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EXECUTIVE SUMMARY

The announcement of a plan to break Libya's political impasse by the Special Representative to the Secretary General (SRSG) was received with mixed reactions. The plan is yet to be completely detailed and implemented as the House of Representatives (HoR) and High Council of State (HCS) are given another chance at attaining a constitutional and legal basis for elections this year. Slow progress on the political track was however overshadowed by rare high-level meetings between eastern and western Libyan military actors. How the SRSG can replicate this progress in the political track and gradually carry out his plan to restore momentum around key milestones will be crucial in deciding whether Libya has a realistic chance of holding elections this year.

- 1. The announcement of the SRSG's plan has been a step in the right direction but has not yet resulted in enough momentum to secure elections this year.
- 2. Reception of the SRSG's plan by Libya's political elite ranged from lukewarm support to outright rejection.
- 3. Foreign powers are far from united in supporting the UN-backed initiative.
- 4. Despite the SRSG's criticism of the HoR and HCS, the two bodies have until June to adopt electoral laws through their 6+6 joint committee.
- The SRSG must play a difficult balancing act since Libya's fragmented political landscape does not allow him to direct the political process as some would prefer.
- 6. In Tripoli, the sketch of the SRSG's plan offers hope for the Government of National Unity and Presidential Council to steer Libya's political fate away from the HoR-HCS track.
- 7. Military actors are lending crucial support to the SRSG to push his project forward.
- 8. While Tripoli and Benghazi are engaged in parallel security campaigns, the UN and Libya's civil society stress the pressing need for real security sector reform.
- 9. Dispute over sovereign positions is affecting institutional independence and efficiency.
- 10. The nature of the first meetings of the 6+6 joint committee in April will help in deciding whether the SRSG needs to double down on implementing his plan instead of catering to the HoR-HCS track.



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UNPACKING LIBYANS' PERCEPTIONS OF THE UN-BACKED INITIATIVE

Reception by established Libyan political circles to the Special Representative to the Secretary General's (SRSG) plan has ranged from lukewarm support to outright opposition.

On February 27th, the Special Representative to the Secretary General (SRSG) briefed the United Nations' Security Council (UNSC) on his plan to have general elections in Libya by the end of 2023. Revolving around the idea of a High-level Panel for Elections (HLPE) to unblock legal, security, and logistical obstacles to the holding of polls, the UN-backed initiative garnered much attention among Libyan press and social media, and also elicited strong reactions from the country's political elite. As expected, many political stakeholders felt threatened by the initiative, above all the House of Representatives (HoR), which believes that its so-called Libyan-Libyan political process held in tandem with the High Council of State (HCS) is being bypassed. Bathily's statement in New York was particularly harsh toward the HoR-HCS track, pointing the finger at their unsuccessful attempts to agree on a constitutional basis. This stance was not accidental since the SRSG hoped to pressure the two chambers into adopting a constitutional basis, instead of immediately sidelining them. Nonetheless, the HoR's leadership did not appreciate Bathily's posture and attacked his statement for being "inaccurate" due to its characterisation of the parliament and understanding of the 2015 Libyan Political Agreement. It also accused the SRSG of bias and turning a blind eye to other actors' disruption of the electoral process, notably Government of National Unity (GNU) Prime Minister Abdulhamid Dabaiba.

Distrust and criticism of Bathily's plan was also found online among ordinary people, thus showing how difficult a terrain the SRSG is treading since many Libyans are simply no longer interested in international-led processes after 12 years of failed attempts and controversy. Other political actors were more cautious than the HoR in discussing the SRSG's proposal and mainly focused on its lack of clarity. For instance, HCS Chairman Khaled al-Mishri said his institution did not reject Bathily's initiative outright but would wait to see how it can be harmonised with the HoR-HCS track. Government of National Stability (GNS) Prime Minister Fathi Bashagha displayed an ambiguous stance regarding the proposal, publicly voicing his government's support to the UN's efforts to "break the political stalemate and organise elections," but also centering on the argument of Libyan ownership and of the GNS being Libya's sole legitimate government. Despite their differences, the HoR, HCS, and GNS are all united in keeping the intra-Libyan process paramount over any international process and in focusing on removing Abdulhamid Dabaiba from power prior to elections.



Overall, the only political body that unequivocally welcomed Bathily's statement was the Presidential Council (PC), which has an interest in seeing Libya's political fate steered away from the HoR-HCS track. The GNU and Libyan National Army (LNA) have also voiced their support to the SRSG's plan, with Dabaiba saying it aligned with his government's objectives and Khalifa Haftar meeting Bathily in Benghazi, However, the reasoning behind their support might differ as seen with a large portion of Libya's public opinion. On the one hand, forces at odds or simply disappointed by the HoR-HCS track want to see an alternative process, either because they want to be able to influence it or simply because they want an end to national institutions' grip over Libva's political fate. On the other hand, parties still vested in the HoR-HCS track want to see Bathily as nothing more than a facilitator. In other words, the SRSG is faced with a difficult balancing act in that he is seen as both a mere facilitator and a forceful kingmaker by different audiences. It is important to state that many independent political parties and ordinary Libyans have also enthusiastically welcomed Bathily's plan and see it as their country's ultimate chance at democratic transition and getting rid of what they see as illegitimate institutions dictating the country's political future.

A LACK OF INTERNATIONAL CONSENSUS OVER THE UN-BACKED INITIATIVE

Despite wide-ranging consultations with foreign actors, the SRSG has not yet managed to create a united international front supportive of his initiative.

Reception of Bathily's plan was also divided on the international level. Countries such as the United States, United Kingdom, France, Germany and Italy, which form the P3+2, not only welcomed the proposal but were immediately engaged in championing it among Libyan stakeholders. On the other hand, regional countries such as Turkey and the United Arab Emirates (UAE) were non-committal, while Egypt reflected the HoR's stance and outrightly rejected the UN-backed plan. Cairo believes it has invested far too much effort in the HoR-HCS track for it to be supplanted by an alternative process that does not specifically address its key national security considerations. Although some Egyptian companies continue to work with the GNU, Cairo has for months downgraded its ties with the Tripoli-based government and has backed the HoR-HCS track's objective of removing Dabaiba from power and establishing a unified executive authority before finally holding elections. Recent Turkish steps to advance normalisation with Egypt, as seen with Foreign Minister Mevlüt Çavuşoğlu's visit to Cairo, are not yet considered enough to dissipate Egyptian worries regarding GNU-Turkey military ties and maritime demarcation agreements. Moreover, Egypt remains unconvinced that the SRSG's plan will lead to simultaneous presidential and parliamentary elections since it believes that some members of the P3+2 in addition to Turkey are opposed to presidential elections due to their conten-



tious nature. This is problematic for Cairo since, in its view, the holding of parliamentary elections only would overhaul Egypt's sway over the HoR without giving it an opportunity to influence the executive authority.

On March 16th, the UNSC issued a statement that sought to reverse initial opposition to the SRSG's plan by welcoming the recent adoption by the HCS of the 13th constitutional amendment and praising Egypt's mediation role in the HoR-HCS track. Despite this, neither the HoR nor Egypt changed their stance following the UNSC statement since the latter did not call for the establishment of a new executive and simply voiced its support for the launching of the HLPE to complement the HoR-HCS track by bringing together political, tribal, civil society, and security actors to advance consensus on when and how elections are held. Cairo argued that the UNSC was supporting "vague and unspecified objectives in an attempt to legitimise its work" and found particular fault with the imprecise inclusion of 'security actors' in consultations. The moral dilemma of whether to engage with influential heads of armed groups has been a recurrent theme of UN-led political processes in Libya and is being hotly debated online whenever Bathily meets with controversial security figures holding official positions. On its part, Russia only said it would "consider seriously" the SRSG's initiative, with its First Deputy Representative at the UN adding that there was no need to rush the organisation of elections and warning Libyans "not to fall in the trap of self-interested Western parties."

The war in Ukraine, divergences between Washington and Cairo, and lagging regional normalisation are factors widening cracks within the international community. Western states have stepped up in their efforts to create momentum, with the U.S. visibly holding Libya higher in its list of priorities through greater diplomatic engagement and a 10-year plan underway to promote stability and grassroot civic engagement in the country. It remains to be seen whether the P3+2 and the SRSG will be able on the one hand to materialise the threat of UNSC sanctions against elections spoilers while on the other hand implementing a solid diplomatic stratagem to secure the buy-in of the likes of Egypt and the HoR, without whom it will be near impossible to achieve free and fair elections.

THE HOR-HCS TRACK IS GIVEN ANOTHER CHANCE BY THE SRSG

Despite his announcement of alternatives, the SRSG is giving the HoR-HCS track more room to agree upon a legal framework for elections in the next three months.

During an emergency session in early March, the HCS adopted the 13th constitutional amendment which had been passed in February by the HoR to provide a constitutional basis for elections. This adoption has set the stage for the HoR-HCS track's next deliberations regarding a legal framework for elections through a 6+6 joint committee. Many observers saw the HCS' acce-



lerated adoption of the amendment as a result of the pressure felt following the SRSG's February 27th announcement. Bathily called the adoption "a step in the right direction" and said Libyans' confidence in the two political bodies could be restored should the HoR-HCS track deliver electoral laws by June, a timeline also envisaged by HoR Speaker Agila Saleh. This solution prevents an open-conflict between the United Nations Support Mission in Libya (UNSMIL) and the two chambers, but raises concerns regarding procedures, a hazardous path to elections, and longstanding disagreements between the HoR and HCS. First, the 13th constitutional amendment remains opposed by a number of HCS members who not only dispute its content but also the manner in which it was adopted. In his UNSC speech. the SRSG had himself said the amendment was contentious and some HCS members have disputed al-Mishri's assertion that it was correctly adopted in a quorum. Arguably, progress demands some level of expediency but it also leaves the door open to future drawbacks in the form of legal appeals against the constitutional basis or controversies around articles that cancel parliamentary polls should presidential elections be disrupted or which do not specify regional representation for the to-be-formed Senate.

While Bathily believes that electoral laws being prepared in June would leave enough room for general elections to be held by the end of 2023, this timeline would only leave 6 months for UNSMIL to react in case of a failure while giving enough leeway to the two chambers to extend their track through artificial agreements they can later backpedal on. Without addressing the elephant in the room, i.e. the fact that the HoR-HCS prioritises the establishment of a new executive authority, it could be very costly to bet Libya's political fate on this Libyan-Libyan process. So far, supporters of the SRSG's plan such as U.S. ambassador Richard Norland have called discussions around a new government "distracting and confusing" while giving assurances that Dabaiba would be required to step down as prime minister to run for presidential elections. Yet, it remains to be known how a country divided by two governments can guarantee the same electoral standards nationwide and whether the SRSG can eventually sort this complex matter through the HLPE.

Finally, despite the stakes at hands, the HoR and HCS remain rivals with al-Mishri recently claiming that a political battle is being fought against an HoR that tries "to become an absolute legislative authority." Topics of disagreements between the two are plenty, from whether HCS Chairman Khalid al-Mishri should be accommodated to legislative battles regarding the prerogatives of sovereign positions, with Saleh recently seeking to unilaterally empower the Administrative Control Authority (ACA) at the expense of the Audit Bureau (AB) to give himself the best cards in the upcoming nomination of new heads. More importantly, there is no indication that Saleh and al-Mishri will find a middle ground regarding the debate of whether to allow dual nationals and military personnel to become presidential candidates.



A DIFFICULT BALANCING ACT TO HOLD FOR THE SRSG

Faced with mixed reactions regarding his proposal, the SRSG privileges for now his role of facilitator and is yet to deliver additional detail regarding his high-level panel.

Abdoulage Bathily is treading difficult terrain and must find the right balance between carrots and sticks in his interactions with international and domestic actors involved in Libya, especially the HoR and HCS. The SRSG initially highlighted the scepticism of many Libyans and that of the P3+2 regarding the goodwill and capacity of the HoR-HCS track to deliver on its promises and called into question the HoR's "endless term." However, forces distrustful of UNSMIL and supportive of the Libyan-Libyan process have kept the HoR-HCS track intact in that the SRSG's initiative will for now act as a supplement to it, rather than a parallel track. In fact, any brash effort to sideline the two bodies would likely result in too strong a backlash and could propagate the dangerous narrative among foreign powers unconvinced by the SRSG's plan that the latter is a 'Western plot'. This is why the 6+6 joint committee is being formed as a middle ground by HoR and HCS members to adopt electoral laws by a two-thirds majority in the coming months. The committee is also said to have a mechanism to take a final and binding decision on points of contention in case of disagreement.

However, this does not mean that the HLPE will not see the light of day. While details on the nomination process for the panel remain scarce, the SRSG is committed to bringing various Libyan stakeholders together and has maintained tight consultations with civil society members in this view. For now, the understanding is that the HLPE would foster consensus among Libyan stakeholders regarding electoral laws, a clear roadmap to general elections, how to hold secure polls, a Code of Conduct for all candidates, and a fair and transparent government spending mechanism. While the 6+6 joint committee would exclusively concern HoR-HCS representatives, the panel would be a much broader platform that would introduce elements capable of acting as a bridge between Libyans and their political elite, and as such able to supervise the latter's actions. According to Bathily, the panel would not necessarily take a physical form and would seek to prevent the many political and procedural issues that got in the way of the December 2021 elections. Who will be selected in the panel and its final ratio of political and civil society forces will effectively decide whether the SRSG's initiative is successful or not. Although the panel will initially supplement the 6+6 joint committee, it is expected that it would take charge of the overall political process should the HoR-HCS fail to deliver electoral laws in June. How the panel prepares for such a scenario also remains a key question to be answered by the SRSG.



PREPARING FOR THE SRSG'S PLAN AND ELECTIONS IN TRIPOLI

The Government of National Unity (GNU) is one of the forces that has felt threatened by the HoR-HCS track and which has felt energised by the SRSG's plan.

The GNU felt comforted at first by the SRSG's address at the UNSC and asserted that Bathily's characterisation of the HoR-HCS track was in sync with its early position that elections were hindered by the "two bodies' failure to find implementable laws." The Tripoli-based government also felt respite after learning that the UN-backed plan did not aim to install a new government, and attacked the HoR-HCS track's insistence on this precondition and its will to change the head of the High National Elections Commission (HNEC) prior to elections. Much consultations were held between GNU members and the latter institution, and Tripoli requested greater coordination with the UN to raise the level of readiness of all stakeholders for elections. National Security Adviser Ibrahim Bushnaf met with HNEC's Director Emad al-Sayeh to discuss measures to ensure the integrity and credibility of the voter register and documents submitted by voters and candidates. The HNEC continues its work to raise awareness among international and domestic actors regarding steps needed to achieve full logistical readiness to hold elections in a fair and transparent manner. A regional conference sponsored by the HNEC, the Arab Network for Women in Elections and the General Libyan Women's Union is set to be held in May to enhance Libyan women's participation in elections.

The GNU's enthusiasm regarding Bathily's plan can be explained by the fact that, in theory, the initiative gives less leeway to the HoR-HCS track and could be an opportunity to have greater influence over the electoral process through the HLPE. This is why it will be imperative for the panel's nomination process to eschew lobbyists and corruption. Factions vested in the HoR-HCS track will want to see greater clarity and a stronger stance from the SRSG toward the GNU to not only ensure that UNSMIL does not solely focus its pressure on one side of the political landscape but also to make Dabaiba keep his word that he will give up on his position once electoral laws are adopted. Recent oversight, notably from the U.S., have succeeded in the GNU withholding an order instructing relevant authorities to implement a controversial legal opinion that would have negatively impacted the work and status of civil society organisations and international non-governmental organisations. This example shows that targeted pressure works to hold standards of good governance and civil liberties, although it must be sustained and backed with genuine efforts to solve Libya's legitimacy crisis in order to enact lasting change.



CRITICAL SUPPORT FROM MILITARY ACTORS STRENGTHENS THE UN-BACKED INITIATIVE

Security is the building block for the successful holding of elections. Thankfully, key military actors from both eastern and western Libya have accelerated the pace of meetings to facilitate free and fair elections this year.

In a month's span, the Chiefs of Staff of the western-based Libyan Army, Lieutenant General Mohamed al-Haddad, and eastern-based LNA, Lieutenant General Abdelrazag al-Nadhouri, met thrice in Rome, Tunis, and Tripoli. The last two meetings were held under the format of the 5+5 JMC and in the presence of the SRSG. A strong desire to reunify the Libyan military institution transpired during these meetings, and participants unveiled in Tunis their objective of forming a joint force that would consist of three battalions from Libya's three geographic regions to intervene in the Fezzan under the leadership of the two Chiefs of Staff. Running as a testbed, the joint force would be the building block toward establishing a unique chain of command, arming and training soldiers to the same standards, dealing with terrorism and smuggling in the south, disarming and removing a number of foreign mercenaries, before expanding the project to reunify the army and ending Libya's security fragmentation. Of note, a similar joint force was created in August 2021 to secure the Man-Made River facilities and has been the bedrock for east-west security cooperation in Libya.

The 5+5 JMC meetings in Tunis and Tripoli also focused on confidence building measures to foster national reconciliation and a civic space conducive to elections. Similar to resolutions taken following the October 2020 Ceasefire, participants - which also included several armed groups from Tripolitania - agreed to criminalise acts of violence jeopardising the political process, reject hate speech, criminalise acts of violence and intimidation targeting civilians, prevent any action impeding humanitarian aid, foster freedom of movement within Libya for people and commodities, and address past grievances by facilitating the return of refugees and the internally displaced (IDPs). Notably, the voluntary return of IDPs to the southern city of Murzuq was discussed between local notables, security figures and the LNA's Commander of the Southern Region. Discussions to bring about joint security work to ensure the security of the electoral process will continue next month in Benghazi and the military track is likely to be at the forefront of facilitating elections and therefore a prime focus area for the SRSG.



ENGAGING CIVIL SOCIETY TO ACHIEVE SECURITY REFORM

While parallel security campaigns are being pursued from Tripoli and Benghazi, Libyan civil society has raised the alarm regarding insecurity and has engaged with the UN to identify ways in which it can contribute to genuine security sector reform.

On top of interacting with hard security actors, the UN has made extensive consultations with Libya's civil society to learn more about deteriorating living conditions, widespread human rights abuses, and repression of civil liberties. Based on dialogues dating back to last year, the Working Group (WG) on International Humanitarian Law and Human Rights shared with the PC a list of seven principles that pinpointed the need to address impunity, ensure fundamental rights, and implement Security Sector Reform (SSR) to achieve stability in Libya. More specifically, the WG highlighted the known reality that "armed actors have been legitimised and control security and law enforcement agencies and perpetrate widespread [rights] violations with impunity." It subsequently called for a comprehensive security-sector reform process that regulates armed groups through vetting, dismantles militias, and unifies the military. UNSMIL has also organised low-level workshops to find ways in which civil society can be involved in SSR to complement and reorient the work of state organisations. Another report by the UN Independent Fact Finding Mission called for UN bodies to establish monitoring and investigation mechanisms to keep track of rights violations. It also named some of the armed groups at fault, namely the western-based Special Deterrence Force, Internal Security Agency, Stability Support Apparatus and the eastern-based LNA.

These are forces shaping SSR according to their own definition and interests. In Benghazi, the LNA and GNS Interior Ministry have continued their joint security work to go after drug smugglers, wanted persons and individuals in illegal possession of weapons to strengthen their positions. In western Libya, the GNU Interior Minister has praised the effects of his security plan, announcing that 9,000 security personnel had so far been integrated into the GNU's security forces and that 1,300 arrest warrants were issued by the Public Prosecution Office at his Ministry's demand. Both sides of the equation claim great strides in harmonising the security landscape and defeating "criminal groups", without real introspection, professionalisation or transparent justice. In western Libya, security work remains more difficult considering the multiplicity of actors and interests to satisfy in distributing positions. Many concerns were raised in mid-March when heavy security mobilisation was observed in central Tripoli after powers from the Directorate for Combating Illegal Immigration were transferred to the Border Guards under the Interior Ministry's supervision, thus adding to the intra-armed groups' tensions.



COMPETITION OVER INSTITUTIONAL CONTROL HARMS GOVERNANCE

Political competition is harming the institutional independence and efficiency needed for good governance and sound economic activity.

While many construction projects in the country remain vacant, Libya retains some levels of attractiveness for risk tolerant international companies seeking greater rewards down the line. Following National Oil Corporation's (NOC) Chairman Farhat Bengdara's charm offensive at Houston's CERAWeek conference earlier this month, the two American companies Halliburton and Honeywell International have pursued €1.3bn worth of deals in the oil sector, with the latter seeking the construction of a refinery in southern Libya. South Korea's Daewoo Engineering & Construction also announced a €725 million deal to build more gas-fired power plants in the country. The GNU's Economy Minister has said 182 foreign companies currently operate in Libya and brandished newly-signed contracts as a result of the relative stability and interconnection between Libyan regions achieved by the Dabaiba-led government.

Nonetheless, economic pursuits often run the risk of being caught up in political developments that are impacting state institutions meant to deliver or monitor economic development. In a way, sovereign institutions are undergoing de-professionalisation similar to what befell Libya's security sector. While the NOC is currently striking important deals, it is the locus of severe competition between Ibrahim Dabaiba and Saddam Haftar who hope to place loyalists at the top of subsidiaries while Bengdara seeks to maintain a certain level of professionalism by making sure new appointments include energy veterans. The sovereign positions file which is meant to be debated in coming months by the HoR-HCS is also likely to create much uncertainty over Libyan institutions. As seen earlier in this report, the two bodies dispute which of the AB or the ACA are entitled to anti-corruption work. HoR members claim that the AB, which has carried out a widespread anti-corruption campaign, is itself receiving bribes and have supported the decision to transfer some of its authorities to ACA. In turn, HCS members see this as a ploy by Saleh to win more prerogatives since the latter is the one competent to name ACA's new head while al-Mishri names AB's head.



CONCLUSION & FORECASTS

There is yet much detail to learn about the SRSG's plan and its implementation. The announcement of Bathily's initiative was met with mixed reactions, highlighting the level of distrust toward UNSMIL and underscoring difficult months ahead for the mission. However, there are positive developments and social forces that can be successfully mobilised to support the SRSG's plan.

The rare high-level 5+5 JMC meetings with the presence of Chiefs of Staff, in addition to Bathily's late March visit to southern neighbours to advance the file of sub-Saharan mercenaries' exit from Libya, are both signs that the military track could once more be the precursor of political progress in Libya. Yet, there is much work needed to translate goodwill among a handful of high-level officers into overall readiness to bring elections among Libya's entire political elite, and valid concerns have been raised about the dangers of empowering military figures.

A big unknown ahead of elections is how the GNU-GNS rivalry will play out. Both governments have initially received Bathily's plan as a means to gain ground politically, instead of using it as an opportunity to leave the political scene graciously. Nonetheless, there is much mediation that remains to be had between the two in order to find a common ground regarding the electoral calendar, security arrangements around polls, and overall behaviour prior and after the elections.

The Centre for Humanitarian Dialogue (HD) is expected to host representatives from both governments in Geneva in early April to help bridge their differences and raise awareness about the need to prioritise Libya's democratic transition over short-term factional interests. This has renewed concerns about the transparency of such mediation efforts. Additionally, there is a regionally backed Libyan effort to mediate between the GNU and GNS.

Another key area to watch out for in April will be the first HoR-HCS 6+6 joint committee's meetings. The political beliefs of the committee's current members already point to slow discussions and difficult to achieve consensus on electoral laws. This is why it will be crucial for the SRSG to delve into the details of his plans and gradually build up the HLPE so that it can first bring much needed support and pressure on the 6+6 joint committee, before acting as a parallel track should the committee fail in its mission.

Ultimately, the SRSG's plan implementation will be slower than many had anticipated. This is because any new political initiative in Libya, particularly international-led, will inevitably come across much resistance. More notably, it has already created a difficult balancing act between upholding international standards and encouraging expediency to resolve Libya's legitimacy crisis, as well as between inclusion and exclusion of problematic forces.



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