAPITAL: Tripoli

POPULATION: 5.6 million

GNI PER CAPITA: \$5,944

### SCORES

ACCOUNTABILITY AND PUBLIC VOICE: 0.56

CIVIL LIBERTIES: 1.17

RULE OF LAW: 1.12

ANTICORRUPTION AND TRANSPARENCY: 0.19

(scores are based on a scale of 0 to 7, with 0 representing weakest and 7 representing strongest performance)

*Alison Al-Baddawy*

### INTRODUCTION

After coming to power in a coup in 1969, Libyan leader Colonel Muammar Al Qadhafi introduced a unique political, economic, and social system called the *Jamahiriyah* (state of the masses). This system was based on a mixture of Arab nationalism, socialism, and Qadhafi's own interpretation of Islam. He created a highly centralized state that relied heavily on the security services for its legitimacy and punished anyone who dared to challenge his control. Since then, he has successfully manipulated Libya's complex tribal relationships and imposed his own ideology on the population to the extent that he is in complete control of all aspects of Libyan life.

Following Colonel Qadhafi's announcement in December 2003 that he would abandon his weapons of mass destruction programs, Libya has been following a path of reintegration into the international

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community. United Nations, European Union, and U.S. unilateral sanctions have for the most part been lifted since then, bringing high hopes that the Libyan regime would adopt a series of reforms to open up its tightly controlled society. However, while there have been signs of a new openness on the international front and some developments in the economic sector, there are no real signs of change on the political level. The country remains dominated by Qadhafi and his clique, and his children are currently consolidating their political and economic power.

Libyan citizens are still not able to influence politics or the political process in any meaningful way, and the state demands total conformity. Political parties are banned, and there are no genuinely independent civil society organizations, although a few individual voices are beginning to try to challenge the status quo. The media, like all other institutions, remain totally dominated by the state. Paralegal organizations such as the Revolutionary Committees Movement continue to spread fear among the population. Although their role has been somewhat sidelined to make way for the new reformist-minded faction who are able to engage with Western governments and actors, they are still a very important part of Qadhafi's power base.

Despite the adoption of a new discourse that promotes respect for human rights, the regime continues to commit human rights abuses, and anyone daring to challenge the regime is in danger of arrest, torture, or worse. The government continues to target Islamists in particular, and anyone suspected of belonging to or sympathizing with an outlawed politicized Islamic group is at risk. The judiciary is heavily influenced by the executive, and there is no guarantee of a fair trial for anyone suspected of a political offense.

Although some attempts have been made to open up Libya's tightly controlled economy, private sector activity remains limited, and bureaucracy is still highly problematic. Corruption is also a major problem, not only through the payment of bribes, but also because much of Libyan life still hinges on personal and tribal connections. Governmental transparency poses another problem, and the regime is slow to make even the most basic information readily available in the public domain. As a result, accessing reliable data and statistics on Libya is extremely difficult.

## ACCOUNTABILITY AND PUBLIC VOICE – 0.56

Qadhafi introduced Libya's unique political system, the *Jamahiriyah*, after coming to power in 1969. In theory this is a kind of direct democracy whereby every citizen over the age of 18 can participate at the local level in a series of Basic People's Congresses. The decisions reached at these congresses are then fed into the General People's Congress (parliament) and are implemented by the General People's Committee (cabinet). These congresses, however, are predominantly there to rubber stamp decisions that have been made by the regime; while in theory their members are free to express their opinions, anyone daring to criticize the regime or its policy decisions would be in an extremely dangerous position.

In reality, the Libyan people do not have the right to choose their own government and Libya remains a military dictatorship. Although Colonel Qadhafi has no official leadership role, preferring to refer to himself as "Brother Leader" or "Guide of the Revolution," all power rests with him, his informal clique of advisers, and increasingly his children.

Qadhafi has publicly declared on many occasions that Western-style democracy is highly flawed and that parliament is the "misrepresentation of the people."<sup>1</sup> Political parties are banned under a 1972 law, and membership in any illegal party is punishable by death. Despite the hopes of some that the new openness to the West would bring reforms in the domestic sphere, in a speech in May 2004 Qadhafi reiterated his intolerance of political parties, complaining that they were useless and outmoded and "belong in museums."

In theory the General People's Congress chooses the secretaries (ministers) who are appointed to the General People's Committee. However, in reality these posts are decided by Qadhafi, and he has kept many of the same few faces in positions of power over the past three decades, simply alternating their positions. The majority of the secretaries in the General People's Committee as of September 2004 have been in high-ranking governmental positions for many years. The current prime minister, Shukri Ghanem, however, is a relative newcomer to the Libyan political scene; Qadhafi appointed him in June 2003 largely at the behest of his son, Saif al-Islam. Although these secretaries have a degree

of autonomy as to how to run their ministries, overall policy is dictated by Qadhafi.

Elections are held every four years to choose the members of the Basic People's Congresses, who represent their local region in the General People's Congress. Citizens can put themselves forward as candidates but must be approved by a special committee in order to stand. There is often a problem with finding enough candidates, as the general perception is that these congresses have no real purpose. In the July 2004 elections the regime introduced a new system that it claimed would increase transparency: It did away with the traditional voting booths, and instead every voter was forced to declare the name of his or her choice of candidate before a supervisory committee.

No effective mechanisms prevent those with economic privilege from having undue influence over the voting process, and no attempts are made to stop candidates from offering money and other goods in return for votes. In the July 2004 elections, candidates reportedly had set up tents to provide people with food, as well as offering cigarettes and money to try to attract voters.

Parallel to the formal political system, Qadhafi has also created a network of paralegal bodies that wield significant power and that carry with them the authority of the revolution. The most important is the Revolutionary Committee Movement, which was formed in the 1970s to "safeguard the revolution" and whose members act with almost total impunity. They spread intimidation and fear throughout the population and are currently used by Qadhafi to counterbalance the reformist trend that has been allowed to grow within the regime as a means of engaging with the West. They are given special privileges and have been allowed to dominate many sectors. In the reshuffle of the General People's Committee in March 2004, members of the Revolutionary Committee Movement were brought into the cabinet and given key posts by Qadhafi as a means of balancing the power of the reformist-minded prime minister.

The executive, legislative, and judicial branches of government are unable to oversee the actions of each other and are accountable to Qadhafi alone. It is he who determines how much influence each part of the government may have on any particular issue.

There are a number of powerful interest groups in Libya. In addition to the Revolutionary Committee Movement, important tribes play

a key role in the functioning of Libyan society and political life. Libya remains a highly tribalized society and Qadhafi has succeeded in staying in power by playing the tribes against one another. As a result, tribes with links to Qadhafi's own tribal grouping, the Qadhafa, wield significant power. Qadhafi has placed key members of important tribes in certain positions of power.

Qadhafi's children are also highly influential in both the political and economic spheres. The most important of these is currently Qadhafi's son Saif al-Islam Qadhafi. Despite the fact that he runs a charitable foundation and claims to represent civil society, Saif is increasingly taking an active role in the political and economic running of the country. For example, during the course of 2004, he negotiated Libya's compensation deal with Germany for the 1986 La Belle disco bombing. Qadhafi's other children exercise influence in other spheres. Saadi Qadhafi, for example, controls Libyan football, and Mohamed Qadhafi controls the telecommunications sector as well as the Libyan Olympic committee. The increasing power given to Qadhafi's children, and to Saif al-Islam in particular, has prompted much speculation that the colonel is grooming his son to take over as leader.

The regime follows a socialist-style system in which the state is the main employer; as a result many people are guaranteed jobs in the public sector, although wages are not generally sufficient to live on and many people take second jobs to make ends meet. Selection for many jobs, especially high-ranking ones, is made on the basis of personal contacts and the degree of loyalty the applicant displays toward the regime. The government has repeatedly stated in recent months that it is intending to pare down the public sector to make way for more private-sector activity. However, as yet there is little indication as to how it plans to implement such policies. Moreover, the return of international businesses to Libya, especially in the energy sector, will see increased revenues coming directly into the hands of the state. As such there is less pressure on the regime to implement any meaningful reform in this respect.

All organizations must be sanctioned by the state and must conform to the ideals of the Libyan revolution. Thus, any such group is not in a position to make any genuine comment on or exert influence on government policy. As part of its recent attempt to revamp its image in the international community, the regime has increasingly tried to promote the façade of a civil society sector. The effort has been spearheaded by

Qadhafi's son Saif al-Islam. He runs the Qadhafi International Charitable Foundation, which carries out initiatives in its own right but also acts as an umbrella organization for affiliated bodies such as the Libyan Human Rights Society. Qadhafi's daughter Aisha Qadhafi also runs a charitable foundation, Watasimu, that claims to be independent. However, forming a genuinely independent organization would be considered anti-revolutionary and a threat to the interests of the state and therefore a punishable offense. It would also be impossible to secure funding for any such group, as there are no funders in Libya aside from the state, and any money given from abroad must be channeled through the authorities before it can be delivered.

The media is likewise entirely dominated by the state, and by the Revolutionary Committees in particular. The newspapers basically serve as propaganda tools for the regime. The television service is also state run, as are the radio and news agencies. Criticism of Qadhafi or the regime is not permitted. Qadhafi's son Saif al-Islam is currently experimenting with a series of alternative magazines, including *Al-Muatamar*. While these may express less revolutionary zeal than other publications, they still do not permit criticism of the Qadhafi regime and are generally in line with the regime's overall policies and thinking.

The state strictly controls publishing houses and printing presses. The main publishing house in Libya, Al-Ferjani, is privately owned but is in fact heavily linked to the state. Foreign newspapers are not generally available. In contrast, satellite television channels are readily accessible, although the regime tries to block some of them. The Internet is another fast growing information source in the country. Although the state prohibits access to some sites, including those of Libyan opposition groups based abroad, it appears that many Libyans are able to circumvent the restrictions and access these sites, which are rapidly growing in number.

Libel laws exist in Libya, and people have been taken to court in the past over allegations that have appeared in the newspapers. However, information in the public domain is limited, and everything is done within the framework of the regime. No ordinary citizen would dare to challenge what is in the media because these outlets are the mouthpiece of the state.

Cultural expression is restricted as well. Writers and artists are at risk of imprisonment if they produce what is deemed anti-revolutionary

works of art. The Libyan Writer's Union, heavily dominated by the Revolutionary Committees Movement, is run by the cultural affairs secretary in the General People's Committee, Mehdi Emberish. In June 2004, Emberish allegedly confiscated the second issue of the Libyan cultural magazine *Arajeem*, which is published in Cairo, because it contained a number of articles about civil society in Libya.

In 2002, the regime announced that it was developing a new draft penal code. This has yet to be adopted; there are no indications as to when it will become legislation. However, despite the expectation of change, it appears that the new legislation will not be any less harsh on anyone daring to criticize the regime. For example, Article 164 of the draft imposes imprisonment on anyone who seeks to undermine the reputation of the goals of the revolution or defames its leader or insults public authorities or the Libyan people.<sup>2</sup>

#### *Recommendations*

- The regime should lift the ban on political parties.
- Genuinely independent civil society actors should be allowed to operate and to make links with and receive funding from foreign nongovernmental organizations (NGOs).
- The regime should permit an independent press that fosters debate.
- A more transparent, merit-based process for entry into the public sector should be introduced.

#### **CIVIL LIBERTIES – 1.17**

Libyan legislation prohibits the use of torture. However, torture remains widespread in Libya, and according to international human rights organizations is used regularly by the security services, especially to extract confessions from suspected regime opponents. Moves of late to address the issue have been largely rhetorical and appear to be aimed primarily at presenting a new image in the international community. The Qadhafi International Charitable Foundation ran an anti-torture initiative in 2003 that included a poster campaign condemning torture. Under the initiative Libyans who had suffered torture at the hands of the state were encouraged to record their experiences with the foundation. However, it appears that none of these cases has been followed up on, and no official has been brought to justice for any torture committed. In April

2004 Qadhafi gave a speech in which he condemned the practice of torture and declared that Libya would ratify international anti-torture conventions. However, as yet there is no evidence to suggest that anything is really changing on this front.

Prison conditions are generally poor, with newly built prisons often replicating the poor design of the existing prisons. There is serious overcrowding and inadequate washing, recreational, and medical facilities. In October 2003 the International Centre for Prison Studies was able to visit Libya to assess the state of the prisons. According to the center, occupancy rates in 2004 stood at 139.5 percent of official prison capacity.<sup>3</sup> Immigrants who have been imprisoned in Libya have complained of appalling prison conditions, as have the Bulgarian and Palestinian medics who were sentenced to death in May 2004 after they were convicted of deliberately infecting over 400 children in a Benghazi hospital with the HIV virus.<sup>4</sup>

Anyone expressing views that do not conform with those of the state is subject to punishment, including imprisonment and torture. For example, in March 2004, political prisoner Fathi el-Jahmi was released under U.S. pressure. After his release he gave a series of telephone interviews to the Arab media in which he criticized the Libyan regime for its use of torture and for its lack of democratic credentials. El-Jahmi and some of his family members were subsequently imprisoned, where, according to Amnesty International, he has been denied essential medical treatment.<sup>5</sup>

The security services operate with relative impunity and regularly carry out large-scale arrests of suspected regime opponents, whether they are involved in violent activity or not. There is no recourse against the state in such instances. Furthermore, the state appears to have no compunction about killing anyone it suspects of challenging its authority.

Long-term pretrial detention is very common in Libya. Laws explicitly limit how long a suspect may be detained, but they are not enforced. In July 2004, pretrial detention prisoners were estimated to make up 62.6 percent of the total prison population.<sup>6</sup> Moreover, prolonged incommunicado detention is widespread, whereby detainees, typically political prisoners, are held for in some cases many years without access to the outside world including their families. There are no effective mechanisms to protect against such treatment. All rights violations are



carried out by the state, as there are no non-state actors powerful enough to carry out abuse.

The regime has attempted to introduce legislation to prevent discrimination against women. Qadhafi has actively championed women's rights as part of his progressive revolutionary ideology and encouraged women to take part in politics, providing this is done within the framework of the *Jamahiriyah* system. The state has encouraged women to participate in the Basic People's Congresses and to join the labor force as well as the armed forces. The government has also promoted women's education and has set up a Secretariat for Women's Affairs. Aside from some parts of family law, such as inheritance, marriage, and divorce, in which general Islamic principles of the Maliki school are practiced, Libyan legislation provides for the equal treatment of men and women. However, much of Libyan society remains very conservative and traditional, and discrimination persists. The state is the main employer, but legislation to prevent discrimination there is not enforced. More could be done to challenge existing customs and practices in order to improve things at the practical level.

Human trafficking is a problem, especially for women from sub-Saharan Africa who are being trafficked into Europe through Libya. Articles 415 and 420 of the penal code criminalize prostitution and prostitution-related activities, including sexual trafficking.<sup>7</sup> The state has arrested some of those involved, but there is little information on exactly what steps the regime has taken and how effective they have been. Those trafficking victims who are caught are punished, generally through imprisonment or deportation. However, Libya has begun working with foreign governments to tackle the problem. In 2003, Italy and Libya signed a bilateral agreement to patrol their waters jointly to try to prevent human trafficking. In February 2004, Libya extradited an Eritrean trafficker to Italy after Rome issued her arrest warrant.<sup>8</sup>

The Libyan regime does not recognize that it has any ethnic minorities despite the presence of Berbers and Tuareg in the country. As a result, there are no reliable statistics on the percentage of the population that these minorities make up. At a meeting of the United Nations Human Rights Committee in October 1998, the Libyan representative complained that the committee seemed to be constantly insisting that minorities existed in Libya when they did not. As a result of this policy

Berber is not recognized as an official language and any child given a Berber name cannot be registered and therefore is not entitled to schooling, health care, or other provisions.

Under a 1981 law, people with disabilities are entitled to various benefits including admission to specialized institutions if they need full-time care, care services at home, and exemption from income tax if they are working. However, the concept of equal opportunities for people with disabilities is not part of the regime's discourse. From the information available, it seems that no legislation has been introduced to protect people with disabilities from discrimination. Such people often face social stigma and are sometimes viewed as a source of embarrassment to their families. No special attempt is made to disseminate information to people with disabilities.

Libya is an Islamic country that broadly follows the Maliki school of Sunni Islam, although Qadhafi has developed his own personal interpretation of Islam to which everyone in Libya is expected to conform. The state is deeply concerned about politicized and especially militant forms of Salafi Islam. Anyone suspected of being involved in or sympathizing with outlawed religious groups risks heavy persecution. In addition, the Libyan regime has generally been intolerant of any outward displays of Islamic behavior that may be deemed excessive. In the 1990s even wearing a beard could bring harassment from the security services. Although there appears to be an increasing tolerance of Islamic dress in recent years, wearing the *niqab* (complete covering of the body and face) or sporting a long beard is still likely to attract suspicion.

The state has total control over the appointment of imams and other spiritual leaders, as well as over mosques and *khutbas* (Friday sermons). Any imam advocating an interpretation of the faith different from that prescribed by Qadhafi risks arrest. The regime also ensures that mosques remain open only for 15 minutes before and after prayer time in order to prevent potential Islamist opponents from gathering and creating a support base inside them. The International Islamic Call Society—a charity tasked with spreading Islam—was set up by Qadhafi in the 1970s and largely acts as a propaganda arm for the regime, although it claims to be independent.

Anyone professing a lack of belief in God is subject to severe social stigma. However, the government is broadly tolerant of other faiths, largely because they do not represent a threat. Those practicing other

faiths may do so in their own homes, and a number of Christian churches are permitted to hold services.

Freedom of association is enshrined in Libyan legislation, and Article 6 of the Great Green Charter of Human Rights of the Jamahiriyan Era of 1998 states, “members of the Jamahiriya society are free to form associations, trades unions and leagues in order to defend their professional interest.”<sup>9</sup> However, this activity must be channeled through the state. Article 173 of the draft penal code imposes the death penalty on anyone who calls for the establishment of any association or party that is against the Revolution or that aims to harm its public authorities or anyone who establishes, joins, administers, or funds such an association or party.<sup>10</sup>

The numerous trade unions in Libya are strictly controlled by the regime through the Labor Secretariat. All independent trade union activity is banned.<sup>11</sup> The notion of collective bargaining exists in law but is undermined by the fact that the government remains the most important single employer and therefore approves all collective agreements.<sup>12</sup> Assemblies, strikes, sit-ins, and demonstrations are all banned; anyone engaging in such events is liable to severe mistreatment. All Libyan workers are encouraged to join the National Trades Union Federation to show loyalty to the state. Students are expected to join the students’ union movement.

Demonstrations and public protests are banned in Libya unless they have been orchestrated by the state in advance. When spontaneous protests do occasionally occur, the regime does not refrain from using excessive force. For example, in February 2004 a popular protest broke out spontaneously in the eastern town of Al-Bayda after a number of employees had not been paid their salaries for several months. According to the Libyan opposition in the United Kingdom, security services reportedly used violence to break up the demonstration and made a series of arrests.

### *Recommendations*

- Prison guards and security personnel need proper training, possibly with assistance from foreign governments, to teach them not to use torture or other degrading practices.
- The allegations of torture collected by the Qadhafi International Charitable Foundation should be followed up and the perpetrators brought to justice.

- Existing legislation protecting women from discrimination should be implemented and a grass-roots information campaign should be initiated to raise women's awareness of their rights.
- Information campaigns to encourage greater awareness of disability issues should aim to limit social stigma.
- Genuinely independent trade unions should be allowed to form and to make links with international trade union bodies.

### RULE OF LAW – 1.12

It is difficult to separate judicial decisions from the legislative, executive, and other parts of government, as all these institutions are tightly linked and work together in the interests of the revolution. Article 31 of the 1991 Promotion of Freedoms law states, "Judges are independent in their decisions and there is no authority above them apart from the law."<sup>13</sup> Under the law, all parties are treated equally before courts and tribunals. However, Qadhafi has ultimate control over the outcomes of important cases, especially those of a political nature. Moreover, judges and other lawyers are susceptible to bribery. Personal or tribal relationships also play an important part; if one has the necessary connections, it is possible to influence court decisions.

The Supreme Council for Judicial Authority, the administrative arm of the judiciary, is also tasked with studying legislation and improving the laws in accordance with the principles of the Jamahiriya.<sup>14</sup> Civil courts now employ Shari'a judges, who sit in regular courts of appeal and specialize in Shari'a cases (i.e., family cases).

A parallel People's Court system was set up in 1988 to try political offenses and crimes against the state. These courts have their own prosecution service with extensive powers and are heavily influenced by political considerations. Amnesty International has called for the abolition of this court system because it fails to comply with minimum international standards for fair trial.<sup>15</sup> Under this system, defendants cannot choose their own lawyers as these are usually appointed by the court, and hearings generally take place in closed sessions. Furthermore, unlike other courts, the People's Court system is not accountable to any higher judicial body. The future of the People's Courts is uncertain because Qadhafi declared in April 2004 that they should be abolished as they

were no longer necessary. The Libyan leader also called for other legal reforms and for a more stringent application of Libyan law. However, as yet there has been no evidence of the implementation of any of these reforms.

The Supreme Council for Judicial Authority is responsible for appointing judges, although in many cases, having the right connections within the regime is the key to appointment. It is very rare for a judge ever to be dismissed in Libya. In order to practice law in Libya, citizens must complete a law degree and then train for two years with a legal firm, most of which have ties to the regime. To become a judge, Libyans must have several years' experience in the legal profession and also must be recommended by the Ministry of Justice.

According to Article 31 of the Constitutional Declaration of December 1969, defendants are presumed innocent until proven guilty. However, in many political cases, the results are predetermined. While there is little information in the public domain about criminal cases, it seems that ordinary citizens have access to fair and public trials, although not necessarily timely. However, in cases of a political nature, there is no guarantee of a fair, public, or timely trial. For example, the 152 members of the Libyan Islamic Group, who were arrested in 1998 on charges of belonging to an outlawed organization, were held incommunicado until April 2001, when the first hearing of their case took place. They were given lawyers appointed by the court. The case was subject to repeated delays, and the defendants were finally handed their sentences in February 2002; two received the death sentence and others long imprisonments. The men appealed but are still awaiting the verdict of the appeal, which has been postponed numerous times, most recently in April 2004.

Those being tried on political charges do not have the right to independent counsel and in many cases have had lawyers imposed upon them. Libyan lawyers have complained that in many cases, they receive the file for the case only in the first trial session. This leaves them insufficient time to review each case adequately.<sup>16</sup> In criminal cases, the government's Popular Lawyers Office provides legal representation for some who cannot afford to pay their own legal fees. However, this process is subject to corruption. Prosecutors can be directed by the executive, particularly in political cases. Public officials are on occasion prosecuted for

wrongdoing if Qadhafi decides he wants to make an example of them, although the process appears to be arbitrary and driven primarily by political motives.

There is neither effective civilian control of the armed forces nor a defense ministry. Qadhafi has the rank of colonel, and all matters relating to defense are in his hands. He has created a multilayered and complex network of security services that are all answerable to him. He regularly carries out purges of the armed forces and security services to ensure that no power base that might act as a challenge to his authority may develop. He has drawn many of his security personnel from certain tribes, such as the Warfalla tribe, which is a member of the same confederation as Qadhafi's own tribe. Qadhafi's sons have also been able to wield influence within certain sections of the armed forces. The police, military, and security agencies are an organic part of the political process, their primary duty is to protect the regime.

In March 2004, in what was viewed by many as a positive step, the justice ministry was separated from the public security ministry. It was assumed that this was in order to allow for a number of judicial reforms under the reform-minded justice minister, Ali Omar Abu Baker. However, the appointment of regime hard-liner and Revolutionary Committee member Nasser al-Mabrouk to the post of secretary for public security signaled a continuing hard-line stance on security issues.

In a speech to the new graduates of the Public Security Services in April 2004, Qadhafi announced that the police would now take on a military role and become a military force to defend the country from terrorists. Their former duties would be taken over by the People's Congresses, who would be responsible for tasks such as traffic control. In the same speech, in a clear demonstration of who is in charge of such agencies, the leader announced that as with the armed forces, he would take personal responsibility for promoting police officers up the ranks.

Until 2004, Libya's property laws held that one could own property only to live in and that owning more than one property or renting property out was illegal. However, in May 2004, new legislation was passed to free up the property market. Law number 49 was passed, making it legal to buy property for investment and to rent out. Any Libyan national can own property. The state enforces property rights and contracts provided they are within the framework of the Jamihiryah system. However, it does not protect against confiscation of property or possessions.

In fact, confiscating property is one method used by the regime to intimidate and harass those it deems to have been disloyal. The Revolutionary Committees have been known in the past to bulldoze the houses of regime opponents and their families. No special provisions are made for Berber or Tuareg property customs.

#### *Recommendations*

- All citizens must have the right to independent counsel and be able to choose their own defense lawyer.
- The judiciary should be open to external scrutiny, and training courses should be set up for lawyers in issues such as human rights.
- Clear, concise, and easily accessible information sources should be produced to explain the country's laws and rights provisions to the population.
- Exceptional courts should be abolished.

### **ANTICORRUPTION AND TRANSPARENCY – 0.19**

Libya is steeped in bureaucracy and regulatory controls, providing ample opportunity for bribery and corruption, and both are rife. The state under Qadhafi has traditionally controlled all aspects of the economy. Most economic activity is based on the energy sector, with oil export revenues accounting for more than 95 percent of hard currency earnings and 75 percent of government receipts.<sup>17</sup> Moreover, Qadhafi's sons also have significant influence on the economy. The eldest son, Mohamed Qadhafi, is in charge of the telecommunications sector, while Saif al-Islam has his own investment company and plays an active role in the oil sector. Hannibal Qadhafi controls the marine transportation sector. Until recently, most private economic activity was banned. However, as part of its new openness to the international community, the regime has begun to open up Libya's economy. Still, private sector activity remains on a small scale for the time being, and it is necessary to have the right connections within the regime to be able to set up a private business.

There is little separation between private interests and public office. Many of those on the boards of important Libyan companies that profess to be private also hold important government posts. The elite in Libya is small and controls almost everything in the economic and

political spheres. There are no financial disclosure procedures, nor is there any protection against conflicts of interest in the private sector.

Libya has legislation to deal with the problem of corruption; sentences for such offenses are severe. The penal code criminalizes bribery, and a series of laws criminalizes economic offenses, including corruption and favoritism; the laws require the reporting of illegal gains to the state. A Supreme Audit Institution reportedly promotes financial transparency and a Board of the General Peoples Control is tasked with suppressing corruption. A law was introduced in 1994 to fight financial corruption and black marketeering among other things, but it was enforced by the Purification Committees. These were set up in particular to root out corruption and were composed of members of the Revolutionary Committees tasked with safeguarding the revolution. The committees were primarily a political tool and used the legislation to spread further fear and intimidation among the population. Businessmen, traders, and shop owners were arrested arbitrarily in the mid-1990s on charges of corruption, dealing in foreign goods, and funding Islamist groups, and many businesses were closed. These committees are still in existence, although they are less active than in the past.

Despite the legislation, corruption remains a significant problem. Allegations of corruption by government officials are not investigated or prosecuted unless the leadership so dictates. Those with the right connections are able to act above the law. Qadhafi has imprisoned certain officials on charges of corruption or embezzlement, but this has been to make an example of them or to make a political point. Likewise, such allegations are only aired in the news media for political purposes. As a result, corruption and bribery permeate Libyan society. This extends to the oil sector; Transparency International has noted that in Libya “public contracting in the oil sector is plagued by revenues vanishing into the pockets of western oil executives, middlemen and local officials.”<sup>18</sup>

There are no effective mechanisms to assist victims of corruption. It is very difficult and dangerous for an ordinary citizen to make a claim against someone in the regime or with links to the regime regarding corruption accusations or any other charges.

The higher education system is not immune from bribery. As with most of Libya’s institutions, the Revolutionary Committee Movement has a significant influence within this sector.



The Libyan tax system is inconsistent and subject to change at short notice.<sup>19</sup> No effective internal audit systems ensure the accountability of tax collection. Like many sectors in Libya, the process is subject to inefficiency and corruption. Indeed, no effective auditing bodies free from political influence can report on the misspending and misuse of funds.

Public access to government information is very limited, and legal, regulatory, and judicial processes are not transparent. The regime makes little of its information public. This is partly due to excessive bureaucracy but also because Qadhafi uses this secrecy to maintain an atmosphere of orchestrated chaos to prevent any alternative power base from developing. Some improvements have been made in providing basic statistical information in recent years since the National Organization of Information and Documentation of the Planning Secretariat set up a web site that publishes data as well as books. The Web site is not updated regularly. Libyan legislation is difficult to access, although new laws that are passed by the General People's Congress are published in the newspapers and can sometimes be found in pamphlets on sale in the major bookshops.

Citizens do not have the legal right to obtain information about government operations or to petition for it. Anyone without the necessary connections would not be able to question or demand information about any part of the Libyan system, as this could have severe consequences.

Despite the fact that the budget is passed by the General People's Congress, its content is decided by Qadhafi and his advisers. The information filters down to the population as and when the regime sees fit. The budget is not subject to any review or meaningful scrutiny. Detailed expenditure accounting is not available, although some details are provided through the National Information and Documentation Office.

Government contracts are not awarded in any open, transparent way that ensures effective competition. All foreign assistance is prohibited unless it goes through government channels. No information is available concerning its administration and distribution.

#### *Recommendations*

- The existing corruption law, which requires reporting of ill-gotten gains and provides for severe punishments for corrupt officials, must be applied more rigorously and without political prejudice.

- An independent study should be conducted to ascertain how much revenue is lost each year through corruption.
- An information campaign should be run to warn against corrupt practices and encourage and protect those who have been the victims of corruption to come forward with their grievances.
- More information should be readily available about government processes, legislation, and statistics, possibly through information centers. This information should not be used as a propaganda tool.
- Web sites should be set up to provide accurate information about the workings of the Libyan state as well as its laws.

#### NOTES

- <sup>1</sup> Muammar Al-Qadhafi, "The Green Book" (Tripoli: World Centre for the Study and Research of the Green Book, n.d.)
- <sup>2</sup> "Libya: Time to Make Human Rights a Reality" (London: Amnesty International [AI], MDE 19/002/2004, April 2004).
- <sup>3</sup> "Libya Prison Brief" (London: International Centre for Prison Studies, 14 December 2004), [http://www.kcl.ac.uk/depsta/rel/icps/worldbrief/africa\\_records.php?code=28](http://www.kcl.ac.uk/depsta/rel/icps/worldbrief/africa_records.php?code=28).
- <sup>4</sup> "The Trial in Libya" (Bulgarian News Agency, 27 August 2002), <http://www.bta.bg/site/libya/en/09hearings.htm>.
- <sup>5</sup> "Libya: Incommunicado detention/health concern" (London: AI, MDE 19/015/2004, 17 September 2004).
- <sup>6</sup> "Libya Prison Brief" (London: International Centre for Prison Studies), [http://www.kcl.ac.uk/depsta/rel/icps/worldbrief/africa\\_records.php?code=28](http://www.kcl.ac.uk/depsta/rel/icps/worldbrief/africa_records.php?code=28).
- <sup>7</sup> "Libya Country Report" (Washington, DC: Protection Project, 2002), [http://www.protectionproject.org/human\\_rights/countryreport/libya.htm](http://www.protectionproject.org/human_rights/countryreport/libya.htm).
- <sup>8</sup> *Trafficking in Persons Report* (Washington, DC: U.S. Dept. of State, Office to Monitor and Combat Trafficking in Persons, 14 June 2004), <http://www.state.gov/g/tip/rls/tiprpt/2004/33200.htm>.
- <sup>9</sup> "Great Green Charter of Human Rights of the Jamahiriyan Era," 12 June 1988, <http://www.geocities.com/Athens/8744/rgreen.htm>.
- <sup>10</sup> "Libya: Time to Make Human Rights a Reality" (London: AI, MDE 19/002/2004, April 2004).
- <sup>11</sup> "Libya: Annual Survey of Violations of Trade Union Rights" (Brussels: International Confederation of Free Trade Unions, 2004), <http://www.icftu.org/displaydocument.asp?Index=991219427&Language=EN>.
- <sup>12</sup> Ibid.
- <sup>13</sup> "Libya: Time to Make Human Rights a Reality" (London: AI, MDE 19/002/2004, April 2004).
- <sup>14</sup> "Libyans for Justice," <http://www.libyans4justice.com> (in Arabic).

- <sup>15</sup> “Libya: Time to Make Human Rights a Reality” (London: AI, MDE 19/002/2004, April 2004).
- <sup>16</sup> Ibid.
- <sup>17</sup> “Libya: EIA Country Analysis Brief” (Washington, DC: U.S. Dept. of Energy, Energy Information Administration, January 2004), <http://www.eia.doe.gov/emeu/cabs/libya.html>.
- <sup>18</sup> “Corruption is rampant in 60 countries, and the public sector is plagued by bribery, says TI” (Berlin: Transparency International, press release, 20 October 2004), [http://www.transparency.org/pressreleases\\_archive/2004/2004.10.20.cpi.en.html](http://www.transparency.org/pressreleases_archive/2004/2004.10.20.cpi.en.html).
- <sup>19</sup> “Doing Business Libya” (London: UK Trade and Investment, undated), [http://www.tradepartners.gov.uk/libya/doingbusiness/08\\_customs/customs.shtml](http://www.tradepartners.gov.uk/libya/doingbusiness/08_customs/customs.shtml).

