Libya: Transition and U.S. Policy

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Summary

The September 11, 2012, terrorist attacks on U.S. interim offices in Benghazi underscored the serious security challenges facing Libya’s citizens and newly elected leaders. U.S. Ambassador Christopher Stevens and three other U.S. personnel were killed after armed individuals attacked and burned a U.S. compound and subsequently attacked a second site where U.S. personnel had been evacuated. Libyan officials and citizens have condemned the murder of U.S. personnel and an investigation has begun. Armed non-state groups continue to operate in many areas of the country. On August 27, the U.S. State Department warned U.S. citizens against visiting Libya. This report provides updated information on the attack, and includes information from the August 9 version of this report that will be updated.

Libya’s post-conflict transition is underway, as Libyans work to consolidate change from the 40-year dictatorship of Muammar al Qadhafi to a representative government based on democratic and Islamic principles. The recent flare-ups in violence are coinciding with a number of important steps in the country’s political transition. On July 7, 2012, Libyan voters chose 200 members of a General National Congress (GNC) in the country’s first nationwide election in nearly 50 years. The GNC has elected its leadership and is now overseeing national government affairs. The GNC elected a new interim prime minister on September 12. Prime Minister Mustafa Abu Shuqur will propose members for a new cabinet, and the GNC is expected to determine the method for selecting members of a drafting committee to prepare a new constitution. If voters approve a constitution in a national referendum, then new elections are to be held by mid-2013, bringing a nearly two-year transition process to a close. Security conditions remain an immediate concern.

In the wake of the July election, Libya’s interim leaders remain answerable to a wide range of locally and regionally organized activists, locally elected and appointed committees, prominent personalities, tribes, militias, and civil society groups seeking to shape the transition and safeguard the revolution’s achievements. The shift from an appointed interim government to elected leaders may provide the government more democratic legitimacy and better enable it to make decisions in key areas, such as security, fiscal affairs, and post-conflict justice and reconciliation. However, further deterioration of security conditions may disrupt the transition, and the continued presence of armed non-state groups appears likely to continue to challenge the interim government. Libyans are debating the proper balance of local, regional, and national authority and the proper role for Islam in political and social life.

The proliferation of military weaponry from unsecured stockpiles—including small arms, explosives, and shoulder-fired anti-aircraft missiles (MANPADs)—remains a serious concern. The Obama Administration has been implementing a program with Libyan authorities to retrieve and disable weapons, including MANPADs. Non-government reporting indicates that some arms depots remain unsecured. U.S. officials believe that nuclear materials and chemical weapons components are secure (including previously undeclared chemical weapons), and Libyan leaders have recommitted to destroying the remnants of Qadhafi’s chemical arsenal.

As of September 2012, the U.S. government has allocated more than $200 million in assistance for Libya since the start of the uprising in 2011, including $89 million in humanitarian assistance, $40 million for weapons abatement, and $25 million in nonlethal assistance from Department of Defense stockpiles. Attacks on U.S. personnel and facilities may disrupt U.S. aid programs temporarily. As Libyans work to shape their future, Congress and the Obama Administration have the first opportunity since the 1960s to fully redefine U.S.-Libyan relations.
Attacks on U.S. Offices in Benghazi

U.S. Ambassador to Libya Christopher Stevens and three other U.S. personnel were killed on September 11, 2012, during an assault by armed terrorists on two U.S. diplomatic office sites in Benghazi, Libya. U.S. officials have provided a preliminary account of the events that suggests an initial armed assault by several dozen attackers on the main U.S. compound in Benghazi sparked a fire that separated U.S. personnel and led to the deaths of Ambassador Stevens and State Department information officer Sean Smith. A larger number of attackers subsequently assaulted a separate U.S. annex compound to which U.S. personnel had been evacuated, killing two more U.S. personnel and wounding several others. Ambassador Stevens’ body was retrieved from a local hospital and remaining U.S. personnel were evacuated from the Benghazi airport.1

According to Secretary of State Hillary Clinton, “American and Libyan security personnel battled the attackers together.”2 Libyan accounts suggest a government-affiliated militia unit known as the Shield Brigade responded to the attack and supported the evacuation of U.S. personnel on behalf of the Libyan government.3 U.S. military personnel have been deployed to Libya to secure U.S. facilities.4 Injured U.S. personnel have been evacuated and are being treated at U.S. military facilities in Germany.

The attack coincided with the 11th anniversary of the September 11, 2001, terrorist attacks in the United States and the formal acknowledgment by Al Qaeda leaders of the death of Al Qaeda commander Abu Yahya Al Libi, a native of eastern Libya who was killed in a targeted strike in Pakistan in June 2012. At the time of the attack, Libyans angered by an inflammatory film about Islam reportedly were staging a protest outside the main U.S. compound, mirroring a similar protest in Cairo, Egypt. Libyan eyewitness accounts from Benghazi suggest that armed members of the Salafist militia group Ansar al Sharia were present during the first attack, although the group’s leaders have issued a statement denying that they ordered their members to participate or use force.5 In June 2012, another armed Salafist group—the Imprisoned Sheikh Omar Abdul Rahman Brigades—reportedly claimed responsibility for a bomb attack that damaged the entrance of one U.S. compound in Benghazi in an attack meant as a retaliation for Al Libi’s death.6 At present, the full circumstances of the attacks and the identity of the perpetrators have not been fully confirmed or disclosed.

The attack casts a pall over the otherwise generally positive story of U.S.-Libyan cooperation throughout the anti-Qadhafi revolution and during the transition period, and has raised questions about the near-term future of the relationship. Ambassador Stevens served in Benghazi as the special U.S. representative to the Libyan opposition during the fighting and in his role as ambassador was overseeing a robust range of assistance programs and engagement efforts

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1 Injured U.S. personnel have been evacuated and are being treated at U.S. military facilities in Germany.
5 Available at http://www.youtube.com/watch?v=evBeFAYGuFA via the Ansar al Shariah Facebook page at https://www.facebook.com/anssarelsharieah. CRS requested that the U.S. Open Source Center translate the statement and the full transcript is available now in OSC Report GMP20120912094001.
6 U.S. government officials have not confirmed the group’s responsibility and CRS efforts to locate the primary source of the reported claim on jihadist web forums are ongoing. SITE Intelligence, a private firm, issued a report on June 11 that contained the reported claim.
designed to support Libya’s democratic transition. U.S. and Libyan officials have condemned the attack and vowed to pursue those responsible. Secretary Clinton stated, “the friendship between our countries, borne out of shared struggle, will not be another casualty of this attack. A free and stable Libya is still in America’s interest and security, and we will not turn our back on that, nor will we rest until those responsible for these attacks are found and brought to justice.” Recently elected General National Council (GNC) President Mohammed Yusuf al Muqayrif and his colleagues disavowed the “criminal attack” and have launched an investigation. Libyan citizens are staging demonstrations condemning the attack featuring signs that reject violence and express remorse for the death of Ambassador Stevens, who was personally popular among many Libyans for his direct public engagement and his image as a strong supporter of Libya’s transition.

The attacks occurred at a particularly sensitive juncture for Libya. The GNC was elected in July 2012 in the first national election in nearly 50 years, and the GNC elected acting Deputy Prime Minister Mustafa Abu Shuqr as the new interim prime minister during its September 12 session. Prime Minister Abu Shuqr and President Muqayrif both spent considerable amounts of time in the United States as figures in the Libyan opposition movement in exile. Many Libyans have hoped the elected body and Abu Shuqr’s yet-to-be-appointed cabinet will enjoy greater legitimacy that will enable them to act decisively on security issues. Those hopes have been tested as Libya has been reeling from deteriorating security conditions in the wake of the election. A series of aggressive attacks by armed Salafists on religious buildings around the country and an ongoing assassination campaign against senior military officers have fueled widespread criticism of interim security officials. At a September 12 press conference, Muqayrif related the attack to efforts by adherents of the former regime and others to destabilize Libya and prevent the newly elected national congress from forming a government and establishing democracy.

The government’s response to the attack on the U.S. offices will be an even greater test of elected Libyan officials and their ability and willingness to assert state authority, which to date have been very much in question. In order to investigate and punish those responsible, Libyan security authorities are likely to have to confront armed non-state actors in a political context in which some Libyans may question the legitimacy of the elected government to do so and in which other Libyans may view anti-U.S. protests as legitimate or the attack as having been somehow justified. Initial arrests have been made, and reports on September 13 suggested the Libyan Army had issued an order disbanding the Ansar al Sharia militia in Benghazi and ordering it to submit to military authority. Sensitive questions about the make-up and policies of the new cabinet and the content of the new constitution also stand to be addressed and will now be further complicated by the need to respond to the security threat clearly illustrated by the attack.

U.S. officials face weighing demands for a response to the immediate threats posed by the perpetrators of the attack with longer-term concerns for Libya’s stability, the success of its nascent democratic institutions, and the future of U.S.-Libyan relations. Decisions about responding to the incident are complicated by the relative weakness of the Libyan state security apparatus and the risk of inflaming public opinion or undermining the image of the elected Libyan government through a direct or overt U.S. security response. Press accounts in recent months have detailed reported unmanned aerial surveillance operations over areas of eastern Libya where violent extremist organizations are suspected of operating. Some Libyan observers

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have been critical of these reported operations. Press reports state that the Department of Defense has directed two U.S. Navy vessels toward the Libyan coast. Direct U.S. military intervention in Libya would likely be extremely controversial and could jeopardize Libyan support for the interim government. Rescinding or conditioning U.S. assistance may provoke criticism among some Libyans and limit channels for U.S. engagement with Libyan authorities, including on proposed security force development and cooperation programs. Statements by U.S. officials since the attacks indicate that, thus far, Libyan officials are cooperating with the United States.

Salafist Groups in Benghazi

No group has claimed responsibility for the attack, and U.S. officials have not publicly identified specific suspects. Some Libyans have suggested they suspect supporters of the Qadhafi regime to have been involved in the violence, although no specific evidence suggests that is the case at present. Armed individuals and militia members were reportedly involved in the demonstration and attack at the compound, and Libyan eyewitness accounts suggest that many of those present were affiliates of Salafist militia groups that have emerged in eastern Libya since 2011. Among such groups, the Ansar al Shariah Brigade in Benghazi has been among the most prominent and active. Brigade leaders issued an ambiguous statement concerning the attack on the U.S. offices, and comments on their official social media channels suggest that some supporters favorably responded to the attack and to the deaths of U.S. personnel. The statement said, in part:

> deriding Islam and the master of the sons of Adnan [Prophet Muhammad], prayers and peace be upon him, must be dealt with sternly. What is important is that it was a popular uprising in which all Libyans participated in support of the religion of the Lord of all creation, and in support of the master of all messengers, may the best of prayers and salutations be upon our Prophet. The Ansar al-Shari’ah Brigade did not participate in this popular uprising as an independent entity. Rather, it was performing its duty in the Al-Jala Hospital and other places where the Brigade was entrusted with some duties. The Brigade did not participate as independent entity acting upon some orders. Rather, it was a spontaneous and popular uprising in response to what the West did. Thank you.

A Brigade spokesman condemned what he characterized as a media campaign against the group, and, at a September 14 press conference, denied that their personnel participated in the attacks. Unconfirmed reports suggest that Libyan authorities are seeking the disbandment of the brigade. The brigade and its sister organization in Derna advocate the adoption of a sharia-based system of government in Libya. The Benghazi Brigade has been involved in several shows of force in recent months, including in organizing a June rally of armed Salafist groups in central Benghazi. They also conducted operations during the recent Eid holiday where uniformed Brigade members toured the city in police-style vehicles and appeared with weapons to “secure” a hospital and other social service centers. Abu Sufyan bin Qumu, a former Guantanamo Bay detainee and Libyan Islamic Fighting Group commander, is reported to direct the Derna branch of Ansar al Sharia. In May, he gave an interview to a Libyan newspaper where he spoke about abuse he claims to have suffered during U.S. detention and his hatred of the United States. As noted above,

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9 According to reports citing unnamed U.S. officials, the U.S.S. Laboon and the U.S.S. McFaul have been redirected to the Libyan coast. Lolita C. Baldor, “U.S. officials: DoD moving 2 warships to Libya,” Associated Press, September 12, 2012.

a group identifying itself as the Imprisoned Sheikh Omar Abdul Rahman Brigades also reportedly claimed responsibility for the June 2012 bomb attack on a U.S. compound in Benghazi.

**U.S. Assistance Programs and New Legislation**

The attack raises both logistical and philosophical questions about U.S. foreign assistance to Libya, and some of those issues have resonance for U.S. relations with Egypt and other countries that have been part of the wave of upheaval in the Arab world. On a practical level, the evacuation of all non-emergency personnel from Libya will prevent the continuation of some ongoing assistance programs at least temporarily. Beyond that, some Members of Congress have called on U.S. assistance to be made contingent upon full Libyan cooperation in the investigation—or absolute cuts in aid as a response to the attacks, while others have demanded a wholesale suspension of foreign aid to Libya and Egypt. To date, the Obama Administration and Congress have agreed to support a range of security and transition assistance programs in Libya, some of which respond to specific U.S. security concerns about unsecured weapons, security force capabilities, and border security. In recent weeks, the Administration notified Congress of its intent to reprogram $11.8 million to help Libya develop Special Forces that could conduct counterterrorism missions and to improve border security management. U.S. funding for assistance programs in Libya is reviewed in Table 1 below.

On September 12 and 13, Senator Rand Paul offered amendments to S. 3457 (S.Amdt. 2815 and S.Amdt. 2838) that would have prohibited the obligation or expending of funds for Pakistan, Egypt, Yemen, or Libya. S.Amdt. 2838 would have rescinded unexpended FY2012 funds and transferred amounts for veterans and debt reduction purposes. The amendments included waiver authority that would have required the President to certify the cooperation of the governments concerned and that “all identifiable persons associated with organizing, planning, or participating in the [Benghazi] attack—have been identified by the Federal Bureau of Investigations and are in the custody of the United States Government.” The amendments also included a reporting requirement for a report “examining the extent to which advanced weaponry remaining unsecured after the fall of Moammar Qaddafi was used by the individuals responsible for the September 11, 2012, attack on the United States consulate in Benghazi, Libya.” S.Amdt. 2815 stated that “nothing in this section may be construed as an authorization for the use of military force.”

S.Res. 556 would express “the sense of the Senate that foreign assistance funding to the Governments of Libya and Egypt should be suspended until the President certifies to Congress that both governments are providing proper security at United States embassies and consulates pursuant to the Vienna Convention on Consular Relations.” The Senate adopted S.Res. 551 by unanimous consent commending the U.S. personnel who died in the attack and condemning the incident. H.Res. 783 would express the sense of the House of Representatives that “the President should immediately suspend all United States foreign assistance” to Libya and Egypt, “until the Governments of Libya and Egypt formally apologize to the United States and condemn in the

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12 For general descriptions of current programs, see Office of the Special Coordinator for Middle East Transitions, Fact Sheet - U.S. Government Assistance to Libya, Washington, DC, August 14, 2012.
strongest possible terms the savage attacks on United States diplomats in Benghazi, Libya, and Cairo, Egypt, and assure the safety of United States diplomats in Libya and Egypt.”

**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 the 1969 anti-monarchy 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 2011 uprising. Political groups with differing priorities are now vying to 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. Some Libyans and outside observers welcomed government efforts to rehabilitate imprisoned Islamists and allow the return of some exiled opposition figures. 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 in these cities became apparent, and broader unrest emerged in other regions. A number of military officers, their units, and civilian officials abandoned Qadhafi. Qadhafi and his supporters denounced their opponents as drug-fueled traitors, foreign agents, and Al Qaeda supporters. Until August 2011, Qadhafi and his forces maintained control over the capital, Tripoli, and other western 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 2011 were marked by sporadic and often intense fighting 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, leaving an uncertain path ahead. The self-appointed interim Transitional National
Council (TNC) and its cabinet took initial steps toward improving security and reforming national institutions. Voters elected an interim General National Congress (GNC) in July 2012. The GNC assumed power on August 8 and will determine the process for drafting a new constitution.

**Figure 1. Libya At a Glance**

![Map of Libya](image)

| Land area: 1.76 million sq. km. (slightly larger than Alaska) |
| Population: 6.7 million, including 166,510 non-nationals (July 2012) |
| Major population centers: Tripoli (capital), ~1.7 million; Benghazi, ~1 million |
| GDP (PPP; growth rate): $97.43 billion (2010), $37.97 billion (2011 est.); 2.5% (2010 est.) |
| GDP per capita: $14,100 (2010) |
| Budget (spending): $54 billion (2012) |
| Literacy: 82.6% |
| Oil and natural gas reserves: 46.42 billion barrels; 9.89 billion cubic meters |
| Oil production: 1.5 million barrels per day (July 2012) |

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

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Figure 2. Libya Uprising and Conflict Timeline

- **February 16, 2011**: Protests in eastern Libya evolve into clashes with security forces. Civilians killed.
- **March 17-18, 2011**: U.N. Security Council adopts Resolution 1973 authorizing all measures to ensure the protection of civilians in Libya. NATO forces, including the U.S. military launch air and naval strikes to halt Qadhafi military.
- **August 2011**: Fall of Tripoli to rebel forces. TNC issues interim charter to guide transition.
- **November 2011-February 2012**: Interim cabinet named, electoral law adopted, and election preparations for mid-2012 begin.

Source: CRS.

Figure 3. Libya’s Proposed Transition Timeline

- **Step 1**: Declaration of Liberation (Complete)  
  October 23, 2011. Transitional National Council Chairman Mustafa Abdeljalil declared Libya’s liberation.
- **Step 2**: Formation of Interim Government (Complete)  
- **Step 3**: Adoption of Electoral Legislation and Appointment of Election Commission (Complete)  
  February 2012.  
  Within 90 days, cabinet and TNC adopted electoral legislation and appointed High National Election Commission to guide elections for a national assembly.
- **Step 4**: Election of National Congress and Selection of Cabinet and Constitutional Committee  
  July-August 2012.  
  National election for General National Congress held July 7, 2012. Results announced. Elected Congress to name new cabinet. Process for selecting committee to draft constitution is TBD.
- **Step 5**: Constitutional Referendum  
  Autumn 2012.  
  Committee drafts and considers proposed constitution. Within 30 days after assembly approval of proposed constitution, national referendum to be held, requiring a 2/3 vote for approval.
- **Step 6**: National Elections  
  Spring-Summer 2013.  
  New elections law to be issued within 60 days of a constitutional approval. Within 180 days of new electoral law issuance, national elections to be held under United Nations supervision.


Note: Subject to revision.
Assessment

After the swell of confidence and international recognition that followed the announcement of Libya’s liberation in late 2011, Libya’s citizens, revolutionaries, and Transitional National Council (TNC) leadership moved haltingly down a path of political transition and economic recovery during the first half of 2012. Political parties and civil society organizations—long banned—have emerged in large numbers, and a lively political atmosphere now exists, as reflected in the preparation for and conduct of Libya’s first national election in nearly 50 years on July 7, 2012. The election of an interim 200-member General National Congress (GNC) marked an important step on the planned transition timeline (see Figure 3 above), and many Libyans and outside observers have expressed hope that the elected interim Congress will appoint a cabinet that will be able to leverage its democratic legitimacy to act decisively on key issues. Like their predecessors, Libya’s new interim leaders face a number of chronic economic and political challenges, some of which have been exacerbated by the consequences of the violent revolution and complicated by the legacies of decades of Qadhafi’s patronage- and fear-based rule.

With the exception of some violent attempts to disrupt voting in eastern Libya, domestic and international election observers reported that voting was administered professionally and transparently, without critical interruptions or serious irregularities. Over 60% of registered voters participated. The results showed a strong performance by former interim-Prime Minister Mahmoud Jibril’s Alliance of National Forces, which won 39 of 80 “political entity” (party-list) seats, followed by the Muslim Brotherhood-affiliated Justice and Construction party, which won 17 seats. The 120 individual candidates elected include a variety of activists, locally prominent persons, and party affiliates. The winners continue to negotiate among themselves, and they have elected a GNC President and a new interim Prime Minister.

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 have inherited weak national institutions, and competition among some groups has intensified during the transition. Political support for interim leaders among some Libyans has waned in light of the government’s failure to rapidly improve basic services, ensure security, or deliver expected financial support via salaries, subsidies, and relief payments. U.S. officials applauded the conduct of the election, welcomed the newly elected GNC, and, through early September, had not described ongoing political debates and intermittent security incidents as grave threats to the transition.

As the recent attacks on U.S. facilities and personnel illustrate, security concerns remain the immediate priority. The attacks in Benghazi were the latest in a series of attacks on international targets in several cities. These attacks, the destruction of religious buildings by Salafist militia groups, assassinations of former regime security officials, and the persistence of isolated armed conflicts have raised serious questions about the ability of the interim authorities to ensure order.

As of September 2012, militia groups remained active and influential, with some acknowledging and participating in government efforts to assert central security authority. Public displays of weapons, attacks on international targets, and isolated armed clashes underscore the threats posed by some groups. Security officials continue to rely on irregular forces to provide security in much of the country. Differences of opinion over regional representation and the balance of power between national and local authorities may become a subject of greater debate and potential source of conflict as the transition continues.

On August 27, 2012, the U.S. State Department issued a travel warning for Libya that stated: “Inter-militia conflict can erupt at any time or any place in the country…. There have also been several reports of militias briefly apprehending and detaining foreigners due to perceived or actual violations of Libyan law. The Embassy’s ability to intervene in such cases remains limited, as these groups are neither sanctioned nor controlled by the Libyan government.” That warning was amended on September 12, 2012, to encourage all U.S. citizens to depart Libya and “use extreme caution” if remaining in or travelling to Libya.

Libya’s borders and hundreds of suspected weapons sites remained loosely secured, although limited efforts to secure them have begun, with the support of the United Nations Support Mission in Libya (UNSMIL), the United States, and other governments. The proliferation of small arms, man-portable air defense missile systems (MANPADS), and some heavy weaponry among Libyans and beyond Libya’s borders 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 security in Libya and the region. Most security experts expect that unexploded ordnance, explosive remnants, and looted weaponry will present a domestic and regional challenge for many years. Officials in the United States and Europe have expressed concern about the potential for violent extremists to benefit from conditions in Libya and are seeking 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 commitment of resources. Administration officials argue that U.S. policy must remain flexible in order to effectively shape and respond to developments. Administration officials and Members of Congress may choose to reexamine U.S. interests in Libya; discuss possible outcomes for Libya’s transition and their potential implications; and define the authorities for and costs of potential U.S. responses.

Issues Before Congress

The attacks in Benghazi and the death of U.S. personnel are reshaping public and official debates in Washington about U.S. policy toward Libya. Many Members of Congress welcomed the announcement of Libya’s liberation, the formation of an interim cabinet, and the July 2012 national election, 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. Members may also debate Libya’s regional influence, whether as a political example or a potential source of instability. Administration officials and congressional decision makers have worked together to
identify and reprogram an array of previously appropriated funding to respond to developments in Libya since 2011 (see Table 1 below).

- Medical and humanitarian assistance has supported Libyans injured or displaced during the revolution as well as Libyans and non-Libyans who fled the fighting last year.

- U.S. programs to mitigate threats posed by weapons proliferation and to support the political transition toward democratic government are ongoing. U.S. civilian advisers work with Libyan forces to locate, secure, and disable shoulder-fired anti-aircraft missiles and other weaponry (see “Weapons” below).

- U.S. civil society support for Libya’s transition is being provided under the auspices of the State Department’s 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). The National Endowment for Democracy also is funding programs being implemented by the International Republican Institute, the National Democratic Institute for International Affairs, and Libyan civil society organizations.

- In August and September 2012, the Administration notified Congress of its intent to reprogram $4 million in funds from the FY2012 Pakistan Counterinsurgency Capability Fund and $7.8 million in FY2012 Defense Operation and Maintenance Funds to support Global Security Contingency Fund programs for Libya. One program will support the creation of Libyan Special Operations Forces “to conduct special operations missions, including counterterrorism operations to fight Al Qaeda and its affiliates.” The other will enhance border security management. As of September 14, Congress is reviewing the congressional notifications.

For FY2013, the Obama Administration is requesting $150,000 in Foreign Military Financing (FMF), $250,000 in International Military Education and Training (IMET) funding, and $1.25 million in Nonproliferation, Antiterrorism, Demining and Related Programs (NADR) funding to continue engagement programs with Libyan security forces and to improve border security. A portion of a requested $770 million Middle East North Africa Incentive Fund (MENA-IF) also may benefit Libyans, if appropriated. As of September 2012, the House Appropriations Committee had declined to include funding for the MENA-IF initiative in its version of the FY2013 Foreign Operations appropriations bill (H.R. 5857). The Senate Appropriations Committee included $1 billion for the MENA-IF, an increase over the Administration’s request (S. 3241). The enactment of a continuing resolution may link interim FY2013 spending to FY2012 levels set through consultation between the executive branch and Congress rather than specified in legislation. As such, established inter-branch consultation mechanisms would likely remain the primary venue for determining U.S. funding for Libya.

Congress has enacted legislation encouraging cost-matching by Libya, given its resource wealth, and prohibiting U.S. grant funding of rehabilitation or reconstruction of infrastructure in Libya using FY2012 funds. Similar conditions or restrictions may be included in appropriations legislation for FY2013, along with requirements for vetting of Libyan personnel participating in security assistance programs. As summarized above, some Members of Congress have made statements and supported legislative efforts to adopt conditions on future U.S. assistance to Libya as a means of ensuring Libyan cooperation in the investigation and punishment of the perpetrators of the Benghazi attacks.
Legislation in the 112th Congress

The pending FY2013 Foreign Operations appropriations legislation discussed above constitutes the main legislation relevant to Libya currently before Congress. Debate concerning the future of U.S. policy toward Libya is being 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, economic opportunities in Libya, security cooperation, and human rights. In addition to the legislation outlined above in response to the Benghazi attack, other recent legislation adopted includes:

- The FY2012 State Department and Foreign Operations appropriation (Division I of P.L. 112-74), which provides up to $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 and professionals.” The law prohibits the use of FY2012 funding for non-loan-based rehabilitation or reconstruction of infrastructure in Libya. The committee report on the Senate version of the bill directs the use of NADR account funding for disarmament and securing Libyan weapons stockpiles.

- The FY2012 National Defense Authorization Act (P.L. 112-81), which was amended (S.Amdt. 1180) to include, in Section 1235, 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 law also requires the Administration to develop a strategy for mitigating potential related threats and submit a detailed report to Congress, in unclassified and classified form.

- Section 598 of P.L. 112-81 also reflects language introduced in S. 1822, and directs the Secretary of Defense to assess the feasibility and cost of identifying, exhuming, repatriating, and reinterring the remains of U.S. service members buried in Tripoli, Libya, who were killed in the explosion aboard the USS Intrepid in Tripoli Harbor in 1804.

Other legislation introduced in the 112th Congress related to Libya includes:

- H.R. 3725, which would direct the President to vest blocked Libyan assets “to defray the full costs of Operation Odyssey Dawn and United States participation in NATO Operation Unified Protector and any associated humanitarian efforts undertaken on behalf of the Libyan people,” and “to satisfy and pay in full all final awards of compensation to United States nationals ordered by the Foreign Claims Settlement Commission in its Libya Claims Program pursuant to the Libyan Claims Resolution Act (P.L. 110-301) and the International Claims Settlement Act of 1949 (22 U.S.C. 1621 et seq.).”

- 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 Libyan 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.
### Table 1. U.S. Assistance to Libya FY2010-FY2013
(thousands of dollars, fiscal year of appropriation unless noted)

<table>
<thead>
<tr>
<th>Account/Program</th>
<th>FY2010</th>
<th>FY2011</th>
<th>FY2012 Estimate</th>
<th>FY2013 Request</th>
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<tbody>
<tr>
<td>Economic Support Fund (ESF)</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>TBD</td>
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<tr>
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<td>150</td>
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<tr>
<td>International Military Education and Training (IMET)</td>
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<td>200</td>
<td>50</td>
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<td>Nonproliferation, Antiterrorism, Demining and Related Programs (NADR)</td>
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<td>Anti-Terrorism Assistance (NADR-ATA)</td>
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<td>-</td>
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<tr>
<td>Export Control and Related Border Security Assistance (NADR-EXBS)</td>
<td>-</td>
<td>500</td>
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<td>25,615</td>
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<td>Democracy Fund</td>
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<td>Development Assistance</td>
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<td>Humanitarian Funding</td>
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<td>Global Security Contingency Fund</td>
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**Estimated Total (subject to change)**

<table>
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<tr>
<th>FY2010</th>
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<th>FY2012</th>
<th>FY2013</th>
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<td>29,594</td>
<td>132,064</td>
<td>24,900</td>
<td>1,450</td>
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</table>

**Source:** U.S. Department of State communication to CRS, June 2012; congressional notification documents.


b. During the 2011 conflict, the Administration notified Congress of its intent to offer up to $25 million in nonlethal material support to groups in Libya. U.S. officials argued that the rebels’ most pressing needs were command and control, communications, training, organization, and logistics support.

U.S. Military Operations in Libya and Congressional Debate

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 sustained military campaign requiring extended U.S. investment and force deployments became less likely. In early 2011, some Members of Congress questioned the President’s authority to commit U.S. forces to the conflict; criticized the extent of the President’s consultation with Congress; and sought a clear definition of U.S. objectives, costs, and operations. Some Members became increasingly assertive in their efforts to force President Obama to seek explicit 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.


Key Developments and Issues

Libyans’ initial euphoria at the downfall of Muammar al Qadhafi has settled into an uneasy mix of hope and fear about the country’s future. The country’s rich energy resources, its young population, its strategic location, and its economic growth potential present significant opportunities for positive change. However, the immediate consequences of the 2011 war in Libya—namely the wide dispersal of weaponry, the military mobilization of the society, the disruption of state finances and institutions, damaged infrastructure, and the injury and displacement of many Libyans—continue to confront Libya’s interim authorities and citizens. The deeper consequences of Qadhafi’s divisive rule—inadequate human capital development, sclerotic and corrupt bureaucracy, political manipulation of local and tribal groups, and widespread property dispossession—also are complicating the transition and present thorny problems to overcome.

The General National Congress (GNC) election on July 7 marked a shift toward democratic governance that has been mirrored in a series of local elections in different cities held in 2012. During the initial phase of the transition period, the Transitional National Council (TNC) and its executive cabinet struggled to balance the responsibilities of interim governance, the lack of a clear democratic mandate for them to make and enforce decisions, and the expectations of an energized population demanding tangible change and swift results. Compensation and medical treatment for conflict victims, maintenance of basic security, and the establishment of rule of law remain the key concerns of Libyans and interim leaders, amid ongoing political debates about the principles that will shape the new national constitution.

Libya’s civil conflict led to the emergence of local governing councils and militias that in some cases are competing with each other and with interim leaders for authority. The elected status of

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the GNC may alleviate some of the perceived democratic deficit that has haunted the interim leadership to date, but the country’s challenges are significant, popular patience has waned, and over time the country’s considerable opportunities may be at risk.

The GNC election and the planned constitutional drafting process also have reignited long-subdued regional tensions between eastern and western Libya. Activists in eastern Libya have demanded equal regional representation in the GNC and the constitutional drafting committee, despite the fact that eastern Libya has a smaller population than western Libya. Broader debate focuses on the relative merits of administrative decentralization or regional autonomy in a federal system. National reaction to easterners’ demands has been mixed at best, with many Libyans embracing calls for decentralization while expressing concern that the political assertion of regional identity and calls for autonomy risk dividing the country and may spark renewed conflict. Similar debates, concerns, and risks featured prominently during Libya’s founding as a unified state under United Nations auspices in the early 1950s and shaped national politics until Qadhafi and his allies overthrew the monarchy in 1969.

**General National Congress Election and Results**

On July 7, 2012, Libyan voters chose 200 members of the General National Congress in the country’s first national election since 1965. Domestic and international observers praised officials and voters for the conduct of the election, noting the short time frame and significant logistical challenges that Libyans overcame. Of the 2.8 million voters who registered to vote, roughly 62% voted in the July election, with turnout consistent across most areas of the country. A combination of national and local security officials and militia groups provided security for election sites, with local volunteers serving as election administrators at over 1,500 polling locations. Local conflict delayed voting in the southern town of Kufrah, and, in the east, armed groups attempted to disrupt the election by destroying sensitive voting materials and attacking polling sites in Ajdabiya, Benghazi, and other areas. Local authorities employed ad hoc security responses, and, with U.N. support, national authorities replaced critical material in time for voting to proceed.

The election featured a mixed electoral system of 120 individual candidate seats and 80 political entity list seats. Seats were distributed nationally on the basis of population, with western Libyan districts receiving 100 seats, eastern districts receiving 60 seats, and southern districts receiving 40 seats. Debate over the electoral system in the run-up to the election revolved around this regional distribution of seats (see below) as well as the best ways to encourage the selection of nationally oriented figures rather than advocates for discrete local, tribal, or party agendas. Advocates for individual candidacy argued that a party-dominated system would empower better-organized or better-funded groups such as the Muslim Brotherhood-backed Justice and Construction Party. Advocates of greater party representation argued that individual candidates would reflect the elite interests of the wealthy and of local families and tribes at the expense of average Libyans and groups with national perspectives.

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15 UNSMIL’s Ian Martin said in his July 2012 report that “the strength of feeling regarding past marginalization of the east is widely shared there and requires political solutions.” S/PV.6807, July 18, 2012.

16 The author served as an international election observer in Ajdabiya and Benghazi.

The mixed electoral system appears to have succeeded in yielding a group of representatives that balances party and local interests and creates opportunities for negotiating coalitions across party and regional lines. The body of elected individual candidates is made up of locally prominent individuals, political activists, and some national figures, while the successful political entity lists reflect the range of competing trends in Libya’s emerging political order. The Alliance of National Forces, a coalition of civil society organizations led by former interim Prime Minister Mahmoud Jibril, won 39 of the 80 political entity seats and performed particularly well in Benghazi, Tripoli, and other urban areas. The Muslim Brotherhood-affiliated Justice and Construction Party won 17 seats and was most successful in Tripoli, central Misuratah, and south-western Libya. Overall, 21 political entities won seats, of which 15 entities received only one seat. Margins of victory for both individual candidates and political entities varied, with some candidates and entities leveraging local notoriety to score decisive victories and other candidates winning based on narrower margins of a few hundred votes or less. Women won 33 seats, 32 of which were “political entity” seats. Political entities were required to alternate male and female candidates on district lists as well as alternate their top list candidates by gender to better ensure female representation.

Many media outlets have characterized the result as a signal that Islamist political parties are less popular in Libya than they are in neighboring Egypt or Tunisia. The timing and unique circumstances surrounding the election may make that judgment premature. Most political entities and candidates emphasized national unity during the election rather than seeking to define themselves in religious terms or advance Islamist priorities. Libya remains a relatively conservative society and many political figures and entities make frequent reference to Islam and its role in Libyan social and political life. Topics such as the role of religious law in the legal system are shaping debate over the new constitution. Historically, Libyan Islamist groups have not played the same role in political life as they have in other Arab countries; their political fortunes may improve as they increase their public profile and campaign more directly on issues that resonate with conservative Libyan voters.

**Libya’s Emerging Political Movements**

Political parties and all opposition groups were severely restricted under the Al Senussi monarchy and banned under Qadhafi. Formal political pluralism was frowned upon by many members of the Qadhafi-era elite, even as, in the period preceding the unrest, some regime figures advocated for greater popular participation in existing government institutions. 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 anti-Qadhafi revolution.18 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 were limited by government repression and infiltration, disorganization, rivalry, and ideological differences.

The July 2012 election served as an important first step for Libyans working to overcome a shared lack of experience in formal political organization, competition, and administration. In election campaigning, many movements and parties emphasized common themes of national unity, security, social solidarity, and support for those killed and wounded in the revolt. They also presented differing priorities and opinions on controversial issues such as national reconciliation, security, the role of religious law in public life, and the relative merits of proposals for a federalist constitution for

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18 According to one analyst, the TNC leadership consisted 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.
Libya. Secular-nationalist and Islamist groups feature prominently among the new entities, and leftist groups and pro-federalism movements also have emerged.

**Alliance of National Forces**—Led by former interim Prime Minister Mahmoud Jibril, the Alliance of National Forces consists of nearly 60 civil society organizations and political entities united around a platform that supports a civil state, human rights protections, and economic liberalization. The Alliance has been criticized by some Islamist rivals for adopting religious symbols and language while advocating for a relatively secular agenda. The Alliance platform categorically rejects relations with Israel, referring to it as “the Zionist entity.”19 The Alliance won 39 political entity seats in the July 2012 GNC election.

**The Muslim Brotherhood & The Justice and Construction Party**—The Libyan Muslim Brotherhood has existed since the 1940s and was banned under Qadhafi. It now has official recognition as a civil society organization. The Brotherhood selected Bashir Abdelalaaam al Kabti as its General Guide at a landmark public meeting in November 2011. Al Kabti lived in the United States for 30 years prior to his return to Libya. The Justice and Construction party (JCP) serves as the Brotherhood’s political vehicle, but includes non-Brotherhood figures. Mohammed Sawan serves as the head of the JCP, which won 17 political entity seats in the July 2012 GNC election.

**National Front Party**—The National Front for the Salvation of Libya (NFSL) was one of the most active and prominent exile-led opposition movements during the Qadhafi era. The National Front Party represents the NFSL’s attempt to transition from its former role in seeking to unite Libyans from abroad to leading Libyans at home. Like other exile-led groups, the National Front is vulnerable to criticism from Libyans that are suspicious of expatriates. The National Front won three political entity seats in the July 2012 GNC election. Its leader, Mohammed Magariaf, won a seat and has been elected speaker of the GNC.

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**Constitutional Assembly and Federalism Debate**

The next major step in Libya’s transition process is the drafting and approval of a new constitution. To date, the transition has followed steps laid out in an interim constitutional declaration issued by the Transitional National Council (TNC) in August 2011. The interim constitution has been amended to reflect political developments over the last year, particularly with regard to resurgent debates about federalism and regional representation in national decision-making bodies. These issues have lurked in the background of Libyan politics since the creation of the state in 1951. The independent kingdom of Libya united three provinces with different historical experiences and political identities under the leadership of the eastern-Libya based Al Senussi monarchy. Rivalry among the regions shaped the original constitution drafting process and limited the effectiveness of the federal system it created. Resentment of the centralization of the state, first under the easterner-dominated monarchy in the 1960s and then under Qadhafi from the 1970s onward, subtly divided Libyans on regional lines.

A widely espoused commitment to national unity and solidarity has defined much of the political rhetoric of the post-Qadhafi transition period. Nevertheless, some in eastern Libya fear that a consolidation of power at the national level will continue a pattern that they claim marginalized the east and neglected its development. As such, procedures for selecting a new constitutional drafting body have been amended twice, each time in an effort to respond to calls from activists in eastern Libya concerned that the constitution would be drafted on the basis of proportional differences in population rather than equal regional representation. The TNC’s allocation of seats for the General National Congress (GNC) election granted more populous western Libya more seats than the east or the south, but fewer seats than a directly proportional ratio would have guaranteed.

(...continued)

• In March 2012, the TNC amended Article 30 of the interim constitutional declaration to state that the soon-to-be-elected GNC would select a body from outside its membership to draft a constitution made up of 60 members “in the manner of” the 60-member committee that drafted Libya’s 1951 constitution.20 The 1951 constitutional committee drew 20 members equally from each of Libya’s three constituent regions—Tripolitania, Fezzan, and Cyrenaica.

• In July 2012, just days before the national election, the TNC issued a further amendment stating that the constitutional committee would be directly elected by voters rather than chosen by the GNC.21 The move came as activists in eastern Libya continued to protest the proportional division of seats for the GNC elections by regional population.

Among the first decisions the elected GNC faces is whether or not to reverse the TNC’s 11th-hour change to the GNC’s role in selecting the constitutional drafting committee. Critics of the TNC decision point to the delay that a new election would insert in the transition process, which could be problematic given the increasing popular demands for action on key issues. Supporters of the TNC decision argue that accommodating key political concerns in the foundational decisions that will shape Libya’s new constitution may be the best way to ensure that aggrieved parties do not have grounds to fundamentally reject the transition process in the future.

Security and Human Rights Challenges

Since late 2011, sporadic outbreaks of violence among rival militia groups, criminals, and armed citizens have shaken Libyans’ confidence in transitional leaders and in each other. From one perspective, the number of security disruptions is smaller than might otherwise be expected in a post-conflict environment awash in weapons and dominated by dozens of armed groups with varying relationships to state authority. From another perspective, the level of crime, the continuing independence of local militia, the broad availability of weapons, and the relative limitations of national security bodies suggest that Libya’s security remains a function of Libyans’ self-restraint rather than the capability of security authorities. According to UNSMIL, “Libya’s revolutionary brigades do not seek to remain in separate existence and to challenge State authority,” but “efforts to date to integrate revolutionaries and brigades have lacked an overall concept and coordination, and need urgent review as part of the security reform agenda for the police and defense forces, including integrated border security and management.”22

International human rights entities and the United Nations have observed and criticized examples of torture, unacceptable detention conditions, and extrajudicial punishment by official security entities and militia groups across Libya. The TNC directed militia groups to abstain from abusing prisoners or settling scores with arms, and the GNC-appointed government is likely to continue to rely on militia groups to secure some areas of the country and hold Qadhafi-era detainees until national security forces are more developed. In March 2012, UNSMIL estimated that between 5,000 and 6,000 detainees remained in the custody of militia groups. In July 2012, UNSMIL argued that the elected Libyan government should urgently act to improve its judicial capacity in order to grant detainees access to trial, obviate the need for extra-judicial action by militia groups,

and bolster the rule of law. Some minority groups and tribes associated with the Qadhafi regime remain internally displaced and have been targeted by rival groups, such as former residents of Tawergha, members of the Mashasha tribe, and the Tuareg and Tebu ethnic groups.

**Weapons Proliferation and Related Concerns**

The Libyan military’s massive small arms and heavy weapons stockpiles have been looted and dispersed both within Libya and beyond its borders, creating local and regional security concerns. Authorities in several countries, including Egypt, Niger, Algeria, Israel, and Tunisia, have expressed concerns about the smuggling of Libyan weaponry across or toward their borders, and continuing smuggling incidents and arrests reflect the broad scope of the threat. Particular concern has been focused on the potential smuggling of shoulder fired anti-aircraft missiles (MANPADS). U.N. and U.S. officials have not indicated that they have seen evidence that MANPADS have been smuggled out of Libya, but believe such leakage cannot be ruled out. According to U.N. officials, Libyan efforts to secure the country’s borders are hampered by a lack of internal coordination. Southern borders remain the least secure, and frequent closures of the border with Tunisia reflect the limits of coordination with neighboring countries.

U.S.-Libyan efforts to mitigate the threats posed by the proliferation of weaponry from Libyan military stockpiles are proceeding under the terms of a bilateral agreement on weapons abatement signed in late 2011. The U.S. government has deployed Quick Reaction Forces of expert civilian personnel to Libya who are embedded with Libyan military units. As of late January, they had inspected over 120 storage areas and 1,500 bunkers, accounting for over 5,000 MANPADS systems.

The State Department-led interagency MANPADS Task Force plans to oversee a three-phase MANPADS accounting, recovery, and threat mitigation program for Libya and the region, to include inventory, border control assistance, and airport security assessments. Their efforts are complicated by the fact that NATO airstrikes targeted weapons depots where large numbers of the

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24 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. Israeli officials also 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.” 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. See Reuters, “Israel sees Libya as New Source of Arms for Gaza,” July 21, 2011; and Reuters, “Israel Says Gaza Gets Anti-Plane Arms from Libya,” August 29, 2011.

25 U.N. Special Representative Ian Martin told the U.N. Security Council in late January that “there is as yet little evidence that MANPADS have been smuggled out of Libya in significant numbers.” U.S. Assistant Secretary of State for Political-Military Affairs Andrew Shapiro stated in remarks at the Stimson Center in Washington DC in early February 2012 that the U.S. government had not seen evidence of MANPADS leaving Libya to date although it was all but impossible to be certain. Remarks by Andrew J. Shapiro, Assistant Secretary, Bureau of Political-Military Affairs, Stimson Center, Washington, DC, February 2, 2012. In late February, Algerian authorities reported that they had discovered a cache of over forty Russian-made shoulder-fired surface to air missiles near the eastern desert town of In Amenas, southwest of the Libyan border town of Ghadames. The cache reportedly consisted of 15 SA-24 and 28 SA-7 missiles. Lamine Chikhi, “Exclusive: Algeria seizes missiles smuggled from Libya: source,” Reuters, February 18, 2012; Sihem Balhi, “Un stock découvert à In Amenas : Des missiles libyens anti-avion sur le territoire Algérien,” Dernieres Nouvelles D’Algérie, February 19, 2012.

26 Remarks by Andrew J. Shapiro, Assistant Secretary, Bureau of Political-Military Affairs, Stimson Center, Washington, DC, February 2, 2012.
systems may have been stored, and these systems and other weapons have been subsequently destroyed, disrupted, or buried. The dispersal of some systems among Libyan militia and the reluctance of Libyans to disarm are also challenges.27 In July, Assistant Secretary of State for Political Military Affairs Andrew Shapiro was quoted as saying that Libyan “militias have control of the MANPADS ... and other loose weapons.”28 UNSMIL has reported that U.N.-assisted Libyan efforts “to develop safe arms and ammunition storage areas” have been “inhibited by unclear allocations of responsibility and lack of coordination among various Libyan actors.”29

**Chemical Weapons Destruction and Nuclear Material**

The security of Libya’s stockpiles of declared chemical weapons material and its remaining nuclear materials have been the subject of sustained scrutiny.30 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. 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 destruction deadline.

Libya destroyed the munitions for dispersing mustard agent that it had declared 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.31 The non-weaponized nature of the declared sulfur mustard agent and precursor materials had suggested that the material posed a smaller threat than otherwise may have been the case.32 The TNC formally notified the Organization for the Prohibition of Chemical Weapons (OPCW) on November 1, 2011, that it had located what it believed to be undeclared chemical weapons. The OPCW has now verified that the materials consist of sulfur mustard agent and artillery shells that are chemical munitions. The Qadhafi government reportedly omitted the materials from its original declaration to the OPCW

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27 In March 2012, the U.N. Secretary General reported that, “The full magnitude of the arms problem remains unknown because access to stockpiles controlled by ‘brigades’ remains a challenge; no reliable records exist of pre-conflict weapons stocks; and details of weapons destroyed, transferred or used during the conflict are not available.” U.N. Document S/2012/129, March 1, 2012. For a comprehensive assessment of these challenges, see International Human Rights Clinic (IHRC), CIVIC and Center for American Progress, “Explosive Situation: Qaddafi’s Abandoned Weapons and the Threat to Libya’s Civilians,” August 2012.


31 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.

32 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.
in contradiction to the basic commitments it made as part of the normalization of its relations with the United States and Europe.\textsuperscript{33}

Libyan forces control the sites where the materials of concern are stored, and transitional leaders have committed to upholding Libya’s commitment to destroy chemical weapons materials under the mantle of the OPCW.\textsuperscript{34} Libya’s previously declared stockpiles were required to be destroyed in full by April 2012 under a renegotiated OPCW deadline. In April 2012, transitional officials submitted an amended destruction plan under which destruction operations would resume in March 2013, with the goal of complete destruction of the remaining stockpiles and materials by December 2016.\textsuperscript{35}

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 using low-enriched uranium. Libya also possesses a stored stockpile of at least several hundred tons of uranium oxide yellowcake, reportedly stored near Sabha. UNSMIL considers the sale or transfer of 6,400 barrels of uranium yellowcake remaining in Libya to be a “key priority.”

\section*{Islam and Politics in Libya}

Libyans are predominantly (~90\%) Sunni Muslims, and many reportedly endorse relatively moderate approaches to Islamic law, or \textit{sharia}, affiliated with the Maliki school.\textsuperscript{36} Islam has been the official religion since independence, and the Quran is the nominal basis for the country’s law and its social code. Most Libyans accept a prominent role for Sunni Islamic tradition in public life, but differ in their personal preferences and interpretations of their faith. Libyan social norms are relatively conservative and traditional, and Salafist groups, while organized and increasingly publicly active, have not yet asserted themselves as an influential political force as they have in Egypt.

Libyans remain engaged in a long-running public debate about the proper role for Islam in public life—a debate that in the past has led to violence and in the present has taken on new urgency given the opportunity to define a new constitution. Calls for and against strict interpretations and enforcement of \textit{sharia} have featured regularly in public discourse since the fall of the Qadhafi

\textsuperscript{33} The revelation that Qadhafi withheld information about chemical agents and munitions and that the OPCW and U.S. and European intelligence services appear to have had no knowledge of the omission raises questions about intelligence and one aspect of the rationale for the Qadhafi government’s international rehabilitation. R. Jeffrey Smith, Joby Warrick, and Colum Lynch, “Iran may have sent Libya shells for chemical weapons,” \textit{Washington Post}, November 20, 2011.

\textsuperscript{34} 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.

\textsuperscript{35} According to the OPCW, “The OPCW will continuously maintain rotating teams of 5-6 inspectors at Ruwagha throughout the destruction process, which OPCW officials expect should be completed for Libya’s Category 1 chemical weapons within 6 months after operations resume.” OPCW, “Canada Provides OPCW its Largest-Ever Donation to Expedite Destruction of Chemical Weapons in Libya,” April 24, 2012; and OPCW, Libya: Facts and Figures, accessed August 3, 2012.

Libya: Transition and U.S. Policy

Libyans hold a wide array of views on these questions and are now freely sharing them. During January 2012, public gatherings in the low thousands emerged in Benghazi and Misuratah to demand that 
\textit{sharia} be codified and enforced as the primary component of Libya’s new constitution. Emergent groups such as Ansar al Sharia and Hizb al Tahrir support that position. Muslim Brotherhood leaders have indicated they “are calling for the establishment of a civilian state but with an Islamic reference.”\textsuperscript{37}

Some of these views have been reflected in actions taken by transitional authorities to date. The August 2011 interim constitutional declaration 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.” In July 2012, the TNC issued a declaration advising the newly elected government and constitutional committee to preserve sharia as the principal source of legislation under the new constitution and to not submit the matter to a national referendum.\textsuperscript{38}

United Nations Support Mission in Libya (UNSMIL)

The United Nations Support Mission in Libya continues to operate under the mandate outlined in Security Council Resolution 2009 and extended through March 2013 by Resolution 2040. The United Kingdom’s Ian Martin has served as UNSMIL director, continuing the work he began in mid-2011 as the Secretary-General’s special adviser for post-conflict and transition issues in Libya. Martin is stepping down and his replacement has yet to be named. To date, UNSMIL activities have included electoral advisory support, transitional justice consultation, and public security and economic needs assessments. On December 2, 2011, the Security Council 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.” The Obama Administration has not requested specific FY2013 funding to support UNSMIL, but the mission is funded through assessed contributions of U.N. member states, including the United States.\textsuperscript{39}

Libyan Assets and Oil Exports

Libyan Assets

During 2011, 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 U.N. Security Council resolutions 1970 and 1973. The TNC has identified up to $170 billion in Libyan assets that were blocked worldwide, and it has sought access to those funds over the last 12 months. 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 and established a number of


\textsuperscript{38} TNC Decree Number 7 of 2012, July 5, 2012.

\textsuperscript{39} The United Nations Department of Political Affairs is responsible for UNSMIL.
conditions and mechanisms to regulate the return of assets. The U.S. Department of the Treasury’s Office of Foreign Assets Control (OFAC) has issued general licenses that authorize new transactions with Libyan state entities and maintain the asset freeze established under Executive Order 13566 on named individuals and a handful of state entities. In December 2011, the Obama Administration unblocked over $30 billion of roughly $37 billion in frozen Libyan assets, building on a previous transfer of $1.5 billion in assets for the benefit of the Libyan people and the TNC.40

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 were expected to limit the speed with which production and exports would be restarted.41 However, efforts to restore operations have proceeded rapidly. Prior to the conflict, Libya was exporting 1.3 million barrels of oil per day; in July 2012, Libyan officials reported that production was roughly 1.56 million barrels per day.42 The U.S. Energy Information Administration has projected that Libyan output could return to pre-conflict levels by the end of 2012, but Libyan officials hope to reach the target by October. 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. The U.S. Treasury Department has removed restrictions on transactions between U.S. persons and Libyan oil firms.

International Criminal Court (ICC) and United Nations Human Rights Council Investigations43

Prior to Muammar al Qadhafi’s death, some observers argued that the prospect of an International Criminal Court (ICC) trial made it less likely that he would have agreed to relinquish power or to have surrendered to the opposition.44 The death of Muammar al Qadhafi, the arrest in Libya of his son Sayf al Islam, and, until recently, the detention of former intelligence chief Abdullah al Senussi in Mauritania have complicated efforts to prosecute these individuals on charges of crimes against humanity issued by the International Criminal Court (ICC).45 Outstanding ICC


41 The oil terminal at Brega reportedly suffered the most damage, along with support infrastructure elsewhere.


45 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.” For more information, see U.N. Document S/PV.6528, Provisional Record of the (continued...)
arrest warrants notwithstanding, TNC officials have asserted their intention to prosecute Sayf al Islam al Qadhafi and Abdullah al Senussi in Libyan courts. Al Senussi has been extradited from Mauritania, where authorities had signaled they intended to try him on fraudulent passport charges rather than comply with requests to extradite him. Libya has filed an admissibility challenge with the ICC to that effect in the case of Sayf al Islam al Qadhafi. He remains in the custody of the Zintan militia, ostensibly until the completion of a national prison facility to house high-level detainees.46 Some observers have speculated that leaders in Zintan may be seeking to leverage Sayf al Islam’s detention for national influence. Four ICC personnel were detained in June and July 2012 after Zintan security officials suspected them of passing messages to or from Sayf al Islam al Qadhafi.

On March 8, 2012, the U.N. Human Rights Council’s Commission of Inquiry issued its final report on the Libyan conflict and concluded that crimes against humanity and war crimes were committed.47 With regard to government forces, an official summary of its findings stated,

international crimes, specifically crimes against humanity and war crimes, were committed by Qadhafi forces in Libya. Acts of murder, enforced disappearance, and torture were perpetrated within the context of a widespread or systematic attack against a civilian population. The Commission found additional violations including unlawful killing, individual acts of torture and ill-treatment, attacks on civilians, and rape.48

With regard to opposition forces, the commission found that

the thuwar (anti-Qadhafi forces) committed serious violations, including war crimes and breaches of international human rights law, the latter continuing at the time of the present report. The Commission found these violations to include unlawful killing, arbitrary arrest, torture, enforced disappearance, indiscriminate attacks, and pillage.

The commission previously found in its June 2011 interim report that it did not believe “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.” However, in the March 2012 report, the commission stated that it was “deeply concerned that no independent investigations or prosecutions appear to have been instigated into killings committed by thuwar.”

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