



## LIBYA: TRANSPARENCY TO BUILD TRUST<sup>1</sup>

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Information is power and of fundamental importance in order to make informed decisions. Lack of access to information increases the risk of corruption since corrupt actions thrive in secrecy and when our right to know is denied, we cannot hold decision makers or institutions to account for their actions.

Libya has no law providing access to information and there has been no tradition of public disclosure of information. Laws are generally not publicly accessible and if so, they are not in an easily accessible language. State budget and expenditure reports are not published in full or on a regular basis, and transparency in oil revenues is almost non-existent. Without this transparency, it is extremely difficult for citizens and civil society organisations to hold decision makers accountable.

The legacy from the Gaddafi regime after 42 years of dictatorship is still affecting Libya, including entrenched corruption, secrecy and lack of involvement of citizens in decision-making. However, following the fall of the former regime there has been an increased popular demand for a state built on democratic principles, good governance and respect for human rights and

Transparency in the public sector is critical for securing citizens' trust and support as well as avoiding corruption. Access to information enables citizens and civil society organizations to control public expenditures and hold the government accountable for their actions and priorities. Libya has no access to information law and there has been no practice of public disclosures. On the contrary, the state has been administered behind closed doors with no opportunity for citizens to ensure that oil revenues, which are financing the public sector, are being properly spent.

1. This working paper was prepared in the context of the publication of the "National Integrity System Libya 2014" study. Data and content refer to the findings of this publication.

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a focus on reforming the public administration. Libyans generally support democracy and more than 80 per cent believe it is the best form of government. In addition, Libyans characterise democracy by the protection of human and political rights, which is conducive for the establishment of rule of law and proper governance. However, public sector reforms in this area are extremely slow and even if there is now increased public support for the agenda, results have been lacking.

The public sector plays a very dominant role in Libya and Libyans are very dependent on the sector, both for jobs (the public sector employs between 70 and 85 per cent of the formal workforce) and subsidised basic commodities such as food and fuel. However, the public sector has an overall unfortunate image and according to the Transparency International Global Corruption Barometer, 48 per cent of Libyans perceive public officials and civil servants to be either corrupt or extremely corrupt. The public sector is considered the most corrupt institution in Libya along with the police and nearly half of the population finds that corruption increased from 2011-2013, indicating a deterioration in governance after the revolution.<sup>1</sup>

The public sector is financed by oil revenues - revenues that ideally should benefit all Libyans. However, without a publicly available state budget, it is impossible to validate if the money has been properly used to the benefit of all citizens. Lack of transparency, high-level corruption cases in the oil sector, a perception of the public sector as corrupt and significant inequalities have contributed to increased mistrust in public institutions and the state, fuelling conflict.

This paper briefly examines transparency or lack thereof in Libya and argues that mistrust in state institutions enhances the risk of continuous conflict.

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## TRANSPARENCY TO BUILD TRUST

The lack of transparency has fuelled mistrust towards public institutions and has widened the gap between the state and its citizens.

This gap has been filled by non-state actors, such as militias, which are now at the centre of the conflict at the national level. In order to ensure that Libya stays on the path towards democracy this gap needs to be reduced in order to secure citizens' support in building a democratic state based on the principles of human rights and good governance.

The current state building process, such as writing the new Constitution, offers a chance to involve citizens and stakeholders and ensure that public institutions are built upon a solid foundation of transparency and integrity.

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## 1. OIL REVENUES AND CORRUPTION RISKS

Examples from resource-rich countries indicate that revenues from oil and gas

often lead to large-scale corruption with the effect that resource wealth does not translate into improved well-being. While the oil sector is the main driver behind economic growth in Libya, it is also a potential source of corruption and mismanagement and there have been examples of large scale corruption cases such as the case with the Norwegian fertiliser company Yara (see side bar).<sup>2</sup>

Libya's oil reserves are the ninth largest in the world and are managed by the National Oil Corporation (NOC). Almost the entirety of Libya's public budget (95 per cent) is financed by oil revenues.<sup>3</sup> Yet Libya's resource governance is considered to be failing, putting the country at 55 out of 58 countries with significant oil, gas and mining sectors that have been assessed for their levels of transparency and accountability.<sup>4</sup> The low ranking is particularly due to poor performance in the country's institutional and legal framework as well as the lack of safeguards and oversight within the sector. With no access to information law, public disclosure on most aspects of Libya's petroleum industry is absent. Oil contracts and permits are not published and under Gaddafi, it was clear that open bidding was only the beginning of the licensing process; final agreements depended on further secret negotiations. Libya performed particularly poorly on measurements of accountability and democracy and corruption control (2013), indicating that the corrupt legacy from Gaddafi still characterizes the oil sector.<sup>5</sup>

There is still no clarity regarding the amount of capital the government is receiving from various industries in order to obtain access to the country's oil, gas, and other natural resources, allowing for few checks and balances over extractive revenues. Libya has refused to participate in international initiatives to promote the sector's transparency, such as the Extractive Industries Transparency Initiative (EITI), and it also lacks a "Publish What You Pay" coalition.

### CORRUPTION IN THE OIL SECTOR: THE TIP OF THE ICEBERG?

In January 2014, the Norwegian fertiliser company Yara International was fined 295 million Norwegian crowns (US \$48 million) for paying or agreeing to pay the equivalent of US \$12 million in bribes between 2004 and 2009 to senior government officials in Libya and India, including an oil minister.

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## 2. SECURING TRUST AND STABILITY

Access to information is an important element in building citizens' trust in the state and its public institutions. People need to trust their institutions, especially during times of instability. However, Libyans generally have a low degree of trust in the public system<sup>6</sup> and the link between citizens and the government is fragile.<sup>7</sup> Militias can easily take advantage of this fragility.

Oil revenues finance a moderate safety net for the Libyan population but they also finance a large, inefficient public sector with the reputation of being the most corrupt institution in Libya.<sup>8</sup> There is an 'accountability vacuum' between the public sector and the general population.<sup>9</sup> If the public sector were to be financed via taxes paid by the workforce rather than oil revenues, the population might feel more empowered to demand proper, transparent and efficient government spending. Public servants might also better administer state resources.

The poor performance of public institutions, the state's inability to provide security and citizens' mistrust in the state leaves a vacuum that other players are filling, including armed militias. Militias play a central role as one of the only security providers at the local level since the state has been unable to provide security beyond the central level.<sup>10</sup> Even though Libyans express support for democratic governance, they turn to militias locally for security,<sup>11</sup> which further deepens the accountability gap between the state and its citizens. The localised support has put the militias in a position whereby they can take on state-like operations such as acting as a police force and running prisons. This local support for militias and the inability of the state to project its powers beyond the central level is furthermore fuelling conflict at the national level. From May to August 2014, the fighting between various militias increased significantly and on 31 August, the executive effectively lost control of most ministries as well as other government facilities in Tripoli.<sup>12</sup> Militias are currently ruling the country *de facto*, undermining all progress in democratic state-building achieved after the revolution.

The current security situation calls for a comprehensive security reform including disarmament of the militias. Ondeed, the international community is already supporting this process (e.g. UNSMIL). When a more stable security situation has been established, it is crucial that citizens' trust in the state is restored in order to achieve the public's continuous support for state-building. Transparency is a key building block for this.

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### 3. RECOMMENDATIONS

The public sector needs to signal political will to create transparent and accountable institutions by adapting an access to information law and disclosing information to the public to allow civil society, media and non-state actors to hold the sector accountable for its actions. Key recommendations include:

- Develop, adapt and enforce a law on access to information.
- Ensure easy access to laws, rules and regulations by collecting all essential documents in one central place (e.g. an online platform). Summaries in simple language of all the laws, rules and regulations should be published here.
- Involve citizens and civil society in reform processes of the public sector by communicating to the public and conducting public hearings.
- Disclose publicly the state budget, openings in the public sector, public officials' wealth declarations and the financial interest of public employees.
- Join the EITI initiative to show Libya's willingness to work for a more transparent governance of its natural resources.

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Every effort has been made to verify the accuracy of the information contained in this report. All information was believed to be correct as of December 2014. Nevertheless, Transparency International cannot accept responsibility for the consequences of its use for other purposes or in other contexts.

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## NOTES

<sup>1</sup> See: [www.transparency.org/gcb2013/country/?country=libya](http://www.transparency.org/gcb2013/country/?country=libya).

<sup>2</sup> See: [www.reuters.com/article/us-yara-intl-lawsuit-idUSKCN0PH1LY20150707](http://www.reuters.com/article/us-yara-intl-lawsuit-idUSKCN0PH1LY20150707)

<sup>3</sup> See: [www.middleeasteye.net/in-depth/features/battle-over-libyas-oil-revenues-and-rise-central-bank-327546629](http://www.middleeasteye.net/in-depth/features/battle-over-libyas-oil-revenues-and-rise-central-bank-327546629).

<sup>4</sup> Based on the Resource Governance Index, 2013; see: [www.resourcegovernance.org/resource-governance-index](http://www.resourcegovernance.org/resource-governance-index).

<sup>5</sup> Ibid.

<sup>6</sup> Unpublished public opinion survey May 2013 – conducted in collaboration between JMW Consulting and the National Democratic Institute (NDI)

<sup>7</sup> Revenue Watch Seeks to Promote Transparency in Libya's Oil and Gas Industries, 4.12.2012, The Tripoli Post.

<sup>8</sup> [www.transparency.org/gcb2013/country/?country=libya](http://www.transparency.org/gcb2013/country/?country=libya).

<sup>9</sup> Revenue Watch Seeks to Promote Transparency in Libya's Oil and Gas Industries, 4.12.2012, The Tripoli Post.

<sup>10</sup> Lindsay Benstead, Alexander Kjærørum, Ellen Lust and Jakob Wichmann, 'Libya's Security Dilemma', Washington Post / Monkey Cage Blog, 7 April 2014

<sup>11</sup> Lindsay Benstead, Alexander Kjærørum, Ellen Lust and Jakob Wichmann, 'Libya's Security Dilemma', Washington Post / Monkey Cage Blog, 7 April 2014

<sup>12</sup> UNSMIL/OHCHR, Overview of Violations of International Human Rights and Humanitarian Law During the On going Violence in Libya, 2014.

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