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## Can dialogue resolve Libya's political divisions?

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Libya-watchers believe that the country is now in a fragile state that can be easily shattered. In addition to rampant violence, the country finds itself today in a political impasse, with two different legislative authorities each claiming legitimacy. This has not only struck a blow to the democratic process, but has also encouraged the recourse to weapons and targeted killings in the struggle for power. This paper clarifies the nature of the current impasse and how it has resulted from the various deficiencies of the transitional stage. The paper concludes that Libyans have no choice but to sit together and negotiate. And while acknowledging that a new process of dialogue is currently underway under the auspices of the United Nations, the paper argues that the various factions must instead return to the cultural norm of direct exchange based on mutual trust in order to mitigate the conflict's intensity and resolve the crisis of parallel governments.

### Background

In October 2014, dialogue began in the southwestern region of the Libyan desert, in the oasis city of Ghadames. Once an important junction for caravans travelling between the Sahara and the Mediterranean coast, its inhabitants were a mixture of Arabs, Tuaregs, and Imazighen living in relative kinship and harmony thanks to their active *marbū'aa*<sup>1</sup>, which succeeded in preventing local disagreement from spilling past city limits. Upon arrival in Ghadames, the small number of dialogue teams intended to establish an exchange between the representatives of the Libyan House of Representatives and some of those boycotting its legitimacy. Also invited to join the dialogue were a number of prominent figures, including known supporters of the armed conflict, namely the Islamists. The faltering dialogue continued and, in January 2015, moved to Geneva before returning to Ghadames, where a

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<sup>1</sup> Dialogue in Libya traditionally occurs in a very specific cultural setting: the *marbū'aa*, quite literally a designated room attached to a private home, usually endowed with its own entrance, that serves to welcome male guests and – crucially – to foster exchange and mitigate tensions. Though the cultural norm of the *marbū'aa* has been in place for centuries, in the face of unprecedented conflict since 2011, the Libyan people have symbolically closed their *marbū'aa* and taken their differences to the streets in the worst and most extreme manifestations of violence. This breakdown in dialogue has only begun to change since August 2014 with the appointment of Bernardino León as UN Special Representative to the country and the effort to re-launch talks between warring factions.

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delegation from the General National Congress (GNC) joined, only to return to Geneva before finally ending up in the Moroccan city of Skhirat, on the Atlantic coast.

In Skhirat, the various Libyan delegations abandoned the tradition of the *marbū'aa* and sat in four different rooms, representing the House of Representatives, the GNC, certain boycotting deputies, and various independents, including two women representing civil society.

## **Present day**

The question is how did disunity among the Libyans reach such a state whereby they stopped meeting in the traditional manner to discuss their disagreements? To answer these questions, we need to revisit the three distinct stages of the transitional period that started with the February Revolution of 2011, and how this resulted in the country's current impasse.

### **Stage I: The National Transitional Council**

The Libyan uprising of February 2011 was one of several that broke out in the region, and perhaps the inevitable outcome of mass protests in neighbouring Tunisia and Egypt. However, the quick exit of Ben Ali in Tunisia and Mubarak's ouster by the military in Egypt did not directly impact events in Libya, which immediately dissolved instead into violence. Gaddafi's insistence on holding onto power and his disbelief in the unfolding *intifadas* against him in different Libyan cities caused divisions among the population that continued growing and deepening amidst celebratory reactions, leaving no room for preparations to avoid the complications that lay ahead.

The establishment of the interim National Transitional Council was announced as the political arm of the revolution that had now become militarized, with NATO's strong support from the skies. On 11 August 2011, the Council issued the Constitutional Declaration, designed to manage the transitional period until a permanent constitution could be drafted. The Constitutional Declaration included a comparatively lengthy chapter outlining in mathematical detail the transfer of power pending the issue of a permanent constitution. It determined that neither the Tunisian nor Egyptian models could be applied given the weakness and disarray of the military institutions. Instead, the document proposed an unfamiliar governance system. The fear of returning to dictatorship led to a system of "collective governance" that merged the legislative and executive authorities into one body, leaving the country without a head of state. Yet as a result of its simplicity, the document did not foresee what the transitional period might face in terms of disagreements. Although the spirit of the *marbū'aa* was present, the arrangement did not withstand the multiplication of power struggles and the increasing intensity of the militias' attempts to destroy the nascent democratic process.

### **Stage II: Legislative Elections and the February Committee**

The second phase of the transitional period witnessed an important historical event, namely the first peaceful transfer of power in Libya since independence - highly significant in a country that languished under dictatorship for more than four decades. In July 2012, over two million Libyan voters lined-up to vote for the first time in free and fair elections supervised by the High National Elections Commission, an independent and impartial body. Two hundred

deputies were elected to the GNC that enjoyed the same wide prerogatives as its predecessor; nonetheless, the period proved difficult as a result of increased struggles for power and the proliferation of weapons.

The situation resulted in Resolution no. 7 of 2012 where government forces besieged the city of Bani Walid, the last stronghold loyal to Gaddafi. This was followed by Political Isolation Law no. 13 of 2013 that excluded political figures who held high positions prior to the February Revolution from holding a political post in the future. This was a repeat of the mistakes committed by the very regime that the revolution had toppled. Decisions were now made upon mere suspicion; the working class and bureaucratic experts were sidelined and replaced by populist speakers and those carrying arms, greedy for power. Instead of focusing on the two most important issues - the formation of the Constituent Committee charged with drafting the Libyan constitution and the processes of transitional justice and national reconciliation - the GNC' priorities were diverted. It became involved in forming a government by allotting shares, granting generous salaries to armed "revolutionaries," compensating prisoners under the old regime without specified criteria, and distributing positions based on loyalty and regional affiliation.

Despite this, the nascent civil society still played an important role in the political domain, by focussing on volunteerism, public education, awareness-raising, lobbying, and expression of opinion. Organised protest movements, chief among them the "November 9" and "No To Extension" movements, alongside a number of media institutions and social media networks that had risen to prominence, applied pressure to bring about change. This pressure succeeded when the GNC formed a 15-member committee, known as the February Committee, representing six members of Congress and nine independents. The Committee was tasked with drafting a list of proposed constitutional amendments necessary for a peaceful transfer of power, to be given to the future House of Representatives legislative authority. The February Committee created the position of head of state, which required separation between the executive and legislative authorities, as well as a law for future legislative and presidential elections. This provided the opportunity for another rotation of power during the transitional period and before the permanent constitution was to be issued. In reaction to these proposals, however, the GNC committed another mistake at a critical moment: it only partially adopted the February Committee's proposals, approving the legislative elections law only. The House of Representatives was left to decide on whether to hold direct presidential elections, as the Committee suggested, or indirect elections based on the opinion of certain blocs in Congress, and in particular the extremist Loyalty to the Martyrs bloc. This marked another constitutional failure that, though on the surface seemed like a peaceful transfer of power, bore the signs of what was to come.

### **Stage III: The House of Representatives**

Elections for the House of Representatives were held in June 2014, in an atmosphere of fear and insecurity coupled with a sense of having been let down by the GNC' performance. The country suffered from a severe shortage of fuel and constant electricity blackouts, along with increased incidence of violence and targeted killings. In the city of Benghazi, where the new House of Representatives sat, violent clashes erupted between remnants of the Libyan Army and an alliance of revolutionaries and Islamists under the name of "Benghazi's

Revolutionaries.” On 25 June 25 2014, an armed group attacked the home of the prominent revolutionary figure and human rights activist Salwa Bughaighis, killing her and kidnapping her husband, who is still missing. This was followed in July 2014 by the killing in broad daylight of Fariha al-Barkawi, former member of the GNC, in the city of Derna.

During this increased violence, the GNC failed to redouble its efforts and stand in solidarity with the new House of Representatives, or assist it and hand over power. Instead it employed a variety of excuses not to do so. It alternatively claimed to be waiting for the procedural invitation from its leader, or used protocol regarding the location of the hand-over session, or claimed that holding the session in Benghazi was a violation since its airport was not working and life in the city was no longer secure. These obstacles, however, did not prevent the House of Representatives from assuming the power granted to it by successful elections, despite the difficult day-to-day conditions in the city. Indeed, in a session held in Tobruk in August 2014, an announcement was made to the effect that the House of Representatives was the official representative of the Libyan people.

On 13 July 2014, in a move timed to precede the announcement of the election results, an alliance of armed regional militias whose leaders came from the city of Misrata attacked Tripoli, beginning with the international airport where militias from the city of Zintan were based. The attack brought the democratic process to its knees; it also resulted in the government moving from its headquarters in Tripoli to the mountain city of Al-Baida, in the east of the country.

No sooner had one militia beaten the other in the capital than the victor of this bloody conflict announced the reinstatement of the GNC, and asked it to form a government. However, although the democratic process was still alive despite the infighting and bloodletting, and although the House of Representatives continued to meet and perform its responsibilities, the shadow cast by the war in Tripoli remained.

## **Conclusion**

The primary political obstacle the country is currently facing involves the relentless attempt to break the democratic process’ backbone by eroding the outcome of this election and the new legislative institution itself.

Despite all the difficult steps that were achieved in a relatively short time (the last four years), including the Constitutional Declaration, three different elections, (General National Congress, House of Representatives, and the Commission for Drafting the Constitution), the peaceful exercise of power, and various amendments to the Constitutional Declaration and the Election Law, certain failures in the fragile democracy could not be avoided because the greed for power and use of violence proved easier to use.

The democratic path seemed arduous and difficult and required resilience and patience; those who destroyed the path chosen by the Libyan people were unaware of the fact that they were destroying Libya and their own existence along with it. Despite all this, democracy in Libya is still alive and the need to support it is greater than ever today.

Legitimacy comes from the ballot box and its results. Minimising the significance of this means endorsing the coup against the democratic process, and allowing the power or powers derived from war and the force of arms to gain the upper hand.

The ongoing dialogue in Skhirat will only succeed if Libyans go back to the greater *marbū'aa* culture. Weapons must be fully abandoned and direct negotiation in Libya itself must be undertaken. Most importantly, all sides must recognize that the only solution, although difficult and time-consuming, is the democratic process.

### **About the author**

Azza Kamel Maghur is a Libyan lawyer and member of the Libyan Council for Human Rights established in 2012. She has worked on several cases involving political prisoners. A graduate of the Faculty of Law at Benghazi University, and awarded a DEA in international law from the Sorbonne University, Ms Maghur also lectures at the School for Judges in Tripoli. She has published short stories and articles, including in the New York Times.

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