LIBYA
THE NEED FOR A NEW INTERNATIONAL APPROACH

Brussels International Center
Research and Human Rights

Libya: The Need for A New International Approach

Ben Lowings

Brussels International Center
Research and Human Rights

CONTENTS

EXECUTIVE SUMMARY

This report details key deficiencies and recurring flaws in the ongoing political transition in Libya. The report takes a critical approach, identifying and exploring flaws for these to be challenged and improved upon to make positive steps. It takes a dual approach and examines the Libyan transition from both a historical and international-actor based perspective.

In Chapter 2, the report addresses historical issues in Libya's transition post-2011. It examines the time of the National Transition Council and General National Congress of 2011-2014, the outbreak of violence during the fragmentation of Libya into Operation Dignity and Libya Dawn between 2014-2015 and the run up to the 2015 Libyan Political Agreement, the aftermath of the Agreement from 2015-2017, and finally the recent event from December 2017 to the present day. From this historical perspective in Chapter 2, the report identifies the following general flaws in Chapter 4:

- Political processes were normally exclusive and marginalized opposing groups and perspectives;
- Timeframes for implementing steps, such as constitutional reform amendments and election deadlines, were often too strict and were normally not met;
- Unity between opposing groups was temporary, and depended upon a common enemy to unite against;
- Political processes were too slow to adapt to the changing complexities and realities of the Libyan political environment;
- Solutions proposed by the international community lacked innovation

In Chapter 3, the role of international community and international actors, in terms of the United Nations and European Union, is addressed. Regarding the United Nations, specific sections are dedicated to the United Nations Support Mission in Libya, the contents of the Libyan Political Agreement, one of the most recent official reports of the United Nations regarding Libya (the 2018 National Conference Progress Report), and the role of other United Nations bodies in Libya. Regarding the European Union, the report explores current European Union policy in Libya, as well as specific member state policy of France and Italy. From an international actor perspective, the report identifies these flaws in Chapter 4:

- The credibility of the United Nations Support Mission as an honest deal-broker in Libya has gradually reduced;
- There has been a consistent lack of international unity from all sides;
- The European Union has not posited its own concrete position on Libya beyond migration policies;
- The 2015 Libyan Political Agreement has been stated to be the only possible framework for political transition, and so few, if any, alternatives have been explored.

To address these flaws, specific recommendations have been suggested in the following pages for ways for the international community to improve its approach to the Libyan political process. These recommendations are built on the discussion in Chapter 4 about the following general ways to move the political transition forward:

- The international community must present one unified approach to Libya;

- New, alternative modes of political dialogue must be explored;
- All Libyan actors must be engaged with fairly;
- Unhelpful timeframes must be avoided;
- It must be stressed that the election of a president is the least important aspect of the process;
- A new, positive vision for Libya must be presented;
- The possibility of a new principal deal-broker must be explored.

RECOMMENDATIONS

To all international decision-makers involved in the Libyan political process:

To present one, unified approach to Libya showing solidarity and shared political will, including:

- A fair, effective engagement with all actors across the Libyan political spectrum, by inclusively integrating representatives from all sides at every stage of the political process, including conferences and high-level meetings, and other informal ways of engagement;

- A clearly defined framework for the process, including, but not limited to the framework of the 2015 Libyan Political Agreement as seen below;

- A tandem development of effective transitional justice mechanisms that move beyond the punishment of 'losing' parties, and instead constructively address grievances;

To explore potential, alternative paths for political dialogue beyond the framework of the 2015 Libyan Political Agreement including:

- A clear space for all domestic political actors in Libya to participate across all levels of the process, including constitutional reform and electoral law, to better integrate differing positions on political reform and counter-act claims of bias;

- A clearly defined status of existing security apparatus across all parts of Libya, with an eye towards building a singular unified national apparatus. This status would be one that delineates roles, responsibilities and competencies of existing security forces in the prospective national security force, incentivizing paths of cooperation;

To avoid over-hasty timeframes regarding political steps taken in the process, and move towards more flexible monitoring mechanisms instead;

To clearly articulate that the election of a President is the least important aspect of the political transition, which should instead be a ceremonial goal to show some resolution of the political process;

To build a new, unified, positive vision for Libya that can seek to begin addressing fractured grievances across the political spectrum including:

- A comprehensive, public plan for the development of Libya as a state that looks beyond current polarization to collective social and cultural goals for the future, such as plans for a museum of remembrance, and investment into the national university sector.

To the United Nations Support Mission in Libya:

To clearly determine its role in the Libyan political process and resolve itself from the conflicting responsibilities of mediator between political actors, and Human Rights monitor of said-actors;

To consider involving the competencies and expertise of the European Union at the level of direct mediation and negotiation.

To the European Union:

To definitively and publicly adopt a position on the Libyan political process, in line with the overall international position;

To engage more directly with Libyan actors at the negotiation level, utilizing the support of the United Nations Support Mission in Libya.

ABBREVIATIONS

EU – European Union

GNA - Government of National Accord

GNC - General National Congress

HCS – High Council of State

HoR – House of Representatives

ICC – International Criminal Court

ISIL – Islamic State of Iraq and the Levant (Daesh)

J&C – Justice and Construction Party

LPA – Libyan Political Agreement

LROR – Libya Revolutionaries Operations Room

NATO – North Atlantic Treaty Organisation

NFA – National Forces Alliance Party

NFP – National Front Party

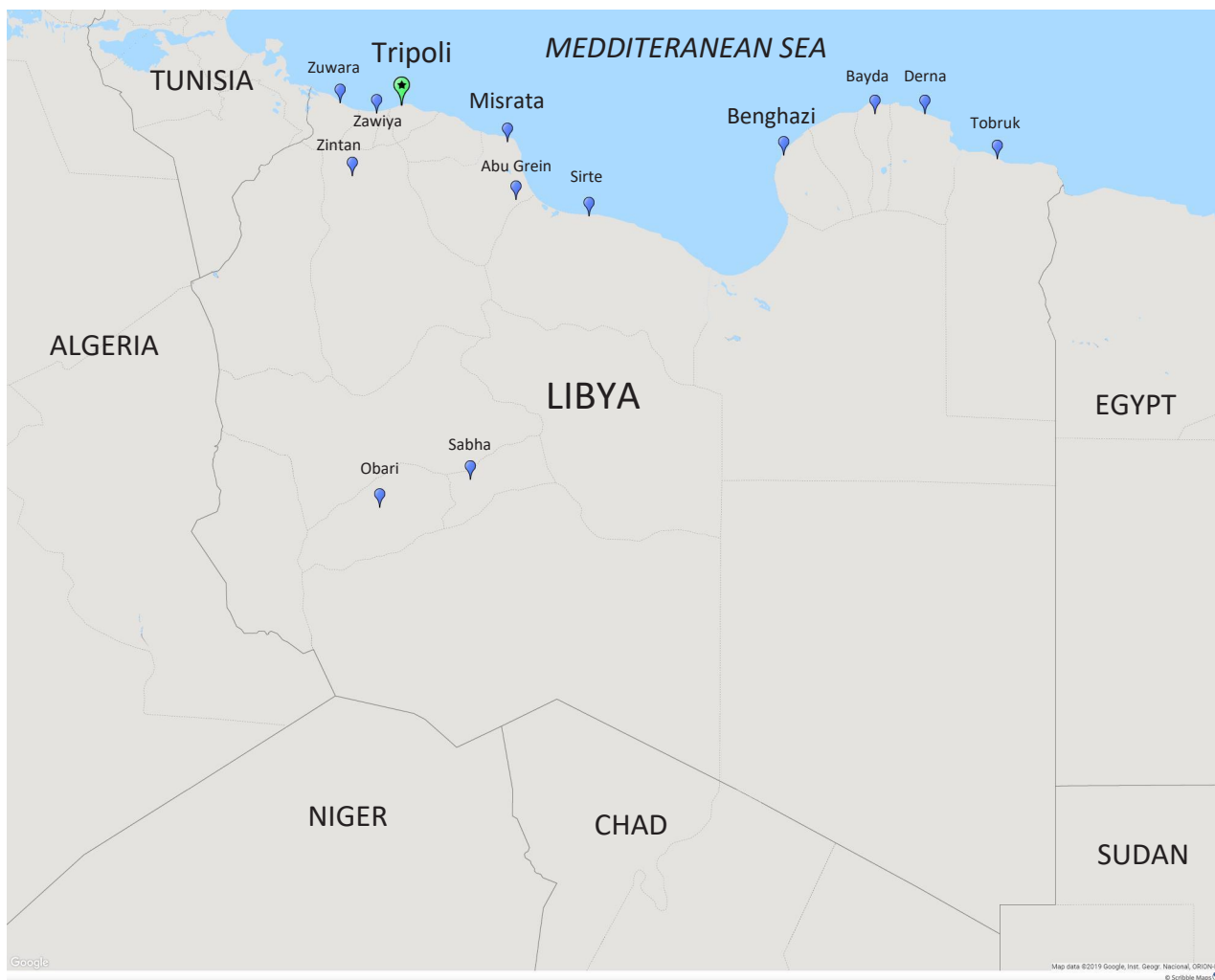NSG – National Salvation Government

NTC – National Transitional Council

UAE – United Arab Emirates

UK – United Kingdom

UNSMIL – United Nations Support Mission in Libya

US – United States of America

Graphic 1 – Map of Libya

1. INTRODUCTION

Libya is a country that has been, and continues to be, in a state of political upheaval. The revolution against former ruler Muammar Gaddafi in 2011, resulted in a system without established political institutions or governance. Successive transitional governments were established to attempt to build a fledgling democracy in Libya. Since the initial National Transition Council (NTC) in 2011 that led Libya in the immediate aftermath of the revolution, there have been a total of four new successor institutions; the General National Congress (GNC), House of Representatives (HoR), National Salvation Government (NSG) and Government of National Accord (GNA), some of which have existed simultaneously with others. A key moment in this transition was the break between the GNC and HoR following the latter's contested elections in 2014. These governments broke into distinct geographical regions, west and east, and were supported by key armed groups that came into confrontation during the 2014 conflict between Libya Dawn and Operation Dignity.

Despite a reduction of tensions since 2014, Libya has remained divided. The security sector as a national entity is non-existent and is served by a variety of armed militias and groups with sometimes-overlapping, often-competing interests. There has been a crisis of legitimacy and recognition between the successor political institutions in Libya's east and west. And as with such a post-conflict environment, humanitarian crises have emerged; citizens have become trapped in conflict zones, persons have become internally-displaced, and migrants from other countries that have been trafficked through Libya towards Europe have endured great suffering in detention centers and slave auctions, in addition to the mortal risk of the Mediterranean boat crossing to Europe.

To resolve the Libyan political crisis, in December 2015 the United Nations (UN) facilitated a framework for democratic transition that was signed by some of the key competing Libyan parties in Schirat, Morocco. The Libyan Political Agreement (LPA) was meant to serve as a roadmap for constitutional reform and proceeding national elections, and to establish the role of the then-existing institutions of the GNC and HoR. However, despite the implementation of a unity government, the GNA, the two-year deadline for elections as envisaged by the LPA expired in December 2017. Since then, the United Nations Support Mission in Libya (UNSMIL) has made great attempts to revive the LPA and has sought to work towards new, successive deadlines for implementation. However, as of January 2019, there has been little progress and Libya remains divided as ever.

This paper revisits the history behind the political polarization in Libya as well as the international efforts made to remedy the situation. It identifies recurring themes and failings in the post-revolution period in Libya, as well as in international efforts. It challenges the established roles of key international players such as the UN and European Union (EU), and critically assesses the suitability of the 2015 LPA in the current 2019 political environment in Libya. Recommendations for improvements follow from the concluding remarks that aim to build a new alternative international approach to Libya, one that is both unified and positive, and that clearly delineates roles and responsibilities for domestic and international actors involved.

2. HISTORICAL ANALYSIS OF LIBYA'S POLITICAL TRANSITION – (2011-2018)

2.1 Revolution, the National Transition Council and General National Congress (2011-2014)

The events leading to the divisions between the west and east of Libya are complex and are rooted in failings of the previous post-Gaddafi administrations in Libya. Dangerous precedents and trends that undermined the political process began from the outset of post-revolution Libya.

Firstly, following the start of the dissent against Muammar Gaddafi, the initial transition government, the NTC [1], was established extremely quickly on 27 February 2011. This was less than a month from the start of the first protests earlier that month. Ultimately, the NTC was first and foremost a revolutionary organization, with the political face acting only as a server of legitimacy. Its supporters, while they were composed of peoples across Libya, were united only in virtue of being anti-Gaddafi. An oversimplified example demonstrates this: some eastern rebels in Benghazi

and across the old territory of Cyrenaica appeared to revolt against perceived economic inequalities, such as unfair distribution of oil wealth, and suppression from the western capital reason [2]. However, other rebels revolted for reasons of Islamism and expression of religious identity [3]. For that time in 2011, it is not so clear as to assume these grievances were perfectly geographically divided into east and west, as secularist and Islamist rebel groups were present in all parts of Libya. But what is clear is that there were varied, often differing grievances against Gaddafi. And these differences were expressed by a growing divide between revolutionary secularists and Islamists in the very new NTC [4].

Secondly, the ease in which the NTC gained international recognition set a dangerous precedent for the legitimacy of armed political movements in Libya. On March 10, 2011, less than a month after the revolution had begun, under recommendation from the European Parliament, France had

[1] The legacy website for the NTC can be found here, with some limited information about its formation and early actions: http://ntclibya.org/

[2] http://content.time.com/time/specials/packages/article/0,28804,2045328_2045338_2056521,00.html

[3] https://www.washingtonpost.com/world/middle-east/islamists-emerge-in-force-in-new-libya/2011/09/12/gIQAdU10QK_story.html?noredirect=on&utm_term=.93784989a12b

[4] Ibid.

already recognized the NTC as the legitimate representative of Libya, ahead of other European states all seemingly competing to support the rebels at that time [5]. An over-eagerness by states to acknowledge rebels can be seen again during the events of 2014, when Qatar and Turkey supported the Libya Dawn rebellion against the then-elected government [6].

Thirdly, the NTC only developed a temporary legal framework for transitional rule. The Libyan Interim Constitutional Declaration was finalized by the NTC on August 3 2011 [7]. In principle this was to be held in effect until a more permanent constitution was ratified in a referendum. While the Declaration made some positive steps, such as articulating some broad and progressive specifications for personal freedoms between Articles (7) and (16) [8], it had some underlying problems.

For instance, it contended that Islamic Sharia was to be the principle source of legal legislation in Libya, specified in Article (1) of the Declaration [9]. This directly became a problem in 2013 when the controversial second President, Nouri Abusahmain, of the successor government to the NTC, the GNC, made successive reforms consolidate the primacy of Sharia as legislature in Libya [10]. This then justified other oppressive reforms against personal freedoms in keeping with a general trend of suppression of alternative opinions and dissent [11]. This was

an exacerbating factor for the violent events of 2014. The Declaration was also overly ambitious for timeframes for constitutional reform. Perhaps buoyed by the rapid fall of Gaddafi, the Declaration had a target for a new constitution by December 2013, as articulated in Article (30) [12]. Again, this became a problem when the failure to meet these deadlines contributed to the rise of Haftar and Operation Dignity in February 2014 [13].

Fourthly, while the initial elections for the GNC, as the first popularly elected transitional government in Libya in 2012, can be seen as successful for voter turnout and representativeness, this impetus was hindered by reforms it passed to systematically exclude candidates. For instance, the 'political isolation laws' that excluded Gaddafi-era officials were vague and abused [14], and meant that a lot of people with political experience were cut from the political process, including the first president of the GNC, Mohammed Magariaf [15]. This also gave a space for Islamists from the Justice and Construction Party and its affiliates to expand their influence. In turn, expanding the influence of their backers

5   https://www.nytimes.com/2011/03/11/world/europe/11france.html

6   https://www.albawaba.com/news/libyan-lawyer-calls-qatar-stop-supporting-militias-1186492

7   For a text of the 2011 Interim Constitutional Declaration, see here: https://www.ndi.org/sites/default/files/Handout%204%20-%20Libya%20Draft%20Interim%20Constitution.pdf

8   Ibid.

9   Ibid.

10   https://www.reuters.com/article/us-libya-law/libyan-assembly-votes-to-follow-islamic-law-idUSBRE9B30M220131204

11   See: United States Department of State, (2014)

'Libya 2014 Human Rights Report'. Country Reports on Human Rights Practices for 2014. Bureau of Democracy, Human Rights and Labor. [Online] Available at: https://www.state.gov/documents/organization/236824.pdf

12   https://www.ndi.org/sites/default/files/Handout%20 4%20-%20Libya%20Draft%20Interim%20Constitution.pdf

13   Haftar, as a rival to the GNC, first appeared in a television address in February 2014, when he called for a suspension of the GNC and for new elections to be held: https://www.cbsnews.com/news/libya-major-general-al-khalifa-haftar-declares-govt-suspended-in-apparent-coup-bid/; http://www.voltairenet.org/article182192.html

14   See: Human Rights Watch, (2013) 'Libya: Slow Pace of Reform Harms Rights'. Human Rights Watch. February 6, 2013. [Online] Available at: https://www.hrw.org/news/2013/02/06/libya-slow-pace-reform-harms-rights

15   https://www.thenational.ae/world/africa/libya-loses-assembly-leader-to-new-law-1.264718

from the Muslim Brotherhood [16].

Fifthly, following the revolution, the fledgling Libyan government utilized a hybrid-security apparatus between the Supreme Security Forces, a directly controlled police force, and a decentralized 'bottom-up' approach called the Libyan Shield Forces, that utilized large numbers of revolutionary armed groups, for national security in the absence of a functioning state army [17]. Security reforms passed by Abusahmain in 2013 strengthened this power of de facto militia-based security, by establishing the Libyan Revolutionaries Operations Room (LROR) militia group as a personal security apparatus for Tripoli [18]. Abusahmain consistently backed and financed the LROR and utilized the LROR to pass executive powers and subvert other members of the GNC. For example, in November 2013 the LROR successfully prevented the GNC from disbanding the group [19] through armed coercion and intimidation tactics. This was then followed by a wave of violent suppression against protests regarding the power of militias [20]. Also, during this time there were consistent threats and high-profile kidnappings against the then-

executive of Ali Zeidan in October 2013 [21], followed by his successor Abdullah al-Thani in April 2014 [22].

Sixthly, the mandated election process for a new set of representatives, the HoR, as envisaged by the Interim Constitutional Declaration was severely compromised. The timetabling was affected after the GNC extended its mandate past December 2013 in February 2014 [23]. There were heightened security deficiencies [24] throughout Libya due to the rising climate of militias and voter intimidation in the west, and a rising Khalifa Haftar and Operation Dignity in the east.

Haftar, a former military commander during the former Gaddafi-era as well as a senior commander of rebel forces during the 2011 revolution, appeared in February 2014 to declare an end to the GNC and called for a national revolt against the GNC as well as new elections. Though this did not result in a large uprising at the time, he managed to gather support in Libya's east and formed an army, the Libyan National Army (LNA), to combat the Islamists of the GNC. On 16 May 2014, Operation Dignity was announced as a military operation in Benghazi to purge the city of Islamists.

Meanwhile, Islamist candidates that were served well by the previous administration of the GNC boycotted many votes for the June 2014 elections for the HoR, and some ballots did not take place at all [25]. By the time elections for the HoR did take place in June 2014, the consequence was a turnout of barely 10%, and a skew of representation to favor more nationalist candidates. A result that would quickly be challenged.

16   For a more complete analysis of the influence of the Muslim Brotherhood in Libya from 2011-2014, see: Friedrich Ebert Foundation, Libya office (2015) 'Islamist Movements in Libya: Chances and Challenges of Political Power'. Friedrich Ebert Stiftung. [Online] Available at: https://www.fes.org.ma/common/pdf/FES%20Libya%20English%20DEF.pdf

17   See Lacher, W. & Cole, P. (2014) 'Politics by Other Means: Conflicting Interests in Libya's Security Sector'. The Small Arms Survey. ISBN 978-2-940548-07-1. [Online] Available at: https://www.researchgate.net/profile/Wolfram_Lacher/publication/283044897_Politics_by_Other_Means_Conflicting_Interests_in_Libya's_Security_Sector/links/562749eb08aeedae57dd7735/Politics-by-Other-Means-Conflicting-Interests-in-Libyas-Security-Sector.pdf

18   Ibid.

19   http://country.eiu.com/article.aspx?articleid=701138254&Country=Libya&topic=Politics&subtopic=For_7

20   https://www.bbc.com/news/world-africa-24959938

21   https://www.pri.org/stories/2013-10-10/libyan-prime-minister-ali-zeidan-freed-hours-after-being-seized-gunmen

22   http://time.com/60814/libya-prime-minister-quits/

23   http://www.jordantimes.com/news/region/dispute-brews-over-extended-mandate-libya-congress

24   https://www.bbc.com/news/world-africa-28005801

25   Ibid.

The BIC View

The post-Gaddafi climate in Libya offered the Libyan people the opportunity to establish a new political system for themselves that would potentially better address the challenges the people faced. However, there are three key deficiencies that would continue to plague this process, and they began from the outset here:

Over-hasty and ambitious timeframes for negotiations and agreements to be made started here and would continue to feature prevalently in Libya. The failure to meet these deadlines fostered a widespread distrust and dissatisfaction with politicians and the political process in general. A prominence on the rule of the gun, as opposed to law and constitutional arrangements, began with the rapid endorsement of the NTC by European powers, and continued with the financing of the LROR and other militias in Tripoli, at the expense of actual constitutional reform and transitional justice. And the systematic exclusion of actors by those in power began with the sidelining of Gaddafi-era candidates and continued with the suppression of the Zeidan, and later al-Thani, executives. The era of the old-GNC was characterized by a manipulation of more-hardline Islamist candidates, like Abusahmain, to suppress dissenters and consolidate more power.

Consequently, little negotiation took place between the victors of the 2011 revolution, such as Benghazi and Misrata, to iron-out the varying grievances that led to their rebellion against Gaddafi in the first place. In this environment, it is unsurprising that opposition to the policies of the old-GNC and Abusahmain was expressed through a new armed movement, Operation Dignity's LNA in the east, much like how opposition to Gaddafi in 2011 was expressed through an armed movement.

2.2 Dignity, Dawn and the Emergence of Islamic State (2014-2015)

With this cycle of intimidation and coercion by armed groups, a failure of representation of the various views and positions of the different groups in Libya and a lack of legal framework and accountability, it is unsurprising in hindsight what followed.

Islamist militias loyal to the previous GNC, and who had lost out in the June 2014 elections, ousted the newly elected HoR by force, forcing them to flee to the east. The former executive of al-Thani was dismissed by the outgoing GNC administration (henceforth 'new-GNC') in Tripoli. Al-Thani instead set up an executive in Bayda after appeals by the HoR [26]. The new-GNC set up its own rival executive in Tripoli which it called a "salvation government" [27], later officially daubed the NSG. The various western based militias, such as the LROR and Misratan brigades, formed a coalition with Islamist militias across the country in support of the new-GNC, and NSG, calling themselves Libya Dawn [28].

26   https://www.enca.com/tripoli-under-militia-control-chaos-deepens

27   https://www.aljazeera.com/news/middleeast/2014/08/libya-outgoing-parliament-elects-pm-2014825134648296586.html

28   Glenn, C. (2017) 'Libya's Islamists: Who Are They – And What They Want'. *Wilson* Center. August 8, 2017.

Meanwhile, Haftar's forces in the east under Operation Dignity, had recently begun a military campaign in the east of the country to eradicate Islamist militias from Benghazi, Derna and other cities. These forces would eventually become the official military support for the HoR by March 2015 [29].

Fighting between Dignity and Dawn forces would be prevalent during 2014 [30], such as in the cities of Benghazi and Derna. In Benghazi and in Derna, anti-Haftar forces including Ansar al-Sharia, formed the Shura Council of Benghazi Revolutionaries in 2014 [31]. These militias in both eastern cities continued to be involved with heavy fighting with LNA forces for the next few years, and so in virtue of this opposition to the LNA were aligned with Libya Dawn.

Militias from the western town of Zintan continued to support the HoR, and thus formed an alliance of convenience with the LNA. This brought them into direct conflict with Libya Dawn [32], for instance in Tripoli International Airport during July 2014 when Zintani guards clashed with Misratan militias of the Libya Dawn Alliance [33]. The

Zintani brigades were forced out during this move but conflicted with Libya Dawn for the ensuing period and remained the most significant faction in Libya's west sympathetic to Haftar and the east.

In the south, unresolved ethnic and tribal divisions predating the 2011 revolution spilled over, when Tebu militias, the people composed of the cross-border regions between Libya, Chad and Niger attacked the settlement of Obari near to the southern city of Sabha in September 2014 [34]. This drew them into conflict with the Tuareg, the berber peoples of the Libyan–Algerian border region, who have historically claimed the territory for themselves. The two sides were then encompassed into the broader fighting when Libya Dawn commanders helped to supply the Tuareg, while LNA commanders helped supply the Tebu, in effect reducing the confrontation in the south to a proxy war of the northern regions [35]. Sabha itself became ravaged by war between the two groups, as well as other notable tribes such as the Awlad Sulieman and the Qadhadhfa, the tribe of Muammar Gaddafi.

While a technical ceasefire between Libya Dawn and Operation Dignity would be declared on January 2015 [36], a new more pressing issue for all would emerge. The political vacuum created between the two sides of the country became a space for the terrorist group Islamic State, or Daesh, (IS)

[Online] Available at: https://www.wilsoncenter.org/article/libyas-islamists-who-they-are-and-what-they-want

29   https://www.reuters.com/article/us-libya-security-army/libyas-haftar-appointed-army-chief-for-recognized-government-idUSKBN0LY1AB20150302

30   For an analysis of fighting intensity between Dignity and Dawn in 2014, see: Moody, J. (2014) 'The Rise of Operation Libya Dawn in Tripoli'. *Armed Conflict Location and Event Data Project (ACLED)*. September 17, 2014. [Online] Available at: https://www.crisis.acleddata.com/the-rise-operation-libya-dawn-in-tripoli/

31   Office of the Commissioner General for Refugees and Stateless Persons (Belgium), Ministry of Foreign Affairs (The Netherlands), Immigration and Naturalisation Service (The Netherlands), Landinfo & Migrationsverket. (2014) 'Report, Libya: Security Situation'. *Repatriation and Departure Service, Ministry of Justice and Security (The Netherlands)*. 19 December 2014. [Online] Available at: https://www.dienstterugkeerenvertrek.nl/binaries/libya-security-situation-19-12-2014_tcm49-219496.pdf

32   Ibid.

33   https://www.reuters.com/article/us-libya-security/

heavy-fighting-breaks-out-near-libyas-tripoli-airport-seven-dead-idUSKBN0FI07420140713

34   https://www.reuters.com/article/libya-security/tribesmen-fight-security-forces-in-south-libya-near-major-oilfield-idUSL6N0RM09K20140921

35   https://www.aljazeera.com/news/2015/06/tuareg-tebu-fight-proxy-battle-southwest-libya-150610115006475.html; Gazzini, C. (2017) 'Traversing the Tribal Patchwork of Libya's South West'. *International Crisis* Group. 12 June 2017. [Online] Available at: https://www.crisisgroup.org/middle-east-north-africa/north-africa/libya/traversing-tribal-patchwork-libyas-south-west

36   https://www.bbc.com/news/world-africa-30875265

to exploit [37]. IS was especially concentrated around the town of Sirte, the old-Gaddafi era stronghold, and the eastern coastal city of Derna, where they would come into confrontation with both LNA-forces and the Shura Council. The rise of IS was alarming to political players in both the east and west, as well as the international community at large. Though it took some time for IS to be considered a threat to certain factions in the west such as Misratan militias who themselves had significant links to radical Islamist groups, it was a concern to Haftar and the east whose central justification for military action was to eradicate extreme Islamist groups [38].

By the end of 2015, with signs of IS's consolidation in the middle of Libya, there was a renewed push for a political solution to combat the shared threat. The then-UN Special Envoy to Libya, Bernadino León, proposed a new solution [39] that would involve a new unity-government composed of representatives from east, west and south of Libya.

In this context, the LPA was signed on 17 December 2015 in Schirat, Morocco, following two-day talks between members of the HoR and the new-GNC. The agreement established what was intended to be a new unity government, the GNA, to be based in Tripoli to replace the competing executives of al-Thani in Bayda, supported by the HoR, and al-Ghawil in Tripoli of the NSG, the then-executive of the new-GNC. The LPA is addressed in more detail in Chapter 3.1.2.

37   Pack, J. Smith, R. & Mezran, K. (2017) 'The Origins and Evolution of ISIS in Libya'. *Atlantic Council, Rafik Hariri Center for the Middle* East. ISBN: 978-1-61977-416-2. [Online] Available at: https://www.atlanticcouncil.org/images/publications/The_Origins_and_Evolution_of_ISIS_in_Libya_web_0705.pdf

38   https://www.nytimes.com/2015/01/28/world/middleeast/islamic-state-tripoli-libya-terror-attack.html

39   https://www.telegraph.co.uk/news/worldnews/africaandindianocean/libya/11920824/PIXANDPUB-PLEASE-UN-proposes-unity-government-for-Libya.html

The BIC View

The confrontations between Dignity and Dawn were more than a simple nationalist vs Islamist narrative. The feeling of marginalization and of having an unfair share of economic wealth in the east were some of the central reasons that the east originally revolted against Gaddafi. In this sense, we can see this confrontation in 2014 as being a continuation of these unresolved grievances between different regions.

However, a central enabling factor for an environment of confrontation was the systematic abandonment of the agreed democratic transitional process, that was a key feature of the tenure of the original GNC, with the implementation of militia-based security and the growing exclusion of rivals. With the looming loss of power in Tripoli, and the historical precedent of the rule of the gun, the conditions were ripe for a hostile takeover of power in Tripoli by former supporters of the GNC against the newly elected HoR.

When the two main military factions in the north of Libya began to come into confrontation, it seems that the rest of Libya was dragged into this conflict too, where historical and localized grievances between other groups was to be played out as part of the national confrontation. This case was especially true for the confrontations between Tuareg and Tebu in the south.

In hindsight, the emergence of IS was possible in the insecure space between west and east but became a convenient common enemy for the international community to attempt to focus the

warring factions on as a threat to all. IS thus became the Gaddafi of 2015, a shared enemy for the factions to put aside their differences temporarily to find a common solution, no doubt under considerable international pressure. In this context we find the incentive for the talks for the LPA, and an incentive for a quick solution to the problem of IS, but again with no roadmap to sufficiently address the deep grievances between eastern and western factions.

2.3 The Aftermath of the Libyan Political Agreement (2015-2017)

After the establishment of the GNA, Fayez al-Serraj was designated the position of Prime Minister of the Presidency Council by the UN. Serraj was a former elected member of the HoR, but, due to his un-affiliation with any of the main actors, he was seen as a compromise choice [40]. By March 2016, he officially assumed this position of Prime Minister of the GNA in Tripoli.

However, Serraj quickly encountered difficulties in establishing a new unity government. Firstly, the HoR, who retained legislative powers, rejected the first proposed set of ministers and instead urged Serraj to meet with Haftar [41]. When Serraj did form a government, the HoR refused to issue of vote of confidence in it, both in January 2016 and later in August 2016 [42]. This was significant as the al-Thani executive in Bayda has refused to cede power to the GNA until the HoR vote to endorse it.

Meanwhile, the new-GNC officially conceded

power to the GNA on 5 April 2016 [43] and became the advisory body of the High Council of State (HCS). But by 14 October 2016, some members of the Presidential Guard in Tripoli, former members of the Libya Dawn alliance, instigated a coup attempt against the GNA [44]. They instead professed allegiance to the outgoing new-GNC. They seized control of the HCS and announced the comeback of the al-Ghawil cabinet and NSG. Between that time and May 2017, regular fighting broke out between fighters loyal to Serraj and those loyal to al-Ghawil. While supporters of al-Ghawil were largely defeated in open confrontation, some of their remnants remained in western Libya, such as in Zawiya, Zuwara and Misrata [45].

Regarding IS, the group was successfully purged from Sirte by mainly Misratan factions by December 2016 [46]. Most IS forces were also forced out of Derna by LNA-forces and Shura Council militias [47]. The GNA-led operation in Sirte was backed by airstrikes from the United States of America (USA) and special operations units by different Western [48] governments. Misratan militias, who were ambivalent to IS for much of 2015, were mobilized after attacks by IS on their forces in Abu Grein on May 9 2016 [49]. They were also the group who suffered the most casualties, 712, during the operation to

40   https://www.bbc.com/news/world-africa-35959847

41   https://fanack.com/libya/faces/fayez-al-sarraj/

42   https://www.aljazeera.com/news/2016/08/libya-backed-government-confidence-vote-160822150247789.html

43   https://www.bbc.com/news/world-africa-35974641

44   https://www.theguardian.com/world/2016/oct/15/libya-coup-attempt-as-tripoli-militias-seek-to-topple-un-backed-government

45   https://www.reuters.com/article/us-libya-security-idUSKBN18M1WU

46   https://www.reuters.com/article/us-libya-security-sirte/libyan-forces-clear-last-islamic-state-holdout-in-sirte-idUSKBN13V15R

47   https://www.bbc.com/news/world-africa-36104728

48   "*Western*" as in the general term for the the political alignment between North American and European countries.

49   https://www.atlanticcouncil.org/blogs/menasource/tactical-lessons-from-the-ejection-of-isis-from-sirte

remove IS's territorial presence [50]. However, though purged territorially, the remnants of IS retreated into the Sirte desert and would continue to carry out attacks intermittently throughout Libya to the present day [51].

Regarding Misrata, a significant power shift happened during May 2017 when the bulk of the Misratan militias in Tripoli were ousted by the Tripoli Revolutionaries Brigade and Abu Salim Brigade [52]. Until then, Misrata, as a general entity, had the most significant influence on the GNA, vis a vis their primacy of military power in the west. Misratan militias were once the most significant military contingent of the Libya Dawn alliance. However, 2016 saw severe losses due to skirmishes with LNA-affiliated

militias, as well as with IS in Sirte. With the conflict between the GNA and NSG, Misratan militias fragmented into support for either side weakening both the integrity and combat strength of Misrata in general further. As such, Misratan militias allied to the NSG were unable to retain influence on the capital and were forced out in May 2017. While some Misratan forces in support of the GNA remined in Tripoli their influence on the GNA was reduced.

However, in virtue of their opposition to the LNA and Haftar, the rest of the Misratan forces remain somewhat aligned with the GNA and a significant influencer on the west of Libya to the present day. They remain some of the most staunchly opposed groups to any power-sharing agreement with Haftar out of all the significant western factions [53].

Another significant development was the overall power shift in favour of the LNA. Experts suggest [54] that by late 2017, the LNA controlled nearly 70% of Libyan territory. This was dramatic insofar as GNA-affiliated forces controlled a territory of a similar size in early-2016. One of the most significant developments during this time was the events of July 2017, when LNA-forces declared victory over the Shura Council of Benghazi Revolutionaries and gained complete control over Benghazi [55].

In the south, a ceasefire was declared between the Tuareg and Tebu factions in November 2015 [56], but there was no clear winner in this confrontation and the

50   Ibid.

51   https://www.thedailybeast.com/isis-resurrection-libya-attacks-foreshadow-terror-to-come

52   https://www.atlanticcouncil.org/blogs/menasource/tripoli-a-kaleidoscope; https://www.libyaherald.com/2017/05/29/ghwell-said-his-fighters-withdrew-to-prevent-further-damage-in-tripoli/

53   http://www.africanews.com/2018/06/30/west-libya-in-strongman-s-sights-after-conquering-east//

54   Eriksson, M. & Bohman, E. (2018) 'The Second Libyan Civil War – Security Developments During 2016-2017'. *FOI*. February 2018. FOI-R--4571--SE.

55   https://www.reuters.com/article/us-libya-security-benghazi/libyas-eastern-commander-declares-victory-in-battle-for-benghazi-idUSKBN19Q2SK

56   http://www.digitaljournal.com/news/politics/tuareg-and-tebu-tribes-in-south-of-libya-agree-to-ceasefire/article/450358

agreement quickly broke down [57]. By March 2017, a new ceasefire was signed in Rome between Tuareg, Tebu and Awlad Sulieman groups [58], however the south continues to be volatile and violent outbreaks still occur intermittently to this day.

The final, perhaps most, significant development was changes with the UNSMIL in Libya. On 22 June 2017, Ghassan Salamé was appointed to the role of UN Special Representative in Libya, and so the de facto leader of the UNSMIL [59]. Salamé quickly established himself as a major advocate in Libya through his articulation of a new UN Action Plan that was proposed at a high-level meeting in September 2017 [60]. The Action Plan provided a new roadmap for implementing the LPA, that can roughly be broken into three Steps:

1. Bringing the HoR and HCS back to the negotiating table to make amendments and extensions to the LPA.

2. To convene a National Conference, under the supervision of the UN, to create a space for a process of national reconciliation.

3. To hold a constitutional referendum by September 2018, and parliamentary and presidential elections by the end of 2018.

57   Gazzini, C. (2017) 'Traversing the Tribal Patchwork of Libya's South West'. *International Crisis* Group. 12 June 2017. [Online] Available at: https://www.crisisgroup.org/middle-east-north-africa/north-africa/libya/traversing-tribal-patchwork-libyas-south-west

58   https://www.libyaherald.com/2017/03/30/tebu-tuareg-and-awlad-suleiman-make-peace-in-rome/

59   https://www.un.org/sg/en/content/sg/personnel-appointments/2017-06-22/mr-ghassan-salam%C3%A9-lebanon-special-representative-and

60   https://unsmil.unmissions.org/remarks-srsg-salam%C3%A9-high-level-event-libya

The BIC View

The events following the signing of the LPA were significant in many respects. Firstly, the overall balance of power began to favor the east, and Haftar's LNA. Successful victories in Benghazi, as well as the purging of IS from eastern Libya were significant victories for the east and continued to validate their political claims to legitimacy. With growing power, there continued to be less reasons for the east to cede power to the GNA and in turn this reinforced their resolve to abstain from the political process.

Secondly, the events that took place to instigate the GNA in Tripoli demonstrated the underlying fault lines within the former Libya Dawn alliance. While the power of Misrata was weakened through various military confrontations and the loss of Tripoli, they remained emboldened in their anti-Haftar stance. The confrontations between GNA and NSG forces in late 2016 also demonstrated significant internal divergences. Overall, this showed that the factions that the GNA was using for initial support and legitimacy were compromised and divided from the start. In turn, this goes some way to explaining the eventual outbreak of inter-militia violence that occurred in Tripoli in Summer 2018.

Thirdly, in the absence of IS by the end of 2016, there again was political space for more direct confrontations between the east and west. Significantly, between the LNA and former Libya Dawn members the Shura Council of Benghazi Revolutionaries and the Shura Council of Mujuhadeen in Derna.

This continues to support the view that the incentives for cooperation between east and west have been primarily derived from shared threats, like Gaddafi in 2011 and IS in 2015/2016, rather than incentives to reach agreements.

Finally, there were major issues with the UN Action Plan. At the time, the Action Plan was lauded as a significant political step towards reconciliation between the various factions. However, while the Action Plan acknowledged the haste in which the LPA was initially signed, it again repeated similar mistakes from processes in the past. Namely, the timeframes for holding a referendum and elections were very ambitious and short. Unsurprisingly, all the timeframes of Step 3 were passed without progress. The details of Step 2 were missing at the time, and it took over a year for details about this National Conference to begin to emerge, in theory now to be implemented in January 2019. And the principal reasons why both Steps 2 and 3 are so compromised, is because of the central difficulty in Step 1. There was no clear mechanism proposed to seek a compromise between the HCS and HoR. By appealing to extending the LPA, the Action Plan did not sufficiently offer new incentives for cooperation between the existing parties. The allowance of polarized political positions, as allowed for by the LPA in the blunt designating of roles and responsibilities to the groups in isolation, without enough blending of opinions across all levels of the political process, was reinforced by the Action Plan. In a sense, it allowed both the HCS and HoR to blame each other for holding up the progress of negotiations.

2.4 Recent Events (2017-2018)

2018 has seen a continuation of the status quo in Libya. On 15 December 2017, Haftar announced an end to the terms of the LPA, calling it a failure, and causing concern [61] that he was to initiate a new-armed confrontation in Libya. However, not much changed on the ground until Spring of 2018, when many reports within Libya focused on Haftar's health. Rumors emerged that he had suffered a stroke, or had even died, contributing to concerns that the LNA needed Haftar to function, or else would cease without his leadership [62]. His reemergence in 27 April 2018 quashed these rumors, and in turn reduced speculation about the LNA leadership, but throughout this episode Haftar demonstrated his indispensability to the factions of the east, and thus to the political process overall.

This claim to indispensability appears to be validated as Haftar was one of four representatives, along with Serraj, Saleh and Mishri to be personally invited to the May 2018 Paris conference [63], in an event that was a benefit to the political ambitions of the eastern general. This conference, overseen by President Macron and supervised by UNSMIL Special Representative Salamé, proposed a new ambitious timeframe for Presidential elections in the country, with the date of December 10 2018 as a target for new

61   https://www.reuters.com/article/us-libya-security/east-libyan-commander-haftar-says-u-n-backed-government-obsolete-hints-may-run-in-elections-idUSKBN1EB0FB

62   See: Lowings, B. (2018) 'Crisis in Haftar's Libyan National Army: A Word of Caution'. *Brussels International Center for Research and Human Rights. 7* May 2018. [Online] Available at: https://www.bic-rhr.com/research/crisis-haftars-libyan-national-army-word-caution

63   International Crisis Group, (2018) 'Making the Best of France's Libya Summit'. *International Crisis* Group. Briefing No 58. 28 May 2018. [Online] Available at: https://www.crisisgroup.org/middle-east-north-africa/north-africa/libya/b58-making-best-frances-libya-summit

elections [64]. This timeframe included pushing constitutional reform through the HoR by mid-September 2018, and for the UNSMIL to hold a citizen consultation using a nationwide polling process throughout Libya. The intention of this consultation process was to expand to a more comprehensive National Conference involving key leaders and actors in the future, a step key to Salamé's UN Action Plan. While this consultation process was accomplished by July 2018 [65], the constitutional reform process stalled and was not accomplished by September 2018 as planned, as the HoR postponed the vote [66]. It took till November 2018 for the HoR to give a ratified referendum law to the High National Election Commission (HNEC) [67], a law necessary to produce a future public referendum on the constitution. Nonetheless, there were still notable delays in the planned timetable.

A significant incident occurred on 28 March 2018, when leaders from Zintan and Misrata finally met for reconciliation talks to resolve their ongoing conflict since the Misratan attack on Tripoli International Airport in July 2014 [68]. During a round of broadly successful negotiation, the sides resolved much of their differences that in turn brought Zintan from Haftar's side. This was noteworthy for a number of reasons, including the strategic ramifications, as Zintan was till that moment the most significant ally of Haftar in Libya's

west. But is perhaps a good example of the possibility for Libyans themselves to resolve their disputes, as this negotiation completely bypassed the framework of the LPA or UN Action Plan.

Meanwhile, during June 2018, fighting erupted in the Sirte Oil Crescent when anti-Haftar militias took key oil refineries and oil fields from the LNA, including Ras Lanuf and Es Sidra [69]. The LNA quickly regained control of these terminals and announced that they would no longer be collaborating with the Tripoli-based National Oil Corporation (NOC), instead using an eastern-based company to distribute exports. This stand-off lasted until mid-July, when the LNA announced it would be collaborating with the Tripoli–NOC again however this period of instability caused a significant blow to Libya's struggling oil economy [70].

The Oil Crescent stand-off coincided with the announcement [71] that the LNA had completed its campaign in the city of Derna to purge the Shura Council of Mujahedeen in Derna, a group of Islamist militias with affiliations to the former Libya Dawn. This campaign had lasted for around four years and had been heavily criticized by the UNSMIL for alleged abuses of human rights of citizens [72].

However, in August 2018 the western GNA came under criticism when the variety of militias who support its operation in Tripoli,

64   https://www.theguardian.com/world/2018/may/29/macron-hosts-libyan-factions-in-paris-in-push-to-secure-elections

65   https://unsmil.unmissions.org/hd-submits-libyan-national-conference%E2%80%99s-public-consultations-report-unsmil; For a discussion of the findings of these consultations in more detail, see Chapter 3.1.3.

66   https://www.libyaobserver.ly/news/libyas-hor-voting-constitution-referendum-law-postponed-two-weeks

67   https://www.libyaherald.com/2018/11/29/hor-hands-constitution-referendum-law-to-hnec/

68   https://www.alaraby.co.uk/english/comment/2018/4/4/misrata-and-zintan-reconciliation-bypasses-un-bureaucrats

69   International Crisis Group, (2018) 'After the Showdown in Libya's Oil Crescent'. *International Crisis* Group. Briefing No 189. 9 August 2018. [Online] Available at: https://www.crisisgroup.org/middle-east-north-africa/north-africa/libya/189-after-showdown-libyas-oil-crescent

70   Ibid.

71   https://www.reuters.com/article/us-libya-security-derna/haftars-forces-say-they-have-captured-libyan-city-of-derna-idUSKBN1JO339

72   https://unsmil.unmissions.org/unsmil-statement-situation-derna

started fighting amongst one another [73]. This period brought renewed instability to the capital, and a substantial amount of casualties and alleged human rights abuses. While a ceasefire was negotiated by the UNSMIL in September [74], there have still been reports of intermittent fighting in Tripoli ever since. The exposure of the security vacuum in Tripoli caused the UNSMIL to recommend a new security apparatus, the Tripoli Security Plan [75], to move towards a more nationalized security force, but also coincided with a growing criticism of the way that the GNA operates within Tripoli.

There has also been a number of high-profile terror attacks. The most prominent including attacks on the main offices of the NOC in Tripoli [76], and attacks on the HNEC building [77]. The latter of these was claimed by IS remnants, who had been forced from the city of Sirte back in 2016. This incident reminds that there are still a number of regions within Libya that are not claimed by either the GNA or the LNA. In the south, for instance there has been renewed fighting between Tuareg and Tebu tribal groups

around the city of Sabha [78], and neighboring regions. There have also been reports of the presence of foreign militias from neighboring Niger and Chad in the south, and Sudan in the east [79].

The majority of international news on Libya has been the various scandals of human rights abuses facing migrants that have sought to use Libya as a launching pad to reach Europe. The most significant report was released by the Cable News Network (CNN) in November 2017 [80] that documented evidence of "slave auctions" in Libya's western coastal regions. But since then, there have been many further reports of scandals involving capsized vessels in the sea [81], interventions against non-governmental organizations (NGOs) by the western Libyan Coastguard [82], and reports of sexual violence and abuses in detention centres [83] amongst others. The number and severity of humanitarian reports increased during the August fighting within Tripoli. The situation facing migrants and internally-displaced persons in Libya has generated criticism towards the policies of supporting the Libyan Coastguard and voluntary repatriations instigated by the International Organization for Migration (IOM) and United Nations High Commissioner for Refugees (UNHCR) on the ground [84]. However,

73   Lowings, B. (2018) 'Violence in Tripoli: The Over-dependence on Militias in Libya's Capital'. *Brussels International Center for Research and Human Rights.* 14 September 2018. [Online] Available at: https://www.bic-rhr.com/research/violence-tripoli-over-dependence-militias-libyas-capital

74   https://unsmil.unmissions.org/unsmil-statement-facilitation-ceasefire-agreement-end-fighting-tripoli

75   https://www.libyaobserver.ly/news/sarraj-approves-security-plan-secure-greater-tripoli

76   Lowings, B. (2018) 'Violence in Tripoli: The Over-dependence on Militias in Libya's Capital'. *Brussels International Center for Research and Human Rights.* 14 September 2018. [Online] Available at: https://www.bic-rhr.com/research/violence-tripoli-over-dependence-militias-libyas-capital

77   https://www.washingtonpost.com/world/isis-suicide-bombers-attack-libyan-electoral-commission-killing-12/2018/05/02/e39d4cf4-4e28-11e8-85c1-9326c4511033_story.html?utm_term=.ccbfe6323635

78   https://thearabweekly.com/foreign-fighters-add-threats-southern-libya-faced-power-vacuum-rivalries

79   Ibid.

80   https://edition.cnn.com/2017/11/14/africa/libya-migrant-auctions/index.html

81   https://www.theguardian.com/world/2018/feb/02/migrant-boat-capsizing-coast-libya-mediterranean

82   https://www.euractiv.com/section/justice-home-affairs/news/libyan-coastguard-prevents-ngo-boat-from-rescuing-migrants/

83   Amnesty International, (2018) 'Libya's Dark Web of Collusion: Abuses Against Europe-Bound Refugees and Migrants'. *Amnesty* International. 11 December 2017. https://www.amnesty.org/en/documents/mde19/7561/2017/en/

84   See: Lowings, B. (2018) 'Libya: The EU's Policy of

despite this the EU has been quick to praise its voluntary repatriation initiatives it coordinated with the IOM and UNHCR, as a successful method of reducing the number of migrants travelling from Libya across the sea [85].

Recent news has focused on a conference held in Palermo, Italy, between 12 and 13 November 2018 [86]. One of the aims of which was to restart the political process, but on a looser timeframe than was promoted in Paris, and to consult more stakeholders than the four invited to Paris. However, the reality was again a reinforcement of the position of Haftar, who's supposed absence of the conference and eventual travel to Italy was the scene of much speculation. As was the fact that he did not attend the conference itself, but instead met leaders at bilateral side-event meetings between him, the same three figures from Paris, and heads of States. Other farcical scenes emerged when the Turkish representative left the conference early out of anger at not having been invited to said-bilateral meetings. In turn, players were left with little concrete progress, instead only able to praise the goodwill and "conviviality" of participants at the conference [87], and any achievements of Palermo look to be as limited as the achievements of Paris earlier in 2018.

Also recently, the UNSMIL recently acknowledged that elections in December would not happen [88], and has instead begun

talking about completing the National Conference process in January 2019, and aiming for elections in Spring 2019. Few details [89] have emerged about the format, exact date and participants, and goals of such a National Conference, and as such there is still little to substantiate the claim that elections are possible in 2019.

UPDATE: As of January 2019, there has been renewed pessimism as reports have stated that the planned National Conference has been delayed further to March 2019 [90].

Migrant Containment'. *Brussels International Center for Research and Human Rights.* 12 March 2018. [Online] Available at: https://www.bic-rhr.com/research/libya-eus-policy-migrant-containment

85   Ibid.

86   http://www.asianews.it/news-en/International-Conference-on-Libya:-losers-and-winners-in-Palermo-45469.html

87   See the interview with Salamé in: Jeune Afrique (2018). 'Ghassan Salamé: On n'organise pas d'élections sous le feu des canons'. *Jeune Afrique.* No 3020. Du 25 Novembre au 1er Décembre. 44-46 (French)

88   https://www.reuters.com/article/us-libya-secu-

rity-exclusive/exclusive-u-n-western-powers-quietly-bury-december-plan-for-libya-election-idUSKCN1NC25U

89   Those few details can be found in the most recent report of the Secretary-General: United Nations Security Council (2019) *United Nations Support Mission in Libya, Report of the Secretary-General.* 7 January 2019. S/2019/19. [Online] Available at: https://unsmil.unmissions.org/sites/default/files/sg_report_on_unsmil_s_2019_19e.pdf; Also: https://thearabweekly.com/un-plans-national-conference-and-elections-libya

90   https://www.libyanexpress.com/reuters-un-could-delay-libya-national-conference-to-march/

The BIC View

The past year promised significant changes in Libya but delivered very little except pessimism. The Paris Conference of May 2018 provided good photo opportunities for Serraj and Haftar to suggest that they are working towards a political solution, and for President Macron to appear as deal-broker in the process. But the ambitious timeframe was misguided from the outset and seems foolish in hindsight. Unfortunately, but predictably, the Palermo Conference seems set to offer no substantive results either.

If anything this year has served to demonstrate that the security

situation in Libya's west is very compromised, especially in Tripoli, and so there is a large potential for western factions to be spoilers in the political process should they stand to lose out. It has also demonstrated that Haftar is indeed a significant actor, and in many ways has surpassed the HoR as the main representative of interests of the east. It will be key for any process to involve him in the discussion for substantive progress.

The reconciliation between Misrata and Zintan demonstrated the potential for Libyan negotiation in the absence of international mediation. This is positive, but unfortunately undermines the credibility of the UN process further.

Also, the lack of Zintan in Haftar's allies is strategically important, but overstated. Haftar still controls the majority of Libyan territory regardless.

The fact that the majority of international news outlets continue to focus on humanitarian and migration-related issues is understandable, but problematic as it continues to enable superficial discussion to 'treat' the migration 'symptom' without 'treating' the political crisis 'cause'. And so as more news has emerged about the so-called success of EU-backed voluntary repatriation initiatives, it has provided space for European policy-makers to avoid addressing the Libyan issue at its heart.

3. THE UNITED NATIONS AND EUROPEAN UNION IN LIBYA

3.1 The United Nations

3.1.1 The United Nations Support Mission in Libya

The UN activities in Libya have been significant since the 2011 revolution. During this time, on 16 September 2011 the UNSMIL was established by UN Security Council Resolution 2009 (2011) [91] at the request of the NTC to support Libya's democratic transition. Its mandate has been extended upon multiple resolutions, the latest of which, Security Council Resolution 2434 (2018), extended the mandate until 15 September 2019 [92]. The current head of UNSMIL, the Special Representative of the Secretary-General, is Ghassan Salamé.

The UN was a key broker, and supporter, of the 2015 LPA. As such, the current mandate of UNSMIL [93] is tailored towards implementing the LPA, and thus supporting the operations of the GNA as the legitimate representative authority in Libya. Interestingly the mandate also includes a monitoring function regarding human rights abuses, the coordination of international aid and assistance, and the implementation of counter-proliferation initiatives such as securing weapons.

A report of the Secretary-General, António Guterres, to the UN Security Council was published on 24 August 2018 [94]. The report praised UN efforts to engage with local Libyan citizens, citing the success of the Summer-2018 UNSMIL consultation process, a preliminary step of the National Conference envisaged by the LPA, that engaged over 7000 Libyan citizens across the country, and who responded of the need to unify state institutions and bring an end to the political transition period. The report also praised the work of the UNSMIL, and especially Representative Salamé, in its efforts to strengthen national and international dialogue and claimed progress was made in terms of stakeholder support.

However, the UNSMIL has repeatedly called of its frustrations with the unwillingness of actors to make real efforts to change the current political status quo. It has specifically cited both the HoR and the HCS as obstacles to meaningful reform, for example repeatedly saying that the HoR keeps postponing a vote on the draft constitutional law [95]. In addition, the UNSMIL has been highly critical of all actors in Libya regarding human rights abuses. The UN has been consistently critical of the LNA campaign in Derna, citing human rights abuses such as destruction of property, arbitrary detention of civilians and obstruction of the operations of humanitarian non-governmental organisations such as the Red Crescent. In addition, the UNSMIL has criticised the LNA for refusing to hand over Mahmoud al-Warfalli despite an International Criminal Court arrest warrant.

91   United Nations, Security Council (2011) *Resolution 2009 (2011).* Adopted by the Security Council at its 6620th meeting, on 16 September 2011. S/RES/2009 (2011). [Online] Available at: https://www.sipri.org/sites/default/files/2016-03/UNSC_res_2009.pdf

92   https://www.un.org/press/en/2018/sc13501.doc.htm

93   See the mandate of the UNSMIL here: https://unsmil.unmissions.org/mandate

94   United Nations Security Council (2018) *United Nations Support Mission in Libya, Report of the Secretary-General.* 24 August 2018. S/2018/780. [Online] Available at:

https://unsmil.unmissions.org/sites/default/files/sg-report-on-unsmil_s_2018_780_e_0.pdf

95   https://unsmil.unmissions.org/statement-ghassan-salame-special-representative-secretary-general-libya-and-head-unsmil-pursuant; United Nations Security Council (2018) United Nations Support Mission in Libya, Report of the Secretary-General. 24 August 2018. S/2018/780. [Online] Available at: https://unsmil.unmissions.org/sites/default/files/sg-report-on-unsmil_s_2018_780_e_0.pdf

Interestingly, the recent outbreak of violence in Tripoli has forced the UNSMIL to criticise militias in the west more strongly and in turn the GNA for underperforming and failing to ensure better security arrangements [96]. The UNSMIL was central to the signing of a Ceasefire Agreement in Tripoli on 9 September 2018, which articulated the urgent need for new arrangements in Tripoli that can develop security from a national-level apparatus rather than militias [97].

Along with gradual increase in public acknowledgement of failings within the GNA, and the west of Libya in general, 2018 saw greater exasperation and pessimism in the realistic implementation of elections for any foreseeable date. The May 2018 Paris conference was publicly endorsed by the UN, who continued to signal their desire for elections by the end of 2018 as late as that 24 August report [98]. With the outbreak of violence in Tripoli, unrest in southern Libya [99], as well as recent attacks on key Libyan institutions such as the High National Election Commission headquarters by groups including a re-emerging IS, the UNSMIL moved away from speaking of elections in 2018, and instead referred to elections as a key goal to the UN without emphasising a short-term timeframe [100].

More recently, during his remarks to the UN Security Council on Libya in November 2018, Salamé made the first public acknowledgement that the UN did not expect elections in 2018, and instead was aiming for spring 2019 [101]. The timing of this announcement appeared to coincide with the November conference in Palermo, Italy. As such, it was possibly a way for the UN to maintain its place as the primary driving force in setting and timetabling the agenda for the Libyan political process. Salamé made two additional statements of note. Firstly, he said that the current polling data within Libya shows 80% support of Libyan citizens for elections, a possible outcome of the summer 2018 consultation phase of the National Conference [102]. Secondly, he also stated his desire to bring together political leaders and stakeholders within Libya in the first weeks of 2019 to implement the National Conference, a step that will be informed by these recommendations [103]. Unsurprisingly, since November, reports regarding the UNSMIL have focussed on this upcoming National Conference as a precursor to elections [104]. Salamé, for his part, welcomed 2019 as a year he hoped to see a "historic compromise" in Libya [105].

The BIC View

The UN, through the UNSMIL and Salamé, has been struggling on several fronts to maintain credibility and legitimacy as a deal-broker for the Libyan political process.

96   For more information on the security situation in Tripoli see: Lowings, B. (2018) 'Violence in Tripoli: The Over-dependence on Militias in Libya's Capital'. *Brussels International Center for Research and Human Rights.* 14 September 2018. [Online] Available at: https://www.bic-rhr.com/research/violence-tripoli-over-dependence-militias-libyas-capital

97   https://unsmil.unmissions.org/sites/default/files/ceasefire_and_consolidation_agreement-_9_september_2018_-english.pdf

98   United Nations Security Council (2018) *United Nations Support Mission in Libya, Report of the Secretary-General.* 24 August 2018. S/2018/780. [Online] Available at: https://unsmil.unmissions.org/sites/default/files/sg-report-on-unsmil_s_2018_780_e_0.pdf

99   https://unsmil.unmissions.org/unsmil-statement-security-situation-southern-libya

100   https://www.libyaobserver.ly/inbrief/un-reaffirms-support-future-elections-libya

101   https://unsmil.unmissions.org/remarks-srsg-ghassan-salam%C3%A9-united-nations-security-council-situation-libya

102   Ibid.

103   Ibid.

104   For example: Jeune Afrique (2018). 'Ghassan Salamé: On n'organise pas d'élections sous le feu des canons'. *Jeune Afrique.* No 3020. Du 25 Novembre au 1er Décembre. 44-46 (French)

105   https://twitter.com/GhassanSalame/status/1079638159317704705 (Arabic)

Firstly, within Libya, they have struggled to maintain credibility as a neutral, unbiased broker. This has mainly been due to their treatment of the east of Libya. By articulating that the main issues with the process were the HoR and Haftar's LNA, they not only started to marginalise a key player, but gradually built distrust. Recall that the UN-backed LPA was primarily a way to create a new unity government to replace the HoR. In effect, the UN created a new administration in the place of the previously elected one, even if that previous elected administration had a contentious election process in 2014. That new administration has even created space for political leaders of the west, those who had forcefully ousted the HoR with violence, appearing to give validation for such actions. The targeted comments of Salamé against the operations of the LNA in Derna also would have built this feeling.

This is perhaps a problem because of the UN's dual nature in Libya. On one hand it is the chief international deal-broker and negotiator, tasked with being neutral and pragmatic in finding a solution to accommodate the different parties. On the other, it is the chief reporter of human rights atrocities and violations, and the framework to prosecute such abuses via the Human Rights Council. So, while the UN must report the suffering of people in the Derna campaign for example, it also must mediate with those same people it is criticising to find a political solution. While the stance of the UN appeared to shift considering the violence in Tripoli during August 2018 and became more critical of the GNA and

western militias, this appears a little too late to undo this feeling of bias.

Another difficulty the UN has faced has been external: a systematic undermining of its authority by external players. For example, the initiatives of both France and Italy appeared to be attempts to undercut the UN's authority as a negotiator and circumvent the process.

Finally, the claim that the LPA is the only viable framework for the Libyan political process has become a dogma of the UNSMIL. All UN-based initiatives have looked to implement or adapt the LPA, and there has not been significant steps, even Salamé's Action Plan, to look for alternative ways to implement democratic transition. All measures have been to improve or hasten the LPA. It should be said that if something is so fundamentally compromised, it will be unsuccessful even if it is polished as much as possible. Perhaps due to a lack of political will, or innovation, or an attempt to save-face, the UN has yet to look for new solutions to the political problems in Libya.

3.1.2 The Libyan Political Agreement (2015)

The LPA [106] was signed on 17 December 2015 in Schirat Morocco, following two-day talks between members of the HoR and the new-GNC under the supervision of the UN. The agreement established what was intended to be a new unity government, the GNA, to be based in Tripoli to replace the competing executives of al-Thani in Bayda,

106   For a complete text of the LPA, see: https://unsmil.unmissions.org/sites/default/files/Libyan%20Political%20Agreement%20-%20ENG%20.pdf

supported by the HoR, and al-Ghawil in Tripoli of the NSG, at the time created to act as an executive for the new-GNC.

The GNA was to be headed by a nine-member Presidency Council, with the leader nominated to the position of Prime Minister. The selection of this first leader was undertaken by the UN directly, as seen in the appointment of Serraj. The HoR would continue to exist as the legislative for the country, while a new body, the HCS, would replace the new-GNC as a direct advisory body to the GNA. For demonstrative clarity, here are some articles of the LPA transcribed in detail:

On Timescales

- Article (1) 4. The term of the [GNA] shall be one year as of the date of granting it a vote of confidence by the [HoR]. In case the constitution was not finalized during its term, it shall be renewed automatically for one additional year only...

- Article (52): The work of the Constitutional Drafting Assembly shall continue until a date no later than 24 March 2016. In case the Assembly is unable to conclude its mission by that date, a committee consisting of five representatives from each of the [HoR] and the [HCS] with the participation of the Presidency Council of the Council of Ministers, shall be formed at a date that does not exceed two weeks of that date to deliberate regarding that matter.

On Legislative Powers, and Ramifications, of the HoR

- Article (10) The [GNA] shall commit itself to establish a joint committee comprising the [HoR], [HCS], [GNA] and National Defence and Security Council stipulated

in the Constitutional Declaration to agree on a draft law to specify the competencies of the Supreme Commander of the Libyan Army as well as the competencies of the leadership levels in the army within a period that does not exceed three months of the date of commencing its functions, and the [HoR] shall adopt it as agreed.

- Article (13) The [HoR], elected in June 2014, shall undertake the legislation authority for the transitional period, granting the vote of confidence or no confidence to the [GNA] as per the items of this Agreement, adopting the general budget, performing oversight over the executive authority and endorsing the public policy submitted by the Government.

On Security Arrangements

- Article (34) 1. The interim security arrangements shall work towards ending the armed conflict in Libya, confronting terrorist threats, and stabilizing security in the country.

- 2. The [GNA] shall be responsible for the implementation of the interim security arrangements, through its official bodies including the army, police and security institutions, in coordination with the National Defence and Security Council and with the support of the [UN] and the international community, while respecting the Libyan national sovereignty.

- Article (35) All interim security arrangements stated in this Agreement shall not restrict the efforts of the [GNA] aimed at combatting terrorist organizations that are classified under the relevant Security Council resolutions; such

organizations include [IS] – Ansar Al Sharia and Al Qaeda.

- Article (38) 1. The comprehensive and permanent ceasefire agreement shall enter into force throughout Libya as of the date of the signing of this Agreement. The parties to the conflict shall commit themselves to immediately cease hostilities and freeze any military movement once the ceasefire enters into force...

- Article (44) The [GNA] shall ensure that the authority to detain or arrest persons is strictly limited to statutory law enforcement bodies, and that such authority is exercised in compliance with Libyan legislations in force, international human rights law and international humanitarian law...

The BIC View

The LPA was flawed from the outset. To appease doubtful and suspicious rival actors, the LPA offered far too unrealistic timescales for implementation, and when such timescales were broken this gave ammunition to the LPA's detractors.

The power sharing between the rival Libyan bodies, the HoR and new-GNC was arranged too bluntly. For instance, the LPA itself gives the HoR the power to grant a vote of no confidence in the GNA, which as a new government would inevitably be a threat to its prior claims to legitimacy. As a legislator acting upon laws drafted upon advice of its rivals (albeit in a new form in the HCS), it would always retain the power to block reform.

This is also true of the critical decision to appoint a Supreme Commander of the Libyan Army. By refusing to

specify, this decision would be left in limbo, as the primary choice of the HoR, in Haftar, would be unacceptable to the HCS.

The vague specificity of security arrangements also paved way for a muddled security picture in Tripoli, and across Libya more generally. Without establishing a legitimate authority for the GNA, or a clearly specified Army or Commander, there is insufficient power for the GNA to enforce and monitor a ceasefire. This in turn goes some way to explaining why militias continued to be prevalent.

The regularity in the way that the LPA specified terrorist threats like IS, suggests the truer motivation to signatories to this agreement. The shared threat of IS in Sirte during 2015 provided an impetus for a shared solution between the east and west. The LPA acted as a mechanism to allow a more coordinated approach to purging the territorial presence of IS from Libya. In this sense, the LPA reads more like the terms of a military alliance than a transition to a unified democratic structure.

3.1.3 The National Conference Progress Report (2018)

As this report [107] was based on the Summer 2018 consultation phase of the National Conference process and is one of the most recent key documents cited by the UNSMIL, and is a vital component of the most recent commitments made in Palermo towards the

---

107   The actual report was authored by the Centre for Humanitarian Dialogue with direct collaboration and support by the UNSMIL: Centre for Humanitarian Dialogue (2018) *The Libyan National Conference Process Final Report.* November 2018. [Online] Available at: https://unsmil.un-missions.org/sites/default/files/ncp-report_english.pdf

implementation of said-National Conference in early 2019, the main recommendations from the surveys of Libyan citizens are abbreviated here:

- There was a repeated desire for unification of all sovereign and military institutions, while at the same time accommodating differences through greater decentralization

- The need for a strong, transparent judiciary was made key for all aspects of Libyan life

- The importance of an independent unified military, subject to civilian judicial oversight, was stressed

- Economic reforms were expected that would both protect natural resources and distribute them fairly across Libya

- The importance of local governance in the process was critical

- An end to the current status quo: through constitutional reform, elections at the soonest possible time when conditions are met, and a reconciliation process for grievances

- All foreign interference in the political process must end for a successful transition

The BIC View

There is nothing new or groundbreaking in this report. What has been recommended have already been documented by the UN previously, and informed the initial LPA discussions in December 2015. It appears that these recommendations serve to legitimize the current work of the UNSMIL, and

act as an endorsement of its current plan. What is more striking is what is missing, or rather what consensus could not be determined. Typically, the questions missing are related to who controls the process, and to how to achieve these processes. The only specific aspect related to this is a clear desire for an end to foreign interference, which is striking as that would appear to undermine the UN efforts also.

3.1.4 Other United Nations Bodies

While the UNSMIL is the main instrument for UN engagement in Libya, other UN bodies have a role too. Here are three selected key bodies of the UN that have significant roles within Libya:

International Organisation for Migration

The IOM has been a key instrument in managing migration within Libya of internally-displaced persons and migrants from other countries [108]. While the IOM in principle is tasked with humanitarian assistance and saving lives, it has been criticized for focusing on implementing voluntary repatriations of migrants to countries of origin, as well as assisting Libyan authorities in intercepting migrants at sea [109]. There was also the issue that some migrants that were 'saved' by the IOM in Libya, often ended up in detention centers where oppressive conditions are reported to take place, including torture and sexual violence. Another notable criticism of the IOM (and UNHCR) is that, like the UNSMIL, they have much less representation in the east of Libya.

108   https://www.iom.int/countries/libya

109   See: Lowings, B. (2018) 'Libya: The EU's Policy of Migrant Containment'. *Brussels International Center for Research and Human Rights*. 12 March 2018. [Online] Available at: https://www.bic-rhr.com/research/libya-eus-policy-migrant-containment

UN Refugee Agency

The UNHCR has also coordinated and assisted the IOM with its operations within Libya. The UNHCR is mainly tasked with supporting the hundreds of thousands of internally-displaced persons within Libya, as well as the 43, 113 [110] refugees and asylum seekers. This is accomplished though its localized quick-impact projects, as well as refugee monitoring and life-saving assistance. But, like the IOM, the UNHCR has been criticized for focusing on voluntary repatriations of migrants as a solution to the issue of migrants within Libya [111].

UN Development Programme

The United Nations Development Programme (UNDP) is a key tool in supporting Libya's democratic transition and developing the suitable political conditions for democratic elections. An important project organized by the UNDP is Promoting Elections for the People of Libya (PEPOL) [112], which is a donor fund to support the operations of the HNEC, through assistance to legal frameworks, operational support and security amongst others. The project is due to end on 1 December 2020, and so far has been funded exclusively by the EU, and specific European states [113]. Over $11 million has been allocated in the combined budget,

with the EU alone making up over half of the budget ($6, 210, 500 (US Dollar)).

The BIC View

The range of UN agencies operating in Libya that are presented here are not exhaustive, however they demonstrate that the UN is operating in Libya across many fronts. For example, on migration and refugees through the IOM and UNHCR. These show a different side to the UN than the UNSMIL, and in turn potentially demonstrate the compromising role discussed in Chapter 3.1.1 between mediator and observer/witness of humanitarian issues. The UNDP meanwhile has more of a capacity building role in Libya, which while necessary for democratic elections, is compromised by underlying fault lines in Libya's polarized political landscape.

On another note, the EU is a key supporter of the operations of the IOM and UNHCR in Libya and has provided substantial financial backing for their operation [1]. However, this has led to criticisms that the interest of the EU in financially supporting the IOM and UNHCR is solely as a means of policing the European border, see Chapter 3.2.1 on this. This also goes some ways to explaining why the operations of the IOM and UNHCR have gained so much international attention compared to other UN agencies in Libya.

1   See: European Commission, (2017) 'EU Action in Libya on Migration'. *European Commission.* [Online] Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20171207_eu_action_in_libya_on_migration_en.pdf

---

110   http://www.unhcr.org/libya.html

111   See the praise that Vincent Cochetel, UNHCR Special Envoy for the Mediterranean, made regarding the success of voluntary repatriations in February 2018: http://www.unhcr.org/news/press/2018/2/5a8451f84/1000-refugees-evacuated-libya-unhcr.html

112   UNDP & HNEC, (2017) 'Annex 1 - "Description of the Action": Promoting Elections for the People of Libya (PEPOL)'. *UNDP.* [Online] Available at: http://www.ly.undp.org/content/dam/libya/docs/Annex%201%20-%20Description%20of%20the%20action_checked%20(003).pdf; http://www.ly.undp.org/content/libya/en/home/projects/Promoting-Elections-for-the-People-of-Libya.html

113   In order of financial contribution from highest descending: The Netherlands, Germany, France, the UK, Italy and Switzerland.

3.2 The European Union and Member States

3.2.1 European Union Policy in Libya

The EU supports the UNSMIL, and Special Representative Salamé, and in that regard considers the GNA to be the legitimate authority in Libya due to its mandate provided by the UN-backed 2015 LPA [114]. Also, the EU specifically articulates that it works with neighbours and regional partners such as the African Union (AU) and League of Arab States [115]. Prior to this, the EU supported the HoR as the legitimate authority following the 2014 elections [116].

However, aside from this the EU does not frame a specific political policy on Libya, instead deferring to the position of the UNSMIL. For example, High Representative/Vice-President Federica Mogherini of the EU stated on September 3 2018 [117], following the outbreak of violence in Tripoli:

"We call on all parties to respond positively to the UN's call for an urgent mediation meeting tomorrow and to cease hostilities immediately... I also assured [Salamé] of the EU's continuing full support for his work in the current days and also in bringing about a lasting solution to the crisis in Libya."

Existing Policy

The EU frames itself in the following way: "In Libya, the European Union is the main humanitarian aid provider, the main supporter of the UN agencies' programmes, the main bilateral cooperation donor as well as the first economic partner." [118]

According to the European External Action Service (EEAS) [119], the EU currently coordinates its relationship with Libya based upon a series of financial measures, as well as specific policies related to migration and security cooperation. The financial measures below are non-exhaustive, for example the EU notably supports the UNDP's Promoting Elections for the People of Libya programme to support the election process in Libya. However, the ones here are notable as these are the ones that the EU itself promotes as its operations in Libya on the EEAS website [120].

The EU provides much of its bilateral assistance (around €70 Million (Euro)) through financial measures, in turn usually coordinated through the European Neighbourhood Instrument and the Instrument Contributing to Stability and Peace. These include the following:

- Stabilisation Facility funding for the GNA to improve infrastructural facilities at the municipal level (€12 Million 2016-2019)
- Health sector support (€10 Million 2017)
- Civil society development programmes including "Support to Civil Society" and "Civil Initiatives Libya" (Over €8 Million)
- Humanitarian funding (€20.8 Million 2016-2017)
- Bilateral migration support (€20 Million)

114   https://eeas.europa.eu/headquarters/headquarters-homepage_en/19163/EU-Libya%20relations

115   Ibid.

116   El Kamouni-Janssen, F. & Abdo, I. (2015) 'Understanding Instability in Libya: Will Peace Talks End the Chaos?' *Clingendael.* 17 March 2015. [Online] Available at: https://www.clingendael.org/publication/understanding-instability-libya-will-peace-talks-end-chaos

117   https://eeas.europa.eu/headquarters/headquarters-homepage/50044/statement-hrvp-mogherini-situation-libya_en

118   https://eeas.europa.eu/headquarters/headquarters-homepage/48409/high-representativevice-president-federica-mogherini-visits-libya_en

119   https://eeas.europa.eu/headquarters/headquarters-homepage_en/19163/EU-Libya%20relations#_ftn1

120   Ibid.

Migration Policy

In addition to bilateral migration support, through the EU Emergency Trust Fund for Africa [121], the EU has mobilised €266 Million to be used through UN Agencies, EU Member States and NGOs to combat migration challenges across Africa, with the focus on this being Libya.

The EU adopted specific policies to address migration challenges in Libya. The states priority of the EU is to support vulnerable migrants and internally-displaced people, as well as local host communities to accommodate them. Considering the criticism following a report by CNN in November 2017 of the existence of "slave auctions" in Libya of African migrants, the EU, UN and AU established a joint Task Force [122] during the 2017 EU-AU Summit to assist the programme of voluntary returns implemented by the IOM in Libya, and the emergency transit mechanism of the UNHCR [123]. This focus on voluntary returns was made explicitly clear through the joint statement adopted by all three organisations during said-Summit [124]. In this regard, the EU claims [125] that as of December 2018, over 39,000 migrants have been returned through the IOM, and another 2,400 have been evacuated through the UNHCR mechanisms.

Security Policy

The EU also assists Libya with security related challenges through the Common Security and Defence Policy. EUNAVFOR Med Operation Sophia [126] was established in June 2015 in order to intercept suspected migrant vessels at sea in the Mediterranean. While the states aim of this was to save lives, and stop smugglers, this has assisted in the return of migrants back to the coast of Libya. This reality was reinforced in 2016, when Operation Sophia's mandate was broadened to include capacity building and training for the Libyan Coastguard (GNA coastguard), themselves implicated in the forced return of migrants to the Libyan coast while preventing the operations of NGO vessels in the Mediterranean seeking to take migrants to EU shores. More recently, Operation Sophia also assists in the combatting of oil smuggling and illegal exports.

EUBAM Libya [127] was established in 2013 as a border management mission, but due to security challenges was downsized and relocated to Tunis in 2014. Since December 2017, EUBAM has returned to Tripoli in a reduced manner.

The EU Liaison and Planning Cell [128] provide operational support to the UNSMIL towards improving the security and military State apparatus in Libya. Currently, this has involved assisting the Tripoli Security Plan implemented following the militia-based unrest in Tripoli in August 2018.

121   Ibid.

122   http://europa.eu/rapid/press-release_STATE-MENT-17-5029_en.htm

123   See: Lowings, B. (2018) 'Libya: The EU's Policy of Migrant Containment'. *Brussels International Center for Research and Human Rights*. 12 March 2018. [Online] Available at: https://www.bic-rhr.com/research/libya-eus-policy-migrant-containment

124   https://au.int/en/pressreleases/20171130/joint%C2%A0statement-%C2%A0migrant%C2%A0situation-libya

125   https://eeas.europa.eu/headquarters/headquarters-homepage/54794/au-eu-un-taskforce-one-year-joint-work-delivers-results_en

126   https://eeas.europa.eu/headquarters/headquarters-homepage_en/19163/EU-Libya%20relations#_ftn1

127   Ibid.

128   Ibid.

The BIC View

The EU has made it very clear that Libya is a concern insofar as the instability in the country has enabled the flourishing of human trafficking and illegal migration into Europe. Most measures relate directly to migration, and to security in terms of border management and search and rescue operations at sea, in turn related to measures to prevent or reduce migration into Europe. While the EU has mobilised a vast amount of financial capital for Libya, the EU is noticeably absent regarding a political presence. The recent comments of Mogherini reinforce this view that the EU has relegated its responsibility to hold a political position on Libya to the UN, and in turn that the EU will simply support whatever position the UN holds so long as migration into Europe is mitigated.

However, in virtue of the fact that the EU is so financially invested in Libya, and linked to the operations of the UNSMIL, the EU is a relevant player in Libya. And by not articulating its own position already, the EU is free to adopt one. With this relevance and opportunity, the EU is well-placed to develop and articulate a position on Libya, as it must do. There are clear signals that specific EU member states, namely France and Italy, have a desire to lead a political response to Libya's transition beyond the scope of the UNSMIL, as seen below in Chapter 3.2.2. If the EU can utilise this political drive to find a sustainable solution in Libya, they can be well placed to negotiate more directly and actively.

Ultimately, yes, migration has been, and continues to be a very important and public issue to the domestic population of EU member states. With the rise of populist parties across the continent that have weaponised migration to their benefit and have attempted to undermine the EU project itself and given that 2019 is an election year at the European Parliament, a political solution in Libya would be of great political benefit for the EU. There is something to be said here for if the EU has a clear position on Libya, one that is direct in its ambition to push the political process onwards towards resolution, then that position can be utilised as a means of suggesting the EU is proactively addressing migration challenges. As a way of answer towards its critics, the EU can be active, responsive and relevant whilst directly addressing concerns of its citizens and their national governments.

Additionally, there is a moral edge to this argument; Europe has at least claimed to be part of a global shared responsibility to help address humanitarian challenges, especially somewhere so geographically close as Libya. The EU has already framed its search and rescue operations and on-ground support for the IOM and UNHCR in this light. Escalating its humanitarian mission in Libya to include greater input and expertise on negotiation and mediation at the political level could then be considered the next logical step in this responsibility.
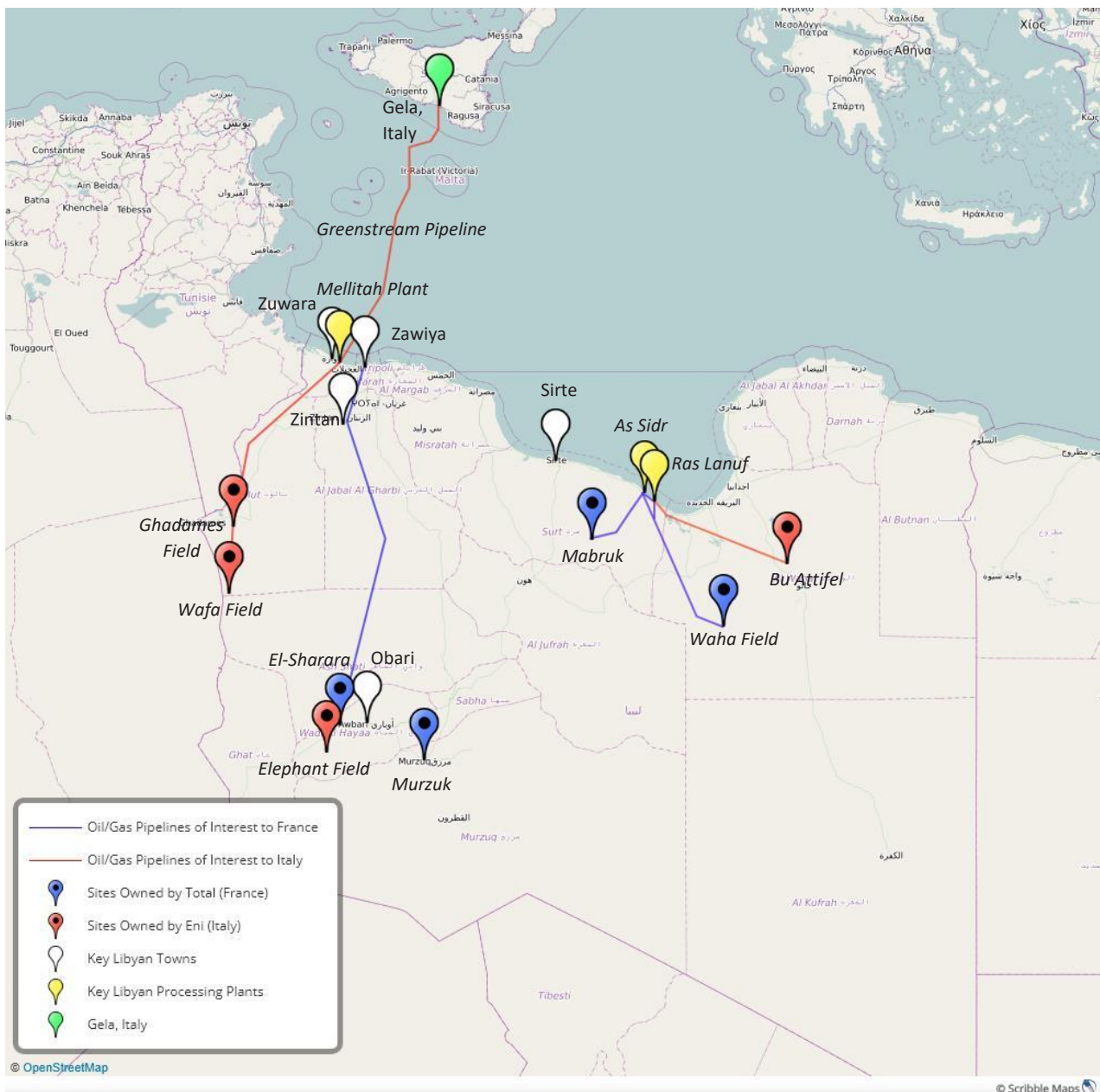
Graphic 2 - Map of French and Italian Oil/Gas Interests in Libya.

3.2.2 Member State Policy – France and Italy

France

Since 2011, France has had a significant voice regarding Libya. France was the first EU member state that recognized the NTC as the legitimate government in Libya [129], less than one month after the revolution began. France, along with the USA and United Kingdom (UK), was a key actor in the push for a military intervention to support anti-Gaddafi rebels, eventually leading to the North Atlantic Treaty Organization's (NATO) involvement [130]. More recently, French interests in Libya relate to issues of security and stability through countering

129   https://www.nytimes.com/2011/03/11/world/europe/11france.html

130   https://www.theguardian.com/world/2011/mar/22/libya-nato-us-france-uk

Islamist militias. Consequently, the French government has been a key supporter of Haftar and the LNA in the east. Since 2015, and the administration of former President François Hollande, France has provided military support to the LNA through military advisors and the deployment of Special Forces troops [131]. A key watershed moment was Hollande's statement on July 20 2016 [132] regarding the deaths of three French Special Forces operatives who died in a helicopter crash near Benghazi, in which the President acknowledged French military presence in eastern Libya.

Under current President Emmanuel Macron, French support for Haftar has become more overt, articulated by the positioning of the current French Minister of Foreign Affairs, Jean-Yves Le Drian, who also served as Minister of Defence under Hollande. Le Drian had a Defence agenda pushing for counter-terrorism in North Africa [133], and this seemingly followed with him to the Foreign Ministry. This security-based agenda, specifically worries regarding violent extremism in North Africa, led to a more sympathetic stance with Haftar [134]. There are also significant economic interests such as the operations of French companies such as Total in Libya's east [135], which have possibly contributed to this position as many of Total's onshore assets in Libya are in territories controlled by Haftar.

France has attempted to act as public peace-broker for Libya. President Macron organized two conferences in Paris, the first of which was on 25 July 2017 [136] between Serraj and Haftar, and was attended by UNSMIL Special Representative Salamé. The one-day meeting produced a ten-point declaration [137] committing to a "political solution" to the crisis, a commitment to the LPA, and a commitment that every effort would be made to integrate combatants who wished to do so into the regular Libyan armed forces. However, the declaration was unsigned at the time, which in hindsight was a warning to the lack of on-the-ground results.

The second conference was implemented on 29 May 2018 [138]. On this occasion President Macron invited both the Chair of the HCS, al-Mishri, and the Speaker of the HoR, Saleh, to the discussions, as well as representatives from several foreign countries such as Italy, Germany, Turkey, the United Arab Emirates, Qatar, and all of Libya's neighbours. At this time the four leaders agreed to "credible, peaceful" elections by 10 December 2018 [139]. They also pledged to achieve the constitutional negotiations necessary to provide legal guidelines for such elections by 16 September 2018. However, the agreement was unsigned and key players in Libya, such as the Misratan remnants of Libya Dawn and their anti-GNA political leaders, were not invited to the conference, a failing highlighted by the International Crisis Group [140]. Perhaps unsurprisingly,

131 https://www.reuters.com/article/us-libya-se-curity-france/libyas-u-n-backed-government-con-demns-france-for-not-coordinating-military-pres-ence-idUSKCN1010RW

132 https://www.wsj.com/articles/three-french-troops-killed-in-libya-while-on-anti-terror-opera-tions-1469007015

133 http://www.gmfus.org/events/conversa-tion-french-minister-defense-jean-yves-le-drian-lives-treamed

134 Harchaoui, J. (2017) 'How France is making Libya Worse'. *Foreign Affairs.* 21 September 2017. [Online] Available at: https://www.foreignaffairs.com/articles/france/2017-09-21/how-france-making-libya-worse

135 https://www.total.com/en/libya

136 https://www.diplomatie.gouv.fr/en/coun-try-files/libya/events/2017/article/libya-joint-declara-tion-25-07-17

137 Ibid.

138 https://onu.delegfrance.org/Political-state-ment-on-Libya

139 Ibid.

140 International Crisis Group, (2018) 'Making the Best of France's Libya Summit'. *International Crisis* Group. Brief-ing No 58. 28 May 2018. [Online] Available at: https://www.crisisgroup.org/middle-east-north-africa/north-af-

the September deadline for constitutional reform passed without much progress, and the December deadline expired without the holding of elections. Given the deterioration of security in the Libyan capital that occurred during August and September of 2018, this was expected by many political commentators [141].

More recently on 12 October, France increased its financial contribution to the UNDP's PEPOL initiative that aims to support HNEC in cultivating an environment for elections in Libya, from $236, 368 to nearly $1 million [142]. While this appears to be in line with recent French impetus for elections as soon as possible, this contribution is still less than both Germany ($1, 181, 840) or The Netherlands ($1, 666, 666), who themselves are surpassed by the EU ($6, 210, 500) in terms of financial contributions [143].

Italy

Italian interests in Libya stem primarily from its history as a colonial power, as well as its close geographical proximity towards the country, but for this paper will be traced to the 2000s. The then-Italian Prime Minister, Silvio Berlusconi pursued closer links with Gaddafi following his rapprochement with the west, and the two leaders met on a few summits including a Rome summit on migration in August 2004 [144]. By 2005,

Italy had opened the Greenstream natural gas pipeline to bring Libyan gas to Italy [145], and by 2008 Italy and Libya became even closer through the signing of "The Treaty on Friendship, Partnership and Cooperation" [146], which outlined closer bilateral ties including on investments, economics as well as illegal migration. Here, the Treaty called for mixed coastguards and greater border surveillance in containing illegal immigrants from the African continent into Europe. In return, Italy promised $5 billion in reparations for incidents that occurred during colonial rule.

During the events of 2011, while Italy did eventually join the NATO coalition, and allowed the use of Italian airbases for it, the Italian tone was less aggressive than France, the UK or USA. Berlusconi himself admitted he had opposed the NATO intervention but "had [his] hands tied" [147]. This was perhaps due in part to the risks associated with losing the ties to Gaddafi, but Berlusconi was otherwise preoccupied with more pressing domestic issues such as a scandal which at the time forced his resignation by November 2011 [148].

In more recent years, Italy has aligned itself with not only Tripoli, but the militias of Misrata [149]. While there is a strong likelihood that this is motivated by attempts to curb French influence in Libya through Haftar,

rica/libya/b58-making-best-frances-libya-summit

141   See: Lowings, B. (2018) 'Libyan Elections on the Horizon: A Step Too Far?' *Brussels International Center for Research and Human Rights*. 19 June 2018. [Online] Available at: https://www.bic-rhr.com/research/libyan-elections-horizon-step-too-far

142   http://www.ly.undp.org/content/libya/en/home/presscenter/pressreleases/2018/French-contribution-to-UN-electoral-initiative-reaches-USD-1-million.html

143   http://www.ly.undp.org/content/libya/en/home/projects/Promoting-Elections-for-the-People-of-Libya.html

144   https://www.telegraph.co.uk/news/worldnews/

europe/italy/1470270/Berlusconis-migrant-summit-with-Gaddafi.html

145   http://interfaxenergy.com/gasdaily/article/8443/libya-confounds-sceptics-after-civil-war

146   https://www.perfar.eu/policies/treaty-friendship-partnership-and-cooperation-between-italian-republic-and-great-0

147   https://www.reuters.com/article/us-libya-italys-berlusconi-exposes-nato-rifts-over-libya-idUSTRE-7270JP20110707

148   https://www.bbc.com/news/world-europe-15708729

149   https://worldview.stratfor.com/article/france-and-italy-each-go-their-own-way-libya; See also Italy's decision to deploy troops in Misrata: http://www.xinhuanet.com/english/2018-01/18/c_136906262.htm

this again relates to geography and its ties to economics and migration. It is imperative for Italy to secure its oil and gas pipelines, such as the Greenstream gas pipeline, as well as oil fields owned by the Italian energy supplier Eni [150]. Most of these operations, including the Mellitah processing plant near Zuwara on the Libyan side of the Greenstream pipeline, depend upon western militias for security.

In addition, migration is an extremely important domestic issue for Italy. The current Italian government, and its Prime Minister Giuseppe Conte of the Five Star Movement, gained domestic support through appealing to the fears of illegal migration from Libya into Italy [151], which increased substantially during the post-Gaddafi era [152]. And as most major migration routes from Libya to Italy run from Libya's west it is unsurprising that Italy has sought the support of western Libyan actors.

As these western groups are incredibly fragmented regardless, Italy has remained pragmatic in its approach to Libya [153], and has dealt with Misratan and Tripoli militias, as well as the GNA. Italy consistently cautioned against any elections in December 2018 due to fears of a deterioration of stability in Tripoli's west in contrary to the French position. The recent outbreak of violence in Tripoli during August and September of 2018 appeared to validate Italian concerns, and so Italy became more vocal in its criticism of premature elections in those months [154].

The latest step in this was to propose a new conference in Palermo, Sicily on 12-13 November 2018 [155] to establish new dialogue on the Libyan crisis. And in this context, maybe the latest attempt to push Italy to the forefront of Libya's future.

Interestingly, Conte was especially keen to state that France is both important to the new Palermo conference, and that President Macron will ensure that France would "devote the utmost attention" to the conference [156]. This statement, acknowledging France specifically, demonstrated that Italy was aware of the European source of disagreement to its Libyan foreign policy.

However, in a curious move, the UNSMIL stole the headlines regarding Libya in early November, when Salamé, on November 8, officially announced that the UN had shelved the December date for elections and looked towards elections in early Spring next year following a National Conference [157].

Unfortunately for Italy, in a blow to the Palermo Summit's credibility and representativeness, Haftar announced that he would not attend the summit despite a personal appeal by PM Conte [158]. While Haftar did eventually arrive in Italy, he did not go to the conference-proper, instead favouring direct bilateral meetings between representatives of states [159]. And due to their

150   https://www.eni.com/enipedia/en_IT/international-presence/africa/enis-activities-in-libya.page

151   https://www.dw.com/en/new-italian-pm-giuseppe-conte-vows-radical-change-in-inaugural-speech/a-44083685

152   http://www.msnbc.com/specials/migrant-crisis/libya

153   https://worldview.stratfor.com/article/france-and-italy-each-go-their-own-way-libya;

154   https://www.middleeasteye.net/news/un-renews-libya-mission-refuses-endorse-election-date-758038318

155   https://www.adnkronos.com/aki-en/politics/2018/10/03/italy-host-international-conference-libya-november_9Ktsqe2cbLDfXgNUbpN7SI.html

156   https://www.libyaobserver.ly/inbrief/italian-premier-says-palermo-conference-will-be-attended-high-level-delegations

157   https://www.reuters.com/article/us-libya-security-un/libya-should-start-process-for-elections-in-spring-u-n-envoy-idUSKCN1ND30S

158   http://www.ansamed.info/ansamed/en/news/sections/politics/2018/11/12/haftar-may-not-attend-palermo-summit-on-libya_80818397-8af3-4787-9859-f1f4b9596908.html

159   https://www.thenational.ae/world/mena/libya-s-

exclusion from such meetings, the Turkish delegation dramatically left the conference early [160]. With these dramatic events, and a relatively low-turnout of important international actors to Palermo, the result of the summit was ultimately limited to a show of good faith with an eye to the UN-arranged National Conference scheduled in 2019 [161]. And ultimately, with this lack of substance from Palermo, the new position of the UN on Libya was the most important news regarding Libya during November.

The BIC View

Both the French and Italian initiatives have failed in regard to Libya, and have in fact possibly exacerbated many of the country's problems. While the French initiative in Paris was over-optimistic in its timeframe for reform and elections, the Italian initiative in Palermo was overshadowed by speculation regarding the attendance of Haftar and the withdrawal of the Turkish delegation.

Both countries have sought to wrest control over the direction of Libya through political initiatives, but neither has accomplished this during 2018. If anything, they have been a hindrance as both initiatives bypassed and undermined the authority of the UN, who was supposed to be the mandated-broker for the Libyan political crisis. What can be seen instead is a large divergence between EU member state policy on Libya,

with France favouring solutions that give priority to Haftar and the east, while Italy favours western groups such as Misrata. They also represent the competing European interests in the region, security and migration respectively, along with economic interests related to oil and who has that access in Libya.

This divergence is both political for domestic reasons, as the governments of Macron and Conte are opposed ideologically, but also a result of the lack of a strong European stance on Libya. The absence of such a stance both encouraged and enabled individual states to take individual positions on Libya. But the result of these individual positions for both states appears to be more broken promises and a couple of strikingly similar photo opportunities.

What would be more effective to develop a successful solution in Libya, is for both states to work together as part of one singular unified European approach articulated and implemented at the European level.

key-political-players-commit-to-un-plan-after-palermo-talks-1.791132

160   http://www.hurriyetdailynews.com/turkeys-vice-president-oktay-storms-out-of-libya-conference-in-italy-138837

161   https://www.brookings.edu/blog/order-from-chaos/2018/11/19/the-palermo-conference-on-libya-a-diplomatic-test-for-italys-new-government/

Washington Post/ Getty Images

4. CONCLUSION - THE WAY FORWARD

The analysis presented here followed several lines of critique. Firstly, from a historical perspective we can see repeated failures in the past:

- A recurrent theme of marginalizing voices in negotiation processes, rather than inclusive processes. This includes, but is not limited to, measures by successive transition governments to sanction and impeach political rivals such as the sanctions against Gaddafi-era individuals in the old-GNC, force political agreements through intimidation and coercion such as the use of the LROR to force the old-GNC vote in 2013, and a growing polarization of groups into opposed political camps throughout 2014 and later.

- Over ambitious, and over-hasty timeframes which were not met, and thus provided ammunition to opponents of the political process to criticize their legitimacy. See for instance the extension of the mandate of the old-GNC in 2013/2014, and the failure to meet the various deadlines of the LPA political processes of constitutional reform and elections throughout 2017 and 2018.

- Unity through a narrative of shared enemies and opposition, for example Gaddafi in 2011 and IS in 2015

- An unwillingness on the parts of all political actors, both international and domestic, in abilities to compromise and adapt to the changing political reality on the ground. This is especially true regarding the shifting balance of power from the west to the east over the course of the post-LPA environment.

- A lack of innovation for solutions from the international community beyond the UN-backed LPA, originally signed in 2015, and including an absence of a position from the EU in this regard.

The flaws of the current international approach can be summarized as follows:

- A gradual reduction in the credibility and legitimacy of the UNSMIL as a honest-broker in the political negation. A process that was compromised from the outset as it undermined one side, the east and HoR, while seemingly rewarding the armed uprising of the new-GNC and the west in 2014 by giving them a space at the negotiating table. And a process that continued to be undermined as the UN's obligation

to report on humanitarian issues in places such as Derna, led to greater criticism of the east over the west.

- An undermining of the UN-process by a dis-united international community, including unhelpful interventions by France and Italy, both of whom failed to achieve significant results in Libya beyond media coverage.

- A lack of an active EU political response in Libya beyond humanitarian issues related to migration.

- A reverence to the LPA as the 'only' solution, despite critical issues in its implementation such as timeframes, a lack of political voices from all sides at all levels of the process, and key lack of specificities regarding the issues of Libyan national security.

The question then remains, what can be done to improve the political process in Libya? The answers to these challenges are complex. However, by exposing such flaws, we can see some key steps that may yield positive results.

The International Community Must Present One Unified Approach to Libya

If the international community wishes to see positive change in Libya, it cannot keep undermining the political process by playing out individual interests at the level of the Libyan dialogue. This would mean that the impetus of countries such as France and Italy, would need to be curbed to fall in line with one international approach. An approach that shows solidarity and a shared political will to help move the Libyan political process forward.

This also means that the EU will need to finally, and publicly, articulate a clear position on Libya, and stop falling back to the political whim of other actors.

New, Alternative Modes of Political Dialogue Must Be Explored

Since late-2015, the international community has focused almost exclusively on the LPA as the only means of a political solution in Libya. This was true even despite the deficiencies in the agreement itself, a lack of engagement by some key actors, and the changing reality on the ground.

This almost-dogmatic reverence of the LPA is becoming a stumbling block in terms of thinking of new alternative, innovative ways of moving the dialogue process forward. We believe that the LPA demonstrated a good thing insofar as it was a moment of dialogue and a shared sense of a desire of for a solution. If we take the goodwill shown here, we can move towards a new framework, one fit for purpose for 2019, that addresses the following key areas:

- A clear space for the views of the east and west at both the level of drafting and legislating of the new constitution and electoral law. One in which representatives from all sides share the responsibilities and are thus required to compromise and negotiate.

- A clear delineation of the competencies of the Libyan national security apparatus. The framework cannot pass the buck on the Haftar-question, it is a reality that he will be some part of Libya's future, so it is better to negotiate with him and his forces, as well as the western militias to find some sense of common ground as a viable security framework.

All Libyan Actors Must Be Engaged With Fairly

As discussed, there has been a disconnect between the international presentation of the Libyan crisis and the realities for people on the ground. There are many interest groups in Libya, as well as many citizens

living in the different realities of Libya too. This means that the international community must engage fairer in both its official high-level conferences and summits, and invite representatives from all stakeholders, and in informal methods of engagement such as at the community level across Libya's diverse towns and settlements. The international community must do better to engage with everyone in a fairer and more-balanced manner.

Unhelpful Timeframes Must Be Avoided

We have seen how the use of over-hasty and ambitious timeframes has been counterproductive in addressing the Libyan challenge. They have created space for opponents of specific political initiatives to criticize when these time limits were broken. It would be better in the future to avoid talking of time limits, and instead work towards goals in a more flexible manner. We must acknowledge that ultimately, Libya is still a post-conflict country building new democratic institutions and capacities from the ground up and that these processes take time. Instead of specific, rigid dates, it would be better to develop better monitoring mechanisms to follow the political processes throughout their implementation and have a continuous set of monitoring and evaluation measures instead. For instance, instead of setting a January 31 deadline for an election, there are instead mechanisms in place to evaluate sufficient progress and only when such progress is reached, should actors move to the next phase of implementation.

It Must Be Stressed That The Election of a President is the Least Important Aspect of the Process

There has been a continual deviation of political dialogue regarding Libya to the issue of who becomes President, or who can stand for election and when. Now this is important, but rather than the start of the democratic process, it is the end of it. Compared to more pressing issues such as institutional

development and capacity building, and the development of a legal constitutional framework, the election of the President is far more ceremonially important. Personality politics has often become a distraction from important debate and progress in Libya and should be avoided as much as possible. The political process must explicitly convey this, and instead prioritize those other important issues.

A New, Positive Vision for Libya Must Be Presented

The reality of Libyan politics post-2011 has been groups with very different interests and grievances failing to find common ground, and only coming together in the face of a shared threat. There has been remarkably little development of a positive vision for the Libyan people as a single unified country, with a rich culture and history. The language and framing of the political process must inherently be more positive and focused on the hope and ambition for a better more prosperous Libya for its people. Perhaps we need to revisit the original optimism of the post-revolution climate in Libya and regain some of this momentum and vision for a better Libya.

For example, we can consult the Libyan people about optimistic social and cultural projects for the future such as commissioning a museum of remembrance for those who have been affected by conflict in Libya. Perhaps, Libya can present a plan for how to revitalize its education and university sector, or sports sector, and maybe this could be accomplished through some Vision Plan for 2030. The most important thing is that this idea for Libya must be positive and include a place for all actors so that everyone is included and are then incentivized to work together for a better Libya.

The Possibility Of A New Principal Deal-Broker Must Be Explored

It was argued that the UN's role as a

negotiator in the Libyan process is becoming more compromised. Maybe it is time for a different negotiator, while keeping the UN as an important observer in the process, especially in its role as an advocator of human rights. The EU has clear interests in Libya, and yet has been noticeably absent at the political level so far. It has had success in international disputes and negotiation, and so could apply this expertise in the Libyan context. The EU could thus take a more active role in the mediation from the UN and spearhead a new drive to find a solution to the Libyan crisis. This may be of direct political benefit to the EU, as it can also present itself as taking an active role in addressing the Libyan challenge, as well as the effects of it, such as migration. But for whatever political spin that can be put on it, it is ultimately irrelevant should the EU choose to mediate and effectively bring the parties together in a more efficient, balanced and pragmatic way.

BRUSSELS INTERNATIONAL CENTER FOR RESEARCH AND HUMAN RIGHTS

The BIC-RHR is a research organization based in the capital of Europe that works to produce valuable insights into policy debates and political actions taking place in the MENA region and its effects on individuals.

We base our activities in three spheres of work: Social Outreach, Insights and Democratic Development. Combined, they provide a global perspective with actions focused on influencing the individual.

ABOUT THE AUTHOR

Ben Lowings is the North Africa Analyst at the Research department of the BIC-RHR.

Brussels International Center
Research and Human Rights