



# Libya: Transition and U.S. Policy

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## Summary

After more than 40 years of authoritarian repression and eight months of armed conflict, fundamental political change has come to Libya. The killing of Muammar al Qadhafi on October 20 and the declaration of Libya's liberation by the interim Transitional National Council on October 23 marked the end of the Libyan people's armed revolt and the formal beginning of the country's transition to a new political order. Overcoming the legacy of Qadhafi's rule and the effects of the recent fighting is now the principal challenge for the Libyan people, the TNC, and the international community. The transition period may prove to be as complex and challenging for Libyans and their international counterparts as the recent conflict. Immediate tasks include establishing and maintaining security, preventing criminality and reprisals, restarting Libya's economy, and taking the first steps in a planned transition to democratic governance. In the coming weeks and months, Libyans will face key questions about basic terms for transitional justice, a new constitutional order, political participation, and Libyan foreign policy. Security challenges, significant investment needs, and vigorous political debates are now emerging.

Operation Unified Protector, the North Atlantic Treaty Organization (NATO) military operation to enforce the United Nations (U.N.) mandated no-fly zone and civilian protection mission, ended on October 31, in line with Security Council Resolution 2016. The proliferation of military weaponry from unsecured Libyan stockpiles—including small arms, explosives, and shoulder-fired anti-aircraft missiles—remains a serious concern in Libya and in neighboring countries, and the Security Council adopted Resolution 2017 to deal specifically with that threat. The Obama Administration is implementing a program with the TNC to retrieve and disable certain types of weapons, including shoulder-fired surface to air missiles. U.S. officials have stated that nuclear materials and chemical weapons components (including newly discovered/previously undeclared chemical weapons) remain secure. Libyan officials have reengaged with international monitors. The U.S. Embassy in Tripoli has reopened with a limited staff. Congress may consider proposals for assisting Libya's transitional authorities.

The U.N. General Assembly has recognized the TNC as Libya's U.N. representative, and the Security Council has extended the mandate to March 2012 for the U.N. Support Mission in Libya (UNSMIL) to assist Libyans with public security and transition arrangements. Resolutions 2009 and 2016 also set conditions for the sale of arms and training to the Libyan government and partially lift the U.N. mandated asset freeze for certain purposes. The TNC continues to call for the release of Libyan assets seized pursuant to Resolutions 1970 and 1973. Transfers of assets have begun from multiple governments, including \$1.5 billion in previously blocked assets that the U.S. government has arranged to support Libyan humanitarian, fuel, and salary needs. U.S. Treasury Department licenses now authorize the release of assets belonging to some Libyan entities and allow new transactions with some Libyan state institutions, including oil companies.

A TNC stabilization team is leading Libyan efforts to deliver services; assess reconstruction needs; and begin to reform ministries, public utilities, and security forces. The TNC has issued orders concerning security and established a high security council to coordinate militia forces. Initial reports from Libya suggest that local militias and some emergent political groups may oppose certain TNC policies and seek to maintain their armed status during the transition period. In spite of sporadic low-level conflict and serious government capacity gaps, TNC officials remain confident in Libyan unity, and Interim Prime Minister Abderrahim al Kib swore in an interim government on November 24. As Libyans work to shape their future, Congress and the Administration have the first opportunity to fully redefine U.S.-Libyan relations since the 1960s.

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## Background

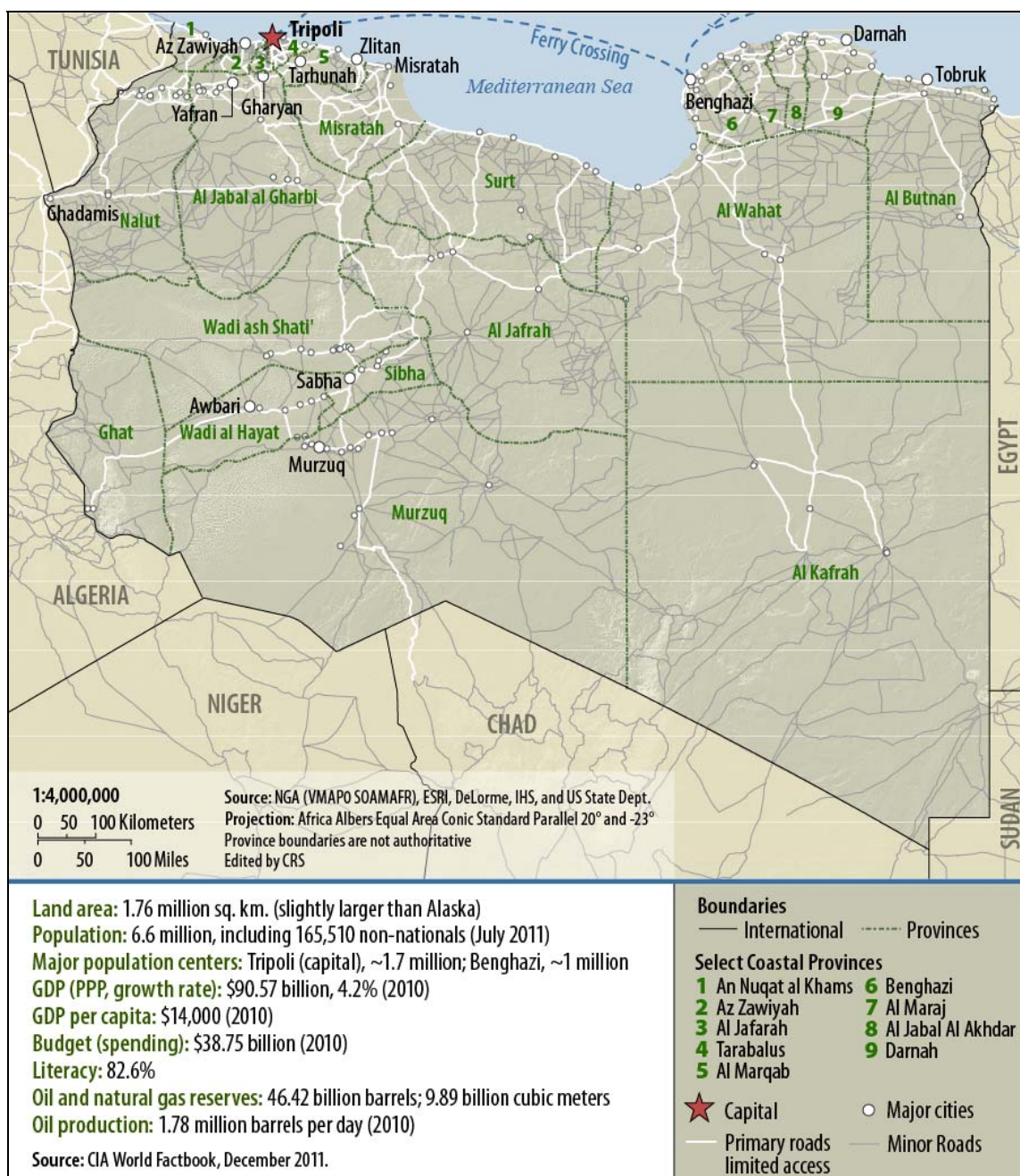
Political change in neighboring Tunisia and Egypt helped bring long-simmering Libyan reform debates to the boiling point in January and early February 2011. In recent years, leading Libyans had staked out a broad range of positions about the necessary scope and pace of reform, while competing for influence and opportunity under the watchful eye of hard-liners aligned with the enigmatic leader of Libya's September 1969 revolution, Muammar al Qadhafi. Qadhafi had long insisted that he held no formal government position, but by all accounts he maintained his 40-plus-year hold on ultimate authority, until his death in October 2011, as the "reference point" for Libya's byzantine political system. Ironically, that system cited "popular authority" as its foundational principle and organizing concept, but it denied Libyans the most basic political rights. Tribal relations and regional dynamics, particularly long-held resentments of Qadhafi among residents in the east, continue to influence Libyan politics. Rivalries are emerging among locally organized revolutionary groups with differing experiences during Qadhafi's rule and the recent conflict. Political groups with differing priorities will also shape Libya's transition.

Qadhafi's claimed policy reversals on weapons of mass destruction (WMD) and terrorism led to the lifting of most international sanctions in 2003 and 2004, followed by economic liberalization, oil sales, and foreign investment that brought new wealth to some in Libya. U.S. business gradually reengaged amid continuing U.S.-Libyan tension over terrorism concerns that were finally resolved in 2008. During this period of international reengagement, political change in Libya remained elusive and illusory. Some observers argued that Qadhafi supporters' suppression of opposition had softened, as Libya's international rehabilitation coincided with steps by some pragmatists to maneuver within so-called "red lines." The shifting course of those red lines had been increasingly entangling reformers in the run-up to the outbreak of unrest in February 2011. Government rehabilitation of imprisoned Islamist militants and the return of some exiled opposition figures were welcomed by some observers. Ultimately, inaction on the part of the government in response to calls for guarantees of basic political rights and for the drafting of a constitution suggested a lack of consensus, if not outright opposition to meaningful reform.

The 2011 revolution was triggered in mid-February by a chain of events in Benghazi and other eastern cities that quickly spiraled out of Qadhafi's control. The government's loss of control these cities became apparent, and broader unrest emerged in other regions. A number of military officers, their units, and civilian officials abandoned Qadhafi for the cause of the then-disorganized and amorphous opposition. Qadhafi and his supporters denounced their opponents as drug-fueled traitors, foreign agents, and Al Qaeda supporters. Until August, Qadhafi and allied forces maintained control over the capital, Tripoli, and other cities. The cumulative effects of attrition by NATO airstrikes against military targets and a coordinated offensive by rebels in Tripoli and from across western Libya then turned the tide, sending Qadhafi and his supporters into retreat and exile. September and early October were marked by sporadic and often intense fighting with Qadhafi supporters in and around Qadhafi's birthplace, Sirte, and the town of Bani Walid and neighboring military districts. NATO air operations continued as rebel fighters engaged in battles of attrition with Qadhafi supporters.

Qadhafi's death at the hands of rebel fighters in Sirte on October 20 brought the revolt to an abrupt close, with some observers expressing concern that a dark chapter in Libyan history ended violently, with an uncertain path ahead. An interim government is now in place, and the first steps toward disarmament and creating unified security forces are being taken. Principal challenges include disarming rebel forces and building national political consensus and capable institutions.

Figure 1. Libya At a Glance



**Source:** Prepared by Amber Hope Wilhelm, CRS Graphics Specialist.

## Assessment

Events in Libya remain fluid and fast-moving. After the swell of confidence and international recognition following the capture of Tripoli, Libya's revolutionaries and the TNC are embarking on an uncharted path of political transition and economic recovery. The post-Qadhafi Libyan political order is complicated by the consequences of the violent revolution, the legacies of decades of Qadhafi's patronage- and fear-based rule, and the chronic economic and political challenges that have fueled popular discontent in recent years.

Security is the immediate priority, and questions remain about the ability of the Transitional National Council (TNC) to ensure order. A large number of armed groups remain active and their continued unity of purpose and endorsement of proposed TNC transition plans cannot be taken for granted. According to the United Nations Secretary General, "revolutionary groups have assumed the main responsibility for law and order throughout the country, without appropriate training and outside a proper legal framework."<sup>1</sup> As of late November, approximately 7,000 detainees suspected of having supported Qadhafi awaited some form of adjudication, and most were under the control of militias.<sup>2</sup>

The apparent proliferation of small arms, man-portable air defense missile systems (MANPADS), and some heavy weaponry among fighters on both sides of the recent conflict has led some counterterrorism and arms trafficking experts, as well as officials in neighboring countries, to express concern about the conflict's longer-term implications for regional security. Most security experts expect that unexploded ordnance, explosive remnants, and looted weaponry will present a domestic and regional challenge for many years. Libya's borders and hundreds of suspected weapons sites remained largely unsecured, although limited efforts to secure them have begun.

Various rebel groups have stated their recognition of the TNC's authority as a means of securing the country. However, press reports and interviews suggest that these groups remain wary of each other, and in some cases their members are intermittently hostile. In early December, Prime Minister Al Kib called on non-local militia units in Tripoli to leave the city or face popular pressure to do so. Both before and in the wake of the October 23 liberation announcement and the November interim cabinet formation, some rebel groups have called for changes to the leadership of the TNC. U.S. officials have not yet indicated they regard the ongoing debates, delays, and insecurity as grave threats to the transition.<sup>3</sup>

Prior to the capture of Tripoli, reports from eastern Libya suggested that limited financial resources and latent political rivalries were creating parallel challenges for the TNC as it sought to solidify its base of support among the disparate groups that rose up against Qadhafi. Those challenges are now reflected on a national scale. Meeting the post-conflict medical and financial needs of Libyans affected by the fighting also remains a high priority for the TNC. TNC leaders

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<sup>1</sup> United Nations (U.N.) Security Council Document S/2011/727, Report of the Secretary-General on the United Nations Support Mission in Libya, November 22, 2011.

<sup>2</sup> Ibid.

<sup>3</sup> Remarks by TNC Minister for Reconstruction Ahmed Jehani and U.S. Ambassador to Libya Gene Cretz.

estimate that over 20,000 Libyans have been killed in the recent conflict, with a further 50,000 injured.<sup>4</sup> These statistics have not been independently verified by any international third party.

U.N. officials and TNC leaders continue to warn of financial constraints in public statements and urge governments to fully release frozen Libyan assets. Some reports suggest that while a lively political atmosphere has emerged, political support for the TNC among the population may be contingent on the council's ability to provide basic services and financial support via salaries and subsidies.<sup>5</sup> Organized armed groups or ad hoc citizen coalitions may choose to challenge the TNC if public hardships increase or if TNC political decisions prove controversial.

Some expert observers of Libya's domestic politics have emphasized the general weakness and fractured condition of Libya's political landscape after 40 years of idiosyncratic abuse by Qadhafi and his supporters. Qadhafi purposely undermined state institutions, including the military, and manipulated tribal, regional, and political groups to maintain power. As a result, transitional authorities are inheriting very weak national institutions, and competition among those groups may intensify during the transition. Differences could emerge in the short term over security arrangements or over the goals and shape of the new political system. The political ascendance of nonviolent Islamist opposition forces or the potential intransigence of any of the armed organized factions now active, including armed Islamists, also may create new challenges. The United States and Europe have expressed concern about violent Islamist groups in Libya and are expected to seek to maintain counterterrorism cooperation with the post-Qadhafi government.

Taken together, these factors suggest that securing U.S. interests in Libya may require sustained attention and resources during the transition period. Since the uprising began, U.S. officials have argued that U.S. policy must remain flexible in order to effectively shape and respond to changing developments. Given these circumstances, Administration officials and Members of Congress may choose to reexamine U.S. interests in Libya; discuss the range of possible outcomes and their potential implications; and define the authorities for and costs of potential U.S. responses.

## Issues before Congress

Many Members of Congress welcomed the announcement of Libya's liberation and the formation of the interim government, while expressing concern about security in the country, the proliferation of weapons, and the prospects for a smooth political transition. Congress continues to exercise oversight over U.S. diplomatic, security, and assistance efforts in Libya and is considering appropriation and authorization requests and notifications related to Libya programs. Securing stockpiles of Libyan conventional and chemical weapons has emerged as an issue of broad congressional concern, as has ensuring that transitional authorities act in accordance with international human rights standards in pursuing justice and handling detainees.

U.S. programs to mitigate threats posed by weapons proliferation continue. On May 9, the Administration notified Congress that it had waived normal congressional notification requirements to immediately obligate \$1.5 million in Nonproliferation, Antiterrorism, Demining and Related Programs (NADR) account funding for "urgently needed assistance to collect,

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<sup>4</sup> OSC Report GMP20111023001007, "Libya: TNC Chairman Mustafa Abd-al-Jalil on Aftermath of Al-Qadhafi's Death," October 23, 2011.

<sup>5</sup> CRS interviews and review of unpublished NGO and unclassified State Department reporting, 2011.

destroy, and reestablish control of Libyan munitions and small arms and light weapons” in response to “a substantial risk to human health or welfare.”<sup>6</sup> These efforts are now being expanded. The Obama Administration has notified Congress of its intention to use \$40 million in previously appropriated funding to support disarmament and weapons depot security efforts that are now ongoing, with U.S. civilian advisers working with the TNC to locate, secure, and disable shoulder-fired anti-aircraft missiles and other weaponry.<sup>7</sup>

During the conflict, the Administration also notified Congress of its intent to offer up to \$25 million in nonlethal material support to groups in Libya, including the TNC. U.S. officials argued that the rebels’ most pressing needs were command and control, communications, training, organization, and logistics support. These needs are now reflected in discussions about reconstituting a national military for Libya, incorporating opposition fighters and former regime personnel into security forces, and demobilizing civilian volunteers. U.S. officials have not publicly discussed specific proposals to assist Libya’s interim government in this regard.

U.S. civil society support for Libya’s transition is being provided under the auspices of the Middle East Partnership Initiative (MEPI) and the \$5 million Libya Transition Initiative (LTI), managed by the U.S. Agency for International Development (USAID) Office of Transition Initiatives (OTI). Through the LTI, USAID contract partners are implementing programs to provide civil society training and resources to Libyan citizens and organizations.<sup>8</sup> The U.S. government also continues to provide medical and humanitarian assistance to Libyans injured or displaced during the revolution.<sup>9</sup>

Some Members of Congress have suggested that some Libyan assets seized by the United States in March 2011 pursuant to Executive Order 13566 should be directed, in consultation with Libyan authorities, toward reimbursement of the United States and other NATO countries for their U.N.-approved military operations. Others are seeking to link the availability of assets frozen by the United States to Libyan cooperation with investigations into Qadhafi-era terrorist attacks. (See “Libyan Assets, TNC Funding, and Oil Exports” below.)

## **Legislation in the 112<sup>th</sup> Congress**

Debate between Congress and the Obama Administration about congressional authorization and the cost of U.S. military operations in Libya diminished during 2011 as the prospect of a

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<sup>6</sup> The notification requirements were waived pursuant to Section 634a of the Foreign Assistance Act of 1961 and Sections 7015(f) and 7015 (e) of the Department of State, Foreign Operations, and Related Programs Appropriations Act (SFOAA), 2010 (Div. F, P.L. 111-117), as amended and carried forward by the Full-Year Continuing Appropriations Act, 2011 (Div. B, P.L. 112-10). The funding was provided to nongovernmental organizations specializing in international demining and ordnance disposal. Those organizations and others are working with the United Nations as part of a Joint Mine Action Coordination Team that issues regular reports on the status of efforts to remove ordnance threats across Libya and related funding needs. For more information see the United Nations Mine Action Service website at <http://www.mineaction.org/overview.asp?o=3994>.

<sup>7</sup> This includes \$34.3 million in Nonproliferation Disarmament Fund monies appropriated in FY2003, FY2004, FY2009 and FY2010. An additional \$5.75 million in FY2011 Nonproliferation, Antiterrorism, Demining and Related Programs (NADR) funding will also be used. Details available from CRS.

<sup>8</sup> More information is available online from USAID at [http://www.usaid.gov/locations/middle\\_east/libya/](http://www.usaid.gov/locations/middle_east/libya/) and [http://www.usaid.gov/our\\_work/cross-cutting\\_programs/transition\\_initiatives/country/libya/index.html](http://www.usaid.gov/our_work/cross-cutting_programs/transition_initiatives/country/libya/index.html).

<sup>9</sup> For an overview of U.S. efforts through late September 2011, see U.S. Government Humanitarian Fact Sheet #44, Libya – Complex Emergency, Fiscal Year 2011, September 29, 2011.



sustained military campaign requiring extended U.S. investment and force deployments became less likely. Earlier in the year, some Members of Congress sought a clearer definition of U.S. objectives, costs, and operations, and, in June and July, some Members of Congress became increasingly assertive in their efforts to force President Barack Obama to seek congressional authorization for continued U.S. military involvement. A number of proposed resolutions and amendments to appropriations and authorization bills sought to require reporting on U.S. strategy and operations or to proscribe limits on the authorization or funding for continued U.S. military operations in Libya. Others sought to authorize the continued use of U.S. Armed Forces in support of NATO operations, short of the use of ground troops.

On June 3, the House adopted H.Res. 292 (Roll no. 411), which directed the Administration to provide documents on consultation with Congress and a report “describing in detail United States security interests and objectives, and the activities of United States Armed Forces, in Libya since March 19, 2011.” The Administration submitted the report on June 15, 2011.<sup>10</sup> The House of Representatives rejected a series of other resolutions seeking to authorize or de-authorize continuing U.S. participation in Operation Unified Protector. U.S. military operations as part of the NATO mission ended in late October.

Debate concerning the future of U.S. policy toward Libya will be shaped by the events of the transition period, and may increasingly reflect issues that were prominent prior to the uprising, including U.S. counterterrorism priorities and Libyan economic and political aspirations. Pending legislation introduced in the 112<sup>th</sup> Congress related to Libya includes:

- The Senate version of the FY2012 State Department and Foreign Operations appropriations bill (S. 1601), which would provide \$20 million in bilateral Economic Support Fund (ESF) account assistance “to promote democracy, transparent and accountable governance, human rights, transitional justice, and the rule of law in Libya, and for exchange programs between Libyan and American students.” The bill prohibits non-loan-based funding for rehabilitation or reconstruction of infrastructure in Libya. The committee report on the bill directs the use of Nonproliferation, Antiterrorism, Demining, and Related Programs (NADR) account funding for disarmament and securing Libyan weapons stockpiles.
- The Senate version of the FY2012 National Defense Authorization Act (S. 1867) was amended (S.Amdt. 1180) to include, in Section 1243, a requirement that the Director of National Intelligence submit to Congress an assessment “that accounts for the disposition of, and the threat to United States citizens and citizens of allies of the United States posed by man-portable air-defense systems that were in Libya as of March 19, 2011.” The bill would also require the Administration to develop a strategy for mitigating potential related threats and submit a detailed report to Congress, in unclassified and classified form.
- S.Res. 317 would affirm “the national interest of the United States in a successful and irreversible transition to democracy in Libya,” and urge transitional authorities to prepare for elections, restore security, ensure human rights, eliminate chemical weapons stockpiles and secure nuclear materials.

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<sup>10</sup> Overview of United States Activities in Libya, June 15, 2011. Available from CRS.

- H.Con.Res. 75, which would state the sense of Congress that  
“the funds of the regime of Muammar Qaddafi that have been frozen by the United States should be returned to the people of Libya for their benefit, including humanitarian and reconstruction assistance, and the President should explore the possibility with the Transitional National Council of using some of such funds to reimburse NATO countries for expenses incurred in Operation Odyssey Dawn and Operation Unified Protector.”
- S. 1520, which would restrict the transfer of blocked Libyan assets to Libyan authorities for other than humanitarian purposes until the President certifies to Congress “that the Transitional National Council or successor government is fully cooperating with requests for information and ongoing investigations related to the bombing of Pan Am flight 103 and any other terrorist attacks attributable to the government of Muammar Qaddafi against United States citizens.” The bill would provide national security waiver authority to the President and require reporting on U.S. efforts to obtain information regarding terrorist attacks along with Libyan cooperation.
- S. 1822, would call on the Secretary of Defense to “take whatever actions may be necessary” to repatriate, identify, and properly reinter the remains of U.S. service members buried in Tripoli who were killed in early 19<sup>th</sup> century naval combat.

## Possible Questions

Possible questions that Members of Congress may wish to consider when assessing the recent developments in Libya and proposals regarding U.S. economic and security assistance or political engagement include the following:

- In the wake of Qadhafi’s downfall, what are the goals of U.S. policy in Libya? What U.S. national interests are at stake? What options exist for securing them? What civilian or military advisory support and assistance, if any, should be provided to interim authorities and civil society?
- In addition to the United Nations Support Mission in Libya (UNSMIL), which international actors are providing assistance and advice to Libyans on security, stabilization, and reconstruction? Under what authority and on what terms? What role, if any, does the United States seek to play? What appropriations or authorizations might be required to support such a role?
- Who are the individuals and groups emerging as key political, economic, and security actors in Libya? What are their relative goals and agendas? What should be the key components of a future U.S.-Libyan bilateral relationship? What limits to engagement, if any, should the United States impose on its dealings with different Libyan groups? What type of security relationship, if any, should the United States pursue with a new Libyan government?
- What further steps, if any, should the United States take to assist Libyan authorities in securing chemical weapons stockpiles and nuclear materials? What else should be done to limit the proliferation of conventional weaponry within and beyond Libya?

- When should the United States transfer Libyan assets to a new Libyan governing authority and for what purposes? Should the United States seek reimbursement from Libya for the cost of military operations or humanitarian assistance?
- How are events in Libya likely to shape developments in the broader Middle East and North Africa? What unintended consequences may result from the revolution in Libya? What opportunities does change present? What precedents have U.S. or multilateral military intervention in the Libyan conflict set and how might those precedents be affecting the context in which U.S. decision makers respond to other regional crises and events?

## Key Developments

### Libya's Transition Plans, Interim Government, and Next Steps

#### Transition Plans

On October 23, interim Transitional National Council (TNC) chairman Mustafa Abdeljalil announced the liberation of Libya and stated that an interim government would be named within one month. Accordingly, NATO-led military operations to enforce U.N. Security Council Resolution 1970 and 1973 drew to a close, and ended on October 31. Members of the TNC elected Interim Prime Minister Abderrahim al Kib (pronounced *al keeb*) to head the interim cabinet, which he subsequently swore in on November 24. The interim cabinet is tasked to oversee an initial 8-month transition period, at the end of which elections are to be held for a national assembly.

Within 90 days of October 23, electoral legislation must be adopted and a regulatory entity must be identified for the elections. Key related issues include the identification of an electoral system, delineation of districts, voter registration and education, and determination of candidate eligibility criteria. At the end of the initial transition period, an elected assembly is expected to name a new cabinet and choose a committee to draft a new constitution. Within two months of a proposed constitution being presented to the elected assembly, a national referendum is to be held on the proposal. After that, national elections are to be held within 9 months. This overall transition plan marks waypoints on a nearly 20-month course through Libya's uncertain future.

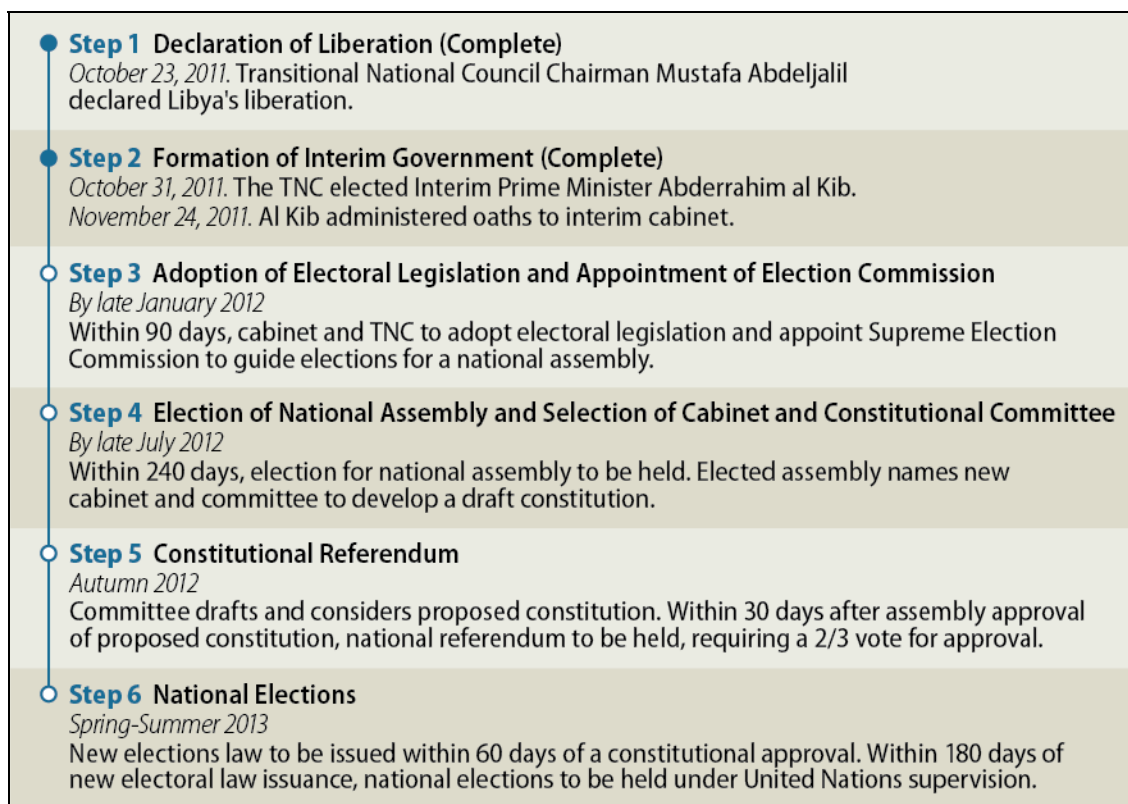
**Figure 2** below illustrates the transition timeline laid out by the TNC, including key milestones and pending decision points.

#### Interim Cabinet

The makeup of the country's interim executive leadership has been a matter of quiet but persistent contention since the fall of Tripoli in August 2011, with locally organized groups and militia leaders making statements about the qualifications of potential interim cabinet nominees and their perceived right to serve in leadership positions on the basis of their personal backgrounds and roles in ousting the Qadhafi government. Prime Minister Al Kib articulated clear standards for selecting the members of the interim cabinet and consulted closely with representatives of various

interest groups, militias, and municipalities in an attempt to ensure the cabinet would be seen as reflecting the diversity of interests and identities among Libyans.<sup>11</sup> In the wake of the cabinet's inauguration, some local groups and some representatives of Libya's Berber (or Amazigh) minority have criticized the cabinet as failing to include members of their constituencies.

**Figure 2. Libya's Proposed Transition Timeline**



**Source:** Prepared by Amber Hope Wilhelm, CRS Graphics Specialist. Information derived from Transitional National Council draft charter, August 2011; and, United Nations Secretary General Report on the U.N. Support Mission in Libya, S/2011/727, November 22, 2011.

**Notes:** Subject to revision.

Libyan and international media reporting suggests that the cabinet selection process may have been influenced by some groups' lingering suspicion of figures from the former government and the emergence of strong local identities during the conflict. Dynamics among expatriate Libyan opposition figures and Libya-based activists reflect the subtle legacies of Libya's former monarchy period, changes to monarchy-era power structures under Qadhafi, and the events of the 2011 revolution.<sup>12</sup> Differences of opinion about the TNC's transition plans and proposed

<sup>11</sup> OSC Report GMP20111102825005, "Libya: Interim Prime Minister Abd-al-Rahim al-Kib on Government, Program," *Al Sharq Al Awsat* (London), November 2, 2011.

<sup>12</sup> According to one analyst, the TNC leadership consists of members from several general groups: "defectors from the former regime elite"; "scions of the aristocratic and bourgeois families who had dominated Libya during the monarchy (1951-69)"; exiled "members of the non-aristocratic Libyan intelligentsia and business community"; and, Libya-based "representatives of the educated elite, such as lawyers and university professors." These individuals have struggled to make common cause at times with Islamists, elites in western Libya, protestors, and armed volunteer fighters. See Wolfram Lacher, "Families, Tribes and Cities in the Libyan Revolution," Middle East Policy Council, November 2011.

transition schedule also may have influenced the cabinet selection and may continue to shape relations within the cabinet and between the TNC and the Libyan public.

Transition plans include a series of restrictions on the ability of TNC and executive authority members from holding dual office, benefitting from transactions involving state property, and standing for some future elected positions.

**Figure 3** below provides the names of ministers named to the interim cabinet that will oversee the initial transition period and make important decisions about defense matters, disarmament of militias, electoral arrangements, the reconstitution of government capacity, and sector-by-sector assessments of reconstruction and investment needs.

## **Rival Militias and Unsecured Weapons Pose Security Challenges**

As the interim government begins its work, security is its top priority. TNC figures and militia leaders have issued repeated calls for armed groups and citizens to avoid destruction of public property, looting, and reprisals, in a conscious effort to avoid some of the immediate security problems that plagued Iraq in the wake of the collapse of Saddam Hussein's government. According to the United Nations Department of Safety and Security, the security situation in the country varies regionally from moderate to extreme risk, and the Secretary-General has reported that "the threat posed by the proliferation of arms and related material" is a major security challenge.<sup>13</sup>

The TNC has asserted nominal control over developments in Tripoli and has begun the task of coordinating the diverse collection of armed groups that made the rebel capture of the city possible, but which did not previously necessarily coordinate their actions with the TNC or each other. Prior to the introduction of the interim cabinet, a "supreme security council" served as the coordinating mechanism for disparate volunteer groups and regime defectors, including armed factions from communities like Zintan and Misuratah and those led by Islamist figures, such as former Libyan Islamic Fighting Group (LIFG) commander Abdelhakim Belhajj.<sup>14</sup>

A series of clashes among different revolutionary militia in Tripoli in late November and early December has produced increasing citizen demands for the TNC to act more decisively to control armed groups. The TNC has demanded that non-Tripoli based militias leave the capital, and Most observers expect that the Ministry of Defense and Ministry of Interior will become more involved

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<sup>13</sup> U.N. Security Council Document S/2011/727, Report of the Secretary-General on the United Nations Support Mission in Libya, November 22, 2011. OSC Report GMP20111202693003, "Libyan Defense Minister Interviewed on Security Situation, Other Issues," *Al Arabiyah Television* (Dubai), December 2, 2011.

<sup>14</sup> Revolutionary militia members from Zintan under the command of the Madani clan claimed to have 5,000 armed men in Tripoli as of early September. Other reports state that the umbrella Council of Revolutionaries in Tripoli places its numbers at 7,000 personnel. Fighters from Misuratah reportedly shifted toward the pursuit of pro-Qadhafi forces in Sirte and Bani Walid during September and October, and their numbers in Tripoli had declined. Belhajj claimed to have taken a leading role in the Tripoli operations. He was released from prison by the Qadhafi government in 2010 as part of a reconciliation agreement with LIFG fighters in exchange for their renunciation of violence. See Adrien Jaulmes, "The Fragile Patchwork of the Libyan Rebels," *Le Figaro* (Paris), September 8, 2011; U.S. Open Source Center (OSC) Report GMP20110824715001, "Rebel Commander Balhaj Urges Al-Qadhafi Brigades To 'Abandon' Regime," August 20, 2011; and OSC Report GMP20100323950045, "Three Leaders of Libyan Fighting Group Freed – Paper," March 23, 2010.

in the process of managing relations among militias, removing heavy weaponry from civilian hands, and finding recruitment or demobilization pathways for armed volunteers. The Defense

### **Figure 3. Libya's Interim Government**

On November 24, Interim Prime Minister Abderrahim al Kib administered inaugural oaths to new members of Libya's interim government, which will manage the country's executive decision making in consultation with the Transitional National Council and the Libyan public until national elections are held and an elected national assembly selects a new cabinet. The members of the current interim cabinet are as follows:

- Dr. Mustafa Abu Shaqur Ghayth - Deputy Prime Minister
- Dr. Umar Abdallah Abdel Karim - Deputy Prime Minister
- Mr. Ali Ahmad Salah - Deputy Prime Minister
- Mr. Osama Juwayli – Minister of Defense
- Mr. Fawzi Abdel Al – Minister of Interior
- Mr. Ashur Bin Khayyal - Minister of Foreign Affairs and International Cooperation
- Mr. Hassan Zaqlam – Minister of Finance
- Dr. Issa al Tuwajar – Minister of Planning
- Mr. Tahar Sharkas – Minister of Economy
- Mr. Abderrahman Bin Yazzah – Minister of Oil and Gas
- Dr. Hamzah Abu Faris – Minister of Islamic Endowments (awqaf) and Religious Affairs
- Mr. Abdel Nasser Jibril Hamid - Minister for the Care of the Families of Martyrs and Missing Persons
- Mrs. Mabrukah Sharif Jibril – Minister of Social Affairs
- Mr. Sa'sulayman Ali Sahli – Minister of Education
- Mr. Mustafa Rijbani – Minister of Labor and Vocational Training
- Mr. Ali Hamidah Ashur – Minister of Justice
- Dr. Fatimah al Hamrush – Minister of Health
- Mr. Muhammad al Hadi al Hashimi al Harari – Minister of Local Government
- Mr. Ibrahim al Suqutri - Minister of Housing and Urban Planning
- Dr. Anwar Fayturi - Minister of Communication and Information Technology
- Mr. Yusuf Al Wahishi – Minister of Transport
- Mr. Sulayman Abdel Hamid Bin Kharuba – Minister of Agriculture and Animal and Sea Resources
- Dr. Muhammad Mahmud al Fatisi – Minister of Industry
- Dr. Na'im al Gharyani - Minister for Higher Education and Scientific Research
- Professor Fathi Tirbil - Minister for Youth and Sports
- Dr. Abderrahman Habil - Minister of Culture and Civil Society
- Dr. Awad Burayk Ibrahim - Minister Electricity and Renewable Energy

**Source:** U.S. Open Source Center Report GMP20111122950093, "Libya's Interim PM Outlines Priorities, Announces New Cabinet," *Libya TV* (Doha), November 22, 2011.

**Notes:** Limited profiles for some cabinet members are available from CRS.

Ministry has signaled its intent to reorganize military councils and integrate 50,000 fighters into the national security forces.<sup>15</sup>

It remains to be seen what influence the incorporation of militia commanders and members in leadership roles in the security ministries will have over the perceived neutrality or success of these measures: Minister of Defense Osama al Juwayli was a prominent revolutionary commander of the Zintan militia, and Minister of Interior Fawzi Abdel Al was a leader of a Misuratah-based revolutionary group. The TNC has further signaled its intention to take a inclusive approach with regard to government personnel not known to have been involved in severe human rights violations or public corruption. The success of the TNC initiatives and the acceptability of this approach among Libyans also remains to be seen.

The controversy surrounding the killing of Qadhafi, the capture of his son Sayf al Islam and senior associates, and the reported reluctance of some militia groups to begin disarmament has reopened questions about military command and control among the TNC and the revolutionaries. Previously, the July 2011 assassination of rebel military commander and prominent regime defector Abdelfattah Younis al Ubaydi, reportedly by rival rebel forces, had cast serious doubt on the unity of TNC-affiliated military forces and led to the resignation of several TNC leadership figures. Some of those figures, including former TNC Deputy Chairman Ali al Isawi have now been named as suspects in the Abdelfattah Younis killing.<sup>16</sup>

## **Regional Weapons Smuggling**

Israeli officials have stated that “weapons are available in Libya as a result of the unstable situation there, and Hamas has exploited it to buy weapons from Libyan smugglers.”<sup>17</sup> According to unnamed Israeli officials, “thousands” of weapons have entered Gaza from Libya, including “SA-7 anti-aircraft missiles and rocket-propelled grenades (RPGs),” but the weaponry is “not a major qualitative enhancement” for Gaza-based armed groups.<sup>18</sup> CRS cannot independently verify these statements, and the Obama Administration has not commented on the record regarding reports of arms shipments from Libya to Gaza. Authorities in other countries, including Egypt, Niger, Algeria, and Tunisia continue to express similar concerns. There is no verified reporting on members of the TNC having been involved with reported shipments of weapons and material from Libya to Gaza or other countries since the uprising began.

## **Undeclared Chemical Weapons Raise Questions**

The security of Libya’s stockpiles of declared chemical weapons material and its remaining nuclear materials have been the subject of sustained scrutiny.<sup>19</sup> The TNC formally notified the

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<sup>15</sup> OSC Report GMP20111207950015, “Libyan authorities give militias two week-deadline to leave Tripoli,” *Al Jazirah Television* (Doha) December 6, 2011.

<sup>16</sup> OSC Report GMP20111130950056, “Libyan Attorney General Names Killers of Late Maj-Gen Yunus,” *Birniq* (Benghazi), November 28, 2011.

<sup>17</sup> Reuters, “Israel sees Libya as New Source of Arms for Gaza,” July 21, 2011.

<sup>18</sup> Reuters, “Israel Says Gaza Gets Anti-Plane Arms from Libya,” August 29, 2011.

<sup>19</sup> For an overview of Libya’s declared chemical weapons and nuclear materials see U.S. State Department, *Condition (10) (C) Report - Compliance with the Convention on the Prohibition of the Development, Production, Stockpiling and (continued...)*

Organization for the Prohibition of Chemical Weapons (OPCW) on November 1 that it had located what it believed to be undeclared chemical weapons at storage depots that reports suggest are near Hun and Sabha. The Qadhafi government reportedly omitted hundreds of mustard gas-filled artillery shells from its original declaration to the OPCW in contradiction to the basic commitments it made as part of the normalization of its relations with the United States and Europe.<sup>20</sup> TNC forces control the sites where key declared and undeclared materials of concern are stored, and TNC officials have committed to upholding Libya's commitment to destroy chemical weapons materials under the mantle of the OPCW.<sup>21</sup>

In late 2010, Libya had restarted the long-delayed destruction of its declared mustard agent and precursor stockpiles, although technical problems and the outbreak of the conflict resulted in Libya missing its May 2011 deadline. In August 2011, the State Department reported that prior to the conflict, Libya had destroyed over 50% of its declared mustard agent stocks and over 40% of its declared liquid chemical weapons precursors. The transitional authorities are expected to reengage with the multilateral Organization for the Prohibition of Chemical Weapons to set a new destruction timetable. Destruction equipment that failed prior to the revolution must be repaired, and the present target date for the destruction of Libya's chemical weapons related material is April 29, 2012.<sup>22</sup>

Libya destroyed the munitions it possessed for dispersing mustard agent in 2004, and during the 2011 conflict, U.S. officials repeatedly stated publicly that they believed the remaining sulfur mustard agent and precursor stockpiles were secure.<sup>23</sup> The non-weaponized nature of the declared sulfur mustard agent and precursor materials suggested that the material posed a smaller threat than otherwise may have been the case.<sup>24</sup> However, the revelation that Qadhafi withheld information about weaponized stockpiles and that the OPCW and U.S. and European intelligence services appear to have had no knowledge of the omission raises serious questions concerning intelligence and a key rationale for the Qadhafi government's international rehabilitation.

Libya's nuclear materials also have been subject to international and U.S. oversight and joint operations that removed highly enriched uranium and other proliferation-sensitive items. Libya's research reactor east of Tripoli at Tajura was converted with U.S. assistance in 2006 to operate

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(...continued)

*Use of Chemical Weapons and on their Destruction*, August 2011; and, International Atomic Energy Agency (IAEA) Board of Governors, *Implementation of the NPT Safeguards Agreement in the Socialist People's Libyan Arab Jamahiriya*, GOV/2008/39, September 12, 2008.

<sup>20</sup> R. Jeffrey Smith, Joby Warrick, and Colum Lynch, "Iran may have sent Libya shells for chemical weapons," *Washington Post*, November 20, 2011.

<sup>21</sup> The OPCW has stated that "the new authorities inherited the obligations of the old regime," and that the OPCW "will continue to work with the Libyan authorities to verify and destroy any newly declared stocks." AFP, "Libya's NTC Pledges To Destroy Chemical Weapons: OPCW" November 4, 2011, and, OPCW, "OPCW Inspectors Return to Libya," November 4, 2011.

<sup>22</sup> AFP, "Libya's NTC Pledges To Destroy Chemical Weapons: OPCW" November 4, 2011.

<sup>23</sup> The declared chemical materials are stored at Rabta, southwest of Tripoli and Ruwagha, near the Al Jufrah Air Force Base in central Libya. According to the U.S. State Department, identified mustard and nerve agent precursors present in Libya included pinacolyl alcohol, isopropanol, phosphorus trichloride, 2-chloroethanol, tributylamine, and thionyl chloride. See State Department, Office of the Spokesperson, "Libya: Securing Stockpiles Promotes Security," August 26, 2011.

<sup>24</sup> For example, Colonel David Lapan, a Pentagon spokesman argued that "Even if not weaponized, there's still a threat, but it's a smaller threat than if it is weaponized." Agence France Presse, "Libya Has Mustard Gas, Lacks Delivery Systems: Monitor," March 10, 2011.



using low-enriched uranium. Libya also possesses a stored stockpile of at least several hundred tons of uranium oxide yellowcake, reportedly stored near Sabha. Programs to engage Libyan nuclear scientists reportedly were disrupted by the recent conflict, but may be restarted as the transition unfolds.

## **Libyan Political Dynamics and Islamists**

### **Political Dynamics**

Prior to the 2011 revolution, Libya's political dynamics were characterized by competition among interest groups seeking to influence policy within the confines of the country's authoritarian political system and amid Libya's emergence from international isolation. Economic reformers embraced changes to Libya's former socialist model to meet current needs, even as political reforms languished amid disputes between hard-line political forces and reform advocates. In general, the legacies of Italian colonial occupation and Libya's struggle for independence in the early-to-mid-20<sup>th</sup> century continue to influence Libyan politics. Rhetorical references to preserving sovereignty and resistance to foreign domination are common in political statements from many individuals and groups. These trends are reflected in the celebration of the legacy of the anti-colonial figure Omar al Mukhtar, particularly during the 2011 uprising.

Echoes of social networks last active during the Libyan monarchy period now are resurfacing.<sup>25</sup> Tribal relationships have remained socially important, particularly in non-urban settings, and had some political role under Qadhafi with regard to the distribution of leadership positions in government ministries, in some economic relationships between some social groups and families, and in political-military relations. Tribal loyalties reportedly remained strong within and between branches of the armed services, and members of Qadhafi's tribe, the Qadhafa, have held many high-ranking government positions. Some members of larger tribes, such as the Magariha, Misurata, and the Warfalla, sought to advance their broad interests under Qadhafi through control of official positions of influence, although some of their members opposed the regime on grounds of tribal discrimination. The reversal of long-standing tribal dynamics and the assertion of tribal leadership in conjunction with a proliferation of arms has the potential to create instability.

Competition for influence among Libya's regions characterized the pre-Qadhafi period, and some Libyans saw the 1969 Qadhafi-led revolution as having been partly facilitated by western and southern Libyan resentments of the Al Sanusi monarchy based in the eastern Libyan region of Cyrenaica. More recent Libyan politics have not been dominated by overt inter-regional tension, although pro-Qadhafi forces accused the organizers and leaders of the revolt as having, *inter alia*, an eastern regional separatist agenda. The TNC denied these accusations and has quickly moved representatives westward to Tripoli, while proposing changes to the structure and membership of the TNC to improve national representation. Some reports suggest that federalism is one model being explored by some groups, although the TNC has not endorsed federalism to date. The organization of local representative councils and the arming of locally organized militia groups during the revolution has further complicated efforts to promote national unity.

Political parties and all opposition groups were banned under Qadhafi. Formal political pluralism was frowned upon by many members of the ruling elite, even as, in the period preceding the

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<sup>25</sup> See Lacher, *op cit*.

unrest, some regime figures advocated for greater popular participation in existing government institutions. The general lack of widespread experience in formal political organization, competition, and administration is likely to remain a challenge in the immediate post-Qadhafi era. Independent NGO reports suggest ad hoc political organization is ongoing across Libya and much of it reflects a desire for institution-based, democratic governance rooted in the rule of law. Some nascent political and social groups have sought external training and support to overcome the legacy of decades of restrictions. The continued openness of newly liberated Libyans to outside examples and assistance remains to be determined, and different groups are likely to take different approaches.

Prior to the 2011 uprising, Libya's opposition movements were often categorized broadly as Islamist, royalist, or secular nationalist in orientation. Their activities and effectiveness had been largely limited by government repression and infiltration, disorganization, rivalry, and ideological differences. New efforts to coordinate opposition activities had begun in response to Libya's reintegration to the international community and the emergence of a broader political reform debate in the Arab world, and gained momentum with the outbreak of region-wide protests and political change in late 2010 and early 2011. The pairing of domestic popular revolt and regime defectors to the broadly defined opposition cause was welcomed by many established opposition groups in exile, even if the specific political demands of newly active opposition supporters and their compatibility with the agendas of the established groups remain unclear.

The emergence of real political competition in the midst of Libya's post-conflict recovery and post-authoritarian transition creates unique challenges for U.S. policymakers. These include identifying new leaders and groups; determining their relative intentions, goals, and legitimacy; and assessing the capabilities and intentions of armed elements.

## **Libyans, Islam, and Islamists**

Like citizens in other Middle Eastern societies, Libyans have grappled with questions posed by Islamist activism, state repression of Islamist groups, and violent Islamist extremism over a period of decades. As the transition unfolds, Libyans are debating the role of Islamist groups in political life, the role of Islam in society, and the nature and proper responses to threats posed by armed extremist groups. These debates may have implications for U.S. policy toward Libya and the region.

Most Libyans accept a prominent role for Sunni Islamic tradition in public life, but differ in their personal preferences and interpretations of their faith. Islam is the official religion and the Quran is the nominal basis for the country's law and its social code. Since Qadhafi's downfall, a number of confrontations between conservative militia forces and local religious communities have centered around disputed interpretations of Islamic religious and cultural practices.<sup>26</sup> In some cases, armed Salafist groups have destroyed or damaged shrines and tombs.

To date, the leadership of the TNC has not demonstrated rhetorical or material support for Al Qaeda, the Muslim Brotherhood, or Hamas. On March 30, the TNC released a statement affirming its support for U.N. Security Council resolutions on Al Qaeda and the Taliban and U.N. conventions on terrorism. The statement "affirms the Islamic identity of the Libyan People, its commitment to the moderate Islamic values, its full rejection to the extremist ideas and its

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<sup>26</sup> Christian Lowe, "Battlelines drawn for fight over Libyan Islam," Reuters, November 30, 2011.

commitment to combating them in all circumstances, and refuses the allegations aiming to associate Al Qaeda with the revolutionists in Libya.”

The TNC's draft interim constitutional charter, released in August, states in Article One that "Libya is an independent Democratic State wherein the people are the source of authorities.... Islam is the Religion of the State and the principal source of legislation is Islamic Jurisprudence (*sharia*).... The State shall guarantee for non-Muslims the freedom of practicing religious rights and shall guarantee respect for their systems of personal status." The content of TNC chairman Abdeljalil's statement on Libya's liberation attracted domestic and international interest, particularly his emphasis on the population's Islamic character and the extent to which Libyan law might be based on religious law in the future.<sup>27</sup> Libyans hold a wide array of views on these questions and are now freely sharing them.

### ***The Libyan Muslim Brotherhood***

Like other political organizations and opposition groups, the Muslim Brotherhood was banned in Libya under Qadhafi. However, its membership worked clandestinely at home and remained active abroad. The group has renewed its public activity in Libya since the start of the revolution. A statement attributed to the Libyan Muslim Brotherhood in late February 2011 welcomed the formation of the TNC but called for a future, non-tribal government to "be formed by those who actually led the revolution on the ground" and to exclude supporters of the original Qadhafi coup or officials involved in human rights violations.<sup>28</sup> The group's newly elected general guide, Bashir Abdelsalam al Kabti, returned to Libya after 33 years in the United States in February 2011. In interviews since his November 2011 election at the Brotherhood's first public conference in decades, Al Kabti has called for weaponry to be returned to military depots and has referred to Islam "a complete way of life for individuals and society." He also has spoken in favor of "a civil state in which Islam is the reference" including "a multi-party system ... the separation of powers and ... free media."<sup>29</sup>

### ***Libyan Islamic Fighting Group (LIFG)/Libyan Islamic Movement for Change (LIMC)***

The LIFG is a U.S.-designated Foreign Terrorist Organization and Islamist movement that used violence in past attempts to overthrow Muammar al Qadhafi and his government.<sup>30</sup> Over the last 20-plus years, members of the LIFG were reported to have fought in various conflicts around the

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<sup>27</sup> In his remarks, Abdeljalil stated that "We, as a Muslim state, have taken the Islamic sharia as the main source of legislation, and therefore, any law which contravenes the Islamic principles of sharia, is legally void." He gave as examples policies prohibiting men from marrying more than one wife and allowing interest-based financial transactions. The draft charter that the TNC has proposed to guide the interim transition period states that "Islam is the religion of the state and the principal source of legislation is Islamic jurisprudence (*sharia*) .... The State shall guarantee for non-Moslems the freedom of practicing religious rights and shall guarantee respect for their systems of personal status."

<sup>28</sup> OSC Report GMP20110228405001, "Libyan Muslim Brotherhood Group Supports 'Glorious Revolution,'" February 28, 2011.

<sup>29</sup> OSC Report GMP20111121950082, "Libyan Muslim Brotherhood Leader Says Islam 'Complete Way Of Life,'" November 21, 2011.

<sup>30</sup> The United States froze the LIFG's U.S. assets under Executive Order 13224 in September 2001, and formally designated the LIFG as a Foreign Terrorist Organization in December 2004.

world involving Muslims, including in Afghanistan during the 1980s, the Balkans during the 1990s, and Iraq after 2003. According to the U.S. State Department, members of the group at times have demonstrated distinct and competing priorities: “some members maintained a strictly anti-Qadhafi focus ... others ... aligned with Osama bin Laden, and are believed to be part of the Al Qaeda leadership structure or active in international terrorism.”<sup>31</sup> According to the 2010 State Department report on terrorism released in August 2011, many LIFG members in Europe and Libya rejected a 2007 statement by Ayman al Zawahiri and the late Abu Layth Al Libi announcing the merger of the LIFG with Al Qaeda.<sup>32</sup> In a July 2009 statement, LIFG members in Britain characterized the November 2007 Al Qaeda affiliation announcement as “a personal decision that is at variance with the basic status of the group,” and sought to “clearly emphasize that the group is not, has never been, and will never be, linked to the Al Qaeda organization.”<sup>33</sup>

Prior to the recent unrest, many leading LIFG figures had been imprisoned and released after renouncing the use of violence as part of a dialogue and reconciliation process with the Qadhafi government.<sup>34</sup> Some figures affiliated with the LIFG, such as current Tripoli-based militia commander Abdelhakim Belhajj, participated in this reconciliation process and have reiterated their rejection of Al Qaeda and its ideology in public interviews in 2011. Some Libya-based members of the LIFG responded to the release of leading figures on February 16 by announcing the reorganization of the group as the Libyan Islamic Movement for Change (LIMC). The LIMC demands political change and an end to corruption, and has underscored its decision to “enter a new stage of struggle in which we do not adopt an armed program but a belief in the Libyan people’s ability to bring about the change to which we are aspiring.”<sup>35</sup>

### *Al Qaeda in the Lands of the Islamic Maghreb (AQLIM/AQIM)*<sup>36</sup>

U.S. government officials and their regional counterparts remain focused on the potential for the unrest in Libya to provide opportunities to Al Qaeda’s regional affiliate, Al Qaeda in the Lands of the Islamic Maghreb (AQLIM/AQIM). Some press reports suggest that AQIM personnel have obtained weaponry from looted Libyan military stockpiles, including surface-to-air missiles. The Algerian, Malian, and Chadian governments continue to express concern about the potential for instability in Libya to weaken security along Libya’s long borders, which could allow AQIM operatives and criminal networks that provide services to AQIM to move more freely. While the Libya-based leaders of the LIFG participated in reconciliation with Qadhafi’s government while in prison and renounced violence as a domestic political tool, some of their supporters are reported to have sent Libyans abroad to participate in insurgencies and terrorism. This has raised

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<sup>31</sup> See U.S. Department of State, “Terrorist Organizations: LIFG,” *Country Reports on Terrorism 2010*, August 2011.

<sup>32</sup> OSC Report FEA20071104393586, “Al-Zawahiri, Al-Libi: Libyan Islamic Fighting Group Joins Al-Qa’ida,” November 3, 2007.

<sup>33</sup> OSC Report GMP20090703825003, “Libyan Islamic Fighting Group Abroad Issues Statement Supporting Regime Dialogue,” July 3, 2009.

<sup>34</sup> Through this process, over 200 LIFG members were released from jail, including senior leaders and former commanders who have been active during the recent unrest. Prominent prisoners released under the auspices of the reconciliation program include former LIFG leader Abdelhakim Belhajj, former military director Khaled Sharif, and leading LIFG ideologue Sami Sa’idi. OSC Report GMP20100323950045, “Three leaders of Libyan Fighting Group freed – paper,” March 23, 2010.

<sup>35</sup> OSC Report GMP20110217825017, “Libya: IFG Elements Establish New Group Aiming for Peaceful Regime Change,” February 17, 2011.

<sup>36</sup> For more information on AQIM and its relationship to Al Qaeda, see CRS Report R41070, *Al Qaeda and Affiliates: Historical Perspective, Global Presence, and Implications for U.S. Policy*, coordinated by John Rollins.

concerns among officials and analysts about the potential for cooperation between AQIM and some Libyan Islamists. Al Qaeda figures have endorsed such cooperation in public statements in recent months, offering a range of unsolicited political and military advice to any Libyans who will listen.

- On April 16, London-based pan-Arab newspaper *Al Hayat* published an email interview with a reported spokesman for AQIM named Salah Abu Muhammad, who stated that AQIM had obtained weaponry from Libyan military stockpiles and claimed that AQIM had cooperative relationships with Al Hasadi and so-called “emirates” in several eastern Libyan cities. A subsequent statement from another reported AQIM source accused Algerian intelligence services of fabricating the Abu Muhammad interview.<sup>37</sup> Neither source could be independently verified.
- A March 17 statement attributed to AQIM leader Abdelmalik Droukdel (aka Abu Mus’ab al Wadud) addressed Libyan rebels and sought to associate the Libyan uprising with Al Qaeda’s campaign against Arab and Western governments.<sup>38</sup> The statement advised Libyans to avoid cooperation with the United States and “to rally around the revolutionary leaders who are holding fast to their Islamic faith and whose readiness to make sacrifices has been proven on the battlefield.” Other AQIM figures have sought to explain that their organization is not seeking to direct or claim credit for the Libyan uprising, but that AQIM is supportive of the campaign against Qadhafi.
- On October 29, Al Qaeda leader Abu Yahya al Libi released a forty minute videotape that invited the “Muslim people in Libya to keep their arms within reach,” and “to use these arms to defend their religion, themselves, their honor, and their properties, while adhering to the clear and precise laws of sharia (Islamic law), free of tribalism and pre-Islamic disagreements.”<sup>39</sup>

## **United Nations Support Mission in Libya (UNSMIL)**

The Obama Administration has not publicly disclosed plans for U.S. participation in multilateral post-conflict security, stability, or reconstruction operations in Libya or highlighted requests for new funding to support such efforts by third-parties, including the new United Nations Support Mission in Libya (UNSMIL) established by Resolution 2009.<sup>40</sup> U.N. Secretary General Ban Ki-moon has named UK-born Ian Martin as the director for UNSMIL. Martin is continuing the work he began in mid-2011 as the Secretary General’s special adviser for post-conflict and transition issues in Libya. A sector-by-sector post-conflict needs assessment is planned under the auspices of the TNC, the United Nations, the European Union, the World Bank, and the International

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<sup>37</sup> See OSC Report GMP20110416825001, “Al-Qa’ida in Islamic Maghreb Spokesman Says There Are Islamic Amirates in Libya,” April 16, 2011; and, OSC Report AFP20110418950070, “AQIM accuses Al-Hayat newspaper of falsifying interview with spokesman,” April 18, 2011.

<sup>38</sup> Droukdel said “the battle you are fighting now with the tyrant ... It is itself the battle we fought yesterday and are fighting today.” See OSC Report GMP20110318405002, “AQIM Amir’s Audio Message to Libya, ‘The Descendants of Umar al-Mukhtar,’” March 17, 2011.

<sup>39</sup> OSC Report GMP20111205405002, “Abu-Yahya al-Libi Video Calls on Libyans To Keep Arms, Institute Shari’ah,” December 5, 2011.

<sup>40</sup> The United Nations Department of Political Affairs is responsible for UNSMIL and is funded through assessed contributions of U.N. member states, including the United States.

Monetary Fund (IMF). A preliminary visit by World Bank and IMF officials took place in early October. To date, UNSMIL activities have included electoral advisory support, transitional justice consultation, and public security and economic needs assessments. On December 2, the Security Council extended the UNSMIL mandate through mid-March 2012 and tasked UNSMIL with “assisting and supporting Libyan national efforts to address the threats of proliferation of all arms and related materiel of all types, in particular man-portable surface to air missiles.”

## **Libyan Assets, TNC Funding, and Oil Exports**

The United States and others froze tens of billions of dollars in Libyan state assets, and the Obama Administration placed targeted sanctions on Libyan oil companies and other entities in support of Executive Order 13566 and the U.N. Security Council resolutions 1970 and 1973. The TNC has identified up to \$170 billion in Libyan assets around the world to which it is now seeking access. TNC officials indicate that they plan to prioritize a public financial management assessment in order to give third parties confidence in their ability to responsibly manage blocked assets. U.N. Security Council Resolution 2009 adopted in September 2011 reflects this plan and identifies the World Bank and IMF as partners in conducting the assessment. The intergovernmental Libya Contact Group created a “temporary financial mechanism” to support the TNC,<sup>41</sup> and several governments have pledged hundreds of millions of dollars in aid via this channel.

U.N. Security Council Resolution 2009 reiterated the Security Council’s intent to ensure that frozen assets are made available as soon as possible to and for the benefit of the Libyan people:

- The resolution modifies the existing asset freeze requirements related to certain Libyan entities, lifting entirely the measures applicable to the Libyan National Oil Corporation and setting conditions for the release of some frozen assets belonging to the Central Bank of Libya, the Libya Investment Authority, and other prominent national financial entities.
- Under the changes, U.N. member states, after consulting with Libyan authorities, may notify the sanctions committee on Libya of their “intent to authorize access to funds, other financial assets, or economic resources,” for five purposes: “humanitarian needs; fuel, electricity and water for strictly civilian uses; resuming Libyan production and sale of hydrocarbons; establishing, operating, or strengthening institutions of civilian government and civilian public infrastructure; or facilitating the resumption of banking sector operations, including to support or facilitate international trade with Libya.”
- The Libyan authorities or the U.N. sanctions committee (acting on a consensus basis) may block asset transfer proposals within five days. U.N. asset freezes affecting named individuals remain in place.

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<sup>41</sup> Over 20 Contact Group members attended the meeting in Rome including and officials from the Arab League, the African Union, the World Bank, NATO, the Gulf Cooperation Council (GCC), the Organization of the Islamic Conference (OIC), the United Arab Emirates (UAE), Australia, Bahrain, Denmark, France, Germany, Greece, Jordan, Morocco, Netherlands, Poland, Romania, Malta, Canada, Tunisia, Spain, Turkey, the United Kingdom, the United States, Sudan and the Holy See. Portugal observed the meeting.

## **U.S. Policy on Assets and Sanctions**

The Obama Administration has begun transferring \$1.5 billion of roughly \$37 billion in frozen Libyan assets for the benefit of the Libyan people and the TNC. According to the State Department, the \$1.5 billion was identified in consultation with the TNC for the following purposes:<sup>42</sup>

- Transfers to international humanitarian organizations: Up to \$120 million for pending United Nations Appeal requests and up to \$380 million more for any revised U.N. Appeals for Libya and other humanitarian needs.
- Transfers to suppliers for fuel and other goods for strictly civilian purposes: Up to \$500 million to pay for fuel costs for strictly civilian needs (e.g., hospitals, electricity, and desalinization) and for other humanitarian purchases.
- Transfers to the Temporary Financial Mechanism established by the Libya Contact Group: Up to \$400 million for providing “key social services, including education and health” and up to \$100 million for “food and other humanitarian needs.”

The U.S. Department of the Treasury’s Office of Foreign Assets Control (OFAC) has issued general licenses, effective September 19, that authorize new transactions with Libyan state entities and maintain the asset freeze established under Executive Order 13566 on named individuals and state entities, with the exception of the National Oil Corporation and other oil sector firms. On September 22, the European Union announced that previously frozen funds belonging to the Central Bank of Libya, the Libyan Investment Authority, the Libyan Foreign Bank, and the Libya Africa Investment Portfolio were authorized to be released “for humanitarian and civilian needs, to support renewed activity in the Libyan oil and banking sectors and to assist with building a civilian government.”<sup>43</sup> Resolution 2009 calls on governments to submit individual notifications of intent to the Libyan authorities and the U.N. sanctions committee as part of the process for releasing funds.

Two factors may influence the decisions of U.S. policymakers, their international counterparts, and Libyan authorities about the relative urgency and desirability of releasing frozen funds. First, the TNC’s present need for immediate access to blocked assets may be less severe than earlier in 2011, given aid and asset transfers to the TNC worth several billion dollars that have taken place since the fall of Tripoli and the changes outlined in Resolution 2009 that facilitate the future sale of oil and the unblocking of some frozen assets. As of late September, open-source estimates suggested that more than \$15 billion in blocked Libyan assets had been identified by various governments for transfer to the TNC, and press reports suggested that the TNC had located over \$23 billion in previously unknown domestic assets that were contributing to its ability to spend on salaries and services. In late November, the U.N. Secretary-General reported that “Libya is operating with a constrained and uncertain budget envelope for the 2011-2012 period.”

Second, countries holding blocked assets, including the United States, may remain wary about the immediate transfer of large sums to the control of the TNC, given uncertainty about the make-up and priorities of the TNC and the interim government. While recent United Nations resolutions on

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<sup>42</sup> State Department, Office of the Spokesperson, Unfreezing Assets to Meet the Critical Humanitarian Needs of the Libyan People, Washington, DC, August 25, 2011.

<sup>43</sup> European Council, EU implements latest U.N. decisions in support of Libya, September 22, 2011.

Libya clearly underscore that blocked assets remain the property of the Libyan people, Resolution 2009 reiterates that, pending transfer for authorized purposes, assets shall remain blocked. It also creates a joint consultation mechanism among Libyan leaders, the sanctions committee, and those governments holding blocked funds.

## **Libya's Oil Production, Exports, and Revenue**

Libya's oil production and export infrastructure survived the revolution relatively unscathed, although some facility damage, the departure of large numbers of laborers and skilled technicians, and the lack of maintenance during the conflict may limit the speed with which production and exports can be restarted.<sup>44</sup> Prior to the conflict, Libya was exporting 1.3 million barrels of oil per day; in November, production was roughly 550,000 barrels per day. Experts differ in their projections about how soon production and exports could return to pre-conflict levels, with optimistic and pessimistic assumptions differing over expected security conditions, changes to sanctions, and the return of foreign laborers. The U.S. Energy Information Administration projects that Libyan output could return to pre-conflict levels by the end of 2012. The importance of oil exports for Libya cannot be overstated, as the IMF reported in February 2011 that over 90% of state revenue came from the hydrocarbon sector in 2010. On September 6, National Oil Company official Nuri Berruien gave an "optimistic forecast" that in 15 months, production would resume at the pre-war level of 1.6 million barrels per day.

Prior to the rebel victory, the U.S. Treasury Department had issued a Statement of Licensing Policy allowing U.S. persons to request from OFAC "specific authorization to trade in hydrocarbon fuel (*i.e.*, oil, gas, and petroleum products) ... to the extent that such hydrocarbon fuel is exported under the auspices of the Transitional National Council of Libya."<sup>45</sup> The license further allowed U.S. persons to request permission "to engage in transactions related to the production of oil, gas, and petroleum products in areas controlled by the Transitional National Council of Libya." More recently released general licenses removed restrictions on transactions with Libyan oil firms.

## **International Criminal Court and United Nations Human Rights Council Investigations<sup>46</sup>**

On May 4, Moreno-Ocampo had reported to the Security Council pursuant to the referral of the situation in Libya since February 15, 2011, to the ICC by Resolution 1970, and stated that the preliminary investigation conducted by the ICC prosecutor's office "establishes reasonable grounds to believe that widespread and systematic attacks against the civilian population, including murder and persecution as crimes against humanity, have been and continue to be committed in Libya," in addition to "war crimes" during the ongoing armed conflict.<sup>47</sup> The death

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<sup>44</sup> The oil terminal at Brega reportedly suffered the most damage, along with support infrastructure elsewhere.

<sup>45</sup> Office of Foreign Assets Control, Statement of Licensing Policy on the Trade in Oil, Gas, and Petroleum Products Exported Under the Auspices of the Transitional National Council of Libya," (updated April 26, 2011), available at [http://www.treasury.gov/resource-center/sanctions/Programs/Documents/libya\\_oil\\_gas.pdf](http://www.treasury.gov/resource-center/sanctions/Programs/Documents/libya_oil_gas.pdf).

<sup>46</sup> For more information on the ICC and Africa, see CRS Report R41116, *The International Criminal Court (ICC): Jurisdiction, Extradition, and U.S. Policy*, by Emily C. Barbour and Matthew C. Weed and CRS Report RL34665, *International Criminal Court Cases in Africa: Status and Policy Issues*, coordinated by Alexis Arieff.

<sup>47</sup> U.N. Document S/PV.6528, Provisional Record of the 6528<sup>th</sup> meeting of the Security Council, May 4, 2011.



of Muammar al Qadhafi, the arrest in Libya of his son Sayf al Islam, and conflicting reports about the arrest of former intelligence chief Abdullah al Senussi have complicated efforts to prosecute these individuals on charges of crimes against humanity issued by the International Criminal Court (ICC).<sup>48</sup> Outstanding ICC arrest warrants notwithstanding, TNC officials have asserted their intention to prosecute Sayf al Islam al Qadhafi and Abdullah al Senussi in Libyan courts.<sup>49</sup> Prior to Qadhafi's death, some observers argued that the prospect of an ICC trial made it less likely that he would have agreed to relinquish power or to have surrendered to the opposition.<sup>50</sup>

On June 1, 2011, the U.N. Human Rights Council's Commission of Inquiry issued a report characterizing the Libyan conflict as "a civil war" and concluded that "international crimes, and specifically crimes against humanity and war crimes, have been committed."<sup>51</sup> With regard to government forces, it stated,

The commission has found that there have been acts constituting murder, imprisonment, other forms of severe deprivation of physical liberty in violation of fundamental rules of international law, torture, persecution, enforced disappearance and sexual abuse that were committed by Government forces as part of a widespread or systematic attack against a civilian population with knowledge of the attack.... The consistent pattern of violations identified creates an inference that they were carried out as a result of policy decisions by Colonel Qadhafi and members of his inner circle. Further investigation is required in relation to making definitive findings with regard to the identity of those responsible for the crimes committed.

With regard to opposition forces, the commission "established that some acts of torture and cruel treatment and some outrages upon personal dignity in particular humiliating and degrading treatment have been committed by opposition armed forces, in particular against persons in detention, migrant workers and those believed to be mercenaries." These acts could constitute war crimes. The commission "is not of the view that the violations committed by the opposition armed forces were part of any 'widespread or systematic attack' against a civilian population such as to amount to crimes against humanity."

The commission considered its findings in light of the future transitional justice needs of the Libyan people and recommended that the U.N. Human Rights Council establish a mechanism to continue the monitoring and investigation of human rights abuses in Libya for a period of one year. Many observers expect that the Council mechanism will investigate the circumstances of Qadhafi's death along with reports of summary executions by both sides of the conflict as part of its monitoring efforts over the coming year. The U.N. Secretary-General has cited reports suggesting that both pro- and anti-Qadhafi forces may have engaged in killings that amounted to

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<sup>48</sup> On June 27, 2011, Pre-Trial Chamber I of the International Criminal Court (ICC) issued arrest warrants for three individuals: Muammar al Qadhafi, his son Sayf al Islam al Qadhafi, and intelligence chief Abdullah al Senussi, for "crimes against humanity committed against civilians" not including "war crimes committed during the armed conflict that started at the end of February." ICC Prosecutor's Office, Public Redacted Version of Prosecutor's Application Pursuant to Article 58 as to Muammar Mohammed Abu Minyar Gaddafi, Saif Al-Islam Gaddafi, and Abdullah Al Senussi," May 16, 2011.

<sup>49</sup> ICC Prosecutor Luis Moreno-Ocampo requested the warrants on May 16.

<sup>50</sup> For example, see International Crisis Group, "Popular Protest in North Africa and the Middle East (V): Making Sense of Libya," Middle East/North Africa Report No. 107, June 6, 2011.

<sup>51</sup> The commission members are Cherif Bassiouni of Egypt, Asma Khader of Jordan, and Philippe Kirsch of Canada. See U.N. Document A/HRC/17/44, "Report of the International Commission of Inquiry to investigate all alleged violations of international human rights law in the Libyan Arab Jamahiriya," June 1, 2011.

war crimes during fighting in Tripoli, Bani Walid, and Sirte toward the end of the 2011 conflict.<sup>52</sup> A final written report is expected in early 2012.

The death of Muammar al Qadhafi, his son Mutassim al Qadhafi, and defense official Abu Bakr Yunis Jabr near Sirte on October 20 brought a dramatic end to the conflict and signaled the irreversibility of political change to Libyans and the international community. Nevertheless, the uncertain circumstances of Qadhafi's death have raised questions about the accountability of armed groups in Libya and the TNC's nascent control over the country—video footage appeared to show Qadhafi wounded, but alive in rebel custody prior to his subsequent death by a gunshot wound.<sup>53</sup> TNC officials have promised to investigate the events leading up to Qadhafi's death, amid calls from human rights organizations and other international actors for a full public inquiry.

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<sup>52</sup> Oral Update by the International Commission of Inquiry on Libya to the Human Rights Council, Geneva, September 19, 2011; and, U.N. Security Council Document S/2011/727, Report of the Secretary-General on the United Nations Support Mission in Libya, November 22, 2011.

<sup>53</sup> A young Libyan from Benghazi has come forward and identified himself as Qadhafi's original captor and murderer. According to the individual in question, he shot Qadhafi when rival militia members from Misuratah tried to prevent him from taking Qadhafi in custody to Benghazi. CRS cannot verify his account and the circumstances of Qadhafi's death remain under investigation.