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STATE LEGITIMACY AND LOCAL GOVERNANCE IN LIBYA: A READING

SUMMARY AND MAIN RECOMMENDATIONS EMERGING FROM A SEMINAR ORGANISED IN TUNIS, FRIDAY 9 DECEMBER 2016

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Five years after the fall of former president Moammar Gaddafi, instability, insecurity, war, and political divisions still prevail in Libya. In Tripoli, the chairman of the UN-backed Government of National Accord, Fayed al-Sarraj, claims that he is the only legitimate prime minister; further east, the Tobruk-based House of Representatives has not yet agreed to recognize al-Sarraj's legitimacy. Moreover, other powerful individuals claim that they are indispensable actors in the country. One such actor is ex-prime minister Khalifa Ghwell who in mid-October 2016 orchestrated a coup attempt *against* Prime Minister al-Sarraj. Another key contestant is general Khalifa Haftar, commander of the Libyan National Army (LNA), and a rival to the al-Sarraj-led Government of National Accord (GNA). Haftar's latest "coup" was in September 2016, when he took control over important eastern oil export terminals before delivering them to the National Oil Company. While Haftar

had been an important political figure in Libya, this move demonstrated the powerful means at his disposal as well as his personal quest for a national destiny.

This complex political environment is stressed further by a number of other threats and challenges. The uncertainties regarding the adoption of a new constitution, the war against Daesh and other radical movements, the key role of militias with conflicting political agendas, ideological divisions, the country's faltering economy, and the role of tribes and clans all combine with a governance vacuum to jeopardize Libya's future. Another key aspect will be the economic well-being of the country's people, and whether or not the economic demands of the population are being appropriately considered.

Libya's successive governments have all failed to address the population's basic needs. As a result, many Libyans have turned to local governments, adding further to national divisions. There are a variety of drivers of national division. Geography, identity, and security concerns all help determine the population's political affiliation. Currently, many Libyans look to local leaders and representatives they think can best defend their interests.

Some Libyans seek solutions by looking to their municipal councils, while others favor religious, tribal and/or clan leaders. A certain segment of the population does believe in national leaders, such as Fayed al-Sarraj or Khalifa Haftar, but it is hard to know the extent to which any such personality could represent a majority of Libyans. This complex political situation makes it increasingly important to correctly identify the trends in Libya's most important towns and regions.

To improve understanding of these trends, Konrad-Adenauer-Stiftung, in cooperation with Strategia, organized a seminar in Tunis on December 9th, 2016, entitled "State Legitimacy and Local Governance in Libya." Nearly forty guests shared their views on how to address Libya's most pressing challenges. Participants represented many sectors of Libyan civil society: politicians, academics, human-rights activists, humanitarian workers, and civil-servants. Participants came with different, and at times conflicting, ideological points of view.

The seminar addressed four main topics: an overview of the political and institutional reality in Libya; the political prerogatives best left to local government; the aims of the Libyan civil-society amidst the growing role of the country's tribes; and the global impact of local, national, and international perspectives on the country's future.

Libya's Political and Institutional Realities

Many Libyan towns and regions face instability and insecurity. Tripoli and its neighborhoods fall under the rule of militias with divergent political and ideological agendas. Despite appearances, the situation in Benghazi is hardly better: security concerns remain a problem in this important eastern city and clashes with radical groups continue to plague areas in the Western part of the city. The duration and intensity of the fighting against Daesh in Syrte indicate the degree of insecurity that prevails in some parts of country as well as the limited fighting-capacity of Libya's armed battalions. Aside from this, the clashes that occurred at the end of 2016 in Sebha between two important tribes demonstrate the uniqueness of the Libyan political situation as well as the extent to which the country suffers from a growing political and institutional void.

We cannot explain the fragmentation of Libya's military by blaming the absence of regular state institutions during the reign of Moammar Gaddafi. The political void that prevails in Libya today is also due to the failure of the UN-led process of reconciliation. The Tripoli-based government, set-up following the Skheirat agreements (December 2015), lacks both power and sovereignty. Compared to the government in Tripoli, the rival

institution in Tobrouk, led by Abdallah al-Thinni, seems to be in a position of strength. Al-Thinni's disagreements with the government of al-Sarraj will continue as long as the House of Representatives does not recognize the Government of National Accord (GNA).

Libya's political divisions favored the emergence of armed groups and brigades that do not respond well to orders from the government. Well-known examples include Bunyan Marsous (BM), a coalition of fighting forces that originates from Misrata, and the Libyan National Army (LNA), which follows the orders of the east-based field marshal Khalifa Haftar. BM and the LNA are allegedly the most powerful military "institutions" in Libya. That said, they are rivals who have refused to share a common agenda, adding to the uncertainty over the future of the country.

The power of militias and the corresponding insecurity have also had a direct impact on the humanitarian and economic situation in Libya. Kidnappings are common in the country. Women, children, as well as skilled professionals, such as engineers, have mostly been the targets of these kidnapping. This level of uncertainty has put the process of national development on hold and decreased the public's access to basic public services.

The state of the health sector is extremely worrying. The increase in the price of medicines, the impossibility for hospitals to deliver proper health services, and the spread of diseases, all present great challenges for the population. Recently, seventy-three babies died in southern Libya due to the deteriorating state of the country's health sector.

The ability of the population to access services such as water, sewage, electricity, and telecommunications is sporadic, increasing the burden on the population. Migration remains a core issue with important consequences for the lives of Libyans. Everyday, Libyans and non-Libyans alike depart from the country's coast in order to cross the Mediterranean. Migrants are aided by cartels profiting from illegal migration. Camps have been set up to provide basic services to migrants but their efforts have been complicated by inefficiency and inadequate facilities.

Many foreign countries are involved, directly or indirectly, in Libya. The United States, France, Italy, Russia, Egypt, Turkey and even some Gulf states have involved themselves in varying ways in Libya. Many Libyans believe that this foreign involvement has created negative externalities. Ultimately, while some voices continue to call for a democratic transition in Libya, the most likely political outcomes for the time-being are the establishment of military rule and the reign of militias.

What prerogatives for local governments?

The important role of local governments is not a new phenomenon in Libya. Local governance, exercised through popular committees, was present during the rule of Moammar Gaddafi. Five years ago the Interim National Transitional Council adopted Law No. 59 of 2012 which affected the Local Administrative System. Law 59 helped define the role and duties of local and municipal councils, determined the powers dealt to governors and mayors, and decided the amount of financial resources to be allocated to provinces and municipalities. Reading through the law's eighty articles makes clear that the writers of Law 59 did not think it necessary to differentiate between the concepts of "local administration" and "decentralization.", while instability and political division have also not allowed the full implementation of some of the article's key principles.

Municipal councils have been set up in Libya and their members are directly elected. Municipal councils fall under the purview of the Ministry of Local Governance (Wazarat al-Hukm al-Mahalli). However, the duties and activities of municipal councils should be reinforced. As of January 2017, more than half of Libya's forty municipalities suffer from insecurity.

In some municipalities, elected local officials have been replaced by military figures. Such an outcome undermines the population's democratic rights, increasing pressure on political systems. The arbitrary appointment of military officials--who seek to prove their importance to the country's future-- indicate the level of insecurity plaguing many Libyan towns. A key question going forward: how do Libyans view these developments? So far it seems that many voices stand in opposition to further "militarization" of Libya's local institutions, but yet, oftentimes these voices go unheard.

Municipal councils have a very important role to play in Libya, especially since their proximity with people makes them aware of how Libya's political trends affect life on the ground. Furthermore, municipal councils can help limit the violence provoked by the illicit flow of weapons throughout the country. Indeed, progress starts with local administrations having the capacity to assess where weapons are and who is using them. Moreover, municipal councils are able to directly communicate with the militant groups and individuals responsible for the violence. They can also reclaim weapons from militant organizations based on terms of agreements that can include the notions of forgiveness and reintegration.

The problem with local government authorities is that, while they lack money, their members also happen to be divided based on their political or ideological allegiances. The rejection by a majority of the Libyan youth of any overwhelming role for military leaders is a message that must not be missed. The country also needs to achieve serious reforms if it wants to take advantage of the pivotal and positive role that local government authorities can play. This is why an emphasis must be placed on agreeing on a new Constitution, reforming local administration, adopting a law for the functioning of the provinces (muhafazat) and appointing qualified people.

All of these objectives can hardly be achieved as long as Libya lacks the presence of a strong sovereign government. And this is where the UN and Libya's backers can have a useful contribution, through sharing their experiences and giving relevant advice.

Civil society and the importance of the tribal factor

Civil society organisations (CSOs) existed formally under Moammar Gaddafi, but they only became relevant and active starting from 2011 onwards, thanks to the motivation of the Libyan people as well as the considerable support given to them by many public and private donors.

Five years on, it is easy to notice how limited the contribution of Libyan CSOs to "achieving the spirit of the revolution" has been. Obviously, positive examples exist, such as the experience of Jam'iyat al-Sa'dawi, a Fezzan-based CSO that became a political party. That said, the reality is that most CSOs have not met expectations. The degree of their enthusiasm had nothing to do with this; CSO members were very motivated from the very beginning, and many of them earned considerable financial support from various donors.

Nevertheless, because of political divisions, security chaos, random circulation of weapons, and the affirmation of tribal and/or identity irredentism (ta'assob), CSOs could not claim to have changed the Libyan landscape. Their belief that changing Libya would be simple given its few inhabitants, the large youth population, and significant oil reserves, was shattered. A vibrant civil society remains the core of nation-building, but the current situation in Libya does not allow for this. Rivalries, instability, political and ideological divisions, direct threats against CSOs and their members, and general insecurity are among the main factors forcing CSOs to hold off on activities. Political parties are becoming isolated in similar ways.

Furthermore, at a moment when governance vacuum proves problematic, tribal trends continue to have a considerable impact on social evolutions. This influence can be both positive and negative. On the one hand,

there are situations where tribes cooperate with security forces and border guards in the fight against smuggling, particularly along the borders with Egypt and Tunisia. On the other hand, there are many cases (Sebha, Tobrouk...) where it is obvious that tribal tensions and rivalries only add to instability. Tribal disagreements, however, are typically resolved due in part to the presence of respected tribal members on committees of mediation.

Tribes have a history and members build on memory, follow ancestral traditions, and even guarantee social justice. Their importance is why the Libyan population and political leaders take the opinions of tribal leaders seriously. Even Moammar Gaddafi would rely on agreements with tribes and clans in an effort to ensure stability. Currently, political divisions and the absence of state sovereignty give tribes an even more pivotal social role. Tribes will remain important actors in Libya, but the question is whether they will have full sovereignty in parts of Libya due to the absence of a central government. Many Libyans do feel that in the twenty-first century it can be problematic to over-emphasize the role of tribal dynamics. Nonetheless, there remains a strong tribal factor in Libya and this system must be taken into consideration, especially given that tribes have a considerable impact on security issues.

The way forward

A single model of governance cannot define Libya. Libyans disagree over which institution holds the most power in society. The main institutions vying for power are: the Presidential Council, the Government of National Accord, the High Council of State, and the House of Representatives. All of these institutions have varying degrees of power and influence, but no one body has sovereignty over the whole of Libya.

This struggle for power raises the issue of the role of municipal councils especially in regards to the tribes, clans, and non-state actors who have recently had an expanding role in Libya. Are local government administrations in a position to compensate for the national political void? They most likely are not, especially in the short term. In their effort to consolidate power, municipal councils not only require financial means and capabilities, but also a unified vision of governance. Members need to be confident that Libyans do not perceive independent decisions by local governments as acts of treason.

Municipal councils also need to consider how "official" Libyan institutions – PC, HoR, etc. - might react towards independent initiatives. In Libya, like many Arab countries, decentralisation has given rise to geographic partitions in governance.

These issues recall one of Libya's essential dilemmas: is a strong central government necessary to avoid further divisions? Or can Libya thrive under a system of federation while pushing for decentralisation?

Currently, the prospect of setting up a strong, central Libyan government is illusory. On the other hand, allowing local actors (municipal councils, tribes, local leaders...) to have more power could provoke a strong, negative popular and political reaction. The international community has an important role to play in resolving this issue. Libya's backers should focus on the following:

- Continue to encourage conditions for the development of a strong central government;
- Focus on the creation of a legitimate, strong army that would bring back security;
- Consider the opinions of all Libyans (many official political parties in Libya feel they are ignored even though they represent significant trends within the population);

- Organise regular inter-Libyan meetings to encourage the exchange of opinions and to create opportunities for reaching agreements;
- Help clarify the demands of the tenants of decentralisation and local governance in a way that will promote stability;
- Move beyond taboos and recognise that some social dynamics, such as the tribal factor, have to be dealt with;
- Help address Libya's many challenges (migration, oil, cash crisis...) by always framing them in terms of an "inter-Libyan agreement".

Libya does not lack support from the international community, but the country needs honest brokers that are aware of the key challenges and social/political dynamics. Helping Libya necessitates that we revisit our pre-conceived ideas based on *what is* rather than *what we wish for*.

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