

## Web Commentary

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# The United States and Libya: Where Do We Go From Here?

By Michele Dunne

In making the first visit of a U.S. secretary of state to Libya in over half a century, Condoleezza Rice is taking something of a victory lap. With some of her other efforts in the Middle East—notably the Israeli–Palestinian conflict—showing disappointing results as the Bush administration winds down, Rice can legitimately claim success in settling longstanding disputes with Libya via patient diplomacy instead of force. But she also should beware, because the Libyan regime remains opaque, unpredictable, and entirely capable of embarrassing the Bush administration one way or another. Where Libya is headed is unclear. Muammar al-Qaddafi and son Saif al-Islam have hinted recently at extensive new economic reforms, but such promises have proved disappointing in the past. The United States and Libya plan to sign a series of military, trade, and educational agreements soon. But Washington should think beyond the immediate business of reestablishing normal relations to explore how it can help Libya—and in particular the Libyan people as distinct from the government—to rejoin the world from which they have long been cut off and to reorient the country in a constructive direction.

### A Rocky Road

The current sprint ahead in U.S.–Libyan relations began in spring 2008, when the U.S. and Libyan governments announced they were negotiating an agreement to settle outstanding claims of victims of terrorism attributed to Libya, particularly the 1986 La Belle disco bombing and the 1988 Pan Am Flight 103 bombing. The U.S. Congress passed the Libya Claims Resolution Act on July 31, paving the way for an agreement by stating that victims’ families would drop all legal cases once the settlement was reached. The Department of State announced on August 14 that a comprehensive claims settlement had been reached in Tripoli.

This agreement not only made Rice’s visit possible, but is expected to open the door to two other important steps forward in U.S.–Libya relations, technically resumed in 2006 but hamstrung by problems. Washington will probably send a U.S. ambassador to Libya (one was named in July 2007 but the Senate refused to confirm him) and begin construction on a new embassy soon.

And yet, this is not the first time that U.S. officials have believed that they had cleared all obstacles to a full resumption of ties with Libya, only to find that old problems remained or new ones cropped up. There were major breakthroughs in relations in 2003, including a Libyan agreement with families of the Pan Am 103 bombing and renunciation of weapons of mass destruction (WMD) programs. The United States lifted economic sanctions but was unable to take Libya off the Department of State's list of state sponsors of terrorism at that time because of new and lingering problems; Qaddafi was accused of planning the assassination of Saudi King Abdullah in November 2003. Moreover, U.S. officials decided that taking Libya off the list would prejudice ongoing legal cases related to the 1986 bombing and other incidents. The delay in taking Libya off the terrorism list led Tripoli to refuse to pay a final tranche of compensation to the Pan Am 103 families, a matter in which the Libyan government was technically in the right due to time limitations in the original agreement, but which caused anger in the United States. In May 2006, the United States removed Libya from the terrorism list and announced the full restoration of relations, only to have the Senate refuse to confirm an ambassador, appropriate funds to construct embassy, or allow any assistance to the Libyan government. As recently as earlier this year, the Senate inserted language into the 2008 Defense Authorization Act that would have allowed victims of terrorism to sue for seizure of Libyan assets in the United States to satisfy their claims.

Countries other than the United States also have found out that dealings with Libya have a funny way of going sour, or at least of developing an unpleasant odor. In July 2007, French President Nicolas Sarkozy visited Tripoli after finalizing a long-negotiated deal to free six Bulgarian nurses and a Palestinian doctor imprisoned since 1998 and sentenced to death for allegedly infecting over 400 Libyan children with the HIV virus. Sarkozy faced criticism in Europe for several aspects of the deal, but that was nothing compared to the public relations nightmare he faced when Qaddafi visited Paris in December 2007 and caused an uproar in the French cabinet and parliament by suggesting that France's human rights record did not compare well to Libya's. As the *New York Times* quipped, "Having waited so long [to visit Paris], Colonel Qaddafi seemed determined to spare no offense."

And so while the August 2008 deal between the United States and Libya might finally clear away the final obstacles to normalizing relations, there are still old problems that might surface to embarrass Washington—or, if not, the Libyan regime is always capable of creating new ones, deliberately or not. One painful lingering dispute is the case of Fathi al-Jahmi, a liberal dissident who has been jailed without charge since 2002 for calling for freedom and democracy in Libya. Al-Jahmi was released briefly in March 2004 after U.S. Senator Joseph Biden intervened on his behalf, only to be detained again within weeks after renewing his public criticism of the regime. Al-Jahmi, aged 66 and in poor health, was transferred to medical treatment in January 2008 but still is not free to leave. Rice is likely to be criticized by human rights organizations in the United States if she visits Libya without obtaining a genuine release for al-Jahmi, who has family members in the United States.

## Lessons Learned

Having dealt closely with the Libyan regime in many areas over the past five years—resolving terrorism claims, dismantling WMD systems, combating al-Qaeda, resuming U.S. commercial investment in the petroleum and other sectors—the United States has already learned several lessons. It is possible to reach constructive agreements with Libya. But it is nearly always difficult and time-consuming, because decision making is highly centralized and most Libyans are not accustomed to operating on the short deadlines familiar to the West. The Libyan regime is capable of some degree of change, as seen in legal and commercial reforms that have facilitated an opening to the West, primarily in the petroleum sector (which operates on different, more liberal rules than the rest of the economy). Reforms have been modest so far, however, and occasional dramatic announcements by Qaddafi and others have resulted in only modest economic changes and virtually none in the realm of human or political rights.

Despite the presence of some reform-minded individuals and fixers in the circles around Qaddafi, essentially the regime is the same as it has been for nearly forty years: opaque, unpredictable, and highly personalized. The most recent illustration of this fact was the furious Libyan reaction to Switzerland's arrest of Qaddafi's notorious son Hannibal in July 2008 on charges of unruly behavior; Libya cut off oil shipments, arrested two Swiss citizens, shut down the offices of two Swiss corporations, and stopped issuing visas to Swiss citizens. The lesson to take from this: no matter how carefully you step in dealing with Libya—expect a banana peel at some point.

While the United States has been learning lessons from its own dealings with Libya and those of others, so have the Libyans. And the most important lesson they have absorbed is that now they have leverage and can drive a harder bargain than they did in the past. In 2003, Libya was economically and diplomatically isolated and had to accept the terms that the United States and Great Britain dictated in order to come out of that isolation. Five years later, European and other powers are tripping over each other and themselves to get their share of the country's hydrocarbon wealth and other business opportunities while the getting is good.

As deals have proliferated, it should not be a surprise that prices have risen. Recent agreements, including the 2007 EU-brokered deal over the Bulgarian nurses and August 2008 U.S.–Libya compensation deal, tilt in Libya's favor compared to the 2003 deal. The recent European and U.S. agreements included compensation for Libyan victims (families of children infected with HIV in the first case, and victims of the 1986 U.S. bombing of Tripoli in the second) as well as Western victims, omitted any statement of Libyan culpability, and obscured the sources of compensation funds, apparently to save face for Libya. The most stunning example of these new agreements is an August 30, 2008 deal in which Italian Prime Minister Silvio Berlusconi pledged to pay 2.5 billion Euros in compensation for his country's colonial past in Libya, delivered in the form of investments of about \$200 million annually. While Italy (already Libya's largest trading partner) clearly plans to derive benefits—extensive involvement in building Libya's infrastructure, and greater Libyan cooperation in stopping African illegal immigrants on

their way to Italian shores—the deal has analysts scratching their heads over the implications for other former colonial powers.

### **Libya's Uncertain Direction**

In addition to the changing nature of dealings with Libya, there are important questions about the direction of the country itself. While the shift in Libyan foreign policy is obvious and has been afoot for a decade or so, changes inside Libya are much less certain. Qaddafi and his son Saif al-Islam keep hinting at major changes to come, most recently in remarks by each in late August. Qaddafi appeared to promise a dismantling of the statist economy in his August 31 revolution anniversary speech, telling Libyans that health, education, and public utilities would soon be privatized and that oil revenues would be placed directly in the hands of citizens to spend as they like. Promising that this new system would be in place by early 2009, Qaddafi predicted a situation of “creative chaos.” Saif al-Islam similarly suggested profound changes were coming, saying in an August 20 speech to Libyan youth that he would soon retire as a reformer because “I have achieved my program and have no more big battles to fight.”

Qaddafi and son also hinted that economic change would bring some political change as well. Once privatization takes place, Qaddafi predicted that Libyan society would “reformulate itself in a new, free, and democratic way.” Saif al-Islam was a bit more explicit, claiming that “reforms will begin with a new administrative structure and end with a popular contract that will keep the *jamahiria* system in place but with a new form that is different from the bad initial one.” It is notable that this year, unlike some previous years, Qaddafi's annual speech seemed to support Saif's reform agenda rather than undermine it.

It is difficult to know how seriously to take such promises, and how significant coming changes will be; the distance between words and action in Libya is often great. Qaddafi has promised in the recent past to sack thousands of redundant government workers and to dismantle the entire government system in order to distribute oil revenues to the Libyan people directly. His new remarks might indicate an attempt to translate such extreme measures into an actual reform plan, or might be more empty promises.

### **Moving Ahead**

How should the United States deal with an increasingly assertive and possibly reformist but also eccentric and anachronistic Libyan regime? The two contending views are that 1) it is better to be in Libya than out (especially when other countries have a major presence and a business advantage over the United States) or 2) it is better to stay clean than to get dirty, and the United States should hold aloof while the “mad dog of the Middle East” (late President Ronald Reagan's moniker for Qaddafi) remains in power. The latter view, however, has gradually lost out in Washington as Libya has met more and more of the conditions the United States set out for its rehabilitation.

If the United States is going to increase its presence and level of activity in Libya, however, it is still not clear what its strategic goals will be. There is the absorbing immediate business of building an embassy, getting the visa process working, etc.

Intelligence cooperation against terrorism apparently continues, and the United States is in the process of negotiating a military memorandum of understanding with Tripoli, but Libya has been cool to the idea of significant involvement in the new U.S. African Command (Africom). There may be some limited diplomatic cooperation on African issues, but in general the United States is likely to remain wary of Libyan intentions in either African or Arab circles. Qaddafi himself, in his August 31 speech, voiced ambivalence about the new relationship with the United States, describing it as “neither friendship nor enmity.”

The danger is that Washington will think about U.S.–Libyan relations too much along traditional normalization-of-relations lines, and end up strengthening and perpetuating the status quo in Libya. Libya and the United States plan to sign an educational and cultural protocol as well as a Trade and Investment Framework agreement (they already signed a scientific cooperation agreement in January 2008), all of which can be positive steps but also can end up merely putting more resources into the hands of regime insiders and crony capitalists.

In each of these areas—trade, education, culture, and science—the United States should use its admittedly limited but growing influence to reinforce nascent positive trends in Libya, particularly the development of non-governmental activity. The United States should be persistent in raising human rights cases, particularly when it comes to detention, abuse, and harassment of peaceful dissidents. But it also needs to think about investing in woefully underdeveloped areas such as the ability to form truly independent civil society organizations and media, in order to help Libyans increase their ability to raise such concerns on their own. While direct U.S. assistance to a petroleum-rich nation like Libya is unlikely, assistance through institutions such as the National Endowment for Democracy or the Department of State’s Middle East Partnership Initiative or Bureau of Democracy, Human Rights, and Labor is feasible. Education is a critical area where the United States can make a contribution and in fact has a recognized comparative advantage. The quality of education in the country suffered during a generation of isolation from the West, but Libya now has the large hydrocarbon revenues and small population (about six million) that would enable it to undertake the sort of extensive educational reform seen recently in Gulf States, in which American educational institutions have played major roles.

A more experimental trend that the United States should monitor and perhaps encourage quietly (primarily through American non-governmental institutions) is discussion of a Libyan constitution. Libya operates ostensibly according to the *jamahiria* political system designed and promulgated by Qaddafi in 1977, which is called “direct democracy,” though in reality power remains in his hands and those of a few companions. But there is widespread concern in the political elite that neither the formal nor informal system will outlast the 66-year old Brother Leader. While he shows no sign of leaving power soon, there is a movement led by Saif al-Islam to replace the system with a written constitution. It is unclear to what extent a constitution would simply enshrine the current system versus revise it, but the trend bears watching.

In fact, current discussions of a constitution are like so many other trends in Libya—confusing and contradictory, needing careful watching and frequent reassessment to decide whether they are real or illusory, constructive or destructive. For the United States to avoid gaffes and take advantage of opportunities in its developing relations with Libya, it will be critical to avoid going on autopilot.

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