



Consolidating Libya's New Dawn: The Importance of Supporting Early Security and Justice

On 22 November, the Libyan interim Prime Minister announced the appointment of the interim government ministers in the National Transitional Council. These political leaders are tasked to initiate the complex post-conflict transition that lies before Libya in support of democratisation, economic development and the rule of law. The overall endeavour will be overwhelming in a country where such processes were prevented or oddly and brutally interpreted by the eccentric Muammar al-Qaddafi to the benefit of his family and supporters. An immediate and determined effort will now be required to support security and justice amid ideological cleavages, infighting between militias, grass-roots demands for basic safety and security, redress for former and recent crimes, and other challenges to post-conflict stability. The international community will have to take a particular mindset to providing external assistance to ensure that support programmes are highly tailored to meet the needs and requirements on the ground. Early lessons from the process of change elsewhere in the Arab region, and Egypt in particular, suggest that the authorities should work closely with non-state and other domestic actors to ensure that Libya's future security and justice sector is based upon a common vision and local community-level expectations.

Kevin Steeves

Following the official declaration of liberation on 23 October and the end of NATO operations on 31 October, Libya's interim leaders are now faced with the daunting task of addressing the many post-conflict challenges that face the country as a whole. Given the destruction of war and Libya's many past and present cleavages if not divisions – ideological, regional, religious or otherwise – this work is certainly not for the faint of heart as interim Prime Minister Abdurrahim al-Keib would know best. In undertaking these tricky tasks, the nation's interim political leaders, together with militia and religious leaders, civil society and others must work together to lay down and implement a new national vision and strategy for a future democratic Libya.

In order to support the transition, the National Transitional Council (NTC) committed itself early on to

restoring security and justice as soon as possible following the end of the conflict, cognisant that these areas should be dealt with as an area of priority intervention due to the de-stabilising consequences of an ongoing security and safety vacuum. To support these particular efforts, the NTC requested targeted international assistance to help establish the rule of law, in particular in the area of policing and more largely to support the overall reform of security and other institutions.

Due to the priority being placed on security and justice by the interim authorities and in light of the current threats to basic welfare on the ground in Libya, this policy brief focuses on the chief immediate security and justice issues that presently affect stabilisation and peacebuilding in Libya. Security and justice matters should be prioritised and continually prioritised in Libya with robust government-led efforts as well as

actions and inputs from other sectors of society until adequate levels of security and justice are in place to support overall political and economic confidence in Libya in the months and years to come – in particular to ensure that the expected elections in June 2012 are as credible and safe as possible. In other words, democratisation and economic development require a bedrock of security and justice in order to stay resilient during the long, hard slog ahead along Libya's path to democracy.

Immediate Areas of Engagement: Here, Now and Not Going Away

Key aspects of stabilisation and peacebuilding in Libya stand out at present for attention, including the need to:

... focus and stay focused on dealing with the aftermath of war. The need to quickly disarm militias, remove landmines and address weapons-related issues once fighting ceased was known from the get-go of the conflict as a key post-conflict stability requirement. Initially, it will be primarily the job of NTC leaders and militias themselves to promote a localised self-system to collect and, most importantly, securely store weapons, using for example designated safe homes and/or abandoned infrastructure outside of urban areas. Militia, tribal, religious and other local leaders all have a key role to play in fostering a sense of local community responsibility in ensuring that weapons are gradually taken out as a variable in the conduct of daily life, especially where children are involved. Police, where they exist, will have to be sensitive to and active in diffusing weapons-related tensions and provide advice on safety and possibly also try and institute a basic registry of weapons, especially for the majority of militia members who by all accounts will hold on to their weapons for some time to come.

Weapons abatement measures should be intrinsically linked to the disarmament component of a possible larger disarmament, demobilisation and reintegration (DDR) scheme, and also the expected approaches to weapons and munitions destruction. While concerns over idle ex-combatants are most real, including many reported post-conflict clashes involving casualties, it will be important to stay focused on realising disarmament as much as possible and more generally overall weapons abatement and avoid developing misunderstandings and false expectations or promises with regard to possible demobilisation and reintegration activities and incentives. Demobilisation and reintegration require significant political and societal backing and reliable funding, and the extent of these

being realised and agreed upon are not yet known. Also, many decisions related to determinations over the new army and police (in terms of both numbers and mandates) will have to be resolved first, given the expectation that one of the main thrusts of DDR may be to try and turn ex-combatants into professional police officers and soldiers in addition to supporting natural as well as assisted transitions back into civilian life.

... re-start basic policing as a first step towards initiating national discussions on the nature of future state security services. The Libyan police will be looked upon to take the lead in the restoration and maintenance of post-conflict security. During the al-Qaddafi regime, core elements of the police had earned a base-line degree of public trust and confidence in their normal policing duties. As a result, getting the Libyan police re-organised, visible and engaged in local communities in a non-confrontational but also effective operational and community-based mode is an immediate priority. Tensions between kinships, incidents and crimes related to recent and former abuses, militia or tribal infighting, weapons proliferation, and also possibly in some places competition for scarce resources and/or lack of public services may be the order of the day in addition to theft and other regular crimes. Beyond that, gendarmerie-type policing responses may be required to address incidents that develop into low-level civil disturbances.

The pros and cons of centralised and decentralised policing models should be presented by the NTC and discussed with local leaders and their constituencies. A decentralised national police service that is structured to allow for law-and-order decision-making and responses at the local levels as much as possible will be required initially and perhaps in the medium to long term as well. More fundamentally, police reform and development will invariably affect efforts that will go on to create the new army of Libya and vice-versa. Most importantly, it will be vital to promote a clear organisational, operational and legislative separation between the new police and new army, in particular to ensure that their primacies in internal and external matters are clear and absolutely non-manipulable. Civilian oversight and control mechanisms will be required to foster this and other features. Related to this, Libyans will have to decide and seek broad public input on associated factors such as if they want to task border security and intelligence services to the police or army or create and finance entirely separate institutions altogether.

... re-establish justice and rectify the state of prisons. The new approach to justice overall and in particular criminal justice, property protection, detentions and other issues will be as important as policing. Without question, in addition to the restoration of a court system and the articulation of a transitional justice process to address alleged war crimes, Libyans are undoubtedly going to want to discuss the new judicial system in Libya to the same degree and manner they will with regard to their new police and army. Therein, one of the biggest challenges will be to develop a new system that stays true to the needs of the people, including its religious grounding, reliance on customs, and prevents interferences like those seen during the al-Qaddafi regime. Going forward, the bulk of the work for all concerned will thus be about establishing citizens' overall trust in a new judicial system.

The state of prisons is also at the forefront of the NTC's long list of worrying agenda items. Most prisons and jails are crude and are or were until recently run by militias who had no experience in the finer aspects of security and justice let alone in corrections. As many as 7,000 prisoners are reportedly being held for various alleged offences and also many without any charges at all. In the immediate term, it will be important to develop a registry of inmates to facilitate a review of cases, and on preventing abuses and addressing prison infrastructure issues to ensure security and also safe and humane conditions, including those related to overcrowding and malnutrition.

National and International Engagement: Stabilisation Strategies

National Ownership: Driving the Overall Effort Nationally and Locally

The NTC is recognised by many United Nations (UN) Member States as Libya's legitimate governing authority. At present, it is still establishing itself amid internal ideological and other differences and asserting its interim legitimacy with militias and other locally self-organised actors who are in many instances the main security and justice providers in communities. Already, pressures are being placed on the NTC by tribal leaders and militia leaders and others to ensure the preservation of local networks of power and kinship and preserve communities' preferences for significant autonomy over their affairs.

The NTC is now expected to initiate the national transition on the basis of the "Vision of a Democratic Libya", which the Council published in March 2011 as a pledge to Libyans as well as the international community of its commitment to creating a democratic and unified country. The Vision intends to create new institutions, processes and other checks and balances to prevent future dictatorships and authoritarian rule. In all these security and justice endeavours, the equally important roles of both state and non-state actors will have to be recognised and factored into the discourse on what type of defence, policing, justice and other security and justice services should be re-crafted or developed from scratch. Where they exist, local NGOs, tribal and religious leaders and other civil society actors and associations should be engaged to help inform and articulate the actual security and justice needs and requirements and most appropriate responses. The interim leadership should use the time available until the expected elections in 2012 to start nation-wide discussions in this manner that could be used as input for developing the new strategies and plans in the security and justice sector. This should be done well before core structural, operational and budgetary decisions are made by the country's political leadership and police and military leaders.

Support from the International Community: The Right Stuff?

The UN was given the lead on stabilisation planning at the London conference on Libya in March 2011. The core initial elements of the UN plan to supporting stabilisation and peacebuilding in Libya were subsequently completed in August 2011. Libyan transitional authorities shot down the idea of having outside military observers on the ground and in many respects this decision revealed the approach that will probably be taken by the authorities with regard to discussions with the international community on what they believe is required and not required from inter-governmental organisations and other external actors. In one sense, the decision to reject UN military observers showed a determined effort to avoid the "take-what-you-can-get-and-figure-it-out-later" approach to the national management of external aid and assistance. Yet in another sense, the decision showed how the international community may have its work cut out for it in offering and providing external assistance and convincing the transitional authorities of where and how the international community can bring certain capacities and capabilities to bear in support of the transition and in which form.

The UN, under the leadership of the Special Representative of the Secretary-General (SRSG), is also responsible for coordinating support that Libyans may request from other international and regional actors. The UN Support Mission in Libya (UNSMIL) should lead in helping the various UN and other outside actors articulate their bona-fide and added-value capacities vis-à-vis Libyan requests for assistance. In particular, as part of the broader public debate in Libya on security and justice, UNSMIL should encourage the new Libyan leadership to undertake a far-reaching needs assessment review crafted specifically to isolate the exact security and justice needs in Libya and, among other components, to match those to assistance that is available from the international community in concrete demonstrable terms and not on the basis of good intentions or aspirations or, even worse, on attempts to develop footholds for new operations and programmes.

Pursuant to such a Libyan-led and -owned needs assessment that factors in both the requirements of state and non-state actors in Libya, what is clear no matter the size, scale and scope of international assistance in these areas is that top-notch mentors will be needed in the specific areas of police, justice, prisons, disarmament and weapons management, and defence sector reform and also more broadly covering economic and social affairs. Many will likely also have to serve as programme managers. Arabic language skills would be great, but what is most important is that these people grasp both the cognitive and practical differences between being so-called “top advisers” and “specialists” in their own right, and conversely experts who have the ability to transfer and impart their knowledge and experience to national counterparts and infuse their work into their local working environments. Serious attention will thus have to be paid to ensuring that well-intended international support is backed up with the right people.

In support of the UN mandate, the European Union (EU) could also provide experts to mentor and also manage specific programmes. The EU already has the Neighbourhood Policy instrument to use as an assistance platform. UNSMIL and the EU Office in Libya could possibly consider jointly coordinating external aid and assistance in the area of security and justice. This may be deemed desirable by the Libyans in that the UN and the EU have done a great deal individually and together globally in support of security and justice abroad, in particular in the rule of law field including substantial police- and law enforcement-related work.

The track records are not all upbeat, however, and as a result lessons-to-be-learned would have to be analysed and applied intelligently and sensitively to the specific case of Libya to ensure that operations and programmes are not simply re-done for quick outputs in Libya. This would presume that studies on past and current UN-EU cooperation will be carefully analysed before any major support activities get fully going in Libya.

Little can yet be gleaned on the future geo-political orientation of Libya towards Africa and the Middle East, including the future prioritisation of membership in the League of Arab States and the African Union (AU). Nevertheless, the AU has officially committed itself to assisting with the Libyan transition, including opening a support office in Tripoli. More specifically, the AU has been developing a new Policy Framework on Security Sector Reform (SSR) with considerable UN, bilateral and non-governmental input. The policy, once finalised, will offer a continental-wide understanding and appreciation of the various components of SSR, and address essential elements affecting SSR in Africa as a whole, including in the Middle East and North Africa region. In this regard, the SRSG UNSMIL could ask the AU to offer its services as the lead adviser to the transitional authorities in the development of a Libyan-led and -owned national security and justice sector reform strategy, using the AU Policy Framework on SSR as the main platform towards realising this assistance.

Overall Strategy: Recommendations in Support of Early Security and Justice in Libya

The NTC with the assistance of the UN, EU, AU and others who may become involved in Libya should consider the following strategic recommendations as they develop and/or refine their policies, mandates and programmes and projects in their respective areas:

Take a wide, deep and flexible approach to supporting security and justice in Libya. The security and justice sector as a whole must be recognised and carefully studied for its various elements and players. In the case of Libya, it will be important to pinpoint and understand the most local of security and justice needs, and push those requirements up to the national and international levels so that they inform the overall approach to bringing about reform. At the same time, it will be important

for the NTC to create and lead a strategic framework and approach for security and justice sector reform that is flexible to allow for changes and new insights as reforms take hold – or do not take hold for that matter. Decisions and actions being made now and in the near future, for example on the size and roles of the police and army, should not be allowed to impede or prevent requisite decisions on reforming and restructuring the security and justice sector in Libya in the future.

Promote national ownership of security and justice sector reform in Libya. The principle of national ownership is the most overstated, but admittedly most important of the principles that underpin this field of work. In the case of Libya, much will have to be done from scratch. It will thus be important to allow the NTC, with genuine input from other sectors of society, to make those initial decisions and be supported by the international community in their implementation to the extent possible. One of the best ways for the international community to support national ownership is to discuss and when necessary challenge decisions and intentions when they do not align with international standards or, to put it bluntly, do not make a lot of sense for security, financial or other reasons. In this sense, the “Groups of Friends” mechanism established for Libya could be used to encourage a back-and-forth discussion on the needs and priorities and, when required, hefty critique of decisions being made by Libyan national authorities. In doing this, as the new national elites and international movers and shakers discuss these issues, it will be important that the views and inputs of the most local actors in need of security and justice in Libya – local councils, women’s groups, youth associations and others as they exist today and in the future – are not forgotten as national security and justice policies, institutions and budgets are discussed with foreign ambassadors and decided on by the emerging elites.

Direct and coordinate international assistance in real tangible terms. Much has been written and said and yet less realised with regard to improving coordination between UN entities and between inter-governmental organisations in general in terms of preventing so-called “turf wars” and facilitating joined-up programming. Going forward, UNSMIL, in line with the mission’s mandate, should discuss with the NTC the creation of a mechanism that would allow it to aggressively direct and coordinate outside security and justice assistance. To be sure, this approach would mean that some outside actors would be prevented from providing any assistance to the Libyans. But it would also mean that some actors would be forced to link up their activities and undertake joint or at least synergised activities. In this regard, UNSMIL could for example consider the use of small, non-bureaucratic international “boards” around an issue, say police reform or prison reform, where external advice and assistance can be critiqued in country together with national counterparts and streamlined to meet the actual needs and requirements on the ground.

Recommended Reading

Anderson, Lisa (2011). *Demystifying the Arab Spring: Parsing the Differences Between Tunisia, Egypt and Libya*. Foreign Affairs, Vol. 30, No. 3: 2-7.

Cordesman, Anthony H. (2011). *Rethinking the Arab “Spring”: Stability and Security in Egypt, Libya, Tunisia, and the Rest of the MENA Region*. Centre for Strategic International Studies.

Libya Working Group Report (2011). *Libya: Policy Options for Transition*. Chatham House.

Sedra, Mark and Geoff Burt (2011). *E-Dialogue Summary Report: Security Sector Transformation in North Africa and the Middle East*. Centre for International Governance Innovation.

ABOUT ...

The Clingendael Conflict Research Unit

The Netherlands Institute of International Relations ‘Clingendael’ is a training and research organization on international affairs. The Conflict Research Unit (CRU) is a specialized team, focusing on conflict-related issues in developing countries.

ABOUT THE AUTHOR

Kevin Steeves is Fellow (Security and Justice) in the Conflict Research Unit. He worked previously in the Office of Rule of Law and Security Institutions in the UN Department of Peacekeeping Operations, which supports the police, justice, corrections, DDR, SSR and mine action components of UN peacekeeping operations.