



مركز برونكس الدوحة
BROOKINGS DOHA CENTER

BROOKINGS DOHA CENTER ANALYSIS PAPER

Number 9, December 2013

RECONSTRUCTING LIBYA:

STABILITY THROUGH NATIONAL RECONCILIATION

IBRAHIM SHARQIEH

BROOKINGS

The Brookings Institution is a private non-profit organization. Its mission is to conduct high-quality, independent research and, based on that research, to provide innovative, practical recommendations for policymakers and the public. The conclusions and recommendations of any Brookings publication are solely those of its author(s) and do not reflect the views of the Institution, its management, or its scholars.

Copyright © 2013

THE BROOKINGS INSTITUTION
1775 Massachusetts Avenue, N.W. Washington, D.C. 20036 U.S.A.
www.brookings.edu

BROOKINGS DOHA CENTER
Saha 43, Building 63, West Bay, Doha, Qatar
www.brookings.edu/doha

TABLE OF CONTENTS

- I. Findings 1
- II. Introduction 3
- III. Issues of Reconciliation 7
 - Dealing with the Past 7
 - The Abu Salim Prison Massacre 9
 - Law No. 4/1978, or the “Ownership Law” 9
 - Regional and Historical Rivalries 10
 - Revenge and Retaliation 10
 - Unanswered Questions 10
 - Lustration 11
 - Alternatives to the PIL 14
 - Disarmament 16
 - Culture of the Victor 18
 - Displaced Communities: IDPs and Refugees 19
 - Overcoming Displacement as a Challenge to Reconciliation 21
- IV. Approaches to Reconciliation 23
 - First: Transitional Justice 23
 - Truth and Reconciliation Commission 24
 - Reparation 25
 - Accountability 26
 - Institutional Reform 27
 - Second: National Dialogue 29
- V. Agents of Reconciliation 32
 - Civil Society 32
 - Women 34
 - Tribes 35
- VI. The International Community 37
- Appendix: Legislation No. 13 of 2013 of the Political and Administrative Isolation 41

ABOUT THE AUTHOR

Ibrahim Sharqieh is Foreign Policy fellow at the Brookings Institution, deputy director of the Brookings Doha Center, and adjunct professor at Georgetown University at Qatar. Sharqieh previously taught International Conflict Resolution at George Washington University and George Mason University, and served as academic advisor to the Embassy of the United Arab Emirates in Washington, D.C.

Sharqieh has published extensively on conflict resolution in the Arab region, with articles appearing in *Foreign Affairs*, *Foreign Policy*, *The New York Times*, *Financial Times*, CNN, *Christian Science Monitor*, Al Jazeera, Al Arabiya, and *The Philadelphia Inquirer*. Sharqieh has been widely quoted in Reuters and the Associated Press on Middle East politics and is a frequent commentator on news programming, including by NPR, CNN, Al Jazeera (English and Arabic), and the BBC. Sharqieh received his Ph.D. in 2006 from George Mason University in Conflict Analysis and Resolution.

This publication is part of a long-term field research project by Sharqieh on national reconciliation and the mechanics of transition in post-Arab Spring countries. The project will culminate in a book based on three case studies: Libya, Tunisia, and Yemen. Sharqieh's February 2013 Analysis Paper, "A Lasting Peace? Yemen's Long Journey to National Reconciliation," is an output of the project.

ABOUT THE BROOKINGS DOHA CENTER

Based in Qatar, the Brookings Doha Center is an initiative of the Brookings Institution in Washington, D.C., that advances high-quality, independent policy analysis and research on the Middle East. The Center maintains a reputation for policy impact and cutting-edge, field-oriented research on socio-economic and geopolitical issues facing the broader Middle East, including relations with the United States.

The Brookings Doha Center International Advisory Council is co-chaired by H.E. Sheikh Hamad bin Jassim bin Jabr Al Thani, former prime minister and minister of foreign affairs of the State of Qatar, and Brookings President Strobe Talbott. The Center was formally inaugurated by H.E. Sheikh Hamad bin Jassim bin Jabr Al-Thani on February 17, 2008. It is funded by the State of Qatar. Salman Shaikh serves as its director.

In pursuing its mission, the Brookings Doha Center undertakes research and programming that engages key elements of business, government, civil society, the media, and academia on key public policy issues in the following four core areas:

(i) Democratization, political reform, and public policy; (ii) Middle East relations with emerging Asian nations, including on the geopolitics and economies of energy; (iii) Conflict and peace processes in the region; (iv) Educational, institutional, and political reform in the Gulf countries.

Open to a broad range of views, the Brookings Doha Center is a hub for Brookings scholarship in the region.

FINDINGS

The Libyan revolution's defeat of dictator Muammar al-Qaddafi, though extraordinary, marked only the beginning of a long process of national development and reconciliation. Progress towards a peaceful and cohesive Libyan state in the post-Qaddafi era has been slow. Indeed, recent security breaches and outbreaks of violence within the country and spilling over from its borders into neighboring, and similarly fragile, North African states highlight the unsustainability of the status quo. This paper argues that the Libyan people, under their new government, must embark on a comprehensive and credible national reconciliation process. If this process is to be successful, the following points must be kept in mind.

- The Libyan revolution is a cumulative project of resistance against the dictatorship of Muammar al-Qaddafi that began in the 1970s and ended with Qaddafi's death on October 20, 2011. Over those 42 years, Libyans contributed to the resistance movement in a variety of ways. Defining "revolutionaries" as only those who rebelled against Qaddafi between February 17, 2011 (the start of the 2011 revolution) and October 20, 2011 is a dangerous, yet common, practice in Libya. Such a narrow classification allows a small portion of the Libyan resistance movement – the February 17 revolutionaries – to unfairly monopolize ownership over the ousting of Qaddafi. This denies others recognition for their contribution to the country's liberation and creates deep and destabilizing divisions within Libyan society.
- The revolution produced a culture of division reflected in the popular terminology of *thuwar* (revolutionaries) and *azlam* (Qaddafi cronies). This dynamic runs counter to the spirit

of an uprising that aimed to replace authoritarian practices of repression, exclusion, subjugation, and despotism with values of freedom, justice, inclusion, and equality. If this culture prevails, Libyans risk replacing the former regime with a new one that similarly privileges certain groups at the expense of others.

- Although the former regime inflicted terrible atrocities on the Libyan people, and victims of such violence deserve justice, this should not lead to the collective displacement of Libyan communities deemed responsible for those crimes. Such a practice would yield huge populations of internally displaced persons (IDPs) and refugees. The displacement of these communities amounts to the collective punishment of the families of old-regime elements, and it must end. Those suspected of war crimes should be dealt with strictly according to the rule of law, and in particular a post-conflict transitional justice law.
- The Political Isolation Law (No. 13 / 2013, "PIL") recently passed by the General National Congress (GNC) has troubling implications for the future social and political stability of Libya. The law, which prevents those who served in the former regime between September 1, 1969, and October 20, 2011, from holding public office for ten years, threatens Libya's post-war reconstruction. The law shatters the country's social cohesion, wipes out the state's institutional memory, and increases the odds that domestic instability will spill into neighboring countries. PIL must be significantly mitigated, adjusted, or simply canceled. Alternatives to PIL include a comprehensive transitional justice law and a vetting process managed

by an independent and transparent national integrity committee.

- The Libyan state must establish a monopoly on the legitimate use of force. The behavior of revolutionaries in post-Qaddafi Libya has created two parallel states: the official state and the revolutionary state. The result has been the dramatic deterioration of security in Libya. Revolutionaries must be aware that they risk transforming from victims to tyrants and may spur a return to widespread civil conflict if they refuse to integrate into the new state. Through effective state-run programs of disarmament, demobilization, and re-integration (DDR), Libyan revolutionaries must join state institutions or other NGO-run programs available to them. Security is a prerequisite for successful post-conflict reconstruction and national reconciliation. Libyans can neither reconcile with their past nor with each other while they fear for their lives.
- The crimes committed by the Qaddafi dictatorship over its 42 years in power are both enormous and, among Libyans, ill-understood. Libyans must know, for example, how and why 1,270 inmates were executed in the infamous Abu Salim prison massacre. Given that the previous regime's crimes cannot be undone, only truth, reconciliation, and coming to terms with the past will help Libyans establish the foundation of a more stable, inclusive state. Forgiveness and moving forward, however, requires first and foremost that the truth be known and that Libyans' rights be acknowledged in the post-Qaddafi order.
- To ensure that past human rights violations are not repeated, Libyans will have to rigorously inspect their state institutions and conduct deep reforms. Given the totalitarian nature of the former regime, these reforms must be comprehensive. While all state institutions should be subject to reform, particular attention should be given to the following sectors: the security services, given their responsibility for torture and human rights violations; the administrative apparatus and its bureaucracy, given their endemic corruption; the media, long responsible for the glorification of the dictatorship; and the judiciary, which must be trusted to faithfully and honestly implement transitional justice.
- More than two years have passed since the collapse of the Qaddafi regime without a desperately needed national dialogue process. The absence of national dialogue has widened gaps between Libya's different parties, reinforced mistrust, and exacerbated a disastrous security situation. Genuine, inclusive, and transparent national dialogue must begin immediately if Libya is to resolve its transitional challenges. In particular, a state-revolutionaries dialogue is key to improving the security situation.
- As Libyans must take ownership of any national reconciliation process, the international community has an important – though necessarily limited – role to play. Libya requires technical assistance on how best to run a reconciliation process, investigate past crimes, hold transparent and fair trials of corrupt figures, repair injury done to victims and their families, and engage in deep institutional reform to prevent human rights violations from being repeated. Furthermore, Libya needs international assistance in building a strong police force and army – a necessary step for restoring state authority. Security collaboration with neighboring countries – particularly Egypt and Tunisia, who can help control their borders with Libya – can move Libya toward a more secure environment for reconstruction and reconciliation. Finally, the international community must be willing to level with Libya if the situation requires it. In addition to acknowledging progress towards stability, reconstruction, and reconciliation, it should also be critical of any human rights violations, corruption, or repetition of old regime practices.

INTRODUCTION

The Libyan people rose up against the 42-year tyranny of Colonel Muammar al-Qaddafi on February 17, 2011, and only eight months later, Qaddafi was dead – killed in the battle for his hometown, Sirte. Libyans cheered for the collapse of the Qaddafi regime and embraced their long-overdue freedom. They soon realized, however, that their transition to democracy meant that some of their greatest challenges were still ahead.

Now, almost two years since the death of Qaddafi, the Libyan people are still struggling to rebuild their country. Given the complexity of its post-conflict reconstruction process, this paper argues that Libya needs an inclusive national reconciliation process that helps in securing a successful transition to sustainable peace and stability. This process, however, faces a number of serious challenges. In an effort to cling to power, Qaddafi subjected Libya to a destructive civil war, leaving behind a divided society and a state of chaos throughout the country. The current security situation is untenable: militias and military councils effectively rule the country; entire towns and tribes have been excluded from the reconstruction process simply because they were accused of being supporters of the former regime; and the number of refugees from the country at one point reached almost one million, in addition to hundreds of thousands of IDPs.¹

Libya needs an inclusive national reconciliation process that helps in securing a successful transition to sustainable peace and stability.

The social fabric of Libyan society was shattered during the country's revolution. Deep post-war divisions are likely to preclude an effective reconstruction process, threaten the prospects for stability and social peace, and sabotage the chances of a successful transition from dictatorship to democracy. With Libyan society fractured to this degree, national reconciliation must encompass more than the old regime and the revolutionaries.

Libyan society is not split into two halves; rather, it is splintered into a multitude of groups and factions, all of whom need to be given a stake in Libyan stability. The process of reconciliation, then, must also include refugees and the displaced, those now tarred as regime loyalists, and representatives of the new Libyan state. Though the challenge of accommodating this array of parties is daunting, it is only through society-wide reconciliation that Libya can transition from a fragile state with a war-torn, deeply divided society to a unified and stable nation.

Such reconciliation has proven difficult thus far, to a large extent because of the legacy left by Qaddafi. After Colonel Qaddafi came to power in a bloodless coup against King Idris in 1969, he established the Libyan Arab Republic, removing the country's republican system in 1977 and establishing the Great Socialist People's Libyan Arab *Jamahiriyah* (mass state), premised on his

¹ As of December 2011, the United Nations High Commissioner for Refugees (UNHCR) estimated that more than 900,000 people had fled Libya since February 2011, including more than 660,000 Libyans. The UNHCR also estimated those internally displaced at 200,000. Many Libyans have since returned to the country. See "UNHCR Global Appeal 2012-2013 – Libya," UNHCR, December 1, 2011, <<http://www.unhcr.org/cgi-bin/texis/vtx/search?page=49e485f36&coi=LIBY&scid=49aea93a73&keywords=operations>>.

own philosophy of governance – the “Third Universal Theory.”² Qaddafi used the philosophy of the Jamahiriya to ensure that state institutions were built to serve his regime. The national army was marginalized, with Qaddafi instead empowering security apparatuses such as the powerful 32nd Reinforced Brigade of the Armed People. This brigade, also known as the Khamis Brigade after Qaddafi’s son, was completely loyal to the colonel. Qaddafi also exercised absolute political power, banning political parties and either imprisoning those who opposed him or sending them into exile. The uprising that began in 2011 therefore came as a shock to the country’s leadership.

At the outset of the Arab Spring, Qaddafi tried to preempt protests by reducing food prices and releasing political prisoners, but it was too late. On February 17, 2011, demonstrations broke out in Benghazi and soon spread elsewhere. Continuing protests were met with defiance from Qaddafi – who famously threatened to “cleanse Libya house by house” – and a punishing military campaign to retake control of the country. A brutal civil war began; in less than a week, however, the Khamis Brigade had seized the city of Misrata and was on the brink of launching a crushing assault on Benghazi, the cradle of the revolution. The United Nations Security Council’s Chapter 7 authorization of military intervention with the imposition of a no-fly zone reversed the war’s momentum, but not enough to spare Libya from additional months of grinding combat. Finally, on October 20, Qaddafi was captured and killed while attempting to flee his hometown. With the death of Qaddafi and the removal of his regime, the Libyan state collapsed, leaving the country in chaos.

Libya’s grim state can be attributed to both the sudden collapse of the Qaddafi regime and the preceding decades of Qaddafi’s rule, in which

he presided over the systematic demolition of Libya’s social and governmental institutions. For 42 years, Qaddafi not only prevented the formation of political parties and civil society organizations, but also invested very little in the development of the country. Most of the country’s resources were squandered on boondoggles like the Great Industrial River or on an almost 10-year losing war with Chad. Qaddafi left Libya with minimal development in almost every sector – including education, health, industry, and agriculture – and a corrupt and inefficient bureaucratic apparatus. The regime’s collapse left a power vacuum that has been filled by, among others, revolutionaries, political parties, NGOs, and media groups with competing agendas and no history of cooperating with one another.

Perhaps one of the deepest divisions emerging in post-Qaddafi Libya is between revolutionary towns and tribes described as *thumar* (revolutionaries, e.g., Misrata, Zentan, Benghazi, Souk al-Jumaa, Zawya, Zwara) and *azlam* (regime cronies, e.g., parts of Werfella, Bani Walid,³ Qathathfah, Mashaysha, Western Rayayneh). This split was exacerbated by Qaddafi’s manipulation of the tribe as a Libyan social institution, which he used both to sustain his 42-year reign and to try to defeat the 2011 revolution. Due to their past links with regime, many tribes today feel marginalized and discriminated against in the post-Qaddafi state.

Libya must also grapple with the horrific crimes were committed both during Qaddafi’s reign and during the 2011 revolution. Past atrocities include the 1996 Abu Salim prison massacre and the forced disappearances of Qaddafi’s political opponents. More recent grievances include instances of mass rape – for example, in Misrata and Ajdabia – during the revolution. Libya is, in broad terms, a conservative society accustomed to the use

² The First and Second Theories were, according to Qaddafi, capitalism and Marxism. He regarded both as imperialist.

³ Not all of Werfella is perceived as *azlam*. In fact, many Werfella revolutionaries played a prominent role in Benghazi and elsewhere. Also, a large portion of Werfella in Bani Walid were against NATO foreign intervention and not necessarily supportive of the Qaddafi regime.

of retributive justice. If left unresolved, these past crimes could open up Libya to a cycle of revenge that would fuel further conflict.

To avoid the continued state of chaos resulting from Qaddafi's downfall, a process of comprehensive national reconciliation must be undertaken. National reconciliation can, in this context, be defined as the process of addressing the grievances of parties to a conflict with the aim of redefining their relationships and forging a new social contract.⁴ Approaches to achieving national reconciliation have traditionally focused on national dialogue and transitional justice. The country must come to terms with its past, redress the grievances of victims and their families for their suffering under the former regime, hold perpetrators accountable for the crimes they committed, and reform state institutions in a way that prevents violations from recurring in the future.

It is important to emphasize that transitional justice and national reconciliation should not be pursued with a mechanical or top-down approach. There is no one set of steps that must be followed to achieve these outcomes. Rather, inclusive national dialogue should be at the center of the process of reconciliation. By allowing all concerned parties to debate the most suitable arrangements for truth-seeking, redress, accountability, and institutional reform, this approach ensures any agreement's local ownership.

The process of Libyan reconciliation faces a number of serious and immediate challenges. National reconciliation processes are expensive, especially when they cover a long

period of war or human rights violations. Reconciliation involves compensation for victims and their families, DDR of ex-combatants, and resettlement of refugees.

Furthermore, reconciliation in this case has implications beyond Libya's borders, as a divided and unstable Libya will pose a serious threat to the security of its North African neighbors. We have already seen how weapons smuggled from Libya's storehouses encouraged Mali's Azawad separatist movement to defy the central government in Bamako and seize the northern half of the country. French military intervention in Mali led in turn to an influx of refugees (along with jihadist militants) into Mauritania, threatening that country's already-precarious political balance. Libya is also bordered by two equally fragile political systems, Egypt and Tunisia, which could likewise be destabilized by Libyan spillover.

It is important to emphasize that transitional justice and national reconciliation should not be pursued with a mechanical or top-down approach.

A particularly pressing issue inside Libya is the need to establish the rule of law, as reconciliation cannot take place amid chaos. As Minister of Justice Salah al-Marghani explains, "Building a state and establishing the rule of law are prerequisites for a national reconciliation process. Law and order guarantee the implementation of agreements reached through dialogue and reconciliation."⁵ For refugees

and IDPs to return to their homes, for example, the state must prevent retaliation against them. Without a cohesive and functioning state, this reconciliation process cannot move forward.

⁴ See Ibrahim Sharqieh, "A Lasting Peace? Yemen's Long Journey to National Reconciliation," Brookings Doha Center Analysis Paper, No. 7, February 3, 2012.

⁵ Author's interview with Salah al-Marghani, Libyan Minister of Justice, Tripoli, January 2013.

A second challenge is that the idea of “reconciliation” itself can be vague and somewhat ill-defined for ordinary Libyan citizens. Without a standard definition for reconciliation, Libyans’ position on whether to reconcile is often based on their individual (and often biased) understandings of the process. Some Libyans, for example, reject a reconciliation they think means forgetting entirely about the past and abandoning accountability for past crimes. “Some Libyans are particularly sensitive to the term ‘national reconciliation,’” says a civil society activist. “How can we reconcile after all we suffered during and before the war? We can’t. We have to talk about justice before we address reconciliation.”⁶ Transitional justice, a key component of reconciliation, is similarly problematic.

A third challenge is the timing of when to start a national reconciliation process in Libya; it should not start too early, but also not too late. In the near term, many Libyans may not feel ready to discuss reconciliation immediately after the collapse of the former regime. For example, influential Libyan religious figure Sheikh Ali Salabi met with one of Qaddafi’s cousins, Ahmed Qaddafi al-Dam, in Cairo in May 2012 – seven months after the killing of Muammar al-Qaddafi. The meeting was part of an initiative to discuss prospects for national reconciliation yet was widely criticized by Libyan media, political parties, and the general public. According to one of those who accompanied Sheikh Salabi, who participated in the meeting: “My brother called me and said, ‘You are no longer my brother. How dare you meet those war criminals and talk reconciliation

with them.’”⁷ Such a reaction signals a larger hesitance among Libyans to reconcile with past enemies. Indeed, it seems that Salabi’s attempt at reconciliation came too early for many. Starting a process of national reconciliation too late, though, may risk parties’ losing interest in the process. Adapting to the new, post-war reality will make it difficult for people to remember and reflect on their past and engage in reconciliation. In addition, over time regime loyalists and former rebels may move permanently on opposite tracks. In the Libyan case, if the process of genuine reconciliation is not launched now, it seems likely that parties to the conflict will grow further apart and that unsettled issues will fuel new conflicts.

To understand the prospects for national reconciliation in Libya, the author conducted over 40 interviews in Libya with, among others: senior government officials; legislators from the GNC; heads of political parties; Islamist lead-

ers, including Salafis and members of Libya’s Muslim Brotherhood; and civil society activists. The author visited IDP camps and heard directly from camp residents about their living conditions and the obstacles to their resettlement. The author also met with tribal leaders in the Nafousa Mountains to discuss their role in a future national reconciliation process. Each interview took between one to three hours and followed a semi-structured interview approach. Snowball sampling was used to select the research interviewees.

Without a standard definition for reconciliation, Libyans’ position on whether to reconcile is often based on individual (and often biased) understandings of the process.

⁶ Author’s interview with Nadine Nasrat, Association of Supporting Women in Decision Making, Tripoli, January 2013.

⁷ Author’s interviews, Tripoli, January 2013.

ISSUES OF RECONCILIATION

A comprehensive national reconciliation process in Libya must address a number of issues, including dealing with the country's past, disarmament, a culture of the victor, and displaced communities (refugees and IDPs).

DEALING WITH THE PAST

The experience of a 42-year dictatorship – with all it entailed in terms of repression and assaults on basic human dignity – means that forgetting or avoiding the past is not an option for Libyans. Libyans are now working to disengage from the identity imposed on the country by Qaddafi, one centered in equal parts on Qaddafi himself and on his societal vision of Jamahiriya. In the process, Libyans are using the past to define and shape a new identity. For many Libyans, Qaddafi's reign represents their defining historical memory. It is what Vamik Volkan calls a “chosen trauma,” or “the shared mental representation of the historical traumatic event ... that becomes a significant marker for the large-group identity.”⁸ To overcome this collective trauma, Libyans have made a deliberate attempt to focus instead on what Volkan calls “chosen glories”⁹ – historical bright spots around which Libyans can collectively rally. Libyans have elected to discard Qaddafi and his Jamahiriya and instead identify with their “chosen glory”: Omar al-Mukhtar (1858-1931),¹⁰ who led the resistance to Italian colonialism.

In the streets of Tripoli, pictures of al-Mukhtar are so numerous that one could be forgiven for thinking that he led the revolution himself. In contrast, former King Idris, who ruled from 1951 until Qaddafi's 1969 coup, is barely mentioned. Libyan discourse has very clearly embraced the demonization of Qaddafi and the glorification of al-Mukhtar, while largely neglecting the country's monarchical past.

Libyans have attempted to eliminate anything reminiscent of the Qaddafi era. Walking through Tripoli, one can see that cars' license plates – which used to be marked with “Jamahiriya” – have been defaced by their owners. Similarly, Libyans have blotted out or cut out completely the large picture of Qaddafi which still appears on the Libyan dinar.

As they grapple with their past, Libyans must decide how far back they want to look and how much of their history they want to unearth. The starting point for any investigation has serious implications for the scope of both prosecutions of human rights violations and the legal exclusion of former regime elements from political life – what is known as “lustration.” Discussions with various Libyan factions reveal a number of events that could be cutoff points for an investigation of Libya's past:

⁸ Vamik Volkan, *Blood Lines: From Ethnic Pride to Ethnic Terrorism* (New York: Farrar, Straus & Giroux, 1997).

⁹ According to Volkan, chosen glories are “reactivated again and again to summon support for a group's self-esteem.” Vamik Volkan, “On ‘Chosen Trauma,’” 2007, <<http://www.vamikvolkan.com/On-%22Chosen-Trauma%22.php>>.

¹⁰ Omar al-Mukhtar organized and led Libyan resistance against the Italians for nearly twenty years until he was captured and executed by Italian forces in 1931. In fact, al-Mukhtar is perceived to be a chosen glory not only for the Libyans but for many other Arabs inspired by his resistance to colonialism.

- **September 1, 1969:** Muammar al-Qaddafi's successful coup against King Idris. Generally, hardline Libyan politicians demand the investigation of past crimes starting from this date. This starting point could be problematic, as it opens to investigation the entire span of the Qaddafi regime. Over the regime's 42 years, huge numbers of Libyans were involved with the regime in some capacity and could therefore be found complicit in broadly defined crimes.
- **1973:** Qaddafi's declaration of his "Popular Revolution" and the formation of his General People's Committees (GPCs). This program was part of the "Third Universal Theory" referenced earlier.
- **1977:** Qaddafi's official dissolution of the Libyan Arab Republic and establishment of the Socialist People's Libyan Arab Jamahiriya. It was at this point that Qaddafi began most vigorously applying what he called "revolutionary justice" to crack down on his domestic opponents.
- **1980:** Qaddafi's redistribution of wealth, including the expropriation of all funds in excess of 1,000 dinars in Libyans' bank accounts.
- **February 17, 2011:** The outbreak of the Libyan revolution against Qaddafi.
- **March 19, 2011:** The start of NATO airstrikes. Any regime official who defected after this date, when it became clear that Qaddafi could not survive, was arguably acting more out of self-preservation than principle.

The starting point for truth-seeking in Libya is closely linked to the politics of transition, and any starting point is ultimately likely to be a reflection of the country's balance of power.

Settling on a starting point is quite challenging, as each proposed date has ramifications for multiple internal and external stakeholders. Mahmoud Jibril, Libya's interim prime minister in 2011 and 2012, defected from the Qaddafi regime in the very early days of the revolution. It is in his interest, along with the interest of all those who defected before the NATO bombing, to push for March 19, 2011 as the starting point. On the other hand, the National Front for the Salvation of Libya, which fought against Qaddafi starting in the 1980s, does not differentiate between the periods before and after March 19 and therefore demands the truth about both.

Families of victims – e.g., of those who died in the Abu Salim prison massacre and the crash of Libyan Arab Airlines Flight 1103 (discussed below) – demand, first and foremost, a starting point that includes their respective traumas. Regional players also have an interest in this debate. Chad recently demanded the truth about Qaddafi's intervention in the country, as well as compensation for its losses in the war. Additionally, Lebanon has been pushing for a truth-seeking mission on the fate of Imam Musa al-Sadr, who disappeared after meeting with Qaddafi in 1978. In other words, the starting point for truth-seeking in Libya is closely linked to the politics of transition, and any starting point is ultimately likely to be a reflection of the country's balance of power.

Still, there are certain key events in Libya's recent history that cannot be ignored. These historical flashpoints, both from before and during the 2011 revolution, continue to destabilize Libya. For these, a serious and comprehensive investigation must take place sooner rather than later.

The Abu Salim Prison Massacre

Human Rights Watch¹¹ estimates that 1,270 prisoners were killed in Abu Salim prison in 1996 after they protested against mistreatment and human rights violations. To ensure that those responsible are held accountable, the victims' families formed an influential pressure group called the Association of Families of the Martyrs of the Abu Salim Massacre. At its 2013 annual meeting held in January in Tripoli¹² the Association released a set of demands, including: honoring the Abu Salim martyrs, including the annual commemoration of the massacre and its inclusion in school curricula; the return of victims' bodies to their families; the trial of the massacre's perpetrators; an apology to the martyrs' families, published in newspapers and other media; financial reparations for the martyrs' families; public disclosure of the entire truth of the massacre, including who was killed, who participated, and any circumstances or events leading to the massacre; and the full application of the law, particularly the punishment of those responsible for the killings.

How post-Qaddafi Libya deals with the Abu Salim massacre and questions of compensation will depend on the broader politics of the transition. Most of the massacre's victims were Islamists, so generous compensation to the victims' families may raise objections from other political parties. In Tunisia, for example, the Islamist al-Nahda government was accused of squandering public funds when it compensated former political prisoners, many of whom were Islamists. Providing victims and their families with public sector jobs has been floated elsewhere as an alternative means of compensation and is similarly fraught. In Tunisia, again, the government was accused

of staging a takeover of the state by hiring former prisoners (mainly Islamists) in state institutions. Of course, Islamists in Libya can be expected to push for answers to and compensation for the massacre. Ultimately, even though most Libyans sympathize with the victims of Abu Salim, the government will have to anticipate the political consequences of any settlement.

Law No. 4/1978, or the "Ownership Law"

One of the first demonstrations to take place in Tripoli after the fall of Qaddafi was led by people whose homes and properties were confiscated under Law No. 4/1978. The 1978 law, which codified the principle of "the house to its resident," resulted in a wave of Libyans expropriating other Libyans' homes. Questions of legitimate ownership subsequently became quite complicated, as those who seized homes were able to sell the houses on to others; in some cases, ownership has been transferred several times. In many cases, the current owners paid for the homes, while the original owners have never been compensated. The scope of the problem is difficult to quantify, but according to some estimates full restitution in Tripoli alone could mean the eviction and resettlement of one-quarter of the city's 2.2 million residents.¹³ Absent a solution, one can now see Tripoli houses marked with graffiti as the "sacred property" of a given family subjected to the Ownership Law. Some of the original owners are willing to wait for legal redress, while others have resorted to vigilantism and evicted the current "owners" at gunpoint.

¹¹ Human Rights Watch, "Libya: June 1996 Killings at Abu Salim Prison," June 27, 2006, <<http://www.hrw.org/en/news/2006/06/27/libya-june-1996-killings-abu-salim-prison>>. See also, Nic Robertson and Paul Cruickshank, "Jihadist death threatened Libya peace deal," CNN, November 28, 2009, <<http://www.edition.cnn.com/2009/WORLD/africa/11/23/libya.death/index.html>>.

¹² Author's attendance of the annual meeting of the Association of Families of the Martyrs of the Abu Salim Massacre, Tripoli, January 5, 2013.

¹³ UNHCR, "Housing, Land and Property Issues and the Response to Displacement in Libya," <<http://terra0nullius.files.wordpress.com/2013/02/unhcr-report-hlp-issues-and-displacement-in-libya-copy.pdf>>, 32.

Regional and Historical Rivalries

Many of Libya's existing conflicts have deep historical roots, which complicate the process of Libyan reconciliation. The current rivalry between Misrata and Bani Walid, for example, goes back at least as far as 1920, as Misrata holds Bani Walid accountable for the killing of anti-colonialist leader Ramadan al-Swaihli. In September 2012, almost a century later, Bani Walid defied a resolution by the Libyan GNC demanding that it surrender wanted individuals; Bani Walid was convinced that it was Misrata pushing for the resolution and that it was passed by the legislature only under pressure from the Misratans. In response, Misrata brigades led a 25-day siege of Bani Walid that ended with the city's fall and left approximately 100 dead and hundreds wounded. To add insult to injury, victorious Misrata fighters hung pictures of Ramadan al-Swaihli throughout the city, firmly situating the violence within the cities' historical rivalry.

Revenge and Retaliation

Libya's past is full of grudges waiting to be settled. Many of Libya's Islamists, for example, were tortured and abused in Qaddafi's prisons. During the revolution, many diverse factions came together for a single goal: the removal of the regime. Even this temporary unity, however, was fragile. General Abdulfattah Younes had been Qaddafi's Minister of the Interior but defected on February 22, 2011, and ultimately became head of the rebel army's general staff. Old enemies were unwilling to wait until Qaddafi's fall to settle scores, though; it is generally believed that former jihadists were behind Younes's assassination on July 28, 2011. And after Qaddafi's fall, such old issues came to the fore. Post-revolution Benghazi, for example, has seen widespread attacks on security offices and police stations. The targets

are understood to be members of the former regime still serving in Benghazi's police. It is believed that those behind the attacks are either former jihadists who were tortured by Qaddafi's security forces or possibly former regime loyalists who want to take revenge on defectors.¹⁴

Unanswered Questions

There are many dark spots in the last four decades of Libyan history. In addition to individual cases of torture and disappearance, there is also the broader truth of what happened to the country under an opaque and impenetrable regime.

Libyans want to know, for example, why their country waged war on Chad for almost ten years (1978-1987) and what could justify the deaths of over 7,000 troops in a war Libya ultimately lost. In another episode, Libyan Arab Airlines Flight 1103 was flying from Benghazi and crashed in Tripoli in December 1992, killing all 157 passengers. Some Libyans now allege that Qaddafi orchestrated the incident to attract global attention to the impact of sanctions on his country by suggesting that sanctions had deprived Libya's passenger jets of spare parts and necessary maintenance, thus causing civilian deaths. Regardless of the real causes of the crash, Libyans genuinely want to know what happened, and the truth is necessary for them to have closure. Similarly, Libyans deserve to know the truth about the 1988 bombing of Pan Am Flight 103 – the “Lockerbie bombing” – which killed 270 civilians. Libya was accused of perpetrating the bombing, and in 2003 it signed a settlement with the victims' families that paid them \$2.7 billion in exchange for the lifting of sanctions. Unfortunately, the list of similar mysterious tragedies during Qaddafi's rule is long, ranging from the Abu Salim massacre to the infection of 400 children with AIDs from 1999 to 2007.

¹⁴ Author's interview with Sufyan Omeish, civil society activist primarily in reconciliation and peacebuilding in Libya, Tripoli, January 2013.

LUSTRATION

After the defeat of the Qaddafi regime and the arrest or emigration of many of its most senior officials, Libyans now face the monumental challenge of remaking the state. This, in turn, has created the trickier problem of what to do with other regime figures and officials – those who served, in some capacity, under Qaddafi. As a result, rebuilding Libya after Qaddafi has required the institution of processes and policies to regulate or prevent the participation of former regime figures in Libya’s successor political system – a process otherwise known, particularly in the Eastern European context, as “lustration.”

How to deal with former public officials has been one of the most divisive challenges standing in the way of Libyan post-conflict reconstruction. Suggested approaches ranged from a complete ban on former regime officials occupying any public position – regardless of the level and nature of their involvement with the former regime – to their regulated incorporation into the new state’s institutions.

Libyans ultimately chose the most extreme option in the form of the PIL,¹⁵ which was adopted by Libya’s GNC on May 5, 2013. The law had overwhelming support; of 200 MPs, 164 voted in favor of the law and only 4 against.¹⁶

The law imposes a ten-year ban from public life on those who held high-ranking positions under the Qaddafi regime from 1969 to

2011 in several dozen categories, including ministers, high-ranking police officers, and heads of student unions (See Appendix). It also gives other criteria for possible exclusion, including collaboration with the security forces, publicly praising Qaddafi or his “Green Book,” or having done business with the regime.¹⁷

Revolutionaries were adamant that the law should encompass not only the former regime’s senior leadership and officials in the security apparatus, but also a broader class of officials deemed to have contributed to the regime.¹⁸ They argued that the regime functioned as a whole, not just as individual units. Even those not directly involved in the torture of prisoners, for example, helped perpetuate the regime while offenses were ongoing.

Those pushing for the law in its most extreme form also demanded its application to

officials who defected before and during the revolution, even those who had publicly split with the regime decades ago. As Muhammad Toumi, a GNC member and a prominent leader of the National Front for the Salvation of Libya, argued, “There’s no such thing as defection from the old regime. It was just a smart reading by some former regime officials; they read the political map well and realized the regime was at its end. They jumped from the sinking boat to a new

one. Political isolation, therefore, is a must. The law should not be seen as targeting individuals, but rather the way of thinking and acting under the former regime.”¹⁹

How to deal with former public officials has been one of the most divisive challenges standing in the way of Libyan post-conflict reconstruction.

¹⁵ The Political Isolation Law’s Arabic name, *qanoun al-azl al-siyasi*, is also sometimes translated as “Political Exclusion Law.”

¹⁶ BBC, “Libya Parliament Bans Gaddafi Era Officials,” May 5, 2013, <<http://www.bbc.co.uk/news/world-africa-22423238>>.

¹⁷ Haizam Amirah-Fernández, “Libya and the problematic Political Isolation Law,” Real Instituto Elcano, June 20, 2013, <http://www.realinstitutoelcano.org/wps/portal/rielcano_eng/Content?WCM_GLOBAL_CONTEXT=/elcano/elcano_in/zonas_in/ari20-2013-amirah-fernandez-libia-ley-aislamiento-politico>.

¹⁸ Author’s interview with Sami al-Saa’di, former leader in the Libyan Islamic Fighting Group (LIFG) and current Salafi figure, Tripoli, January 2013.

¹⁹ Author’s interview with Muhammad Toumi, National Congress Member from the National Bloc for Change party, January 2013.

Other political parties express a forward-looking rationale for the PIL. “Our position in the Justice and Development Party [the political arm of the Libyan Muslim Brotherhood],” said the party’s president Muhammad Suwan, “is that political isolation is more of a preemptive measure – not punitive – taken to protect the revolution and break off the relationship with the former regime. Those subject to the law are normal citizens, with a full set of rights and responsibilities, but they should be prevented from occupying senior government positions so that the former regime is completely removed from the leadership of the state.”²⁰

Proponents of the PIL came from various segments of Libyan society, and their calls for applying the law reflected their suffering under Qaddafi. Revolutionaries, victims of torture, and the families of the victims of the Abu Salim prison massacre stood among the strongest advocates for the passage and enforcement of the PIL.²¹ Many pushing for the law genuinely believed that only by adopting and enforcing the PIL could Libyans protect their revolution and prevent a counterrevolution by loyalists of the former regime. They argued that those who supported a corrupt and repressive regime should not be rewarded with service in Libya’s new system. Holding public office entails power, and former officials’ access to state resources will allow them to continue to work against the revolution.

There were also less noble motives at work, among them political self-interest. Whatever some might fear, a counterrevolution is not on

the horizon. The former regime and its allies are mostly in disarray; many fled the country, are now displaced inside Libya, or are in prisons run by the revolutionaries. Transition politics, on the other hand, are very real and almost certainly played a role in the push for the PIL. The law has been used by some to exclude rival politicians and set the stage for political gains. Mahmoud Jibril, leader of the National Forces Alliance and Libya’s interim prime minister in 2011 and 2012, was specifically targeted. Jibril served for several years as an economic advisor to Qaddafi.²² After the revolution, his National Forces Alliance won almost half the party list seats (39 of 80) in the July 2012 GNC elections, more than twice the showing of the the Muslim Brotherhood’s Justice and Construction Party.²³ Due to his pre-revolution political role, however, Jibril is now banned from political office.²⁴

Both the Muslim Brotherhood and Salafis, on the other hand, were excluded from politics under the previous regime. Islamists will therefore be major political beneficiaries of any isolation law; no matter its scope, it will boost them in future elections. Despite some internal opposition, the Muslim Brotherhood ultimately backed the PIL and framed it as a preemptive measure to protect the revolution.²⁵ By and large, the PIL was passed due to pressure both from constituents who had suffered under Qaddafi and from armed groups promoting the protection of the revolution through the passage of such a law.

²⁰ Author’s interview with Muhammad Suwan, President of the Justice and Development Party, Tripoli, January 2013.

²¹ To learn more about the motives behind PIL, see Ibrahim Sharqieh, “An Ill-Advised Purge in Libya,” *New York Times*, February 18, 2013, <http://www.nytimes.com/2013/02/19/opinion/an-ill-advised-purge-in-libya.html?_r=0>.

²² Christopher Stephen, “Jibril Says Purge Law May Affect 500,000,” *Bloomberg*, May 8, 2013, <<http://www.bloomberg.com/news/2013-05-08/libya-s-jibril-says-purge-law-may-affect-500-000-people.html>>.

²³ *Libya Herald*, “National Forces Alliance sweeps party lists as election results finally announced,” July 17, 2012, <<http://www.libyaherald.com/2012/07/17/national-forces-alliance-sweeps-party-lists-as-election-results-finally-announced/#axzz2fnPawz32>>.

²⁴ Stephen, “Jibril Says Purge Law May Affect 500,000.”

²⁵ Some members of the Muslim Brotherhood opposed PIL, as it penalizes individuals not necessarily linked to corruption or past crimes. They argue that this should not be the case in Islam, which emphasizes that every individual is responsible for his or her own actions. The Brotherhood’s leadership, on the other hand, supported PIL as a preemptive act that does not deprive individuals of their rights, but rather is a necessary measure to protect the revolution. Author’s interview with Muhammad Suwan, President of the Justice and Development Party, Tripoli, January 2013.

Whatever the motives underlying the PIL, the application of the now-passed law threatens to lead to protracted instability and complicate a future national reconciliation process. Speaking to the UN Security Council in June, Special Envoy to Libya Tarek Mitri said that “many of the [law’s] criteria for exclusion are arbitrary, far-reaching, at times vague, and are likely to violate the civil and political rights of large numbers of individuals.”²⁶ Libyan law professor Al-Hadi Bu Hamra similarly warns that the PIL will have a divisive and destructive effect on Libyan society: “Political isolation is a program that could undermine the core of national reconciliation and split Libyan society in half. The law poses a serious threat to the stability of Libyan society. It’s the opposite of transitional justice, and applying the law will lead to the exclusion of a large margin of society – which will in turn create a power working against the state. It will significantly strengthen former regime loyalists and present a serious threat to the Libyan state.”²⁷

To draw the obvious comparison, the PIL is clearly reminiscent of the notorious U.S. policy of “de-Baathification” in Iraq. Paul Bremer, then-head of the Coalition Provisional Authority (CPA), made a fatal mistake when he issued CPA Order No. 1 in May 2003. This decree culled all members of Saddam Hussein’s Baath Party from the Iraqi military and civil services, stalling Iraq’s reconstruction process, marginalizing large segments of Iraqi society, and fueling sectarianism that has persisted to the present day.

Whatever the motives underlying the PIL, the application of the now-passed law threatens to lead to protracted instability and complicate a future national reconciliation process.

The PIL in Libya will likely have similar results. Advocates of the PIL argue that Libya is different from Iraq: almost 97 percent of Libyans are Sunni Muslims, so there is no “sectarianism,” in the Iraqi sense, to be aggravated. Libya, however, has other social fault lines that the PIL could aggravate. Tribalism and regionalism are among the divisions likely to worsen thanks to the PIL. If it disproportionately affects and excludes groups identified as regime loyalists, or azlam, the law will only exacerbate existing rifts. “We’re doing our best to contribute to the rebuilding of Libya,” said a tribal leader who requested anonymity. “We don’t want to keep being treated as Qaddafi loyalists; those of us who helped Qaddafi don’t represent our tribe. We’re reaching out

to our fellow Libyans to build a new country. But if we continue to be excluded, we’ll be left with only one option: looking for those who are also excluded and building new coalitions among the marginalized. We will be forced to fight back. Permanent exclusion is not an option for us.”²⁸

The risks of enforcing PIL lie not only in damaging Libya’s social fabric, but also in wiping clean the Libyan state’s institutional memory by excluding those with experience running the state’s institutions. Further complicating the situation is the fact that the GNC has not yet decided how exactly the law will be enforced, though a number of high profile forced resignations have taken place, perhaps as a signal the GNC is serious about enforcement. Mahmoud Jibril warned after the law’s passage that almost half a million people

²⁶ Michelle Nichols, “UN Says Libya Political Exclusion Law Likely Violates Rights,” Reuters, June 18, 2013, <<http://www.reuters.com/article/2013/06/18/us-libya-un-idUSBRE95H15Y20130618>>.

²⁷ Author’s interview with al-Hadi Bu Hamra, Law Professor at Tripoli University, Tripoli, January 2013.

²⁸ Author’s discussion with a tribal figure, Tripoli, January 2013.

would lose their jobs as a result, which he said would “destroy governing structures.”²⁹ In June 2013, Libya’s Judicial Committees went on strike in protest of the law, which, according to political risk consultancy Menas Associates, is “likely to affect scores of judicial employees, from judges to lawyers and prosecution committee members. According to some estimates, at least half of the country’s judges will be axed.”³⁰ Even Muhammad al-Megarief, president of the General National Congress and Libya’s effective head of state, was obliged to resign from his post days after the law’s passage; he had served as Libya’s ambassador to India for two years before defecting in 1980.³¹

And, of course, PIL is an exceptionally blunt tool with which to address the root corruption and abuses that characterized the Qaddafi regime. The law punishes entire categories of people based on guilt by association, but it provides no real, objective yardstick to ensure that new public servants are upright and honest – that is, it does nothing to those who are corrupt but had no prior relationship with the regime. In other words, the PIL could just as easily result in new corrupt faces replacing old ones.

Alternatives to the PIL

For all these reasons, it is likely that Libyans will find the law, as drafted, unworkable. As in other countries, it is reasonable to expect that the PIL in Libya will have to be amended, supplemented with other laws, or even repealed entirely. Even though it might seem too late, then, it still makes sense to

pose alternatives. By either combining these approaches with the PIL or replacing it in its entirety, Libya can create an effective framework for lustration.

One credible alternative to the PIL – as will be discussed at length later in this paper – would be a credible transitional justice process. Built on a truth-seeking mechanism, a transitional justice law would target rights abusers and the corrupt regardless of whether they were involved with the old regime or the new government. Truth commissions and serious, evidence-based investigations should be used to “protect the revolution” – the goal of the PIL’s advocates – and to prevent old-regime figures from taking on a large role in the new Libya. Whether Libya adopts the PIL or a transitional justice law or both, Libyans should hold a transparent and inclusive national dialogue over the logic, risks, and benefits of all proposed approaches to lustration in post-Qaddafi Libya. Doing so would lay the foundation for a broad-based reconciliation process.

Built on a truth-seeking mechanism, a transitional justice law would target rights abusers and the corrupt regardless of whether they were involved with the old regime or the new government.

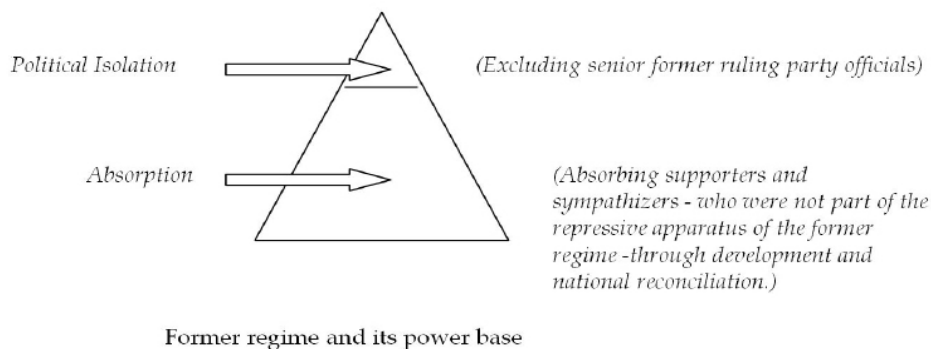
There are many possible outcomes for such a proposed national dialogue, but one of them could be a modified PIL, effectively limiting the law’s enforcement alongside a comprehensive strategy to rehabilitate and reintegrate most regime-linked Libyans. The figure on the next page shows that while the PIL could be enforced to target only the very senior level of the former regime, a parallel strategy would be implemented simultaneously to address the regime’s broader power base. This strategy would have to focus on

²⁹ Stephen, “Jibril Says Purge Law May Affect 500,000.”

³⁰ Menas Associates: Politics and Security, “Libya Politics and Security, Judicial Security on Strike,” June 18, 2013, <http://www.menas.co.uk/politics_and_security/libya/news/article/3080/Judicial_committees_on_strike/>.

³¹ BBC, “Libya GNC Chairman Muhammad al-Magarief resigns,” May 28, 2013, <<http://www.bbc.co.uk/news/world-africa-22693963>>.

the absorption of those individuals – former regime members who were not involved in human rights violations – through development and national reconciliation programs. Such an approach would address revolutionaries’ concerns by excluding very senior individuals, especially from the security forces, while at the same time allowing for the reintegration of most of those with lesser regime links.



A thorough vetting process for former regime elements could be another alternative to the PIL. Immediately after the fall of Qaddafi and in preparation for GNC elections, the National Transitional Council (NTC), which functioned as the de facto government during the fight against Qaddafi beginning in February 2011 until GNC elections in July 2012, issued Resolution No. 16 for 2012, which established a vetting agency called the Commission for Integrity and Patriotism (CIP). The CIP was tasked with investigating the background of any candidate for a leadership position in the state (e.g., GNC membership) to ensure that the candidate had no history with the former regime or record of corruption. The commission was formed on a temporary basis and is set to dissolve when Libya’s new constitution comes into effect.

Unfortunately, the CIP was overwhelmed with the number of cases that demanded investigation. For GNC elections, for example, the

commission received 5,000 candidate applications and was given only 12 days to allow or bar each from running. CIP General Manager Saad al-Deen said, “We were able to disqualify 250 cases. We gave approval to the rest, pending no new evidence linking them to the leadership of the former regime.”³² There were, of course, many complaints over the nature of the commission and its work. “Our commission is named [the] Commission for Integrity and

Patriotism,” a commission member told *Libya Herald*. “When we vote to disbar someone, it is means [sic] somehow he is not a patriot. It’s a very difficult decision to take.”³³ A Congress member who was

banned by CIP after his election to the GNC complained to the *Libya Herald*: “I was very surprised when the GNC Secretary told me the Commission had banned me. I was not even interviewed by the members. It’s like they are above everyone. It’s [the] Libyan version of democracy.”

While the CIP experience was far from perfect, the lessons learned could help Libyan authorities establish a reformed agency. Reforming the CIP could be premised on improved transparency, solid criteria for review, and standing for a candidate to appeal CIP decisions in court. Buy-in from other political parties through a meaningful national dialogue could give the proposed agency the support and legitimacy necessary to play an instrumental role in Libya’s transition.

³² Author’s interview with Saad al-Deen, General Manager of CIP, Tripoli, January 2013.

³³ Mathieu Galtier, “Inside the Commission for Integrity and Patriotism,” *Libya Herald*, April 11, 2013, <<http://www.libyaherald.com/2013/04/11/inside-the-commission-for-integrity-and-patriotism/>>.

DISARMAMENT

A key requirement for the success of any post-conflict process of national reconciliation is the restoration of state sovereignty, the disarmament of ex-combatants, and their reintegration into society. Reconciliation cannot be achieved in an environment controlled by militias. Libya's revolutionaries successfully toppled the former regime, but for the almost two years since then they have refused to disarm and become part of the country's new state structure. Visiting Tripoli, it is immediately apparent that Libya is governed by two states operating in parallel: the official state, represented by the elected GNC and cabinet; and the revolutionary state, which holds the real military power. In these circumstances, a reconciliation process is a non-starter.³⁴

Although Tripoli hosts the Supreme Security Committee (SSC), which has significant power and has representation from a wide variety of military groups, there is ultimately no defined structure that organizes Libya's revolutionaries. Dozens of military councils across the country essentially operate independently, with no clear command structure governing them. Almost every major town in Libya has its own military council.

The revolutionaries' main objective, as they present it, is to "protect the February 17 Revolution." It is generally understood that what they need to protect against is a possible counterrevolution by regime loyalists. They also claim they want to ensure a successful transition from dictatorship to democracy. There is certainly a sizable segment of the revolutionaries that

has refused to disarm out of a commitment to what they see as "the protection of the revolution." Others, however, are motivated by mistrust of the transition itself. The lack of a credible state-building process, often manifested in the absence of security, has discouraged revolutionaries from committing to the transition – which has, in a vicious cycle, further impaired state-building efforts. As Dirk Salomons puts it, "[Ex-combatants], and their leaders, must have faith in a future where the advantages of peace outweigh those of war."³⁵ The new Libyan state's efforts to provide that future have so far failed.

And, of course, some observers (and even revolutionaries) believe that the militias have been penetrated by opportunists who joined the revolution for their own benefit. "The total number of revolutionaries who fought Qaddafi across the entire country was less than 40,000," says a prominent militia leader.

"We fought from day one of the revolution in Misrata, and we know our estimate is very accurate. We don't understand how the number [of revolutionaries] has reached 200,000. We don't know where that 160,000 came from. Of course, there are many opportunists who want to take advantage of the revolution."³⁶ Many ex-combatants are reluctant to disarm and join the formal structure of the state simply because they would likely lose many of the privileges that they currently enjoy.

The SSC currently enjoys power and a budget that allows it to provide incentives greater than anything the new state could offer. The maintenance of the status quo has therefore emerged as a (or *the*) primary interest of many Libyan revolutionaries.

Many ex-combatants are reluctant to disarm and join the formal structure of the state simply because they would likely lose many of the privileges that they currently enjoy.

³⁴ At the same time, we should not assume that disarmament must precede a national reconciliation process. National reconciliation is not linear, and given the chaotic nature of a post-conflict environment, parties will sometimes need to balance competing priorities. That is, issues of reconciliation and disarmament will have to be addressed simultaneously and in parallel.

³⁵ Dirk Salomons, "Security: An Absolute Prerequisite," in *Post-Conflict Development, Meeting New Challenges*, eds. Gerd Junne & Willemijn Verkoren (Boulder, Colorado: Lynne Rienner Publishers, 2005).

³⁶ Author's interview with Haidar al-Misrati, a prominent leader of the Misrata Brigades, Tripoli, January 2013.

Attempts to disarm these powerful militias and integrate their members into the country's security services have been largely unsuccessful. The numbers of revolutionaries who have disarmed and joined the police and military are dwarfed by the estimated 10,000 fighters across the country. In March 2013, for example, Interior Minister Ashour Shuwail announced that approximately 5,000 rebels had graduated from police training.³⁷ Shuwail had said in January that 26,000 fighters under the SSC's umbrella had applied to the police force.³⁸ According to Chief of Staff Yousef al-Manqoush, 5,000 rebels had officially joined the Libyan military as of February.³⁹ All of these numbers represent marginal progress toward disarmament of Libya's revolutionaries.

Furthermore, the still-armed rebels have frustrated efforts to restore the rule of law or impose accountability after the revolution. Since his capture in November 2011, Saif al-Islam al-Qaddafi is still being held by the Zentan Revolutionary Council and being tried in a Zentan court. The NTC, meanwhile, bowed to pressure and in April 2012 passed laws 35 and 38. These two laws immunize from prosecution revolutionaries who may have committed war crimes or human rights violations by granting amnesty for acts "made necessary" by the February 17 Revolution.⁴⁰

Tensions between the Libyan state and various revolutionary councils peaked in early 2013 when the proposed PIL was being debated in the GNC. On March 5, 2013, armed protesters

barricaded a GNC meeting to demand that its members pass the law. The GNC had already relocated from the main parliament complex in February after it was occupied by wounded revolutionary veterans demanding medical treatment abroad. When lawmakers were finally able to leave the building, gunmen among the protesters shot the car of GNC speaker Muhammad Megarief,⁴¹ who announced the next week that the GNC would suspend its work due to security concerns.⁴² Armed protesters demanding the law's passage continued to besiege state institutions, surrounding Libya's foreign ministry in April.⁴³ Even worse, in October 2013, Prime Minister Ali Zeidan was kidnapped for several hours by a militant group, the Operations Cell of Libyan Revolutionaries. He later claimed this group was hoping to "overthrow the government" and went so far as to accuse members of the GNC of involvement in the abduction.⁴⁴

Solutions for the complex and fraught relationship between Libya's state and revolutionaries should proceed from the assumption that many revolutionaries are sincere in their desire to safeguard the February 17 Revolution. While some revolutionary opportunists refuse to disarm to preserve their own interests, it would be inaccurate to depict most revolutionaries along those lines. Perhaps Libya's revolutionaries are best described by

³⁷ The Transitional Libyan Government: Prime Minister's Office, "Takhrij al-Duf'ah al-Ula min al-Thuwwar al-Mundammin Tahta Wizarat al-Dakhiliyah (Graduation of the first batch of rebel recruits under the Ministry of Interior)," March 2, 2013, <<http://www.pm.gov.ly/news/تخريج-الدفعة-الأولى-من-الثوار-المنظمين-تحت-وزارة-الدخلياتر.html>>.

³⁸ The Transitional Libyan Government: Prime Minister's Office, "Al-Amid Ashur Shawabil: Tadabir Amniyah Tuttakhoz Haziya al-Ayyam (Brigadier Ashour Shuwail the security measures being taken these days)," <<http://www.pm.gov.ly/news/-العميد-عاشور-شوايل-تدابير-امنية-تتخذ-هذه-الايام.html>>.

³⁹ Mohammad Al Tommy, "Some 5,000 militia men join new Libyan army," Reuters, February 15, 2012, <<http://www.reuters.com/article/2012/02/15/us-libya-militias-idUSTRE81E23H20120215>>.

⁴⁰ Paul Salem and Amanda Kadlec, "Libya's Troubled Transition," Carnegie Middle East Center, June 14, 2012.

⁴¹ Imed Lamoum, "Libya leader's car shot up as political tension soars," *Daily Star*, March 6, 2013, <<http://www.dailystar.com.lb/News/Middle-East/2013/Mar-06/209082-libya-interim-heads-car-comes-under-fire-minister.ashx>>.

⁴² Al Jazeera, "Libyan parliament sessions shelved," March 10, 2013, <<http://www.aljazeera.com/news/afri-ca/2013/03/20133101443670794.html>>.

⁴³ Ghaith Shennib and Jessica Donati, "Gunmen surround Libyan foreign ministry to push demands," Reuters, April 28, 2013, <<http://www.reuters.com/article/2013/04/28/us-libya-militia-idUSBRE93R03B20130428>>.

⁴⁴ Ulf Laessing and Ayman al-Warhalli, "Libyan PM says kidnapping was bid to topple government," Reuters, October 11, 2013, <<http://www.reuters.com/article/2013/10/11/us-libya-security-idUSBRE99A08F20131011>>.

Tunisian politician Said Ferjani, who stated “Libya’s revolutionaries are legitimate but lack legitimacy.”⁴⁵

While many sympathize with the cause of the revolutionaries in forming a new post-Qaddafi order, they have not necessarily rallied to provide support for the cause after the revolution. Furthermore, state-revolutionary tension arises primarily due to disagreement about the methods used to stymie a counterrevolution, rather than the lack of a consensus about the inherent correctness of that goal. As the same Misrata militia leader explained, “We have no problem joining the state. We have no demands that would benefit us personally. If we were pursuing our self-interest, we could simply achieve that with no problem. We have the power, and we could secure our own gain if that were the goal, but it isn’t. Our goal is to hold the leaders of Qaddafi’s brigades responsible.”⁴⁶

Nonetheless, while both state and revolutionaries share the same objective of a successful transition, the intense mistrust between them makes their differences over tactics more difficult to resolve. The perception on the revolutionaries’ side that the state is stocked with Qaddafi loyalists, and on the state’s side that the revolutionaries are mainly self-interested, makes reintegration particularly difficult. Regardless, Libya must work towards a mutual understanding through a state-revolutionary dialogue. The dialogue should focus on how to achieve the parties’ shared goals: a successful transition and a sustainable peace. The current dynamic, in which revolutionaries make their case by besieging ministries and other state institutions, must be replaced with a forum to allow the peaceful exchange

of views and the exploration of points of mutual agreement. A trusted third party who could act as a facilitator would improve the dialogue’s chances of success.

CULTURE OF THE VICTOR

The “culture of the victor” that has prevailed since the collapse of the Qaddafi regime has sharply divided Libyan society. National reconciliation cannot be achieved so long as this rigid and polarizing division between *thuwar* and *azlam* prevails.

This culture of the victor has led to the classification of entire towns and tribes as either *thuwar* or *azlam*. The victorious *thuwar* have been treated with honor and dignity, while the *azlam* have been publicly identified with shame, defeat, and guilt. Broadly applying these labels has produced a Libyan society that is deeply and structurally divided. “Libyans are now labeled as either ‘*thuwar*’ or ‘*azlam*,’ and this is keeping the country divided,” said former GNC member Salem al-Ahmar in an interview. “This is unfair. The ‘*thuwar*’ label is given to a small number of towns like Misrata, Zentan, and Souk al-Jumaa, as if the rest of the country didn’t contribute to the revolution. ‘*Azlam*,’ on the other hand, has been generalized to include many who played no part in supporting Qaddafi. [The] Werfella [tribe], for example, consists of almost one million people. It’s unfairly and incorrectly being described by some as ‘*azlam*,’ when in fact only a few dozen [of its members] were truly allied with Qaddafi. The same thing applies to Bani Walid, where only a few people fought with Qaddafi; now the entire town, with over

National reconciliation cannot be achieved so long as this rigid and polarizing division between azlam (regime loyalists) and thuwar (anti-Qaddafi revolutionaries) prevails.

⁴⁵ Author’s interview with Tunisian politician Said Ferjani, Tunis, May 2013.

⁴⁶ Author’s interview with Haidar al-Misrati, Tripoli, January 2013.

80,000 people, is being treated as azlam. This must end if we want to build a new stable and prosperous Libya.”⁴⁷

Libya’s culture of the victor also extends to a selective reading of history that is itself polarizing. Qaddafi ruled for 42 years, and over the decades various parties contributed to the struggle against his dictatorship. The February 17 Revolution may have marked his overthrow, but the struggle against Qaddafi was cumulative. Libyans’ contributions to resisting and destabilizing his dictatorship are all important and deserving of recognition, regardless of when exactly they took place. For example, the death of student leader al-Sadeq al-Shuwaihi, executed in 1984 for organizing anti-Qaddafi protests,⁴⁸ deserves the same attention as those killed by Qaddafi’s military during the February 17 Revolution. Nevertheless, Libya’s prevailing discourse revolves entirely around the glorification of the February 17 revolutionaries; others are hardly mentioned. “Bani Walid was one of the first to rebel against Qaddafi,” said al-Ahmar. “Bani Walid conducted a failed coup against Qaddafi in 1993 and, of course, experienced harsh retaliation as a result. We paid a high price in 1993 when the rest of the country was just watching. This now seems to be forgotten,” he added.⁴⁹

The prevalence of this culture of the victor has divided Libya in other ways, most notably through what United States Institute of Peace specialist Rania Swadek describes as revolutionaries’ feelings of “entitlement”⁵⁰ to special rights. Victorious revolutionaries believe themselves deserving of their own military forces and secret prisons – even, in the case of Zentan, the right to hold Qaddafi’s

son Saif al-Islam in a Zentan prison and try him in a local court. Trying Saif al-Islam in a Zentan court has been viewed by many in the Zentan tribe as a badge of honor, but it has raised questions across the country over the rights of a single town to assume the mantle of the state. Some people have gone so far as to refer to Zentan authorities as “the government of Zentan.”

DISPLACED COMMUNITIES: IDPS AND REFUGEES

Displacement is a major obstacle to the rebuilding of post-conflict Libyan social cohesion. “Displacement” in this instance should be understood to include both IDPs and refugees who fled the country. There can be no national recovery in Libya while an integral part of Libyan society is living in refugee camps inside and outside the country.

The decisive defeat of the former regime and the killing of Qaddafi left his camp of loyalists in disarray. Fear of retaliation – especially given the absence of the rule of law and the collapse of state security institutions – led large numbers of former regime elements and their families to flee the country, while others became internally displaced due to continued violence. The UN High Commissioner for Refugees (UNHCR) estimates the number of IDPs inside Libya at almost 60,000.⁵¹ IDPs can be found both in refugee camps and (in typically difficult conditions) in Libya’s urban areas. Refugees from Libya at one point reached an estimated peak of almost one million, although official estimates show that many have since returned to the country.⁵²

⁴⁷ Author’s interview with Salem al-Ahmer, former member of the GNC, Bani Walid (he was disbarred by the Integrity Commission), Tripoli, January 2013.

⁴⁸ Al-Sadeq al-Shuwaihi was a student leader active in the Libya Salvation Bloc. Along with other fellow students, he was caught by the regime forces and executed in a public place, a school, in Benghazi in 1984.

⁴⁹ Author’s interview with Salem al-Ahmer, Tripoli, January 2013.

⁵⁰ Author’s interview with Rania Swadek, United States Institute of Peace specialist based in Libya, Tripoli, January 2013.

⁵¹ UNHCR, “Fact-sheet – January 2013,” January 2013, <<http://www.unhcr.org/4c907ffe9.html>>.

⁵² Ibid; See also UNHCR, “UNHCR Global Appeal 2012-2013 – Libya,” December 1, 2011, <<http://www.unhcr.org/cgi-bin/texis/vtx/search?page=49e485f36&coi=LB&scid=49aea93a73&keywords=operations>>.

Nonetheless, large numbers of Libyans are now living in neighboring Tunisia and Egypt and not officially registered as refugees.

One of the most serious IDP-related problems in Libya today is the case of Tawergha. According to residents of neighboring Misrata, Tawergha fighters affiliated with the Qaddafi brigades were responsible for a systematic campaign of rape and murder during their two-month siege of Misrata. After the fall of Qaddafi, Misrata militias forced all 42,000 residents of Tawergha from the town, leaving it completely deserted. The majority of Tawerghans live in three camps, but others have sought refuge in other Libyan cities or have fled the country.

Still, Misrata residents demand retribution, even destroying the Tawerghans' town to prevent the return of its inhabitants. According to Fred Abrahams, a special adviser at Human Rights Watch, "Tawerghans have been hunted down, detained, tortured, and killed. Satellite imagery analyzed by Human Rights Watch corroborates what we saw on the ground: the systematic destruction of the town's residential, commercial, and industrial structures after the fighting had stopped in an apparent attempt to prevent returns."⁵³ Ali al-Tawerghi, a representative of the Tawergha IDP camp in Janzour near Tripoli, argues that Tawerghans are now themselves the victims of atrocities. "Before we uncover the truth of past violations," al-Tawerghi says, "we need to uncover the truth of present violations. There is no transitional justice. There is only one justice, and that is the justice of the victor."⁵⁴

Still, a resolution of the conflict between Misrata and Tawergha and a reconciliation between the towns seems far off—and it is greatly complicated by allegations of rape. Misratans seem willing to consider a negotiated resolution over the killings that took place during

the siege of Misrata. They are not, however, willing to discuss rape. Minister of Justice Salah al-Marghani explains, "Libyans' cultural heritage [their value system] can provide means of dealing with crimes such as murder or robbery, but not systematic rape. Accepting compensation for rape is a stigma. Even discussing rape is a source of embarrassment. Our legal system has regulations for how to deal with individual cases of rape, but not when a town is accused of rape by another town. Neither our legal nor our value systems can inform us what to do in this case."⁵⁵

For the Misratans, the crimes committed are ultimately beyond repair. They refuse to negotiate or list specific demands. According to Haidar al-Misrati, a member of the Misrata military council in Tripoli, "There is nothing to talk about regarding Tawergha and their war crimes in Misrata. Time is a great healer, and we should not talk about the problem now. Let the Tawerghans go wherever they want, but [there can be] no return to Tawergha."⁵⁶

While the case of Tawergha may be the most dramatic instance of displacement in Libya, it is not the only one. There are other tribal conflicts that also contributed to displacement of certain communities in Libya, including conflicts between tribes like the Mashaysha, al-Qawalish, Awaineya, Western Rayayneh, Tuareg, and Tebu, among others.

It is true that division between opponents and loyalists of Qaddafi has appeared as a common factor in almost all cases of displacement in Libya, but it should be noted that other factors have also contributed to the Libyan conflicts, including: land disputes, historical grievances, race, tribal rivalries, and others. For example, the tribal conflict in the Nafousa Mountains between the Zentan (who joined the revolutionaries) and the Mashaysha (who are accused of being regime loyalists) is also

⁵³ Fred Abrahams, "Why have we forgotten about Libya?" in Global Public Square, ed. Fareed Zakaria, CNN, March 25, 2013, <<http://globalpublicsquare.blogs.cnn.com/2013/03/25/why-have-we-forgotten-about-libya>>.

⁵⁴ Author's interview with Ali al-Tawerghi, representative of the internally displaced Tawergha camp (Janzour), Tripoli, January 2013.

⁵⁵ Author's interview with Minister of Justice Salah al-Marghani, Tripoli, January 2013.

⁵⁶ Author's interview with Haidar al-Misrati, Tripoli, January 2013.

based in land disputes that date back to the colonial era. Even in the Tawergha-Misrata case, many Libyans believe race and class to be major factors that complicate the conflict and make it more difficult to resolve. Tawerghans are dark-skinned and are believed to have of their origins elsewhere in Africa, while Misratans are lighter and descend from a mix of Arabs, Turks, and Circassians. Tawerghans are believed to have been enslaved in the past by Misratans. Misrata has traditionally been a major market and source of jobs for Tawerghans, and until the 2011 revolution many Tawerghans depended on Misrata for their jobs and livelihoods.

Overcoming Displacement as a Challenge to Reconciliation

Although displacement – and the conflicts driving it – present an enormous challenge to national reconciliation in Libya, it is possible to work towards overcoming it. The following considerations should serve as a starting point for a long-term resolution of the displacement problem.

- a. There should be no doubt that the pain of Misrata and many other communities that suffered under Qaddafi is genuine and must be addressed. Especially during the revolution, the former regime became more lethal than ever. Without a suitable alternative that addresses their grievances, then, it is natural for these groups to resort to extrajudicial retribution for the wrongs done to them.
- b. Most IDPs and refugees were not directly, or even indirectly, involved in the apparatus of the Qaddafi regime. The majority of Libyan IDPs, in fact, are the families – children, parents, and spouses – of individuals who served in the former regime in some capacity. During the author’s visit to the Janzour camp, for example, it was clear that most of the camp’s residents were women, children, and the elderly.

Most of those who were directly involved with the former regime had fled, or were in the prisons of Misrata revolutionaries. This dynamic, and the disproportionate suffering of those least culpable for regime offenses, is tantamount to collective punishment.

- c. Many others – especially among Libya’s refugees – were sympathizers of the old regime, but they were not involved in violations; rather, they fled the country because of the collapse of security and their fear of retaliation against former regime allies. Some of them, in extreme cases, fled because they had appeared on Libyan television attending Qaddafi’s last speech in Tripoli’s Shuhada Square.

All three of these considerations necessitate the creation of a legal framework that deals fairly with all parties, and in particular a transitional justice law. Such a law would obviate aggrieved communities’ urge to pursue vigilante justice. Moreover, its targeted application – encompassing all those genuinely culpable for offenses – would negate the need to indiscriminately threaten entire communities. An end to this collective punishment would allow many of the innocents in Libya’s displaced camps to return to their homes.

Regime sympathizers, meanwhile, could be willing to return to Libya to face charges against them, if they are first assured that the state is in control of internal security and that they will not be subjected to random acts of violence and revenge. The state has an indispensable role to play here. Indeed, agreements between Libya’s tribes are not sufficient to make these sorts of guarantees, as there will always be hardliners who will act against agreements. “Even if the tribal sheikhs approve the agreement,” said the head of a local reconciliation committee, “no one will be able to guarantee that the youth will abide by it and not attack the returnees.”⁵⁷

⁵⁷ Author’s interview with Khalifa al-Rayayni, head of the reconciliation committee between Rayayneh and Zentan, Tripoli, January 2013.

The need for state intervention, in fact, goes beyond the establishment of the rule of law. The state's role includes putting in place an array of conditions needed to facilitate the return of displaced communities, including: a return that is dignified, the safety and security of the returnees in their homes, and the restoration of services (e.g., water, electricity, schools) to these areas. Only a strong state can fulfill these conditions. For example, if the Zentan allow Western Rayayneh refugees to return, this is only a partial solution, as most of their houses were destroyed and the infrastructure in those areas was damaged. The state's role in leading national reconciliation, then, must include not only establishing security but also repairing the damage of the war and allowing the displaced to resume their regular lives.

APPROACHES TO RECONCILIATION

Many Libyans believe the road to national reconciliation requires cementing the rule of law. But to establish a transitional justice law – and avoid a rigid top-down approach to it – Libya will need to have an inclusive national dialogue. In other words, transitional justice and national dialogue work together to provide the vehicle – or the means – to achieving an acceptable national reconciliation for all parties involved.

FIRST: TRANSITIONAL JUSTICE

Transitional justice is a broad concept, and its application can differ from one place to another. Tunisia’s Minister of Human Rights Samir Dilou perhaps best summed up the difficulty of settling on a single definition of transitional justice in a 2013 interview, saying, “It really is a new concept. We discovered that when, on a questionnaire, we asked what transitional justice is and found more than 40 definitions.” Still, Dilou was able to identify the broad outlines of a consensus: “Respondents’ concerns centered on some common goals: the discovery of the truth, holding accountable those responsible for violations, redress for victims, reform of institutions to prevent [violations] from recurring, and, ultimately, national reconciliation.”⁵⁸

In Libya, the public demands justice before reconciliation. Power relations seem to play a role here, insofar as the total and decisive defeat of the Qaddafi camp left no incentives for revolutionaries to compromise. Instead,

they have demanded that justice be carried out first and in its entirety. As a result, many Libyans reject the notion of reconciliation because they think it is an alternative, not a complement, to justice.

Transitional justice is indeed essential for a healthy transition and a sustainable national reconciliation. It allows victims to come to terms with their past suffering, providing them the healing and closure necessary to move on with their lives. It can also help perpetrators by granting them the opportunity to acknowledge their wrongdoings and ask for forgiveness. The need for transitional justice is best explained by Libyan analyst and writer Abdullah Almaazi, who says, “Transitional justice helps in healing festering wounds and in acting as a national cleansing process. If Libyans are to fail in cleansing themselves of the heinousness of their past they will forever be beset by incessant ruminating.”⁵⁹

With this near-consensus among Libyans, the country will likely have to pursue transitional justice as a first step toward national reconciliation. To that end, it needs a transitional justice law that is clearly written and ratified by the country’s legislative authority. Such a law would stipulate how to deal with violations, provide guidelines for compensation (both financial and symbolic), and, equally important, lead institutional reform that will prevent violations from being repeated. By providing an organizing framework for Libya’s transitional justice process, the law can allow the country to move through the four major steps

⁵⁸ Al Jazeera, “Samir Daylu ... Al-Adalah al-Intiqaliyah fi Tunis (Samir Dilou ... Transitional Justice in Tunisia): Liqa al-Youm,” January 5, 2013, <<http://www.aljazeera.net/programs/pages/44592b4d-a6a3-4733-9ce4-59f420542bf4>>.

⁵⁹ Abdullah Almaazi, “Urgent Need for Reconciliation in Libya,” Middle East Online, December 8, 2012, <<http://www.middle-east-online.com/english/?id=55977>>.

of transitional justice – truth-seeking, reparations, accountability, and institutional reform – and lay the groundwork needed for a more inclusive and sustainable reconciliation.

Truth and Reconciliation Commission

Truth is important for Libyans' collective memory, but is Libyan society prepared to know the truth of what happened under the Qaddafi regime and during the revolution? This is a question with which many transitioning countries struggle. It is always a concern that revealing too much of the truth will damage these countries' social fabric rather than help them come to terms with their past traumas. This is especially true in a tribal society like Libya that could witness acts of revenge if informants – whose services to Qaddafi's security services led to the torture or death of many Libyans – are identified. Still, Hussein al-Buishi, the head of Libya's Truth and Reconciliation Commission (TRC), does not see truth-seeking as a problem for Libya: "Knowing the truth in Libya won't cause social unrest simply because those who worked with the regime and were involved in violations are known to everyone – to the victims and to Libyan society. They didn't hide during Qaddafi's time, and now they're known to almost everybody."⁶⁰

Furthermore, Libya's Grand Mufti Sadeq al-Gheryani argues that knowing the truth is necessary in order to apply justice and, eventually, forgive and reconcile. In a trial setting, for example, he says that "the judge should not ask the parties to engage in peace and reconciliation before stating the facts and identifying the rights of each party first. Only

then should the judge encourage the parties to forgive and reconcile."⁶¹

Libyan authorities seem to have adopted this approach, identifying the discovery of the truth of the Qaddafi era as the first step toward peace. To that end, almost immediately after the collapse of the Qaddafi regime, the NTC established the TRC. The TRC was set up as a fully independent commission, with its own management, leadership, and budget. It is independent from the country's executive authority and reports instead to the GNC. TRC head al-Buishi said that the commission has written its charter and hired experts in truth-seeking, and that it will next begin receiving applications from victims and their families. The TRC's investigations are set to include a variety of human rights violations, including killing, torture, rape, imprisonment, disappearance, as well as cases of corruption, bribery, and money laundering. According to al-Buishi, the TRC is expected to investigate and document crimes and to estimate the appropriate compensation for victims. "In addition to financial compensation," he said, "the committee also recommends psychological treatment and trauma counseling. We also consider symbolic gestures, such as giving the victim's name to a street, school, or public square."⁶²

Though pursuing truth in Libya seems necessary, the challenges are daunting. First, the NTC got ahead of itself in establishing a truth commission with no transitional justice law in place. A truth commission cannot function without a working transitional justice law. The absence of a suitable legal framework

⁶⁰ Author's interview with Hussien al-Buishi, Head of Truth and Reconciliation Commission in Libya, Tripoli, December 2012.

⁶¹ Author's interview with Sadeq al-Gheryani, the Grand Mufti of Libya, Tripoli, January 2013.

⁶² Author's interview with Hussien al-Buishi, Tripoli, December 2012.

helps explain why, almost a year and a half after its establishment, the Libyan TRC has yet to receive a single case.

Another challenge to Libya's TRC has been the appointment of al-Buishi, who served as the head of the Supreme Court under Qaddafi. Although he resigned from his position before the revolution, al-Buishi could be affected by the PIL and removed from office.

Finally, the TRC's work will be further complicated by the loss of or damage to evidence over the past forty years. Most countries that have established truth and reconciliation commissions faced this problem when attempting to gather evidence to build cases. Evidence is typically distorted or deliberately damaged with the passage of time; in some cases, countries have responded by replacing hard evidence with witnesses' verbal testimony. Still, investigating crimes that happened as long as forty years ago will be very difficult. The TRC must find innovative ways to investigate past crimes, as well as to provide solutions for crimes that the committee does not have the conclusive evidence to prove.

Reparation

A key element of transitional justice is the attempt to repair – to the extent possible – damage done in the past. Compensation for victims and their families has been used in most post-conflict situations to help achieve national reconciliation. This redress usually comes in two forms: financial and symbolic. Financial reparation is generally a very costly process, and in Libya's case, where violations date as far back as 1969 when Qaddafi took power, it has the potential to be vastly expensive. Further complicating the Libyan case, reparations require not only direct payments to

those who were abused by the regime but also the resolution of serious property and ownership disputes. Repairing the damage from Qaddafi's Law No. 4/1978 (the "Ownership Law") will require the state to make whole both those whose homes were appropriated and those who subsequently bought those houses legitimately. Both of these parties have a legitimate claim to the property, and the state must compensate whichever party is dispossessed legally.

The good news for redress in Libya is the fact that it is a wealthy, oil-exporting country with a relatively small population of around six million people.⁶³ Libya should therefore be able to extend reasonable compensation packages for cases of past wrongdoing. In fact, Libyan money paid for medical treatment for almost all of those wounded during the revolution. Hospitals in Jordan, for example, received approximately 27,000 patients,⁶⁴ all of whom were paid for by the Libyan state. Tunisian hospitals treated similar numbers, also financed by the state.

No matter how large the amount of money set aside, however, financial resources alone will not be sufficient to fully repair the decades of state abuse of the Libyan people. Symbolic measures also play a central part in providing redress for victims of the former regime. Some of the demands of the families of the victims of the Abu Salim massacre are a good example of this. They have asked that victims be remembered by establishing a memorial for them and giving their names to streets, schools, and other public places. They also want the massacre to be mentioned in school textbooks so that later generations learn about it and can prevent something similar from being repeated.⁶⁵

⁶³ "Libya," The World Factbook, Central Intelligence Agency, <<https://www.cia.gov/library/publications/the-world-factbook/geos/ly.html>>.

⁶⁴ The number of approximately 27,000 came up in several conversations the author had with Libyans, some of whom received treatment in Jordan.

⁶⁵ Author's notes in the annual meeting of the Conference of the Families of the Martyrs of the Abu Salim Massacre, Tripoli, January 5, 2013.

Symbolic recognition is essential for redress in a Libyan cultural context. Victims of torture place special importance on the acknowledgment of their previous suffering. When asked about the type of compensation they expected, a number of victims interviewed answered with the traditional Libyan saying, “Show me my rights, and then you can take them.” This means that they want their rights to be recognized first, after which they can forgive without demanding punishment or compensation.

Accountability

Achieving national reconciliation in Libya requires unequivocal application of the principle of accountability. This is important not only for the victims of past crimes and their families but also for a society that is living a transition from dictatorship to a government which promotes peace and stability. Victims and their families in particular will want to see their tormentors punished in order to be able to move forward. Furthermore, holding perpetrators accountable to their crimes will help in establishing a new era in Libya where rulers think twice before they engage in human rights violations.

Libya has taken several steps to hold members of the former regime responsible for their time in office. Currently, over 200 senior former regime elements are being held in Libyan prisons. In October 2013 approximately 38 of them appeared in court in Tripoli, including former prime minister al-Baghdadi al-Mahmoudi, former foreign minister Abd al-Ati al-Obaidi, and former spy chief Abdullah al-Sanousi. The presence of the families of Abu Salim prison massacre at the trial was significant, as they insisted on “the maximum penalty” against the perpetrators. This is not surprising given that the victims’ families believe al-Sanousi oversaw the infamous massacre. In addition, Libyan

authorities submitted requests to Interpol against 40 other former senior officials who are still at large, including Qaddafi’s cousin and former aide Ahmed Qaddafi al-Dam, former interior minister Naser al-Mabrouk, and Qaddafi’s daughter Aiysha.

Though accountability is undoubtedly needed, especially for victims and their relatives, applying it in practice is not as simple as merely punishing former regime figures. The first challenge to ensuring accountability is Libya’s lack of a competent and functioning justice system to run fair trials against individuals accused of crimes during Qaddafi’s 42 years in power. As it stands, the justice systems needs fundamental reform as it suffered from marginalization and corruption under the former regime. In fact, one major reason for the deterioration of security in Libya is the insistence of the revolutionaries to not only reform the justice system but also to purge the judiciary before any trials are held.

The lack of credibility in the Libyan justice system was exacerbated by the trial of the former dictator’s son, Saif al-Islam al-Qaddafi. Since he was captured in November 2011, Saif al-Islam has been held with Zentan Military Council, which repeatedly refused to hand him over. Distrust of the ability of the Libyan government to properly safeguard Saif al-Islam was one reason cited for Zentan’s refusal to keep him in state prison. The trial has become increasingly complicated since the International Criminal Court (ICC) intervention has demanded that he be tried in its courts. In fact, the crisis between Libyan government and the ICC over the Saif al-Islam’s trial continues today.⁶⁶

Another major challenge to ensuring accountability is the vast number of suspected corruption and human rights violations that have taken place over Qaddafi’s 42-year rule. If everyone who committed a violation were

⁶⁶ For additional information, see Timothy William Waters, “Libya’s Home Court Advantage: Why the ICC Should Drop Its Qaddafi Case,” *Foreign Affairs*, October 2, 2013, <<http://www.foreignaffairs.com/articles/139961/timothy-william-waters/libyas-home-court-advantage>>.

held accountable, much of the country would have to be tried, which would preclude a successful transition. Rwanda faced this problem after the 1994 genocide. In that case, holding perpetrators accountable led to putting over 130,000 people on trial. The government later admitted the process was not helpful to transition and reconciliation.

The ultimate challenge Libya faces in this regard is how to hold perpetrators accountable without compromising national reconciliation in the process. One possible solution for this dilemma is to ensure that the principle of accountability itself is implemented, with the form and extent of implementation varying as appropriate. Applying the principle is important for a new post-Qaddafi Libya where perpetrators of corruption and violations of human rights are held responsible. Nevertheless, accountability does not necessarily mean that everyone who was part of the former regime will be killed. Libyans will have to decide whether they want to fully pursue retributive justice or instead embrace some form of restorative justice.

For some victims, retributive justice against certain regime figures may be necessary to grant them closure and to help them move forward. While retribution may provide limited psychological release to victims, Libyans will have to realize that achieving stability in the context of post-conflict reconstruction requires a restorative strategy to repair broken relationships and heal deep wounds within society. If restorative justice is applied, regime figures will be granted an opportunity to acknowledge the suffering of their countrymen, apologize for their past

wrongdoing, and seek forgiveness. In addition, restitution will include the need for regime individuals to relinquish all privileges they gained due to their positions in the Qaddafi regime.⁶⁷

Institutional Reform

To move closer to reconciliation and prevent future human right violations, most of the Libyan state's institutions will need to be structurally reformed. In a transitional context, reform is typically focused on four key areas: the security sector, which was responsible for torture and other violations; the judiciary, which must now ensure the fair trial

of former regime leaders; the media, which marketed and promoted the former dictatorship; and the historically corrupt administrative apparatus. Each of these four is important in the Libyan case, which requires a truly comprehensive process of reform.

In particular, reforming the judiciary has emerged as a top priority, and its reform can be taken as an example of the challenges facing efforts to reform other state institutions. After the collapse of the Qaddafi regime, Libya's revolutionaries emphasized a purge of the judiciary as one of the pillars of the country's transi-

tion, one that would ensure justice and guarantee the complete elimination of the former dictatorship. These calls reflect a serious need to address past grievances inflicted by the Qaddafi dictatorship, yet to do so under a credible justice system. For example, former Libyan Islamist Fighting Group leader Sami al-Saa'di was sentenced to death under the former regime for charges related to "membership in a party that attempted to destabilize

Libyans will have to realize that achieving stability in the context of post-conflict reconstruction requires a restorative strategy to repair broken relationships and heal deep wounds within society.

⁶⁷ For more on retributive and restorative justices see Ibrahim Sharqieh, "Vengeance has no place in a Libya free of Qaddafi," *The National*, October 6, 2011, <<http://www.thenational.ae/thenationalconversation/comment/vengeance-has-no-place-in-a-libya-free-of-qaddafi>>.

Jamahiriya System [Qaddafi's rule]." Today he says, "The judge who sentenced me to death during Qaddafi's reign is still a practicing judge. How can I trust this judge or the judiciary that employs him? I need to see new, honest judges who deliver justice to those who suffered and to those who committed crimes. That's when I'll feel confident that Libya is moving into a new era of justice and fairness. Then I'll be able to forgive and reconcile."⁶⁸

The drawbacks of a judicial purge, however, are greater and potentially more destabilizing than most revolutionaries realize. One major obstacle is the question of who purges whom. Most judges served under Qaddafi; as noted earlier, this even includes TRC head Hussein al-Buishi. Is it possible to set criteria which would ensure that some individuals are "cleaner" than others?

Excluding all judges who worked under the former regime will lead to the collapse of Libya's judicial system. Training new judges is not an option in the short run, as this will take years. As Nouredin al-Ikrimi, Supreme Court judge and a member of Libya's Truth and Reconciliation Commission, explains, "It takes almost ten years to train a judge, and Libya already has a serious shortage of trained judges."⁶⁹ One possible solution, as proposed by some Libyans, is the importation of judges from other Arab and Muslim countries to solve this problem in the near term. Yet this poses problems of implementation, particularly considering the lack of security in Libya. A functioning court system requires security and the enforcement of any judicial edicts. Libyan or not, judges will need an effective police force to produce witnesses and defendants, for whom the police will have to provide security – to say nothing of the need to protect the judges themselves. In a vicious cycle, though, a lack of judges will hamper

efforts to (legally) restore order and keep law-breakers off Libya's streets, which will in turn worsen the security situation and further impede the establishment of the rule of law.

Instead of a straightforward purge as advocated by the revolutionaries, Libyan authorities should engage in deep reform of the judiciary system. A good starting point would be remembering that not the entirety of the justice system was corrupted by the Qaddafi regime. Al-Ikrimi argues, "To a certain extent, the judiciary resisted the regime. For example, the infamous 1978 'house to its resident' law [Law No. 4/1978] was not supported by the justice system. The whole process of transfer of properties from landlords to tenants was done independently from the justice system. In addition, there were many prisoners held for years but never brought to trial simply because the judiciary refused to bargain with the regime on those cases."⁷⁰

A reform-based approach to the judiciary – not a purge – means that judges should be treated as innocent until proven guilty. Sacking judges should be done within a legal framework based on evidence of corruption or other forms of misconduct under the former regime. Judicial reform must happen through the GNC, as the legislature enjoys a popular mandate. According to Ikrim, the GNC should issue legislation that reforms the Supreme Judicial Council (SJC), the most suitable body to lead the implementation of reform. The GNC could first investigate and confirm the integrity of the seven members of the SJC, then appoint new members to produce a council of, for example, 15 members. A reformed SJC could then lead the reform of Libya's judiciary, not through political isolation laws, but on the basis of individuals' records and past practices.

⁶⁸ Author's interview with Sami al-Saa'di, former leader in the Libyan Islamic Fighting Group (LIFG) and currently a Salafi figure, Tripoli, January 2013.

⁶⁹ Author's interview with Nouredin al-Ikrimi, Tripoli, January 2013.

⁷⁰ Ibid.

SECOND: NATIONAL DIALOGUE

National dialogue is vital in almost all post-conflict situations. It provides the vehicle for the conflict's various parties to discuss critical issues, just as it offers an environment that makes possible shared, sustainable solutions. National dialogue is likely more important in Libya than elsewhere, as the country has only now emerged from four decades of top-down communication – that is, unquestioned dictatorial orders and dictates. Two-way communication never took place under the Qaddafi regime. In addition to this cultural shift, the tremendous challenges now facing Libyan society – and the need for consensus-based, popular solutions – make national dialogue a necessity.

Because the Libyan revolution was short and spontaneous, it lacked a theoretical framework that could guide the revolution itself and the subsequent transition. Indeed, Libyans' leaderless revolution was centered on a single goal: the removal of Qaddafi. Only after the collapse of the regime did Libyans begin grappling with the question of what kind of state they hoped to build. They were confronted with the challenges of disarmament, resettling of refugees, lustration, and economic recovery, among others. The absence of a solid theoretical framework – the philosophy necessary to guide and shape the transition – rendered the process of dealing with these challenges arbitrary and chaotic. The answer for how best to fill this gap is an inclusive national dialogue process. The process must involve all those who participated in the revolution to discuss and debate their visions for how to move forward with Libya's transition.

Because the Libyan revolution was short and spontaneous, it lacked a theoretical framework that could guide the revolution itself and subsequent transition.

As Salafi leader Sami al-Saa'di explains, "More than two years since the revolution, we only have the constitutional declaration of August 2011;⁷¹ there are no other documents to guide the next stages. There is no literature, theory, concept, or clear philosophy for how to build a state. That is why we definitely need to have a national dialogue between all Libyan parties to discuss important national issues. There are many unanswered questions, such as who will participate in the dialogue, what will be the issues discussed, and what will be the priorities of the state in the reconstruction phase (for example justice or security)."⁷²

Moving from the fall of the Qaddafi dictatorship and the subsequent collapse of the state directly to elections without first engaging in an inclusive national dialogue carries profound risks for the country's transition and national reconciliation process. At this stage, emotions and tensions remain high. If put to a vote, the majority will choose laws that lead to exclusion and elimination rather than uniting and rebuilding the country. The newly passed PIL is a perfect (and extremely dangerous) example of such an outcome. National dialogue provides an important opportunity for Libyans to learn about the risks posed by such laws as well as their potential consequences for national unity.

Furthermore, national dialogue provides a means for the various elements of Libyan society to redefine their relationships and make decisions collaboratively on divisive issues. Sensitive topics like the power of revolutionary militants and their disarmament can only be dealt with within a candid and constructive national dialogue. The state is not in a position to limit

⁷¹ "Libya: The full constitutional declaration," August 2011, <http://almukhtar-17-2.blogspot.com/2011/08/blog-post_9383.html>.

⁷² Author's interview with Sami al-Saa'di, Tripoli, January 2013.

the power of military councils like those in Misrata and Zentan, much less disarm militias by force.⁷³ A meaningful national dialogue, however, could bridge the gap between the official Libyan state and these parallel mini-states, helping lead to an understanding on how to move forward to enhance state capacity.

Change Party president Guma el-Gamaty is insistent on how crucial national dialogue is for reconciliation in Libya. "We need to have a national dialogue over the status of the revolutionaries and their role in the new Libya," he says. "Their weapons are an obstacle for security and order. The military councils are presenting themselves as the protectors of the revolution. They claim to possess the legitimacy of the revolution; that's what the former regime did, ruling with what was called 'revolutionary legitimacy.' National dialogue between all segments of Libyan society will be able to resolve these challenges to genuine national reconciliation."⁷⁴

Both the state and the revolutionaries are fighting for the same goal: a united country that does not allow the reoccurrence of past regime crimes against its citizens. Their respective approaches, of course, differ dramatically, and there is a major risk that the prevailing atmosphere of mistrust and suspicion could turn these differences violent. To avoid conflict, the new government should speak with the revolutionaries, not only to communicate the state vision for the country but also to gain a clear understanding of the revolutionaries'

demands and goals. "The state should not force the revolutionaries," says al-Saa'di. "That would only be counterproductive. The state needs the revolutionaries, and vice versa; the country faces security challenges that only the revolutionaries can deal with. The starting point should be that the revolutionaries recognize the state's legitimacy and the state recognizes their contribution."⁷⁵

There are a variety of strategies that can encourage Libyans to embrace national dialogue as the preferred forum to discuss and settle their differences. At present, there is no national dialogue process in Libya, though Prime Minister Ali Zeidan suggested in August the

National dialogue, and a process of public debate, could make clear the dangers of societal division and marginalization of entire segments of Libyan society.

launch of such an initiative. In Zeidan's words, "It is a question of forming a commission made up of Libyan personalities from civil society who will initiate a debate around the issues of the future constitution, national reconciliation, displaced persons, disarmament or security."⁷⁶ The prime minister's comments were immediately criticized, as some tribal groups claimed they had not been consulted.⁷⁷ Since then, there has been little

meaningful debate on the issue. Public awareness campaigns can play an instrumental role in educating people about national dialogue. Radio and television programs can provide a space for this healthy and constructive debate, promoting greater understanding of the issues at hand and narrowing divisions on particularly polarizing subjects. Furthermore, these programs can educate the public about the risks and benefits of key decisions. On the PIL, for example, the law's hardcore

⁷³ For more on the relationship between state and revolutionary councils, see Ibrahim Sharqieh, "The Libyan Revolution at Two," *Foreign Policy*, February 22, 2013, <http://mideast.foreignpolicy.com/posts/2013/02/22/the_libyan_revolution_at_two>.

⁷⁴ Author's interview with Guma el-Gamaty, president of the Change Party, Tripoli, January 2013.

⁷⁵ Author's interview with Sami al-Saa'di, Tripoli, January 2013.

⁷⁶ AFP, "Libya launches national dialogue initiative," August 25, 2013, <<http://www.google.com/hostednews/afp/article/ALeqM5jZQFwX7i2WsNBm5Eb220L8MHFEDQ?docId=CNG.b87c1731ae2341a8ed44e94f97f7c671.211>>.

⁷⁷ "Libya National Dialogue Initiative Criticised," *Tripoli Post*, August 27, 2013, <<http://www.tripolipost.com/article/detail.asp?c=1&i=10588>>.

supporters may have been unaware of the grave risks that came with it. National dialogue, and a process of public debate, could make clear the dangers of societal division and the marginalization of entire segments of Libyan society. That, in turn, could lead some Libyans to take a different position on exclusion and excommunication, or at least be willing to entertain different methods to defend their revolutionary gains.

AGENTS OF RECONCILIATION

CIVIL SOCIETY

In the process of solidifying the absolute control of his Jamahiriya regime, Qaddafi effectively strangled Libya's civil society. Only a select few organizations were allowed to function under his control. In just the first year since the collapse of the Qaddafi regime, though, hundreds of new civil society organizations (CSOs) bloomed. CSOs were formed in almost all sectors of life in Libya, including youth, women, charity, media, conflict resolution, and politics. While there are limits to how much they can affect the process of national reconciliation, this growing array of CSOs nonetheless has a unique role to play particularly in the three following areas:

1. In the absence of state authority, CSOs can help fill this gap by assuming some of the state's responsibilities and functions. The collapse of the Qaddafi regime left a power vacuum not only in Tripoli, but more seriously in remote areas. In many cases, CSOs have helped restore security and order in these areas.
2. The non-authoritative nature of CSO participation helps elicit a special type of collaboration from disputants. Unlike the state, CSOs are not acting from a position of authority that allows them to impose a solution, which in fact helps them involve disputing parties in genuine dialogue. Furthermore, CSOs do not share the state's bureaucratic nature, but are based instead on a spirit of voluntarism. Hussein al-Habbouni and Abdunaser Ibrahim Obaidi of the Wisemen and
3. CSOs' familiarity with cultural and tribal values can make their intervention more effective. In its intervention between the Zentan and Mashaysha tribes in the Nafousa Mountains, for example, the WSC ensured that any proposed solutions were made in line with local customs and norms. According to WSC president al-Habbouni, "The fact that solutions originate from the cultural norms of that area makes them both acceptable and sustainable."⁷⁹

Shura Council (WSC, discussed below) hail from the eastern town of Tubruk; as part of their peacebuilding work they travel hundreds of miles to Tripoli and the western Nafousa Mountains, where they stay there for more than a month at a time to focus fully on mending ties between local tribes. They initially undertook this on an entirely voluntary basis, although the Libyans authorities have now recognized the importance of their work and have begun to contribute to their travel and hotel expenses. As WSC president al-Habbouni says, "We are the unknown soldiers who are working on the ground to solve conflicts that the state has abandoned."⁷⁸

The work of the WSC is testimony to CSOs' possible contribution to national reconciliation. The WSC has worked in tense areas throughout Libya, especially in the Nafousa Mountains. The group has focused on defusing conflicts between tribes used by Qaddafi to defend his reign and their pro-revolution neighbors. With state authority basically

⁷⁸ Author's interviews with Husein al-Habbouni, president of the WSC's national reconciliation committee, and Abdunaser Ibrahim Obaidi, member WSC's national reconciliation committee, Tripoli, January 2013.

⁷⁹ Ibid.

absent in these areas, the WSC has been instrumental in ending deadly tribal clashes. On June 17, 2012, for example, fierce fighting erupted between the Zentan and Mashaysha tribes in the western Nafousa Mountains over disputed land and the latter's alleged alliance with the former regime. The violence left an estimated 300 killed and wounded from both sides, in addition to more than 85 held as prisoners. The WSC intervened to successfully negotiate an end to the violence and the release of all captives. The council also convinced the tribes to sign a "code of ethics," according to which any tribe member engaged in fighting after December 9, 2012, would represent only himself; combatants would no longer enjoy tribal protection, thus preempting further large-scale conflict. In addition, an arbitration committee was formed to address points of contention between the two tribes. In addition, the WSC included in the agreement other Nafousa tribal branches which were accused of siding with Qaddafi, including the al-Shaqeeqah, Mazda, Fsano, and al-Awainiyah.⁸⁰

For an example of how CSOs can assume government functions and compensate for state failure, we can also look to the work of activist Wafa Tayyeb al-Naas. Al-Naas established the Society of Understanding and National Reconciliation (SUNR) in Tripoli immediately after the collapse of the Qaddafi regime and targeted the poor, crowded Tripoli neighborhood of Abu Salim—typically considered a home for Qaddafi loyalists. In the midst of the chaos that accompanied Qaddafi's fall, the neighborhood was in dire need of basic humanitarian aid. SUNR provided food and blankets and then, after the situation became more stable, began organizing education and

training programs in the area. Once it had established trust with the people of Abu Salim, SUNR organized sporting events involving people from tribes and towns considered enemies of Abu Salim. "We organized a soccer championship in conflict zones," says al-Naas, "and we had 45 teams participating from different towns, including ones who have historical and political rivalries such as Misrata and Werfella. During the games, their hostile attitude against each other was replaced with collaboration to make the championship a success."⁸¹ SUNR also extended its services to southern Libya and to Libyan refugees in Tunisia, in addition to facilitating reconciliation in the South between tribes like Twareq and towns like Ghadames.

The Society of Libya without Borders (SLWB) has also assumed traditional state functions of peacebuilding and conflict resolution. In one instance, SLWB helped end the fighting between the town of Zewara, 75 miles west of Tripoli, and rival neighboring towns of Raqdaleen and Aljmayyel. Zewara had supported the revolution, while Raqdaleen and Aljmayyel had allegedly stood with the former regime. SLWB was able to intervene, bring an end to the fighting, and even arrange a prisoner swap.

This network of CSOs has played a critical role in advancing peacebuilding and uniting Libya. Of course, there are limits to what they can accomplish on their own. International Crisis Group Libya country director Claudia Gazzini says, "The WSC were very effective in conflict resolution in the east of Libya – the Benghazi area – and were also able to stop the fighting between the Zentan and Mashaysha⁸² tribes."⁸³ Gazzini says, though, that WSC has

⁸⁰ Ibid.

⁸¹ Author's interview with Wafa al-Naas, founder of SUNR, Tripoli, January 2013.

⁸² The fighting between Zentan, who took a leadership role in the Libyan revolution, and Mashaysha, who allegedly supported the Qaddafi regime, lasted for months resulting in hundreds of casualties and prisoners from both sides. See Al-Watan Allibya, "Lajnat al-Hukama Tanjah fi Ra'b as-Sada Bishaklin Awwaliyin Ma Bayna al-Mashashiyah wal Zantan: Ithlaq Sarah al-Muhtajazin wa Taslim Mintaqat al-Uwayniyah (Committee of Wise Men succeeds in Bridging the Gap Initially between Mashaysha and Zentan including the release of detainees and delivery area Alawyneh [area back to Mashaysha])," December 13, 2011, <<http://www.alwatan-libya.com/more.php?newsid=18622&catid=1>>.

⁸³ Author's interview with Claudia Gazzini, International Crisis Group Country Director of Libya, Tripoli, January 2013.

been less able to push for implementation of these agreements; the Zentan-Mashaysha prisoner release, for example, has not been completed. Furthermore, she says, “Misrata did not collaborate with the WSC fully. They accused WSC of being azlam al-nidham [regime cronies] and said that they were trying to defend the other party, Bani Waleed.”⁸⁴

WOMEN

Though they face considerable challenges and constraints, women have secured a prominent place in Libya’s post-conflict national reconciliation. They played an important role from the revolution’s outset and are now well-positioned to serve as agents of change. In fact, it would not be an exaggeration to argue that it was women who sparked the Libyan revolution against Qaddafi.

For almost a year before Libya’s February 17 Revolution, the female relatives of the victims of the Abu Salim prison massacre demonstrated in front of Benghazi’s court every Saturday. These protesters demanded one thing: the truth about what had happened to their 1,270 relatives. On February 15, two days before the start of the revolution, the female protesters escalated their protest by moving it from the court to the offices of interior security. At the outset, they chanted for “reforming the regime;” in a few hours, however, they started to chant for “changing the regime.”⁸⁵

The Abu Salim women’s movement was the basis for a culture of resistance against the Qaddafi dictatorship at a time when the rest of the country remained silent about the government’s repression.

The Abu Salim women’s movement was the basis for a culture of resistance against the Qaddafi dictatorship at a time when the rest of the country remained silent about the government’s repression. “The regime offered to strike deals to settle the prisoners’ cases outside the court by paying financial compensation and for the mothers not to go pursue the issue legally or take any other actions. The regime simply offered to buy off the silence of the families of the victims,” said Rida al-Tabouli, president of women’s activist organization Maan Nabneeha (Together We Build It). “Many women refused to make a deal with the dictator. They continued to protest in front of the court, which was something new to Libya. They wrote slogans, authored poetry, released statements of resistance, painted pictures, and [engaged in] several other forms of nonviolent resistance.”⁸⁶ What the women of Abu Salim did was provide an example of

a mini-revolution against the Qaddafi dictatorship, demonstrating how to protest against one of the region’s most repressive tyrannies. Their protest was without precedent since Qaddafi’s arrival in power.

Even when the Libyan revolution turned violent, women continued to play a vital role in the struggle to topple the regime. They contributed to the revolution’s media effort, in addition to serving as medics, providing food supplies, and offering other forms of logistical support. “Smuggling weapons was an area in which women excelled during the revolution,”

says al-Tabouli. “They were less likely to be stopped at checkpoints, and they had an easier time moving around than men.”⁸⁷

⁸⁴ Ibid.

⁸⁵ Author’s conversation with Libyans, Tripoli, January 2013.

⁸⁶ Author’s interview with Rida al-Tbouli, president of Maan Nabneeha (Together We Build It) and member of the Libyan Women’s Association, January 2013.

⁸⁷ Author’s interview with Nadine Nasrat, Association of Supporting Women in Decision-Making, Tripoli, January 2013.

Women should have a prominent role in the national reconciliation process not only because of their revolutionary role, but also because women suffered uniquely from crimes like rape during the revolution; for the sake of a reconciled Libya, women should be among those developing the strategies to deal with these offenses. Qaddafi used rape as a means of war during the Libyan revolution, which affected women in cities and towns throughout Libya. It is difficult to know the exact number of cases of rape given the social stigma associated with the crime in Libya's conservative society. Nevertheless, interviewees talked about numbers ranging from as few as 200 to as many as several thousand; Misrata, Ajdabia, and the Western Mountains are cited as places where systematic rape took place during the revolution. Regardless of the number of cases, these crimes remain an open wound for Libyan society that, if not dealt with properly, will obstruct efforts at reconciliation. If reconciliation is to be achieved in a case like the conflict between Misrata and Tawergha, women – the most affected by this war crime – will have to be part of any resolution.

Various parties, including Libya's CSOs, are actively pushing for women to be involved in the reconciliation process. The Association of Supporting Women in Decision-Making, for example, is a lobbying group formed after the fall of Qaddafi that promotes women's involvement in national leadership positions. Its president Nadine Nasrat explains,⁸⁸ "We advocate the incorporation of female voices in the process of conflict resolution and national reconciliation in Libya, in accordance with Security Council Resolution 1325."⁸⁹

TRIBES

From the outset of the uprising against him, Qaddafi threatened to "arm the tribes." The warning reflected Qaddafi's understanding of Libyan society's tribal structure, as well as his ability to manipulate it. He hoped to transform the conflict from a popular uprising against an authoritarian regime into a civil war in which Libya's tribes played a central role. Qaddafi succeeded in securing the support of some tribes. Today, members of tribes who fought alongside Gaddafi – such as some of the Werfella – are marginalized in a society fractured by tribal antagonism.

The tribes felt that they had been deceived and manipulated by the Qaddafi regime. Such sentiments were explained by Sheikh Khalifa al-Rayayneh, a tribal leader from the Nafousa Mountains. "Some tribes weren't able to accurately read the protests when the revolution began," he said. "They didn't have Facebook or Twitter to know what exactly was happening. Their representatives in the Qaddafi regime told them Qaddafi had everything under control, and they just listened and refused to join the revolution. Obviously, they paid a heavy price for that later."⁹⁰

Qaddafi's abuse of tribalism exacerbated pre-existing rivalries. Inter-tribal relationships are complex, and past issues can be easily reignited to stir conflict between them. The Zentan tribe in the Nafousa Mountains, for example, perceives their tribal neighbors and historical rivals the Western Rayayneh as former allies of not only Qaddafi, but also Italian colonialism in the 1940s. At the outset of the February 17 Revolution, Western Rayayneh allied with Qaddafi while Zentan joined the revolution, bringing the antagonism between the two

⁸⁸ Ibid.

⁸⁹ Security Council Resolution 1325 calls for "reaffirming the important role of women in the prevention and resolution of conflicts and in peace-building, and stressing the importance of their equal participation and full involvement in all efforts for the maintenance and promotion of peace and security, and the need to increase their role in decision-making with regard to conflict prevention and resolution." The United Nations, Security Council Resolution 1325 (2000), October 31, 2000, <http://www.un.org/events/res_1325e.pdf>.

⁹⁰ Author's interview with Khalifa al-Rayayneh, a tribal leader in the Nafousa Mountain, Nafousa Mountain, January 2013.

tribes to new levels. Zentan now insists that the Western Rayayneh pay the price for their alliance with Qaddafi. The continuing conflict between the two tribes has resulted, among other things, in the displacement of 470 families from the town of Western Rayayneh.

Despite its role in fueling conflict in Libya, tribalism also has the potential to help in post-Qaddafi conflict reconciliation. The tribes that fought with Qaddafi – including the Werfella, Maqarha, Qathathfa, and Tarhouna – represent a significant portion of Libyan society. Together, they number around two million people, or one-third of the total population of Libya. “There is no national reconciliation without these tribes,” says Sheikh Khalifa. “They definitely can’t be excluded.”⁹¹

Tribes can also contribute to reconciliation through their unique role in maintaining security in the country. This is especially the case since post-Qaddafi Libya has more or less witnessed state collapse, as government authority does not extend throughout the capital, let alone in most Libyan cities and towns. Among Libya’s social forces, the tribes are the best positioned to fill this security vacuum. This has historical resonance: the Libyan state has traditionally relied on the tribal component of society to sustain its power and control over the country.⁹²

Finally, tribal leaders can play a role in breaking the cycle of revenge, thus improving conditions for reconciliation. Tribal leaders have substantial power to compel their tribes’ members to refrain from revenge killing and to forge ceasefire agreements with other tribal

leaders. As al-Buishi, head of Libya’s TRC, says, “Generally, the youth start problems and the tribes hurry to resolve it.”⁹³ Indeed, it was local tribes which were able to stop the fighting in Bani Walid; there is no reason they cannot play the same peacekeeping role elsewhere.

Despite its role in fueling conflict in Libya, tribalism also has the potential to help in post-Qaddafi conflict resolution.

⁹¹ Author’s interview with Imad al-Banani, political activist, Tripoli, January 2013.

⁹² Despite the tribes’ ability to play a role in improving security in Libya, one should be careful about the potential for this role to backfire. Under Gaddafi, the role of the tribes was already politicized, leading to tribal antagonisms as some tribes were privileged over others. Similarly, carving out a security role for some tribes today may trigger a bitter response by their rivals.

⁹³ Author’s interview with Hussien al-Buishi, Tripoli, December 2012.

THE INTERNATIONAL COMMUNITY

To be successful and sustainable, national reconciliation must follow a homegrown model with local parties working collaboratively to formulate strategies to rebuild their war-torn societies. In such a process, the role of outside players should be limited. In some cases, outside intervention in national reconciliation efforts can be damaging at worst and provide only minimal benefits at best. In fact, one of the criticisms of the Yemeni national dialogue model is that it is prescriptive and highly structured, led by the international community, in particular the UN, rather than by local parties. In contrast, the major strength of the Tunisian national dialogue is the fact that it is homegrown – civil society and other social and political parties, not international bodies, are moving the dialogue forward.

The role of the international community in the Libyan transition should be limited to specific areas where Libyans themselves need outside assistance, such as training of security forces, formation of political parties, and other more technical aspects of rebuilding the post-Qaddafi state. Though external actors can provide this kind of support, the political leadership should remain in Libyan hands in order to ensure ownership and sustainability of progress made in the transition. When it comes to national reconciliation in particular, Libyans themselves must handle the burden; the international community cannot do this on their behalf.

The Libyan case is particularly complicated, as foreign intervention in the country dates back to the early days of its revolution. In

response to the Qaddafi regime's crackdown on Libyan protests, the United Nations Security Council issued resolution 1973 on March 17, 2011. This resolution authorized the establishment of a no-fly zone in Libya and use of all means necessary to protect civilians.⁹⁴ Led by NATO, the military intervention ended on October 31, 2011 after the removal of Qaddafi from power on October 20 and the resulting collapse of his regime. Since the conclusion of the NATO mission, the United Nations has taken on an advisory role on the rebuilding of the Libyan state and its institutions. The United Nations Support Mission in Libya (UNSMIL) has been charged with five primary tasks: assisting with the democratic transition; preserving human rights and the rule of law; reestablishing internal security; controlling the trade of arms; and improving government capacity, particularly capacity to absorb external aid.⁹⁵ The role of the UNSMIL in the post-conflict rebuilding process, however, has been detached from local actors, and its impact has therefore remained limited. This limited advisory role has effectively left an inexperienced Libyan government to handle the burden of the transition process on its own. The mandate of the UN may need to be revised in a way that allows for more substantial and hands-on support to Libyan authorities. Two years after Qaddafi's removal from power, Libya remains unstable, with approximately 200,000 ex-combatants roaming on their own without being reintegrated into civilian life, pushing the security situation to its most tenuous state.

⁹⁴ *Libya Herald*, Legislation No. 13 of 2013 of the Political and Administrative Isolation, May 14, 2013, <<http://www.libyaherald.com/2013/05/14/political-isolation-law-the-full-text/#axzz2hJk0c7Z9>>.

⁹⁵ United Nations Support Mission in Libya (UNSMIL), UNSMIL Mandate, March 12, 2012, <<http://unsmil.unmissions.org/Default.aspx?tabid=3544&language=en-US>>.

While NATO intervention was effective in removing Qaddafi from power, it resulted in an enormous security vacuum in the post-Qaddafi state, making reconstruction difficult. Richard Weitz, Director of the Center for Political-Military Analysis at the Hudson Institute, suggests that this type of rapid military intervention has emerged as a pattern of U.S. and NATO intervention also seen in Iraq and Afghanistan. In all three places, military strikes have destroyed local security capacity (i.e. the army) without engaging in any serious rebuilding of security units afterwards. The alternative becomes building a police state that is generally unable to deal with the enormous security challenges that emerge after a military intervention.⁹⁶

Al-Sanousi al-Baskiri, who heads the Libyan Center for Research and Development in Benghazi, argues that engaging in effective reconstruction and reconciliation processes in Libya will first require rebuilding its security forces, a process which the international community should help with. Al-Baskiri points out that Libya has signed agreements with a number of countries to develop its army and police force, yet so far there has been very little implementation.⁹⁷ Only after the security situation deteriorated to a level where Prime Minister Ali Zeidan was kidnapped by militant groups in October 2013 did NATO agree to provide a small support team of ten security advisors, which, according to Libyan analysts,⁹⁸ has no real impact on improving the country's capacity to deal with its security challenges. Two years after the end of the Libyan revolution, there have been 104 assassinations of revolutionaries and former regime figures in the city of Benghazi alone.⁹⁹

The Libyan state meanwhile lacks not only the force to deal with these assassinations but also the basic forensic skills that allows it to investigate and apply the rule of law.

Change Party president Guma el-Gamaty agrees that international assistance in professionalizing Libya's security sector is critical for reconciliation in the country. "Building an effective police force and other state institutions would help the state restore order," says el-Gamaty. "Reinforcing the role of the state is essential; without it, there won't be national dialogue or national reconciliation," he adds.¹⁰⁰ Still, in providing security assistance, the international community should be careful not to assume the role of the state. Libya's sovereignty should be respected, and any strategies to bolster security should originate from within the state itself; past experiences in Iraq demonstrate that there must be local ownership of these solutions if they are to be sustainable.¹⁰¹

Closely related to security assistance is the need for cooperation with neighboring countries – including Tunisia and Egypt – to establish effective control of Libya's borders. Once security has been established inside Libya and its justice system has been reconstituted, there may also be room for neighboring countries to assist on the extradition of individuals wanted by Libyan courts. As mentioned above, holding leaders of the country's old regime accountable for human rights violations is a critical part of any national reconciliation process. However, extraditing criminals before Libya establishes a transitional justice law and firmly applies the rule of law will likely be counterproductive and could push the transition in a more retributive direction.

⁹⁶ Weitz interview with Al Jazeera Channel in October 2013 commenting on the deterioration of security situation in Libya.

⁹⁷ Author's telephone interview and discussion with Al-Baskiri, Doha, Qatar, November 2013.

⁹⁸ NATO agreed to provide a small team to advise to Libyan authorities on October 21 after Prime Minister Ali Zeidan was kidnapped on October 10. The original request was made by Prime Minister back in May but no definitive answer was given until after the kidnapping. Furthermore, NATO made it clear the security advisors will be based in Brussels – not Libya – and that their role will be to provide advice rather than hands-on training. For more on this, see Reuters report at <<http://www.reuters.com/article/2013/10/21/us-libya-nato-idUSBRE99K0GX20131021>>.

⁹⁹ Author's telephone interview and discussion with Al-Baskiri, Doha, Qatar, November 2013.

¹⁰⁰ Author's interview with Guma El-Gamaty, Tripoli, January 2013.

¹⁰¹ See Ibrahim Sharqieh, "Imperatives for Post-Conflict Reconstruction in Libya," *Conflict Trends*, December 2011.

For example, the extradition of Qaddafi's prime minister, al-Baghdadi al-Mahmoudi, in June 2012 to Libya triggered serious fears among Libyan refugees in Tunisia that they could also be deported to countries where abuse of detainees is commonplace.

Of course, a successful transition in Libya requires outside assistance on more than just security. According to representatives from the 20th of Ramadan Institution for Justice and National Reconciliation, "there is a serious need for expertise, consultation, and training."¹⁰² Libya needs significant technical assistance on how best to run a reconciliation process, investigate past crimes, hold transparent and fair trials of corrupt figures, compensate for past crimes, and engage in deep institutional reform to prevent human rights violations from being repeated. To help bolster Libya's judiciary and transitional justice efforts, for example, 20th of Ramadan members suggested bringing in judges from other Arab countries.¹⁰³

Another possibility for international engagement would involve bringing in the International Commission on Missing Persons (ICMP) to help locate and identify Libya's large disappeared population. Assistance from the ICMP could help Libya identify unclaimed remains – including those in mass graves – which would help bring victims' families closure and, ultimately, reconciliation. Libyans also need assistance in building a gender-sensitive justice system to deal with crimes against women that took place before and after the revolution. Libya has struggled to develop these laws and structures, but anything less than the full legal representation of women and women's issues threatens to undermine reconciliation.

The international community can also contribute to civil society training in Libya. Libyan CSOs have undertaken some productive, yet limited, initiatives. Its members have helped stop tribal fighting in the Nafousa Mountain and have helped bring local parties closer to agreements to end their conflicts. Unfortunately, Libya still needs a massive training campaign for civil society – Libyan CSOs have had to effectively start from scratch, as such organizations were banned during the Qaddafi era. While Libya witnessed a blossoming of civil society in the first year after Qaddafi's removal,¹⁰⁴ it is not well-organized. Libyan society in general lacks an awareness of these organizations' role and possible contribution to post-conflict reconstruction.

The role of the international community in post-Qaddafi Libya remains critical, yet outside countries must understand where to draw

A successful transition in Libya requires outside assistance on more than just security.

the line between assistance and intervention. For example, not all Libyans welcome a larger international role in Libya's affairs. Anas El Gomati,¹⁰⁵ director of the Sadeq Institute, a Tripoli-based think tank, says that the international community would benefit from scaling back its involvement in Libya. For the United States, for example, he says that "less is more." Too much involvement raises questions over the respect of Libya's sovereignty, he adds. At the end of the day, Libyans don't want to feel they undertook their revolution to replace a dictatorship with a Western occupation. For Libya's sake, however, the international community must be critical of Libya's new authorities in cases of human rights violations, the perpetuation of old conflicts, or a lack of advancement toward national reconciliation.

¹⁰² Author's notes from meeting of Ramadan 20th Society for National Reconciliation's executive committee, Tripoli, January 2013.

¹⁰³ Ibid.

¹⁰⁴ Ibrahim Sharqieh, "The Libyan Revolution at Two," *Foreign Policy*, February 22, 2013, <http://mideast.foreignpolicy.com/posts/2013/02/22/the_libyan_revolution_at_two>.

¹⁰⁵ Author's interview with Director of the Sadeq Institute Anas El Gomati, Tripoli, February 2013.

The international community must be vocal about policies that undermine future stability and reconciliation in Libya, including the Political Isolation Law.¹⁰⁶ Minister of Justice Salah al-Marghani, for one, agrees that the international community should be frank with Libya as it moves forward on reform and reconstruction. According to al-Marghani, “one form of assistance the international community could provide Libya is to be truthful about our work, to acknowledge our progress as well as our mistakes.”¹⁰⁷

¹⁰⁶ See Ibrahim Sharqieh, “An Ill-Advised Purge in Libya,” *New York Times*, February 13, 2013, <http://www.nytimes.com/2013/02/19/opinion/an-ill-advised-purge-in-libya.html?_r=0>.

¹⁰⁷ Author’s interview with Minister of Justice Salah al-Marghani, Tripoli, January 2013.

APPENDIX: LEGISLATION NO. 13 OF 2013 OF THE POLITICAL AND ADMINISTRATIVE ISOLATION

Tripoli, May 14, 2013:

Article 1

The standard requirements for holding any public positions, refers to the restrictions that must be applied in the cases of those assuming any of the public positions stipulated in these legislations from the 1st Sept 1969 to the Liberation date of 23rd Oct 2011 and includes the following;

The First Category: Anyone who held one of the following positions during the period, from 1st September 1969 and the country's liberation announcement date of 23 October 2011;

1. Members of what used to be known as the "Revolution Command Council" of the 1969 Coup, members of what used to be known as the "Liberated Officers" and all members of what used to be known as "Gaddafi's Comrades Association".
2. Organizers of social people's masses on municipality or national levels.
3. Chairman, Deputy Chairman and members of the General People's Congress or anyone who held the position of a chairman of any municipality or province.
4. Chairpersons and heads of sectors, institutions, organizations, companies or councils affiliated with the Prime Ministry, the Revolution Command Council or what used to be known as the General Peoples' Committee or the General People's Congress.
5. Anyone who held the position of a Prime Minister or Chairman of the General Peoples' Congress', deputy chairman of such a position, minister or the secretary or the deputy of the General People's Committee for any specific sector, the public notary of the General Peoples' Congress or any particular General People's Committee, or held the position of a Secretary of any Popular Committee of a municipality or province or a secretary of any Sector's Popular Committee within the province.
6. Anyone who served as an ambassador or secretary at any Public Office, held the position of a permanent representative of Libya at any International or Regional organization of any types, or held the position of charge de affairs or consul.
7. Anyone who held the position of a chancellor or deputy chancellor at a University or was a chairman of a People's Committee of a university or served as the general registrar of a university.
8. Anyone who served as the head of the interior and exterior security agencies, military intelligence, security brigades, or served as the head of department of any of these institutions, or served as the head of any of the quarter security offices or the head of any political office at one of the military or security institutes.
9. Heads of student unions in and outside the country affiliated with the General Union of Libyan Students.
10. Anyone who held a leading position of any institute connected with any of Gaddafi's family members or was a partner with them in any type of business.
11. Members and employees of the Revolutionary Committee Liaison Office, Coordinator of any Revolutionary Office, members of any Revolutionary work team or Revolutionary Convoys or the Special Courts or prosecution offices, members of the so called "Revolutionary Nuns,"

Libya Herald, Legislation No. 13 of 2013 of the Political and Administrative Isolation, May 14, 2013, <<http://www.libyaherald.com/2013/05/14/political-isolation-law-the-full-text/#axzz2hJk0c7Z9>>. Translation has been slightly modified to more accurately reflect the original document.

heads and members of the Revolutionary Guards, heads and members of the Eliminating/Assassins Committees, Public Guard leaders of main headquarters and branches, and anyone who participated in the revolution administration forums.

12. Anyone who held the position of a director, general manager or researcher at any of what used to be known as “the Green Book Research and Study Centers”, Green Stadium lecturers or held a leading role in one of the media institutes.
13. Anyone that held a command position at an army base, or was a commander of a defensive zone, or held the position of a president or a commander of a military establishment, body, or institute.
14. Anyone who belonged to an international organization that posed a threat to the territorial integrity of Libya and adopted violence as a strategy.

The Second Category: Relates to the Political and Administrative isolation for this category and the behavior that led to the corruption of political, economic and administrative life in the country during the period referred to in the previous article as stated in the following behavior patterns:

1. Civilians who collaborated with Gaddafi’s security agencies, with their collaboration proven to have lead to human right violations.
2. Anyone known for his/her constant praise and glorification of Gaddafi, his regime and his green book, whether through media or through the delivering of public talks.
3. Anyone who took a hostile position towards the February 17 revolution by action, incitement, collaboration or provision of any kind of support.
4. Anyone who committed or helped in any way to kill, imprison or torture Libyan citizens, home or abroad, on behalf of the previous regime.
5. Anyone who unlawfully seized or caused damage to any public or private property during the previous regime for political reasons.
6. Anyone involved in stealing the Libyan people’s wealth or who became rich on Libyan people’s account or who gained wealth, funds, benefits unlawfully inside or outside of Libya.
7. Anyone involved in scientific, artistic, intellectual, religious, cultural or social activity which aimed at glorifying Gaddafi or his regime, or who propagated the so-called reform project known as “Libya Alghad” (Tomorrow’s Libya).
8. Anyone who used religion to support or give credibility to Gaddafi’s regime or Gaddafi’s actions, or openly considered, the February 17 revolution as being in disobedience to an official ruler.

Article 2

Persons included in Article 1 of these legislations are not allowed to hold the following positions and employment:

1. Leadership and membership of legislative, regulatory or foundation bodies on any national or international levels.
2. Leading state positions.
3. Executive positions ranging between the head of state or the head of government and including the position of a general director on national and international level.
4. Chairmanship and membership of boards of directors, executive, administrative and regulatory functions, such as, the position of Director and above in management bodies, institutions, banks and public and investment companies, that are solely or partly owned by the Libyan state or by one of its institutions, inside or outside the country.
5. Membership of any judicial bodies.
6. Leading positions at security and military establishments.
7. Ambassadors, consulates, delegates to international and regional organisations as well as other diplomatic functions and technical attachés.
8. Chairmanship and membership of governing bodies of political parties, entities, institutions and Commissions of a political nature.
9. Presidency of universities, academies, colleges and other higher education institutions.
10. Finance Auditor.
11. Leadership positions in various media and publishing institutes.

Article 3

A committee should be formed under the provisions of these legislations under the name, ‘the supreme commission of applying the required standards for holding public positions’. The commission shall be independent and shall independently financed and will be based in Tripoli. The commission may open branches or offices in other cities.

Article 4

The chairman and members of the commission are those whose names were mentioned in the NTC decision, No. 16 of 2012 relating to the naming of the chairman and members of such commission. The Supreme Judiciary Council must undertake the task of applying the standards stipulated in article one and article five of these legislations. The Supreme Judiciary Council must also nominate those whose membership had expired and which must first get the approval by of the GNC.

Article 5

Persons chosen for the membership of this commission must meet the following conditions:

1. Must be a Libyan national.
2. Must be known for integrity.
3. Must not be under 35 years of age.
4. Must not be convicted in any criminal offence or felony relating to honour.
5. Must not have been dismissed from any position except for political reasons.
6. Must not be affiliated with any political entity or party.
7. Must have an academic Degree in Law and above.

Article 6

The chairman and members of the commission must make the oath before the GNC prior to resuming their duties in a manner determined by the GNC.

Article 7

Commission members shall appoint from among themselves, during their first convened meeting, a Chairman and a deputy Chairman for the commission as well as an official spokesman from among themselves. The commission shall issue the decisions and regulations of the administrative and financial system, the commission shall also prepare a budget which then needs to be approved by the GNC on recommendation of the commission’s chairman.

Article 8

Should the commission’s chairman position become vacant, the commission’s deputy replaces him and assumes all his duties according to provisions of the law until such time as a new chairman is appointed.

Article 9

The chairman and members of the commission must abide by the same laws governing members of the judicial authorities in accordance with law No. 6 of 2006 relating to the judicial system and its amendments, in respect of disciplinary, investigation and the filing of criminal law suits. They will also have the same immunity similar to that given to the judicial members; hence, it is not permissible to file a criminal suit or interrogate any of them, except by a GNC decision, giving authority of that effect. In the case of any commission member having a final decree or judgment made against him/her or vacating his position, the Supreme Judiciary Council then nominates a replacement who then gets a final approval of the GNC.

Article 10

The commission is entitled to investigate any candidate applying for a position, and to seek information on that person as it deems necessary. The commission has the right to summon the relevant individual/s in question and hear their testimony. They can also cross-examine his verbal or written

submitted report. The commission has the right to use all necessary means and methods to verify the authenticity of the given information and testimonies referred to in Article 10 and has the right also to use the help of whomever the commission deems appropriate to help it accomplish its duties.

Article 11

The commission referred to in Article 3 is under obligation to implement the standards stipulated in Article 1 against those assuming or nominated for positions in accordance with these legislations, the commission decisions may be issued by half of its members plus one , indicating the applicability or non-applicability of standards within a maximum period of 21 days from the date the commission receives the financial testimony clearance and the person's Curriculum Vita, making sure all needed documents and information are provided.

Article 12

Those concerned may lodge an appeal against the decisions made by the Commission at the Administrative Justice Department of the Appeal Court where the position or employment, the decision's subject matter, is located within ten days from the date of announcement by the entity they belong to.

The Administrative judiciary circle must make a final decision on the lodged appeal within 21 days from the date of lodging the appeal without the need to go through the preparation procedures. The administrative judiciary circle must collect all information and evidence on which the first decision was based before making a final decision of the appeal.

The defendants have the right to appeal the decision made by the Administrative Judiciary Circle in front of a high court within 10 days of the judiciary decision. The high court is under obligation to make a decision of the appeal within 1 month of the date of first lodging the appeal. Defendants must provide their statements within the time period allocated above.

Article 13

The commission must make its decisions relating to the application of standards of assuming public positions in accordance with the rules and regulations provided within its adopted work charter, and which should be approved by the GNC.

Article 14

It is forbidden for the commission's chairman, members and workers to disclose any classified information or data received by them or their commission as part of their duties; however the commission is under an obligation to make all its decisions and reasons for making such decisions public without disclosing classified information, and he who violates that will be sacked.

Article 15

The candidate or institute making a nomination for a position must fill in the special application prepared by the commission. The nomination must be submitted along with the candidate's personal data as well as the candidate's financial clarification and an undertaking to accept full legal responsibilities for the authenticity of the supplied information sealed with his signature and finger prints.

Article 16

With the exception of what is stipulated in article three, the Supreme Judiciary Council undertakes the task of applying the standards provided for in Article one in respect of Judicial members.

Article 17

Without prejudice to any other severe penalty provided by law, anyone who declines, neglects or give incorrect information in the submitted questionnaire requested by the commission shall be imprisoned for a period of no less than one year. The same penalty shall be applied in the case of any employee or person who declines to provide the commission or refuses access to any evidence or

documents under his disposal or refuses to provide help in that matter or destroys evidence. The same punishment shall also be applicable to those who carry on in their position after a decision of a non-compatibility of standards was issued against them as stipulated in the provisions this law.

Article 18

This legislation will be in force for ten years from the date of issue.

Article 19

Legislation No. 20 of 2012 relating to the Supreme Integrity Commission and its amendments shall herewith be rendered null and void from the date these legislations take effect.

Article 20

This legislation shall come into effect thirty days from the date of issue and all other legislation contrary to this shall be made void. This legislation should be published in the official gazette.

The General National Congress (GNC)

Tripoli, 5 May 2012

This is not a legal translation of the law. Readers should seek a legal translation for total accuracy.

BROOKINGS DOHA CENTER PUBLICATIONS

2013

Reconstructing Libya: Stability Through National Reconciliation

Analysis Paper, Ibrahim Sharqieh

Kings for All Seasons: How the Middle East's Monarchies Survived the Arab Spring

Analysis Paper, F. Gregory Gause III

A Coup Too Far: The Case for Reordering U.S. Priorities in Egypt

Policy Briefing, Shadi Hamid and Peter Mandaville

Brookings Doha Energy Forum 2013 Policy Paper

Brookings Doha Center – Brookings Energy Security Initiative Report

The Challenge of Syrian Unity: Reassuring Local Communities and Framing National Consensus

Syria Workshop Series Paper

Muslim Politics Without an “Islamic” State: Can Turkey’s Justice and Development Party Be a Model for Arab Islamists?

Policy Briefing, Ahmet T. Kuru

A Lasting Peace? Yemen’s Long Journey to National Reconciliation

Analysis Paper, Ibrahim Sharqieh

Toward a Strategic Partnership? The EU and GCC in a Revolutionary Middle East

Event Briefing

A Rights Agenda for the Muslim World? The Organization of Islamic Cooperation’s Evolving Human Rights Framework

Analysis Paper, Turan Kayaoğlu