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Countries at the Crossroads 2011 - Libya

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INTRODUCTION

Libya emerged from more than three decades of Italian colonial rule in 1943 and was ruled as a monarchy from 1951 to 1969, with El Bayda in Cyrenaica as the capital. In 1969, Mu'ammār al-Qadhafi, then a 27-year-old army captain from the small Qadhafi tribe in the Sirte region, led a bloodless coup and took over the country as Brother Leader and Guide of the Revolution. Sirte became the capital, and Tripoli a hub of administrative and political support. The new regime was hostile to Cyrenaica as the home of the monarchy, and regional antagonism between the areas has remained strong to this day.

Early in his rule, al-Qadhafi nationalized the country's significant oil reserves and established an anti-Western foreign policy, including alleged involvement in a number of high-profile terrorist attacks against Western interests. The United States imposed sanctions on Libya in 1981 and bombed targets in the country five years later. Two Libyans were implicated in the 1988 explosion of a U.S. aircraft over Lockerbie, Scotland, in which 270 people were killed, which prompted the UN Security Council to impose trade sanctions on the country. Libya became an international pariah and political development remained stagnant.

Seeking to rehabilitate the country's international standing, al-Qadhafi took advantage of the September 11, 2001 attacks and the March 2003 invasion of Iraq to promote Libya as a partner in the global war on terrorism. Promoting a perception of his country as a Mediterranean Eldorado, al-Qadhafi tailored his rhetoric of Libya's transformation to international community standards, including references to the concepts of transparency, the fight against corruption, and democracy. Libya's conversion was swift and comprehensive, emphasizing the convergence of its interests with those of the United States and Europe. It terminated its program of weapons of mass destruction and encouraged other countries to do the same. It liberalized its petroleum sector and

offered Europe guarantees for its energy supply. The new elites that emerged in the fields of oil and security, trained in the United States, gradually sidelined the revolutionaries trained in Eastern Europe.

This modernization campaign was the product of a new national economic strategy to encourage international investment and economic growth in Libya. The reformers, who considered communist China a model, hoped to combine a market economy with the legacy of the revolution and al-Qadhafi's unique political philosophy, outlined in his *Green Book*. As al-Qadhafi's son, Saif al-Islam al-Qadhafi, put it, "Libya will be a modern country with modern infrastructure and a high GDP. Its citizens will enjoy the best standard of living in the region. Libya will have closer relations to the rest of the world and to Africa, as well as a partnership with the EU. It will join the [World Trade Organization]. Libya will be the bridge between Europe and Africa."¹ In August 2007, Saif al-Islam called for the end of the revolutionary era and the conversion of the revolution into a constitutional state. In 2008, he invited reputed professors from the West to take part in drafting a constitution for Libya, paving the way for a succession to the Guide without altering the nondemocratic nature of the regime.²

Libya's considerable oil reserves and a spike in oil prices in the mid-2000s also facilitated the country's triumphant return to the world stage. Ahmed Abdulkarim, former chairman of the National Oil Company (NOC) and current head of OilInvest (the state-owned oil holding company), announced that the government was seeking to attract \$10 billion in foreign investment in the hydrocarbon sector by 2010. Only 25 percent of the oil and gas reserves are in production and the government is seeking to increase its production capacity considerably.

Libya's transformation did briefly result in warmer diplomatic relations with the West, and international sanctions were lifted in 2004. In 2008, Italian Prime Minister Silvio Berlusconi apologized for the damage inflicted on Libya during Italy's 1911 occupation and subsequent colonization. In September 2009, Scottish courts released convicted Lockerbie bomber Ali Basset Meghari on humanitarian grounds, after lobbying by the Libyan government and Libya's year-long presidency of the UN Security Council in 2008. In May 2010, Libya was elected to the UN Council for Human Rights. Against all expectations, in February 2011 the Libyan population began demonstrating for al-Qadhafi's departure.

Inspired by the success of movements in Tunisia and Egypt, the protestors took the risk of defying the regime, beginning in the east. Predictably, government forces did not hesitate to retaliate with violence, and the protest movement quickly developed into an insurgency. Taken by surprise, the regime seemed on the verge of collapse before regaining control of the situation and retaking some of the cities that had fallen into insurgent hands. In a few weeks, Libya slid into violence and the al-Qadhafi regime again became a pariah in the international community. This destroyed the slow and costly strategy of reintegrating into the international community that it had undertaken.

The Libyan uprising demonstrates that the fear the regime inspired in its opponents has been overcome, particularly in the region of Cyrenaica; in contrast in Tripolitania, the government uses ruthless force to spread terror in hopes of inhibiting protest attempts. The uprising is due in part to the Libyan regime's lack of political freedom. Despite Saif el-Islam's experiments with relative liberalization between 2007 and 2009, the regime's hardliners appear to see political opening as far too dangerous.

When the city of Benghazi, Libya's second largest, fell into rebel hands on February 20, the former flag of the monarchy reappeared. Ensured of the population's support in Cyrenaica, the rebels united in their determination to bring down one of the oldest dictatorships in the region.

The uprising has placed the regime on the verge of collapse, prompting it to use force against the rebels in order to survive. With the country cut in two, the east of Libya came under the control of the interim National Council for Libya (NCL), while the west has remained under the domination of al-Qadhafi's forces. Control over the oil fields and

terminals ensure al-Qadhafi the financial means to survive. The defection of some tribal leaders that had backed him, particularly the Warfallas, the army's gradual rallying to the rebels' cause, and the inability of foreign mercenaries to take control of the cities deserted by the Revolutionary Guard and revolutionary committees has placed the regime in survival mode. As demonstrated over the past decades, al-Qadhafi's regime has a remarkable ability to overcome all manner of threats.

ACCOUNTABILITY AND PUBLIC VOICE

Libya is a *Jamahiriyah* or "state of the masses," a system based on the combination of socialist, revolutionary, Islamic, and egalitarian principles outlined in al-Qadhafi's *Green Book*. According to al-Qadhafi, the country's political arrangement, the Third Universal Theory, is based on a system of political and economic egalitarianism that refutes democratic and multiparty systems. Political parties are prohibited on the grounds that they allow a minority to seize power from the people, and those who join parties are considered traitors.

A stark divide exists between the manner in which the Libyan government is supposed to operate according to theory and the ways in which power is exercised in reality. The Libyan political system is officially defined as a direct democracy in which the interests of the people are expressed through a set of committees and groups. There are 2,000 Basic People's Congresses that channel ideas and grievances to the 760-seat General People's Congress. In theory, the Guide, al-Qadhafi, provides suggestions to the population, who then discuss those suggestions in the Basic People's Congresses. The delegates of these committees transmit the public's perspective to the General People's Congress, which selects which policies to implement. The members of the Basic People's Congresses also indirectly elect the General People's Congress, though the process is completely opaque. Theoretically, the General People's Congress is the most important power center because it appoints the general secretaries, who act as ministers. Elections for the General People's Congress are held every four years, but they lack even the most basic features of free and fair electoral contests – in addition to the ban on political parties, there is no secret ballot or electoral authority that monitors their conduct, for example, and elections do not allow for the rotation of power.

In reality, the core of the political system is the revolutionary committees, which were established in 1977 and function as a state militia for the al-Qadhafi family. The revolutionary committees are an instrument for mobilizing and controlling the masses and exercising political influence on behalf of the revolutionary leadership. Over time, they have also become an armed political force responsible for regulating the Basic People's Committees and for eliminating the regime's potential adversaries. Al-Qadhafi directly appoints the members of the revolutionary committees.

A restricted circle around al-Qadhafi is the real source of political decision-making in Libya. The top figures of the political system do not systematically occupy official functions but are instead spread throughout the state apparatus. The chief qualification for inclusion in these circles is absolute loyalty to al-Qadhafi. In his view, the leaders of the revolutionary committees, which have approximately 10,000 members, are the most trustworthy people in the political system. Loyalty is guaranteed in a number of ways, including marriage between leaders' children and the interdependence between generations.

The distribution of power in Libya is based on proximity to al-Qadhafi and tribal and regional balance. The opaque informal decision-making process is the result of personal exchanges. The *Jamahiriyah* is equipped with considerable resources resulting from hydrocarbon exports, income from which is not controlled in any way by political institutions. Part of the redistribution of this income depends entirely on the goodwill of al-Qadhafi's family, which uses it to maintain loyalty and stability. Al-Qadhafi has built a complex family and tribal network that makes all political, economic, and diplomatic decisions, ensuring the stability and maintenance of the government. It is an informal process that mobilizes important figures from the various family branches, clans, and tribes that control the strategic structure of the *Jamahiriyah*. Instead, decisions are

made in informal meetings composed of well-connected members of different movements and factions: revolutionary, pan-Arabist and pan-Africanist, pro-occidental, state-socialist, liberal, etc. Their influence on al-Qadhafi depends on the regional and international conjuncture. All these important figures are related to al-Qadhafi through blood, allegiance, and long-time relationships.

In 1998, the regime created people's social leadership committees (PSLCs) to regain control of local politics after slow erosion to local communities, and to broaden the support base for the regime by integrating leaders from outside the traditionally-progovernment tribes. The PSLCs are established in all regions of the country and consist in part of tribal chiefs. Given their relative newness, the PSLCs have more legitimacy among the general population than the long-standing and feared revolutionary committees, with authority exceeding that of all other government structures. Officially intended to empower the masses, the PSLCs oversee the General People's Congress and the General People's Committee, and monitor and control the Basic People's Congresses. In October 2009, Saif al-Islam was designated general coordinator of the PSLCs, which effectively made him the second most powerful person in the regime.

In 2000, al-Qadhafi decided, in a moment of anger, to abolish the current system: "You [members of the General People's Congress] want to stick to your old ways to justify the waste of oil.... The present system shall be no more. Once the Basic People's Congresses have been held and the General People's Congress has met, what is known as the General People's Committee shall be no more. Hereafter, there is no 'government'.... Power will henceforth belong to the people, the communes and the *Sha'abiyat* [administrative districts]."³

A dismayed al-Qadhafi decreed decentralization mandatory: "At the *Sha'abiyat* level, you have everything you need and secretaries for every sector: health, education, agriculture and industry. Therefore there is no need to refer upwards to anyone with higher authority." In the process, 31 administrative districts were established, whose powers theoretically embraced the management of local resources, including budgeting and other matters. The Basic People's Committees were distributed among the 31 administrative districts to guarantee, in theory, representation of the people. Each district had its people's committee, its own executive authority, and secretariats for education, health, and other areas.⁴ The decentralization policy, however, raised the problem of resource allocation: since the towns do not levy taxes, they remain dependent on the transfer of revenues from the capital. From this standpoint, the regime merely transferred the burden of working with citizens and addressing their grievances to local officials.

Tribes also represent a powerful force in Libyan politics. Government leaders deny that the tribes have a role in government power, but they are in fact a central force in Libya's political organization. All of the tribes that have pledged loyalty to al-Qadhafi are represented in the strategic political structures, and the tribes play an essential role in maintaining security and ensuring the stability of the government. Most high-level figures in the state come from two large tribes, the Warfallas (with which the al-Qadhafi's tribe, the Qadhadfa, have blood ties) and the Magharha. Members of the Warfallas confederation, who were historically considered the protectors of the Qadhadfa, constitute a majority in the army. Since the failed 1993 coup attempt, which was led by captains of the Warfallas confederation, the regime has been folded up around the clans that form the Qadhadfa. The latter are present in the revolutionary committees and the revolutionary guard. Each year, al-Qadhafi invites the tribe's chiefs to come to the town of El Bayda to make their act of allegiance.

The extent of al-Qadhafi's control throughout the government structure ensures that there are no checks and balances on his power. The only form of resistance the regime faces is debate between traditional revolutionary forces and reformers who seek to adapt the regime to new political and economic realities. Even those that seek to modernize the regime stop far short of resisting al-Qadhafi directly.

Like all other arms of government, the civil service is based on loyalty and proximity to

power within the tribal system, as opposed to merit. It is not perceived as competent by the general public.

The Libyan state is paralyzed by the lack of institutions perceived as legitimate enough to formulate and implement policy. Al-Qadhafi regularly exhorts the basic delegates to be more effective and denounces them as lacking courage: "I tell them: Don't be afraid of anybody, there is nobody above you." In this authoritarian and arbitrary system, however, no one takes the risk of making even the smallest political or economic decision without the certainty that al-Qadhafi will approve. Libya's political institutions have never played a genuine role in the decision-making process, and as such lack any real experience in policymaking. As for the views of citizens, Libyan public opinion has no real channels for expression and is therefore politically unreadable.

Association Act no. 11 of 1970 prohibits organizations whose purpose goes against the tenets of the September 1969 revolution. The establishment of a nongovernmental organization (NGO) in Libya requires special approval from a certain political agency. Only a few organizations have been approved, including the Libyan Red Crescent, the Boy Scouts, the Libyan National Society for Anti-Drugs and Mental Stimulants, the Society for the Vulnerable on Earth, the Association to Fight Landmines, the Association for the Brotherhood of the South (a medical organization established to aid Libya's southern neighbors in Africa), the Human Rights Association, and the Qadhafi International Foundation for Charity Associations, an umbrella organization set up in 1999. All NGOs and other associations are expected to work within and for the revolution.

There is no independent press in Libya. State-owned media act as regime mouthpieces and the pervasive harassment and violence that journalists face encourage strict self-censorship. In 2007, the government authorized the launch of semi-autonomous media, most of which are owned by Saif al-Islam's al-Ghad Media Group, but it heavily monitored and repressed the new media outlets. In April 2008, Saif al-Islam argued that Libyan society needed "several media outlets that expose corruption, rigging, and violations. These establishments have to be independent and not reporting to the Information Minister, the Parliament, the Cabinet, or even Saif al-Islam."⁵ Media liberalization gave the impression that Libya was moving toward political reform, but these measures were not unanimously supported within the government and were opposed by the director of national media, Briki Ramadan. In May 2009, those opposed to media liberalization apparently won official support, and a government decree to nationalize certain elements of private media (including the satellite channel al-Libi, radio station Eman Al Libya, and newspapers *Quryna* and *Oea*) terminated the media liberalization process.

Many incidents of official harassment of journalists have been reported, including physical attacks and defamation lawsuits. On November 4, 2010, 20 Libya Press News Agency journalists were arbitrarily arrested and held for three days. On February 17, 2010, four radio journalists from the program *Good Evening Benghazi*, which covers corruption scandals in local government and other sensitive topics, were arrested.⁶ The only uncensored media are satellite television channels. The government controls the country's only internet service provider and routinely blocks social networking and video-sharing websites, and the websites of opposition groups are routinely hacked.

CIVIL LIBERTIES

Torture is a crime under Libyan law and the government claims to investigate cases in which torture is suspected, but allegations of torture, incommunicado detention, and unexplained disappearances remain extensive. According to a 2009 Human Rights Watch report, 500 political prisoners who had either been acquitted of all charges or who had completed their prison sentences were still being detained without cause.⁷ Migrants from Sub-Saharan Africa and political prisoners, particularly those suspected of membership in the Muslim Brotherhood, have been subjected to torture in the form of electric shocks, beatings with wooden sticks, hanging on the wall, and sexual assault. This treatment has been used to force the prisoners to confess, and such extracted

confessions are permissible as evidence in court.

Libyan prisons are notoriously dire, plagued by overcrowding, disrepair, poor sanitation, and a lack of medical services. Detainees often suffer from medical mistreatment. Perhaps the most infamous of Libyan prisons is Abu Salim, where in 1996 an estimated 1,200 inmates were massacred by prison guards after an uprising in protest of bad conditions. For more than a decade, Libyan officials refused to acknowledge the massacre and the prison even continued to accept packages and supplies for the deceased from their families, who had not been notified of their loved ones' deaths. In 2009, the government appointed a seven-judge panel to investigate the incident, but the panel has not yet published its findings, despite passing the March 2010 deadline. Some families have received death certificates (without information on the cause of death) and limited compensation from the government, but the provision of these benefits is said to be contingent on the families' willingness to legally absolve the government of responsibility.⁸

Dr. Idris Boufayed, an outspoken critic of the Libyan leader who has advocated peaceful change to promote the rule of law and respect for human rights, was detained by internal security agents in November 2006 after he wrote critical letters to Libyan opposition websites. In June 2008, a state security court sentenced him to 25 years in prison for planning to overthrow the government after he organized a demonstration. However, due to international pressure, he was freed in October 2008.

Libya has made some efforts to improve its bleak human rights situation, but violations remain common. Penal code reform, which took place in 2009, reduced the sentences from execution to imprisonment for a range of offenses, although political activists continue to be held arbitrarily for making public comments.

Libya contends with a significant Islamist threat. Al-Qaeda continues to view the Libyan state as an enemy, particularly since its rapprochement with the West. In the words of Cheikh al Libi, an al-Qaeda commander in Afghanistan who died in 2009, "Qadhafi is the tyranny of Libya. After long years, he has suddenly discovered that America is not an enemy and is turning Libya into another crusader base."⁹ Unlike in Iraq and Algeria, however, the al-Qaeda rhetoric has not been carried out in deed in Libya, and the country has yet to have a suicide attack on its territory. It is highly likely that the return of Libyan combatants from Iraq will have consequences on security in Libya. But for the moment, the Libyan regime is faced with forms of protest that seem harmless compared to Algeria and Iraq.

In September 2009, on Saif Al-Islam's initiative, the regime released 56 prisoners from the Libyan Islamic Fighting Group (LIFG) as a gesture of national reconciliation. In the same year, the regime ordered the demolition of the Abu Salim prison, a symbol of repression against the Islamists in the 1990s.

Migration and human trafficking are another serious area of human rights abuse in Libya, which is a common transit point for migrants and refugees fleeing Sub-Saharan Africa for Europe. Libya's 2009 Treaty of Friendship with Italy was in part designed to stem the flow of these migrants into Europe, and Italy has provided Libya with significant funding, patrol boats, and weapons to target these groups. Libyan security forces have been criticized for using live fire against boats they suspect of carrying migrants to Europe, and they routinely repatriate refugees to hostile countries, particularly Eritrea. Libya does not recognize the existence of refugees in the country and in 2010 expelled the local office of the UN High Commissioner for Refugees (UNHCR), although it later allowed the UNHCR to continue to process some cases. Libya has recently agreed to place some refugees in camps, but conditions in these camps are very poor.

Libya does have a human rights monitoring organization, the National Commission on Human Rights in Great Jamahiriyya, but it is not clear that this organization has made any inroads on the human rights situation in the country. Instead it focuses on foreign actions: in October 2009, for example, the organization denounced Switzerland's referendum prohibiting the construction of minarets.

Women's rights in Libya are curtailed by certain laws and social norms that perpetuate discrimination, particularly in areas such as marriage, divorce, and inheritance. In January 2010, the General People's Committee passed a law granting Libyan women the ability to pass citizenship along to their children, but the lack of implementation directions and the inclusion of a number of seemingly contradictory clauses make unclear the extent to which the law will result in enhanced rights for women. Libyan women are sometimes subject to forced participation in social rehabilitation camps, which essentially amount to arbitrary arrest and detention. Women are sent to these camps when they have allegedly compromised their families' reputation, including by being raped.

There is very strong tribal discrimination in Libya. The tribes living in Cyrenaica (around Benghazi) such as the Kargala, Tawajeer, and Ramla are excluded from the state apparatus. Berbers, who constitute 20 percent of the population, are the country's largest ethnic minority. They have complained about the dominance of the Arabic language over their own.

The government is generally tolerant of religious practice, but controls the appointment of all imams and religious leaders, as well as religious curricula and sermons. The government closely monitors mosques for Islamist activity and Islamist gatherings are strictly forbidden. The few non-Muslims in Libya are permitted to practice their faiths with relative freedom, if for no other reason than that these communities are very small and relatively innocuous.

Freedom of assembly is severely restricted in Libya. Individuals have no right to gather with the aim of criticizing the Jamahiriya political system or al-Qadhafi. The only demonstrations that are allowed to take place are generally organized by the regime to show support for the aims of the Jamahiriya. Anyone who tries to violate this rule by expressing opposition or by criticizing the political system faces unfair trials and prison terms.

The only organization that is allowed to criticize the government and the Libyan political authorities is the quasi-official Qadhafi International Charity and Development Foundation, which is headed by Saif al-Islam. It has condemned government corruption and called for a free press and a constitution, and also participated in the 2006 release of 132 political prisoners. Saif al-Islam had some influence over the government and was able to criticize it, both as al-Qadhafi's son and because he refrained from crossing specific red lines related to the revolution's core tenets.

In February 2007, 14 people were arrested for planning a demonstration, the aim of which was to peacefully commemorate the anniversary of a violent clash between the police and demonstrators in Benghazi. These 14 demonstrators are on trial and could be subject to the death penalty for planning to overthrow the government, meeting with a U.S. official, and arms possession. According to Human Right Watch, none of the detainees were violent. Two of the men have disappeared since their arrests, and the government has refused to share information on the place of detention or allow access to the detainees by their relatives. According to Human Rights Watch, among the other detainees is a Danish citizen, Jamal al-Haji, to whom Libya refuses to grant the Danish government access, in violation of the Vienna Convention on Consular Relations.¹⁰

There are no independent labor unions in Libya. Independent trade unions are banned, and all workers are required to be members of the government-run General Trade Union Federation of Workers.¹¹ The right to strike exists in theory, under chapter 150 of the Labor Code, but workers cannot legally protest without union consent, which is never granted because of government control. Migrant workers cannot unionize, and a significant proportion of workers suffer harsh working conditions.

RULE OF LAW

Libya's judicial system consists of courts of magistrates, courts of first instance, courts of appeal, courts of justice, and the Supreme Court. They also hear cases of delinquency

and crime. The Supreme Court is the top of the Libyan judicial hierarchy. It is based on specialized departments, each of which has five judges.

In January 2005, al-Qadhafi issued a directive to the General People's Congress requesting the abolition of the People's Court, which conducted secret political trials and was infamous for issuing death penalty sentences with great frequency. Members of the People's Court were in theory elected by the people of Libya but were actually al-Qadhafi appointees. Their main objective was "prosecution of persons accused of corruption during the period from 1952 to 1969 (i.e., the prerevolutionary period)," who in reality was anybody suspected of dissident activity. This court also served to spread fear and repression among the population and discourage dissent of any kind. The court was abolished partly to reduce the extensive criticism that Libya had received from international actors and NGOs regarding its terrible human rights record. The Libyan League for Human Rights, which had challenged the legitimacy of the court since its establishment in 1989, remarked, "The abolition of the People's Court and the exceptional laws is undoubtedly a commendable step in the right direction but should be followed by other measures if the purpose of their abolition is to remedy the deplorable human rights situation in Libya. In fact, respect for human rights has been obstructed not only by the People's Court but, more particularly, by the total lack of an equitable and independent judiciary."¹²

Regular citizens who are accused of crimes of an apolitical nature can receive a relatively fair and timely trial, but detainees have no access to independent counsel. Prosecutors are subject to pressure from the regime in politically-sensitive cases.

There are four main deficiencies in the judiciary. First, Libya's the system does not incorporate accepted international standards, especially those related to the protection of human rights and the establishment of an equitable judicial system. Second, the revolutionary authority has undue influence on judges and frequently uses that power to shape rulings in their favor. Third, the judicial system lacks standards and procedures for fair and equitable trials and the judiciary is perceived by the population as corrupt. Finally, the judicial system fails to exercise any kind of oversight over the regime, which is not bound to comply with judicial rulings.

An additional political obstacle to judicial independence is al-Qadhafi's almost unlimited power. The "Charter of Revolutionary Legitimacy," for instance, gives al-Qadhafi control over all of Libya's political, judicial, and economic institutions. Thus, his directives are prioritized vis-à-vis the law, including judicial rulings. Consequently, al-Qadhafi has practically monopolized all power and has become the primary and only source of authority in the country. Moreover, the Charter of Revolutionary Legitimacy also gives him the right to intervene in judicial issues by changing court judgments or obstructing the administration of justice, which he often does in cases in which he has a political interest. Al-Qadhafi can, through the powers that this charter affords him, establish special or emergency courts that can override other courts' verdicts.

The security forces continue to benefit from a judicial system that guarantees them impunity by virtue of the regime's complete control of the judiciary. The revolutionary committees are a political police force whose mission is to eliminate opponents, silence dissent, and impose on the Basic People's Committees the political directives that al-Qadhafi would like them to follow.¹³ In a rare moment of compassion, al-Qadhafi denounced the infamous excesses of the revolutionary committees in 1988: "They have deviated, harmed, tortured. The revolutionary does not practice repression. On the contrary, I want to prove that the committees are lovers of the masses."¹⁴ In fact, as pointed out by Amnesty International, "there are security forces, including internal security, with no requirement for accountability, which have sweeping powers, which are ubiquitous."¹⁵

Although Colonel al-Qadhafi remains an active member of the military, the Libyan army is not a central power broker. In fact, with the collapse of the army due to the impact of international sanctions, the strength of the Revolutionary Guard, which reached 40,000 members, exceeded that of the army. The military is based on a balance of

paramilitary forces whose composition is representative of those tribes that have sworn allegiance to the regime.

The Libyan state has tried in recent years to modernize its private property legislation and to better protect property rights and contracts. The state does not seize land from private citizens and its desire to promote private enterprise is a strong incentive to protect property rights.

ANTICORRUPTION AND TRANSPARENCY

Complete centralization of power and the absence of civil and political liberties have provided Libyan decision makers with unlimited control over public resources and extensive opportunities for personal enrichment. The exploitation of these resources takes place without any safeguards and often in pursuit of objectives that have little to do with the public good. As the regime sees it, the nation's wealth exists to promote the realization of the revolutionary project. The inspection of public spending is arbitrary. The distribution of oil wealth is not substantiated by public authorities. The state's use of public resources for personal or political ends is a factor in the role of the state in Libyan society and elsewhere. French historian Michel Seurat described the perception of the government as that of a very successful tribe that continuously extends control over its distributive mechanisms rather than as a political instrument serving the society and guaranteeing the public good.

Transparency International, in its 2010 Corruption Perceptions Index, ranked Libya 146 out of 178 states surveyed.¹⁶ Corruption in Libya is relatively subtle, however, and is often not perceived by Libyans as a morally or commercially reprehensible practice. Contracts are usually the result of the culmination of personal relationships involving family members or friends with shared political, military, or diplomatic interests. Commercial relationships among groups with similar interests are seen as completely legitimate and in no way related to corruption.

The oil and gas sectors and their 35,000 employees are under the close surveillance of the revolutionary committees. These sectors are essentially the funding source for Libya's redistributive state. Corruption in the oil sector has become an important part of the management and control of hydrocarbon sales. The almost exclusive domination in these sectors exercised by the al-Qadhafi family and those policymakers who enjoy al-Qadhafi's trust render any attempt at curtailing corruption both very uncertain and extremely risky.

On October 10, 1999, at a conference in Durban, South Africa on anticorruption measures, Abdurrahman Musa al-Abbar, the secretary-general of the Popular Committee at the Council for Popular Control, gave an account of the measures Libya has taken against corruption: "The Law concerning economic crimes related to fighting all kinds of economic corruption in the state (Law number 2 of 1979), the law concerning prevention of favoritism (Law number 6 of 1985), and law prohibiting improper gains through requiring the disclosure of the source of benefits (law number 3 of 1986). This was enacted to fight all kinds of corruption in the community. This law compels all general employees and self-employed citizens to submit annual declarations on their financial positions and the extent of their modification during the period covered by the declaration.¹⁷ These disclosures have not been made, however. In reality, corruption forms part of a process of interaction that is not perceived by the Libyan leadership as reprehensible, given that the concept of public assets is not well developed.

The main challenge in the fight against corruption in Libya is the institution of a procedure of public assessment of the state's resources. There is no law to ensure access to information and citizens have very little information on public spending. After undertaking a high-level consultancy mission to Libya in August 2003, representatives of the International Monetary Fund (IMF) recommended implementing controls on additional budgetary funds, especially on the Oil Reserve Fund, reevaluating the distribution of oil wealth between current expenditures and capital. Another important recommendation was budget transparency.¹⁸

As with political power, wealth is also concentrated in the hands of a small group of people. The country's riches are at the disposal of the al-Qadhafi family and those nearest to them, without any mechanisms for accountability. No political institution is empowered to scrutinize the use of state resources, the officials who carry out transactions, or the sums involved. According to a report published by *Jeune Afrique*, more than \$360 billion have passed through the hands of the authorities between 1973 and 2003. A journalist declared that a part of this sum has been used for arms purchasing expenditures, and another portion for infrastructure investment. Many questions remain unanswered concerning al-Qadhafi's personal wealth, his family's holdings in overseas companies, and investments in offshore funds.

It is important to note the incredible generosity of al-Qadhafi toward African leaders. He presented the presidents of Ghana and South Africa with Mercedes S500 cars (each with a monetary value of \$100,000), and the president of Guinea Bissau with a suitcase containing \$1.35 million. Ghana, Zambia, DR Congo, Liberia, Gabon, and Congo Brazzaville benefitted from an investment of \$4 billion from the Libyan Arab African Investment Company (LAICO), which has supported more than 130 projects throughout Africa.

As part of its economic modernization program, which included an anticorruption component, the government has been forced to charge several high-level civil servants with graft. The Libya Human and Political Development Forum created a website for the reporting of corruption within the country, including the exposure of business fraud and bribery.¹⁹ After the launching in September 2001 of an anti-corruption campaign, the People's Court charged several high level civil servants, including the Finance Minister, of forgery and bribery.

In March 2008, the government announced a series of reforms, including allowing a greater role for private enterprises and establishing a wealth distribution program intended to give the general population a direct share in oil revenues. However, most of these reforms were put on hold just one year later because of their complexity and the uncertainty of their impact.²⁰ Between 2006 and 2008, the consulting firm Monitor Group was hired to assist Libya to reform the economy and to better exploit its potential. In fact, these reforms were cosmetic and designed only to make Libya attractive to the international community.

There is virtually no reporting on corruption in Libya because of the extreme controls imposed on journalists, particularly those who investigate corruption. In 2010, the Libyan government created the position of press deputy in order to monitor and control journalists that report on corruption, although the position has not begun to operate.

1 Interview, *Le Figaro*, December 8, 2007.

2 In 2008, B. R. Barber, Hernando de Soto, R. Putnam, A. Giddens, F. Fukuyama, and J. Nye visited "the Guide." *Maghreb Confidential*, December 23, 2008.

3 Speech before the General People's Congress, January 2000. In 1998, most of the ministers were transferred from Tripoli to the cities of Benghazi, Kufra, and Sirte.

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5 Jamel Arfaoui, "Libyan government nationalizes reform media," *Magharebia*, March 6, 2009, http://www.magharebia.com/cocoon/awi/xhtml1/en_GB/features/awi/features/2009/06/03/feature-02.

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- 13 David Blundy and Andrew Lycett, *Qaddafi and the Libyan Revolution* (Boston: Little Brown & Co, 1987); Hanspetter Mattes, "The Rise and Fall of the Revolutionary Committees," in Dirk Vandewalle (ed.), *Qadhafi's Libya, 1969 to 1994* (Palgrave Macmillan, 1995).
- 14 Televised speech in May 1988, quoted by Dirk Vandewalle, *Libya since Independence* (Cornell University Press, 1998), p. 147.
- 15 Radio France Internationale (RFI), June 23, 2010.
- 16 "Corruption Perceptions Index 2010 Results," Transparency International, http://www.transparency.org/policy_research/surveys_indices/cpi/2010/in_detail#1, accessed July 1, 2011.
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