

EXECUTIVE SUMMARY OF THE LIBYA COUNTRY RISK ASSESSMENT

The CRA performed on Libya has investigated each human right from the Universal Declaration of Human Rights (UDHR) at three levels. First, the rights were investigated for areas of conflict between the prevailing national laws and international human rights law. Second, the prevailing social and cultural practices were analysed to identify any human rights violations frequently perpetrated at the societal level. Third, each right was assigned an overall company risk rating, based on the ratings in the formal law and practice categories and the overall proximity to company operations. The results of the CRA produced the categorisation of 5 human rights as high-risk areas, 11 human rights as medium-risk areas, and 4 human rights as low-risk areas for companies operating in Libya. The following presents the overall results of the CRA, including a short description of the problem areas in each right. The full CRA offers a detailed in-depth description of each right and recommendations on how to navigate in relation to the identified risk areas.

COMPANY RISK

The following rights received a red rating in the Company Risk category in the Libya CRA, which indicates that these human rights constitute high-risk areas for companies operating in Libya. A short description of each risk area follows below.

- Right to Freedom from Discrimination (art. 2)
- Right to Life, Liberty and Security of Person (art. 3)
- Right to Peaceful Assembly and Freedom of Association (art. 20 and 23)
- Right to Work and Just and Favourable Conditions of Work (art. 23, 24 and 25)
- Right to an Adequate Standard of Living (art. 22)

Right to freedom from discrimination constitutes a high-risk human rights area in Libya. Foreign workers, often coming from Sub-Saharan Africa and Asia (mainly India), women, and ethnic and linguistic minorities constitute particularly vulnerable groups in the Libyan workforce, and are subjected to discriminatory treatment both in law and practice. Although transition is in progress, Libya is still a male-dominated society, and attitudes and practices towards women are influenced by conservative, patriarchal religious values, and tribal cultures, which have discriminatory consequences for women entering the labour market.

Right to life, liberty and security of person constitutes a high-risk human rights area in Libya. Libya practices the death penalty and human rights groups have documented a systematic practice of arbitrary arrest and detention. Political opponents, religious dissidents, and critics of the regime are particularly vulnerable groups. Even though violations are perpetrated in the governmental realm, companies should remain vigilant for complicity. Companies may risk direct involvement in violations of the right to life, liberty and security of person if the company uses state security forces either to guard premises or to maintain orderly and effective production, or in cases where the company provides the Government with sensitive information about the political or religious activities of its employees, which may be used to arrest and persecute these individuals.

Right to peaceful assembly and freedom of association constitutes a high-risk human rights area in Libya, since independent unionising is prohibited. The National Trade Union Federation (NTUF) governs all trade union activity, but is not independent from the Government, and trade unions in Libya do not have the power, legitimacy, or independence to fully represent workers' rights and interests. Participation in unapproved organisations and assemblies constitutes a criminal offence that may be punishable by death. Libyan workers are also deprived of their right to collective bargaining and right to strike.

Right to work and just and favourable conditions of work is categorised as a high-risk human rights area in Libya. Foreign workers constitute a major part of the Libyan workforce and are often doing dirty and dangerous jobs while being subjected to discrimination and bad treatment. A significant part of the foreign workers are unregistered and are not



protected at all by the law, and even registered foreign workers are not granted equal protection as national workers in the law. According to human rights groups, foreign workers are often paid a lower wage than national workers, they are often exposed to sub-standard and dangerous work conditions, and are not adequately covered by the social security scheme. Most foreign workers come from Sub-Saharan African and Asian countries, and particularly workers of African origin are subjected to discrimination and stigmatization by Libyans in general.

Right to an adequate standard of living constitutes a high-risk human rights area in Libya. Libya does not have a national minimum wage system, and the wage for public employees has been frozen for a period of 20 years and only regulated very poorly in recent years. The majority of the Libyan workforce is employed in the public sector (54%), and as a consequence, most public servants are forced to have two jobs in order to maintain an adequate standard of living for his/her family. The second job will often be in the massive informal sector that is thriving in Libya, and which is not regulated, monitored, or measured in any way.

COMPANY RISK

The following rights received a yellow rating in the Company Risk category in the Libya CRA, which indicates that these human rights constitute medium-risk areas for companies operating in Libya. A short description of each right and the problem areas follows below.

- Right to Freedom from Forced Labour and Servitude (art. 4)
- Right to Freedom from Torture, Cruel, Inhuman or Degrading Treatment, or Punishment (art. 5)
- Right to Fair Trial and Recognition as a Person before the Law (art. 6,7,10 and 11)
- Right to Privacy (art. 12)
- Right to Freedom of Movement (art. 13)
- Right to Family Life (art. 16)
- Right to Freedom of Opinion, Expression, Thought, Conscience and Religion (art. 18 and 19)
- Right to Take Part in Government (art. 21)
- Right to Health (art. 25)
- Right to Adequate Housing (art. 25)
- Right to Participate in Cultural Life (art. 26)

Violations of *the Right to freedom from forced labour and servitude* do not seem to be a widespread problem at workplaces in Libya. However, it is categorised as a medium-risk human rights area, since there have been reports of public servants being subjected to penalties involving forced labour for breaching labour discipline. Political prisoners have also been reported to be subjected to penalties involving forced labour. Moreover, foreign workers (registered and un-registered) may be forced to work under conditions that amount to forced labour, such as excessive overtime, inadequate payment, and withholding of their identity papers, and the company should be vigilant for complicity in direct and in-direct violations.

Violations of the *right to freedom from torture, cruel, inhuman or degrading treatment, or punishment and right to fair trial and to recognition as a person before the law* are mostly perpetrated within the governmental realm. According to human rights groups, conditions in prisons are well below international standards, and many incidences of detainees and prisoners being subjected to torture and deprived of their right to a fair trial have been reported. Political opponents, religious dissidents, and critics of the regime are particularly vulnerable groups. Due to the severity of the violations companies must remain vigilant for complicity by not passing on sensitive information about employees to the Government, which could be used to arrest vulnerable groups and expose them to the offending practices.

The Libyan regime severely restricts *the right to take part in government, right to freedom of opinion, expression, thought, conscience and religion, right to participate in cultural life and right to privacy*. Libyan citizens do not have the right to choose or change their government, political parties are banned, and political opposition may be punishable by



death. Religious, cultural, and ethnic minorities are suppressed and not granted the right to practice and sustain their cultural identity. Citizens are routinely monitored and the security forces keep personal files on citizens. Because of the severity of these violations in Libya, the company should remain vigilant for complicity and must refrain from passing on information about employees' political, religious, and cultural affiliations. Moreover, the company should, as a rule, strive towards establishing an apolitical and non-discriminatory work environment. Corruption and bribery at all levels is rife in Libya and is a human rights risk area for companies. As a rule, the company must not attempt to unjustly influence government officials, local authorities, or the political and judicial process itself.

Violations of the *right to freedom of movement* are mostly perpetrated in the governmental realm in Libya, and the company will rarely have any direct influences on such policies and practices. However, the company should take precautions not to restrict workers' right to freedom of movement by withholding identity papers, residence permits or other personal documents, which limits their ability to leave the workplace, or supplying the Government with information that risk exposing foreign workers to sudden expulsion, such as health information or other personal information.

Right to family life is categorised as a medium-risk human rights area in Libya. Libya is considered a conservative, male-dominated society, and the family pattern is still quite traditional expecting women mainly to serve as housewives and mothers. Divorced women may face serious problems if they do not have a family to fall back on, as well as discrimination and harassment. Children born out of wedlock are referred to as "illegitimate children" and subjected to discrimination. The company should take measures not to discriminate against women in the workplace and provide women with equal pay for equal work, as well as equal opportunities for promotion and benefits.

Right to Health constitutes a medium-risk human rights area in Libya. Information on occupational health and safety standards in Libya is extremely limited, but there appears to be little focus on implementing adequate standards of occupational safety and health at workplaces, and workers are generally unaware of health and safety issues. In order to ensure the right to health, the company must develop sufficient policies and safeguards that address safety and health concerns at the workplace, and train employees accordingly.

Right to adequate housing constitute a medium-risk area in Libya, and the company should be aware that conditions of employee housing for foreign workers often is far below international standards and may lack basic facilities like showers or clean toilets, and rooms may be overcrowded.

COMPANY RISK

The following rights received a green rating in the Company Risk category in the Libya CRA which indicates that these human rights constitute low-risk human rights areas for companies operating in Libya. A short description of each right and the problem areas follows below.

- Right to Adequate Food (art. 25)
- Right to own property (art. 17)
- Right to Education (art. 26)
- Right to Intellectual Property (art. 26)

Right to own property is categorised as a low-risk area for companies. Even though violations do occur, these are typically perpetrated in the governmental realm. However, the company should be aware that women, religious, and ethnic minorities constitute particularly vulnerable groups in terms of violations of the right to own property.

Right to food is categorised as a low-risk human rights area in Libya. Basic food is heavily subsidized by the State and does not constitute a particular expense to Libyans. Information about environmental issues is very limited. Due to the limited supply of fresh water resources, the company should be cautious about its use of water to ensure that the local community is not deprived of water as a result of company operations.



Right to education is categorised as a low-risk human rights area in the Libya. There were no records of child labour and the problems that the educational system currently is facing in Libya are, in the majority of the cases, beyond the sphere of influence for companies.

No reports document violations of intellectual property in Libya and the *right to intellectual property* is categorised as a low-risk human rights area.

For specific recommendations on how to minimise these risk areas, please refer to the recommendations in the focal areas or in the particular right.

CONTENT OF THE LIBYA COUNTRY RISK ASSESSMENT

The Libya Country Risk Assessment contains the following components

1 Executive summary

The executive summary presents a chart of the overall results of the Libya CRA followed by a shot summary of each right and the ratings of all three levels examined in the CRA.

2 Focal areas

Based on the results of the CRA, a number of high risk areas for Libya are selected to inform companies about the most important human rights problems in a company context. A description of the high risk areas is followed by recommendations, which can be used to check the company's own operations and/or the activities of its suppliers and contractors. The focal areas are selected in a two-stage process considering i) the status of the particular human right and the severity of the human rights violation and ii) company risk of non-compliance and the potential severity of the violation.

3 Background sheet

The background sheet provides a brief overview of Libya in terms of country statistics, recent history, form of government, legal system and accession to international human rights law.

4 Country risk assessment

This section comprises the full CRA where each right from the UDHR is examined and the level of risk is assessed in three categories: i) Formal Law; ii) Social and Cultural Practices; iii) Company Risk rating followed by recommendations.

5 List of recommended sources

This list contains a number of sources that have been contacted during the course of the research for the CRA on Libya. The listed individuals are very knowledgeable on human rights conditions in Libya, and can be contacted in case the company wish to gather further information. However, human rights is a very sensitive subject in Libya and the company must proceed with caution if trying to establish contact with the sources.

