

Governance, competition and corruption in Libya

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Libya is undergoing political and economic emergency circumstances that negatively affected prices and competition. **The Libyan Transparency Society revealed the presence of transnational organized crime through manipulating the "under collection" documentary credits leading to the smuggling of hard currency and money laundering that may have reached 80% of the value of documentary credits** for 2017 and 2018. Corruption and organized crime was present in the supplies documents that were granted foreign currency coverage through "under collection" documents issued by the Central Bank of Libya, for the purpose of supplying basic food commodities at affordable prices through a number of banks in favor of some of the companies that were chosen without taking preventive measures to reduce corruption and drain the foreign exchange reserves in the Central Bank of Libya .

The Libyan Transparency Association revealed the relationship of the documentary credits to transnational organized crime, as a result the Accounting Office disclosed this corruption scheme that is linked to transnational organized crime.

The worst kind of monopoly ever is that which arises through the involvement of business leaders, central banks and government institutions and this case is considered an organized crime.

This type of monopoly and organized crime, kills competition, harms the consumer and gives large business owners profits that can only be described as looting of transnational organized crime in manipulating "under collection" documentary credits through hard currency smuggling and money laundering.

Some of the causes of corruption and transnational organization crime in "under collection" documentary credits can be as follows:

1. Not opening credits directly to factories producing goods, but rather through partnerships ((foreign - Libyan) brokers). Most foreign companies benefiting abroad will be the owners of the company or partners in it (Libyan or Libyan with a foreign passport), most of which are residents of (Dubai, Tunisia, Malta, Italy, Turkey, China, Egypt) and are originally owned by the local company applying for accreditation or a partner in transnational organized crime
2. Significant increase and amplification of the value of the commodity or raw material in the bills submitted by the credit opener.
3. Opening a credit that does not comply with the conditions and with correct procedures.
4. The lack of standards for good governance and integrity in the private sector.

5. Weak control at ports and no dependence on international and internationally accredited inspection companies.
6. Most companies are fictitious. The name of the company's general commissioner is not included in the license and its national number so that his matter is not disclosed as a member involved in transnational organized crime.
7. The presence of conflicts of interests in the Chamber of Commerce in the sponsorship of companies, most of whom may be employees in the Chamber of Commerce, or have received indirect bribes, which is considered participating in organized crime.
8. Most organized crime involves bank employees or private bankers (they are partners and members of organized crime - conflicts of interest exist in bank employees or private commercial bank owner).
9. Lack of standards and controls in competition and selection of companies on the principle of transparency and equal opportunities, that are made in the interest of a limited number of companies.
10. The complicity of anti-corruption bodies in their support for the implementation of documentary credits by collecting fees without the presence of controls and taking precautionary measures to reduce corruption and transnational organized crime.
11. Interference of The Central Bank of Libya in the executive procedures of banks related to "Under Collection" documentary credits.
12. Failure to activate the National Anti-Corruption Commission to this day, which has resulted in usurping the authority of the President of the National Anti-Corruption Commission and an organized crime to activate the Commission without the decision to name the President and members of the Commission from the legislative authority, as evidenced in the letter of the Libyan Transparency Society and the letter of the Head of the Law Department dated 11/23 / 2017 AD with the reference number.(198/13/1)

The Libyan Transparency Society contributed to exposing transnational organized crime and activating the United Nations Convention against Transnational Organized Crime to enhance cooperation in preventing and combating transnational organized crime more effectively because it threatens human peace and security and leads to violations of human rights and undermines economic, social and cultural development and Political and civil societies around the world. Also, the large sums of money generated by these crimes can harm legitimate economies and directly affect good governance, through corruption or "buying" elections by political money, for example, is considered a huge commercial activity.

The Libyan Transparency Society linked the corruption, documentary credits, to transnational organized crime. Organized crime was defined as: "a continuous collective structure of individuals who use crime or violence and the desire for corruption to preserve power and wealth." Organized crime was also defined in the United Nations Convention against Transnational Organized Crime signed in Palermo, Italy, in December 2000, where

Article (02) stipulated that: (a) “Organized criminal group” shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit; . (b) “Serious crime” shall mean conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty; (c) “Structured group” shall mean a group that is not randomly formed for the immediate commission of an offence and that does not need to have formally defined roles for its members, continuity of its membership or a developed structure.

As a result of the Libyan Transparency Society's disclosure of corruption in the Anti-Corruption Commission, which resulted in or contributed to money laundering and the monopoly of some companies in Libya.

Money laundering comes from manipulating documentary credits through organized crime, corrupt practices and other illegal activities. The impact of money laundering and its consequences include: weakening of the currency value, an increase in the value of the dollar in the parallel market, an increase in inflation rates, and a society characterized by consumption.

The proliferation of criminals, smugglers, embezzlers and others who use illegal ways to raise money, and this leads to instability of security situation and spoil investment, leading to the weakness of the state.

The lack of transparency in the corporate selection mechanism, most of which is done through mediation and monopoly, with a conflict of interests and unequal opportunities, contributed to the depletion of foreign exchange reserves, as these companies represent 60 percent of the shadow economy, corruption and organized crime.

The audit completed by the accounting bureau on a sample of supply documents that were covered in foreign currency “under collection” documents by the Central Bank of Libya revealed that a number of (13) companies obtained approvals with a total value of \$ 86,338,958.00 for the purpose of supplying the following commodities (tomato paste, edible oil, Rice, Pasta). The value of the goods actually supplied was \$ 6,471,958.00, (7%). The value of the smuggled money that represents the goods that were not supplied amounted to \$ 79,867,000.00, (approximately 93%).

Where documentary credits for the supply of goods increased from 13.7 billion dinars in 2011 to 32.3 billion dinars in 2012 and 48.8 billion dinars in 2013 and 38.6 billion dinars in 2014 and decreased to 22 billion dinars in 2015 according to reports of the Central Bank of Libya.

Transnational Organized Crime: Based on the United Nations Convention against Transnational Organized Crime (15 November 2000) definition: a crime committed by an organized criminal group with a view to obtaining a financial or other material benefit.

Article 2 of this agreement defined a set of terms as follows: (a) "Organized criminal group" shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit; (b) "Serious crime" shall mean conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty; (c) "Structured group" shall mean a group that is not randomly formed for the immediate commission of an offence and that does not need to have formally defined roles for its members, continuity of its membership or a developed structure;

It is worth noting that the United Nations Convention against Transnational Organized Crime was adopted and presented for signature, ratification and accession in accordance with United Nations General Assembly Resolution 25 of the fifty-fifth session of 15 November 2000. This agreement facilitates the investigation of all these criminal activities and the prosecution of their perpetrators in a comprehensive and cross-border manner. It deals with a number of topics such as: the commitment of each state party to implement legislative and other measures to criminalize the acts mentioned in the agreement, international cooperation, joint investigations, collection, exchange and analysis of information on the nature of organized crime, private investigation methods, prosecution and penalties, criminal record creation, transfer of criminal procedures, money laundering, confiscation and seizure, disposal of forfeited criminal proceeds or property confiscated, extradition, transfer of convicted persons, mutual legal assistance, training and technical assistance, victim assistance and protection, witness protection, enhanced cooperation with law enforcement agencies, transnational organized crime prevention measures, conference to the Parties involved in the Convention.

Corruption encourages the emergence of organized crime, as the country where corruption prevails becomes a magnet for international criminal organizations entering the country in the form of private sector companies, contractors, technical institutions, or charitable societies, and practicing in secret the activities of money laundering, drug trafficking, human trafficking, or trade in human organs or prostitution. Organized crime also contributes to deepening and spreading corruption.

And it turns out that if it were not for corruption, there would never be organized crime. Corruption is the environment in which the phenomenon of organized crime grows in the absence of transparency, governance, oversight and accountability, or its ineffectiveness.

The Libyan Transparency Society will contribute to combating corruption and manage and control the issue of price increases, the role of the state, government institutions,

regulatory agencies, civil society institutions, consumer protection societies and cooperative societies in curbing this phenomenon and the laws required to secure commercial competition to the benefit of the consumer.

Fighting corruption and organized crime is a national, moral religious duty – Conniver of corruption and crime is a partner in its commission - keeping silent about corruption and crime is a betrayal of the country

God bless

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