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LIBYA - ELECTIONS REQUIRE A RE-NEGOTIATION OF POWER ARRANGEMENTS

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Six years after the first free elections in Libya, the country is deeply divided, with a sustainable solution to the ongoing conflict remaining out of sight. Following a diplomatic initiative by French President Macron, the four most important stakeholders in Libyan politics announced their intentions to hold elections by the end of 2018.

Six months later it is clear that elections will not take place any time soon, due to the absence of a legal framework and the tense security situation. For now, a re-negotiation of power arrangements is urgently needed in order to facilitate future elections. Simultaneously curtailing corrupt and powerful non-democratic actors, while including the Libyan population and militias, is of crucial importance in the power re-negotiation process.

Previous elections and power arrangements

After the fall of Gaddafi in 2011, Libya was on a good, albeit rocky path towards democracy. Following parliamentary elections in 2012, the transitional authorities handed over power to the newly elected General National Congress (GNC), which elected a Prime Minister. However, the GNC failed to push the democratic transition far enough before its term expired, and was replaced by the House of Representatives (HoR) in 2014. The handover of power to the HoR was accompanied by violent escalations, as the deteriorating security situation caused a voter turnout of less than 20%, while parts of the GNC refused to give away power to the HoR. Fighting in the capital Tripoli forced the HoR to relocate to the Eastern city of Tobruq.

The international community, under the leadership of the United Nations Support

Mission in Libya (UNSMIL), initiated a mediation process to end the civil war-like situation. Although a settlement in form of the Libyan Political Agreement (LPA) was reached by the end of 2015, the newly installed and Tripoli-based Government of National Accord (GNA) enjoyed little legitimacy inside Libya. Since important actors with power on the ground were excluded from the negotiation process, the GNA, until today, is neither recognized by the HoR, the legitimate Libyan legislative body, nor does it command any real power on the ground, including in areas near its own seat of power.

The weakness of the GNA, as well as the permanent failure of the HoR to pass laws, demonstrates the failure of not only the

last elections, but also of the last UN-guided negotiation process.

Holding elections under these circumstances would have an escalating rather than stabilizing effect. Local armed actors in all parts of the country continue profiting while undermining the few democratic remnants in order to strengthen their own position.

The myopia of European Diplomacy

The diplomatic triumph of French president Macron bringing the four most important Libyan politicians to one table and making them announce elections for December 2018 remains a symbolic act. From the onset, the announcement faced hefty criticism due to a missing constitutional, and incoherent institutional framework, as well as the fact that the ability to conduct free and fair elections was impossible.

The announcement to hold elections within six months in a conflict ridden country such as Libya reflects a shortsighted and superficial European diplomacy towards Libya. While the main interest of the immediate neighbor states like Malta and Italy, as well as the rest of the EU, is to curtail migration towards Europe, France has concentrated more on fighting extremism in Libya. Although important for the internal cohesion of the EU, the focus on migration relegates the establishment of functioning institutions as well as the well-being of the Libyan population to an issue of secondary importance. Additionally, Libya enjoys little international attention, and most diplomatic resources are directed to other conflict hotspots.

A second important diplomatic summit in Palermo in autumn 2018 failed to achieve the desired outcome. Nevertheless, numerous working meetings concerning primarily the economic and security situation were held, and the elections were postponed to June 2019. Some initiatives, such as continuing preparations for a con-

stitutional referendum, economic reforms, and new security arrangements in Tripoli are signs of a positive change, especially after heavy fighting in September.

A comprehensive negotiation process

The political competition that democracy brings with it often has destabilizing effects in an unstable and violent environment. For this reason, an internationally guided re-negotiation process establishing power arrangements in Libya can mitigate many of the risks elections may bring about.

The main cause for the crisis in Libya is the lack of broad, nationally recognized legitimacy of any political body or state institution. A negotiation process could counteract this issue if it is truly inclusive. The structure of Libyan society, which is to some extent still hierarchical, is therefore a huge advantage. By inviting tribal authorities and elders, as well as local elected personalities and representatives of militias to the negotiating table, one ensures sufficient negotiation partners to address the vast majority of Libyan society. All these representatives must agree on basic matters in order to reach a national consensus and enable functioning power arrangements. At the same time, the dialogue must continue on an institutional level. Several promising initiatives started in the second half of 2018: Dialogue rounds between members of the HoR and its counterpart in Tripoli, the State Council, unification talks between the two central bank branches, negotiations to unite the armed forces and talks about a national security architecture.

The lack of a constitutional framework to organize daily life and guarantee rule of law is another factor contributing to the current deadlock. Although a constitutional draft was finalized by the summer of 2017, a constitution has yet to be implemented. The inability to deliver basic democratic services to the Libyan population reflects the struggle and fight over

legitimacy, sovereignty of interpretation, and competencies within the fragmented state institutions. The ineffectiveness of state institutions can be solved through well guided negotiations rather than elections.

Besides that, implementing the urgently required security sector reform would likely be easier when armed actors are not competing for votes and influence. The predominance of the Libyan National Army (LNA) in eastern and parts of southern Libya, as well as the hegemony of a few militia leaders in Tripoli who pressure the Government of National Accord on a permanent basis, are the main sources of the political deadlock. Only an inclusive negotiation process can create new security arrangements in all parts of the country. This would not only help the government to gain more control over militias, but also empower the population since arbitrary actions of the militias are one of the main causes of insecurity.

The negotiation climate in Libya is dominated by a lack of willingness to both find a working compromise, as well as sacrifice influence in order to come to an agreement. Even elections will not effect a change as long as too many actors profit from the civil war-like situation. The only way out of the current impasse is to establish a guided negotiation process. Additionally, it is crucial that the EU and the United States (the US only played a minor role in Libya in the previous years) exert a certain degree of pressure as powerbrokers in Libya in order to encourage a compromise. Absolute impartiality, as well as limiting the influence of internal and external spoilers are essential.

The quest for a sustainable solution

The UN-led negotiation process of 2014 and 2015, which finally led to the establishment of the Government of National Accord, demonstrates what the future negotiation process should not look like. In contrast to prior negotiations, not only ac-

tors with political legitimacy, but also those with actual power on the ground must be invited to the table. There are three main tasks to be addressed in negotiations:

Amendment of the Libyan Political Agreement

A promising initiative to counter the institutional deadlock was the series of meetings between members of the HoR and State Council (SC), the two legislative chambers, to amend the LPA. The LPA was not, as originally intended, approved by the HoR. However, it serves as a framework for state institutions. Therefore an amendment of the LPA plus its approval by the HoR is necessary and might bring sustainable stability.

The most important amendment proposal would see the defunct PC reduce its members from 9 to 3, one for each Libyan region. However, Tripolitania, the most fragmented region, could not agree on one candidate. As several members from the PC laid down their office due to threats by militias and Serraj, head of the PC, monopolized power within the body, a reform of the PC is urgently required.

Security Sector Reform

In addition to a reform of the PC, a security sector reform (SSR) is the second critical point which has to be addressed in the future negotiation process. Over the years Libya has turned into a hub for militias, which are paid by the state, but act outside of state control.

Directly related to this is the question of the unification of the armed forces. Khalifa Haftar, who in 2015 was appointed army chief by the HoR and is the de-facto ruler over Eastern Libya, refuses to give control over the armed forces to a non-elected person. As security is vital for daily life, nationwide security concepts and arrangements, similar to the one negotiated for Tripoli after the clashes in September 2018, have to be part of the negotiation

process. However, if one considers the degree of fragmentation of the militia landscape, a solution seems impossible without alternative security concepts compatible with local power relations.

Redistribution of state funds

Third, the redistribution of oil and gas profits must be negotiated. As it is essential for the local economy that oil and gas exports continue at a high level, the distribution of income must be fair and transparent. Directly related to this, economic reforms such as the ones initiated in the second half of 2018, must be enhanced. The tendency of many militias to enrich themselves by limiting cash in their area of control and worsening the cash liquidity crisis can only be confronted by nationwide economic reforms.

Ultimately, the wider population as well as the most influential militias must profit from the re-negotiation of power arrangements. At the same time, the international community must exert pressure on certain parties and foster a compromise. Unless this occurs, there is no sustainable solution to the ongoing exploitation. Libya's abundant resources could make it possible that everybody gets their fair share of Libya's wealth. The prevalent approach of neglecting difficult but important negotiations about the amendment of the LPA, security sector reform or the allocation of state funds in favor of calling for elections to solve all problems cannot bring continuous stability.

Conclusion and Recommendations

Stability before elections: Premature elections without a clear framework for the post-elections phase must not be supported by the EU. Successful elections with a

significant voter turnout are nonetheless crucial and remain the long term goal.

Inclusion of all actors: All relevant actors, including those with power on the ground, local elected personalities, tribal authorities and those who are supported from abroad, have to be part of the negotiation process. Only when enough legitimacy can be guaranteed will the outcome be respected by all sides.

Transparency and fair power distribution: Transparency must be the number one guideline throughout the negotiation process and outcomes have to be communicated openly to the population. Regarding access to high offices, transparency and fairness are essential in order to prevent new conflicts from emerging.

Building on existing structures: The future negotiation process must be built on existing agreements and institutions. Starting the negotiation process all over again would have a destabilizing effect.

International impartiality: The negotiation leaders, be it UNSMIL or a group of nation states, have to be absolutely neutral in order to enable a functioning settlement. Those states and actors which do not adhere to this must be brought into line in order to enable a diplomatic compromise.

Pushing towards a compromise: If necessary, the international community must exert influence in order to push towards an agreement. All international actors must toe the same line for the good of the Libyan population. However, a compromise should not be made at any price.

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