

Review of *Operational Guidance Note: Libya* v7 Issued 3 May 2012

Prepared for the Independent Advisory Group on Country Information (IAGCI) by Dr Alan George (St Antony's College, University of Oxford)

(A) Introduction

1. This review assesses the 3 May 2012 *Operational Guidance Note: Libya* (OGN Libya) on the basis of instructions from the Independent Advisory Group on Country Information (IAGCI) and the UK Border Agency.
2. I am instructed in particular to assess (a) the extent to which the OGN refers to the most up-to-date information produced by the UKBA's COI Service; and (b) the extent to which it gives an indication of the range of relevant material that should be considered.
3. In undertaking this Review, I have been conscious that the country of origin information contained in OGNs is not intended to be comprehensive; and that the OGNs explicitly advise UKBA case-owners to 'take into account all available evidence'.
4. In my opinion, there is an inevitable tension between my perspective, as a specialist on country conditions; and the perspective of those who will be using the OGN. The latter are parties in an adversarial legal system. Theoretically, they should indeed take account of all relevant country information, in a balanced manner. After a decade of involvement with asylum cases, however, I can state with confidence that many UKBA case-owners are so focussed on advocacy that they give wholly inadequate attention to country information that might undermine their position.
5. While I understand the value of OGNs as handy references, and I take on board that OGNs urge case-owners to proceed on the basis of 'all available evidence', the reality is that many case-owners will use the contents of the OGN selectively to bolster their assertions, and will therefore risk making decisions that are unfair and likely to be overturned on appeal.
6. A related difficulty is that case-owners do not usually have any profound or lengthy experience of countries of origin of asylum applicants. Even case-owners who seek diligently to utilise country information in a fair and balanced way can lack the ability to place individual items of country information in their proper context. I appreciate that this deficiency is well-nigh inevitable, as it would be unreasonable to expect UKBA case-owners to have more than a general knowledge of asylum applicants' countries of origin. Nevertheless, it is an issue that cannot be ducked. A possible solution might be for the UKBA to seek the advice of acknowledged country experts, possibly on a case-by-case consultancy basis. While this would involve additional expense, at least in the short term, it could assist significantly improved initial decision-making, thereby saving much greater sums of public funding in the longer term.

7. This Review of the Libya OGN should be read in conjunction with my recently-submitted Review of *Libya Country of Origin Information (COI) Report, 7 March 2012*.

8. I would note that I have not considered those sections of this OGN (and notably section 2.5 on ‘Country guidance case-law’) dealing with legal issues as I am not a legal specialist.

(B) About the author

9. Alan George gained his first degree, in Geography, from Oxford University in 1970. He obtained his Master’s degree (on Middle East geography) at Durham University in 1972, and his PhD, on Syria, also at Durham in 1978. Since 1984 he has worked as a freelance journalist, researcher and expert witness in political asylum cases involving the Middle East. As a journalist, he contributed to a wide range of UK and international publications including the *Observer*, the *Independent* and the *Guardian*, and he frequently commentates on Middle Eastern affairs for radio and television. He is a former Head of Research at the Arab-British Chamber of Commerce and a former Assistant Director of the Council for the Advancement of Arab-British Understanding (CAABU). His publications include *Syria: Neither Bread Nor Freedom* (Zed Books, London, 2003); and *Jordan: Living in the Crossfire* (Zed Books, London, 2005). In 2003 he was elected a Senior Associate Member of St Antony’s College, Oxford University.

(C) The OGN in general

10. As a general statement, I found the Libya OGN to be well-balanced, in terms of its country of origin content - although there were significant exceptions (see my comments below).

(D) Typographical errors/minor corrections

11. Footnote 50: It should be 2011, *not* 2012.

12. Footnotes 91 and 92: the deleted year 2010 should actually be deleted, rather than appearing with a deletion line through it.

13. Footnotes 113 and 114: the two sources are not complete.

(E) References to the latest COIS Report on Libya

14. In respect of its COI, the Libya OGN has 117 footnotes, all but one of these comprising a source. Of these latter, 14 are citations of the latest Libya COIS Report, of 7 March 2012. The simple - and somewhat simplistic - answer to the question of the extent to which the OGN refers to the latest COI Service information on Libya is: about 12 per cent, in terms of cited sources. A less mathematical but more meaningful answer would be that the references to the COIS Libya Report are adequate, and are well balanced by references to other sources.

15. In and of itself, however, I consider that the extent to which the latest COIS Report is cited need not be especially significant. The real point is whether the COI in the OGN accurately reflects the realities.

16. In that regard, it appears to me that this OGN adopts inconsistent positions on the extent of the authority exercised by the National Transitional Council (NTC) and the interim government; and on the severity of the multi-dimensional crisis afflicting post-Qadhafi Libya.

17. In much of the OGN it is made clear - correctly - that the security and humanitarian situation in Libya is dire and that the interim government's writ barely runs, with real power being wielded by the numerous militias. In places, however, entries appear that seem to suggest otherwise:

- At 3.6.10 it is stated that

there are signs that a new civil and political culture is emerging, and new organisations, political parties and other bodies are appearing. New civil society groups of various types are flourishing, and educating citizens regarding their rights and responsibilities in a democratic state. The Libyan Human Rights Commission, founded in 1985, has historically been based in Washington, DC, USA but in the new political climate, the Commission has begun building a new headquarters in Benghazi, Libya.

- At 3.6.14 it is stated:

all basic social services are expected to have started returning to full capacity in the first part of 2012, and that assuming hostilities do not resume most IDPs will have returned to their homes by the end of 2012, or be otherwise effectively assisted by Libyan Government programming. The UN envoy Ian Martin has publicly stated that despite the various difficulties facing the country, it is clear that the Libyan people are eager to move forward with the transition to democracy. He also noted that Libya has already begun the task of implementing the framework for staging the first free elections in Libya in four decades, and that a reasonable foundation has been laid for the election of the National Congress, although some gaps and shortcomings remain.

- At 3.8.10 it is stated:

It is difficult to quantify the level of security provided by the NTC and to what extent the Interim Government is in control.

- At 4.4.4 it is stated:

The country is currently governed by the National Transitional Council that emerged from the rebellion. The National Transitional Council (NTC) and its Interim Government under Prime Minister Abdurraheem al-Keib are facing the huge challenge of rebuilding the economy and creating functioning institutions, including healthcare systems. The TNC have asked

the UN Secretary-General for assistance in releasing frozen funds to purchase food and medical supplies for the whole of Libya.

18. I would recommend that consideration be given to amending at least some of these ostensibly over-optimistic entries. I appreciate that some of them are predictions - or, perhaps more accurately, expressions of hope - concerning the likely evolution of the situation; but I would assert that an OGN should rigorously be limited to consideration of the situation *as it now is*.

(F) Range of relevant materials/sources

19. As to the second key issue that I must consider - the extent to which the OGN indicates the range of relevant material that should be considered - I consider that it does adequately indicate the range of such information.

20. The sources used in this OGN are all reputable and respected.

21. I have not checked every single 'url' cited in the OGN but those I did check all functioned correctly.

(G) Conclusion

22. While reaffirming the comments at Paragraphs 1-8 of my Review, I consider that the *Operational Guidance Note: Libya v7* Issued 3 May 2012 is generally accurate, unbiased and up-to-date; and it relies on reputable and accessible sources. It is therefore an effective publication.

23. In my opinion, it could be improved if the matters I raise at Paragraphs 11-13 and 16-18 of my Report were addressed.

24. Should those instructing me require any clarifications of any element of my present Review, I trust that they will not hesitate to contact me.

(10 May 2012)