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Situation Assessment | 6 July 2021

Libya dialogue: Failures and implications

Unit for Political Studies

Libya dialogue: Failures and implications: ?

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Unit for Political Studies

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On 2 July 2021 the UN support mission in Libya (UNSMIL) announced the failure of the most recent political dialogue conference, convened in Geneva. At the previous round of talks held in November 2020 in Tunis, participants had agreed in principle to hold elections in December 2021. But against a background of fierce disagreement over the practical and constitutional details of the ballot, this date is now in doubt – and with it the political roadmap as a whole.

Constitutional questions

Conferences held under the auspices of the support mission are typically only three days long. On this occasion, however, they approved an exceptional one-day extension because of the depth of disagreement over the constitutional basis for the 2022 elections. This question was sufficiently controversial that the 75 delegates in attendance moved to establish a special fourteen-person Consultative Committee to discuss amendments proposed by the Legal Committee and hammer out some kind of compromise phrasing which could then be voted on by the whole conference. But the Committee failed to resolve the issue, and the conference dissolved without making any progress.

The most contentious issue was the timing of the first presidential election, with three main options tabled for discussion. The first was to simply hold a general election in late 2021 as planned and to allow military men and dual nationals to stand without resigning their posts or renouncing their foreign citizenship in advance. A second suggested holding parliamentary elections under a temporary constitutional instrument and delaying presidential elections until such time as disputes over the current draft constitution were resolved and a referendum could be held to pass the amended version into law.⁽¹⁾ The final proposal was to move ahead with a constitutional referendum in October 2021, allowing a general election to be held in accordance with the newly promulgated constitution in early 2022.

There was also disagreement elsewhere, although here the differences were less stark. The main question marks over the parliamentary elections concerned the number of chambers in the new legislature and its location. Delegates also clashed over the precise procedure to be followed in the presidential election, with some maintaining that candidates should conduct individual campaigns and others advocating a slate system in which a prospective president, vice-president and prime minister would run together, with each representing one of Libya's three regions. But without the wider deadlock over timing, these would most likely not have scuppered the conference.⁽²⁾

Haftar's future

The arguments at the conference reflect the political, military and regional divisions facing Libya and the foreign interests at work in its affairs. Most of the Cyrenaica delegates, along with a handful from the other two regions supported the first proposal – a temporary constitutional instrument which would only require candidates who are members of the armed forces and dual nationals to

1 See: "al-Lahzat al-Akhira fi Janif.. Qabl Isdal al-Sitar", *Qanat* 218, 03/07/2021, accessed on 03/07/2021 at: <https://bit.ly/3dHNCRX>

2 See: "Multaqā al-Hiwar al-Libi fi Yawmihi al-Awwal... Khilafat wa-Tawafuqat Hawl al-Qa'ida al-Dusturiyya li'l-Intikhabat", *Alaraby Aljadeed*, 27/06/2021, accessed on 03/07/2021 at: <https://bit.ly/3jBr0GB>

give up their commands and their foreign citizenship if they win. This option seems tailor-made for General Haftar, who under the current draft constitution would be prevented from running unless he resigned his commission and renounced his American citizenship a year in advance.⁽³⁾

Haftar has not been coy about his executive ambitions. He has already made one attempt to declare himself president of Libya, in April 2020, although on that occasion his forces' failure to take Tripoli and their expulsion from the west prevented him from following through.⁽⁴⁾ His personality and his public emulation of other regional military presidents both suggest he is unlikely to accept someone else taking the top job. Becoming president would also grant him immunity from the war crimes proceedings that Libyan citizens have brought against him in the USA and other western countries – an immunity his earlier claim to the presidency has not allowed him to enjoy, at least in US courts.⁽⁵⁾

But indulging Haftar's personal ambitions was not the main objective of most of the delegates supporting temporary constitutional instrument that would have allowed him to stand. Regional considerations were clearly at work in the statements given by certain eastern representatives, some of whom threatened to pursue self-determination for Cyrenaica if a solution was not found. Similarly – and despite the fact that the Special Envoy has consistently maintained that delegates should stick to the timetable agreed at Geneva – 21 delegates accused UNSMIL of permitting 'the tearing-up of the roadmap.'⁽⁶⁾

Allowing Haftar to run means allowing an avowed anti-democrat to contest the presidency of a country with a newly-minted democratic constitution. But UNSMIL itself continues to insist that 'the international community sees no other way to unity, stability, sovereignty, and prosperity of Libya than the way based on holding the national elections this December'.⁽⁷⁾ This seems increasingly unlikely without a temporary relaxation of the restrictions on candidates. This in turn suggests that international actors will have to accept a political role for Haftar in Libya's future – to protect regional interests and to forestall any further attempt to resolve the situation by force of arms, an option Haftar does not seem to have given up on just yet.

Where to now?

In November 2020 delegates managed to hammer out an understanding despite their deep disagreements, and they followed this up with the successful swearing-in of the new Executive Authority in February 2021. But the positive movement that these developments produced has now

3 Article 99 Point 2 of the draft constitution stipulates that no-one who has 'acquired any foreign nationality' may run for president 'unless he has renounced it legally no less than one year before the date on which the candidacy submission period begins'. See: *Mashru' al-Dustur, Madinat al-Bayda' – 29 Yulyo 2017*, Higher Electoral Commission website, accessed on 03/07/2021 at: <https://bit.ly/2SKSa2F>

4 C.f. "Implications of Khalifa Haftar's "Popular Mandate" to Rule Libya", Situation Assessment, ACRPS, 04/05/2020, accessed on 07/07/2021 at: <https://bit.ly/36kT4X0>

5 "Ba'd Da'awa Diddahu li-Jara'im Harb... Mahkama Amirkiyya Tarfud Maza'im Haftar bi'l-Hasana bi-Sifatihi Ra'is Dawla", *al-Quds al-Arabi*, 03/07/2021, accessed on 03/07/2021 at: <https://bit.ly/36dnuKx>

6 "21 'Uduwwan min Multaqa al-Hiwar Yattahimun al-Ba'tha al-Umamiyya bi-Tamyyi' Idarat Jalasat Jinif", *al-Wasat*, 02/07/2021, accessed on 03/07/2021 at: <https://bit.ly/3ArvyWa>

7 "UN Secretary General's Special Envoy for Libya Remarks - Meeting of the Libyan Political Dialogue Forum in Switzerland - 01 July 2021", *ReliefWeb*, 01/06/2021, accessed on 07/07/2021 at: <https://bit.ly/3jPd3oD>.

come to a screeching halt. Those who oppose a temporary relaxation of candidature restrictions know that any compromise on this point will give Haftar and his camp the opportunity to achieve by means of the ballot box what they have been unable to by force. Their counterparts, meanwhile, are equally conscious that any delay to the elections will mean that they take place under a constitutional framework far less amenable to their interests. They are also concerned that waiting will allow for a shift in the political balance of power at their expense, especially given demographic factors that are already exerting pressure in this direction.

The Libyan factions' inability to arrive at the common ground necessary to hold elections as planned in December is the tip of the iceberg. It stems from a much deeper crisis, a crisis with political, social, regional and international dimensions. If the electoral problem is not resolved, it will encourage all parties to reassess their decision to pursue a political, rather than a military, solution. There are already signs of this happening on the ground. Haftar's troops have been redeploying in Fezzan and have taken control of several crossings on the Algerian border, and political figures close to him have warned that his forces are prepared to march on Tripoli a second time if elections are not held according to the roadmap.⁽⁸⁾ This despite the fact that, given the ever-growing list of his international enemies, he seems even less likely to succeed this time than he did in 2020.

Conclusion

UNSMIL has not yet made public any further plans for the dialogue process or explained how it plans to break the deadlock. So far it has limited itself to 'encourag[ing] the LPDF members to continue to consult among themselves to pursue a workable compromise and cement what unites them', while reiterating that 'proposals that do not make [it] feasible and possible to hold elections on 24 December will not be entertained'.⁽⁹⁾ It seems likely, however, that within the next few days another round of dialogue will be announced. And the international pressure on delegates to find a solution will be greater than ever.

⁸ See Mahmoud Misrati's statement on Facebook, 03/07/2021, accessed on 04/07/2021 at: <https://bit.ly/3ypK0vE>

⁹ "UNSMIL statement on the conclusion of the Libyan political dialogue forum in Switzerland – 28 June to 2 July 2021", UNSMIL, 03/07/2021, accessed on 07/07/2021 at: <https://bit.ly/2UwuxeB>