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Libya Working Group Report: MENA Programme

Libya: Challenges after Liberation

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Introduction

Meeting for the fourth time, the Chatham House Libya Working Group came together in November 2011 to consider the challenges for Libya after liberation. With the recent appointment of a transitional cabinet, the first session focused on the interim government, with a particular emphasis on the political challenges in the next phase. The second session explored shifts in the dynamics between politics and society in Libya, examining questions of regionalism, reconciliation and the role of civil society. The final session concentrated on Libya's external relations, with an emphasis on international expectations of the transition, the role and influence of international patrons, for example Qatar, and the direction of Libya's future regional relations and positioning.

In an additional exercise, Libya Working Group participants were asked to anonymously score 23 factors deemed to be important for Libya's success. Please see the appendix for a breakdown of results.

Some of the main findings of the meeting include:

- Without centralization of political and military powers the fragile legitimacy of the current government will be called into question.
- The body elected to draft the constitution must be as representative as possible; to ensure that there is a sense that all the rights fought for during the revolution are achieved.
- The key question is not who is *in* the government but who is *out* of the government. At present individual political legitimacy is drawn from the role one played in the revolution, preventing the development of fully democratic representation.
- There is resistance in Libya to addressing issues of reconciliation, illustrating a clear and urgent need for a reconciliation commission.
- Security is a crucial area as it relates to the questions surrounding the authority of government. At present it is uncertain who will come forward to form a central military or security authority.
- The integration of militias is a key aim in regards to stabilisation and reconciliation. Employment is seen as a crucial factor.
- Restoring economic stability is a crucial aspect of restoring security. One of the main challenges will be how to revitalise the economy, particularly given the constraints on the interim cabinet.

- Preventing factionalisation between regions, where different people are in control of different aspects of oil production, is crucial to prevent inefficiency, instability and conflict.
- Regulation of oil revenues is crucial in preventing the creation and perpetuation of patronage systems, and it is also essential to avoid opportunities for the re-establishment of familiar patronage systems around protection of the energy and oil sectors by militia.
- Libyan politicians need to strike a balance between the West, Africa and Middle East; managing relations with the EU will be a significant challenge.
- The EU was perceived by some to be avoiding a role in helping to establish stability, adopting a 'wait and see approach.' It was suggested that security sector reform was an area in which the EU could make a significant contribution to the transition, through capacity building and training.

The meeting was held under the Chatham House Rule and the views expressed are those of the participants. The following summary is intended to serve as an aide-mémoire to those who took part and to provide a general summary of discussions for those who did not.

The Chatham House Rule

'When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed.'

On the ground

The past few months have seen dramatic changes in Libya with a shift from revolution toward the building of a state and nation. There is a sense of confidence: anything is easier than getting rid of Gaddafi and the general mood is reportedly guarded but welcoming. There was wide agreement that things were returning to normal, particularly in Tripoli,¹ with order on the streets, people returning to work, ports open, airports functioning and flights resuming, companies returning and a small flow of foreigners coming back to see whether they can start their businesses again. Oil production has also been resumed. The situation seems to be improving.

However, caution was expressed. It was stated that whilst there are obvious signs of the country moving forward, there remains a great deal of suspicion; people praise their own cities and denigrate others and there have been clashes.

Two key issues highlighted for immediate concern were state salaries and pensions; and the treatment of the wounded and the families of the bereaved. It was estimated that seventy to eighty per cent of Libyan families get their livelihood from government payments, through public sector jobs or transfers. In answer to the question of whether serving and retired civil servants and teachers were receiving their salaries and pensions it was stated that they were, and that they had also received a considerable raise. However, whilst payment systems are working to some degree, it is unclear where this money is coming from exactly; it was suggested that funds are coming from abroad in the form of donations or unfrozen assets. There is a related issue of liquidity, discussed in further detail below. It was also noted that there is some concern that the outgoing minister of finance, Ali Tarhouni, hasn't produced a balance sheet to date.

The issue of the treatment of the wounded and the families of the bereaved are crucial, with particular regard to reconciliation, and should be an immediate and pressing priority for the government. Treatment of the injured in particular was remarked on as inadequate, a concern that needs to be tackled with tact and urgency.

New government

November 2011 saw the appointment of the first cabinet since the fall of Gaddafi and marked a shift from the sole leadership of the National

¹ A conference with all major Libya construction companies, job adverts and offices reopening were all cited as signs of this normalisation process.

Transitional Council (NTC). Discussion focused on which forces will need to be accommodated, including regional actors and the residual pro-Gaddafi support base, in order to create a credible government. It was asserted that the new government has been accepted as broadly legitimate in its representation and that its technocratic nature has been well received, seemingly respected by the wider population. The low profiles of the ministers appointed suggest that the key decisions as to which groups are going to have power in the new Libya have been postponed.

However, concerns were raised that the current government has no central authority, and without centralization of political and military powers their current fragile legitimacy will be called into question. Those serving in the current cabinet had to state that they did not have long-term political aims; therefore the key question is not who is *in* the government but who is *out* of the government. Abdallah Sanousi was given as an example.

However, there was disagreement on this issue. One participant argued that the current cabinet needs to be monitored very carefully, cautioning that very little is known about the appointed government and most have been active in Islamist movements since the 1970s and have long-held aspirations for power. Establishing mechanisms to hold the government accountable are also problematic, as they need to be balanced with considerations towards establishing stability.

The problem of how the interim government can derive its authority when it is constrained in terms of spending and long-term policy implementation was discussed. Government spending in particular was highlighted: is it realistic to expect a short-term interim government to spend money, and will people accept the government's authority unless it does spend money (for example on disarmaments programmes)? It was concluded that before elections it will be very difficult to spend money without being criticised, and this will be a significant constraint on the current cabinet. A similar point was raised in regards to the legal system; the new government has essentially rolled over the existing legal system and until a legitimate elected government is in place changes will be very difficult.

NTC transition plan and the new role of NTC

Discussion explored the future role of the National Transitional Council. It was suggested that the NTC is set to develop into a benign 'council of elders' with the establishment of the interim cabinet. Whilst there are Libyan 'idols' in the NTC, their authority has been also been increasingly questioned – with critics

pointing out that Mustafa Abdel was becoming increasingly unpopular. These were seen as positive signs, indicative of democracy. The inclusiveness of the NTC was commented on as important and positive, however it was suggested that there is a need to diversify the political scene, encouraging younger people to take on a role.

The NTC transition plan was discussed in detail, particularly with regards to the path towards elections. The timeframe to full elections is two years, with elections in the middle of 2012 for a constituent assembly, a body elected to draft the constitution. Questions were raised about how electoral power will be apportioned in different parts of the country; it was emphasised that this body must be as representative as possible, to ensure that there is a sense that all the rights fought for during the revolution are achieved. Of particular concern are the rights of minorities groups, for example those in the Western Mountains. However, it was also noted that debate within the wider population is whether they would like to be treated as a minority or as Libyans: 'There are disagreements and that's good.' The role of women was remarked upon: an increase in women's movements was noted in Darna and the first women's conference in Libya since liberation was attended by Catherine Ashton. There is an acknowledgment that women need to be listened to and need to play an active role.

It was also noted that a new electoral commission has been established, with the UN providing assistance with technical preparations.

Deciding on the characteristics of the electoral system is a priority, especially on how to balance regionalism and central authority.

Article 30 of the constitution will be central. At present there still isn't a political parties law, so none of the existing political groups are legal. One of the delays is that the registration process hasn't yet been opened. However, it was noted that there are encouraging signs – it was suggested that there are 16 (unregistered) parties in Benghazi, 4 in Tripoli and many more are being created. Rumours about an imminent electoral law remained unconfirmed, however, a number of Tunisian delegations including the EC (the electoral commission in Tunisia) have been to Tripoli in an advisory capacity. NTC delegations also went to Tunisia to monitor the elections in October 2011.

Regionalism and the role of opposition(s)

The discussion in this session explored the regional players, key local leaderships and communities and how these relate to the interim government,

seeking to answer questions about the policy platforms and personalities on which a future government will be based.

At present individual political legitimacy is drawn from the role one played in the revolution, preventing the development of fully democratic representation. Moreover, there are people in Benghazi who feel that they are not sufficiently well represented given their central role in the revolution. It was suggested that the answer to the representation issue is that these groups should be encouraged to hold the government to account and have their interests represented in a democratic way, rather than reinforcing old systems of patronage through allocating portfolios and ministries along regional lines.

Addressing the question of whether there is a problem of 'residual Gaddafism' it was concluded that clashes centre around the desire for control and representation in government (illustrated by clashes in Bani Walid) and problems of unsustainable, unrealistic investment (i.e. in Sirte). However these elements are not to be seen as 'Gaddafi loyalists'. It was noted that there has been a significant reversal of fortunes of tribes associated with Gaddafi – the example given was that Mohamed Jibril lost out in the formation of the interim cabinet due to his connection with Warfali tribe. Caution was expressed in regards to those outside of the emerging power structures, especially if resentments grow. There have been calls to decentralise power from Tripoli to avoid the risk of disenfranchisement outside the major cities.

With reference to the role of Islam in public affairs, it was argued that inevitably moderate Islam will emerge in Libya, as in Tunisia and Morocco. At present, the Muslim Brotherhood have decided not to form their own political party but will support whichever party will be most representative of their views.

Reconciliation

There was consensus on the idea that there is resistance in Libya to addressing issues of reconciliation. There was an acknowledgement that regime figures remain in positions of power and are very difficult to extricate because they are consolidated in their neighbourhoods and tribes. However, there was a reminder of the need to avoid the 'de-Baathification' of Iraq. It was suggested that elements of the regime remain particularly entrenched in the financial sector, but the issue of who to replace them with is difficult, given their specialised skills. There was a distinction made between those who have committed crimes and should be brought to justice and those who

simply served the old state; nevertheless it was acknowledged that it can be difficult to know where the line lies.

A crucial challenge is how to deal with the 'defeated.' Questions were raised about the future of the estimated 7,000 detainees who fought on the losing side in the conflict. The detained are drawn from certain areas, with the potential to lead to concentrated ill-will towards the government should they suffer mistreatment and continued detention without due process. It was reported that some loyalists are being released because the attorney general said, 'We either present them to court or we have to free them.'

There were reported tribal divisions; Ghadames was cited as an example, where the schism has resulted in homes being burned down, allegations of rape and apparently those belonging to the Touareg tribe (Berber) are no longer welcome. There are significant numbers of internally displaced people. These reports illustrate a clear and urgent need for a reconciliation commission.

The issue of migrants is also pressing, and the UN has expressed concerns about the treatment of third country nationals. Apparently some of the detainees held in Tripoli at the moment fall into this category. Whilst some people have alleged that 'the revolution has "cleansed" the country of many illegal immigrants,' participants emphasised that the new Libya needs to reach out to neighbouring countries – they are poor and Libya needs a labour force. It is important to note that the majority of major crimes committed in Libya have been committed by Libyans themselves and not outsiders.

Security

Security is a crucial area as it relates to the questions surrounding the authority of the government. Some civil policing is already beginning, however at present no single group can achieve a monopoly of violence and it is uncertain who is in charge of the people patrolling the streets or who will come forward to form a central military or security authority. The attempt to structure a new national army is full of contradictions – the choice of a defence minister from Zintan was commented on – and prospects look relatively poor, with implications for political leadership. There are several parallel tracks – including the central NTC and reconstituted regional forces – who claim to be working on this area. There are rumoured to be, in effect, several armies each of many thousands of men, under leaders who claim to be loyal to the NTC and prepared to support the new government. Under the

new defence minister, Osama Al-Juwali, there may be more progress on a unified, centralised security structure.

It was reported that there have been cases in Warshifan and Zawiya where weapons have been used by militias to seize property and settle pre-war disputes. Questions around disarmament and weapons collection remain and weapons held by civilians continue to be a central cause of instability and insecurity. Nevertheless the situation seems to be improving: it was reported that weapons are seen with less frequency in the streets and there has been a formal effort by militias to hold weapons overnight. However, there are fears that without security reforms people will be unwilling to hand in their weapons in case of future insecurity. Financial incentives were discussed; however the UN has expressed concerns that this would create a black market for weapons.

The Libyans were encouraged to collect weapons sooner rather than later. Kuwait after liberation dealt with this problem by making weapons possession illegal. With huge weapons stocks in civilian hands, people were asked to turn in their weapons. Three months later, after little success, a law was passed to collect them forcibly.

The integration of militias, a key aim in regards to stabilisation and reconciliation, was related to the structuring of the security apparatus. It was suggested that plans are being formed to integrate various militias into the national liberation army. The NTC has clearly stated that there won't be foreign security companies operating within Libya, and it seems that private security will be a key area for the employment of former militia members. Employment is seen as a key factor; it has been acknowledged by the revolutionary commanders that if there are jobs, then demobilisation will be a natural process. However, it remains to be seen what employment will be available, particularly given that many fighters don't want uniformed jobs. Furthermore, concerns were raised that patronage structures would be replicated in the provision of private security in the oil sector.

Liquidity and unfreezing of assets

One of the main challenges will be how to revitalise the economy, particularly given the constraints on the interim cabinet. The UNSC resolutions stipulate that a transparent and accountable government and some institutions to absorb resources must be in place before frozen assets are released. Restoring economic stability is seen as a crucial aspect of restoring security and as such the unfreezing of assets is a priority for Libya, as it will assist

with releasing liquidity into the economy. However, it was noted that whilst everybody holding funds is ready to act quickly, in order to ensure against litigation in future there has to be a clear line of authority that justifies the unfreezing, which doesn't exist at present.

Additionally there is an internal debate over capacity – how will the new cabinet deal with a large sum and how ready are they to spend it? It was acknowledged that there is a lack of capacity to deal with unfrozen assets on the Libyan side. One participant reported that conversations in Tripoli indicate there wasn't a great deal of urgency and in fact people on the financial side are the most keen to emphasise the lack of capacity. The eagerness of the current authority to be seen to be paying their way rather than taking foreign aid was cited as a key motivation for the release of funds; it was noted that there is a lot of money in the investment funds which hasn't been allocated, raising the question of what the money was needed for. However, there are conflicting reports on this issue: Abdel Jalil has made public statements regarding the urgency of the release of funds because of a reported monthly \$2 billion deficit, while there were contradictory reports from Tripoli that when the NTC reached the central bank it contained \$23 billion that they didn't know about. There is also some contention as local councils also want funds to spend as they wish.

Problems of liquidity for individuals were also reported, with banks closed and limits on withdrawals. These problems were reportedly more acute further outside of Tripoli, which has exacerbated concerns regarding regionalism and it remains to be seen if these regional discontents will cause serious problems for the government. One participant reported that their family outside of central Tripoli were not receiving their pensions or salaries. However, \$12 to \$15 billion of unfrozen assets have started to alleviate this backlog. In some cases key individuals have eased the liquidity problem by making large deposits, however this raises related concerns that patronage structures are being (re)created or reinforced.

State and nation building

The questions relating to capacity encompass two interrelated challenges: that of 'state-building' which can be understood as creating the modern institutions of a state; and 'nation-building,' the establishment of a necessary consensus that the institutions that are being created are legitimate. Constructing institutions and building institutional capacity were identified as crucial areas for work. The government has been accused of being 'helpless' and unable to implement policies due to lack of capacity or control.

Disagreement centred on which state institutions were in place and how well were they were functioning, emphasising the need to create legitimate, viable and accountable institutions. It was emphasised that there is not a lack of capital, although excess capital also brings its own problems. It was suggested that if the achievements of the Council in Benghazi and the stabilisation team in Dubai can be carried forward, then Libya can be seen as entering a period of 'proto state-building'.

Civil society

With a burgeoning number of new media outlets² and political and social organisations, the role of civil society is becoming more pronounced in Libya. A growing number of NGOs appear able to offer services in areas where the government is making little or no provision – in particular treatment of the wounded and support for the families of the bereaved.

Existing schemes such as workshops to train citizens in democratic participation were mentioned and it was noted – with some pride – that Libyans have sent aid worth 2 million dinars to Somalia since the fall of Gaddafi. It was cautioned, however, that the responsibility for some areas – for example the training of journalists – cannot lie solely with private organisations. Private organisations will also seek to retain their independence, so the government cannot pressure them to deliver a specific programme, as has reportedly been happening. There are other ways in which the government can support the work of civil society organisations – for example through encouraging press freedoms.

However, concerns were raised that the discussion was swayed by the quantity, rather than the effectiveness of civil service organisations and the question of how Libya can be assisted to develop an effective civil society was raised.

Judiciary

The discussion highlighted a lack of clarity around the issue of the judiciary. There were contentions as to whether civil and criminal matters were going before courts at present, and some participants suggested that judges and lawyers are unable to return to work. However it was also reported that civil courts in Tripoli have been open since August 2011.

² With the abolition of ministry of information of media

In any case, it was argued that the justice file needs the most work. It was suggested that in Libya there is a fundamental misunderstanding between human rights law and the laws governing conflict, and that the concept of administrative justice has been lost in the revolution. One participant argued that 'in the last 30 years Libya has been going backwards in terms of social development,' linking this to the concept of justice, and stating that 'rather than adhering to a universal conception of justice Libyans have adopted their own understanding of justice, and similarly their own understanding of what constitutes human rights abuses.'

Oil sector

Libyan oil production now stands at 700,000 barrels a day, down from 1.6 million barrels. Service companies haven't yet returned with essential equipment, a key obstacle in getting back to pre-revolution levels of production. It was noted that the National Oil Corporation is functioning, and participants expressed an interest in seeing how this will continue. The implications of a technocratic oil minister will also be watched with interest.

Key challenges to the state building process relate to patronage and factionalisation. Regulation of oil revenues is crucial in preventing the creation and perpetuation of patronage systems, and it is also essential to avoid opportunities for the re-establishment of familiar patronage systems around protection of the energy and oil sectors by militias. Preventing factionalisation between regions, where different people are in control of different aspects of oil production, is crucial to prevent inefficiency, instability and conflict. It was argued that this issue is exacerbated by the problem of a highly factionalised government, in which policy is framed around regional economic interests.

It was noted that there will be positive discrimination towards companies from countries that have been supportive throughout the revolution, however discussion focused around the renegotiation of contracts. The NTC has been keen to emphasise that there will be continuity with contracts, but some participants suggested that there is a nationalist element to the revolution, which may manifest in a reshaping of petroleum law. There is potential that a review might be more aggressive towards foreign countries, with tighter profit regulation. However, rhetoric focused on getting the Libyan oil sector 'back on its feet' whilst also discussing investigating oil contracts and possible corruption was seen to be in contradiction. It was argued that whilst there are slight discrepancies between oil law and contracts, this is in fact one of the laws that doesn't actually need revisiting. There was a willingness expressed for individual contracts to be re-examined. However, it was suggested that it

not be sensible for the NTC to look at upstream oil production contracts as exploration contracts were renegotiated in 2007 on competitive, open tenders. Corruption in contracts is more likely to be found in service sector.

Libyan Foreign Relations

Countering the legacy of the Gaddafi regime, Libya now wants to be seen as a credible regional partner and it is anticipated that there will be a deliberate attempt over the next few weeks and months to come out of self-enforced isolation, re-establishing policies aimed at practical cooperation with overseas partners (a precedent before the revolution being the migration policy associated with Deputy Minister Muhammad Taher Siyala). The 'Africa first' policy is definitely changing and there is a move to improve relations with the rest of the Middle East. Libyan politicians need to strike a balance between the West, Africa and Middle East. It was suggested that Libya's biggest challenge will be managing relations with the EU. It was emphasised that Libyans need to be careful not to swing completely towards the west, with the any government coming to power less credible because it is perceived to be a 'puppet' of the West.

Sub-Saharan Africa

It was argued that in the long-term relations with Sub Saharan Africa may be cooler and less ideologically tinted, however concerns that the new Libya is turning away from Africa because of the perceived role of the African Union during the revolution need to be countered. It was suggested that the international community 'needs to tell Libya that you can choose your friends but you cannot choose your neighbours – you have to deal with them, and encourage Libya to find creative ways to deal with undemocratic neighbours.' It was noted that, in reality, there have been some very positive signs coming from Africa.

North Africa

The relationship with Algeria, an authoritarian regime flanked by that have had elections which have brought Islamic parties to power, will be crucial. Discussion focused around ideas of sub-regional cooperation to resolve labour and migration issues, and it was suggested that schemes for unification, which have been floated for a long time, may come back to the table; although there was some disagreement as to whether the economies of the North African countries are compatible in terms of unification. Egypt has expressed its desire to have more economic integration with other revolutionary countries, although at present preoccupation with their own

transition has limited any real developments in this area. There have been increasing Libya-Tunisia linkages.

European Union

The EU finds itself in a difficult position, treading a fine line between doing too much and not doing enough. At the moment EU engagement in Libya centres around stabilisation and economic opportunities, however it was suggested that the EU is having trouble finding a sustainable entry point. It was suggested that security sector reform was an area in which the EU could make a significant contribution to the transition through capacity building and training, however it was also noted that such a narrow focus leaves them in a rather static situation. The EU was perceived by some to be avoiding a role in helping to establish stability, adopting a 'wait and see' approach. It was noted that Libya has made very clear the areas in which they are willing to seek support and this needs to be acknowledged.

United States

The US has been damaged by its muted role. Although Obama said Gaddafi must go, it is felt that he didn't fully back the revolution. America's focus on democracy and the need for electoral institutions was seen to have been overstressed, to their detriment. US programmes are focused on institution- and nation-building, particularly in the areas of socialisation and education.

Gulf

The relationship with the Gulf states were seen as very important and how these develop will be a crucial aspect of Libya's transition. Relations with Saudi Arabia, which did not overtly support the revolution, and Qatar, which played a much more active role, were particularly discussed. It was noted that Qatari interests and intentions were coming under scrutiny, with some of the harshest criticism on Qatar's lack of accountability coming from the outgoing minister of finance, Ali Tarhouni.

Appendix

Questionnaire: 23 Factors for Libya's Success

Please rate: 1 – poor, 2 – medium, 3 – good.

Category	1	2	3
STABILITY AND PEACE			
Countering proliferation of weapons	11	0	1
Consolidation of revolutionary militia into a national guard and national security force, subject to government control	10	1	1
Resumption of policing	3	9	0
Resumption of court and prison services	6	4	1
Observance of human rights	6	5	1
EFFECTIVE GOVERNMENT			
Regional and social accord	4	8	1
Resumption of policing	4	6	0
Resumption of court and prison services	6	5	0
Observance of human rights	5	5	0
Re-staffing of government departments	4	6	2
Local government	5	6	0
A new democratic, accountable constitutional settlement	5	5	2
BASIC SERVICES			
Cash payments for welfare and government salaries	1	8	3
Food and fuel	0	5	6
Utilities	1	7	3
ECONOMIC RECOVERY AND LIVELIHOODS			
Unfreezing assets	4	8	0
Resuming oil and gas production and export	0	6	6
Revival of private sector	6	5	1
Return of exiles	2	7	3
FOREIGN COOPERATION			
North African neighbours	3	9	0
International Organisations	0	11	1
Major powers including EU and US	1	10	1
GENERAL OUTLOOK			
Confidence in the future	3	9	2

ABOUT THE MENA PROGRAMME

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