



LIBYA

CAPITAL: Tripoli

POPULATION: 6.2 million

GNI PER CAPITA: \$7,380

SCORES	2005	2007
ACCOUNTABILITY AND PUBLIC VOICE:	0.56	0.68
CIVIL LIBERTIES:	1.17	1.55
RULE OF LAW:	1.12	1.85
ANTICORRUPTION AND TRANSPARENCY:	0.19	0.66

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

Alison Al-Baddawy

INTRODUCTION

In recent years, Libya has succeeded in ending its isolation and transforming itself from a pariah state into a full member of the international community. Colonel Muammar Qadhafi's announcement in December 2003 that he would abandon his weapons of mass destruction programs was a major step forward in this respect. It opened the way for the resumption of bilateral relations with the United States and the lifting of international sanctions. In May 2006, Libya was finally removed from the U.S. state sponsors of terrorism list, marking its full rehabilitation.

This new international climate raised hopes that the Libyan regime would take the opportunity to engage in domestic reforms that would

Alison Al-Baddawy is a Research Fellow at Kings College London, where she specializes in North Africa with a particular focus on Libya. She has conducted numerous research projects on Libya and published widely on the topic. Her other main research area is on Muslim communities in Europe and on political Islam and radicalization. She has carried out a range of research projects in this field and is about to publish a book on radical Islam in Europe by I. B. Tauris.

2 COUNTRIES AT THE CROSSROADS

bring the country more in line with international standards. This was partly prompted by a new reformist discourse adopted by some parts of the regime, which called for economic transformation and flagged issues such as human rights and respect for the rule of law. However, while there have been some tentative steps in the field of economic reform, political change has remained largely off the agenda. Colonel Qadhafi has shown no willingness to alter the fundamentals of the Libyan political system, the *Jamahiriyah* (State of the Masses). Political parties are banned, and there are no genuinely independent civil society organizations. While there has been an easing in recent years whereby the regime is allowing some degree of criticism of certain aspects of the government and is encouraging former dissidents to return to the country, anyone daring openly to challenge the regime or the Libyan state is in danger of arrest, torture, and imprisonment. As a result there is no real opposition movement in the country.

The *Jamahiriyah*, introduced by Qadhafi a few years after the revolution of 1969, is a highly personalized and idiosyncratic political system. It is based on a mixture of Arab nationalism, socialism, and Islam, and through it Qadhafi has been able to impose his own ideology on the population and ensure complete uniformity and control. Indeed, despite the formal mechanisms of government, Qadhafi and his hand-picked clique of advisers are the real powerbrokers in the country. Qadhafi has been able to maintain power for so long through his ability to manipulate these informal power networks, a complex hierarchy of security structures and the country's tribal alliances. He has also come increasingly to rely on his own family and members of his own tribe, the *Qadhafa*, to shore up his regime.

Although there have been some attempts to open 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. In addition, the country is still blighted by persistent socioeconomic challenges, such as unemployment and housing shortages. Although there are signs that the regime, or certain parts of it at least, are making serious efforts to deal with some of these issues, the enormous scope of the challenge makes meaningful reform extremely difficult to implement.

ACCOUNTABILITY AND PUBLIC VOICE

FREE AND FAIR ELECTORAL LAWS AND ELECTIONS:	0.25
EFFECTIVE AND ACCOUNTABLE GOVERNMENT:	1.00
CIVIC ENGAGEMENT AND CIVIC MONITORING:	0.33
MEDIA INDEPENDENCE AND FREEDOM OF EXPRESSION:	1.13
CATEGORY AVERAGE:	0.68

Political parties are banned in the Jamahiriya, and membership in any illegal party is punishable by death under Law 71 of 1972. In theory, the Jamahiriya is a system of direct, or people's, democracy whereby every citizen over the age of eighteen can participate in government at the local level through Basic People's Congresses. The decisions reached at these congresses are then fed up to a higher body, the General People's Congress (parliament), and are implemented by the General People's Committee (cabinet). Marking his ongoing commitment to the Jamahiriya, in January 2006 Qadhafi announced that the number of Basic People's Congresses was to be increased to 30,000. These congresses have limited influence, however, as key decisions are still made by the informal power structures that make up the Libyan regime with Qadhafi at the helm. In fact, 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.

In theory, the General People's Congress chooses the secretaries (ministers) who are appointed to the General People's Committee. In reality, people who fill these posts are chosen by Qadhafi, with the decisions rubber-stamped by the congress. Moreover, the same few individuals have remained in positions of power for the past three decades, with Qadhafi simply rotating their posts. The majority of the secretaries in the General People's Committee as of January 2007 have been in government positions for many years. Even the power of the General People's Committee is limited, however, and its members are often considered to be little more than technocrats. This reflects the fact that personality and links to the leader are always more important than official positions. In addition, the General People's Committee is often hostage to the

whims of the General People's Congress. The former general secretary of the General People's Committee, Shukri Ghanem, repeatedly complained that he was not even able to appoint his own cabinet, as decisions had to be approved by the congress, and that the General People's Congress also blocked his reform plans.

Elections are held every four years to choose the members of the Basic People's Congresses who represent their local area in the General People's Congress. Citizens are able to put themselves forward as candidates but must be approved by a special committee in order to stand. In the July 2004 elections, the regime introduced a new system that it claimed would increase transparency by doing away with the traditional voting booths and every voter's having to declare a choice of candidate before a supervisory committee. No effective mechanisms prevent those with economic privilege from exerting undue influence on the voting process, and no attempts are made to stop candidates from offering money and other goods in return for votes. It was reported that in the July 2004 elections, candidates 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 carry with them the authority of the revolution. The most important is the Revolutionary Committees Movement, formed in the 1970s; its members have been responsible for some of the worst abuses committed by the regime. Although these excesses have been curtailed in recent years, the Revolutionary Committees remain a powerful interest group who are given special privileges and who continue to dominate many sectors and institutions, including the General People's Congress and the Basic People's Congresses. There are also a number of loyal Revolutionary Committees members in the General People's Committee who have tried to block those of a more reformist bent. In fact, Qadhafi's son Saif al-Islam is reported to be locked in a battle to try to limit the Committees' power.

Qadhafi also draws upon the Popular Social Leaderships as a key instrument of power. These consist of important tribal leaders who represent their own communities and localities within the organization, enabling Qadhafi to manipulate the country's tribal alliances better and keep the more rebellious tribal groupings in line.

Qadhafi's children are also highly influential in both the political and economic spheres. Currently, the most important of them is Qadhafi's

son Saif al-Islam. Despite the fact that he claims to represent civil society, he takes an active role in the political and economic running of the country. He has been responsible for negotiating international agreements, such as the La Belle disco bombing compensation in 2004, and is involved in the ongoing negotiations to resolve the case of the Bulgarian and Palestinian medics convicted of deliberately infecting over 400 children in a Benghazi hospital with the HIV virus. In September 2006, he participated in a meeting of the National Oil Corporation (NOC) held to discuss the next bidding round for foreign companies seeking oil exploration rights. All five of Qadhafi's other children also exercise significant influence in other spheres.

The regime follows a socialist-style system whereby the state is the main employer, guaranteeing many people jobs in the public sector. Wages, however, are not generally sufficient to live on, and many people take second jobs in order to make ends meet. The whole public sector is characterized by chaos and inefficiency. In September 2005, Shukri Ghanem complained of the scores of "ghost employees" who take a state salary each month yet who never turn up to work or who do not even exist.¹

Selection and promotion for many public sector jobs, especially high-ranking ones, is made on the basis of personal contacts and the degree of loyalty the applicant displays toward the regime. In November 2005, in an attempt to encourage younger, better-qualified people to enter the government, Shurki Ghanem announced the formation of a "Getting New Blood into the Leadership Committee." However, no further information has surfaced about whether this committee is active or what it has achieved.

The regime continues to take an arbitrary approach toward dismissal from the public sector. There were numerous reports in 2005 of public companies being closed or restructured for privatization and of employees being pushed out with no form of compensation. News also emerged in December 2006 that 5,000 teachers in the Benghazi area had been suspended from their jobs for not being sufficiently qualified. It was reported that they were warned not to speak to the press while their files were being assessed by the People's Committee for the Labor Force. This initiative was later withdrawn, however, and the teachers were allowed to remain in their posts. In January 2007, General Secretary Baghdadi Mahmoudi announced that in its efforts to pare the public sector, the

state was going to lay off 400,000 workers, and that each released public employee would be given a full salary for three years or granted up to 50,000 dinars in loans to start a business.

Genuinely independent civic groups do not exist in Libya, as any organization has to be sanctioned by the state and must conform to the ideals of the Libyan revolution. Thus the many groups that present themselves as nongovernmental organizations (NGOs) are neither independent nor in a position to genuinely comment on or influence government policy or legislation. In recent years, Saif al-Islam has presented himself as the leader of civil society through his charity, the Qadhafi Development Foundation. This organization has enhanced Saif al-Islam's ability to play a major political and economic role in the country. Qadhafi's daughter Aisha runs a charitable foundation, Watassimu, that also claims to be independent. It would also be impossible for anyone not linked to the state to secure funding to set up a civic group, and any money given from abroad must be channeled through the authorities before it can be delivered.

The media is another sector that is dominated by the state and by the Revolutionary Committees in particular. State newspapers serve as propaganda tools for the regime. The television service is also state run, as are the radio and news agencies. In recent years, Saif al-Islam has been keen to promote alternative media sources; in 2006, his One Nine Media company announced that it was entering into a partnership with international printing houses to distribute foreign newspapers inside Libya and that it would be setting up a new satellite television channel called Al-Mishri in 2007. The regime has also tolerated the presence of the semi-opposition online magazine *Libya al-Youm*, which allows space for those who support the reformist agenda of Saif al-Islam. This publication tolerates criticism of the institutions of government and raises issues such as corruption or the failings of public companies and utilities. Criticism of Qadhafi, his family, or the regime, however, is firmly off-limits.

Libel laws exist in Libya, but information is limited in the public domain about whether libel cases are prosecuted. The state provides no mechanism to protect journalists who face intimidation or threats. In May 2005, the mutilated corpse of journalist Daif al-Ghazal was found in Benghazi after he had begun speaking out about corruption and had threatened to publish documents that would implicate officials. Prior to his death, al-Ghazal allegedly made several statements alluding to his

fears that he would be killed, but he received no protection from the state.² The regime has repeatedly promised to open a full investigation into the killing, although as of March 31, 2007, there appeared to have been limited progress on this issue.

The internet is widely available in Libya, although the sector is heavily monitored. The state has blocked the sites of Libyan opposition groups abroad, but many Libyans appear able to circumvent these restrictions. This can have serious consequences. In January 2005, the security services arrested Abdel Razak al-Mansuri after he had posted a series of articles critical of the regime on the internet. Al-Mansuri was sentenced to eighteen months in prison on charges of possessing a pistol. He was eventually released in March 2006. Since his release, he has continued posting critical articles on his website and does not appear to be being persecuted for doing so.

The state strictly controls publishing houses and printing presses. The main publisher in Libya, Al-Ferjani, is private, but it is in fact heavily linked to the state. Foreign newspapers are not generally available. Indeed, the regime only publishes around 3,000 copies of its own newspapers each day, and consequently, it is difficult to obtain copies. Satellite television channels are readily accessible. Cultural expression is restricted, and writers and artists are at risk of imprisonment if they produce what is deemed anti-revolutionary works of art. The Libyan Writer's Union is heavily dominated by the Revolutionary Committees Movement.

Recommendations

- The regime should lift the ban on political parties.
- The government needs to open space for genuinely independent civil society actors to operate.
- Open competition and promotion based on merit should be encouraged within the public sector.
- The state should ensure that compensation measures for those public sector employees who are to be laid off are adequate and are implemented properly.
- The regime should encourage a genuinely independent press that fosters debate. It should also try to inject some dynamism into its local media.

CIVIL LIBERTIES

PROTECTION FROM STATE TERROR, UNJUSTIFIED IMPRISONMENT, AND TORTURE:	1.29
GENDER EQUITY:	3.00
RIGHTS OF ETHNIC, RELIGIOUS, AND OTHER DISTINCT GROUPS:	1.00
FREEDOM OF CONSCIENCE AND BELIEF:	1.67
FREEDOM OF ASSOCIATION AND ASSEMBLY:	0.80
CATEGORY AVERAGE:	1.55

Libyan legislation prohibits the use of torture, but according to international human rights organizations, torture is still employed by the security services. In line with its new reformist discourse the regime has openly condemned the use of torture. In December 2006, during an interview with the Al-Jazeera channel, Saif al-Islam declared that he would come forward to speak publicly about human rights violations that had been committed in the name of the revolution. Nevertheless, he also made it clear that certain individuals rather than the state were going to be made to take responsibility for such acts. He indicated that those accused of practicing torture will be asked publicly to name the official who instructed them and that these officials will in turn be tried and punished. While this is a positive step, it looks as though the regime intends to make scapegoats out of certain officials as a means of turning a page on the past and is unwilling to admit its own role in having sanctioned such practices.

Prison conditions are generally poor, with serious overcrowding and inadequate sanitary, recreational, and medical facilities. In October 2006, a riot erupted in the Abu Slim prison in Tripoli, sparked by a number of prisoners who are members of militant Islamist groups. As the violence spread, the security forces entered the prison and began shooting, killing one inmate and injuring a number of others.

There is no effective protection against arbitrary arrest. The security services operate with relative impunity, and there is no recourse against the state in such instances. Nevertheless, in a number of cases in 2006 and 2007, individuals were able to secure compensation through the

courts for having been wrongly arrested. While things have improved in recent years, anyone criticizing the regime or suspected of opposition activity is at risk of arrest and detention. Political prisoner Fathi el-Jahmi, who criticized the regime after his release from prison in March 2004 and was subsequently rearrested, remains in prison. In November 2006, unconfirmed reports appeared of preemptive arrests in the Bani Walid area, allegedly carried out to deter Libyans from going to join the jihad in Iraq.

The regime has taken steps, however, to release some of its political prisoners. This includes the group of more than 150 Muslim Brotherhood prisoners who were arrested in 1998 and convicted of belonging to an outlawed organization. They were eventually released in March 2006 under the clemency of Qadhafi, and Saif al-Islam has been working to reinstate them in their jobs in spite of resistance from hard-line revolutionaries. They are clearly not permitted to engage in any sort of political activity outside the framework of the *Jamahiriyah*. The regime is also engaged in negotiations with more militant Islamist prisoners to secure their release under similar terms and conditions, and in January 2007, a group of sixty Islamists was freed. Negotiations between the imprisoned leadership of the Libyan Islamic Fighting Group—the most influential Libyan militant group, which was largely crushed at the end of the 1990s—and the regime are continuing, with the regime trying to convince the movement to renounce violence. In addition, the regime has tried to lure back dissidents residing abroad, leading a number of high-profile opponents to return to the country in 2006. Therefore, the situation is easing for those opponents willing to cut a deal with the regime. Moreover, Libyans are trying to use Saif al-Islam as a vehicle through which to channel protest. In January 2007, a group of Libyans from Benghazi wrote to Saif al-Islam's charity to complain about the security services in their area, which had arrested a group of residents after they objected to a number of security officials appropriating public land so that investors could build on it. The extent to which Saif al-Islam will tolerate such complaints is yet to be seen.

Long-term pretrial detention is very common in Libya. The law limits the amount of time a suspect may be detained, but this cutoff is not enforced. In July 2004, prisoners in pretrial detention were estimated

to make up 56.8 percent of the total prison population.³ Moreover, prolonged incommunicado detention is also practiced.

Although generally no nonstate actors are powerful enough to commit acts of abuse, some of the offspring of high-ranking figures within the regime are not held accountable for their actions, and there have been reports of their intimidation of others with violence. The security services have been unwilling to step in on these occasions for fear of retribution.

The state has promoted the concept of the equal civil and political rights of men and women. In fact, Qadhafi has actively championed women's rights as part of his progressive revolutionary ideology. Aside from some parts of family law, such as inheritance, in which general principles of the Maliki school of Sunni Islam are practiced, Libyan legislation provides for the equal treatment of men and women. However, much of Libyan society remains highly conservative, and discrimination persists. For example, although Libyan labor legislation holds that employers must pay equal wages to men and women if the nature and conditions of their work are the same, in reality women are often paid less than their male counterparts.

Human trafficking is a problem, especially regarding women from sub-Saharan Africa being trafficked into Europe through Libya. Articles 415 and 420 of the penal code criminalize prostitution and prostitution-related activities, including sexual trafficking.⁴ The state has arrested some of those involved, but there is little information about exactly what steps the regime has taken. Libya has, however, begun working with European governments and with the European Union to tackle the problem of illegal immigration more generally.

The Libyan regime does not acknowledge any ethnic minorities, despite the presence of the Berbers and Tuareg. Until recently it was illegal for a child to be given a Berber name. In January 2007, following an announcement by Saif al-Islam the previous August to the same effect, however, the General People's Committee issued a decree ruling that Libyans could give their children names that "express the origins of Libyans," suggesting that Berber names are now acceptable. This would indicate some easing of pressure on the Berber minority in terms of cultural and linguistic rights, although any sign of political activity around the Berber issue is still out of bounds.

There is limited awareness about the rights of people with disabilities in Libya, as in much of the Arab world. No special legislation has been introduced to protect people with disabilities against discrimination, and they often face social stigma. Under Law 30 of 1981, disabled people are entitled to various benefits, including admission to specialized institutions if they need full-time care, receiving care services at home, exemption from income tax if working, and other entitlements. *Landmine Monitor* reported in 2006, however, that poor awareness of disabilities, low incomes, and the lack of home care and social safety networks hamper the integration of people with disabilities.⁵

As for the issue of religious discrimination, Libya is a Muslim country that follows the Maliki school of Sunni Islam. The government is broadly tolerant of other faiths, largely because they do not represent a threat, and a number of Christian churches and communities operate in the country. Being an atheist is extremely difficult in Libya, as in the rest of the Arab world, and anyone professing a lack of belief in God would be subject to severe social stigma. The state's main concern, however, remains that of politicized Islam. Despite the fact that it has released a number of Islamist prisoners of late, anyone suspected of being involved in or sympathizing with outlawed religious groups risks heavy persecution. Although Islamic dress appears to be increasingly tolerated, wearing the *niqab* (complete covering of the body and face) or sporting a long beard is still likely to attract suspicion. The regime ensures that mosques remain open for only fifteen minutes before and after prayer time in order to prevent potential unauthorized political activity. It also has total control over the appointment of imams and other spiritual leaders. Mosques are generally controlled by the state, which also supervises the *khoutbas* (Friday sermons). It also maintains strict control over what is taught in terms of religious education.

Freedom of association is enshrined in the Great Green Charter of Human Rights of the Jamahiriya Era.⁶ There are numerous trade unions in Libya, although they are strictly controlled by the regime through the Labor Secretariat. Workers may join the General Trade Union Federation of Workers (GTUFW), which is administered by the People's Committees, but all independent trade union activity is banned.⁷ Foreign workers are not permitted to join the GTUFW. The notion of collective bargaining exists in law but is undermined by

the fact that the government remains the most important single employer and the unions form part of management.⁸ Assemblies, strikes, sit-ins, and demonstrations are all banned under Law 45 of 1972, and anyone engaging in such practice is liable to severe mistreatment. It was reported that when airline workers approached their GTUFW-affiliated union over their concerns about having to fly aircraft that did not meet technical safety standards, they were told they should not protest and should continue working.⁹

It is strictly prohibited for any kind of group to organize, mobilize, or advocate for peaceful purposes. Demonstrations and public protests are banned in Libya unless they have been orchestrated by the state in advance. When spontaneous protests do occasionally break out, the regime does not refrain from using excessive force. In February 2006, the Revolutionary Committees orchestrated a demonstration in Benghazi to protest against the Danish cartoons depicting the prophet. The demonstration, however, got out of hand as protesters attacked the Italian consulate, began burning cars, and also turned against the regime. The security forces opened fire on the protesters, killing eleven and arresting many others. After the events, however, the regime immediately suspended the minister for public security and began investigations into the affair. Although this was done partly in response to the fact that the events were broadcast on the international media, it did mark a more mature approach toward such a public outburst.

Recommendations

- The government should commit resources to improve prison conditions and limit practices such as lengthy pretrial detention.
- The state should follow up on Saif al-Islam's promises to bring those who have perpetrated torture to justice and provide compensation for those who have been the victims of torture.
- The government should implement the existing legislation that protects against discrimination against women and carry out an information campaign at the grassroots level to make women more aware of their rights in this respect.
- The state needs to allow genuinely independent trade unions to form and to establish links with international trade union bodies.

RULE OF LAW

INDEPENDENT JUDICIARY:	1.00
PRIMACY OF RULE OF LAW IN CIVIL AND CRIMINAL MATTERS:	2.00
ACCOUNTABILITY OF SECURITY FORCES AND MILITARY TO CIVILIAN AUTHORITIES:	0.25
PROTECTION OF PROPERTY RIGHTS:	3.00
EQUAL TREATMENT UNDER THE LAW:	3.00
CATEGORY AVERAGE:	1.85

The Libyan justice system cannot be considered free from political influence; it is deeply intertwined with the interests of other institutions of the revolution. Although 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,”¹⁰ judges and magistrates are not protected from interference by the regime, especially in cases of a political nature. Moreover, while under the law all parties are treated equally before courts and tribunals, in reality Libyan society still operates on personal and tribal connections, and bribery is an effective mechanism within the justice system.

January 2006 brought a positive step, however, when Libya abolished its People’s Courts. These, set up in the 1980s as a parallel court system to try political cases, were heavily criticized by international human rights groups for failing to comply with minimum standards for fair trial. Following their abolition, a number of cases that had originally been conducted in the People’s Courts were reheard in the criminal courts. This includes the case of the Muslim Brotherhood prisoners who were retried in a regular court in 2006. Their verdicts were ultimately upheld, although they were released in March 2006 under the clemency of Qadhafi.

The Supreme Council for Judicial Authority is the administrative authority of the judiciary, handling matters of discipline.¹¹ It acts as a technical consultant committee, tasked with studying legislation and improving the laws in accordance with the principles of the Jamahiriya.¹² It is also responsible for appointing, transferring, and dismissing judges,

although in many cases, having the right connections within the regime is the key to appointment. It is also 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. Libya has an estimated 2,500 lawyers working in private legal practices.¹³ These are represented by the Libyan Bar Association. The regime has worked to restrict the activities of this association, preventing it from choosing its own representatives and imposing its own personnel on the organization. In October 2006, the security services took over the association's Benghazi office and prevented its members from holding a meeting in its Tripoli office.

According to Article 31 of the Constitutional Declaration of December 1969, defendants are presumed innocent until proven guilty. In political cases, however, the results are generally predetermined. Libyan lawyers have complained that in many cases they receive the file for the case only in the first trial session.¹⁴ On some occasions they have also been prevented from being able to defend their clients, and the defendants have been assigned alternative state lawyers. Little information exists in the public domain about criminal cases; however, it seems that ordinary citizens have access to fair and public trials, although not necessarily timely ones.

Those being tried on political charges did not have the right under the People's Court system to independent counsel and had attorneys imposed upon them from the state Popular Lawyers Office. It is not clear whether, given the abolition of these courts, defendants are now able to choose their own counsel. In criminal cases, the state provides legal representation for those who cannot afford to pay their own legal fees. However, this process is likely to be subject to corruption. Public officials are prosecuted for wrongdoing if the regime decides to make an example of them, but the process appears to be arbitrary. In 2005, those accused of torturing confessions out of the foreign medics convicted of infecting children from Benghazi with the HIV virus were brought to trial but all ten defendants were acquitted.

There is no effective civilian control of the armed forces, and there is no defense ministry or defense minister within the General People's Committee. Qadhafi has the rank of colonel; all matters relating to defense are in his hands and in the hands of high-ranking military personnel within the upper echelons of the regime such as Brig. Abu Baker

Younis Jaber, who is Secretary of the General Committee for Defense. Qadhafi has created a multilayered and complex network of security services and agencies that are all ultimately answerable to him. It is impossible to distinguish who is responsible for which parts of these various organizations at any one time. However, Qadhafi has drawn many of his security personnel from certain tribes, such as the Warfalla tribe. Qadhafi's sons have also been able to wield influence within the armed forces. In 2006, Saadi Qadhafi was appointed to head the Special Forces, and Moatassim Qadhafi has his own brigade, which is reputed to be particularly powerful. Moatassim was also recently appointed to head the new National Security Commission, which was set up in October 2006 to act as an overarching body bringing together the existing internal and external security sectors.

The police force is subordinated to the Ministry for Public Security but in reality is answerable to Qadhafi. In a speech to new graduates of the Public Security Services in April 2004, Qadhafi announced that the police were to become a military force to defend the country from terrorists. He also announced that, as with the armed forces, he would take personal responsibility for promoting police officers.

The police, military, and internal security agencies, including the Revolutionary Committees Movement, do not appear to be held accountable for abuses of power for personal gain, and they are as subject to corruption as any other institution. The personnel of these agencies have scant regard for human rights and still practice torture and intimidation regularly.

When Libya relaxed its property laws in 2004, it became legal for any Libyan national to buy property for investment and to rent it out. At the same time, the government introduced a special scheme under which citizens could apply to banks for loans to build their own houses. However, the scheme was soon beset with problems due both to the bureaucracy involved in the application and approval process and because it became subject to corruption.

The state enforces property rights and contracts provided they are within the framework of the Jamahiriyah system. As the Libyan regime asserts that it has no ethnic minorities, no special provisions are made for Berber or Tuareg property customs. The state does not protect people from confiscation of property or possessions. In fact, confiscating property is one method that has traditionally been used by the regime

to intimidate those it deems to have been disloyal, and the Revolutionary Committees have been known in the past to bulldoze the houses of regime opponents. Yet the regime appears in some cases to be receptive to the demands of former regime opponents who, on returning to the country from exile in 2006, began lobbying to have their property and possessions returned to them.

All persons are entitled to equal protection under the law and are equal before the courts and tribunals. In practice, however, those who curry special favor with the regime or who are linked in some way to the country's informal power brokers clearly fare much better within the system.

Recommendations

- The government should ensure that every citizen has the right to independent counsel and can choose their own defense lawyer.
- The state should open the judiciary to external scrutiny and set up training courses for lawyers, with external assistance.
- The state should take steps to free the housing loan scheme from excessive corruption and bureaucracy.
- The government should work to limit corrupt practice in the judiciary.

ANTICORRUPTION AND TRANSPARENCY

ENVIRONMENT TO PROTECT AGAINST CORRUPTION:	0.80
EXISTENCE OF LAWS AND ETHICAL STANDARDS BETWEEN PRIVATE AND PUBLIC SECTORS:	0.75
ENFORCEMENT OF ANTICORRUPTION LAWS:	0.50
GOVERNMENTAL TRANSPARENCY:	0.57
CATEGORY AVERAGE:	0.66

Libya is steeped in bureaucracy and regulatory controls. These offer ample opportunity for bribery and corruption, and both are rife. As part of its new openness the regime has made tentative steps toward liberalizing Libya's economy and has allowed a greater degree of private sector activity, although this remains on a small scale. Moreover, most of the

more lucrative opportunities have been snatched up by members of Qadhafi's own family or by the families of high-ranking officials within the inner circle. 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. There is also no protection against conflicts of interest in the private sector.

Libya legislates against corruption, and sentences for such offenses are severe. The Supreme Audit Institution reportedly promotes financial transparency, and the Board of the General Peoples Control is tasked with curbing corruption. In addition, the regime has established endless monitoring, auditing, and supervisory committees that are supposed to guard against corruption, but in fact these bodies themselves tend simply to increase opportunities for corrupt practices. In September 2006, Qadhafi announced that all public officials would be given until the end of December to declare their assets and sources of income. Special Transparency Committees were set up to oversee the process, and it was announced that any official failing to complete and return the form declaring their wealth by the December deadline would be liable to prosecution under criminal law. This appears to have been the first serious large-scale attempt in many years by the regime to curb corruption by state officials; it was reported that a number of public officials fled the country for extended periods to avoid detection. In December, however, the deadline was extended until March 2007, and it is rumored that it will be extended again to the end of 2007. Moreover, while the scheme appears to be a bold move by the regime, whether it will make any serious inroads into the core problems with transparency and conflicts of interest is doubtful. Given that large patronage networks underpin the Jamahiriyah, it seems unlikely the regime would clamp down entirely on such practices.

Despite this legislation and a robust anticorruption discourse, corruption remains a significant problem. Libya was ranked 105 out of 163 in Transparency International's 2006 Corruption Perceptions Index.¹⁵ The punishment of officials accused of corruption continues to be arbitrary. In November 2006, for example, an appeals court in Benghazi ruled that the Secretary of the People's Committee for the Zwaitina area and two of his colleagues should be imprisoned, fined, and prevented from holding public office as they had allegedly been involved in a corruption scam forging expense claims and siphoning money from the

public purse. However, others have not been brought to trial for such practices.

No effective mechanisms exist to assist victims of corruption. Although the regime is allowing its citizens a little more breathing space insofar as it is now easier to complain openly about such issues, bringing anyone to justice for corrupt practices remains extremely difficult unless one has the necessary connections within the regime. Corruption is receiving greater attention in the Libyan media, especially in the *Libya al-Yom* online publication. However, there are no specific mechanisms to protect whistleblowers or investigators who report corruption, as the murder of journalist Daif al-Ghazal demonstrated.

The higher education system is not immune from bribery either. Like most of Libya's institutions, the Revolutionary Committee Movement has a significant influence within this sector. Individual academics who have tried to resist such corruption have found themselves subject to harassment and in some cases threats of physical violence.

The Libyan tax system is also subject to corruption and inefficiency; the amount of tax people pay appears to be relatively arbitrary. No effective internal audit mechanisms ensure the accountability of tax collection. In 2005 the International Monetary Fund recommended that the Libyan authorities simplify their tax system, develop tax payment arrangements for corporations, restructure the tax and customs departments, and upgrade controls as well as human resources and buildings and equipment.¹⁶

The main auditing body is the Board of Inspection and Popular Control, which was established in the late 1980s with the aim of exercising financial, administrative, and technical control over all authorities. However, this is an organ of the state and as such is neither free from political pressure nor independent. The Revolutionary Committees still act as a monitoring or supervisory body although their task is to "safeguard the revolution," and as such they do not perform as a genuinely independent investigative or authoritative body that is independent from the state.

Access to government information is limited, and legal, regulatory, and judicial processes are not transparent. The regime makes little of its information public, partly because of excessive bureaucracy. However, some improvements have occurred in providing basic statistical infor-

mation in recent years, with the National Organization of Information and Documentation of the Planning Secretariat having set up a website that publishes data.¹⁷ Under the leadership of former general secretary Shukri Ghanem, the General People's Committee set up its own website in July 2005, which enabled individuals to contact the premier directly by e-mail.¹⁸ Other Libyan institutions have also set up their own websites. Libyan legislation is becoming increasingly accessible as laws are posted on government websites and some state media outlets.

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. No special attempts are made to offer information accessible to disabled people.

Despite the fact that the budget is passed by the General People's Congress, in reality its content is decided by Qadhafi and his advisers; it is then filtered down to the population as and when the regime sees fit. For example, in a January 2006 speech to a special budgetary session of the General People's Congress, Qadhafi declared that the defense budget should be cut because, as he explained, the country did not need planes, tanks, or missiles because the Libyan population were ready to defend themselves with Kalashnikovs and explosive belts. At the same time, Qadhafi declared that from that time onward each year's budget must be allocated to a specific sector in order to bring each sector up to scratch, beginning with the housing sector. 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 generally awarded in an open, transparent way that ensures effective competition. However, the National Oil Corporation (NOC) won praise from investors and international media in 2005 when it conducted its EPSA IV bidding round, in which foreign energy companies bid for oil exploration rights in a genuinely open and transparent manner.

All foreign assistance is prohibited unless it goes through government channels. No information is made available about its administration and distribution.

Recommendations

- The government needs to ensure that the anticorruption drive introduced in September 2006 is followed up on and, where possible, extend it to higher-ranking state officials.
- The government should run an information campaign warning against corrupt practices and encourage and protect those who have been the victims of corruption to come forward with their grievances.
- The administration should build on the positive developments already undertaken in terms of the government's providing information through the internet and make more documents and information available in this format.
- The government should take steps to reform the tax sector in line with the International Monetary Fund (IMF) recommendations.

NOTES

- ¹ "Lika'at: al-Doctor Shukri Ghanem [Interviews: Dr. Shukri Ghanem]," *Libya Today*, 20 September 2005 (in Arabic).
- ² "Daif Al-Ghazal, Biography of a Libyan Journalist who stood up to corruption" (London: Arab Press Freedom Watch, 10 June 2006), <http://www.apfw.org/indexenglish.asp?fname=news%5Cenglish%5C2006%5C06%5C13085.htm>.
- ³ "Libya Prison Brief," International Centre for Prison Studies, Kings College London, http://www.kcl.ac.uk/depsta/rel/icps/worldbrief/africa_records.php?code=28.
- ⁴ "Libya Country Report," (Washington, D.C.: Protection Project, 2002), [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/CCPR.C.102.Add.1.En?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CCPR.C.102.Add.1.En?Opendocument)
- ⁵ "*Landmine Monitor* Report 2006: Libya" (Ottawa: International Campaign to Ban Landmines, 2006), <http://www.icbl.org/lm/2006/libya.html>.
- ⁶ Great Green Charter of Human Rights of the Jamahiriyan Era (12 June 1988), <http://www.geocities.com/Athens/8744/grgreen.htm>.
- ⁷ "Libya: Annual Survey of Violations of Trade Union Rights" (Brussels: International Confederation of Free Trade Unions, 2006), <http://www.icftu.org/displaydocument.asp?Index=991223877&Language=EN>.
- ⁸ Ibid.
- ⁹ Ibid.
- ¹⁰ "Libya: Time to Make Human Rights a Reality" (London: Amnesty International [AI], MDE 19/002/2004, April 2004).
- ¹¹ "Libya Judiciary" (Beirut: UNDP Programme on Governance in the Arab Region [POGAR], <http://www.pogar.org/countries/judiciary.asp?cid=10>).
- ¹² "Libyans For Justice," www.libyans4justice.com (in Arabic).
- ¹³ "Libya: Emerging from isolation" (Law Society of England and Wales, 12 May 2005) <http://www.lawsociety.org.uk/newsandevents/newsletters/international/archive/view=article.law?NEWSLETTERID=238508>.

- ¹⁴ “Libya: Time to Make Human Rights a Reality” (AI).
- ¹⁵ “Corruption Perceptions Index 2006” (Berlin: Transparency International [TI]), http://www.transparency.org/policy_research/surveys_indices/cpi/2006.
- ¹⁶ “The Socialist People’s Libyan Arab Jamahiriya: 2005 Article IV Consultation—Staff Report; and Public Information Notice on the Executive Board Discussion” (Washington, D.C.: International Monetary Fund, IMF Country Report No. 06/136, April 2006).
- ¹⁷ www.nidaly.org.
- ¹⁸ www.gpc.gov.ly (in Arabic).

