

## **Lawyers for Justice in Libya is disappointed by the House of Commons Foreign Affairs Committee lack of consideration of human rights issues**



Lawyers for Justice in Libya (LFJL) welcomes the examination by the House of Commons Foreign Affairs Committee (the Committee) of the UK government's involvement in the Libyan intervention and transition. However, LFJL is extremely disappointed by the Committee's failure to consider adequately, or place importance on, human rights within its assessment and recommendations. This lack of concern risks devaluing the role human rights have in guiding foreign policy decisions, especially those which concern interventions and support for transitional nations.

The Committee's report, published 14 September 2016, provides an examination of the UK's role in the intervention in the Libyan conflict in 2011, assessing the basis for the intervention, whether the intervention exceeded its mandate, and if alternative political solutions were adequately explored. It also assesses the UK's actions during the transition and whether they contributed to the collapse of the Libyan state. It concludes by reviewing future policy opportunities and provides recommendations, the majority of which concern security and UK policy interests. Whilst the Committee's assessment identifies many of the failures of the UK's foreign policy on the political, economic and security fronts in Libya, its lack of consideration of the human rights concerns facing people in Libya and their role in supporting state building actually entrenches one of the UK's key shortcomings further.

The Committee is heavily critical of the basis for the intervention stating that it saw "no evidence that the UK Government carried out a proper analysis of the nature of the rebellion in Libya". Part of this conclusion relies on the Committee dismissing the threats issued by Muammar Gaddafi as unsubstantiated rhetoric which it accuses the UK government of selectively taking "at face value". This dismissal fails to note the systematic human rights violations that took place throughout the Gaddafi administration, including the widespread use of arbitrary detention, torture and enforced disappearances by the authorities. It also fails to recount accurately well known past massacres which resulted from the regime's flagrant disregard for human life, such as the estimated 1270 prisoners who were killed in the 1996 Abu Salim prison massacre.

The Committee's view that the UK government could not verify the threat posed by the Gaddafi regime and that its "limited intervention to protect civilians drifted into a policy of regime change" fails to square with the evidence gathered throughout the conflict which demonstrated the administration forces' intent and capacity to commit crimes against humanity. Instead, the Committee references that "Amnesty International... could not corroborate allegations of mass human rights violations by Gaddafi regime troops", which is a highly misleading statement which relates to specific allegations that ultimately did not stand up to further evidential scrutiny. It is extremely disappointing to see the Committee opportunistically exploit the integrity of this work to further its conclusion that there was insufficient evidence to support a sustained intervention, whilst not referencing the violations documented and substantiated by human rights organisations,

including Amnesty International and LFJL, and the findings of the International Commission of Inquiry on Libya.

Further, LFJL is concerned that the Committee, in its consideration of political alternatives, focuses the entirety of its discussion on how the UK government should have supported the Gaddafi administration to deliver civilian protection and political reforms, which it believes could have been achieved “at lesser cost to the UK and to Libya.” This assessment once again favours the romanticised notion of a reformed administration, whilst ignoring the systematic acts of violence and repression which faced individuals who dared dissent, including the arrest of a lawyer in February 2011 which sparked the initial protests in Benghazi. It is also highly concerning to see the Committee place such esteem on Saif Gaddafi as an alternative leader in Libya’s transition, an individual with an outstanding arrest warrant before the International Criminal Court for crimes against humanity.

LFJL welcomes the report’s acknowledgement that the UK and France hold “particular responsibility” to support Libya post-conflict and that the UK’s initial efforts were undermined due to its reliance on plans that were incapable of implementation. LFJL also supports the Committee’s assessment that the “challenge for the international community is to identify and promote policies that simultaneously facilitate internal security and political reconciliation”. However, LFJL is highly critical that the Committee subsequently fails in its review to advocate policies that concern protecting human rights or establishing the rule of law or transitional justice mechanisms despite the unexplored potential of such policies and their history of providing lasting security and reconciliation in other contexts.

With respect to accountability for human rights violations, LFJL’s Director, Elham Saudi, noted, “the UK Government has undermined its efforts to achieve security and political reconciliation in Libya by failing to prioritise holding those responsible for human rights violations to account. The international effort to hold those responsible to account, as led by the International Criminal Court, has repeatedly requested additional support from the UK as a member of the Security Council and a state party to the Rome Statute. The UK’s refusal to do so has contributed to the impunity which fuels the current conflict. It is highly disappointing that, despite these failures, the Committee has still not issued any specific recommendation to encourage the UK Government to support such policies despite it invoking the responsibility to protect at the time of the intervention, which includes a responsibility to rebuild following an intervention.”

In addition, LFJL is highly concerned by the Committee’s suggestion that the role of the United Nations should be reconsidered in post-conflict environments and the Committee’s quoting of Lord Hague that “a coalition of the willing working on Libyan stabilisation and reconstruction, might have been more effective than a UN-led process.” Whilst the UN-led process has undoubtedly experienced its own significant failures it is extremely dangerous to suggest that states might work better outside of its framework. A coalition outside the UN framework would likely lead to ineffective and competing reform objectives and additional national instability due to additional distrust in the political interests of reformers.

Instead of prioritising policies aimed at strengthening the capacity of the Libyan state to rebuild institutions, protect human rights, the rule of law and implement effective transitional justice, the majority of recommendations made by the Committee consider how best the UK Government could theoretically support a military response to security concerns in the country, whether by arming, providing direct military support to, or training state forces. However, as the Committee later appreciates, there are substantial obstacles that prevent such an approach being realised in the current situation to avoid worsening the security situation; namely that the Government of National Accord (GNA) needs to have “established political control, stabilised internal security and made a formal request to the UK Government for such assistance, which should then be considered by the UK Parliament.” Despite this observation, LFJL expresses concern that the Committee still seems to support international pressure to lift the arms embargo for the GNA,

despite the lack of an official army and the GNA's continued reliance on unaccountable non-state actors to exercise its military function.

LFJL also wishes to express its concern regarding the Committee's review of Libyan migration into Europe. At several points in the report, the Committee incorrectly treats trafficking and smuggling as synonymous terms. In the context, the term 'trafficking' is seemingly used to justify additional militaristic policy choices, rather than those which seek to prioritise the protection of migrant and refugee human rights. This is especially concerning as the Committee fails to consider at any stage in its report how the UK Government might better protect migrants and refugees who are at risk of human rights violations within Libya, especially those held in detention facilities.

In light of the released report, LFJL urges the UK Government to prioritise the realisation of human rights, the rule of law and transitional justice within Libya. We further urge the UK Government to realise this through reconsidering how it provides support and assists the activities of the international community, especially the International Criminal Court which has repeatedly requested additional funding for its activities in Libya. Further, we note the role that civil society organisations play in supporting peace and political reconciliation and urge the UK Government to renew its support for such groups, in addition to realising its commitment to providing additional humanitarian assistance.

LFJL is an independent non-governmental organisation dedicated to the promotion of human rights by defending justice and promoting the rule of law in Libya. LFJL is registered as a charity in the UK with charity number 1152068, and a company limited by guarantee in England and Wales at 8 Blackstock Mews, N4 2BT, with company number 07741132. Any queries to LFJL should be made through [Info@libyanjustice.org](mailto:Info@libyanjustice.org).