

DEVELOPMENTS

In recent times a debate has begun to develop between two groups within the Libyan system: the conservatives and the reformers. NDI's delegation detected strong divisions between the two groups over policy, though neither group openly discussed removing nor dramatically changing the system put in place by Qaddafi.

The conservatives tend to be closely linked to the security apparatus and the Revolutionary Committees. There are many conservatives in government institutions such as the People Congresses, as well as organizations such as the Green Book Center. The conservatives generally support maintenance of the status quo, oppose liberalizing the economy, and continue to take an antagonistic stance towards the West.

While the reform movement in Libya is gaining strength, it must be understood that most reformists come from within the system. The reform movement argues in favor of liberalizing the Libyan economy, improving relations with the West, and some reformers go as far as to call for an improved human rights situation, greater legal transparency, and improvement of current democratic practices including the drafting of a constitution. Most reformers, however, do not openly support major change in the political system, their arguments tend to be made within the framework of the Green Book and the Jamahiriya system, and none call into question Qaddafi's role as the country's leader. It is not clear how many reformers truly support a limited agenda and how many secretly support more extensive reforms but find it impossible to speak out in the current climate. It seems likely that the movement is divided between these two groups. Reformers tend to be found in professional associations (especially the lawyers association and the journalists union), the universities (especially Benghazi and Tripoli universities), and in the Qaddafi Foundation.

The Qaddafi Foundation is headed by Seif El-Islam Qaddafi, son of Muammar. The Foundation is active in providing improved social services to Libyans and extending foreign assistance to impoverished countries, especially in sub-Saharan Africa and Asia. The Foundation also frequently acts as the soft face of the Libyan regime. The Foundation has a human rights division that supposedly watches over the rights of the accused, prisoners, and migrants and ethnic minorities in Libya. The Foundation has provided defense lawyers in several prominent political cases in Libya, and has been outspoken about the protection of the Bulgarian nurses accused of infecting Libyan children with the HIV virus. While Seif El-Islam is often seen as the leading figure in the reform movement, most observers agree that his reform agenda is limited. Seif speaks about democracy, but, based on the programs he has supported to date, his interests seem to focus mainly on the economic modernization of Libya and in certain reforms to the country's penal code. In addition to prominent reformers of the Qaddafi Foundation, the delegation also met many younger members of Basic People Congresses who recognized the necessity of making some changes to the political system, but most of these envision very limited reforms.

While there is an open debate between conservatives and reformers in Libya, it must be noted that Qaddafi is very skilled at co-opting both tendencies to his own advantage. Neither side speaks of regime change or major overhauls to the political system. The delegation, along with many other observers, noted that Qaddafi supports one side or the other at various times, often times on the same issue. As Qaddafi ages he has become increasingly concerned with his legacy and his place in Libyan history, and most observers agree that “The Leader” would like to gain legitimacy with the international community and credibility for his system of “direct democracy.” In order to achieve this objective while maintaining his position as leader, Qaddafi uses both sides to his advantage, lending his support to reformers when he finds it necessary to make changes, and siding with conservatives when he wants to slow or halt reforms to the system. The fact that the current debate does not call into question the overall system, nor does it question Qaddafi’s position atop the political pyramid, is an indicator of the restrictive nature of political discussion in Libya.

As noted, some of the most independent thinkers and outspoken reformers in Libya today are found in an elite circle of educated professionals. NDI met with several high profile lawyers who said that they were free to defend human rights cases in the courts without political intervention. It is well-known that many of Libya’s high profile lawyers are also amongst the most vocal supporters of reform to the political system. At the current time the universities are the only forum where freedom of expression is tolerated. Prominent professors are generally free to teach as they wish, even in sensitive matters of political science. While the universities are not free of political intervention, those professors who support change and are bold enough to speak or write about it are generally tolerated by the regime. NDI’s delegation met several academics who spoke critically of Libya’s political system and criticized the role of Qaddafi and of the security services. Debate is allowed to flourish relatively openly on the condition that it remains in academic circles and does not lead to a organized movement to change the system on the ground. NDI found that this was especially true at the countries two major universities in Benghazi and Tripoli, however, even the Green Book Center, representing the heart of Libyan political orthodoxy, holds conferences and debates in which it is possible to hear people expressing views that are critical of the system, though many of the voices of opposition come from visiting academics.

Despite this relatively small political opening, there have already been several positive, unexpected ramifications. In recent times, human rights NGOs such as Human Rights Watch and Amnesty International were authorized to visit Libya, and have been pressing for greater respect for human rights and legal reforms. These organizations are having a certain level of success. Libya’s infamous People’s Courts that prosecuted “political crimes” were recently abolished, and the entire Libyan penal code is currently being revised. It was not clear to the delegation exactly to what extent the revisions to the penal code will affect human rights conditions, and none of the delegation’s Libyan interlocutors was able to say with any certainty when a draft of the revised penal code will be ready. Nonetheless, this is considered a positive development.

Many in the reform movement in Libya are also calling for a formal constitution. A "Constitutional Proclamation" was approved and promulgated on December 11, 1969. The proclamation was intended as a provisional measure until a permanent constitution could be adopted. It was amended with the Declaration on the Establishment of the Authority of the People on March 2, 1977 (seven articles) which declared the Quran to be the constitution and made the Green Book the foundation of government. To this day, Libya is governed on the basis of the 1969 proclamation and a series of fundamental laws deemed to have constitutional weight. Many laws are contradictory, and it is often not apparent which set of laws takes precedence. The establishment of a formal constitution could go a long way to fighting corruption and increasing transparency. Several of NDI's high level interlocutors indicated that a constitution could soon be proposed, perhaps motivated by concerns about regime stability once Qaddafi leaves the political scene.

RECOMMENDATIONS

While the debate about the political future of Libya is ongoing in the country, it was clear to NDI's delegation that the possibility of widespread democratic reform in the near future is limited. Nonetheless, NDI's delegation did identify opportunities for cooperation. Despite the limited prospects for democracy, NDI feels that it is important to engage Libyan academics and activists in exchanges with international political experts. NDI would like to raise the issue of democratic reform in much the same way as Amnesty International and Human Rights Watch have done on the human rights side. By raising the international profile of human rights issues in Libya these NGOs have successfully pushed for changes to the Libyan penal code as well as other improvements in human rights conditions in the country. NDI can help to highlight some of the recent political changes that have taken place in Libya, while simultaneously opening a dialogue on the prospects for continued reform and the expansion of democratic principles in the country.

NDI's delegation recommends conducting a forum within Libya on comparative constitutional reforms. Rumors abound about the possibility of a forthcoming draft constitution, and NDI would like to encourage genuine discussion of the issue. The Institute has considerable experience on the issue of constitution drafting, at both the regional level (most notably in Southern Sudan and Iraq) and worldwide. A forum of this nature would also be an opportunity to create links between international experts and academic institutions in the United States and those working on similar issues in Libya. A successful forum could open the way to further discussions both in Libya and at institutions in the United States. Such an event in Libya would aim to involve political activists from across the political spectrum, from both outside as well as from within the government. NDI would hold the event at a Libyan university where freedom of expression is accepted.

NDI would adopt a two step approach to conducting this activity. First, a delegation would be sent to Libya to identify a credible partner, agree on an agenda for the forum and insure the presence of valuable participants inside the country. If NDI is able to achieve these objectives, the Institute would then identify international experts and invite

Libyan participants to the event. NDI would like set a target date for the first step in the process to be completed by October - November 2006. If successful, NDI would aim to hold the forum in February 2007, to coincide with Libya's national celebrations.