

Victims' Voices: The Libyan Political Dialogue Forum



محامون من أجل العدالة في ليبيا



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THE VICTIMS' VOICES SERIES

LFJL's work is rooted in a rights-based and victim-centred approach: we believe that all engagement and policies must be founded on a framework of human rights and ensure that individuals and communities can participate fully as a fundamental part of leading dignified lives. Libyans must be central to efforts to strengthen respect for human rights, accountability, and the rule of law in the country. Victims are crucial as key stakeholders in Libya and they will have unique perspectives. In that spirit, we are publishing the Victims' Voices series to highlight perceptions of victims and their families on key transitional justice and accountability mechanisms.

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1. INTRODUCTION

Over the past decade, Libya has experienced protracted crises linked to conflict, insecurity, deep political divisions, and weak governance, made worse by multiple armed factions and external actors who have violated arms embargoes¹ and promoted their own interests in the country. The environment has been a breeding ground for human rights violations, including arbitrary detention, torture, enforced disappearances and sexual and gender-based violence.² People have been targeted for their real or perceived tribal and political affiliations or for exercising their right to freedom of expression.³ International humanitarian law violations have also characterised the many periods of conflict, including extrajudicial killings, indiscriminate attacks in civilian areas, attacks on medical units, pillaging and destruction of property.⁴

There have been several attempts to broker a political solution, however to date, none of these has managed to align the various, often competing, interests and garner long-term stability. United Nations (UN) backed negotiations in 2015 led to the Libyan Political Agreement,⁵ and the establishment of the Government of National Accord (the GNA) led by Fayez Mustafa Serraj, though these efforts failed to unite or stabilise the country.⁶ The House of Representatives (the HoR) refused to recognise the GNA and a parallel government operated out of Tobruk. Likewise, later efforts in 2017⁷ and 2019⁸ did not produce the desired results.

In April 2019, the Libyan Arab Armed Forces (the LAAF) launched an offensive on Tripoli in an attempt to capture the capital under the pretext of combatting terrorism. The armed

conflict between the LAAF and GNA-aligned armed groups, each supported by international actors in breach of the UN Security Council arms embargo, lasted until June 2020. The armed conflict resulted in hundreds of civilian casualties due to the use of indiscriminate weapons in densely populated areas. Hospitals, ambulances, schools, detention centres and airports were also bombed as a result of the indiscriminate targeting of civilian objects by all parties to the conflict; such attacks could amount to war crimes.⁹

In June 2020, the LAAF, led by Khalifa Haftar, withdrew from the outskirts of Tripoli, and a “complete and permanent” ceasefire was signed between the GNA and LAAF on 23 October 2020.¹⁰ This ushered in a new peace process under the auspices of the UN, and the resumption of the Libyan Political Dialogue Forum (the LPDF), which had been established in January 2020.¹¹ The LPDF is comprised of 75 members intended to reflect different facets of Libyan society. It has agreed a roadmap towards presidential and parliamentary elections,¹² and continues to meet to discuss and agree key aspects necessary to move forward with a national unity government.

Unsurprisingly, Libyans’ expectations of the LPDF are mixed. There is the reticence that comes with the extensive experience of dialogue processes that have not resulted in lasting change. Nevertheless, there is still hope that the LPDF process can unify divided institutions and result in the much-needed improvements to ordinary Libyans’ lives, particularly in the areas of peace, security, economy, services, and justice and reconciliation.

Some progress has been made, however piecemeal. What is clear is that the LPDF must be outward-facing, inclusive and participatory if it is to capitalise on the momentum it has managed to generate thus far and bring on board

1 UN Security Council, ‘Final report of the Panel of Experts on Libya established pursuant to Security Council resolution 1973 (2011),’ UN Doc S/2021/229, 8 March 2021.

2 UN Human Rights Council, ‘Investigation by the Office of the United Nations High Commissioner for Human Rights on Libya: detailed findings,’ 23 February 2016, UN Doc A/HRC/31/CRP.3 (Hereinafter CoI 2016); OHCHR, ‘Abuse Behind Bars: Arbitrary and unlawful detention in Libya,’ April 2018.

3 See, Amnesty International, ‘Libya: “Vanished off the face of the earth” - abducted civilians in Libya,’ 5 August 2015, AI Index: MDE 19/2178/2015; Amnesty International, Report 2020/21, ‘The State of the World’s Human Rights, Libya Chapter,’ pp 228 – 232.

4 COI 2016. See also, Sari Arraf, ‘The War Report. Libya: A Short Guide on the Conflict,’ Geneva Academy, 2017, available at: <https://www.geneva-academy.ch/joomlatools-files/docman-files/Lybia%20A%20Short%20Guide%20to%20the%20Conflict.pdf>

5 UN Security Council, Resolution 2259 (2015), UN Doc S/RES/2259 (2015), 23 December 2015.

6 Statement of SRSF Martin Kobler to the Security Council, ‘Peace in Unity,’ 11 December 2015; Statement of SRSF Martin Kobler to the Security Council 2, March 2016.

7 Ulf Laessing, ‘UN ends month-long Libya talks in Tunisia without proposing new date,’ Reuters, 21 October 2017.

8 Karim Mezran and Federica Saini Fasanotti, ‘Another conference, another incomplete solution for Libya,’ Atlantic Council, 21 November 2019.

9 Lawyers for Justice in Libya, ‘Recent indiscriminate attacks on civilians and hospitals by Haftar’s forces may amount to war crimes,’ 18 May 2020, available at: <https://www.libyanjustice.org/news/recent-indiscriminate-attacks-on-civilians-and-hospitals-by-haftars-forces-may-amount-to-war-crimes>.

10 ‘Agreement for a Complete and Permanent Ceasefire in Libya,’ Unofficial translation, signed in Geneva, 23 October 2020, available at: https://unsmil.unmissions.org/sites/default/files/ceasefire_agreement_between_libyan_parties_english.pdf

11 UNSMIL, ‘Berlin International Conference on Libya,’ 19 January 2020, available at: <https://unsmil.unmissions.org/berlin-international-conference-libya-19-january-2020>. See Section III of this Report for background on the Berlin Conference and the LPDF process.

12 UNSMIL, Libyan Political Dialogue Forum, ‘Roadmap For the Preparatory Phase of a Comprehensive Solution,’ November 2020, available at: https://unsmil.unmissions.org/sites/default/files/lpdf_-_roadmap_final_eng.pdf

ordinary Libyans who have an interest in the process as well as the outcome. For the results of the LPDF to be effective, transparent and legitimate, it is important that all Libyans are able to follow and engage with the process, including the many victims of human rights and international humanitarian law abuses that have a key stake in the process.

LFJL has issued this report as the first in a series which reflects on how best to integrate the views and concerns of victims of human rights and international humanitarian law abuses into key processes and mechanisms in place in Libya. In this report, LFJL contributes its reflections in the context of the LPDF process. Our view is that all Libyans have an important role to play in engaging with the LPDF process and expressing their views and concerns about the decisions on the future of the country. Public engagement is a method to build transparency and legitimacy for political processes and is crucial to sustain democracy.

Given the scale of human rights and international humanitarian law abuses and the marginalisation many victims continue to experience, special, targeted efforts are required to ensure that victims can engage effectively with the LPDF process. Victims' voices are crucial as key stakeholders in Libya and they will have unique perspectives on aspects of the LPDF process, particularly on the return to the political process, security sector reform, economic and financial reform, and respect for international humanitarian law and human rights.

2. METHODOLOGY

This report benefits from a targeted population survey carried out by LFJL between January and April 2021, which canvassed the views of 52 Libyans who identify as victims of human rights or international humanitarian law violations, about the LPDF and their aspirations for the peace process. Eleven of those surveyed about the LPDF were met face to face, 26 answered questions by phone and the remainder responded by email.

Almost half of the respondents indicated that they experienced displacement as a result of conflict and/or instability in parts of the country. More than 60% of respondents indicated that they had suffered harm or injury as a result of their experience of human rights violations. A further 33% indicated that members of their immediate families or communities had suffered harm. The most prevalent form of harm suffered was destruction of property (30%), followed by economic or social harm (16.33%), enforced disappearances (14.3%) and arbitrary arrest (10%). Other abuses respondents suffered include the killing of loved ones and torture.

The respondents were 48% female and 52% male. Of those surveyed, 16 were 18-29 years old, 17 were 30-39, nine were 40-49, five were 50-59 and five were 60-69. The majority of those surveyed (42 of 52) were Arab Libyans. The remainder (nine) were Black Libyans, including three Tebu and six originating from the city of Tawergha, and one identifying as Cretan.¹³ Eleven of those interviewed were from Benghazi, 10 from Tripoli (including Azzizeya, Qasr Bin Qhashir and Abu Salim), six from Al Kufrah, seven from Derna, five from Sirte, one from Bani Walid, six from Sabha and six from Tawergha. Those surveyed include respondents who identified, among other things, as Zuway, Werfalla, Al Oreibat, Ahali, Al-Hamri, Al-Ojali, Shaeri, Tuareg, Al-Obeidi, Tebu, Tawajir Derna, Maadan, Madjer, Qadhahfa, Tarhuna and Sirte.

In addition to the targeted survey on the LPDF, the report also benefits from a larger survey LFJL conducted between 1 October 2020 and 31 January 2021 which concerned Libyans' perceptions of justice and accountability (the Perceptions Survey).¹⁴ The Perceptions Survey considered individuals' perceptions on justice, amnesties and apologies and their priorities for accountability, truth and reparations. The Perceptions Survey benefited from surveying 349 Libyans and conducting detailed interviews with an additional 36 Libyan experts on transitional justice. The 349 respondents to the survey constituted a roughly equal sample of women and men, of all ages and backgrounds, including civil servants, civil society activists, human rights defenders, teachers, lawyers, journalists, medical staff, businesspersons, students, housewives, labourers, and a small number of security sector officials.

LFJL expresses its gratitude to all those who contributed information to this paper. The identity of some interviewees, as well as the places and dates of interviews, have been withheld to protect the personal safety of those concerned in a context where some of the respondents may be targeted and attacked by state and non-state actors across the country.

¹³ The original Arabic word of this group is القريتيين which translates to Cretan or of Greek origin.

¹⁴ LFJL will issue a detailed report on Libyans' perceptions of justice and accountability in 2021.

3. BACKGROUND ON THE BERLIN CONFERENCE AND THE LPDF PROCESS

As part of the many initiatives that have been instituted to support Libya's transition, the first Berlin Conference was convened on 19 January 2020. It was designed to assist the UN in unifying the international community in their support for a peaceful solution to the Libyan crisis and to foster the preconditions for a Libyan-led and Libyan-owned political process that can end the hostilities and bring lasting peace.¹⁵ The first Berlin Conference conclusions supported a comprehensive approach to the crisis that addressed simultaneously: a ceasefire, an arms embargo, return to the political process, security sector reform, economic and financial reform, and respect for international humanitarian law and human rights.¹⁶

The UN Security-Council endorsed the first Berlin Conference conclusions in its resolution 2510 (2020).¹⁷ Consultative meetings with Libyan constituencies and the ceasefire agreement that was signed by Libyan parties on 23 October 2020 paved the way for the intensification of dialogue on the conference conclusions and follow-up activities.

As part of the follow-up to the first Berlin Conference, the UN Support Mission in Libya (UNSMIL) sought to re-invigorate the LPDF which had been established in January 2020 but under-utilised. It facilitated the first round of the LPDF from 7 to 15 November 2020 in Tunis. It brought together 75 Libyan participants representing different facets of Libyan society. During this forum, a roadmap¹⁸ was agreed for national elections to be held on 24 December 2021. Also agreed was the need to generate consensus on a unified governance framework, unification of national institutions and reforms of the executive, among other aspects.

The second round of the LPDF was progressed through a series of meetings in November and December 2020. During those meetings, the LPDF agreed to adopt a selection mechanism for a temporary executive authority. In February 2021, LPDF members selected Mr. Abdul Hamid Mohammed Al Dabeiba as Prime Minister, and the members of the three-member Presidency Council - Presidency Council President designate Mr. Mohammad Younes Menfi (from Eastern Libya), together with Mr. Mossa Al-Koni (from South Libya) and Mr. Abdullah Hussein Al-Lafi (from West Libya), to take Libya to national elections on 24 December 2021. On 10 March 2021, the Parliament endorsed a national unity government headed by Prime Minister Al Dabeiba.

A second Berlin Conference for Libya, jointly hosted by German Foreign Minister Heiko Maas, UN Secretary-General António Guterres and UNSMIL, took place on 23 June 2021. It reconfirmed the full commitment of the international community to the UN-facilitated, Libyan-led and Libyan-owned political process, including the 24 December elections and the sovereignty, independence, territorial integrity and national unity of Libya.¹⁹

Further meetings of the LPDF and its committees have continued to be organised, including a meeting on 26-27 May 2021 and plenary discussions on 28 June to 1 July 2021 to discuss the proposed constitutional basis for parliamentary and presidential elections to be held on 24 December 2021. The meeting ended without a decision being taken in that regard.

15 UN Security Council, 'Letter dated 22 January 2020 from the Permanent Representative of Germany to the United Nations addressed to the President of the Security Council,' UN Doc S/2020/63, 22 January 2020, Annex 1: The Berlin Conference on Libya, Conference Conclusions (19 January 2020).

16 Ibid.

17 UN Doc S/RES/2510 (2020), 12 February 2020.

18 UNSMIL, Libyan Political Dialogue Forum, 'Roadmap For the Preparatory Phase of a Comprehensive Solution,' November 2020, available at: https://unsmil.unmissions.org/sites/default/files/lpdf_-_roadmap_final_eng.pdf

19 'The Second Berlin Conference on Libya: Conference Conclusions,' 23 June 2021, available at: <https://reliefweb.int/sites/reliefweb.int/files/resources/210623-lby-abschlusserk-download-en-data.pdf>

4. FINDINGS

FAMILIARITY WITH THE LPDF PROCESS

Full, effective, and meaningful participation of all Libyans in activities related to democratic transition, conflict resolution and peacebuilding is a crucial condition precedent for a successful end to the crisis. Both the first and second Berlin Conference conclusions recognise this, endorsing the efforts of the then Special Representative of the Secretary-General to facilitate wider engagement and participation of women and youth²⁰ from across the spectrum of Libyan society in the political process and public institutions.²¹

Approximately 75% of respondents to our survey indicated that they were aware of the LPDF, which is generally positive. However less than half of respondents understood the purposes of the process, and far fewer respondents (15 of 52) had an understanding of the types of issues discussed during the LPDF process. A lack of understanding of the nature and purpose of the discussions impedes individuals from following the discussions, forming opinions about the extent to which their needs are being met and certainly from contributing to those discussions.

The ways in which Libyans hear about news and become informed about current events is important for those seeking to disseminate information about the LPDF. More than 60% of respondents indicated that they used social media outlets to obtain information about the LPDF process. A smaller percentage of respondents received news through television (32%), others used UN websites and a small number received news by radio or word of mouth.

The vast majority of respondents (more than 80%) indicated that they wished they had more information about the LPDF process. A range of information needs were expressed. Some indicated that they wished to know more about the process for selecting the LPDF delegates, how to participate in the LPDF process, the timeframe for the constitutional referendum and the political process and how to hold the government to its commitments. Others wished to receive more information about human rights violations. For instance, they wished to know more about the fate of the disappeared and victims of other abuses, whether victims would receive reparations for the harm they had suffered or wanted to know whether perpetrators of human rights abuses would be prevented from holding office.

²⁰ As parts of society that have traditionally faced marginalisation and exclusion from political discussions in the country.

²¹ *The Berlin Conference on Libya: Conference Conclusions*, (n 13), para 27; *The Second Berlin Conference on Libya: Conference Conclusions*, (n 7).

Consequently, it would be helpful for UNSMIL and others seeking to inform the public about the LPDF process to disseminate more timely briefings on social media and through official websites. Currently, information on the LPDF process is available on the UNSMIL website, however aside from a brief, general background note, information consists of only UNSMIL press releases. It would be helpful for additional background information to be supplied which explains in more detail the nature and purpose of the process, the timeline as well as the progress made on different tracks. Additionally, it is important for there to be a possibility for Libyans to comment, to ask questions and to express their views and concerns. An interactive site would aid significantly in meeting the goals of public participation and engagement.

VICTIMS' VIEWS ABOUT THE LPDF PROCESS

Respondents to our survey were asked about the priority messages they had for LPDF members. The first priority was for LPDF members to put Libya ahead of personal, tribal or regional interests; the work of the LPDF was seen as too important for its members to squander the opportunity by being partial or showing bias. Many were worried about the possibility for the process to be corrupted. This stems from the general lack of trust Libyans have in political institutions.²² About half (48%) of respondents indicated that they do not believe that politicians take their best interests into account, with a further 38% unsure about politicians' motivations.

Respondents were also clear that the LPDF should be guided not only or mostly by immediate, short-term considerations, but much more importantly, by the impact of their decisions on future generations. As one respondent indicated: "We need new people and new perspectives." Equally important for respondents was the priority of unifying Libya and consolidating state institutions, including the military. LPDF members were encouraged not to forget the needs of the people for security and safety, justice for past crimes, a country ruled by law, and a working economy.

Respondents were clear that persons who had a role in causing or contributing to the crisis should be excluded from the LPDF process. This aligned, to an extent, with a vote undertaken by the LPDF when debating the eligibility criteria for candidates for the interim executive authority charged

²² Anas El Gomati, *How can Libya achieve "Good Governance,"* Sadeq Institute, 9 August 2013.

with leading the country to the December 2021 elections. Sixty four percent of LPDF members voted for a criterion that would have prevented those who have held government or military position since 2014 from being eligible for selection. The threshold agreed for the vote was 75% which means this criterion was not included but it demonstrates a significant constituency with the LPDF which aligned with the views expressed by respondents.

ELECTIONS

The majority of respondents (84%) understood elections to be an important priority for the transition to a unified government and the re-enfranchisement of all Libyans. The December 2021 elections could also help strengthen the unity and legitimacy of national institutions, thereby making them more effective.

Respondents were more divided as to what type of elections should be prioritised. About half of respondents indicated that the priority should be presidential and parliamentary elections; the other half prioritised a constitutional referendum. The reason for differing views among the respondents may relate to an understandable lack of clarity about how debates on the draft constitution (completed in 2017 but never put to a vote) relate to the process to develop a sound, constitutional basis for elections to be held. Indeed, there is a lack of consensus on the constitutional framework for elections.²³ This is a matter that continues to be debated, notwithstanding the push to simply move forward with holding the elections. Many respondents (31%) believed that an agreement on the constitution or a constitutional amendment was a key precondition for holding elections. Others focused on the need for awareness to be raised about the electoral process.

In addition to the constitutional parameters for elections, respondents, have emphasised the importance of elections being free and fair. In order for elections to be inclusive, representative, fair, and credible, they must take place in a safe, neutral, and peaceful environment that is inclusive and leaves no one out.²⁴ Respondents emphasised, however, that there is a need to proactively foster and cultivate a conducive and inclusive environment for elections. It will not simply happen on its own. In this respect, what is necessary is for security conditions to be improved, “providing the necessary space for political parties and movements, ensuring freedom and security for political activities for citizens across all regions,

23 International Crisis Group, ‘Libya Turns the Page,’ Report 222 / Middle East & North Africa, 21 May 2021.

24 UNSMIL, ‘Closing remarks of the special envoy of the secretary-general for Libya, Ján Kubiš, to the LPDF virtual meeting on 27 May 2021,’ available at: <https://unsmil.unmissions.org/closing-remarks-special-envoy-secretary-general-libya-j%C3%A1n-kubi%C5%A1-lpdf-virtual-meeting-27-may-2021>

including the displaced Libyans inside and outside of Libya and enabling meaningful participation and representation of women, youth and the cultural components.”²⁵ Respondents have cited the need to raise public awareness about the importance of elections, and the need to respect a plurality of critical viewpoints. This aligns with LFJL’s views on what must be done to prepare the elections,²⁶ and the views expressed by human rights organisations.²⁷

Further, in the Perceptions Survey, 340 of 349 respondents stressed that anyone implicated in serious human rights and international humanitarian law violations, whether under the Gaddafi regime or since 2011, must be prohibited from running in the December 2021 elections. The respondents explained that this is crucial and an essential condition for a future that is based on justice, rule of law, and peace.

Finally, respondents indicated that it was crucial for the GNU to be accountable to Libyans to ensure that elections are held as planned on 24 December 2021.

PEACE AND SECURITY

The conclusions of the second Berlin Conference on Libya emphasise the need to address the difficult security situation in the country. They underscore the importance of unifying the Libyan national security, police and military institutions, demobilising and disarming armed groups and militias and for all foreign forces and mercenaries to be withdrawn from Libya without delay.²⁸

The emphasis on the need to address security aligns with the views expressed by respondents. All respondents indicated that the absence of peace and security affects their daily life; 94% indicated that it does so to a great extent. Feelings of insecurity pervade all aspects of life in Libya and constitute a significant impediment to the development of effective national institutions and to the sustainability of any transition process. Respondents raised concerns about security in a variety of contexts. Security is understood as a precondition for free and fair elections and national reconciliation. The experience of human rights violations by state authorities,

25 UNSMIL, ‘Opening Remarks of Special Envoy of the Secretary-General for Libya, Ján Kubiš to the LPDF Virtual Meeting on 26 May 2021,’ available at: <https://unsmil.unmissions.org/Opening-Remarks-Special-Envoy-Secretary-General-Libya-J%C3%A1n-Kubi%C5%A1-Lpdf-Virtual-Meeting-26-May-2021>

26 LFJL, ‘7 things to do in 7 months: A human rights roadmap to elections,’ available at: <https://www.libyanjustice.org/lfjl-libya-roadmap-to-elections-7-things-to-do-in-7-months>

27 See, e.g., Cairo Institute for Human Rights Studies, ‘Libya: Press Freedom is the Path to Free and Fair Elections,’ 15 April 2021, available at: <https://cihrs.org/libya-press-freedom-is-the-path-to-free-and-fair-elections/?lang=en>

28 ‘The Second Berlin Conference on Libya: Conference Conclusions,’ (n 17) paras 5, 31, 32.

and the presence of militias within state security apparatuses accentuate feelings of insecurity.

The issues or events that make respondents feel insecure include the high level of criminality that goes unpunished, kidnappings, harassment, enforced disappearances, forced displacement, arms proliferation, and armed groups that are above the law. In contrast, the three key factors that would reinforce individuals' sense of security were identified as security sector reform, strengthening the rule of law and supporting reconciliation and transitional justice initiatives. Also rated highly was unifying the government and disarming militia groups. These priorities underscore that for victims of human rights violations, security is a multi-faceted concept, much wider than simply physical safety or the absence of armed conflict in the country.

Most respondents (63%)²⁹ were unsure about what could make them feel safer; the degree of insecurity was so enveloping that respondents could not see a clear path out of it.

Many respondents explained that they did not feel sufficiently safe to report a crime to the authorities. Similar to those who felt unsafe to express political views, victims' fears of engaging with the justice system stem from the fear of reprisals, the existence of armed groups, the collusion of state officials in criminal activity, and the lack of accountability (making any security risk not worthwhile).

JUSTICE AND RECONCILIATION

Respondents expressed serious concerns about the operation of the justice system and its ability to cater to victims of human rights and international humanitarian law violations. These concerns are interlinked and involve problems for certain groups, particularly those that face marginalisation or discrimination, to access justice; the failure of the justice system to operate transparently, independently and without bias; the lack of appropriate services for victims of crime; and the unavailability of remedies for victims.

About 80% of respondents believe that some groups or communities have less access to justice than others. The reasons for this include discrimination and tribalism. Women and displaced persons face particular disadvantage.

About 44% of respondents do not feel sufficiently safe to report a crime to authorities or to participate in legal proceedings. Invariably, individuals are worried about reprisals, and the absence of a workable and effective system to protect victims and witnesses who come forward. Victims of crime should be

²⁹ The majority of those who felt unsafe to speak about the LPDF due to fear of reprisals were from East Libya.

provided with support and protected from reprisals, including special measures for victims of sensitive crimes, such as rape and other sexual crimes. We need "a safe mechanism to report without fear of being subjected to further abuse," reported one respondent. There is also a need for prosecution services to show progress. As one victim explains, "at the beginning, we made statements about the injustice...However, there was no official or state authority that responded to our case." Victims also need access to legal assistance to pursue their cases through the courts so that they can obtain the remedies to which they are entitled.

The fear of reprisals is exacerbated by the proliferation of arms and armed groups within communities and the revenge taken against judges and others working in the justice sector, including assassinations, which increase insecurity and hinder independent decision-making. This also aligns with the responses from the 2020 survey we conducted on Libyans' perceptions of justice and accountability. As one respondent indicated: "Libyan courts are not capable of delivering justice and guaranteeing a fair trial. The main problem is the pressure and influence by powerful perpetrators and militia forces." As another indicated: "We have seen in the past many rulings of acquittal and pardons of alleged perpetrators...there is no transparency and publicly available information on what is going on inside the courts..."

In addition to the safety concerns, many respondents expressed reluctance to participate in proceedings because of their sense that the justice system is dysfunctional. There is no point to engaging in a system that is not independent and fosters impunity. As one respondent indicated, justice system actors "are weak in front of criminals and militias...they have no capacity to implement" the law. This makes impartial application of the law difficult.

When a crime has not been addressed, it is not only a problem for the respect for the rule of law in the country, it can also have a profound effect on victims' sense of safety and well-being. As one victim explained: "It affects me greatly and I'm constantly worried." As others explained: "I've lost my sense of citizenship. It has a negative impact on my reintegration into Libyan society;" "I have no confidence in the government." As others have said: "You feel you're facing the same danger;" "the danger is still ongoing and it could occur again." There is also the worry that "people will be forced to achieve justice by themselves which will lead to more chaos."

Some respondents expressed concern that in the search for concessions, the LPDF was not focused sufficiently on countering the culture of impunity in Libya. Accountability is important in and of itself, also as a fundamental precondition for long-term peace and security, as one respondent emphasised, it is important "to hold perpetrators to account

and provide reparations to the victims no matter who the victims are.” It is important for the LPDF to think about the long-term detrimental consequences of any policy which contributes to impunity for human rights and international humanitarian law violations. Impunity can feed a cycle of violence and contribute to a climate of lawlessness. As one respondent said: “What is the fate of those who have suffered violations, when the criminals take up government positions?”

Knowing the truth of what happened is equally important, though it is no substitute for accountability – it should be understood as a crucial part of accountability. This aligns with the responses from the 2020 survey we conducted on Libyans’ perceptions of justice and accountability. As one respondent indicated: “Truth has to be known and justice is linked to the truth.” Reconciliation is equally important, though it should be understood as a possible outcome of adequate and effective justice and truth-telling processes, not a replacement for them. Trust will be rebuilt between communities if justice and accountability are effectively pursued. There are no short-cuts.

5. CONCLUSIONS

Despite the failure of past efforts to secure a political solution to end the crisis, there is a keen desire to see the LPDF process succeed. Victims of human rights and international humanitarian law violations, like most Libyans, have a strong thirst for unity and stability and are willing to support any credible effort to end the crisis that has a reasonable prospect for success.

However, victims and affected communities have a legitimate interest to engage in such processes, and their engagement will strengthen the legitimacy and effectiveness of the process. Thus, they should be consulted, on their terms, and on the many issues that affect them. This requires that they are fully informed about the nature and objectives of the process and the substance of what is under discussion. It also requires that they be provided with clear opportunities to engage effectively.

The LPDF process is as important as any result it engenders. An approach which is overly focused on meeting the target of presidential and parliamentary elections on 24 December 2021, without according due attention to what will make those elections free and fair and what will make them transparent and legitimate to Libyans, will not be successful in the long-term. Those we have consulted have emphasised the importance of proactively fostering and cultivating a conducive and inclusive environment for elections, including by improving security, strengthening freedom of expression and association and promoting meaningful participation and representation of all Libyans. As a multi-faceted concept which goes beyond physical safety and the absence of conflict, security entails respect for the rule of law, good governance and respect for diversity, among other factors. This conducive environment will not be created without the concerted efforts of government and other actors.

Justice is a fundamental component of any transition process and a crucial element of good governance. It is not a negotiable element of the peace process. It cannot be traded for contested notions of reconciliation, nor is it negotiable whether the justice system should be made to function effectively for all. It is critical that the justice system works independently and transparently for all Libyans, including victims of human rights and international humanitarian law violations.

ABOUT US

Lawyers for Justice in Libya is a Libyan and international independent non-governmental organisation and UK-registered charity. We work on and in Libya with a growing network of lawyers, activists and grassroots communities across and outside the country. Our vision is of a Libya which embodies the values and principles of human rights and the rule of law and is a society committed to justice. We seek justice in Libya through advocacy and outreach, accountability, transitional justice initiatives and capacity building, underpinned by our own independent research. Our work is rooted in a rights-based and victim-centred approach: we believe that all engagement and policies must be founded on a framework of human rights and ensure that individuals and communities can participate fully as a fundamental part of leading dignified lives.

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