Stabilisation Unit

Elite Bargains and Political Deals Project:

Libya Case Study

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Background to Elite Bargains and Political Deals Project

This case study is one of a series commissioned to support the SU's development of an evidence base relating to elite bargains and political deals. The project explores how national and international interventions have and have not been effective in fostering and sustaining political deals and elite bargains; and whether or not these political deals and elite bargains have helped reduce violence, increased local, regional and national stability and contributed to the strengthening of the relevant political settlement. Drawing on the case studies, the SU has developed a series of summary papers that bring together the project's key findings and will underpin the revision of the existing 'UK Approach to Stabilisation' (2014) paper. The project also contributes to the SU's growing engagement and expertise in this area and provides a comprehensive analytical resource for those inside and outside government.

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Executive Summary

It is difficult to speak of a political settlement for the period between the demise of the Qadhafi regime in 2011 and the escalation of conflicts in mid-2014. There were no rules to govern competition over the access to state resources between rival interest groups. Violence remained limited in scope and intensity because it took time for larger factions to form, for rivalry between them to intensify, and for inhibitions to the use of violence to fall.

Efforts to broker a deal to end the 2014-15 civil war benefited from a political and military stalemate. The key obstacles to negotiating an effective settlement were the deepening fragmentation of political forces, which made identifying key players more difficult; the limited leverage the UN and Western states had over the conflicting parties; the failure of Western governments to exert pressure on meddling regional states; as well as the UN's and Western governments' haste in concluding a deal.

The December 2015 Skhirat agreement never amounted to an elite bargain. Key Libyan actors and regional states did not commit to the deal, little of which has been implemented. No effective arrangements over the distribution of power and resources have emerged. The Government of National Accord (GNA) formed on the basis of the deal has survived primarily because it enjoys international political backing. Violence declined prior to, and largely unrelated to, the agreement, while oil production has recovered not because, but in spite of the GNA's establishment.

Calculations at the time of the Skhirat agreement's conclusion that Western support could bolster the GNA and coax its adversaries into backing down proved mistaken. Western governments overestimated their leverage over the parties to the conflict. But while the failure of the agreement has become apparent, the urge to form a more effective central authority has subsided, as the GNA offers Western states a legitimate interlocutor through which to pursue their interests.

The Libyan case raises three questions about the assumptions underlying the literature on political settlements. First, under which circumstances are grassroots processes more likely to reduce violence than elite bargains? Second, how do we distinguish a weak political settlement from the absence of a settlement, and an unstable elite coalition from elite conflict? Third, how useful is the concept and the prescription of elite bargains in a situation where group boundaries and the composition of elites are in rapid flux?

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Abbreviations

CBL	Central Bank of Libya
GNA	Government of National Accord
GNC	General National Congress
HoR	House of Representatives
IS	Islamic State
NOC	National Oil Corporation
SRSG	Special Representative of the Secretary General
UNSMIL	United Nations Support Mission in Libya

I. Understanding Libya's Conflicts

Since the 2011 collapse of the Qadhafi regime amid a civil war and foreign intervention, Libya has lacked a central authority worthy of that name. In the absence of such authority, struggles have raged over the control of the state and its resources. During 2012-13, these struggles remained subordinate to the transitional process launched after the regime's collapse, and they partly played out within state institutions. In 2014, they escalated into a second civil war that caused state institutions to split. Neither of the two opposing loose coalitions, each with its own parliament and government, succeeded in winning a decisive military advantage or outright foreign political backing.

The UN-mediated agreement reached in December 2015 failed to unify state institutions. The Government of National Accord (GNA), formed on the basis of the agreement, has not established its authority outside the capital, and has succeeded neither in gaining regular access to budgets, nor in establishing an effective military command structure. A rival government and military leadership continue to exist in the country's east, while much of the west and south resembles a patchwork of local spheres of influence. An agreement to end the conflict remains elusive.

Rather than in long-term structural causes, the ongoing conflict has its roots in the 2011 civil war and the ensuing collapse of central authority. The 2011 war provoked deep rifts in Libyan society, and its losers have returned to the fore in the conflicts since 2014. The collapse of central authority in 2011 led to the dispersal of state arsenals and the formation of countless armed groups, which in turn prevented the re-establishment of state control. Vested interests came to be associated with armed groups that controlled strategic assets, or exerted influence over government officials. These armed groups almost invariably benefited from official cover and state salaries, as factional leaders in government institutions built up units under their influence. The remnants of the state security forces also fragmented into such factions and became indistinguishable from newly formed militias. In the absence of a single pre-eminent power centre, competition over the control of state budgets and the illicit economy gradually escalated. Regional rivalries further exacerbated these struggles, as the parties to Libya's conflicts sought support from Egypt, the UAE, Qatar and other states.

The Political and Military Landscape

The interests and divides in the current struggles are largely endogenous to the conflicts that have developed since 2011. The same goes for the actors in these conflicts. Over the past years, the political landscape has changed beyond recognition. Naming and categorizing the actors in Libya's conflicts has never been easy, but it has become even more difficult as the struggles have raged on. There are few neatly identifiable organisations, and few national political or military forces. Instead, a plethora of factions formed whose organisation is mostly informal, and largely confined to particular localities. They have engaged in constantly changing alliances among each other, and have not coalesced into durable, larger forces.

Of course, actors who were prominent before 2011 do play a role in these factions – for example, influential businessmen, former senior members of the regime, and former members of the exiled or imprisoned opposition. But they compete with the innumerable players who have emerged since 2011: local revolutionary leaders; heads of post-revolutionary armed groups; bosses of smuggling networks; political entrepreneurs ranging from proponents of eastern autonomy and champions of ethnic minority rights to jihadists.

Multiple crisscrossing fault lines structure this landscape. Today, there is no longer a dominant divide defining political affiliations. Following the 2011 war, tribal constituencies that were considered to have supported Qadhafi were marginalized and victimized as regime loyalists, while people from revolutionary strongholds developed a strong identity in which revolutionary legitimacy was fused with belonging to a local community. During that time, revolutionary hardliners pushed for the sweeping exclusion of former regime officials, including those who had played leading roles in the revolution. This exclusion took effect through the May 2013 Political Isolation Law, which prompted a realignment of interests damaged by the law against the revolutionary camp. The latter straddled various Islamist and non-Islamist networks, but was increasingly wholesale labelled as 'Islamist' by its adversaries, not least under the impact of changing regional dynamics following the July 2013 military coup in Egypt.

During the 2014-15 civil war, former allies of 2011 found themselves on opposing sides of the conflict. In the east, Islamist and revolutionary armed groups fought against remnants of the army who had reorganized and recruited along tribal lines. In the west, the armed groups of Misrata and Zintan, both of them leading revolutionary forces in 2011, were at the head of opposing alliances. The Zintanis allied with former adversaries from constituencies that were considered regime loyalists, while the Misratan-led alliance supported jihadi groups in Benghazi in the fight against their common enemy, renegade army officer Khalifa Haftar. As the conflict entered a military stalemate and the UN-led negotiations got underway, these two alliances disintegrated, and the divides between hardliners and moderates ran through all local constituencies. While localism remains important, any semblance of local unity that was apparent in 2011 and again in 2014 has vanished.

Haftar is the only actor to have consistently expanded his area of influence, while also centralizing authority over the initially loose alliance he led. Under the guise of fighting extremism and re-establishing the army, Haftar has enjoyed substantial popular support, particularly in eastern Libya. Yet, as he has consolidated control in the east, many of his former allies in the region have turned against him, which has often meant that they had to escape into exile. Haftar's most important asset has been the steady backing he has received from the United Arab Emirates (UAE) and Egypt – military, political and financial support of a scale and consistency far exceeding that enjoyed by any other actor in Libya's conflicts.

At the time of writing, the lines of conflict are multiple, fluid, and often blurred. The rifts of 2011 and 2014 remain foundational for the ongoing conflicts. While current alliances often span the previous divides, it is often difficult to re-establish trust and extensive inter-communal ties across these divides. Local actors define themselves in part through their relations with Haftar and the Tripoli-based Government of National Accord (GNA), but it would be misleading to sum up the current conflicts as a struggle between these two poles. Outside eastern Libya, Haftar mostly relies on loose and fickle local allies who often pursue their own agendas, and can put their own interests before their loyalty to Haftar. The GNA, for its part, does not exert any direct control over any major forces, including in the capital. Key militias in and around Tripoli are notionally affiliated with the GNA, but have repeatedly embarked on military operations without receiving orders from the government, or even consulting it. Fierce opposition to Haftar defines both certain groups affiliated with the GNA, and others that are not integrated into the GNA's structures.

In comparison with many other civil wars, Libya's conflicts have always been low-level, even when seen in proportion to Libya's small population of 6.5m. Government figures established after the 2011 war place the number of victims in that conflict at around 8,000, far below the unofficial estimates that circulated at the time.[1] In the main confrontation of the 2014-15 civil war, the month-long struggle over Tripoli airport, the two main belligerents – the armed groups from Misrata and Zintan – lost around 180 and 400 men respectively.[2]

Since mid-2015, the scope, scale and intensity of violence have significantly receded. Active hostilities have been largely confined to Benghazi, as well as to local offensives against Islamic State militants in Darna and Sirte, which ended with the defeat of IS in both cities, in April and December 2016 respectively. In Benghazi, territory held by Haftar's adversaries has been limited to a few blocks in the city centre since July 2017, and most violence now consists of forced disappearances and extrajudicial killings of suspected opponents of Haftar. Beyond these three cities, violence has been episodic and limited to particular localities. Examples included several bouts of heavy fighting in Tripoli between December 2016 and May 2017 that never lasted longer than a few days; two offensives by a coalition of militias against Haftar's forces in the 'oil crescent' between Sirte and Adjabiya, and ensuing counter-offensives; as well as several weeks of fighting over control of the western coastal city of Sabratha in September 2017.

The Post-Qadhafi Political Economy: Is or Was There a Political Settlement?

Libya's political economy is centred on the distribution and misappropriation of state oil revenues, which represent the quasi-totality of export revenues and government income. Much of the illicit economy thrives on the capture of state expenditure, the only notable exception being the business of irregular migration. The two largest sectors of illicit economic activity – the illegal export of

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[1] See Alrassed Alliby 2013a, 2013b.
[2] Interviews, leading military figures, Misrata and Zintan, March 2017.

subsidized fuel, and the fraudulent use of the official exchange rate to change hard currency on the black market – are worth billions of dollars each year.[3]

Since the collapse of the Qadhafi regime, factions in Libya's conflicts have benefited extensively from the capture of state expenditure. Public expenditure quickly recovered after the 2011 war, and over the following two years, swelling operating expenditures – primarily salaries – drove the growth in spending. The single biggest driver behind growing salary budgets was the creation of new security sector institutions with dozens of thousands of members, many of whom were already on the payroll of other public sector institutions, or did not actually show up for work.[4] Representatives of numerous political factions in state bodies, including leaders of armed groups that enjoyed the cover of official security institutions, engaged in the large-scale misappropriation of public funds.
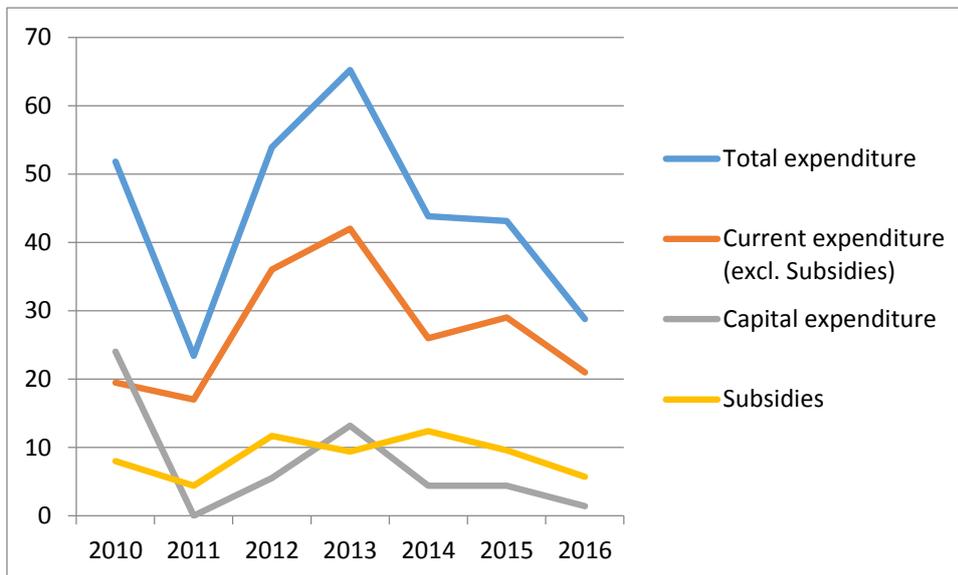
Government expenditure, LYD bn (excluding expenditure by the Bayda-based government). Sources: IMF 2013 (2010 data); CBL 2017.

Following the split through state institutions in mid-2014, expenditure plummeted. The political divisions have left the Tripoli-based Central Bank in a position where it can approve or reject disbursement requests by the two parallel governments as it sees fit. The Central Bank has continued to disburse budgets for salaries, which have somewhat decreased with the rollout of a National ID number that has reduced opportunities for individuals to illegally collect multiple state salaries at the same time. In practice, this has meant that the Central Bank has paid the salaries of government officials and fighters on all sides of the divides, thereby allowing the parties to the conflict to sustain

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[3] During 2016, Libya's Audit Bureau identified fraudulent exchange rate operations worth $570m by only 86 companies (Libyan Audit Bureau 2016, p. 134). The actual scope of such fraud is likely multiple times higher. The Audit Bureau also estimates that around a third of state-subsidized fuel is being smuggled into neighbouring countries. The budget for fuel subsidies was $9bn in 2014 and $4bn in 2016 (Assad 2017).
[4] See Lacher and Cole 2014.

themselves. Independently of the Central Bank, the Bayda-based government of Abdallah al-Thinni has taken up loans from state-owned banks in eastern Libya to finance its own expenditure.[5]

The rapid increase in state expenditure after 2011, and the continuation of salary payments to representatives of the warring factions since 2014, raises the question whether a political settlement was in place in the transitional period between October 2011 and July 2014 – or whether it may even persist today, despite the evident political divisions. Was the distribution of resources since the collapse of the regime based on formal and informal arrangements between elites?

Political dynamics following the demise of the Qadhafi regime make it difficult to speak of a political settlement.[6] The revolutionary forces and their political representatives did initially agree on the exclusion of senior members of the former regime, as well as the marginalisation of entire tribal constituencies who were deemed to have been loyal to Qadhafi in the war. They also negotiated two transitional governments in which a wide variety of local factions were represented. But there were no rules in place to govern competition over the access to state resources between these factions. Their representatives simply captured as much as they could, using increasingly aggressive tactics, and engaging in ever-fiercer rivalries among each other. It became increasingly common for armed groups to extort payments from the transitional governments. During the month of Ramadan 2013 alone, successive militias besieging and storming the seat of the Prime Minister in Tripoli obtained cumulative payments of LYD 2bn.[7]

Crude oil production, million b/d
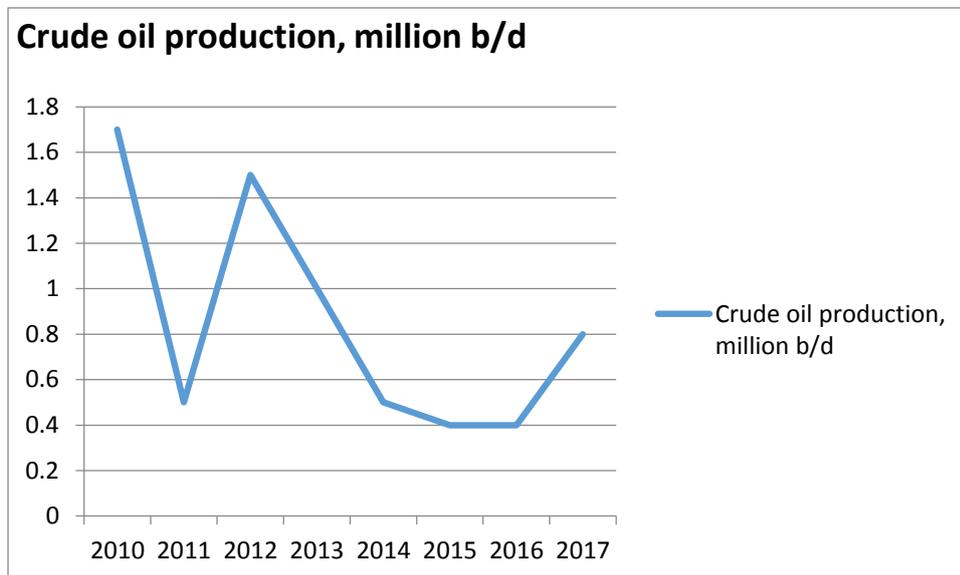
Source: CBL 2017.

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[5] The Bayda government spent LYD 6.2bn in 2015 and LYD 8.2bn in 2016 (Libyan Audit Bureau 2016, p. 45).

[6] Political settlements are defined as ''the balance or distribution of power on which a society is based, which results from processes of interaction – including both conflict and coalition – between various contending elites'' (Meehan n.d., p. 33). A political settlement emerges "when the distribution of benefits supported by its institutions is consistent with the distribution of power in society, and the economic and political outcomes of these institutions are sustainable over time" (Khan 2010, p. 1).

[7] Interview, former senior member of the Zeidan government, Istanbul, November 2017.

The trajectory of oil production also illustrates the effective absence of a political settlement. While armed groups with a presence in Tripoli could exert direct pressure on government institutions to capture resources, factions in the periphery resorted to the seizure of strategic infrastructure to extort the authorities. From mid-2013 onwards, armed groups led by Ibrahim al-Jadhran shut down the country's largest oil export terminals in eastern Libya, causing losses worth dozens of billions of dollars to the state budget. With the eruption of the second civil war, the two largest oilfields in southern Libya were also closed down, pushing oil production below 400,000 b/d.

Since mid-2016, production has gradually recovered, though this is wholly unrelated to the formation of the GNA; NOC chairman Mustafa Sanallah has been openly critical of the GNA, and has cultivated ties with actors across political divides to boost production, among them Haftar. He has also benefited from a shift in the calculations of forces controlling oil infrastructure assets, including Haftar. These forces increasingly seek to avoid becoming the target of public criticism for shutting down oil exports. This shift is due to the rapidly worsening economic conditions for the vast majority of Libyans. However, it has not produced any arrangements on the distribution of resources. The fact that CBL governor al-Siddiq al-Kabir continues to single-handedly rule over the allocation of spending, and has denied the GNA any meaningful access to funding, shows that there is no political settlement.

The Regional and International Context

The 2011 intervention was the outcome of a unique convergence of regional and international positions, Russian dismay at the intervention's course notwithstanding. Following the July 2013 military coup in Egypt, however, regional rivalries fuelled the escalating struggles in Libya. Politicians on opposing sides of the divides sought the support of regional powers from Egypt to Qatar and the UAE, playing to the discourse and threat perceptions of the leadership in these states. Egyptian and Emirati support for Haftar has been the single most important factor behind Haftar's ability to resist any settlement since 2014, and progressively eliminate his competitors in eastern Libya.

As the conflict has festered without any solution in sight, other external actors have become more directly involved. Russia and several Western states have increasingly courted Haftar, as well as launched their own attempts at mediation, thereby undermining the UN's role in that domain. US involvement has focused on counterterrorism, most notably in the form of aerial support to an offensive by Misratan militias against the Islamic State in Sirte, in 2016. The EU has largely delegated its policy to curb migration to Italy, whose government has entered into direct arrangements with local forces in western Libyan coastal cities to that end. The overall picture is one of conflicting external interests associated with various factions in Libya's conflicts.

II. The Antecedents of the December 2015 Agreement: Towards an Elite Bargain?

The yearlong, UN-led negotiations over an agreement to end the 2014-15 civil war went along with significant shifts in the calculations of actors; shifts that were favourable to the negotiation of a settlement. During the first month of 2015, it became clear that neither side could reach a military victory anytime soon. By January, a Misratan offensive to seize the oil export terminals east of Sirte had become stuck. In the west, Zintani groups held their ground despite the continued onslaught by forces of the Misratan-led Dawn coalition.

Further decreasing the prospects for a decisive military victory was the loss of hope on both sides that they could win outright international political backing. At the height of the conflict in 2014, proponents of each of the two legislative bodies – the House of Representatives (HoR) in Tobruk, and the General National Congress (GNC) in Tripoli – were insisting that they represented the sole legitimate authority in Libya. The international community was united in its treatment of the HoR as the legitimate legislative body, but UN and Western statements consistently urged the Tobruk-based HoR to come to an agreement with its boycotting members, thereby making their reservations clear. The GNC and its Tripoli-based government, while aware of their disadvantage in this dispute, were betting that their control of Tripoli would cause Western states to recognize them as the de facto authority. But such hopes gradually dissipated on both sides after Western states and the UN failed to adopt a clear position towards the November 2014 ruling of the Tripoli-based Supreme Court, which declared the legal basis of the June 2014 elections – and hence the HoR as such – to have been invalid. The Western policy of constructive ambiguity therefore encouraged political actors to abandon the two rival governments, and join the UN-led negotiations.

Obtaining international recognition was all the more important for the warring parties as it was coupled with the prospect of gaining control over the Libyan state's financial resources. In September 2014, the HoR dismissed CBL governor al-Siddiq al-Kabir and appointed his deputy Ali al-Hibri. Hibri attempted to set up a parallel CBL in al-Bayda, and engaged with foreign interlocutors, claiming that he was the legitimate governor. In November, the Bayda-based, HoR-appointed government of Abdallah al-Thinni named established a parallel NOC leadership in the east. The refusal of Western governments, international oil companies and the international financial institutions to recognize the rival CBL and NOC leaderships in the east was crucial in crushing expectations on both sides that they could gain direct access to state resources and thereby win the war. The Western position thus strengthened the standing of Kabir and the Tripoli-based NOC chairman Sanallah, allowing them to maintain their independence from the Tripoli-based government. In sum, Western states effectively handled their power to bestow international legitimacy and the ability to do business in the name of the Libyan state. It was the only real leverage they had over the conflicting parties.

There were, therefore, strategic considerations that pushed some political actors in the first half of 2015 to throw their backing behind the UN-led negotiations. But on the ground, grassroots processes significantly contributed to creating a situation in which these negotiations could take place. In

western Libya, from February 2015 onwards, leaders of armed groups and local elders began negotiating local ceasefire agreements between individual towns. Though supported by politicians who participated in the UN-led negotiations, these local agreements came together largely separately from the UN talks. They were driven by war fatigue among communities, as well as by the dire humanitarian and economic situation particularly in the Nafusa Mountains, where the warring factions were mutually blocking road access to each other.

The local ceasefire agreements in western Libya caused the two opposing alliances to disintegrate, and polarization to recede. By July 2015, one could no longer speak of Libya Dawn when referring to city-based armed groups in western Libya. However, not all factions supported the local peace processes. In fact, some politicians and leaders of armed groups often offered fierce resistance before agreements were reached. Such hardline figures were at times closely linked to the governments in Tripoli or al-Bayda, or to Haftar; in other cases, they rejected truces due to the personal losses they had suffered from enemy action, or due to ideological convictions. The ceasefire agreements therefore produced a complex landscape of divided communities in western Libya.

Détente was slower to take root in the south, where the conflict between Tubu and Tuareg armed groups in Ubari continued to rage. Meanwhile, in eastern Libya, the war over Benghazi continued unabated. The most significant reason was that Haftar enjoyed growing support from Egypt and the UAE, and was therefore entirely insulated from any grassroots pressure in favour of negotiations. Foreign support allowed Haftar to play the long game of gradually consolidating control in the east, and exploiting divisions in the west.

The Negotiations

The challenges facing the UN in trying to broker a settlement to the conflict can be summarized in four points: first, identifying and assembling figures who could effectively represent the forces in the extremely fragmented political landscape; second, gaining the support of regional states who were backing the warring parties; third, gaining leverage over the conflicting parties despite divisions within the UN Security Council and between regional governments; and finally, ensuring sufficient time for the negotiations in the face of Western pressure for a rapid settlement. The fact that the December 2015 agreement was never implemented is due to a combination of these challenges.

While the conflict was at its height in September 2014, UN Special Representative Bernardino Leon tried unsuccessfully to mediate talks between HoR members who were attending the sessions in Tobruk, and those who were boycotting them. From January 2015 onwards, Leon then led negotiations between a redefined set of parties: Tobruk-based HoR members, boycotting HoR members, Tripoli-based GNC members as well as two GNC members opposed to the Tripoli group, as well as a handful of independent figures who were moderates without a power base of their own.

The choice of defining the negotiating parties as the two rival legislative bodies and their respective dissenters reflected the fact that, at the time, the two rump parliaments could still mobilize considerable support within their camp for their claim to legitimate authority. This choice of

negotiating parties also allowed the UN to avoid picking representatives for the warring parties, which would have exposed it to accusations of arbitrariness or bias. However, the choice also entailed serious problems for the negotiations. Even in rump form, the GNC and HoR did not represent cohesive political factions. Both bodies were internally divided – and increasingly so as the negotiations advanced. Moreover, neither body could negotiate on behalf of the military forces on the ground. The two legislatures had no effective control over these forces, and few parliamentarians individually wielded significant influence over armed groups from their constituencies.

To broaden support for the negotiations within this fragmented landscape, the UN convened a number of other 'dialogue tracks' in addition to the main forum for political negotiations. These tracks included a series of meetings between representatives of Libyan municipalities; several meetings of representatives of political parties and civil society activists; and a women's dialogue. These meetings were designed to bring in a greater number of actors into the process, without giving them tangible influence. A 'security track' assembling representatives of armed groups could have been a forum for real decision-making, but the UN abandoned its plans for such a track after several meetings with leaders from particular local factions. The attempt to organize gatherings of tribal leaders in Egypt equally failed. At first, the Egyptian government convened its own meeting of Libyan tribal leaders to promote its partisan stance. When UNSMIL cooperated with the Egyptians to organize another meeting, most invitees failed to show up, and the efforts stopped there.

Since the conflicting parties did not correspond to clearly identifiable organisations, the negotiating framework had to rely on proxies for the conflicting parties. With the choice of the HoR and GNC as the main negotiating parties, it remained doubtful throughout the negotiating process whether the political representatives at the talks could deliver the forces on the ground for the implementation of an agreement. These doubts were even greater as a number of influential actors were aggressively mobilising against the negotiations. Early on in the talks, it became clear that sidelining Haftar would be a key component of any compromise solution, and that a unity government would empower Haftar's rivals within his own, loose coalition in the east. Unsurprisingly, Haftar did everything he could to obstruct the process.

Haftar's obstructionism was directly linked to the support he received from Egypt and the UAE. To a much lesser extent, Haftar's opponents also enjoyed external backing, from Qatar, Turkey and Sudan. Negotiating a settlement to the conflict therefore required not only brokering a deal between the Libyan parties, but also gaining regional and international support for the process. The negotiations enjoyed strong and largely unified Western support, and Russia, though more reserved, made no attempts to interfere with the process.

Mobilising support in the region proved more difficult. Throughout 2015, Leon and later his successor Martin Kobler toured regional capitals, but the Egyptian and Emirati leaderships only paid lip service to the idea of a settlement that would include moderate Islamists, and might exclude Haftar. Meanwhile, their support for Haftar continued unabated. Leon later exposed himself to accusations of pro-UAE bias when it emerged, shortly before he stepped down, that he had accepted an offer to

become director of the UAE's diplomatic academy, and had negotiated the terms with Emirati officials even while he was mediating in Libya.[8]

The difficult regional environment was also among the main reasons why the UN, and the Western states backing the process, had only limited leverage they could bring to bear on Libyan political actors. Western governments were obviously unable or unwilling to exert pressure on the regional governments meddling in Libya. Other interests prevailed in Western relations with these states, such as arms deals or the need to gain regional backing for the campaign against the Islamic State in Iraq and Syria. The UN Security Council strengthened the weapons embargo on Libya, but no efforts were made to enforce it.

Limits to the Security Council's willingness to back up the mediation efforts also mattered. Attempts to prepare the imposition of UN sanctions on leading hardliners were thwarted by Russian and French opposition to designating Haftar. The option of deploying peacekeeping forces to back up an agreement was foreclosed not only by the foreseeable Russian veto on such an initiative, but also by overwhelming Libyan opposition to the presence of foreign soldiers on Libyan soil.

The coalition emerging at the negotiations in support of a unity government therefore suffered from serious doubts over their political and military weight on the ground; stubborn resistance from opponents of the agreement who enjoyed the backing of regional powers; and Western support that offered the prospect of international recognition for a unity government, but little else. Despite these weaknesses, the drive towards sealing the agreement accelerated during autumn 2015. While Leon was eager to obtain a rapid settlement so he could make his career move, the main reason for the rush towards a deal was a sense of urgency in Western capitals in view of expanding Libyan IS affiliates and a rise in migrant crossings via Libya. Western governments were keen to have an official counterpart in Tripoli whom they could cooperate with, or who could authorize their interventions. The Leon scandal then raised doubts over the names Leon had proposed for membership of the Presidency Council, and over the negotiation process as a whole. Western diplomats and Libyan proponents of the emerging deal saw the negotiations as a make or break situation. After Martin Kobler took over as Special Representative in early November 2015, the UN and Western governments pushed for an agreement to be concluded by all means in December.

Seeking to conclude the agreement as quickly as possible, Kobler refrained from renegotiating the names of Presidency Council members Leon had proposed, despite the fact that particularly the name of the prime minister, Faiez al-Serraj, had raised questions across political divides. (Serraj had been proposed not by the negotiating parties but by Leon himself, only minutes before he announced the names.) Instead, Kobler added three more members to the Presidency Council to satisfy a broader range of constituencies, thereby practically guaranteeing the body's internal paralysis, since the agreement required decisions to be taken by consensus between the prime minister and his five deputies. In a desperate bid to save the signing ceremony, Kobler met Haftar on the day before the agreement was to be signed, persuading him to nominate a deputy for Serraj.

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[8] See Ramesh 2015.

Predictably, Haftar's representative in the Presidency Council, Ali al-Qatrani, worked to blockade decision-making within the body from the very beginning, and rapidly began to boycott its meetings.

The rush to close the deal led the UN and Western governments to ignore the fact that neither of the two main negotiating parties – the HoR and GNC – had voted to sign the agreement. Unable to secure the formal support of the two institutions, the UN opted to have the agreement signed by individual HoR and GNC members without an official mandate from their respective bodies. To demonstrate broad-based Libyan support, the UN ferried dozens of parliamentarians, mayors, as well as figures who had participated in the civil society and political parties track to the signing ceremony on 17 December 2015. But it was obvious that the deal stood on a weak foundation. Of twenty-one Libyan signatories, eleven were elected members of the GNC or HoR, while ten were independent participants in the negotiations who had been handpicked by the UN in an arbitrary fashion, and in most cases lacked any significant power base.

In sum, the haste in concluding the agreement burdened the deal with birth defects that would prove fatal. The most important of those were the lack of formal majority support to the agreement within the HoR; the absence of clear links between the political stakeholders in the deal and the military forces on the ground; and the obviously insincere commitment to the agreement by several regional states, particularly Egypt and the UAE. Western and UN plans to make the agreement work despite these obstacles largely relied on gambles, whose failure would quickly become apparent.

III. Why an Elite Bargain Has Remained Elusive

At the time of the conclusion of the Skhirat agreement, Western and Libyan proponents of the deal recognised the obstacles ahead, but argued that once the Presidency Council started working, it could overcome these difficulties despite the weak political basis on which it had been formed. The logic, as commonly outlined at the time, was that the Presidency Council would hold the purse strings, allowing it to gradually win over fence-sitters and undermine hardline opponents of the agreement, most importantly Haftar. Eastern representatives would be given prominent roles in the government, and work to draw support away from Haftar.

That gamble failed, primarily because the December 2015 agreement fell short of creating a functional power-sharing arrangement. One could even say that there actually was no agreement, because the deal was signed only by individuals – not by official representatives of the two parliaments that acted as the negotiating parties, and were expected to act as the institutional pillars in the implementation of the deal. In any case, the Skhirat agreement never amounted to an elite

bargain, since key parties to the conflict did not buy into it.[9] The few parts of the deal that were implemented did not suffice to organize the balance of power.

More specifically, a key reason why the gamble failed was that, contrary to expectations, the Presidency Council did not gain access to regular funding mechanisms. Because the HoR never signed on to the agreement, nor confirmed the Presidency Council's proposed ministerial lineup or voted on any budget, CBL governor al-Kabir refused to give the Presidency Council access to funds without any legislative oversight.

Another reason was the divisions within the GNA itself. Two members of the Presidency Council – Haftar's representative, as well as Omar al-Aswad from Zintan – began boycotting the body less than a month after it first met. The remaining members rapidly began pursuing their individual interests, operating increasingly independently of each other. The Presidency Council achieved no pooling of military resources or the establishment of a single military command structure between the forces its members represented. Among the designated ministers, four figures from the east never took up their posts, as HoR backing for the government remained elusive. The most prominent eastern representative in the government, defence minister al-Mahdi al-Barghathi, opted for a confrontational stance towards Haftar, coordinating offensives on the eastern oil terminals in alliance with armed groups – a highly controversial undertaking that was condemned by the Presidency Council, which denied all advance knowledge of these operations.[10]

The lack of common interests or even coordination in the GNA showed that no effective elite bargain underlay the agreement. Other indicators also underline the absence of a bargain: as outlined above, oil production recovered not because, but in spite of the formation of the GNA. The scope and intensity of violence had already decreased before the deal was signed, in large part due to local ceasefire initiatives unrelated to the UN-led negotiations. The formation of the GNA did not reduce violence further, but actually provoked new fighting, including over the eastern oil terminals, as well as in Tripoli between militias associated with the GNA, and those opposed to it.

The Skhirat agreement was designed as a transitional arrangement to move the struggle over power from the battlefield back into political institutions. The transition was meant to last no longer than two years and end with the holding of elections on the basis of a new constitution. But not only did the flaws of the Skhirat agreement itself rule out that this transition could take place; in addition, the constitution drafting process could not be relied upon to provide a basis for a more permanent settlement.

The constitution drafting assembly had been elected in February 2014, before the second civil war, in an election that saw extremely weak participation – around twelve percent of eligible voters – and was mainly contested by academics and technocrats, as opposed to political entrepreneurs. The

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[9] Elite bargains are "discrete agreements that re-negotiate the balance of power between elites. Whereas political settlements represent the on-going and dynamic processes through which power is organised and exercised through formal and informal institutions, elite bargains are specific attempts to re-calibrate the balance of power" (Meehan n.d., p. 33).
[10] See International Crisis Group 2016, 2017.

Amazigh minority boycotted the elections, leaving two of the assembly's sixty seats unfilled. The assembly, based in the eastern city of al-Bayda, long escaped the divisions afflicting most other state institutions during the conflict. But this only served to underline that the conflicting parties did not view the constitution drafting process as a relevant arena for their struggles, and that most assembly members lacked close ties to the conflicting parties.

The assembly was therefore not an effective forum for elite bargaining. In a situation where the very existence of state authority was in doubt, its discussions appeared to take place in an ivory tower. The only constitutional issue that directly related to ongoing distributive conflicts – the balance of power between regions – was predictably the subject of deadlock (so were questions concerning minority rights). But by the time the tensions within the assembly over the issue came to a head, the proponents of eastern autonomy within the body could no longer mobilise support from wider forces in the east, since Haftar had all but obliterated the eastern autonomy movement.

Already weakened by the Amazigh refusal to participate, as well as internal squabbles that were rooted more in personal animosities than in political rifts, in January 2016 around a fifth of the assembly's members, mostly from western Libya, began boycotting the body's meetings. The process appeared to have collapsed precisely when its conclusion had become a condition for the implementation of the Skhirat agreement. In March, UNSMIL's heavy-handed attempt to thresh out a draft made matters worse. The process then lay dead for around a year. Following Libyan-led mediation efforts in July 2017, the assembly unexpectedly adopted a draft constitution by 43 votes (out of 58 members, 44 of whom attended the vote).

The draft remains controversial, due to the fact that representatives of key western constituencies and Tubu members opposed it, as well as to changes introduced at the last minute that would make it easier for Haftar to run in presidential elections. More importantly, the conditions for formally adopting the constitution in a popular referendum remain absent, and a wide variety of forces are blocking the road for such a referendum to happen, each for their own reasons. It remains unclear whether the draft constitution can still be salvaged, even if an amended transitional arrangement were to pave the way for a constitutional referendum. Formed amid a radically different balance of power, the committee has been unable to reflect the rapidly changing configuration of forces on the ground in the outcome of its deliberations.

The International Dimension

Calculations among foreign diplomats that Western support could bolster the GNA and coax its adversaries into backing down proved mistaken. In the months preceding the agreement, European governments had worked on plans for a Libya International Assistance Mission (LIAM), ostensibly to train and mentor GNA forces, but de facto to protect the international presence and the GNA itself in Tripoli. LIAM therefore was a key component in Western and UNSMIL plans for the agreement's implementation. As the agreement was signed, these governments urged Presidency Council members to quickly issue the necessary requests for assistance. However, as observers familiar with

Libyan politics predicted, requests for a presence of foreign forces on Libyan soil would not be forthcoming, and the project was quietly shelved. In addition, the aforementioned divisions within the Presidency Council prevented rapid progress towards the establishment of new units under direct control of the Presidency Council. The creation of the Presidential Guard, with European backing, advanced at a snail's pace. The Presidency Council lacked the necessary coherence to be able to absorb foreign capacity building measures.

Moreover, Western diplomats and top UNSMIL officials expected that GNA forces would gain exemptions from the UN arms embargo, and that their access to weapons would act as an incentive for opponents to the agreement to come into the GNA fold. UNSMIL officials even dangled this prospect in front of Presidency Council members and military figures. These expectations were frustrated by Russian opposition in the Security Council, which was founded on the justifiable objection that the Presidency Council lacked clear command structures over the forces associated with it.

Divisions in the Security Council also continued to prevent the imposition of sanctions on 'spoilers' – a problematic notion in this context, since it denoted not only those with a clear interest in continuing conflict, but also anyone who rejected the idea that a government formed on such a dubious basis should be considered legitimate, or anyone who simply had not found an acceptable place in the new arrangement because rivals had already occupied them. As implementation stalled in the months following the deal, the US and EU therefore imposed unilateral sanctions on three political figures, all of them figureheads rather than key actors.[11] Haftar, the most prominent and most powerful offender, was not among them. The sanctions only added to the recalcitrance of opponents of the agreement, but failed to remove the obstacles to implementation. The extent to which Western governments had calculated that they could exert pressure on Libyan actors turned out to be wrong.

Seriously trying to persuade Egypt and the UAE to stop their support for Haftar, continued to be out of the question. In fact, Western governments themselves increasingly courted Haftar after his takeover of the eastern oil terminals in September 2016. Contrary to expectations at the time of the agreement's signature, Haftar not only resisted attempts at weakening his hold over the east, but actually consolidated his authority in the region, and even somewhat expanded his sphere of influence. Haftar's continued advance and his improving relations with Western states meant that he was now even less likely to enter into any meaningful compromise.

Finally, while there was a broad recognition within Western governments that the GNA gamble had failed, there also was little urge to negotiate a more effective settlement. In Western capitals, the perception prevailed that such a settlement was out of reach, and that key Western interests were served by having a 'legitimate' interlocutor in Tripoli, regardless of how powerless it was. The GNA's existence, for example, enabled the US to conduct an intense bombing campaign on IS in Sirte during 2016 – ostensibly in support of forces that were deemed loyal to the GNA, even though this was not

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[11] See Guarascio 2016, Reuters 2016.

the case in reality. The GNA also offered the Italian government entries to take measures to curb migration. Following the demise of IS as a territorial force in Libya in late 2016, the sense of urgency among Western policy-makers to establish a functioning central government in Tripoli dissipated. In the meantime, Western states' most significant means of influence in Libya – their power to bestow international recognition and legitimacy upon the government – remained the principal reason for why the GNA survived in Tripoli, despite the fact that it was not backed up by an effective elite bargain.

Local Fragmentation and the Conditions for an Elite Bargain

Ongoing changes in the local political landscape compounded the difficulties in making the Skhirat agreement work. The negotiations had contributed to the disintegration of the two opposing camps. This provoked rifts through many local communities that had formerly been clearly aligned with either side, and now became an arena for competition between proponents and opponents of the GNA. These tensions came to a head in the months following the signature of the agreement. In many places, the consequence was that local leaders saw their roles weakened by challengers from within their community. Almost nowhere had individual figures established unrivalled local leadership over the preceding years. The composition of local elites underwent continuous transformation after 2011. But the realignments triggered by the Skhirat agreement only served to fuel these processes.

The politically most consequential of these changes was the fall of Ibrahim al-Jadhran, a militia leader who had controlled the largest oil export terminals in eastern Libya since mid-2013, and had shut them down to extort political and financial concessions throughout that period. Jadhran had been expected to play a crucial role in the GNA's power structure, by guaranteeing it access to oil revenues, and forming an alliance of eastern figures to undermine Haftar's authority in the region. Haftar's forces then dislodged Jadhran from the oil ports in a largely bloodless takeover engineered by Jadhran's key local rival. Saleh Latiwish, a leading notable within the Magharba tribe, had seen his influence under threat from the young, charismatic ex-convict Jadhran, and relied on Haftar to restore his standing.

The expansion of criminal networks amid state collapse and worsening economic conditions also contributed to the continuing turnover in local elites. In the western coastal cities of Sabratha and Zawiya, smuggling kingpins emerged as dominant players during the first year of the GNA's tenure. They replaced leaders whose influence had rested on their revolutionary legitimacy, several of whom had been killed in the conflicts of 2014. In Tripoli and Tarhuna, the militia landscape consolidated during late 2016 and early 2017, and a few leaders of large militias established a dominant position, despite lacking political or social legitimacy.

Across the country, elected representatives saw their influence decline, as the two parliaments had become irrelevant. The HoR was irreversibly split as a result of the divisions over the Skhirat agreement; an influential current in public opinion viewed the HoR's mandate as having expired

unless it formally adopted the agreement and assumed its role in the transitional arrangement. The HoR's counterpart in Tripoli was the High Council of State, a reincarnated GNC formed on the basis of the agreement, though its adversaries maintained that the timing and manner of the body's establishment violated the terms of the agreement. The overwhelming popular perception of both bodies was that they had failed to deliver any solutions to the country's worsening political, economic and security crises. Clearly, the divisions and manoeuvers within both bodies during the negotiations and following the agreement further eroded their legitimacy and functionality. The December 2015 agreement thereby obliterated the institutional framework that had been the basis of the negotiations. In autumn 2017, SRSG Ghassan Salamé made an attempt at re-launching negotiations between the HoR and High Council of State. But these negotiations quickly became stuck, and it became clear that both bodies no longer provided a viable basis for a settlement. New talks would therefore have to tackle the thorny issue of representation head-on.

Seen as a whole, these processes made for considerable instability in elite structures. Indeed, it became increasingly difficult to identify elites and assess their influence over their constituencies. Rapid changes in the composition and support bases of elites mean that an elite bargain is more difficult to reach, and will be more short-lived if it is reached.

IV. Conclusion

The Libyan case raises three key questions about the assumptions underlying the literature on elite bargains and political settlements.

First, is the limited scope and intensity of violence necessarily a function of a political settlement? In Libya, between November 2011 and April 2014, violence was confined to particular localities, and was generally small-scale or short-term in nature. But it is difficult to talk of a political settlement for this period. Rather, the scope and intensity of violence only rose gradually because it took time for factions to form and for the social barriers to the use of violence to fall. Emerging factions progressively resorted to ever more brazen acts of violence in pursuit of their objectives, as they encountered no social sanctions or retaliatory action from the state. From early 2015 onwards, violence decreased largely as a result of local-level processes in western Libya that were led by local commanders and notables, many of whom could hardly be considered to be part of the elite at the national level, and who were not party to the negotiations over the formation of a unity government.

Second, where exactly are the boundaries between a weak political settlement, and the absence thereof? When do we speak of an unstable elite coalition, and when of elite conflict? This report has argued that there has been no political settlement in Libya since 2011, but an analysis that plainly follows the assumptions of the political settlement literature might conclude that elite competition during 2011-14 and 2016-17 took place within certain parameters that amounted to an unstable elite coalition. There appears to be substantial room for interpretation, which raises questions over the usefulness of these concepts.

Third, what if it is unclear who the elites are, and who the societal groups who compete with each other in conflict are? This is precisely the issue in Libya. The conflicts since 2011 have set in motion processes of social transformation that have upturned hierarchies and sources of influence. The structure and composition of elites has been in rapid flux, as has been the balance of power between actors in the conflict. There are few constants in the political landscape; it is almost impossible to define the groups in competition with each other, since they have continuously changed shape. If the distribution of power in a society undergoes rapid change, then the distribution of benefits cannot be consistent with it. Elites that are undergoing turmoil of this kind will hardly be able to strike a bargain among themselves. The concept and prescription of an elite bargain is likely to prove unrealistic in such contexts.

Stabilisation Unit

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