
The Slow Pace of Reform Clouds the Libyan Succession (ARI)

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Theme: In the uncertain and shifting dynamics of Libyan politics, effective power today rests in the hands of the Leader and a few trusted advisors in a system firmly grounded in family ties and tribal loyalties and buttressed by the military and various security organisations.

Summary: Over the last decade, Libya has undergone a remarkable international transformation, re-establishing commercial and diplomatic relations with the world's leading powers. Domestically, Libya has also attempted to move in new directions; unfortunately, internal reforms have not been as speedy or as far-reaching as Libya's international make-over. Several factors have contributed to the sporadic and incomplete reforms implemented to date. However, the most significant one remains the gulf that exists between the myths, ideas and beliefs of the One September Revolution and the social, economic and political realities they profess to explain. Conservative and progressive forces in Libya continue to struggle over the direction and pace of internal reform, a fight whose outcome will likely influence, if not determine, the eventual successor to Muammar al-Qaddafi.

Analysis:

Economic Reform

At the turn of the century, Qaddafi initiated a series of economic reforms. While some progress was made, attempts at economic liberalisation too often were hesitant, uncoordinated and piecemeal, and the situation looks set to worsen. In mid-February 2009, the Basic People's Congresses (BPC) met to consider Qaddafi's proposal to dismantle the central government and distribute oil revenues direct to the public. Less than two weeks later, the General People's Congress (GPC) announced that only 64 of the 468 BPC had approved the plan while 153 had opposed it and 251 had endorsed it but only after 'appropriate measures' had been put in place prior to its execution.

The delay in the implementation of Qaddafi's plan amounted to a rejection of his attempt to shift blame for the country's economic problems from himself and the ideology in *The Green Book* to a government he has long dominated but belatedly recognised as corrupt and inefficient. In any case, the issue was far more complicated than a simple unwillingness on the part of the Leader, as Qaddafi likes to be called, to assume responsibility for his policies. The success of economic reform in Libya is dependent on a broader and deeper role for the state, not its dismantlement. Therefore, the crux of the matter is a redefinition of the role of the state, not doing away with it.

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At the same time, Libyan officials have continued to promote 'people's capitalism', a halfway house between socialism and capitalism often described as looking like capitalism but acting like socialism. Actually, people's capitalism is nothing more than a crude attempt to mask the obvious differences between the anachronistic 'socialist' ideology in *The Green Book* and modern reality. Attempts to rationalise privatisation as the 'extension of popular ownership' fall in the same category. In the interim, charges of inconsistency, lack of transparency and favouritism have continued to dog the reform process with most observers agreeing that a strong investment code, contract sanctity and the rule of law are among the things required to improve the current business climate.

The mounting political uncertainties which have accompanied lagging economic reforms add to expatriate uneasiness and dampen foreign investment. From the outset of the internal reform process, many international investors, out of perceived or real necessity, tied themselves to a single individual or political faction, often Saif al-Islam al-Qaddafi, the Leader's first son by his second wife and a champion of reform. As the political fortunes of Saif and those around him have ebbed and flowed, concern has increased among some investors that they picked the wrong sponsor.

Hydrocarbons, the Exception?

In recent years, the oil and gas sector has generally been viewed as the single positive exception to halting reform efforts elsewhere in the Libyan economy. In August 2004, Libya announced a new round of exploration and production sharing agreements, EPSA, phase four, which offered enhanced incentives for oil and gas exploration in an open, competitive bidding environment. Over the next three years, the National Oil Company (NOC) concluded four rounds of bidding, awarding 52 contracts to almost three dozen companies from some 20 countries. The terms of these contracts were highly competitive with the NOC collecting hundreds of millions of dollars in signature bonuses.

Widely considered a success in terms of efficiency and transparency, reforms to the oil and gas industry have stalled in recent months and now appear at risk. As oil prices declined, Qaddafi threatened to nationalise the hydrocarbon industry, arguing the recent slump in oil revenues should prompt oil-producing states to maximise revenues from their key resource. While nationalisation itself was never anticipated, the NOC seized on the moment to renegotiate existing oil and gas contracts. Over the last two years, it has revised contracts with ENI of Italy, Total of France and Repsol of Spain, to name a few, reducing their oil take from as much as 49% to less than 20%.

At the same time, the General National Maritime Transport Company of Libya (GNMTC), headed by Hannibal Qaddafi –the Leader's fourth son by his second wife–, has continued to exercise a near monopoly on the transport of Libyan oil, concluding the purchase in late 2008 of six oil tankers valued at US\$400 million. Hannibal's involvement in the lucrative oil transport industry is symptomatic of a trend in which the participation of one or more of Qaddafi's children has become increasingly necessary for the success of any large project or business deal. The ongoing dispute with the Swiss government and the EU, which stems from the alleged mistreatment of Hannibal by Geneva police in July 2008, offers further evidence of the degree to which the Leader sees himself and his family as inviolable and exempt from accepted standards of behaviour, including norms promoted in *The Green Book*. The early March 2010 diplomatic row with the US over a State Department spokesperson's offhand characterisation of the Leader as a few cards shy of a full deck in part falls in the same category.

Unfortunately, things look set to become even more difficult for international companies operating in Libya. The government in August 2009 issued a directive that all companies working in the country must appoint a Libyan citizen to head up local operations, an onerous requirement in the oil and gas sector where 100% of exploration costs are paid by the foreign partner. A few weeks later, Shokri Ghanem, the head of the National Oil Company, tendered his resignation in a surprise move that signalled a serious policy rift. Ghanem was later reinstated but not before a new body, the Supreme Council for Energy Affairs (SCEA), was created to oversee the NOC and to regulate the hydrocarbons industry. Chaired by the Secretary of the General People's Committee (Prime Minister), the membership of the SCEA includes Muatasim Billah al-Qaddafi, the national security adviser and Qaddafi's third son by his second wife. With Muatasim known for his ties to conservative elements and Ghanem an ally of Saif's progressive movement, there remains an open question as to whether the reinstatement of Ghanem represented a return to earlier NOC policies or simply an attempt to paper over policy differences.

One indication that oil and gas policy may be under new management came in early March 2010 when Ghanem summoned executives from a number of US oil companies operating in Libya, including Exxon Mobil, ConocoPhillips, Occidental and Marathon, and told them that the current diplomatic row with Washington could have a negative impact on all US businesses in the country. This decision to threaten oil company executives over an incident completely outside their control is of considerable potential significance because Libya for most of the last 40 years has kept hydrocarbon policy in general and the NOC in particular isolated from domestic and international controversies.

Given the level of uncertainty clouding the hydrocarbons sector, the abortive sale of Verenex Energy Inc., a Canadian oil exploration company, to the state-owned China National Petroleum Company (CNPC) caused serious heartburn for oil companies operating in Libya, especially the smaller ones. The National Oil Company blocked the sale for months on the grounds it enjoyed the right of first refusal and could decide to match CNPC's bid for Verenex. With other holdings in Libya, China proved reluctant to challenge the Qaddafi regime and eventually withdrew its offer in September 2009. In the meantime, Verenex's share price slumped over uncertainty as to whether a sale would occur, and if so, when and at what price.

When compared to giants like British Petroleum and Exxon Mobil, Verenex is a small player in Libya, but it is the only one to have made a large find in the acreage tendered after August 2004. Awarded area 47 in Ghadames as part of EPSA, phase 4, round 1, Verenex later identified a deposit estimated to hold 2.15 billion barrels of oil. Verenex eventually agreed at the end of 2009 to sell to the NOC at 70% of the price originally offered by the CNPC after the NOC refused to honour its commitment to match the CNPC bid. Libya's shabby treatment of Verenex has caused other oil companies operating in the country to worry that in the event of a significant discovery Libya would also seek to revise their contract terms to recover more revenues. It was especially concerning for the smaller oil companies because the Libyan approach in 2009 mirrored its strategy in the early 1970s when it initiated radical new production and pricing policies, beginning with the smaller and more vulnerable independent companies.

The Verenex case also offered an illuminating window into why Libya's mid-term production expectations are not being met. A common complaint from international companies working in Libya is that its opaque, bureaucratic decision-making system too often results in prolonged, less-than-transparent decisions. Foreign oil producers are also

disappointed at the low rate of new finds in Libya. Therefore, any new efforts to tightened terms for oil and gas contracts could easily result in reduced exploration activity, putting at risk Libyan plans for production increases. Reflecting the current situation, Shokri Ghanem in December 2009 unexpectedly extended the much ballyhooed NOC production target of 3 million barrels a day (b/d) by 2012 out five years to 2017.

Social Reform

Libya remains a largely tribal society operating along informal, cliental lines. Primary allegiances are to the family, clan and tribe, and the path to advancement more often than not is through nepotism, favouritism and patronage as opposed to performance, merit or skill. Basic freedoms, like freedom of speech, assembly and the press, do not exist. In the spring of 2009, the state nationalised Saif's budding media empire, dealing a severe blow to what little free press remained. More recently, the Leader defined a free press as one owned by the people –ie, the regime–, as opposed to corporations or individuals.

Libya has one of the youngest populations in the Arab world with one in three under 15 years of age; therefore, the current high rates of unemployment and underemployment, especially among youth, will likely increase in coming years. In part, the regime has sought to address these problems through the policy of Libyanisation, requiring foreign firms to hire Libyans. Similar policies have been implemented elsewhere in the world with only limited success. For the policy to work in Libya, both improved education and a new work ethos are essential, and neither of these can be expected to materialise in the short run. Consequently, Libya continues to recruit tens of thousands of expatriate workers, an approach that has led to charges of abuse and mistreatment in the past.

Progress on human rights reform also remains slow and uncertain at best. Ali Mohamed al Fakheri, a former CIA detainee better known by his terrorist *nom de guerre* Ibn al-Sheikh al-Libi, died in the notorious Abu Salim prison in early May 2009. Officially, he committed suicide; however, the tight security commonplace in Libyan prisons makes this unlikely. At the other end of the political spectrum, Fathi al-Jahmi, a prominent Libyan political dissident and human rights activist, slipped into a coma following a stroke on 4 May 2009 and later died in Jordan. A tale of two Libyans, both opponents to the Qaddafi regime, and both dead directly or indirectly as a result of regime policy.

With Saif in the lead, some recent developments have resulted in pockets of actual or potential social reform, offering hope for additional improvements in the future. In late November 2009, an official suggested that new legislation, if adopted by the GPC, would allow the formation of nongovernmental organisations (NGOs) as long as they were apolitical. The same person stated that the penal code might be amended to reduce the number of crimes punishable by death from the current 21 to only two: premeditated murder and acts of terrorism. Two months later, just as a committee appointed by Saif was about to propose laws setting out the new penal code and the formation of NGOs, the Leader told the GPC that the concept of a civil society complete with NGOs had no place in Libya. In the interim, the Qaddafi International Charity and Development Foundation headed by Saif issued its first report cataloguing human rights abuses in Libya and calling for the full liberalisation of the media. Saif was also instrumental in organising in mid-December 2009 the first press conference by Human Rights Watch inside Libya.

Political Reform

Over the last 40 years, the Qaddafi regime has implemented a long series of political reforms in an effort to generate the levels of political mobilisation and participation necessary to achieve its goals but to do so within the centralised, authoritarian political system necessary for Qaddafi to retain power. In the process, the Leader claims to have created a unique form of direct democracy, based on a nationwide system of committees and congresses, in which power rests in the hands of the people. In reality, Qaddafi after 40 years of tinkering, has largely returned the political system to where it was when he ousted the Libyan monarchy in 1969. Effective power today rests in the hands of the Leader and a few trusted advisors in a system firmly grounded in family ties and tribal loyalties and buttressed by the military and various security organisations.

Selected elements of a Western-style, representative democracy are present in the Libyan system of direct democracy, but others, like the rule of law, respect for human rights and freedom to dissent, are not. Moreover, a thorough reform of the existing system of government, to include professionalisation of the military, increased control of security institutions by civil society and the state and strengthening the rule of law, is unlikely to occur as long as Qaddafi remains in power. Any such reform would destroy the system the Leader has spent 40 years constructing and his power base in the process.

In 2004, Saif created a small committee to work with international experts to draft a new constitution. Their efforts produced a draft charter of 152 articles which was leaked to the press in the spring of 2008. It was then submitted to a legal committee for review under the following guidelines: (1) be sensitive to the spirit of *The Green Book*; (2) acknowledge the weakness of a formal system of government and the strength of actors sitting outside the formal system; and (3) consider the need for stability in existing bodies of governance. These guidelines reinforced the message the draft committee had been given at the outset, ie, certain red lines could not be crossed in any constitution –including the role of the Leader and the ideology in *The Green Book*–. Saif later announced that a draft constitution would be presented to the GPC in February 2009; however, nothing more has been heard of the document. In any case, any future constitution –if one is released– will almost surely be more of a social contract, *à la* Jean-Jacques Rousseau, as opposed to a document detailing a working system of representative democracy, including separation of powers, checks and balances, political parties and free elections.

In the meantime, the Leader has continued to promote his system of direct democracy as the solution to the world's political ills, decrying multiparty democracy as a system in which people are ridden on 'like donkeys'. In an April 2009 speech to Libyan students, Qaddafi proudly proclaimed that one day the world will implement *The Green Book*, the Third Universal Theory and the Jamahiriya system. In a late January 2010 address to the GPC, he again reaffirmed his faith in the direct democracy system, arguing that there was no alternative to the people's authority.

Succession Plan or Balancing Act?

Over the last decade, socioeconomic change has taken place in Libya; however, the full extent, eventual direction and real permanence of that change remains unclear. Libyan officials have become expert in tossing about terms such as partnership, accountability and transparency, but the reality on the ground is a reform process implemented in an *ad hoc*, opaque manner with its pace and effectiveness often compromised by ideological constraints. A small group of progressives led by Saif continue to advocate reform, but they have met determined opposition every step of the way from hard line elements

opposed to any change that might move Libya away from a highly centralised, authoritarian political system. Old guard elements view the introduction of a private sector economy and a more open political system as a threat to their economic interests and to the patronage networks underpinning the existing political framework.

In the uncertain and shifting dynamics of Libyan politics, it appeared throughout much of 2009 that Saif was losing power and influence while Muatasim was ascendant. In August 2008, Saif announced he was retiring from political life, and while Saif met Secretary of State Condoleezza Rice in November 2008, it was Muatasim who met Secretary of State Hillary Clinton in April 2009. Moreover, about the time Muatasim was appointed national security adviser, his mentor, Musa Kusa, was appointed Foreign Minister. Both Muatasim and Kusa are allied with the more conservative elements in Libya. The demise of Saif's budding media empire and the cancellation of a planned visit to Washington DC in the summer of 2009 also suggested his political fortunes were in decline.

Some commentators have argued that Saif's visible role in freeing Abdel Basset al-Megrahi, the only person convicted in the bombing of Pan Am flight 103, suggested his political star was again on the rise, and while this may have been the case, it is more likely a misreading of Megrahi's return. When his plane arrived in Tripoli, there were no Libyan government officials at the airport to meet Megrahi and the Leader did not greet him until the following day. Therefore, it is highly likely that the Libyans thought they were complying, at least in part, with the wishes of Western governments for a low-key return for Megrahi when Saif, not a member of the government at the time, was the only notable Libyan prominently involved in his return home.

In any case, most observers were surprised when the Leader in mid-October 2009 asked senior officials to find an official position 'with no term limit' for Saif. The next day, Saif was appointed head of the organising committee of the People's Social Leadership Committees (also found as Social Popular Leadership Committees), a body introduced by the Leader in 1994 which brings together heads of tribes and social institutions. In the past, these committees generally have been headed by senior military people, and while their exact powers, functions and influence remain unclear, their primary task appears to be to maintain social stability and regime control of the constituent groups. With some observers describing Saif's new job as the second most powerful position in the country, his appointment was widely interpreted in the West as a succession signal; however, it is far too early to reach that conclusion. Five months later, Saif has yet to accept the proffered role, arguing he cannot accept any position in the government until Libya adopts democratic institutions, a new constitution and transparent elections.

If and when Saif agrees to head the organising committee of the People's Social Leadership Committees, it will be a highly significant political event as it will mark the first time that he has occupied an official government position. As Libya took steps to rejoin the international community, Saif served in the past as an unofficial envoy for the Leader, and his back channels of communication with Western leaders were often the only game in town. Following the establishment of full relations with the world's powers, times changed and the rules of the game altered. Today, states expect to deal with the Libyan government through Libyan officials and official channels of communication, not through the back channels earlier required. Throughout this transition period, Saif has continued to head the Qaddafi International Charity and Development Foundation, but he has held no formal government job prior to his pending appointment to the People's Social Leadership

Committees. In contrast, Muatasim held important posts in the army before becoming national security adviser two years ago.

Conclusion: The appointment of Saif to the People's Social Leadership Committees, together with Shokri Ghanem's reappointment to the NOC, appear to have been an attempt on the part of the Leader to balance the competing political forces that are hamstringing reform efforts as opposed to a definitive succession signal. Qaddafi has employed similar tactics throughout his four decades in power, and based on history, a swing of the pendulum could immediately reverse the current power dynamics at any future point. As for the Leader, Qaddafi appears to embrace the Middle East model of dynastic succession, but at 67 years of age he is relatively young for an Arab leader. With no apparent plans for retirement, he can be expected to continue his efforts to balance conservative and progressive elements in Libya in order to maintain his own power position and to keep his succession options open.

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