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THE UNITED NATIONS RESPONSE TO THE LIBYAN CRISIS



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PREFACE

The “Arab Spring” uprisings triggered a series of social movements and regime changes in the Middle East and North Africa. Although these events spreading across the region have been related to each other; the uprisings surfaced in a different way in the areas where they were experienced, and resulted in different consequences. Libya is one of the most striking and dramatic examples of this difference. For the last four years, some analysts argued that democratization was only possible in Libya in the region which started over from scratch. Others, on the contrary, drew the attention to militia forces and security problems due to the collapse of the state. The developments in Libya, which was at the centre of these diametrically opposed arguments, have revealed that it is difficult to bring stability to the country. In addition, after the elections in June 2014, the emergence of two governments and parliaments in the country as well as the second civil war, demonstrates how unsteady Libyan politics was. During Libya’s last four years, which have been shaped by conflicts among tribes, political turmoil, civil war and conflict, the United Nations (UN) inarguably played a critical role.

Libya, governed by Muammar Gaddafi for 42 years, slid into a bloody civil war among tribes soon after protests started in Benghazi on 15 February 2011. Under these circumstances, the UN Security Council adopted the Resolution 1970 on 26 February 2011 and authorized a series of measures including embargos in order to reach a solution in a peaceful way. Because of insufficiency of these measures, on 18 March 2011, the UN Security Council passed the Resolution 1973, which allowed no-flight zone and military operations for Libya. Right after the adoption of this resolution, on 19 March, forces of international military coalition started air strikes named “Odyssey Dawn”. Later, operations were transferred to NATO’s command. This international military intervention authorized by the UN not only ended Gaddafi’s rule but also it triggered Libyan crises which had been going on since 2011 and whose impact exceeded the Libyan borders. After the military intervention, the transition plan prepared by the UN failed, and hence Libya slid into deep multi-dimensional crises. Under these circumstances, the UN has been leading a negotiation process in order to solve Libya crisis since the fall of 2014 and thus has been playing a key role in terms of the future of the political balance in the country.

Considering the fact that the UN has played a crucial role for the last four years and will continue to play an important role in terms of the developments in Libya, this study aims to help to understand the UN’s approach to Libya crisis, expectations, and purposes. In the first chapter, this report evaluates the UN’s policy change for Libyan crisis and fundamental dynamics of this change. The second chapter is devoted to political agreements presented by the UN to the parties. The third chapter assesses the political and military impact of the Political Agreement signed on 11 July 2015. The last chapter discusses the applicability of the UN’s purposes and predictions within the framework of the latest developments in the field.

For those interested in the subject, this report contains significant findings and data serving a better understanding of daily developments and current conflict dynamics in Libya as well as the possible impact of the negotiations on Libya. I would like to underline the importance of the efforts for political solution in Libya again and wish good reads.

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THE UNITED NATIONS RESPONSE TO THE LIBYAN CRISIS

INTRODUCTION

The United Nations (UN) has unquestionably played a critical role in the history of modern Libya. Especially the UN Security Council's resolutions significantly affected Libya, whose independence was recognized by the UN in 1951. But the UN's most important decision, which also can be considered as a turning point in Libya's history, is the UN Security Council Resolution 1973 issued on 18 March 2011, because the Resolution 1973 paved the way for international intervention in Libya. Gaddafi's fight against the opposition in Libya turned into a civil war within a very short time. The suppression of the opposition by the legions and forces loyal to Gaddafi laid the ground for the international intervention. International military intervention, which was limited to air operations, not only ended the Gaddafi period, but also triggered the Libyan crisis, which has been continuing since 2011 and the effects of which has transcended the borders of the country. Following the military intervention, the UN has failed to implement the transition plan in the country and Libya has faced with a deep multidimensional crisis with multiple-actors.

The ongoing bloody and difficult struggle between two parliaments, two governments, and militia forces has been dragged towards a dramatic turning point. Under the current circumstances, considering

the balance of power among these forces, it is obvious that the Libyans and Libya's future, will suffer the most, since the sides cannot defeat each other. In addition, the ongoing conflict empowers warlords and radicalism, and thus complicates the problems, which have already been hard to resolve.

The conflicts between the parties have been accelerated, deepened and regionally scattered since the summer of 2014. Especially, strategically important airports, oil pipelines, roads, harbors and city centers have become targets of air attacks and become battle fields. Also, deepening conflicts increase the rate of civil casualties every passing day. In addition to this, these conflicts destroy the country's infrastructures that are necessary for civilians to continue their daily lives. Furthermore, the number of the displaced Libyans has gradually risen. There is a remarkable increase in illegal immigration from Sub-Saharan countries to Europe due to the instability in Libya. This increase in illegal immigration reveals a human tragedy with accidents in the Mediterranean. Tragic news about boats full of refugees outbound from Libyan ports is increasing with each passing day. Since 2011, it is reported that approximately 10,000 refugees have died in deadly incidents in the Mediterranean Sea.



It is claimed that ISIS controls the center of Benghazi, Derna and Sirte and even has gained ground in several other cities, especially in Tripoli. This general picture has reached an alarming level with Egypt's air operations in Libya on 16 February 2015 and call on the UN Security Council for an international military intervention to Libya. Parallel to these developments in Libya, the United Nations Support Mission in Libya (UNSMIL) stepped up the negotiation process which has been brokered since September 2014 for reconciling the parties in Libya. However, it remains unanswered whether it is possible to end the civil war, fragmentation and the ongoing bloody clashes between militia forces through a political compromise between the House of Representatives (HoR) in Tobruk and the General National Congress (GNC) in Tripoli. Considering the fact that both governments do not have firm sovereignty over their own alliance blocs as well as the areas they are located in, the challenges of resolving the Libyan crisis can be understood better.

Despite all these difficulties, the UN Special Representative for Libya achieved relative progress in the negotiations that were held since the summer of 2014 and the Libyan Political Agreement was signed by the HoR in Tobruk on 11 July 2015 in

Skhirate, Morocco. However, the progress is partial due to the rejection of the agreement by the GNC in Tripoli. Hence, ending the instability in Libya will be possible through overcoming this partiality.

In order to answer the question of whether the compromise between the rival Libyan parties is enough to overcome the Libyan crisis, it is necessary to analyze the fault lines of UN-backed road map as well as the political agreement. In this context, this study analyzes the negotiations brokered by UNSMIL since the summer of 2014. The first part of the study discusses the shifts and the fundamental dynamics of those shifts in UNSMIL's policies toward Libyan crisis since the summer of 2014. Then, three draft agreements that were presented by the UN to the rival Libyan parties since April 2015 are discussed within the context of the mechanisms proposed by the UN for the resolution of the crisis, and the road map. This part of the study evaluates the structures, institutions and the roadmap. Discussing the Libyan Political Agreement, which was signed by the HoR in Tobruk on 11 July 2015, with a comparative analysis, this study, assesses the goals and projections according to their applicability.

I. THE UN-BROKERED PEACE NEGOTIATIONS AND THE UN'S POLICY SHIFT

The UN has been making efforts to convince the Libyan rival parties for a political solution within the framework of a road map, since September 2014. The UN-brokered peace negotiations, conducted in four different countries since September 2014, have evolved in four main phases. The negotiations started in the form of a very narrow scope talks in Ghadames, then evolved into a wide range of talks and finally turned into direct negotiations with the meeting held in Berlin, Germany in June 2015. At the end of this process, 18 out of 22 members of the Libyan Political Dialogue signed the Libyan Political Agreement in Skhirate, Morocco on 11 July 2015. The Libyan Political Dialogue also included four representatives from each rival government in Libya, the GNC in Tripoli and the HoR in Tobruk. The representatives of the GNC boycotted the final meetings held in July 2015 and refused to sign the political agreement. Six mayors including the mayors of Tripoli, Benghazi, Misrata and Zintan; the National Forces Alliance (*Tahaalof al-Qiwa al-Wataniyya*) and Muslim Brotherhood's political wing in Libya, Justice and Construction Party (*Hizb Al-Adala Wal-Bina*), participated into the signing ceremony. Although the GNC in Tripoli refused to sign the agreement, the participation of the parties supporting the GNC to the signing ceremony raised the number of agreeing parties. In addition, Special Representative of the Secretary-General for Libya, Bernardino León, together with other representatives of the UN and Western countries, continue to call the GNC to be a part of the agreement.

The present situation is important for Libya, which has been dragged into instability and the civil war very rapidly after 2011.

Nonetheless, it should be noted that Libyan Political Agreement is still impartial and does not cover all the parties in Libya. Although international and regional actors put extensive pressure on the GNC in Tripoli, it will not be possible to reach a concrete outcome without ensuring the acceptance of all parties. Hence, it would be beneficial to analyse the phases of the UN-brokered negotiations.

I. The HoR-oriented Initial Negotiations: The UN peace talks, brokered by Special Representative of the Secretary-General for Libya, Bernardino León, began in Ghadames, a southern town in Libya on 29 September 2014.¹ The peace negotiation in Ghadames was limited to the HoR members and 40 deputies who boycotted the HoR, and the GNC in Tripoli was not involved in this process.²

Following the failed coup attempt on 17 February 2014, retired Major General Khalifa Haftar has returned to the political scene with another coup attempt on 16 May 2014 and Karama (Dignity) Operation. After Prime Minister Ali Zaidan was dismissed from the post of Prime Minister in March 2014, the political balance has changed in Libya. The Zintan tribe (Ali Zaidan is a prominent member of the tribe), which lost its dominance over the GNC in Tripoli, sought to create an alliance with Haftar and created a block with the support of the military and militia forces loyal to them. This crisis, deepened by the Karama Operation, has come to an impasse with the government crisis. Under these conditions, the country held the elections on 28 June 2014 in order to get of the crisis. However, the new political scene emerging with the July 2014 election could not solve the crisis. Moreover it has



institutionalized the fragmentation of the country and brought a deeper crisis of two parliaments and two governments, one in Tobruk, the other in Tripoli. In this crisis, the UN has adopted a pro-HoR policy arguing the legitimacy and bindingness of June 2014 Election. In this regard, the UN, during this time period, accepted the GNC in Tripoli as an actor creating crises following the expiry of its mandate, and concentrated its political initiatives on the HoR in Tobruk. These political efforts concentrating on the HoR led to general acceptance of the “internationally recognized government/parliament”.

At this point, it should be noted that the UN did not invite the GNC in Tripoli to these talks. In Ghadames talks, the UN aimed to increase the HoR’s legitimacy as well as ending the debate over the 2014 general elections by convincing the deputies boycotting the HoR. However, despite the limited participation, the talks were deadlocked and a positive result could not be obtained.

II. Expanding Participation: Following the failure of the HoR-oriented initial

negotiations, the UN presented a new approach by revising its policy. In this context, León decided to move the negotiations to Geneva and expand the scope of the participation.³ Both governments and parliaments, representatives of city councils and militia forces were invited to the talks in Geneva held on 15 January 2015. The GNC in Tripoli announced that they declined to participate to the talks in Geneva. However some members of the GNC and representatives of Misrata city council acted against this boycott decision and participated in the talks.⁴ Although the breach of the GNC decision by some figures led to reactions, by doing so, their participation prevented the GNC total isolation from Geneva talks and provided an indirect representation for the GNC.⁵ The GNC, leaving aside its initial attitude, announced that they may participate in the talks if the negotiations would continue in Libya.⁶ Inability to obtain a positive result after two rounds of talks in Geneva, the lack of willingness of the parties to compromise and the intensification of the clashes during the rounds of talks led to a deadlock in the Geneva talks.⁷



III. Inclusion of the GNC to the Negotiation Process: Geneva negotiations revealed that the limited participation in the talks had a negative impact on the process, and then the UN decided to consider the GNC's demands and sought to include more parties in the negotiations once again. In this context, the UN gave positive response to the GNC's demands. But then, due to 3 suicide attacks in Kubbe town of Derna, located 250 kilometers east of Benghazi, which resulted in 47 people's death, the UN moved talks to Morocco. Thus, the negotiations that the GNC in Tripoli also attended began in Skhirate, Morocco in March 2015. The negotiations in Skhirate, Morocco took place in the form of indirect talks composed of two rounds between the parties. Also, León aimed to increase chances of success in the talks with the active participation and support of regional actors, by moving the talks to Morocco, Skhirate.

Following the first round of proximity talks held between 12 March and 26 March 2015, the parties started the second round of talks on 15 April 2015 and began to negotiate framework notes of

the Libyan Political Agreement draft.⁸ Meanwhile, the raid to Tripoli, organized by the forces loyal to Khalifa Haftar, who supported the HoR, led to the risk of the talks in April 2015, during the second round of the talks.⁹ In 16 April, although the GNC suspended its participation in the proximity talks, the second round was also completed.¹⁰ As a result of these talks, the UN has presented the third version of the draft agreement to the parties on 28 April 2015.¹¹

IV. Direct Negotiations and Balancing Policy: The UN aimed to strengthen the legitimacy of the HoR in Tobruk with the negotiations in Ghadames, and in the context of this approach, brokered the talks in Geneva, and Morocco, Skhirate with a broad participation. Since the initial talks, the UN is convinced that the legitimate political interlocutor, in a political resolution, should be the HoR in Tobruk. The UN assesses that the HoR in Tobruk is militarily more advantageous compared to the GNC in Tripoli. According to the UN, compared to the GNC in Tripoli, the HoR in Tobruk, which has the support of forces loyal to Haftar, military units of Barqa fed-

eralist regional government led by Ibrahim Judhran, and Libyan Air Forces, could provide stability in Libya.¹² Therefore, the UN aimed to impose the road maps, which treats the HoR in Tobruk as the legitimate sovereign power in Libya, over the GNC in Tripoli. This road map had three main objectives. These objectives are the establishment of a government of national accord, the ceasefire agreement between the parties, and the formation of Libyan national army with the withdrawal of armed forces and the militias from the cities. These aspects have been the main axis of each revised draft of the Libyan Political Agreement.

On 28 April 2015, the GNC in Tripoli announced that they rejected the draft agreement offered by the UN on 27 April 2015, while the HoR in Tobruk declared that they would accept the draft.¹³ The GNC harshly criticized UNSMIL, demanded a new appointment in place of León, and accused the UN of taking sides in the dispute. All these reactions indicated that the GNC would not accept the draft agreement.¹⁴ As a result of the GNC's objections, the UN decided to revise the draft agreement and created a new road map which could meet the demands of the GNC on 8 June 2015. The most significant revision of the final draft is the new additions to the High Council of State, which became a parallel organ to the legislative body, the HoR. For example, according to the this draft, the vote of no confidence against the Government of National Accord required the agreement of two-thirds of the members of the HoR as well as the High Council of State.¹⁵ Moreover, the

High Council of State's opinions would be binding for the HoR. The context of this binding opinion was not defined specifically; hence its application would determine if it was going to be veto power or revision power of laws. Naturally, the draft agreement was accepted by GNC, but this time rejected by the HoR.¹⁶ As a result, the situation of the negotiations went back to the Geneva talks. But this time, the GNC decided to participate in the ongoing talks, while the HoR announced that they will boycott. However, this decision was not observed by some groups, hence a partial participation to the talks had been realized.¹⁷

In consequence, the UN's approach to the Libyan parties has completely changed with the next draft agreement released on 8 June 2015. In this draft agreement, the HoR-oriented approach of the UN was abandoned, and a new approach aiming at a balance among the parties has emerged. However, in this approach, the HoR in Tobruk still continued to be the predominant party. Likewise, this situation can be seen more clearly in the fifth draft agreement presented to the parties on 2 July 2015.¹⁸ The UN revised significantly the articles of the fourth draft agreement, which provided more powers to the GNC in Tripoli, gave the GNC the authority to monitor and even balance the HoR in Tripoli, and transformed the GNC in Tripoli as a "consultative council". Consequently, a compromise was reached with the HoR in Tobruk, which rejected to accept the fourth draft. This fifth draft agreement was accepted and signed by the parties on 11 July 2015.

II. WHAT DOES THE UN AIM TO DO IN LIBYA?

The UN has made vigorous efforts to formulate a political agreement which can create a compromise among the Libyan parties during the negotiation process initiated in Ghadames in September 2014. Presenting five drafts to the opposing parties, the UN aims, with its peace talks, to make the parties agree on a road map that will end the civil war that it considers becoming more and more of an international security threat. It partially achieved its goal when 18 out of 22 members of the Libyan Political Dialogue signed the political agreement. Leon, in addition, left the door open for reconciliation to the GNC in Tripoli, which rejected the agreement.

All the draft agreements presented by the UN have shared three common themes: a Government of National Accord, forming councils to include several Libyan political agents and a national army to resolve the security problems as well as ending the fragmentations caused by the militia. The road maps that the UN has created for each of those topics require an in-depth analysis. Focusing on the agreement text signed by the parties on 11 July 2015 at the center, this section will look at the solutions that the UN seeks in Libya within the framework of agreement texts presented by the UN under three main titles.

a. Government of National Accord

During the talks in Ghadames, the UN has tried in Libya, to place the HoR on a legitimate and irrefutable foundation. However, understanding the fact that currently, no option that limits itself to the HoR will be enough, the UN has shifted the aim of the talks in Geneva to reconcile the parties. Consequently, the process carried out by the UN has designated the establish-

ment of a Government of National Accord as one of its main targets. From this point of departure, the UN wants to establish a political authority through a Government of National Accord with the consent of parties, solving the fault lines in the crisis through this political authority. In that context, both in the agreement drafts and the agreement signed on 11 July 2015, the official legislative authority is the HoR, while the executive authority belongs to the Government of National Accord. In the draft agreements announced in April and June, the Government of National Accord is identified as the main actor of the transitional period. According to the draft agreements, the Government of National Accord will be the sole executive authority, and it will consist of a Council of Ministers chaired by the Prime Minister, and will be accompanied by two Deputy Prime Ministers and numerous ministers. The Government of National Accord will have its headquarters in Tripoli, but will be able to perform its functions from any other city. However, this point indicated in the agreement leaves the door open for a governmental chaos for the divided parliament and governments in Tobruk and Tripoli. As the UN lacks faith in parties, it wants to abolish this dualism, and has taken this step as a countermeasure, if any disputes between the parties would arise in the future. By this way, the UN plans to move the transitional actors to the safe zones and continue the process, in any case of disputes. These points in the draft agreement were also carried on the signed agreement text. The term of the Government of National Accord comprises the one-year-term after the signing of the agreement. The agreement draft also projects that no other government may be established in this one-year-term



by referring to the Libyan constitution. On the other hand, the task duration may only be prolonged by one additional year. Although the third and fourth drafts required the HoR special session, the agreement text signed on 11 July 2015 restructured this article, specifying that “The term of the Government of National Accord will automatically be prolonged by a year, should the efforts to recreate the constitution not be completed”. On the other hand, in case the elections are carried on, and an executive authority is created through the elections, the term of the Government of National Accord will end automatically. As a result, the term of the Government of National Accord will not be longer than two years, and it will remain in office until the elections are completed, and a new government under a new parliament is formed. According to the agreement draft, a vote of no confidence against the Government of National Accord requires the agreement of two-thirds of the members of the HoR and the State Council. In addition, death or resignation of the Prime Minister will lead to the resignation of the whole government. In this case, the outgoing government will continue functioning as a caretaker government until a new government is formed. If such an event occurs, five representatives from each of the HoR and the State Council will form the Libyan Political Dialogue, and

agree upon a candidate for Prime Minister. On the signed agreement, however, these parts have been amended. First of all, the procedure to vote a no confidence against the Government of National Accord has been completely amended. According to the agreement, the procedure to vote a no confidence can be initiated with 50 signatures of from the HoR. Following the petition, the HoR needs to consult with the State Council, and then 150 representatives out of 200 has to vote for no confidence in the voting within the HoR. With the new layout, authority the State Council had on the fourth draft has been removed, and the HoR has become the sole authority on a vote of no-confidence. Besides, the procedure to nominate a new Prime Minister has also been reorganized. In case of death or resignation of the Prime Minister, the authority to nominate a new Prime Minister has been given to the HoR. The State Council and the Libyan Political Dialogue, which also shared this authority, have been removed from the process in the agreed text.¹⁹

The agreement also includes the Government of National Accord forming a “Council of Ministers” and a “Presidency Council of the Council of Ministers”. The executive powers will be possessed to a major extent by the Council of Ministers. The duties of the Prime Minister will be:



- Representing the State in its foreign relations,
- Accrediting the representatives of states and foreign bodies in Libya,
- Supervising the work of the Council of Ministers,
- Issuing and negotiating laws endorsed by the HoR.
- Establishing and implementing the Government program,
- Proposing the necessary draft laws to perform its tasks and submitting them to the HoR for endorsement,
- Issuing bylaws as well as administrative decisions and directives required to implement the Government program,

The duties of the Presidency Council of the Council of Ministers will be as follows:

- Assuming the functions of the Supreme Commander of the Libyan army,
- Appointing or removing the Head of the General Intelligence Service,
- Appointing (or removing) the ambassadors and representatives of Libya and appointing (or removing) the senior officials,
- Following 10 days of submission to the HoR, declaring states of emergency, war and peace, and adoption of exceptional measures upon the approval of the National Defense and Security Council,
- Concluding the international agreements and conventions endorsed by the HoR.
- Managing national affairs in the interest of the country, according to laws, by-laws, regulations, and decisions in force,
- Preparing the draft general budget and balance sheet of the State,
- Developing and implementing necessary emergency financial arrangements in cooperation with the relevant institutions,
- Negotiating international conventions and agreements.

The duties of the Council of Ministers are:

According to the 10th Article of the fourth agreement draft, the Government of National Accord is responsible to submit a draft law in consultation with the State Council and the National Defense and Security Council that will specify the competencies of the Libyan Army. It needs to fulfill this responsibility in 3 months after commencing its functions, as well as presenting the draft law to the HoR within this time frame. These subjects are also

among the parts that have been amended in the agreement text.

With the amendment, a commission with the cooperation of the Government of National Accord, the State Council and the National Defense and Security Council needs to be formed to create the law specifying the competencies of the Libyan Army. In accordance with the agreement drafts, as well as the 12th Article of the signed agreement, the legislative powers are exercised by the HoR during the transitional period. On the other hand, whereas in the draft, the regulation concerning the legislative power was named “The Legislative Authority”, the agreement has the same part renamed as “HoR”. The positions that the HoR can appoint or remove are specified in the 15th Article. According to the fourth draft, the HoR was able to meet with five representatives from each of the Central Bank of Libya, the Libyan Political Dialogue and the State Council to appoint, remove or change the Governor of the Central Bank of Libya, the Head of the Audit Bureau, the Head of the Administrative Oversight Authority, the Head of the Anti-corruption Authority, the Head of the High National Electoral Commission and the Public Prosecutor. Following the establishment of the Government of National Accord, there was a need to gather in order to define and appoint the names to fulfill those positions. The process and methods to discharge those currently in these positions to appoint new ones were the same. However, the signed agreement also majorly changed this section. First of all, the 60-day process was lowered to a 30-day process according to the agreement. Also, the power to appoint the Governor of the Central Bank of Libya, the Head of the Audit Bureau, the Head of the Administrative Oversight Authority, the Head of the Anti-corruption Authority, the Head of the High National Electoral Commission and the Public Prosecutor was given to the HoR. The Central Bank of Libya, the Libyan Political Dialogue and the State Council who had their shares in this power in the fourth draft can only take part in the appointment and the removal processes

as an advisory council. Likewise, the HoR has become the sole authority in new appointments and removals. The HoR needs the vote of two-thirds in the parliament to remove and reappoint.

b. The High Council of State

The principles concerning the High Council of State are regulated in the Articles 19 to 28 in the draft, and the Article 18 and the 19 in the agreement text. According to the 19th Article of both the draft and the agreement text, the High Council of State is the highest consultative body of the State, and enjoys a legal personality and financial independence. It will carry out its duties within this framework. In the agreement draft, the High Council of State was able to express opinions with a qualified majority that was binding to the HoR. As such, the High Council of State was able to express advisory opinion and offer necessary proposals to the HoR considering international agreements. Also, the High Council of State was required to answer the written demands of the HoR within 14 days. However, the condition of “qualified majority” that was needed to express binding opinions in the draft was changed to “two thirds”. In addition to this, the HoR has the right to reject or adopt the binding opinions of the State Council with the signed agreement. As a result, the agreement has ceased the “binding opinions” of the State Council from being “binding”, which removed the veto power of the State Council the draft agreement provided. According to the agreement, the State Council, needs to answer the HoR’s written demands within 21 days. Finally, the article enabling the Prime Minister and the ministers to attend the State Council’s sessions was removed from the section which regulated the competencies and the operation of the State Council. Apart from these, there are no differences between the fourth agreement draft and the signed agreement.

According to the Article 22, the headquarters of the High Council of State is located in the capital, Tripoli. Its term will end with the end of the term of the Govern-

ment of National Accord. The 23rd Article regulates the fundamentals of the creation of the High Council of State. According to the article, the High Council of State will consist of 120 members. 90 members among them will be selected from the members of the GNC, while the remaining 30 members will be selected from the respected and trusted Libyan personalities, while taking into account the geographic dimension, cultural components and the representation of women and youth. On the other hand, the power to nominate new members during the transitional period will be exercised by the High Council of State. A commission will be established solely to ensure the connection between the State Council and the Government of National Accord. The draft agreement stated the primary aim of the transitional process as preparation of laws and legal amendments for referendum and elections. In this framework, the commission regulated by the 24th Article is responsible for the achievement of these aims. Article 25 designates the responsibilities of the State Council in a more detailed fashion. According to this, the State Council is responsible for:

- Providing the needed support during the implementation of the Libyan Political Agreement,
- Supporting the national unity,
- Protecting of the core foundations of society,
- Supporting the economic and social development projects that are in accordance with governmental programs, and priorities,
- Combating terrorism, extremism, violence and exclusion,
- Supporting the efforts to re-establish national reconciliation and social peace through current mechanisms,
- Ensuring the safe return of refugees and displaced persons,
- Support the peace efforts and rejection of the culture of violence and hatred through the means of media,

- Assist fact-finding commissions and anti-corruption institutions with their duties.

c. The Libyan National Army in the UN Draft

There are 14 articles (Articles 36 to 49 in the fourth draft and Articles 35 to 48 in the signed agreement) under the headline “Security Arrangements”. These 14 articles have been preserved in the 11 July 2015 agreement as they were in the fourth draft. With the articles in this section, the UN tried to create a roadmap for the reconstruction of military and police forces. First of all, the duty to establish and develop a military and police force was given to the Government of National Accord. The agreement draft has regulated numerous security measures that are advised to be implemented during the reconstruction period. These interim security measures include establishing a ceasefire, the withdrawal of militia from cities, residential areas and critical infrastructure installations as well as disarmament. According to the Article 36, which regulates these interim measures, the Government of National Accord is required to establish the necessary bodies to implement and inspect these aims. The Committee for Monitoring the Implementation of the Interim Security Arrangements (Article 39) will be able to establish sub-committees, while being able to request assistance from the UN if needed. With the ceasefire entering into force with the signing of Libyan Political Agreement, the militia will withdraw starting from the capital Tripoli, and afterwards from the residential areas and buildings (Article 41-42). 60 days into the ceasefire, all heavy and medium weaponry will be collected by the UN (Article 43). Articles 44 to 47 include the expression of interest about the social reintegration and rehabilitation of the disarmed militia. According to the article, the Government of National Accord will carry out the necessary regulations for reintegration and rehabilitation. Also, the suitable ex-militia may also be transferred into security forces.

III. THE REFLECTIONS OF THE LIBYAN POLITICAL AGREEMENT IN THE FIELD

a. Tripoli-Tobruk Struggle

The negotiations led by the UN since September 2014 reached a concrete but a partial outcome with the signing of the political agreement on 11 July 2014. The majority -18 out of 22 members- of the Libyan Political Dialogue, which attended the negotiations, held in Morocco, Skhirat and also included the GNC, signed the Libyan Political Agreement. Although the agreement does not deal with the vital issues such as resource and power sharing or political and administrative system, it brings some critical developments regarding the change in the political balance in the field. However, it is too early to predict that such a shift in the balance of power in Libya would bring stability and consensus. On the contrary, it is more likely that the shift in power balance may trigger a new wave of clashes in the country. Due to the desires of tribes, which would aim to protect existing assets, expand their territories, positions and gain more advantages in the changing balance, there is a high possibility for possible clashes in the near future.

The political crisis, which emerged just after the dismissal of Ali Zeidan from prime ministry in March 2014, was deadlocked with Karama (Dignity) Operations led by General Khalifa Haftar on 16 May 2014. This process not only resulted in the emergence of two parliaments and two governments in Libya, but also Zintan's departure from the GNC. It is an important turning point, because Zintan tribe is one of the most strong and influential Libyan tribes, which is located in the west of Libya and has strong militia power. In order to resolve the crisis, the GNC decided to hold elections in June 2014, but

the elections could not put an end to the crisis, and instead, led to the emergence of two rival camps, which are the GNC in Tripoli and the HoR in Tobruk.

These two rival camps, named as Tobruk-Tripoli strife are composed of the umbrella structure relying on the military and political alliance; hence gather a lot of different components under their roof. The military force of the GNC in Tripoli, which controls west of the country, is known as Libyan Dawn (Fajr Libya). Libyan Dawn is largely consisting of Misratan militias, and also includes Zuwayah militias, many different brigades and militias from Tripoli, forces from Ghariyan and Amazigh and Toubou Berberians. The most important and well-known military unit of Libyan Dawn is the Libya Shield Force, which is officially one of the General Staff forces, but practically acting as an autonomous brigade. Misratan militias, together with Muslim Brotherhood, are the dominant elements of the Libya Shield Force. Until 2014, the Libya Shield Force had been operating in Tripoli, Misrata, Benghazi, and Homs, but in the last one year has largely lost its effectiveness in Benghazi. Similarly, it is stated that the Libya Shield Force lost the control of some areas in Tripoli. Moreover, the Tripoli Brigade, close to Abdul Hakim Belhaj, head of Al-Watan party, is among the forces of the Libya Shield Force. The reasons behind Amazigh's decision to side with Libyan Dawn are ongoing disputes and conflict with Zintan tribe, which sided with the opposing camp, the HoR in Tobruk. Amazigh has been living in the region around Jebel Nafusa, west of the country near Tunisian border, whereas Zintan also located in the Nafusa Mountains area. Similarly, Misratans sided with the GNC due to some political concerns

and disputes with opposing camp, instead of shared aims or ideologies with the GNC. Tuaregs as well as Toubous, who had stayed as nonaligned for a long time, were involved in Tobruk-Tripoli struggle because of their territorial expansion policies in Fezzan. Tuaregs sided with Tripoli following Toubous's alliance with Tobruk.

The military force of the HoR in Tobruk is called as Dignity (Karama) Operation Alliance. This alliance has the support of Haftar's special forces; federalist Barka government's military forces led by Ibrahim Jadhnan; the Libyan Air Force; Zintani militias from west Libya; and Toubous from south Libya, who entered into alliances in the recent period. In addition, Haftar has formed the Sahawat around Benghazi by the end of 2014, after his failure to defeat forces in Benghazi with air strikes. The source of the HoR control over the eastern Libya is the support of powerful and largest tribes living in Barqa (Cyrenaica) region and gathering under federalist Barqa government. Federalists were in conflict with all the other political groups in Libya until February 2014; in the summer of 2014 they made a political alliance with the HoR, just as Zintan tribe did. Ibrahim Jadhnan was named a commander of the Petroleum Defense Guards after 2011 Revolution but removed from his position in 2013. Aftermath, Jadhnan seized and secured control of eastern ports, such as Sidra and Ras Lanuf with his armed units; and then transformed them into defence force of federalist Barqa government. Federalist Barqa government has an autonomous power and structure; as well as holding strategically important facilities of eastern Libya thanks to military forces led by Jadhnan.

With the signing of Libyan Political agreement on 11 July 2015, the HoR in Tobruk is accepted as a legitimate legislative body. Among signatory parties, there were forces and actors supporting the GNC such as Municipal Councils of Misrata, Benghazi, and Tripoli, and the Justice and Construc-

tion Party, the political wing of Muslim Brotherhood. Accordingly, this development may trigger a shift in the balance of power in favour of the HoR. This also signals weakening in the block represented by the GNC. In particular, the decision of Misrata Municipal Council as well as the Justice and Construction Party to support the agreement has triggered a process of altering the balance of power.

Even relative secession of Misrata, which is the largest and most powerful component of Libyan Dawn, is quite a debilitating development. During the crisis that emerged with the formation of two parliaments and two governments after the June 2014 Election, Misrata has sided with the GNC in Tripoli and played a strategic role with its military power enabling the GNC to reach even to Fezzan. It also has an indisputable contribution in ensuring the security of Tripoli. But the alliance between Misrata and the GNC was formed within the framework of mutual political needs and concerns, rather than ideological similarity. Therefore, since the Ghadamis negotiations, Misrata has responded positively to the mediation initiatives brokered by the UN. In this regard, Misrata sent its representatives to the talks in Geneva despite the GNC's decision of boycott, and gave the clear signals that its alliance with the GNC was conditional. In addition, a position change of Misrata, which has a vital role within the GNC block, raises the possibility of "demonstrative impact" for other tribes and actors in Libya.

Also, the Justice and Construction Party's consent for the agreement, which declare the HoR as the legitimate legislative body in Libya, means a political regression for the GNC. Justice and Construction Party has received 10% of the votes in the 2012 elections; won 17 of 80 seats allocated to party lists in the GNC; and thus became the second largest party following the National Forces Alliance. In addition, it is estimated that the party has the support of the significant number of deputies al-



located to the independent lists, which is around 120 seats.²⁰ It is also expressed that the Justice and Construction Party is the strongest group within the GNC in terms of party discipline. Therefore, the impact and power of the party has gone beyond the number of its deputies. The most striking example in this respect is the role played by the party during the vote of no-confidence for the government led by Ali Zaidan and dismissal of him from Prime Ministry. After Ali Zaidan's dismissal, the Justice and Construction Party has continued to be one of the most active actors. However, these developments have not yet turned Misrata or the Justice and Construction Party into the primary allies of the HoR. In consequence, the UN backed agreement has triggered the process of establishing a new political equilibrium, rather than establishing a new political balance in the country.

At this point, it is obvious that there are defections within the GNC block and the GNC has lost a significant level of its political and military support. This will strengthen the HoR's hand in both political and military terms. Likewise, there

are reports that other municipal councils are trying to deal with the HoR following Misrata. However, the core strength and importance of the GNC rest upon the continuing functions of state bureaucracy remaining from state bureaucracy in Tripoli. As long as the GNC controls the financial and administrative state institutions such as the Constitutional Court, Ministry of Oil and the Central Bank, it will not be a preferred option to ignore or marginalize the GNC. Therefore, during the UN-brokered negotiations, the issues such as transfer of the HoR to Tripoli, withdrawal of militias and armed forces from Tripoli, and removal of military forces from strategically important facilities were brought to the agenda without any revisions. The GNC accepted the fourth draft agreement, because the GNC might have a position which can balance the HoR as well as become an equal partner through the State Council formulation, stipulated by this draft agreement. Although the fourth draft agreement also accepted the HoR as the only legitimate legislative body, at least, the authorities and powers of the State Council were available to create equality between the HoR and the

GNC in practice. However, the fifth draft agreement, which was later signed by the majority of Libyan Political Dialogue in Morocco, restricted almost all the powers of the State Council, and transformed it into an advisory council, which can only express views. This situation is far from the GNC's expectations and makes it difficult to convince the GNC politically in the coming period.

b. The Issues of Libyan National Army and Militia Forces

The efforts to formulate a national army under the UN-led draft agreement, together with the issues of eliminating or regulating militia forces, which has become one of the most vital issues in the country since 2011, deserves a separate and detailed evaluation as it directly affects the other subjects of the agreement. Muammar Gaddafi was afraid of any possible coup against his rule, and therefore took numerous precautions to weaken the Libyan army to eliminate such a possibility. Especially after the 1990s, numerous tribes influential in the army were targeted, their members were ousted from the army and new legions consisting of paid foreigners were established in control of Gaddafi's wingmen and sons instead of the national army. Therefore, Libyan national army dispersed during the 2011 civil war, and the soldiers either participated in militia forces or formed militia-like regional units. Paralleling the situation of army, militia forces, despite the fact that they lack a central military coordination, became the most important agent in the country with the impact of continuing armament trend during post-2011 era. These aforementioned militia forces have filled the security gap on the one hand, and ironically have become the biggest security threat in the country, on the other. Since the beginning of the civil war, it is estimated that around 1700 militia forces have emerged in Libya. In the power struggle between tribes, influential families and ideological group,

militia forces have become great tools as well as game-changing agents.

The governments after October 2011 attempted to integrate militia forces, the most important military troops of the civil war. Two critical strategies were implemented in this regard: disarmament and conversion to military units under the control of a central army. The disarmament of the militia was a project of the National Transitional Council as well as the parliament and governments in charge after the elections in the country, while the armament was increasing uncontrollably. However, the militia forces procured a respectable amount of armament during the civil war, with many of them in possession of heavy weaponry such as tanks. Besides their physical power, the militia forces also succeeded in administrative self-institutionalization through establishing autonomous bodies. Small-scale armed groups also integrated into these administrative bodies after the civil war. The initiatives and projects to convince the fighters in militia forces for disarmament also became inadequate and hence these efforts failed consequently. Primarily, taking an active role during the civil war, the militia forces refused disarmament to protect their newly-acquired powers.

In response to these failures, the new governments attempted to put the groups under a central military command, whenever disarmament was not an option. The efforts to unite the militia forces, which were autonomous and controlling certain territories, under a central military command were not successful, either. On one hand, the central government was not powerful and superior enough to control the militia forces under a single command; on the other hand, the leading members of the militia forces resisted strongly to these efforts. In consequence, the militia forces continue to be autonomous.

Therefore the new governments, changed their strategies and provided the militia

forces with a juridical status, and attached them to the Ministry of Internal Affairs. Thereby, the militia forces were converted into armed forces of the country, in addition to the national army. The government legally recognized the autonomy of the militia, and in practice admitted being weak against the militia forces with this implementation.

The considerations for security arrangements in the agreement remain limited to just being declarations of will. Considering this aspect, during the post-2011 era, these wills had been declared endlessly, but the efforts became unsuccessful one after another. Between 2011 and 2014, many alternative strategies were tried in Libya to solve the militia issue. Firstly, disarmament and rehabilitation was tried, and negotiations were conducted to ensure the withdrawal of the militias from the city centers. Afterwards, attempts to unify the militia forces under a central command and then to integrate them to the existing system were carried on. From dispersing the militia forces to the taming them within the system, none of these tactics actually worked. As a result, the UN agreement draft now needs to go beyond from being a declaration of will, and put forward a road map, which shows how it plans to solve the problems that other practices have failed to solve.

For example, expecting a success on the implementation of the ceasefire and withdrawal of the militia forces by gathering the rival groups and local actors under “the Committee for Monitoring the Implementation of the Interim Security Arrangement” is quite optimistic. Gathering the rival groups doesn’t guarantee a resolution to the problem or the implementation of the UN-led road map. Of course, the efforts of bringing clashing actors under a single organizational structure provides a strong basis for solving this problem, but this could only be taken as a starting point. If the UN wants to accomplish the implementation of the road map

in a short time indicated in the text, the parties need to elaborate the details and agree on them.

Moreover, the UN draft agreement has no encouraging programs for the disarmament of the militia forces. The biggest hurdle faced about the militia forces in the post-2011 era was to convince the armed Libyans into disarmament. As there is no military structure to force the militias into disarmament or to assimilate the militia forces in, the initiatives to disarm the forces were unsuccessful. At this point, it is worth noting that personal security concerns are the primary motive pushing Libyans into forming armed groups. At the same time, we need to emphasize that the tribes are not clashing for power only, but also for survival. The Libyan demographics are also quite hectic in the post-2011 era. For example, the reason for the clash between Tuaregs and Toubous in Fezzan lie in Tuaregs’ wanting to expand into Toubou territory, as much as the Tripoli-Tobruk struggle. Similarly, the expansion of the militia forces of Misrata and Zintan to Fezzan and becoming a party within the conflicts further deepened the concern for survival.

Finally, the withdrawal of militias from residential areas, cities and strategically important buildings pose some problems encountered in other areas. It is a fact that militia forces exist in port towns and strategically important points such as populated city centers, airports, oil refineries and infrastructural facilities. Since 2014, there have been bloody clashes in these places. While the civil airport under the control of Zintan tribe was bombed by the forces under the control of the GNC, many areas in Tripoli have been bombed by forces under the control of the HoR. Therefore, it is of critical importance that these cities are cleared of clashes. However it is not clear under the agreement as to whom the militia forces will hand down the control. The agreement stipulates that the withdrawal will take 30 days,

while the disarmament will take 60. The UN doesn't specify a timetable or a core structure about the establishment of a national army. For example, if forces under the control of Tobruk are given the central role in the structure of the National Army, how is it going to be possible to convince the militia forces in Tripoli? Also the expression of "withdrawal of the militias"

creates an impression that all militias are external forces currently deployed in residential areas. However, the majority of the militia forces are locals, taking care of the local security. As long as no structure to fulfill the security problem is established, it seems impossible for the militias to withdraw.

CONCLUSIONS AND SUGGESTIONS

The negotiations led by the UN in order to put an end to the Libyan crisis as well as the signing of the Libyan Political Agreement by 18 out of 22 members of the Libyan Political Dialogue on 11 July 2014, were considerably significant for reaching a conflict resolution in the Libyan crisis. The most fundamental tendency in the UN's approach for the conflict resolution since September 2014 is to lead the formation of institutional mechanisms, which can bring the rival parties together. A range of solutions to the issues, from economy to politics and security, are not part of this negotiation process. The UN aims to leave the process to the Libyan actors after the formation of mechanisms which can ensure coordination, and then withdraw its position to a supporter. However, there are serious obstacles in front of the possibility of opening a path for the resolution in Libya through the UN-brokered and political agreement.

First of all, a set of defective assumptions of the UN decreased the possible success of the process to considerably lower rates. The UN seems to be convinced that the legitimate political interlocutor, in a political resolution, should be the HoR in Tobruk. Likewise, the second titles of each draft agreement are the announcement of this conviction. The most important factor shaping the conviction of the UN in this direction is the assumption that compared to the GNC in Tripoli, the HoR in Tobruk, which has the support of forces loyal to Haftar, military units of Barqa federalist regional government led by Ibrahim Judhran, and Libyan Air Forces, is more advantageous. From this point of view, the HoR in Tobruk reflects militarily more powerful and capable im-

age. However, contrary to this image and assumptions; the HoR has not provided the expected success in the field yet. The HoR in Tobruk, despite its military advantages, could not expand its area of control with the operations carried out since 2014. Despite all efforts, to which should be added the serious amount of contributions from Egypt after its air strikes in Derna, the HoR in Tobruk could not gain the control of the center of Benghazi and Derna. As a result, the military forces of the HoR are far from ensuring control of the whole country, contrary to the UN's expectations.

With the signing of Libyan Political Agreement on 11 July 2015, the HoR in Tobruk is accepted as a legitimate legislative body. 18 out of 22 members of Libyan Political Dialogue participating in the negotiations in Skhirat, Morocco accepted this agreement. It is significant that there are parties among the signatories that have been supporting the GNC and Libyan Dawn. Although the GNC in Tripoli refused to sign the agreement, this situation indicates that there has been defection within the GNC coalition. Especially, the decision of Misratan City Council, which is a significant military power in the country, to support the agreement carries the potential of changing the existing balance of power in favor of the HoR. In addition, the political wing of the Muslim Brotherhood in Libya, the Justice and Construction Party's, support for the agreement will strengthen the hand of the HoR politically. In this respect, it is possible to foresee that Libyan Political Agreement signed on 11 July 2015 could trigger a process that changes the balance of power in the country. Hence, it can be argued that the

UN-backed political agreement paved the way for the process of establishing a new political balance rather than establishing a new political balance in the country. This process might end with ensuring the legitimacy of the HoR in the country, but this is only one of the options. The probability of the realization of this option depends on the HoR's ability to construct its authority over its current alliance as well as expand its authority over other military and non-military actors in Libya. Consequently, the political agreement has initiated a new process of struggle rather than establishing a balance in the field.

The UN has put the HoR on the main axis of the negotiation process, which began in Ghadames and reached a concrete level in Morocco. Although the UN aimed to balance its pro-HoR approach with the fourth draft agreement, with the final version of the agreement, it strengthened the position of the HoR. The GNC in Tripoli refused to sign the final version of the agreement despite the fact that some elements within the GNC agreed on it, because the final version reduced the authority and powers of the State Council which were ensured by the fourth draft. At this point, it is obvious that there are defections within the GNC alliance, and the GNC has lost militarily and politically significant and powerful allies. This development will strengthen the HoR in both political and military spheres. Likewise, there is recent news that after Misrata, other city councils have paying efforts to deal with the HoR. However, one of the factors that made the GNC a crucial actor is the remnants of the state bureaucracy in Tripoli. The most critical of these institutions are the Constitutional Court, the Central Bank, and Ministry of Oil. As they continue to function in Tripoli that was controlled by the GNC, it will be difficult to ignore or marginalize the GNC.

Hence in the upcoming days, there are two options for the HoR and its alliances: convincing the GNC politically or defeating

the GNC militarily. Khalifa Haftar tried to defeat the GNC military by launching military operations against Tripoli for a very long period, but did not succeed. Also, it is not a rational option for the HoR to launch a heavy military operation in Tripoli, the capital city of Libya, because the HoR aims to operate, seize the control of the state bureaucracy and initiate state formation in Tripoli. But, in the end, it is extremely difficult to convince the GNC, whose demands are not met by the State Council, projected by the Libyan Political Agreement. Together with the HoR's power expansion, this fact reveals the possibility of upcoming clashes in the near future.

Another defective assumption of the UN is that the recognition of the HoR in Tobruk by the GNC in Tripoli as well as reconciliation between the two in the context of a political resolution will put an end to the military conflicts among militias and military forces. Yet, in this context, it would be possible to establish a national and integrated Libyan army with this national reconciliation between two parliaments and militia forces. These predictions are based on the assumption that the two parliaments have the ultimate authority over all military and militia forces. However, neither the GNC in Tripoli has total control over the militia forces, nor the HoR in Tobruk has total control over the forces loyal to Haftar, military units of Barqa federalist regional government led by Ibrahim Judhran, or Libyan Air Forces. Both the Libyan Dawn led by the GNC in Tripoli and Karama Operation Alliance led by the HoR in Tobruk are umbrella structures based on military and political alliances. Persuading the political elites for consensus is only a small part of the problem. The main part of the problem is to convince the militias and other forces for a reconciliation process. This situation reveals itself clearly in the decisions of Misratan City Council and the Justice and Construction Party to support the political agreement despite the GNC's rejection.

All the governments formed during the Libyan National Transitional Council as well as the GNC have not achieved success in resolving the problem of the militia forces and their efforts failed to reach a successful solution. Between 2011-2014, several alternative strategies have been adopted to resolve the problem of the militia in Libya. These alternative strategies are, respectively, disarmament and rehabilitation, convincing the militias to withdraw from city centers through negotiations, disciplining the militias under a central command and lastly integrating them to the system. However, these efforts have failed to achieve a desired success. The UN took the militia issue as a big concern during the negotiation process and in the agreement text. The articles on Libyan National Army are the second

part that has not been revised in any way in all draft agreements. In this respect, it is possible to think that the UN has not opened the issue of the security arrangements to the discussions. But, despite this attitude, the arrangements about security in the political agreement are limited with the declaration of will, and do not foresee a concrete plan and regulations on how to resolve this issue, which could not be resolved by the Libyan authorities since 2011. Concrete road map, together with arrangements which can promise a success, requires targeting the fundamental dynamics which have cultivated the militia issue in Libya. The resolution of this issue fostered by a set of elements from survival concerns to power struggle requires a more comprehensive and determinant approach.

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