

# Libyan Elections Postponed (Again): Better Prospects for 2022?

With the announcement of elections in Libya being postponed again due to such issues as candidate eligibility, are there better prospects for the transition in 2022 or is failure likely to occur for yet another successive year?

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## RETHINKING SECURITY IN THE 2020s SERIES – ANALYSIS

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### 1. INTRODUCTION

On 23 December 2021, a mere day before the planned date, Libya's much-delayed Presidential elections were again postponed. The proverbial writing has been on the wall for several weeks prior, with controversies surrounding the eligibility of some controversial candidates, as well as other issues regarding legislation, rendering the holding of elections to be impossible. So, is this a surprising development? Unfortunately, no, as the December deadline was another day in a long list of aspirational election dates proposed during the now-nearly twelve years since the fall of Muammar Gaddafi in 2011.

The separation of power in terms of politics, economics, and security, between polarised groups based in the east and west of Libya, has rendered previous attempts unsuccessful due to not meeting the standards imposed by all relevant actors. There are several reasons for this, including a lack of universal legitimacy for political institutions, as well as the continuing military support for both sides from international players, which have coalesced to paralyse the political transitional roadmap set out by the United Nations, and continue to impede a truly Libyan-led

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and owned civilian government. It is worrying that some of these impediments look set to continue into the near future, meaning that any new date for elections, such as in June 2022 as has been discussed by senior UN officials<sup>1</sup>, is likely, under these same conditions, to again be unsuccessful.

## 2. THE SPOILERS: ISSUES OF CANDIDATE ELIGIBILITY

The High National Elections Commission in Libya, the body tasked with organising the technical aspects of the election process on-ground, announced in December<sup>2</sup> that while it was technically ready, it was unable to meet the imposed 24 December deadline due to outstanding issues. The most incendiary of these issues was the issue of candidate eligibility<sup>3</sup>. The status of three particularly noteworthy individuals represents this.

Current Prime Minister of the UN-backed Government of National Unity, Abdul Hamid Dbeibah, had registered his intention to be a candidate. For many in the east of Libya this was seen as a violation of his position of a transitional Prime Minister, as it directly contradicted his own pledge as a candidate for the interim Prime Minister role during the Libyan Political Dialogue Forum process that stated<sup>4</sup>:

*"[The candidates] further pledged not to put themselves forward for elections at the end of the preparatory period."*

In effect, his current status is supposed to be a temporary, custodian role which was given in a UN-process rather than a general plebiscite. By registering to be a candidate, this appeared to be showing aspirations to greater power in the country beyond his own mandate and demonstrating deceptive intent for his motivation to be interim Prime Minister.

Another figure is General Khalifa Haftar, whose fighters have been the most significant armed forces fighting for the east of the country, and especially against militias allied to the western government. His candidacy represented an unacceptable concession to many in the west of Libya, who blame Haftar for being

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<sup>1</sup> <https://www.africanews.com/2022/01/17/libya-elections-could-be-in-june-un-official/>

<sup>2</sup> <https://www.theguardian.com/world/2021/dec/22/libyan-presidential-vote-not-going-ahead-officials-confirm>

<sup>3</sup> <https://www.atlanticcouncil.org/blogs/menasource/at-least-three-of-libyas-presidential-candidates-may-not-be-fit-for-the-role-heres-who-they-are/>

<sup>4</sup> <https://unsmil.unmissions.org/unsmil-announces-list-candidates-presidency-council-and-prime-minister-positions>

behind much of the violence and bombings engulfing the country since 2015<sup>5</sup>. On the domestic level, the courts cannot seem to agree on the legitimacy of his candidacy. In November, the Zawiya Court of First Instance excluded Haftar's candidacy bid after an appeal<sup>6</sup>. But this was overturned by the Tripoli Court of Appeal in December<sup>7</sup>.

In addition to these two figures is Saif al-Islam Gaddafi, the son of Muammar Gaddafi, who registered his intention as an eligible candidate. He is controversial as he is accused of being responsible for violence and atrocities against Libyan citizens while his father was in power, especially during the events of the revolution in 2011. The announcement of his candidacy was met with protests and calls for a boycott of the elections by some in Libya<sup>8</sup>. Despite this, he still retains support among corners of Libyan society, including so-called 'neo-Gaddafi' elements who once supported his father<sup>9</sup>. Similar to Haftar, Saif Gaddafi's bid was initially excluded from the election process but was eventually reinstated after an appeal<sup>10</sup>. Notably, Saif Gaddafi was, until only a few years ago, locked in a prison cell for his purported crimes against Libyan civilians, and is still wanted by the International Criminal Court for those alleged crimes<sup>11</sup>.

All these candidates have garnered significant political capital. However, as it stands it is unlikely that all sides will agree to the conditions of an election process should any be considered eligible. It would be prudent instead for the Electoral Commission to, in keeping with their own electoral guidelines, insist that all these candidates cannot stand. On one hand, as discussed, there are specific exacerbating conditions such as the technical conditions of their office, in the case of Dbeibah, or outstanding criminal convictions, in the case of Saif Gaddafi, that are sufficiently exclusionary. On the other, the presence of these candidates on the electoral ballot represents a significant challenge for the country to be able to move from a place of polarization to one of unity. How can such a polarised country move forward if its new President

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<sup>5</sup> <https://www.france24.com/en/africa/20211116-libyan-strongman-haftar-announces-presidential-election-bid>

<sup>6</sup> <https://www.aa.com.tr/en/middle-east/libyan-court-disqualifies-haftar-from-presidential-race/2435234>

<sup>7</sup> <https://www.aa.com.tr/en/middle-east/libyan-court-allows-haftar-to-run-for-presidency/2440167>

<sup>8</sup> <https://english.alarabiya.net/News/north-africa/2021/11/15/Libya-elders-urge-boycott-over-Gaddafi-presidential-bid>

<sup>9</sup> <https://lejournaldelafrique.com/en/lafrique-daujournhui/libye-j-6-qui-soutient-saif-al-islam-kadhafi/>

<sup>10</sup> <https://www.reuters.com/world/libya-court-reinstates-gaddafi-presidential-bid-amid-election-chaos-2021-12-02/>

<sup>11</sup> [https://www.icc-cpi.int/CourtRecords/CR2011\\_08353.PDF](https://www.icc-cpi.int/CourtRecords/CR2011_08353.PDF)

is a name denounced by a significant portion of the population? There is reason to believe that such an outcome would be ignored by certain political actors, and the election process would instead count for nought.

### **3. A CONTINUING TENSE SECURITY LANDSCAPE**

The security landscape is also extremely worrying. One of the greatest achievements in the political process was the adoption of a ceasefire in 2019<sup>12</sup> between all sides of the political divide. And yes, while the actual ceasefire has largely held, the other conditions set out by the ceasefire have not. Most notably, the removal of foreign forces and mercenaries. Several countries, including Turkey, Russia and several Arab and neighbouring States continue to have on-ground fighters, not to mention the mass of weapons, equipment, and technical apparatus. These forces have not left Libya, appearing instead to be biding their time for the next inevitable outbreak of violence.

The relative equal military power between the sides, especially since Turkey's intervention on behalf of the western government in early 2019, has had several consequences. While on one hand, fighting has largely ceased due to the stalemate of power, with forces staying entrenched in their territorial positions, on the other this stalemate means that interlopers are unlikely to withdraw forces for fear that this will enable their enemies to make strategic gains. Another consequence is that this failure for parties to stick to the terms of the ceasefire continues to undermine trust between them, which means that the starting point for consensus-building and compromise is extremely limited.

### **4. HOW CAN THE INTERNATIONAL COMMUNITY HELP RATHER THAN HINDER THE PATH TO ELECTIONS?**

The international community hoped and continues to hope that the election of a new government, elected democratically by Libyan citizens, will be the catalyst for this consensus-building. However, the UN itself has not had a perfect track-record in assisting the Libyan transition, with its inability to retain a Special Envoy for a meaningful period continuing to serve as an operational distraction. The current UN

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<sup>12</sup>[https://unsmil.unmissions.org/sites/default/files/ceasefire\\_agreement\\_between\\_libyan\\_parties\\_english.pdf](https://unsmil.unmissions.org/sites/default/files/ceasefire_agreement_between_libyan_parties_english.pdf)

Special Envoy Stephanie Williams has only been in the role for a few months since the abrupt resignation of Ján Kubiš in November<sup>13</sup>, a month before the prior December date.

On the issue of foreign interlopers, Williams said<sup>14</sup> that the departure of foreign mercenaries is not "*prerequisite for the elections*", so long as the cease fire continues to hold. But then what is a prerequisite? The issue of candidate eligibility will need to be urgently addressed, as well as other outstanding legislative barriers. But by again focussing on a new date, the necessary attention for these critical issues looks set to be diverted by those who would instrumentalise the specific date, especially those who will use the failure of reaching the date as reason to abandon the democratic process altogether.

Furthermore, there are clear signs this is already happening. For instance, a legislative committee has called<sup>15</sup> for Dbeibah to resign and for the interim government to be restructured as their mandate was contingent upon the hosting of elections in December. To them, as the December elections have been postponed, they no longer have the political legitimacy. Despite the controversies surrounding Dbeibah, this would be disastrous for the political process. Dbeibah is only one figure in a list of many technocratic figures appointed by UN-processes to have unity for the conditions to emerge for the hosting of elections. Fayez al-Serraj was another such individual as leader of the precursor Government of National Accord. But arguing over the construction of yet another interim government will merely delay and stifle the process towards actual elections on-ground, not to mention undermining trust in the international political process.

In agreement with Eham Saudi<sup>16</sup>, a lawyer and activist who addressed the UN Security Council regarding the political situation in Libya in January 2022, the political process should focus on "*creating milestones*" rather than fixating on election dates. Such milestones include the outstanding political issues such as electoral law, a code for election implementation and a solid constitutional basis. The lack of such measures will continue to undermine the accountability of the process and will allow for the inclusion of candidates with, in the case of Saif Gaddafi, outstanding

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<sup>13</sup> <https://www.theguardian.com/world/2021/nov/23/libya-un-special-envoy-quits-a-month-before-presidential-elections>

<sup>14</sup> <https://www.africanews.com/2022/01/17/libya-elections-could-be-in-june-un-official/>

<sup>15</sup> <https://www.france24.com/en/live-news/20220125-libya-parliament-in-push-to-replace-interim-pm>

<sup>16</sup> <https://www.arabnews.com/node/2011216/middle-east>

indictments by the International Criminal Court for implicated human rights abuses and crimes. Unfortunately, Williams and the UN continue to be preoccupied with proposing a new date, with her saying<sup>17</sup> that *"it is possible, and needed, to have elections before the end of June"*. This, as we have seen, appears to directly contradict her other plea<sup>18</sup> *"that elections must be part of the solution and not part of the problem in Libya."*

Despite all of this, the steps taken towards democratic elections over the past few years have not all been for nought. The UN announced<sup>19</sup> in December that 2.8 million Libyans have registered to vote. This is encouraging and shows that there is a clear appetite for a democratic process and representation in the country. It is now up to all actors, both domestic and international, to ensure that the next attempt for elections will yield better results and support these democratic aspirations rather than undermine them.

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<sup>17</sup> *Ibid.*

<sup>18</sup> <https://news.un.org/en/story/2021/12/1108732>

<sup>19</sup> *Ibid.*

## About the BIC

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