An Introductory Study on the Status, Challenges and Prospects of Governance and Institutions in Libya

Part III of a Baseline Study for the Libya Socioeconomic Dialogue Project

UNITED NATIONS
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Acknowledgment

Executive summary

The present study is one of the three baseline studies conducted as part of the Libyan Socioeconomic Dialogue Project, which was launched with a view to developing a vision for future social and economic development in Libya, outlining options available to stakeholders in the political process and facilitating a national dialogue on socioeconomic development and good governance, with a particular focus on key sustainable development priorities.

The study looks at key challenges that have impeded good governance and institution building in Libya, especially during the transitional phase that began with the ouster of the regime of Colonel Muammar al-Gadhafi, focusing, in particular, on the situation in the country since 2014. The study aims to review governance mechanisms and institutions: it assesses the formal institutions that have been established and supported by the State authorities and that comprise part of the country's legislative, executive, and judicial frameworks. It also reviews the military and security authorities and non-State actors that operate alongside State institutions, including tribal groups, civil society organizations and armed groups and militias.

The study includes an overview of governance indicators in Libya, which makes clear that governance remains weak and ineffective. Indeed, central Government remains unable to exercise its authority over the geographical territory of the State, while widespread financial and administrative corruption continue to plague both the public and private spheres. The study, moreover, underscores that one of the most significant challenges facing Libya today is the existence of competing institutions, established as a result of the political split that took place in 2014.

The institutional split takes a number of forms, including the establishment of parallel institutions and departments that compete to exert their authority and exercise their mandates. Disputes over legitimacy have exacerbated the conflict and to address Libya's political and institutional divisions, stakeholders must work to formulate a comprehensive political solution that can draw the country out of the crisis.

Decentralization is one of the multifaceted challenges complicating the relationship between the central Government authorities and other stakeholders. The application of Act No. 59 of 2012 on local government and its implementing regulations, promulgated in 2013, was far from objective and impeded by numerous challenges, including those related to the country's political and institutional divisions and the establishment of new municipalities and local bodies, often solely with a view to furthering tribal, local or regional interests, even though their creation could not be justified on the basis of any objective economic, geographical, demographic or administrative criteria.

Promoting decentralization requires an integrated legal system together with public awareness campaigns that underscore that democracy and engagement in local affairs are key in efforts to promote sustainable development. Decentralization must, moreover, be used to promote spatial development.

The study includes an analysis and evaluation of the visions and strategies that have been adopted since 2007, particularly as some of those visions and strategies have been reformulated since 2011, most notably as Vision 2025, Vision 2030 and Vision 2040. The evaluation concludes that

there are few clear indicators on governance and institution building, particularly those on economic and cultural factors, and notes the absence of a gender perspective.

The political divisions and armed conflicts that have taken place since 2014 have had a visible impact on Libyan institutions and governance mechanisms. Libya has faced numerous challenges, including a political vacuum, increasingly frequent acts of violence, instability and a lack of security, the fragmentation of the country's social fabric, increasing migration and displacement and the collapse of its economy. It is therefore critical to establish institutions to address the country's economic, social and security challenges. That can only be achieved, however, if relevant stakeholders adopt a clear vision that promotes social peace, restores security and maintains the country's stability. In addition, key priorities must be set for the institutional framework and State building process and efforts made to formulate a comprehensive political solution that can resolve the country's political and institutional divisions, while a dialogue within society should be launched to agree on the foundations of the State, the nature of its economy, the institution building process, ways to promote stability, and the relaunch of the process to draft a constitution. Indeed, an agreement must be reached on a constitution that establishes the critical foundations for a new Libya, and efforts made to achieve political reconciliation among the parties to the conflict in order to consolidate and strengthen the country's institutions, which have been undermined in the ongoing struggle for power and wealth.

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Introduction

Since the fall of the al-Gadhafi regime in 2011, armed conflicts in many cities and regions have significantly disrupted the lives of Libyan citizens. The sharp political divisions that have emerged since 2014 have derailed the democratic process that began with the country's first parliamentary elections, held in July 2012. As result, Libya has witnessed a prolongation of the transitional period, a lack of stability and security, and an increase in violence in most cities and regions.

Furthermore, the war, political divisions, and armed conflicts, especially since 2014, have had negative repercussions on institutions and governance structures in Libya at both the local and national levels.

The most prominent challenges facing Libya today include a political vacuum, increasingly frequent acts of violence, instability and a lack of security, the fragmentation of the country's social fabric, increasing migration and displacement and economic collapse. It is therefore critical to establish institutions to address the country's economic, social and security challenges. That can only be achieved, however, if relevant stakeholders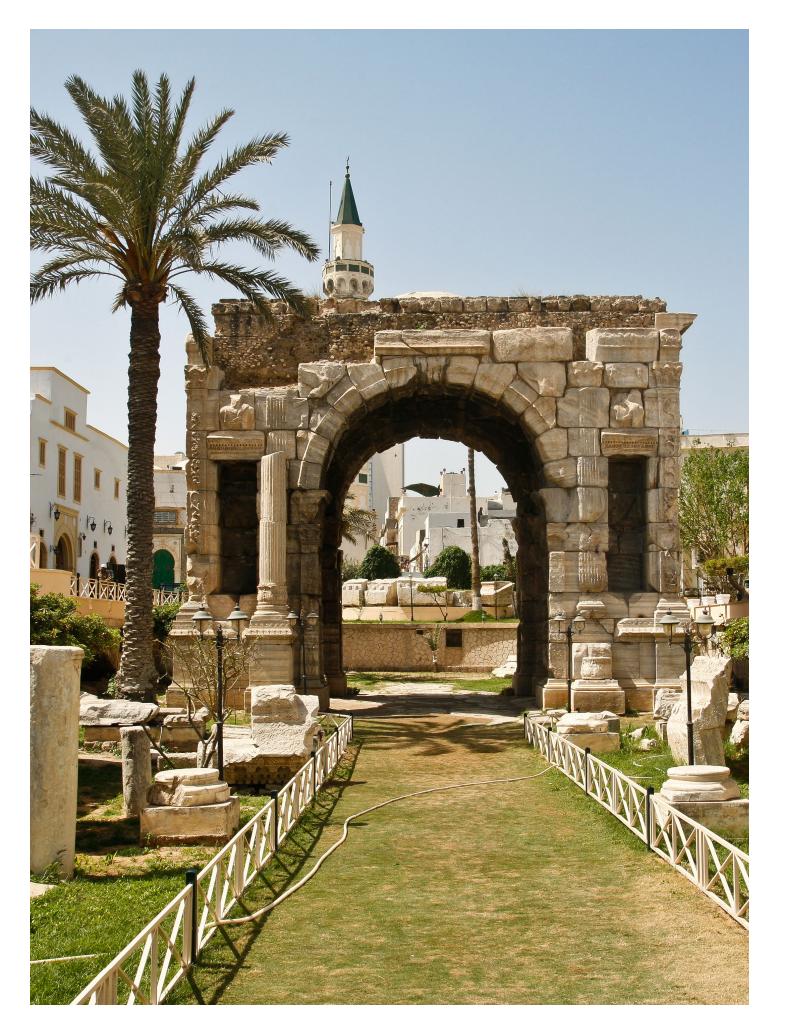 adopt a clear vision that promotes social peace, restores security, rebuilds the country and maintains the country's stability.

This study is one of the three baseline studies conducted as part of the Libyan Socioeconomic Dialogue Project. The Project, support for which is provided by the German Federal Ministry for Economic Cooperation and Development, is being implemented by the German Agency for International Cooperation in collaboration with the Economic and Social Commission for Western Asia (ESCWA). The Project was launched in 2018 with a view to developing a vision for future social and economic development in Libya, and supporting and outlining policy options for stakeholders in the political process, including members of the House of Representatives, Presidential Council and the High Council of State, and particularly those who have entered the political arena since 2014. The Project also aims to build a knowledge base and promote Libyan ownership of the vision by supporting relevant stakeholders and facilitating dialogue on issues related to sustainable socioeconomic development and good governance. Inter alia, the Project focuses on how Libya can transition to a post-oil economy by using oil and gas revenues to promote economic diversification and by fostering the development of other sectors of the economy.

The aim of the present study is to foster the establishment of an inclusive and peaceful society supported by accountable institutions at all levels of government that can encourage sustainable development and civic engagement, build social protection mechanisms and promote social justice, equality, equal opportunities and economic growth and diversification. In particular, the study has been conducted with a view to:

- Identifying the governance institutions that have been established since 2011;

- Evaluating the performance of governance institution departments;

- Highlighting issues relevant to the country's political vacuum and deep political divisions;

- Highlighting the key principles that underpin the visions and strategies that have been formulated at various stages by relevant institutions and individuals, including civil society organizations and research institutions, with a view to understanding where stakeholders have reached consensus vis-à-vis governance in Libya;

- Exploring key governance and institutional issues in Libya, including the nature of the political process, political engagement and consensus building mechanisms.

1. Study methodology

This study comprises a broad evaluation of governance mechanisms and institutions in Libya within the context of the conflict that began in 2011, the impact of the conflict on the country's institutions, and the resulting division of most of the country's executive, legislative and judicial institutions. The study also looks at how those divisions have undermined security, affected the army and security services, exacerbated instability and violence, led to damage to the country's infrastructure and caused considerable loss of life. The divisions also have weakened public policy formulation, impeded the provision of basic public services, and weakened the country's health and education systems.

The economic meltdown has also resulted in deteriorating living conditions and exacerbated unemployment and poverty levels. Indeed, it could be argued that the collapse of most Libyan institutions and their inability to address the aforementioned challenges has worsened the numerous problems that have arisen because of the country's lack of stability and security.

To achieve the objectives of the study, the following were undertaken:

- A review of research papers, studies and reports by national and international institutions on governance mechanisms and institutions;

- In-depth interviews with a select group of experts, male and female stakeholders, and members of civil society. Questions focused on a number of issues related to governance, with the aim of evaluating existing institutions in Libya. Those interviews were conducted between March and November 2019. The information obtained was supplemented by observations made by the author of the study since 2011;

- Content analysis of strategies and visions formulated by national and international authorities and institutions both prior to and after 2011, including Vision 2019, Vision 2025, and Vision 2030, visions formulated by political parties and entities, civil society organizations, and public figures, and initiatives launched by individuals and civil society organizations, with a view to evaluating aspects of governance, institution building and national reconciliation.

This study adopts a number of concepts, including a definition of governance as the exercise of political, economic and administrative powers in the management of national affairs at all levels. This pertains to mechanisms, processes and institutions through which citizens and groups can express their interests, exercise their legal rights, fulfil their obligations, and resolve their differences. Governance is based on four main foundations, namely structures, processes, mechanisms and strategies.

Governance refers to the formation and stewardship of the formal and informal rules that regulate the public realm, the arena in which State as well as economic and societal actors interact to make decisions. It thus refers to a pattern of behaviour rather than to technical capability[1]. It is defined by the World Bank as "the traditions and institutions by which authority in a country is exercised[2]. This includes the process by which governments are selected, monitored and replaced; the capacity of the government to effectively formulate and implement sound policies; and the respect of citizens and the State

for the institutions that govern economic and social interactions among them".[3]

This study adopts the definition of institutions articulated by the famous American economic researcher Douglas North, namely "the humanely devised constraints that structure political, economic and social interactions".[4] Institutions are also defined as "the formal rules, compliance procedures and procedures for the exercise of governmental authority".[5] Furthermore, institutions – defined broadly as "the rules of the game and the organizations that frame and enforce them – provide the incentives and constraints that shape political, economic and social interaction".[6]

2. Scope and time frame of the study

This study highlights various aspects of institutional governance. By focusing on governance, it is hoped that the study will facilitate the formulation of a vision for social and economic transformation. Although the study focuses on State institutions that have been established since 2011, it also takes into consideration the preceding period, particularly the period from 2003 to 2011, when Libya was affected by a number of national and international developments, including, in particular:

1. The lifting in 2000 of the blockade that had been imposed on Libya by the United Nations Security Council in the 1990s and the abandonment by Libya of its nuclear programme in December 2003, which facilitated the country's reintegration into the international community. That period was characterized by international openness towards and interest in Libya, support provided to Libya by a number of countries and international governmental and non-governmental organizations, and the adoption by Libya of numerous public administration and governance reform programmes. International support was also offered to Libya in areas such as prison reform, human rights, constitutional development, combatting corruption, judicial reform, and economic development.

2. The launch of a number of domestic reform initiatives from 2004 onwards. These included initiatives related to administrative reform, the evaluation of the political system and constitutional development. A number of strategies and visions, including Vision 2019 and Vision 2025, were also adopted during that period.

3. The adoption during the post-2011 transition period of new governance and institutional mechanisms that superseded the mechanisms adopted by the al-Gadhafi regime.

4. Efforts to monitor and promote principles of good governance, including transparency and accountability, in Libyan institutions.

3. Governance and institution-building issues in Libya: an overview of previous studies

There are very few studies that specifically focus on governance in Libya. Instead, most studies focus on the Libyan economy, decentralization, State and non-State actors or so-called non-State institutions. This study aims to review the lessons learned from previous studies and to identify salient points relevant to legislative, executive and security institution building, in addition to other issues such as centralization and decentralization.

Previous studies that have addressed various aspects of governance and institution building can be categorized as follows:

1. Studies on security governance, which have analysed the impact of the country's political divisions on security and the security apparatus in the country. The absence of a unified central government has led to the emergence of informal conflict resolution mechanisms and de facto authority exercised by armed militias, which often give priority attention to the achievement of their own specific interests.[7]

2. Post-2011 studies focusing on "empowered decentralization". Some of those studies have underscored the importance of directly involving local stakeholders in security, economic and political matters and have proposed the adoption of a "city-first paradigm".[8] Criteria would be established for how local entities could qualify for their fair-share allotment of oil revenues and international aid. An oversight board composed of Libyan technocrats and foreign experts would assess eligibility based on the actual behaviour of local actors, including armed groups, and would penalize them for any unacceptable actions, such as human rights abuses, theft or violence.[9] A number of those studies could inform local level restructuring efforts.

3. Studies focusing on the role of non-State actors and institutions, also known as beside-the-State institutions.[10] Those studies focus on tribes whose position has been strengthened as the Libyan State and its institutions have weakened, particularly since 2011. Many of those studies have underscored the need to reform institutions, especially those involved in peacekeeping and conflict resolution, in ways that take into account traditional and customary dispute resolution mechanisms.[11] Some studies confirm that tribes, civil society organizations and women are among the most important agents for achieving national reconciliation, as tribes in particular have maintained security during transition periods.[12]

4. Studies focusing on the role of international actors and the proposals submitted by international parties, which underscore that priority should be given to fostering economic development and enacting political and security sector reform in Libya.[13]

5. Studies that have made use of field surveys to obtain the views of Libyans on security, governance and institutional issues. A number of such studies conducted between 2012 and 2014 concluded that Libyans had little faith in the political institutions that had emerged after 2011, but that they still wished to achieve democracy and believed in the constitutional process. Libyans believed that the Constitution enshrined the economic, social and political rights of citizens.[14] Such views may facilitate socioeconomic discourse in Libya. The surveys conducted by local research institutions included a number of field surveys by the University of Benghazi, such as a comprehensive survey on the Constitution, conducted in 2013, the World Values Survey,

conducted in 2014, and a comprehensive survey of the views of Libyans on the Libyan Political Dialogue, conducted in 2015.[15]

6. Studies included in international reports, including, in particular, the third ESCWA Arab Governance Report, entitled "Institutional development in post-conflict settings: towards peaceful and inclusive societies and accountable institutions", which was published in 2018. That report reviewed the impact of conflict on issues of particular concern to societies in transition, including institution building, good governance and political legitimacy. It outlined a number of best post-conflict practices, drawing on international and regional experience, and set forth a number of political strategies and recommendations for Libya and Yemen. It also outlined the potential impact of a cessation of hostilities and a political settlement, and set forth road maps appropriate to the prevailing situation in each country with a view to facilitating a comprehensive transition and a consensus-based process for reforming governance mechanisms and rehabilitating key institutions following a political settlement, facilitating the establishment of effective and accountable institutions that can align efforts to promote sustainable socioeconomic development, aligning political and economic visions, and developing an innovative approach to natural resource distribution and development.

A number of the studies on governance in Libya and other related issues could inform and enrich the Libyan Socioeconomic Dialogue Project, as they highlight a number of issues relevant to the three baseline studies, which focus on the economic, social and political situation in the country. However, the following shortcomings are apparent:

1. The studies are based on data that is imprecise or even contradictory. This is due to the fact that the data is obtained from a range of sources and by means of a number of different data collection tools.

2. Insufficient data is provided by local institutions, and particularly by institutions that report regularly. Data is instead provided by the Central Bank of Libya, the National Oil Corporation or the General Information Authority.

3. Geographical areas in which academic research is easier to conduct have been studied more extensively than others where research is difficult. As a result, many studies cover only certain regions or areas rather than the country as a whole, and are far from comprehensive. The reason this type of studies is the ease of access to these areas by non-native researchers through their relationships with sources of information to these regions, whether they are local actors or different institutions. This was reflected in the nature of these studies, as some of them are subjective and partial to one region or city.

4. Governance, institution building and political divisions: an overview

Governance and institution building are among the most important themes addressed in the Libyan Socioeconomic Dialogue Project, which has established priorities on the basis of the broad principles enshrined in the 2030 Agenda for Sustainable Development. In order to achieve the objectives of the Dialogue, existing institutions in Libya, and particularly those established between 2014 and 2020, must be carefully evaluated. A focus on that particular period is needed because:

1. The intensification of the conflict and political paralysis that has occurred during that   period has resulted in a more prolonged transition period.

2. The ongoing political division has weakened the effectiveness of the Government, resulting, in turn, in the division of many State authorities.

3. The poor security situation during that period has enabled non-State entities, including armed militias, to gain control over State authorities and to influence their decisions.

4. Although a final draft constitution has been submitted to the House of Representatives, which in turn has promulgated a law providing for a constitutional referendum, Libya has yet to adopt a national constitution.

5. The involvement in the conflict of numerous State and non-State actors advancing their own particular interests and objectives has exacerbated and prolonged the war in Libya, which reached the capital, Tripoli, on 4 April 2019.

6. Despite numerous international initiatives and forums to encourage dialogue among national parties to the conflict, international actors have failed to advance the peace process in Libya.

Instead, the conflict has expanded in scope and become increasingly bitter.

The ambitious 2030 Agenda for Sustainable Development and the Sustainable Development Goals, adopted by the international community in 2015 with a view to guiding all countries' development strategies and policies, cannot be achieved in the absence of peace and justice, while instability may impede the achievement of many national and global objectives.

Sustainable Development Goal 16 recognizes that development is not possible without peace and that peace is central in ensuring access by societies to effective, responsive and inclusive public services delivered as part of core government functions, including the provision of security and justice, public financial management, public sector employment and local governance.[16]

The governance institutions that have emerged in Libya during the conflict are of particular interest. This part of the study evaluates the entities that have been established since the fall of the al-Gadhafi regime, that is to say, since the February 2011 revolution, and looks, in particular, at existing institutions that have emerged since 2014. The study divides the institutions reviewed into three categories, namely State institutions, non-State institutions and beside-the-State institutions. [17]

4.1 State institutions

State institutions are established and supported by the central authorities and form part of the formal framework of the State. They may include

legislative, executive, and judicial authorities, military and security apparatuses and other authorities endorsed by the State. The study evaluates the State institutions in Libya, including the legislature, executive authorities, judiciary, and military and security institutions.

4.1.1 Legislative authorities

Established in February 2011 as an unelected body, the National Transitional Council became the highest authority in the country pursuant to the Constitutional Declaration of 3 August 2011, and was to remain as such pending the promulgation of a permanent constitution. The Council exercised both legislative and executive powers. The Council oversaw the first free legislative elections held in the country since 1965. In July 2012, the General National Congress was established as an elected chamber and held its first session on 10 August 2012 to elect its president and form an interim government. However, following a vote of no confidence in its president, the Minister of Defence was appointed to succeed him as interim head of the Government.

The General National Congress promulgated a number of laws, most notably the Political Isolation Act (Act No. 13 of 2013). It also established the "February Committee", to propose amendments to the Constitutional Declaration that would provide for elections to a new House of Representatives and for presidential elections.[18]

Signs of division emerged when the General National Congress, the previous legislative body, refused to hand over power to the new elected body. As a conquence, the House of Representatives relocated to Tobruq, where it began to exercise its mandate. The House held its first session on 4 August 2014 and established an interim government, headed by Abdullah al-Thani, which convened in the town of al-Bayda. At the same time, the General National Congress continued to exercise its legislative powers, and formed a separate government in the city of Tripoli in April 2014. That government, known

as the National Salvation Government, was chaired by Omar al-Hassi, who was succeeded by Khalifa al-Ghawayl in April 2015. The National Salvation Government continued to exercise power until the establishment of the Government of National Accord under the terms of the Libyan Political Agreement, signed in Skhirat, Morocco in December 2015. That Agreement, the outcome document of a political dialogue convened by the United Nations Support Mission in Libya (UNSMIL) in order to address the the division between the two legislative bodies in Libya and the resulting formation of two governments in the east and west of the country, was adopted with a view to amending the Constitutional Declaration and facilitating governance of the country during the transitional period, pending the adoption of the country's definitive constitution.

The Libyan Political Agreement led to the creation of new bodies, including the Presidential Council, which consists of nine members, and is chaired by Fayez al-Sarraj, a member of the House of Representatives. The Agreement stipulates that the House of Representatives shall be the only legislative authority in the country during the transitional period,[19] and shall grant the Government of National Accord a vote of confidence. Nonetheless, the House of Representatives has to date failed to endorse that Government owing to a lack of trust among the bodies established pursuant to the Political Agreement, including the High Council of State. According to Article 19 of the Political Agreement, the High Council of State shall be the highest consultative assembly of the State and shall, inter alia, express its opinion on the laws issued by the Government of National Accord prior to their submission to the House of Representatives. The High Council of State, which initially consisted of 134 members, was established by former members of the General National Congress in April 2016, The Libyan Political Agreement stipulated that 11 additional members from underrepresented constituencies should be appointed to the High Council, including seven from the east and four from the west of Libya, while women should comprise 12 per cent of its membership.[20]

Implementation of the Libyan Political Agreement did not go smoothly, especially with regard to its constitutional and executive aspects and with regard to envisaged security arrangements. The Agreement exacerbated differences among the parties to the conflict as it "reconfigured more than contributed to resolving internal strife. A year ago, the conflict was between rival parliaments and their associated governments; today it is between accord supporters and opponents, each with defectors from the original camps and heavily armed".[21]

The crisis was further exacerbated by the failure to implement the outcomes of the 2018 dialogue between the House of Representatives and the High Council of State, which had been convened under the auspices of the UNSMIL. At that dialogue, the two parties had agreed to reorganize the executive authorities by establishing a presidential council composed of a president, two vice-presidents, and the prime minister, with the latter forming a government of national unity.[22] That agreement was never implemented, however, and the crisis between the various parties worsened with the division of the House of Representatives, which occurred when, in protest at the military operations that have been led by Field Marshal Khalifa Haftar in Tripoli since April 2019, more than 70 parliamentarians left Tobruq and established a rival House of Representatives in Tripoli.[23]

Divisions deepened even more when the Government of National Accord and Turkey signed a memorandum of understanding on the delimitation of the maritime jurisdiction areas in the Mediterranean. In January 2020, members of the House of Representatives, meeting in Benghazi, voted to annul both the memorandum and the Libyan Political Agreement. They also called on the international community to withdraw recognition of the Government of National Accord.[24] At the same time, the lack of trust among legislative bodies established at various times in parallel with the House of Representatives has worsened, while struggles

to assert the legitimacy of various bodies have only grown more intense.

Studies on public policy underscore that legislative councils often play a crucial role in shaping such policies, although in some cases they only formally approve policy documents. In Libya, the legislature has had a very limited and even negative impact on public policy since 2014. For example, members of the House of Representatives often resort to bargaining for personal gain, or to further the interests of certain political factions in the House or the interests of individuals and groups in wider society. Indeed, parliamentary interference has often had a negative impact on public policy.[25]

Although the House of Representatives has gained a reputation for financial and administrative corruption, especially in the approval of expenditures, it has also approved amendments to certain laws, including an amendment to the Social Security Act (Act No. 13 of 1980), pursuant to which the retirement age has been raised to 70 years.

There are very few mechanisms by which the public can monitor the performance of the legislature.[26] The only example of such monitoring since 2011 is perhaps civil society oversight of the National Transitional Council and the General National Congress, which was beginning to develop through the attendance by civil society organizations of the sessions of those two bodies. That oversight was short-lived, however. A number of civil society organizations published reports on the performance of the General National Congress; to that end, they monitored sessions of the General National Congress in addition to articles on that body published in national and international newspapers and information broadcast on television and radio.[27]

On the basis of evaluations of the legislature, the following priority actions should be taken with a view to strengthening its performance:

- Enact electoral reforms to facilitate the participation of political parties and entities in the electoral process and to increase the number of women standing for election;

- Formulate, operationalize and ensure respect for rules of procedure governing the activities of the legislature;

- Strengthen popular oversight mechanisms to facilitate the monitoring of activities by the legislative authorities and promote the engagement of civil society organizations in that process;

- Support public awareness campaigns by the media to educate citizens about their important role in elections to legislative bodies, both as members of the electorate voting to choose their representatives and as candidates standing for election.

4.1.2 Executive authorities

Executive power is exercised by the Government, which is responsible for implementing the policies and norms that are formulated by the legislative authorities. Libya has failed to establish a balanced relationship between the executive and legislative branches of government since the establishment of the country's governance institutions in 1951, when a difficult relationship was established between the government on the one hand, and the king and the country's parliament on the other; difficulties arose because of the fact that ministers were accountable before the king and parliament for their actions, even though, for their part, ministers enjoyed no reciprocal oversight over the actions of the king or parliament.

Muammar al-Gadhafi first came to power following the September 1969 coup d'état and established a republican system. Articles 18 to 26 of the country's interim constitutional declaration prescribed the relationship between the legislative authorities, namely the Revolutionary Command Council, and the executive authorities, namely the country's parliament. With time, it became clear

that parliament was wholly subservient to the Revolutionary Command Council and enjoyed no independent powers.

In the so-called Jamahiriyah era, which began in March 1977, the reference document adopted by the Libyan regime stipulated that "People's Congresses" would take decisions, and "People's Committees", i.e. the executive, would implement those decisions. That era was also characterized by a lack of independence of the General People's Committee, which was supposed to operate as the executive branch of government, especially as al-Gadhafi would intervene directly in all public decision-making. Indeed, he claimed the authority to intervene by invoking the concept of revolutionary legitimacy in addition to the ruling of the General People's Committee that all his speeches and directives prescribed obligatory courses of action. The executive authorities were undermined by structural changes and a lack of administrative stability, both at government and ministerial levels, while successive governments were weakened by the ongoing incorporation and separation of governmental departments, which had a significant impact on public policy in many areas, including health, education and the economy. Any given ministry might incorporate several other ministries, which could then be split off as independent ministries again at a later date. Although the size of the Government was not based on any established criteria, governments were formed on the basis of territorial and regional quotas and ideological loyalty in addition to other thematic criteria.

Governments formed between 1969 and 2010, during the regime of Muammar al-Gadhafi, their prime ministers, number of ministers, number of ministries and days in office. (It should be noted that those Governments comprised between 7 and 25 ministers).

Since 2011, the executive authorities in Libya have performed poorly. This has been clear since the formation of the first post-2011 Governments, which have been hampered by overlapping and conflicting competencies as a result of poorly

defined responsibilities and political leaders who have proven unable to formulate effective policies to promote economic growth, establish a strong national army and address the challenges posed by the proliferation of weapons and armed groups within the country. The key challenge faced by the executive authorities was posed, perhaps, by the fact that the legislative authorities usurped many of the powers that were supposed to have been exercised by the executive. The Constitutional

Table 1. Governments formed between 1969 and 2010

Date formed	Prime Minister	No. of ministers	No. of ministries	Days in office
7 September 1969	Mahmud al-Mughrabi	9	11	131
16 January 1970	Muammar al-Gadhafi	13	13	243
16 September 1970	Muammar al-Gadhafi	13	13	331
13 August 1971	Muammar al-Gadhafi	17	19	338
16 July 1972	Abdulsalam Julawd	17	19	851
14 November 1974	Abdulsalam Julawd	21	21	839
2 March 1977	Abdul'ati al-Abaydi	25	25	730
2 March 1979	Jadallah Azawz al-Talhi	20	20	677
7 January 1981	Jadallah Azawz al-Talhi	21	21	420
3 March 1982	Jadallah Azawz al-Talhi	18	18	719
16 February 1984	Muhammad al-Zuruawq Rajib	19	19	446
2 May 1985	Muhammad al-Zuruawq Rajib	18	18	300
3 March 1986	Jadallah Azawz al-Talhi	10	10	364
2 March 1987	Umar al-Muntasir	10	10	366
2 March 1988	Umar al-Muntasir	13	13	372
9 March 1989	Umar al-Muntasir	18	18	577
7 October 1990	Bawzayd Dawridah	21	21	773
18 November 1992	Bawzayd Dawridah	12	12	437
29 January 1994	Abdul Majayd al-Qa'awd	14	14	1135
9 March 1997	Abdul Majayd al-Qa'awd	19	19	259
29 December 1997	Muhammad al-Manqawsh	20	20	793
1 March 2000	Mubarak al-Shamikh	7	7	760
22 March 2001	Mubarak al-Shamikh	7	7	550
1 September 2002	Mubarak al-Shamikh	8	8	286
13 June 2003	Shakriy Ghanim	9	9	263
2 March 2004	Shakriy Ghanim	17	17	730
2 March 2006	Al-Baghdadi al-Mahmudi	18	18	59
22 March 2007	Al-Baghdadi al-Mahmudi	18	18	-
26 January 2010	Al-Baghdadi al-Mahmudi	18	18	833[a]

Source: Author, on the basis of government announcements and figures published in the Official Gazette. See also Amal ElObeidi, "Political Elites in Libya since 1969" in Dirik Vandewalle (ed.), Libya Since 1969: Qadhafi's Revolution Revisited, Table No. 4.5, p. 120, Palgrave Macmillan, 2008.
[a] The Government in power in October 2011 when the regime of Muammar al-Gadhafi was overthrown.

Table 2. Governments established between March 2011 and June 2020, their prime ministers, number of deputy ministers, number of ministries, number of ministers, number of female ministers and days in office

Date established	Established by	Prime Minister	No. of deputy	No. of	No. of	No. of female	Days in office
5 March 2011	National Transitional Council	Mahmud Jibril	1	14	14	1	178
8 August 2011	National Transitional Council	Mahmud Jibril	0	15	15	1	108
24 November 2011	National Transitional Council		2	24	24	2	371
30 October 2012	General National Congress	Ali Zaidan	3	33	33	2	436
11 March 2014	General National Congress	Abdullah al-Thania	3	33	33	2	126
4 August 2014	House of Representatives	Abdullah al-Thani	3	11	11	1[b]	2125
25 May 2014	General National Congress	Ahmad Ma'ytiqc	–	–	–	–	15
6 September 2014	General National Congress	Umar al-Hasi	0	17	17	1	237
1 April 2015	General National Congress	Khalifa al-Ghawayl	0	17	17	1	214
15 October 2016	General National Congress	Khalifa al-Ghawayl	0	17	17	1	77
19 January 2016d	Presidential Council	Fayez al-Sarraj	0	32	32	3	27
15 February 2016	Presidential Council f	Fayez al-Sarraj	3	13	13	3	1 505

Source: Author, on the basis of decisions on the formation of governments issued between 2011 and 2020.

[a] Abdullah al-Thani was assigned to head the Government to succeed Ali Zaydan.

[b] The Al-Thani Government was formed in August 2014, consisted of 11 ministers, not a single woman was among them. A female Minister of Social Affairs was appointed at the end of 2018.

[c] The Supreme Constitutional Court ruled that the election of Fayez al-Sarraj was not legitimate.

[d] The House of Representatives has declined to approve any government established by the Presidential Council.

[e] The composition of NAG in February 2016 consisted of 13 ministeries and three State ministries held by women.

Declaration provided for the legislative authorities, embodied in the National Transitional Council to take on the powers exercised by the executive authorities, embodied by the Executive Board. However, as effective power was entrusted to the National Transitional Council, the Executive Board could only exercise its powers in parallel to the Council.[28]

The February Committee, established by the General National Congress, attempted to establish a strong executive authority by advocating for the direct election of the head of State. That proposal was rejected by the General National Congress, but was subsequently approved by the House of Representatives. Nonetheless, sharp divisions among State institutions impeded its implementation. Meanwhile, the Libyan Political Agreement did not provide for an elected president, and failed to grant the House of Representatives any role in choosing the Chairman of the Presidential Council, who enjoys considerable autonomy in decision-making and is not required to consult with his vice-presidents, the High Council of State or the House of Representatives.[29]

One of the most significant challenges facing the executive authorities in Libya is the political division that led to a split in most of the institutions overseen by those authorities in 2014 and the formation of competing governments in Tripoli and Tobruq. The divisions became even more entrenched following the establishment of the Presidential Council and its government, and the governments have very little trust in each other. The transitional period since 2011 has witnessed numerous changes of government. Table 2 illustrates that some 12 governments have been established by various parties since 2011: a clear indication of the depth of the political crisis in Libya.

It should be noted that some governments have comprised a high number of ministers, with as many as 32 ministries in operation: that excessively high figure is inappropriate for Libya, which requires a streamlined crisis-oriented government capable of addressing the numerous challenges facing the country during the ongoing transition phase.

Successive governments during the country's transitional period have, moreover, been characterized by a large number of deputy ministers. There were, for example, three deputy ministers, with a deputy minister appointed to each of the Ministries of the Interior, Justice and Education. This is perhaps because of territorial, regional and tribal quotas, in addition to other quotas that increased the overall size of the executive. Furthermore, most governments since 2011 have included very few female ministers. Women have only been appointed to oversee the Ministries of Social Affairs, Health and the Family, and have yet to be appointed to oversee any key line ministries.[30] This was evident in the governmental formations since 2011. For example, in 2011, the Transitional Concil contained only two women of 98 members.[31] As for the government of the executive office of the National Transitional Council, consisting of 14 members, only one was a woman and held the position of social affairs. As for the transitional government headed by Abdul Raheem al-Keib, it consisted of 24 ministers including only two women, the Minister of Health and the Minister of Social Affairs.The representation of women in successive governments continued to decrease, including the presence of no women in the nine-member presidential council.

A common practice that has been adopted by successive governments, particularly since 2011, is the appointment of advisers to ministries and other State institutions. This has increased the size of the State's bureaucracy. Most of these advisors have no educational qualifications or practical experience, but gain employment on the basis of tribal, territorial or regional quotas, or because of pressure from armed groups, which have become very effective at exerting influence in decision-making processes.

It is clear that the executive authorities have clearly failed to implement public policy in an effective manner. This failure is evident with regard to the security of citizens, whose personal safety remains under threat because of numerous issues that the government should be able to address. Indeed, citizens continue to fear that they may fall victim to a wide range of phenomena, including torture, forced confinement, criminal activity, ethnic conflict and domestic violence. The government has a critical role to play in that regard and must uphold its commitment to guarantee the security of citizens. The commitment of the government to do so remains very weak, however, particularly given its failure to adopt unambiguous policies on security. Furthermore, the numerous militias that have filled the void created by the weakness of the State's security mechanisms and military institutions now pose a threat to citizens' security.[32] One of the most important challenges facing the government is its inability to ensure that the law is upheld. This is compounded by a lack of political will to ensure that security policies promote the security of citizens rather than the security of the ruling system. As such, the status quo merely seems to be a continuation of the situation that existed in Libya under the al-Gadhafi regime, when a strong security apparatus was created, first and foremost, to protect the regime itself, and no consideration was given to the humanitarian concepts that should lie at the heart of almost all security considerations. A further challenge, apparent in the splintering of the country's political landscape and its security and defence institutions, including the army and police, is the lack of a clear vision of what exactly security should mean for Libyans.

The government's ability to ensure a good standard of living for citizens depends on its ability to promote socioeconomic development, inter alia by upholding citizens' rights, including their rights to employment and social security. Although the Libyan legislative authorities have adopted various laws guaranteeing those rights, successive governments since 2014 have, in practice, proven unable to guarantee even the most basic daily needs of citizens. It is clear that the commitment, as well as the capacity, of the government to ensure an adequate standard of living for citizens remains weak, despite numerous reform initiatives and programmes (many of which are only of only limited scope and conceived as only temporary measures).[33] This is evidenced by the many challenges citizens face in their daily lives, such as withdrawing cash from banks in order to obtain basic provisions.

The health system and the government's role in responding to the COVID-19 pandemic have been tested. After years of political divisions and armed conflict, the Libyan health infrastructure was already destroyed before the outbreak of the Corona virus, and the situation worsened after the outbreak. All this contributed to the World Health Organization's decision to include Libya among the countries at high risk from COVID-19. The organization also said that Libya had weak capacities to detect and respond to the virus. The health system was at great risk of being quickly overwhelmed should the disease spread in Libya. The authorities, particularly in the conflict-ridden west and south, would not be able to cope with large numbers of patients.[34]

The government's role in the peaceful settlement of disputes within the country is important for personal security, national stability, and economic development. On the other hand, governments may provoke and make use of conflict to achieve objectives that harm the security of citizens. In that context, successive Libyan governments, particularly since 2011, have, at least in part, helped fuel conflict within the county. One of the most notable incidents in that context was the implementation of General National Council Decision No. 7 authorizing the 2012 attack by regular military forces and forces loyal to the government on the city of Bani Walid, which fuelled resentment and exacerbated divisions within society. Initiatives have been launched by successive Libyan governments to resolve a number of post-2011 disputes, and a number of initiatives were also launched by the National

Transitional Council, including an initiative that led to the signing of a reconciliation agreement between the Tebu and the Tuareg in Ghadames in 2011.[35] Overall, however, successive governments have displayed little interest in settling domestic disputes and conflicts.

To enhance the effectiveness of the executive authorities, the following key steps should be taken as a matter of priority as part of the reform process:

- The adoption of a social contract that upholds the rights and security of citizens, in accordance with a constitution that clearly prescribes the competencies of the various branches of government, including the executive;

- A review of current legislation and legal texts that impede the activities of the executive branch of government and limit its independence;

- The implementation of initiatives to facilitate women's empowerment and encourage them to take up leadership positions in decision-making processes, including within the various organs of the executive authorities.

4.1.3 The army and security institutions

During the rule of Muammar al-Gadhafi, the army and security institutions, which were responsible for protecting and maintaining the safety of the homeland and citizens, were hampered by unclear mandates, inadequate military equipment and weak oversight, in addition to an ideology adopted by the regime that was based on the militarization of civilians, or what was known during his rule as the "armed people". The police whose role was reduced to upholding the concept of "popular security", were also affected, and one of the principles enshrined in the Declaration Establishing the Authority of the People, adopted in 1977, underscored the responsibility of citizens to uphold security. Article 9 of that Declaration provided: "Defending

the country is the responsibility of every citizen. Through general military training, the People shall be trained and armed. The law shall regulate the method for preparing the various armed forces and general military training".[36] Those ideas were not, however, put into practice successfully and the institutions that were established were poorly coordinated and organized. With time, certain institutions were stripped of their powers, especially following the defeat of the Libyan army in Chad in 1987, when the al-Gadhafi regime began to rely on security and military entities that operated in parallel to the formal military establishment. These entities focused on security inasmuch as it related to the protection of al-Gaddafi himself and the maintenance of his regime, especially once those entities became, first and foremost, family militias that were controlled by the sons, family relatives and in-laws of al-Gadhafi. Those entities also received the best and most up-to-date training and equipment.[37]

That reality was reflected in the actions taken by the country's security and military institutions during the February revolution, when clear divisions emerged in their ranks, particularly in the army, and when many military leaders declared their allegiance to the revolution and took up arms against the al-Gadhafi military entities. This underscored the degree of resentment felt within the ranks of the regular army in the light of policies adopted by the al-Gadhafi regime to ensure that the army remained weak and marginalized while favouring certain parallel security institutions.[38]

A lack of trust has continued to undermine efforts to rebuild the country's military and security entities since the overthrow of the al-Gadhafi regime, and suspicions remain with regard to the loyalty of the country's military leaders, even though many of those leaders had previously defected to the new regime and led the so-called National Liberation Army in battles against al-Gadhafi forces, including Major General Abdul Fatah Yunis al-Ubaydi, Army Chief of Staff during the first transitional period and his successor Major General Sulayman Mahmud al-Ubaydi. The lack of trust in al-Gadhafi era military

commanders has been made clear, inter alia, by the assassination of Abdul Fatah Yunis al-Ubaydi by extremist groups and attempts to marginalize most other former military commanders.

Despite the actions of certain al-Gadhafi era military commanders on a number of fronts prior to the overthrow of the regime, the opposing forces, which were established in exceptional circumstances as a result of the war, continued to harbour suspicions towards the army. As they consolidated their position on the ground, the opposing forces, known as rebel brigades or rebel militias became a de facto alternative or parallel military apparatus in the country. Although some of those forces formally aligned themselves with and received logistical support from Libyan Army commanders, they also impeded efforts to rebuild the army. The period to 2014 was characterized by:

• The emergence of a number of military entities during the war against the al-Gadhafi regime, comprised of so-called "revolutionaries", who were supported by many regular army officers;

• The launch of two competing initiatives in the wake of the liberation of Tripoli. The first of those initiatives, put forward by the "revolutionaries" and rebel brigades regarded the formation of new, alternative security services, and the second initiative was launched by the Executive Board to consolidate the police and armed forces;

• The formation of military councils composed of officers and a number of rebel brigades in an attempt to consolidate those two groups. This approach was adopted in the formation of the Tripoli Military Council;

• The growing hostility and suspicion of those brigades towards the formal army and police, which they viewed as oppressive al-Gadhafi era tools.

Attempts to reform the security sector in Libya after 2011 failed, as did demobilization and disarmament efforts, and ended with the formation of two warring governments, each with its own hybrid security and military apparatus.[39]

The crisis only deepened after 2014, particularly following the launch of the Operation Dignity offensive in Benghazi, and the Libya Dawn operation in Tripoli, and the parties were increasingly in disagreement over the interpretation of article 8 of the Libyan Political Agreement, which had been signed in Skhirat, Morocco in December 2015. One of the most contentious issues was the appointment of "the Supreme Commander of the Libyan Army", and the meetings of the army unification committees, held in Cairo between 2017 and 2019, failed to agree a candidate for that post. The delegation of the Government of National Accord insisted that Fayez al-Sarraj, should serve both as the President of the Presidential Council of the Government of National Accord and as Supreme Commander of the Army, while the delegation of the Libyan National Army argued that the President of the House of Representatives should exercise that role.

The division of Libya's military and security institutions stems from the political struggle that led to the division of the country's national institutions, undermined their neutrality, and left them vulnerable to tribal, regional, and ideological struggles. Particularly since 2014, stakeholders who have succeed in gaining influence in those areas have been able to exert influence over ministerial appointments and initiatives by State institutions. In the absence of a comprehensive solution to the political problems besetting the country, it will not be possible to rebuild the country's military and security institutions. In setting priorities for security and military sector reform, the following key steps are suggested:

• Strengthen the Libyan military as a national institution and a symbol of national unity, even if there are no regional or international threats to national security and take steps to prevent the use of the Libyan military as an instrument to destabilize the government and undermine its security;

- Dismantle institutions that have been established in parallel to the country's formal security institutions, including the country's formal army and police forces, or integrate those parallel entities into the country's formal security institutions. Provide training to members of parallel entities to ensure that they comply with basic human rights and accountability standards or take steps to ensure their rehabilitation and reintegration into civilian life through training programmes, scholarships and job opportunities;

- Ensure that relevant State institutions implement the provisions of reconciliation agreements and promote the effective application of national laws on reconciliation and transitional justice;

- Promote the relaunch of the constitutional process as a fundamental step in the process to draw up a social contract in Libya and achieve national reconciliation;

- Entrench the concept of human security, which takes into account all other aspects of security;

- Ensure democratic oversight of security and military institutions, in order to strengthen respect for human rights and the concept of human security;

- Encourage a re-evaluation of citizens' professional skills and capabilities and promote skills development;

- Launch a frank and wide-ranging dialogue on ways to decentralize key aspects of security sector operations and governance.

4.1.4 The Judiciary

An independent judiciary is a key prerequisite for the rule of law, respect for human rights and access to justice. Although Libya has acceded to several international covenants and agreements, including the Arab Charter on Human Rights, the African Charter on Human and People's Rights, and the United Nations special procedures established to promote the independence of the judiciary and impartial justice, it has for many decades failed to comply with its international legal obligations regarding judicial independence and the judicial system has been continuously undermined by interference by the executive powers, corruption and inadequate capacity building, which has led to a shortage of appropriately trained staff.[40]

The Libyan judiciary was also negatively affected by the establishment of a parallel court system during the al-Gadhafi era, which included the People's Court, established in 1971 to try members of the former royal family and officials of the monarchical regime. Other parallel institutions included military and revolutionary courts that ruled on cases related to political crimes against the regime. All of this directly undermined the independence of the judiciary and public trust in its rulings.

A number of judicial reforms were enacted by the al-Gadhafi regime after 2005 as part of the Libya Tomorrow initiative, launched by Saif al-Islam al-Gadhafi in 2003. Those reforms resulted, inter alia, in the abolition of the People's Court. Judicial reform efforts continued in the early post-2011 transitional period under the auspices of the National Transitional Council. Article 32 of the 2011 Constitutional Declaration affirmed the independence of the judiciary. Furthermore, reforms to the Supreme Judicial Council provided for its members to be elected by the country's high court judges. The requirement that the Minister of Justice should be a member of the Supreme Judicial Council and chair its proceedings was abolished. The reforms also revoked the jurisdiction of military courts to try civilian cases. The jurisdiction of the military courts has evolved over time. In that connection, the General National Congress promulgated Law No. 11 (2013) amending provisions of the Criminal Code and the Military Code of Criminal Procedure, which specifies that civilians working in the army and civilian volunteers in the armed forces shall not be tried by military courts, and that military courts shall only consider cases involving regular army personnel of a rank stipulated in the Military

Service Act and regular army personnel held in detention. Further initiatives to promote judicial reform took place after 2014. These included the adoption by the General National Congress of Act No. 5 of 2015, which further amended the jurisdiction of military courts.[41] Nonetheless, the judicial system continues to face numerous challenges, including, first and foremost, the deteriorating security situation in Libya.[42]

The al-Gadhafi regime also adopted a number of laws that promoted women's participation in the judiciary, including Act No. 8 of 1989, article 1 of which provides: "Women may take up positions in the judicial system, including posts within the public prosecution service and in the administration of justice, under the same terms and conditions as men".[43] Since 2011, however, there has been a decline in the number of women working in the Libyan judicial system and two petitions have been filed challenging women's right to hold positions within the judiciary.[44] Furthermore, a number of women's rights defenders and women active in public affairs have been kidnapped or assassinated.

Despite the numerous challenges that female members of the judiciary have faced, they have continued to participate in all judicial bodies, and the percentage of female candidates for membership of the Supreme Judicial Council, certain appeal courts and other judicial bodies sometimes reaches 50 per cent. In the Judicial Case Management Office, for example, four of the eight candidates put forward were women, and five of the nine candidates put forward for positions in the Office of the Public Prosecutor were women. Furthermore, Widad al-Hamali has been appointed to the Supreme Judicial Council, the first female judge to be elected to serve on the Council. Her election came at a time when appeals were being lodged challenging the constitutionality of women assuming positions in the judiciary.[45] Although the appointment of a woman to the Supreme Judicial Council is considered a success and strengthens women's role in the judiciary, their presence in this field, it also underscores that much needs to be done for

women to be equitably represented in the Council, and that the goal of equitable participation of women in the judiciary is far from being realized.

The judiciary should not only be independent, but must also be held accountable. To achieve that objective, a clear code of conduct for judges, together with appropriate disciplinary measures for non-compliance is needed, including for judges involved in the perpetration of human rights violations or corruption. The implementation and enforcement of that code of conduct would help restore confidence in the country's judicial institutions. Careful scrutiny must be given to judges who held positions in the People's Court and who were responsible for blatant human rights violations.[46]

Fortunately, the judiciary continues to function as a relatively united branch of government, unlike the divided legislature, executive and other key State institutions.[47] Its internal cohesion became apparent during the elections to the Supreme Judicial Council, when all members of the judiciary, regardless of the regions or cities they were from, participated in the electoral process, even though those cities and regions were under the control of rival governments. This perhaps shows that, by refraining from entering the political fray, the judiciary may be able to play a key role in restoring national unity.

- To enhance the effectiveness of the judiciary and to safeguard its cohesion, the following key reform measures should be taken as a matter of priority:

- Draw up a strategy for the full operation of the judiciary, to be put into practice following the successful implementation of the country's disarmament, demobilization and reintegration process;

- Establish a new constitutional court, so that the existing Supreme Court no longer rules on cases involving constitutional and administrative issues;

- In coordination with the Judicial Inspectorate, urge judges to expedite the cases before them in order to ensure respect for the right of defendants to be tried within a reasonable time period;

- Ensure judicial oversight of the implementation of the proposed reforms, in order to ensure that the judiciary remains impartial and independent;

- Re-establish the mandate of the judicial police and extend its jurisdiction over all prisons in the country. The judicial police must, moreover, resume its mandate in parallel with the disarmament of militias so that it can fulfil its duties effectively as an integral part of the justice system. The judicial police must also agree to oversight of its activities by judges and public prosecutors;

- Ensure that women are equitably represented among members of the Supreme Judicial Council, and that membership of the Council is pluralist and fully representative;

- Encourage the Libyan Parliament and Government to hold consultations with the Supreme Judicial Council in order to hear its views on judicial issues, including the reform of the judicial system;

- Implement measures and procedures to ensure that more women are appointed to the judiciary;

- Establish fair and transparent procedures for selecting judges and judicial trainees, and prohibit all forms of discrimination;

- Employ objective criteria when making all judicial appointments, ensuring that candidates' training, qualifications, experience, competencies and integrity are all taken into consideration;

- Ensure that investigators, public prosecutors and judges receive specialist training on how to deal with cases involving human rights violations and on combating impunity.

4.2 Non-State institutions

Non-State institutions in Libya, which operate alongside State institutions, can be categorized according to the extent to which they directly or indirectly influence the political process. Those institutions, which include tribal groups, civil society organizations and armed groups, have gained in importance since 2011, although their impact depends of the type of institution, the particular role it plays and the scope of its activities.

4.2.1. Tribal groups

As a result of the conflict that began in February 2011 between forces loyal to the al-Gadhafi regime and to the February revolution, which ended with international intervention, the overthrow of the former regime and the murder of al-Gadhafi in October 2011, Libyan tribes split into two camps: pro-regime tribes and anti-regime tribes, with the latter declaring their defection from the al-Gadhafi regime and their support for the revolution.

Most tribes in the Barqa region supported the revolution from its earliest days, especially once many prominent members of those tribes declared their defection from the al-Gadhafi regime. These included military leaders, and a number of ministers and senior officials with roots in parts of the country that had been known during the al-Gadhafi era as the "Eastern Region". In the Tripoli region, some tribes and cities remained loyal to al-Gaddafi: many tribal members took up arms on behalf of the regime while others supported the revolution and fought against the regime. Those early divisions exacerbated tension among regions, cities and tribes, and had important repercussions during the immediate post-revolution period, including the expulsion of the entire population of the city of Tawargha and their displacement to other parts of Libya.[48] Furthermore, the General National Congress promulgated Decision No. 7 of 2012 authorizing the assault on the city of Bani Walid, home of the Warfallah tribe, which

had been accused of remaining loyal to the al-Gadhafi regime. A similar situation has prevailed in the Fezzan region, where tribal conflicts, mostly stemming from historical grievances, have intensified. This has seriously undermined stability, particularly as State institutions such as the army and the police have been prevented from operating there and have thus been unable to secure borders or restore security.

Disputes among Libyan tribes and cities broke out into open conflict after 2014, including, most notably, the conflict between the cities of Benghazi and Misrata. Those conflicts became particularly fierce following the launch of the Operation Dignity offensive by the National Army in Benghazi, and the Libya Dawn operation in Tripoli, which was spearheaded by pro-Tripoli and pro-Misrata battalions. The city of Sirte, the home town of Muammar al-Gadhafi and of most members of the al-Qadhadhafah tribe, was particularly marginalized after the fall of the former regime. Most of its inhabitants suffered greatly from the isolation imposed on them and the sense of marginalization spurred many of its young people to join the Islamic State in Iraq and the Levant (ISIL), which gained control of the city in 2015, and was not defeated until 2017.

Although it is difficult to comprehend fully the role of different tribes during the transitional period, some of their positive actions should be highlighted. For example, tribes have played an important role in settling regional disputes, particularly during the early stages of the February Revolution, as part of their efforts to promote national reconciliation. Although some of those attempts have been unsuccessful, others have had positive outcomes, including tribal mediation in the dispute between the cities of Misrata and Tawargha, which led to the signing of the Misrata-Tawargha Reconciliation Agreement on 3 June 2018 in the city of Misrata.

The tribe of the Chief of Staff of the so-called "Liberation Army", Major General Abdul Fatah Yunis al-Ubaydi, helped maintain unity by acting with self-restraint following the assassination of the Chief of Staff and two other officers in July 2011 by militant groups, and by calling for the crime to be resolved through the courts. This position was underscored in what became known as the Ubaydaat document on the assassination of al-Ubaydi, and the tribe was viewed during that period as setting an example of restraint and respect for the rule of law, rather than of taking the law into one's own hands. The document recognized the importance of State institutions, including the judiciary, and the administration of justice through the court system.

That period was characterized by the establishment of a number of institutions that were heavily dependent on tribal groups, including what are known as "elders and shura councils" and a number of regional councils, including the Warfalla Tribe Social Council, the Warshafana Tribes Social Council and the Tawargha Council of Elders. All of those bodies operate in parallel to traditional tribal mechanisms. In interviews conducted by the author, a number of tribal leaders involved in those councils expressed the belief that those bodies will be disbanded once powerful State institutions have reasserted their authority.

Tribes have played a prominent role in the local reconciliation efforts, particularly in the immediate post-revolution period, and have taken action to that end through the various bodies that they have established, including the elders and shura councils, the first of which were established in early 2011. The establishment of those bodies at that time was perhaps in response to efforts by the al-Gadhafi regime to mobilize the support of tribes. Numerous meetings were held during 2011, including the National Conference for Libyan Tribes, which was attended by prominent members of the al-Gadhafi regime from various tribes and regions, members of tribes that supported the regime and tribal members of what were known at that time as the People's Social Command.

The role played by those bodies, which were formed to resolve the many conflicts that erupted after 2011, was further strengthened by the disintegration of Libyan State institutions. Those bodies became the key mechanisms for resolving conflicts among tribes and regions. They were able to react and intervene quickly and could rely on well-established traditional conflict resolution mechanisms. In the absence of effective State institutions, tribal bodies at both the local and national levels have played a pivotal role and have been able to preserve the social fabric of society. Indeed, many of the "honour-based" covenants that Libyan tribes helped to formulate remain in force today.

Tribal councils remain critically important and continue to play the following key roles:

- Supporting local and national reconciliation efforts;

- Intervening to resolve armed conflicts among tribes and regions, particularly in the west and south of the country;

- Establishing social action committees to monitor and address challenges impeding the work of municipal councils in areas affected by war, such as in the city of Sirte.

Tribal bodies continue to play a key role in maintaining security and social stability. It will not be possible to prescribe their role or disband them until the State and its institutions are strong enough to assume that role effectively.

In general, despite the positive role that the tribe may play, there are some negatives that can be mentioned, including the following:

- Some tribes turned into armed millitias, which disrupted the building od State institutions such as the army and the police;

- The takeover of State property by some tribes, whether lands, buildings or public facilities, on the pretext that they are tribal property;

- The transformation of the tribe as a result of the absence of the judiciary, and lack of adherence to the 'tribal custom' is a threat to the legal system in Libya;

- The tribe has become a source of 'local identity' that grapples with the national identity.

Despite the challenges facing the tribe as a social institution and an important element of political culture in contemporary Libya, it is also one of the most signidicant sources of identity. Moreover, the tribes role in local reconciliation cannot be ignored since 2011, and it might have a role as a tool for promoting social peace

4.2.2 Civil society

Civil society organizations were weak during the al-Gadhafi era. According to the ideology espoused by the regime, civil society was a critical part of the formal political system, and should not, therefore, play any independent pivotal role. Most civil society organizations were used, primarily, to disseminate propaganda and their actions were constrained by numerous restrictions. The inherent weakness of civil society during the al-Gadhafi era was due to numerous reasons, including the following:

1. Social factors related to the nature of the Libyan society and the traditional patterns of social interaction and cultural norms promoted by the family and the tribe, which ran counter to the concept of civil society. In the absence of effective civil society institutions, tribes provided security to members of society and sought to safeguard their interests.[49]

2. The absence of any legal, structural, financial, or programmatic independence or privacy under the al-Gadhafi regime. Civil society organizations were often established by high-level decisions by the authorities and could be abolished or reorganized at will by those same authorities.[50]

Civil society developed rapidly in 2011 and numerous civil society organizations were established in the immediate aftermath of the February Revolution. Indeed, the Civil Society Commission registered a significant increase in the number of non-governmental organizations across Libya, with 5415 civil society organizations registering with the authorities between 2011 and 2018. However, the establishment and registration of those organizations does not necessarily mean that they were effective or efficient.[52]

Some prerequisites for an effective civil society have weakened since 2014, including freedom of assembly and the right to take part in demonstrations, which were significantly curtailed in 2013 when the governments in the east and west of the country both started requiring activists to obtain prior permission before organizing protects or demonstrations. The right to peaceful assembly has also been severely curtailed because of the ongoing armed conflict. No new law regulating civil society has been adopted, however, meaning that all may still take steps to establish a non-governmental organization.[53]

One of the foremost challenges facing civil society in Libya today is perhaps the absence of an effective legislative framework. Act No. 19 of 2001 on the reorganization of civil society organizations was abolished in 2011, but the Libyan authorities have failed to enact any law to replace it. Furthermore, although they have been urged to do so, the authorities have still not drafted any legislation on civil society organizations. Relevant stakeholders have held numerous meetings to discuss that issue, and a proposed law was submitted to the House of Representatives by the Civil Society Commission in early 2017.[54] The process to adopt and ratify that law has been slow, however, further undermining the activities of civil society organizations and their role as key partners in development.[55]

Civil society institutions currently have very little impact on governance. Indeed, there is no tradition of promoting good governance and no

civil society culture in Libya,[56] even though civil society can play a key role in promoting good governance and transparency. There are, for example, only 25 civil society organizations in Libya striving to combat corruption and promote institutional reform and transparency, according to the Libyan Civil Society Organization Directory, which categorizes those organizations as performing an oversight role. Twelve of those organizations operate in Benghazi, nine in Tripoli, one in Tazirbu, one in Jikharrah, and one in Marj. Twenty-five organizations is equivalent to only 0.5 per cent of the civil society institutions that carry out charitable work, provide relief and assistance, promote cultural activities and the arts, or are active in areas such as youth and sports, women and children's affairs, the law and human rights, national reconciliation and tourism.

It can thus be said that, compared with tribal and other similar organizations, civil society in Libya plays only a limited role in efforts to promote reconciliation among different groups within society.

4.2.3 Armed groups (militias)

Armed groups or militias emerged during the war against al-Gadhafi. Known as "revolutionaries' brigades", those groups were supported by a large number of army officers who defected from the al-Gadhafi regime, and who took it upon themselves to train the many civilians who had joined those groups. Many of those groups were established in a specific city or region, others on a tribal basis, and most of them participated in the fighting against the al-Gadhafi regime armed forces. They played a particularly important role in the fight against the 32th Reinforced Brigade of the Armed People, also known as the Khamis Brigade, which took over from regular Libyan army units and fought hard to protect the regime.[57] At the fall of the al-Gadhafi regime in late 2011, there were no more than 5,000 members of armed groups in the country.[58] Revolutionaries' brigades, comprising civilian volunteer and military personnel from other cities, fought particularly hard in the Battle

for the Liberation of Tripoli, which began on 20 August 2011. Those groups became increasingly important when they moved to fill the power vacuum created by the targeting and destruction of most police stations and the disintegration of the regular police forces in late 2011, which allowed those groups to play a key role in protecting the population.

Two competing initiatives took shape following the liberation of Tripoli. The first was advanced by the revolutionaries' brigades, which strove to establish a new, alternative security apparatus, while the second initiative was supported by Executive Board, which strove to integrate the police and armed forces into a new force; to that end, several military councils comprising military officers and revolutionary brigade commanders were established, including the Tripoli Military Council, which at that time was headed by Abdelhakim Belhaj.

It should be noted that, as part of its so-called Tripoli Mission, the Executive Board sought to protect the city of Tripoli after the fall of the al-Gadhafi regime, inter alia by disbanding the armed groups and disarming and demobilizing their members in addition to providing training to former armed group members who wished to enrol with the army or security institutions, including the police. The initiative of the Executive Board failed, however, when the president of the National Transitional Council declared that the revolution would continue to rely on the revolutionaries, and urged them to retain their weapons in order to defend the revolution.[59]

Attempts to preserve the unity of the Ministries of Defence and the Interior were undermined by the brigades' deep hostility towards the army and the police, which they viewed as oppressive tools of the former al-Gadhafi regime. The gulf between the two sides widened with the establishment of other parallel entities, including the Supreme Security Committee, whose task was to recruit revolutionaries into a semi-official apparatus and to establish a temporary body comprising police officers who had supported the revolution. During

the transitional period, other forces parallel to formal State institutions were established, including the Libya Shield Force, which was formed following a declaration by the Army Chief of Staff that the army had ceased to exist and that the process of building effective chains of command, authority and control would require many years. As such, the informal Libyan Shield Force, became an umbrella organization that bestowed legitimacy on those entities. A similar role was played by the Supreme Security Committee.

In 2012, the Libya Shield Force was expanded to five battalions, even though it was not part of the formal army and did not receive supplies and support from the Office of the Army Chief of Staff. The Libya Shield Force were established pursuant to National Transitional Council Decision No. 17 of 2012, article 1 of which provided for "the establishment of a temporary armed reserve force, to be named the Libya Shield Force, that shall be subject to the command of the Libyan Army Chief of Staff. That force shall consist of revolutionaries who participated in the 17 February Revolution in addition to revolutionaries who have been members of the Libyan army reserves".[60] Article 2 provides that the Army Chief of Staff shall have the authority to issue decisions regarding the size and components of the force. As part of that mandate, the Chief of Staff approved the formation of other forces, named "mobile forces". The first of those forces was formed in Tripoli in mid-2012 and consisted, primarily, of fighters from the Nafusa Mountains. Another force, named the Border and Strategic Facilities Security Service, was established to safeguard oil production, and the National Oil Corporation and its departments have employed members of that force to protect oil sector installations in the country.

Many fighters who joined the armed groups, particularly those formed in the eastern parts of the country, handed over their weapons and returned to their regular lives following the fall of the al-Gadhafi regime. In the west of Libya, however, those groups have gained in strength and have often wielded considerable influence on the political process, including through their

imposition of blockades on the Ministries of Foreign Affairs, the Interior and Justice, and the headquarters of the General National Congress, with the aim of pressuring members of those bodies to adopt specific legislation, including the Political Isolation Act and Decision No. 7 of 2012 authorizing the assault on the city of Bani Walid.

Those groups exerted political pressure by attacking the office of Prime Minister Ali Zaydan and forcing him to pay two billion dinars (about $1.5 billion) to the recently established militias. In October, Zaydan was kidnapped, and the headquarters of the Petroleum Facilities Guard attacked because of the dispute over jobs and salaries.[61] On the basis of media reports, the author of the present study has concluded that more than 25 attempts to blockade or storm national institutions were made between 2013 and the end of 2017 in order to extract financial or other concessions or to influence political decisions.[62]

After 2014, as political divisions worsened, those militias only gained in strength. With the arrival in Tripoli of the United Nations-backed Government of National Accord in March 2016, four large local militias, namely the Special Deterrence Force, the Tripoli Revolutionaries Brigade, the al-Nawasi Brigade and the Abu Salim branch of the Central Security Agency gradually carved up the capital between themselves and, despite their professed loyalty to the Government, attempted to exert control over State institutions and resources.

Control of the capital was contested by numerous armed groups with a range of political, tribal and regional allegiances. Attempting to achieve military and security hegemony, those groups perpetrated extortion, kidnapping, unlawful arrest, torture, and extrajudicial killings, all with impunity. As a result, many neighbourhoods in Tripoli became islands outside the effective authority of the State that were under the control of one of the four major militias or of one of dozens of other armed groups.

The militias' control of certain districts led to political influence and financial gain,[63] while

the response of the Presidential Council during rounds of fighting or other security incidents in the capital was frequently limited to the issuance of appeals for calm or statements of condemnation. The militias in Tripoli continued to squabble over wealth and power until 4 April 2019, when the Libyan Army, under the command of Field Marshal Khalifa Haftar, attacked the capital. This prompted the militias to bury their differences and unite in the face of the attack.

Table 3 provides an overview of the actions taken by militias between 2012 and 2018 to influence political decision-making.

In general, regional and political fragmentation is one of the main reasons why States fail and civil wars start, while divisions resulting from struggles among armed groups are a significant impediment to conflict resolution efforts.[64] This is clearly the case in Libya, where armed groups are likely to resist all attempts to resolve the conflict and establish peace. Prior to launching any peace initiative, a radical, long-term solution must therefore be found to address the challenge posed by armed groups, many of which have assumed a local character, reflecting their affiliation with a specific geographical area or community.[65]

The following observations can be made with regard to armed groups:

1. Most armed groups were established because of a power vacuum resulting from the collapse of the army and the police.

2. Power struggles within institutions during the transitional period have strengthened all those non-State bodies and authorities.

3. The size of an armed group depends on the material and logistical resources at its disposal.

4. Some armed groups operate under the auspices of State authorities, including the Office of the Army Chief of Staff and the Ministry of Interior.

5. Certain armed groups have been able to take advantage of the fact that some decisions

Table 3. Pressure exerted by militias to influence political decision-making, 2012 to 2018

Date	Year	Type of pressure	Location targeted	Outcome
2012	October 2012	Protests against certain ministers in the Government of Ali Zaydan	General National Congress headquarters	Suspension of the session in which the prime minister was to present his cabinet
2013	April 2013	Demanding the application of the Political Isolation Act	Ministry of Justice building	Issuance of the Political Isolation Act
2013	April 2013	Demanding the removal of ambassadors appointed during the al-Gadhafi era	Ministry of Foreign Affairs building	Removal of most of the former ambassadors and the appointment of new ambassadors to their posts
2014	March 2014	Demanding the appointment of a new prime minister to head the interim Government	General National Congress headquarters	The appointment of a new prime minister to head the interim Government
2014	March 2014	"No Extension" Movement holds members of the General National Congress hostage in a hotel	Residence of certain members of the General National Congress	-
2016	October 2016	Armed attack on the headquarters of the High Council of State	High Council of State building	-
2017	May 2017	Armed clashes between different militias	Supporters of opposing governments	-
2018	September 2018	Armed clashes between the Seventh Brigade-Tarhuna and militias sponsored by the Government of National Accord	Airport and other sites in Tripoli	-

Source: author, based on a review of attempted attacks, incursions and clashes between armed groups.

issued by the General National Congress, the country's legislative authority between 2012 and 2014, are incompatible with decisions issued by authorities established after that period. These include decisions pertaining to the abolition of battalions or regarding their withdrawal from certain cities, particularly the capital Tripoli.

6. Joining an armed group has become a means of making a living for a large number of their members, as the wages and benefits they receive far outweigh the wages and benefits enjoyed by members of the regular armed forces and the police.

7. Hostility towards those groups is increasing among Libyans, who have called for the re-establishment of an effective army and police force. That hostility burst into the open in the so-called Benghazi Friday Protest in 2012, in which many citizens openly demanded the re-establishment of the army and police, and the withdrawal or disbandment of the armed groups. In the 2013 demonstration that took place in the Gargur neighbourhood in Tripoli,

protestors also demanded the expulsion of armed groups from the city.

8. Many armed groups were established on a tribal, geographical or ideological basis, in clear contradiction to the concept of neutral "armed forces", and can therefore be used by certain stakeholders as tools to exert political pressure.

9. All attempts to unite Libya's armed groups or disband them have failed.

The following measures could be implemented when integrating militia members:

- Reassessing previous programmes proposed by various institutions, such as the Warriors Affairs Commission and the Ministry of Defence;

- Integrating armed groups, after reviewing their capacities, into the security apparatuses, police, army;

- Strengthening the role of the private sector to absorb individuals from armed groups;

- Eliminating the sources of the parallel economy represented by irregular migration and cross-border smuggling of people and weapons;

- Ensuring the psychological rehabilitation of armed groups prior to their reintegration;

- Obtaining international support to integrate armed groups, and to benefit from international experiences.

5. Role of the external factor in the Libyan crisis

Foreign actors were involved in efforts to promote regime change in Libya at a much earlier stage that in other "Arab Spring" revolutions, inter alia, through the adoption of Security Council resolutions 1970 (2011) and 1973 (2011). Indeed, it was only in the Arab Spring revolution in Libya that the international community underscored its responsibility to protect civilians, even if that meant significant military intervention in the country.[66] Many questions can be asked about the role of foreign actors in Libya, including whether the actions taken by those actors supported or impeded the country's social and economic transformation. In other words, did the strategies and visions adopted facilitate that transformation and did they promote collaboration among Libyans? For example, some governments provided support to specific militias, while efforts to "manage" migration to Europe through Libya had a divisive impact by incentivising certain domestic stakeholders to boycott national settlement processes in order to protect their own interests and the interests of those external actors.

The role of the external factor in the Libyan crisis has emerged since 2011, through the internationl military intervention that was supported by Security Council resolutions. Many international parties also supported the overthrow of Qadhafi's regime and the recognition of the new authority represented in the Interim Transitional National Council.

International parties have played different roles depending on different nature. These actors include international organizations represented by the United Nations, the African Union, the League of Arab States and the European Union, or international; and regional powers including Western powers represented by France, Italy, the United States of America, the Russian Federation and the United Kingdom. The priorities and interests of these parties are reflected in combating terrorism, confronting the Islamic State and other terrorist organizations, controlling illegal immigration, preventing the flow of migrants to Europe, and ensuring the flow of oil and gas exports. However, the priorities of the Libyans were not being heard. These priorities include State building, and achieving security, stability, and national reconciliation.[67] The political settlements regarding Libya, supported by the United Nations Support Mission in Libya, have failed. This confirmed the low credibility of the mission among many Libyans, and the growing mistrust and accusation of bias and favouritism towards certain parties. Most of the initiatives sponsord by international parties to solve the Libyan crisisalsofailed. All this contributed to a loss of confidence among the Libyan people in many external parties and their ability to solve the Libyan crisis.[68]

Although there have been a number of negative assessments of the role of foreign stakeholders in Libya, it should be noted that Libya has received considerable technical assistance from external stakeholders since the February 2011 revolution, particularly from international specialists the areas of democratic transition. During the al-Gadhafi period, most international organizations and experts, particularly those studying Libyan affairs, were unable to enter or work in Libya, unless they were hosted by specific State institutions. In the final years of al-Gadhafi's rule, following the lifting of the embargo on Libya and its return to the international fold, a number of reform programmes were adopted by the regime to promote the country's engagement with the outside world. To that end, Libya sought the

Table 4. Impact of the foreign factor in the Libyan crisis, 2011-2020

International Actors	Period of	Nature of Intervention	Evaluation
International Organizations • United Nations; • African Union; • Arab Leagues; • European Union.	2011-2020	**United Nations:** • Issued 20 Resolutions regarding Libya. Establishing UNSMIL; Settlement Initiatives. Technical Support. **African Union:** • Intervene at the beginning of the crisis in 2011. Delay in the recognition of the new Authorities; • Establishing a Committee for the Libyan Crisis in 2016; • African Union Strategy for the Libyan Crisis. **Arab League:** • An important role in overthrow Qadhafi's regime, Giving a legitimacy for International Intervention in 2011. **European Union:** • Support the NATO at the beginning of the crisis. Technical support.	**United Nations**: • Many initiatives to find a settlement for the Crisis. The failure of these initiatives due to the intervene of International Parties. African Union: • Absent of United machinery for coordination between the Libyan Conflicting Parties. **Arab League**: • Absent of united initiative regarding the Libyan Crisis, due to conflicting interests between the Arab Parties. **European Union**: • Absent of united initiative for the Libyan crisis. The competition between the European Parties. France and Italy, focusing on security policies, technical support for the boarders' protection. Interested in the migration issue.
Foreign Powers • France; • Italy; • Russia; • United States; • United Kingdom.	2011-2020	**France**: • Parties have a direct role, France and its participation in the air strike against Qadhafi. A mediation role. Supporting the Libyan Army – LNA in the East. **Italy**: • Support for Political agreement. Security Protection to the National Accord Government-NAG. Interested in migration issue. **Russia:** • Military Support to the LNA in the East. Unite States and United Kingdom: • Limited role. Supporting the political agreement and peaceful settlements between the conflicting parties.	Different interests in dealing with the Libyan Crisis according to the relationships with the internal conflicting parties.

| Regional Powers

• Tunisia;
• Algeria;
• Egypt. | 2011-2020 | **Tunisia**:
• Tunisia was concern with the internal situation, didn't pay attention to the Libyan Crisis. The Libyan crisis have an economic and security impact on Tunisia.

Algeria:
• Has not had a positive attitude towards change in Libya. The Algerian position was characterized by caution, hesitation and lack of clarity.

Egypt:
• Egypt had a neutral stance towards the events of 2011. Its stance changed after President as-Sisi assumed power, started his campaign against terrorism, and started Egyptian intervention through air strikes, targeted Derna city. After 2015 the interference become clear through supporting LNA lead by Haftar. In the same time Egypt announced its support to the political process in Libya. | Different interests in dealing with the Libyan Crisis according to the relationships with the internal conflicting parties. |
| Regional Periphery

• Turkey;
• Qatar;
• United Arab Emirates;
• Saudi Arabia. | 2011-2020 | **Turkey:**
• Turkey become an active member since 2014. The role more visible after the agreement between Turkey and NAG in 2020.

Qatar:
• Supporting the uprising since 2011. Part of the conflict.
Saudi Arabia and United Arab Emirates:
• Same as Qatar. Supporting LNA. | Different interests in dealing with the Libyan Crisis according to the relationships with the internal conflicting parties. |

Source: Complied by the author.

assistance of a number of international institutions, and experts and specialists from abroad were invited to formulate visions and strategies and develop programmes for institutional reform. United Nations agencies provided significant technical assistance, particularly in the areas of judicial reform, combatting corruption, and women's economic empowerment.[69]

Numerous programmes have also been implemented by international institutions since the revolution, particularly in the area of democratic transition, such as training programmes on elections, youth and women's empowerment, constitution drafting, reconciliation and peace making, human rights and civil society capacity-building. However, international institutions have been unable to provide support in a number of crucial areas, most notably in disarmament and the disbanding of armed groups.

In that context, the European Union has been particularly active in Libya, and has provided 130 million euros to support development in key areas, including public administration, security, democratic transition, civil society building, health and education, and vocational training.[70] United Nations agencies, including UNSMIL and UNDP,

and a number of countries' external development agencies, including the German Agency for International Cooperation and the United States Agency for International Development, have also played a key role in that regard.

A review of the technical assistance provided by international stakeholders reveals the following:

1. The assistance provided by the international community has ebbed and flowed since the fall of the al-Gadhafi regime, and particularly the assistance provided by foreign stakeholders to support the political process and promote stability in Libya since the adoption of the Libyan Political Agreement. Furthermore, the deep political divisions within the country have been exacerbated by regional and international actors through their support to various parties to the conflict, particularly since 2014.

2. A number of stakeholders from abroad have collaborated with and exploited city, regional and tribal actors in order to address challenges related to migration and defend their countries' interests.

3. A wide range of programmes, courses and workshops have been held for Libyan civil society organizations and activists.

4. Instability, the deterioration of the security situation, and the conflicts that have broken out in various parts of the country have all prevented international development agencies from operating in Libya. Consequently, those agencies have been obliged to find alternative locations where they can safely hold workshops and training programmes.

5. It has proven necessary to repeat many development initiatives and programmes because of a lack of coordination among international institutions and their failure to assess needs effectively.

6.   Role of the external factor in the Libyan crisis

After 2003, the al-Gadhafi regime enacted a series of measures to facilitate the country's return to the international fold. Most of these measures were spearheaded by Saif al-Islam al-Gadhafi, who sought to resolve the challenges faced by Libya with the support of the outside world and attempted to reintegrate the country into the international community. To that end, a range of initiatives to reform Libyan institutions were adopted in the context of what became known as the Libya Tomorrow initiative. Perhaps the most important reform initiatives concerned the economy, which was characterized by numerous structural imbalances. In that regard, it is particularly important to consider the common themes of the key visions and strategies that were formulated in the post-2006 period, particularly on contentious issues. Key visions and strategies adopted since 2006 include the following:

6.1 Libya Vision 2019

Formulated on the basis of a report by Monitor Group, a consultancy firm, Libya Vision 2019 was a policy document on ways to promote economic competitiveness. The Libyan Government hired Michael Porter, an American consultant working with Monitor Group to draw up a comprehensive socioeconomic strategy with a view to fostering prosperity in Libya.

The relevant report assessed competitiveness in Libya and the macro- and microeconomic business environment. It also included a critical analysis of key social sectors, including healthcare, education, and urban planning, and outlined ways to increase participation in the

labour market and promote competition within the Libyan economy[71].

The report was drafted by the Monitor Group in cooperation with Cambridge Economic Research. It also drew on Libyan and foreign expertise, including input from decision makers and experts in many sectors, heads of industry, and those in charge of large and small-scale projects. The report analysed "broad-based efforts to stimulate economic activity, strengthen the Libyan Arab Jamahiriya, and achieve the aspirations and entrench the values reflected in the Third International Theory"[72].

The report, which was formulated with a view to achieving the goals of Libya Vision 2019 by the fiftieth anniversary of the revolution, adopted the ideology of the al-Gadhafi regime. The report did not analyse the political foundations of the regime, and instead sought to assess socioeconomic conditions within the context of the ideology and value system espoused by that regime. The report evaluated the role of the Libyan Government by examining relevant literature on policy, which underscored that Libya, together with certain other countries in the region, had adopted policies based on distributive economic theory in which national and local institutions existed only to extract and distribute wealth through tax collection and spending mechanisms.

In assessing governance in Libya, the report relied on governance indicators adopted by other studies to assess perceptions of various aspects of governance, such as political stability, the rule of law, government effectiveness, corruption, the effectiveness of the regulatory framework, and accountability. The report concluded that, compared with other countries in the region, Libya

had achieved a high score only for the indicator on political stability.[73]

Libya Vision 2019 was heavily criticized, and many critics felt it ignored the interplay between the law, the regime and its institutions. Significant criticism was voiced at the first national conference on public policy, held at Garyunis University in Benghazi in July 2007, and most studies indicated that the focus of the report on certain aspects of governance, particularly certain functional and structural adjustments to the administrative system in Libya should be seen in the context of political and legal developments. Some studies drew attention to the fact that the report had failed to consider certain aspects of the constitutional process, human rights, the role of civil society, transparency, information management, accountability and efforts to combat corruption.[74] Moreover, the country's socioeconomic vision should address and explore neglected aspects of previous narratives.

6.2 Libya Vision 2025: a forward-looking vision for promoting a culture of sustainable progress and development

Following its independence in 1951, Libya failed to adopt a comprehensive national vision, even if it did formulate a series of development plans to facilitate the provision of key services, including in the fields of education and health care. Libya Vision 2025 was formulated to implement the reforms that Saif al-Islam al-Gadhafi had been seeking to promote since 2004. The new Vision was formulated in the light of Vision 2019, which had focused on liberalizing the economy, developing the business environment, attracting foreign investment, and encouraging private-sector commercial activity and entrepreneurship. Vision 2019 had been harshly criticized by a number of Libyan experts, who viewed it as a mere continuation of strategies and policies put forward by Libyan academics in numerous conferences and workshops in the 1990s.

Indeed, significant criticism of Vision 2019 had been voiced at first national conference on public policy, organized with the support of the National Planning Council at Garyunis University in June 2007, and plans were drawn up for a new vision. The Research and Consultation Center was tasked with drawing up that vision on the basis of input from 80 Libyan experts in a wide range of fields, the outcomes of numerous conferences, workshops, general discussions and consultations with academics, experts and decision makers, in addition to relevant input from a wide range of countries, including Egypt, India, Jordan, Kenya, Malaysia, Oman and the United Arab Emirates. The conference produced three documents, namely an executive report, a final report and a sector report. One of the lessons that may, perhaps, be learned from Libya Vision 2025 is that Libyan academics had often participated in discussions on national policies and strategies during the al-Gadhafi era and that the involvement of academics in the process to formulate the new vision was crucial. Every effort was made to ensure that the new strategy was more comprehensive and less ideologically-driven than previous visions and strategies.

Libya Vision 2025 focused, primarily, on building a knowledge-based society that cherished its Arab-Islamic identity, and in which every individual can realize his or her potential and contribute to the well-being of all. Such a society would be aware of the global environment and engage with the modern world, helping to realize global objectives by taking stock of and fully leveraging its capacities and making informed choices. In such a society, institutions would be run efficiently and transparently within a democratic framework, while members of that society would enjoy their rights and equality before the law and a standard of living commensurate with the resources of their homeland and the degree to which they participated in the productive process.[75]

Libya Vision 2025 provided that society should be characterized by open and diversified cultural discourse, a productive economy and a variety of sources of income. Efforts should be made to

establish a knowledge-based society in which freedom of opinion and expression prevailed and which empowered women and young people. All members of society should enjoy access to integrated and comprehensive high quality health-care services and should be able to live in a clean and unpolluted environment. Every effort should be made to ensure national security so as to guarantee the rights and security of citizens, while the power of State institutions should be enshrined in the country's constitution. The Libya Vision 2025 document set forth three potential scenarios:

1. A pessimistic scenario in which it is assumed that, notwithstanding minor changes to the current economic order, current trends would continue. The scenario foresaw that ideology would continue to play a defining role in society, while the State would exercise control over civil society institutions and the economy would remain overly-dependent on the oil sector. That scenario was likely to reinforce the culture of consumption, while society would be characterized by the absence of a constitution, the weak rule of law, fragile institutions, financial and administrative corruption, the entrenchment of rentier capitalism, a private sector weakened by inconsistent legislation, a lack of transparency and accountability, ineffective health and education services, and increasing unemployment.

2. A more optimistic scenario, in which culture of progress and sustainable development prevailed. This scenario envisaged a number of positive factors, including adequate political will in support of change, the adoption of the concept of human security, and efforts to institutionalize democratic processes. A new role was also envisaged for the State and the private sector. That scenario envisaged the promulgation of a constitution that established the powers of State authorities, the establishment of an independent and impartial judiciary, an economic and legislative environment favourable to foreign investment, and a culture of free expression, freedom of the press, transparency and accountability.

3. A scenario of containment, which fell somewhere between the two scenarios mentioned above and was based on a number of key factors, including the linking of policies and actions to internal and external pressures, the implementation of further economic and political reform, and continued heavy reliance on the oil sector.[76]

Libya Vision 2025 did not explicitly address governance and governance mechanisms in Libya, but rather emphasized the importance of promoting human security in all its aspects rather than promoting the security of the regime. The vision suggested that the State and private sector could, inter alia, play a key role in enhancing competitiveness within society. The mandate of the State should include developing and ensuring the effective implementation of legislation to promote respect for rules and norms, accountability, transparency and institutional stability. The State should also launch robust administrative reform initiatives while also ensuring that administrative mechanisms functioned efficiently, promoting justice, reducing inequality in income distribution, and safeguarding the security and stability of society.

The new vision was never implemented or used as a basis for policy formulation because if was strongly opposed by certain powerful actors in the al-Gadhafi regime, who believed that the Vision was incompatible with the regime's political ideology.

6.3 Libya Vision 2040: a forward-looking update to Vision 2025

The National Planning Council endeavoured to update Libyan Vision 2025, which had been drawn up by the Research and Consultation Center at the University of Garyunis in Benghazi in May 2007. A committee was formed to review Vision 2025 in the light of post-2011 developments and drew on national expertise to make appropriate revisions. The sectoral reports were merged

into a new vision, named Libya Vision 2040, which focused on a number of themes, the most prominent of which were human security, culture, globalization and current conditions, building on themes and concepts addressed in Vision 2025, namely security, civil society, economic performance, human development, health care, and environmental protection.

Vision 2040 focused on ideas such as competitiveness and the role of the State, and included an analysis of the post-2011 landscape that looked at prevailing concepts of security, which, the Vision emphasized, failed to address a number of issues related to human security. Instead, the security landscape was characterized by the existence of numerous security services with different mandates that were often in competition with each other. Key challenges outlined in Vision 2040 included security and political challenges and those related to institutionalizing the democratic process, developing political mechanisms, and the emergence of extremist groups.

Vision 2040 set forth several potential scenarios, including a scenario in which Libya promoted a culture of sustainable progress and development anchored in a new social contract for an era of globalization. In line with that new social contract, the nature and competencies of State institutions should be reassessed, and a constitution that enshrines the powers of State institutions and safeguards the interests of Libya should be adopted. Vision 2040 also called for the constitution to affirm shared values, establish the basis of citizenship and enshrine the rights of citizens. Furthermore, the new Vision proposed new competencies for the State and the private sector to help bolster the competitive capabilities of society, including with regard to planning, monitoring, and supervising all health and educational services, revising current laws on economic activity and promulgating new legislation.

A second scenario envisaged a failed State characterized by rentier capitalism,

the misappropriation of public funds, the entrenchment of a culture of political exclusion and isolation, and the failure to establish armed forces and security agencies with the capacity to impose State authority. The scenario envisaged that Libya would be unable to implement a consensual constitution drafting process, establish an effective judiciary, implement transitional justice and national reconciliation mechanisms or articulate a comprehensive and clear way forward for the country. The national economy would continue to be overwhelmingly dependent on the oil sector. One of the implications of that scenario is that the transfer and exercise of political power would be democratic in name only.

In a third scenario, a successful State was established. There was adequate political momentum for change, in addition to strong institutionalization of the democratic process. A consensual constitution drafting process was launched and efforts made to diversify the economy. The vision outlined the implications of the scenario for the rule of law and underscored its relevance to employment, the rights of citizens, and the growth of small and medium-sized enterprises.

The proposed socio-economic vision should be based on a new understanding of the Libyan social contract, especially in terms of the outcomes and responsibilities that the State and society as a whole should bear. It should be underscored, however, that any vision formulated by Libyans themselves that addresses the challenges currently faced by Libya may not necessarily reflect current globalization trends.

6.4 Libya Vision 2030

In 2013, the Office of the Prime Minister issued Decision No. 191 on the formation of a committee to formulate Libya Vision 2030. That committee, which was convened under the auspices of the Ministry of Planning, brought together 50 Libyan experts in various fields. Vision 2030 expanded the

scope of Vision 2025 and other relevant strategies, including Libya Vision 2040, which had been formulated by the National Planning Council in 2012. Vision 2030 focused on key issues relevant to Libyan society and institutions, as well as to the national economy. The Vision provided for the establishment of a modern parliament, an independent judiciary, small and decentralized government, effective and transparent oversight mechanisms, and an active civil society.[77]

As for institution building, the vision addressed the system of government, local government, the civil service system, planning, public financial resource management and economic policy. It set forth a road map on peace and security, secure infrastructure and institutions, oil exports, and the establishment of a knowledge-based economy by 2030. Due to ongoing instability in Libya and the political divisions that emerged in 2014, which have impeded all efforts by stakeholders to adopt comprehensive strategies to guide future policy, Vision 2030 has not yet been published or submitted to the government.

6.5 Visions and strategies developed by political parties, research centres, and international institutions

In addition to initiatives by State institutions, a number of visions and strategies have been developed by experts, research centres, political parties, social forums and international institutions, particularly since 2014. Those initiatives, some of which draw on previous visions, including Vision 2025, have been formulated with a view to guiding efforts to address the ongoing crisis in Libya.

One of those initiatives, launched under the slogan "Vision 2023: reviving Libya" by the Libya Institute for Advanced Studies, focused on a number of key areas, including peace and security and the rule of law, economic development, human development, good governance and public sector reform.[78]

In June 2013, the Civil Democratic Party launched "Libya's Promising Vision 2030", an extension of the Libya Vision 2025 initiative and its updates, and Libya Vision 2040, which had been drafted by the National Planning Council. This vision focused on the concept of human security, including its legal, economic, political, social, health, and environmental dimensions.[79] It also underscored that efforts must be made to promote cultural openness, sustainable development, competitiveness, good governance, equality among citizens, social peace and a knowledge-based society. Furthermore, in 2017, a number of entities submitted another draft vision on steps that should be taken to address the ongoing crisis in Libya, particularly with regard to armed groups in Libya.[80]

Another initiative, the National Initiative for Peace and National Reconciliation, was launched in September 2017 by the Forum of Social Actors for Peace and National Reconciliation. That initiative was launched with a view to promoting national reconciliation as a basis for nation-building, and set forth an electoral platform advocating for the establishment of a State based on the constitution, the rule of law, institutions, fundamental freedoms, and the concept of citizenship.[81]

A number of international organizations have also formulated strategies and plans in a number of areas. These include a policy brief on proposed ways to reform the security sector in Libya that was drafted by UNSMIL in 2013. That draft document was submitted to the General National Congress for consideration but has not yet been adopted.[82]

Other institutions have also contributed to the development of specific strategies to address certain aspects of the crisis in Libya. These have included a strategy entitled "Towards National Reconciliation in Libya" which was formulated by UNDP and UNSMIL with input from a range of Libyan experts. Strategies launched by the Bureau of Statistics and Census include a strategy for developing and updating statistical management mechanisms in Libya. That strategy, which is to be implemented in three stages, sets forth seven

Table 5. Visions and strategies proposed by State and non-State institutions

Vision/strategy	Year drafted/ drafting organization	Areas of focus	Weak points	Strong points
Libya Vision 2019	2006/Monitor Group and National Planning Council	• Economic and social conditions in the context of the ideology of the al-Gaddafi regime	• Failed to consider the interplay of the law, the regime and its institutions; • Failed to evaluate the political foundations of the regime; • Failed to consider the constitutional progress and the issue of human rights.	• Analysed the Libyan economy, focusing, in particular, on ways to bolster competitiveness and diversify the private sector
Vision 2025	2007/Research and Consultation Center at the University of Garyunis, Benghazi.	• The need for an open and diversified cultural discourse, a productive economy, diverse sources of income, and a knowledge-based society, while also promoting human security; • The need for a new role for the State and the private sector.	• Lack of clarity in its consideration of governance mechanisms and institutions.	• Emphasized the importance of establishing a productive and diversified economy and a knowledge-based society that empowered women and young people and provided for freedom of opinion and expression.
Vision 2040	2012/National Planning Council	• A new social contract reflecting the trends of the globalization era; • The changing nature of State functions; • The drafting of a constitution that set forth terms of reference for State institutions.	• Lack of clarity in its consideration of governance mechanisms and institutions.	• Emphasized the need to develop a new social contract that reflected the trends of the globalization era; emphasized the importance of diversifying the economy, promoting education, combatting corruption and strengthening the private sector.
Vision 2030	2013/Ministry of Planning	• Key issues of relevance to society, institution-building and the economy.	• Lack of clarity in its consideration of governance mechanisms and institutions.	• Focused on the establishment of institutions, a modern parliament, an independent judiciary, small and decentralized government, effective and transparent oversight mechanisms, and an active civil society.

Visions and initiatives proposed by parties, political groups, Libyan university research centres and independent research institutions, including the Libya Institute for Advanced Studies and the Libyan Organization of Policies and Strategies.	2013-2019/Benghazi University research departments, Libyan Organization of Policies and Strategies, Forum of Social Actors for Peace and National Reconciliation, Libya Institute for Advanced Studies, Civil Democratic Party.	• Visions, strategies, papers and research studies on public policy, especially with regard to the economy, and issues of relevance to the transitional phase, including transitional justice and reconciliation and national governance mechanisms.	• • Lack of clarity in its consideration of governance mechanisms and institutions, particularly in certain visions. Those issues were, however, considered by certain research centres and departments.	• Focused on public policy issues, including in connection with the economy, the education system and social protection mechanisms; emphasized national and local reconciliation in addition to national governance mechanisms and transitional justice issues.

Source: Author, on the basis of a review of strategies and visions developed by State and non-State institutions, 2019.

goals and 30 substrategies to be completed by 2020 and will facilitate the establishment of a modern, reliable and efficient statistical system. The strategy focuses on the development of a management information system to enhance coordination among ministries, State institutions and other relevant stakeholders and strengthen collaboration among traditional data producers and users so as to enhance decision-making in the area of sustainable development and other areas relevant to the State-building project.[83]

University research centres and independent private sector research institutes have also developed plans and strategies and carried out research to address the challenges facing the country. These include studies and surveys conducted by the Research and Consultation Center at the University of Garyunis, Benghazi to facilitate national dialogue and the constitution drafting process.

Likewise, the University of Benghazi Centre for Law and Society Studies, in cooperation with the University of Leiden, the Netherlands, has carried out studies on Libyan identity, national governance, and the role of law in national reconciliation,[84] while a number of research centres, including the Libyan Organization of Policies and Strategies, have also carried out studies to evaluate public policy

in Libya, especially in the areas of education, the economy and governance[85].

However, most proposals submitted by national and international research centres, parties, alliances and international civil society organizations have neither been implemented nor translated into actionable programmes and strategic plans, primarily because of the following:

1. Instability and numerous changes of government, particularly since 2013.

2. The frequent reorganization of government offices and departments.

3. Institutional divisions stemming from the acute political divisions that came to the fore in 2014, which have significantly undermined efforts by the international community to address critical issues.

In the light of the aforementioned visions and strategies, the following observations can be made:

1. No vision has reached the implementation stage, except for Libya Vision 2019, which was formulated in 2006. Implementation of that Vision provided, inter alia, for the establishment of the Economic Development Board, whose terms of reference and programme of work

were formulated by the Monitor Group and National Planning Council. Some projects relating to the implementation of specific programmes have been prepared, including, in particular, small and medium-sized projects, and the United Nations is supporting the implementation of a number of initiatives, including an initiative to combat corruption, whereby a management committee and technical team will assess corruption in various fields, review legislation, and conduct training courses on self-evaluation and fighting corruption. Another strategy on women's economic empowerment and technology transfer is being supervised jointly by the National Planning Council and the Economic Development Board.[86]

2. Most visions and projects formulated since 2011 are based on Vision 2025, which was drafted by the Research and Consultation Center at the University of Garyunis, Benghazi, in 2012.

3. None of the visions and strategies incorporate a gender perspective, even though they address issues such as the empowerment of women and young people. Data is not disaggregated by sex in any of the areas addressed in those visions and strategies.

4. Although clear indicators have been developed to assess economic and cultural issues, the indicators used in those visions and strategies to assess governance and institutions are often unclear. Although, as shown in table 1 above, some visions have focused on specific concepts, such as human security, they have been undermined by a lack of clarity in that area.

5. No consideration was given in visions and strategies formulated prior to 2011 to the political landscape, constitutional challenges and human rights under the al-Gadhafi regime. Instead, those visions and strategies focused on socioeconomic issues within the context of the value system and ideology espoused by the regime.

7. A focus on governance in future visions

Any future vision formulated to facilitate socioeconomic dialogue in Libya should focus on a number of key issues. In this section, consideration is given to a number of priority areas of relevance to the political landscape, namely governance and institution building, institutional reform, decentralization and local government, consolidating institutions and cybersecurity.

7.1 Governance

Libya has historically suffered from poor governance and limited respect for good governance principles, most notably the principles of accountability and transparency. Most reports by international organizations continue to underscore that, compared with other countries, Libya scores poorly on many governance indicators. Although a number of reforms were implemented in the final years of the al-Gadhafi era, particularly between 2004 and 2010, most of those initiatives were launched to stimulate the economy, and, notwithstanding the affirmation of certain general principles that were consistent with the ideology espoused by the Libyan regime, very little attention was given to the issue of political reform.

After 2011, despite the changes that took place in the political landscape, no reports on governance were issued by the post-revolution governments or the newly created entities and institutions, such as the Presidency of the Council of Ministers National Center for Decision Support, the Department of Institution Building at the Ministry of Planning, and the Department of Governance in the Presidential Council of the Government of National Accord.

Indeed, the Libyan public authorities showed little interest in enhancing governance, and they failed to implement proposals made by international institutions and stakeholders, such as proposals by British Government consultants for the reorganization of the Office of the Prime Minister and public policy formulation, which were submitted to the Office in early 2014.

Without political stability and the adoption of a clear strategy to guide political and economic institution building, Libya has been unable to collect data relevant to numerous governance indicators, including those related to accountability and transparency. This has been particularly true since the political struggles that took place in 2014, which split the government and its institutions, and the promulgation of what were often incompatible laws by the new legislative authorities, which have given rise to a chaotic legal landscape. Governance has, moreover, been further undermined by rampant corruption at all levels. That state of affairs has been underscored in a number of reports, including the 2017 report of the Libyan Audit Bureau and the 2016 report of the Administrative Control Authority, which highlighted that tribal loyalties remain strong, that nepotism and cronyism are common, particularly in public authorities, and that no mechanisms have been put in place to reward merit and competency. Those reports also highlighted that organizational structures remain weak and understaffed and that administrative oversight remains lax and ineffective.

A number of companies and private sector entities are viewed as having provided examples of good governance, including a number of oil companies and the Libyan Investment Authority. The commitment of those companies to uphold good governance standards may be due to their

ties to international institutions, including in the financial, business and oil sectors, which consider good governance standards as a prerequisite for any external collaboration.[87]

As for banking, the Central Bank issued guidelines in 2010 on corporate governance for the banking sector. Those guidelines focused on promoting sound management and an effective oversight environment in order to strengthen the sector as a whole and protect the interests of stakeholders in the banking system, including shareholders, depositors and other rights holders.

Those guidelines complement supervisory norms and other instructions issued by the Central Bank of Libya and legislation relevant to banking oversight.[88] The Central Bank has striven to uphold good governance standards and has exerted considerable efforts to strengthen regulatory rules, promote adherence to transparency and information disclosure standards, ensure compliance with international financial standards, including the Basel Framework on minimum capital requirements, and enhance the skills and performance of bank employees.[89]

Although civil society organizations, universities and research institutions have held numerous lectures, workshops and conferences that have helped raise awareness of the importance of good governance, these have so far proven unable to have a significant impact on decision-making.

Weak governance in Libya has also been highlighted in the annual reports of the World Bank on worldwide governance, and Libya has been awarded, at best, a government performance indicator of only 20 points. This compares with the good scores awarded to Libya for political stability in the middle of the past decade, a period in which Libya was resolving outstanding issues with the international community, rebuilding its relations with many western countries and abandoning its chemical weapons programmes. That score has deteriorated since 2014 because of the civil war, armed conflict and the severity of political

divisions. Libya has also been awarded a low score for government effectiveness, regulatory quality, rule of law, (with extremely low scores awarded after 2014) and control of corruption.

Key governance failures in Libya include:

- The inability of the central governmental authorities to extend their control over all Libyan territory;

- The failure of government authorities to manage public institutions effectively;

- The failure to decentralize power;

- Rampant financial and administrative corruption in most public and private sector bodies.

- Measures that could strengthen governance in Libya include:

- Developing a comprehensive national strategy to promote good governance;

- Establishing an authority to implement that strategy and translate it into practical, actionable programmes;

- Revising legislation to ensure that Libyan laws emphasize the importance of promoting good governance;

- Developing school curriculums and working with civil society and the media to strengthen awareness of good governance standards and how these should be upheld.

7.2 Institutional reform

An institution is commonly defined as a set of rules designed to regulate the interplay among the political, social and economic aspects of society, where those aspects include formal rules, as prescribed in laws, legislative instruments and regulations, and informal rules, including cultural norms, customs, traditions and established patterns of behaviour.

Although a number of reforms were proposed towards the end of the al-Gadhafi era, those reform programmes failed to set clear priorities. According to some reports, all activities and actions were viewed as important, and the attention given to monitoring outcomes did not depend only on the envisaged benefits of each activity, but also on how difficult it was to monitor implementation. Furthermore, certain proposed reforms were politically sensitive, particularly privatization initiatives and reforms to reduce the size of the public sector, while reforms to strengthen the investment climate, the financial sector, and the country's social welfare system required improvements to the country's public administration capabilities.[90]

Although no initiatives to promote institutional reform were launched in the immediate post-2011 period, a number of experts stressed the need to adopt the plans and visions that had been drawn up by the former regime, in addition to draft laws and other legislation formulated prior to 2011 with a view to addressing structural and institutional impediments to economic growth, fostering an investment-friendly climate, strengthening social sector policies and strengthening public sector financial management.[91]

The only clear institutional reform initiative that has been put forward since the 2014 political divisions is the so-called "State infrastructure structural vision", launched by the Ministry of Institutional Reform with a view to reforming a number of ministries, including the Ministry of Local Government, which had been set up in 2012 to supervise the activities of 68 local councils established by consensus by local stakeholders.

In 2012, the National Transitional Council promulgated the Local Administration Act (Act No. 59) which reorganized administration at the governorate, municipal and local levels. Act No. 9 of 2013 provided for certain competencies at the governorate level to be transferred to municipal authorities, while Act No. 133 of 2014 provided for reforms to the Ministry of Local Government to enhance its oversight of municipal councils and a number of other bodies, including the Municipal Guard, the Urban Planning Authority and the Civil Status Authority. Furthermore, pursuant to Decision No. 160 of 2013, the Council of Ministers issued a number of decisions that provided for the establishment of between 99 and 104 municipalities, and the formation of the Central Committee for Municipal Council Elections.[92] A number of structural challenges continue to impede the work of the Ministry of Local Government, however. The most significant of those challenges can be summarized as follows:

• Its terms of reference fail to reflect current legislation;

• The competencies of the Ministry overlap with those of other bodies in the country;

• The competencies of the Ministry overlap with those of local government offices;

• Departments within the Ministry often have overlapping mandates.

• The Ministry of Institutional Reform should undertake the following:[93]

• Demarcate and endorse clear administrative boundaries separating the areas of competency of different local government authorities;

• Draw up plans to facilitate the establishment of partnerships between local government authorities and the private sector and promote local investment;

• Support the holding of fair elections to select members of local government authorities.

The post-2014 divisions have accelerated the fragmentation of a number of institutions. For example, an agreement was reached to consolidate the telecommunications sectors in the east and west of the country. To that end, a single, apolitical board of directors whose members would be appointed by the two governments, would act on behalf of the relevant ministries. Those efforts were unsuccessful, however, and

two boards of directors were established: one in the east and the other in the west of the country.[94]

Most State institutions remain divided as a result of the political division of the country, and it has proven impossible to pursue institutional reform, apart from efforts to maintain the unity of certain institutions. Perhaps the most prominent example of the crisis is Libya's sharply divided legislature, with the House of Representatives meeting in both Tobruq and Tripoli because of its inability to agree on a wide range of issues.

7.3 Institutional division and institutional consolidation

The institutional division is one of the greatest challenges that Libya has faced since 2014. That challenge encompasses the creation of new institutions following the June 2014 elections to the House of Representatives and the refusal of the General National Congress, the previous legislative body established following the July 2012 elections, to hand over power to the newly elected body. The division became very evident when the House of Representatives relocated to Tobruq, where it began to exercise its mandate. The House held its first session on 4 August 2014 and established an interim government, headed by Abdullah al-Thani, which convened in the town of al-Bayda.

At the same time, the General National Congress continued to exercise its legislative powers, and formed a separate government in the city of Tripoli in April 2014. That government, known as the National Salvation Government, was chaired by Omar al-Hassi, who was succeeded by Khalifa al-Ghawayl in April 2015. The National Salvation Government continued to exercise power until the establishment of the Government of National Accord under the terms of the Libyan Political Agreement, signed in Skhirat, Morocco in December 2015.[95]

The Agreement exacerbated differences among the parties to the conflict as it "reconfigured more than contributed to resolving internal strife. A year ago, the conflict was between rival parliaments and their associated governments; today it is between accord supporters and opponents, each with defectors from the original camps and heavily armed".[96]

The division of the legislature and executive authorities undermined the judiciary and led to the division of numerous institutions, even if some of those institutions maintained a veneer of unity. Those institutions included the Tax Authority and the Privatization and Investment Board. The division also gave rise to new boards of directors, with mandates that conflicted with existing institutions, and parallel ministries that answered to either the al-Bayda or the Tripoli government.[97]

Disputes over legitimacy and a mutual lack of trust among the governance mechanisms that have emerged since 2014 has only worsened the crisis, deepened institutional divisions and exacerbated a number of challenges, including the following:

• The division of many institutions, including the Central Bank of Libya, which has two headquarters, one in the west of the country and the other in the east, in addition to the division of municipalities and local government authorities;

• Excessive post creation and staff appointments in order to exercise control over embassies, establish new boards of directors and fill diplomatic posts;

• Rampant corruption throughout all State institutions and governance mechanisms in both the east and west of the country;

• Weak government performance and public policy outcomes;

• Lax administrative and financial oversight within institutions;

• The breakdown of many local services or inadequate service delivery.

The foremost challenge that a united government will face in the future is the reintegration of many of the institutions that have been established as a result of the political division. Although a number of steps can be taken to prevent the institutional divide from deepening and safeguard the unity of institutions that remain undivided, any action to that end will now prove challenging, particularly in the light of the war on the capital that began on 4 April 2019. Key measures that can be taken include the following:

- Work to find a comprehensive political solution that can lead the country out of the current impasse and heal the political and institutional rift;

- Support institutions that remain unified, including the Passports Authority, the Civil Status Authority (Civil Registry) and the Customs Authority;

- Promote cooperation between mid-level departments to impede attempts to divide institutions;

- Support and work with local administrative authorities to ensure the delivery of services to citizens.

7.4 Decentralization and local governance

Decentralization is one way in which some government authority and power can be transferred from a country's centre to lower levels of government or administration.[98] Local administration is a type of local organization through which administrative tasks are distributed among the central government and elected local authorities that perform their functions under the supervision of the central government.

Historically, it can be said that, since its establishment in 1951, Libya has not adopted decentralization as a clear principle, even if it established a federal system of government

pursuant to the 1951 Constitution. The constitutional amendments that were approved in 1963 led to the division of the three historical regions (Barqa, Tripoli, and Fezzan) into 10 governorates. Those amendments were based on historical, geographical and constitutional criteria. During the rule of Muammar al-Gadhafi, namely from 1969 to 2011, many administrative changes occurred. In its early years, the al-Gadhafi regime continued to use the system of local administration that it had inherited from the monarchy, but numerous administrative changes were enacted from 1973 onwards, following a speech delivered by al-Gadhafi in the town of Zuwara, in which he outlined an official five-point programme that inter alia, provided for an administrative revolution to establish an administration that reflected the political philosophy of the regime. Radical changes were subsequently made after the regime announced the "Declaration of the Establishment of the People's Authority" in March 1977, and introduced the concept of administration by the people. Although the changes affected a large number of institutions and the administrative boundaries of cities and regions, those changes were not based on any objective criteria. That period was characterized by administrative instability and numerous changes to administrative divisions and the system of local government, enacted through mergers, annexations and divisions of municipalities (later known as shaabiyat). These changes were reflected in the number of main administrative divisions. In 1970, the country's administrative divisions included 10 governorates and 32 provinces; in 1975, Libya was divided into 46 municipalities and 160 sub-municipalities.[99]

The size, number and names of municipalities and sub-municipalities changed over the years. In 1986, for example, there were 13 municipalities and 52 sub-municipalities, whereas in 2001 there were 32 shaabiyat and in 2007 there were only 22. Furthermore, administrative appointments were not made on the basis of competency or merit, but rather on the basis of tribal quotas or ideological affiliation.

Decentralization is one of the most critical issues that Libya has faced since the fall of the al-Gadhafi regime and has been one of the key demands of Libyans, which they see as a way to reduce marginalization, ensure the equitable distribution of resources, and ensure that citizens in all regions of the country can access the services they need in a fair and equitable manner. In that connection, numerous local councils were established in the wake of the February revolution, especially in the east of the country, in order to oversee local affairs and provide essential services. The Local Administration Act (Act No. 59), promulgated by the National Transitional Council on 8 July 2012, and its implementing regulations, promulgated by the Council of Ministers on 1 April 2013,[100] provided for the creation of 99 municipalities. The number of municipalities was later reduced to 90 pursuant to Council of Ministers Decision No. 540 of 2013. The number increased again to 130 municipalities following the political split and the establishment of two ministries of local government, with one of those ministries affiliated with the interim government in al-Bayda, and the other affiliated with the Government of National Accord in Tripoli.

The central government authorities have a complex relationship with local government, namely the 130 municipalities. That relationship is further complicated by attempts by some municipalities to act independently of the central authorities. Overall, this reflects the complex relationship between society and the State.

A number of stakeholders have warned that strengthening the powers of towns and cities could impede State-building efforts. Initiatives to promote reconciliation with local authorities, in which local and municipal councils participate, are therefore important because those efforts can focus on local problems and disputes, and pave the way for comprehensive national reconciliation. Efforts made in in parallel at both the local and national levels are mutually reinforcing.[101]

Challenges impeding the objective application of Libyan law, imperfect as it is, include the following:

1. The country's political division, which in turn has led to the division of most institutions, including the Ministry of Local Government.

2. The establishment of a large number of municipal authorities in order to satisfy tribal, regional or local interests, even though there is no objective economic, geographical or administrative reason why those municipal authorities should have been created.

3. The fact that most municipal authorities are poorly organized and are inadequately staffed.

4. The militarization of a number municipalities, especially in the east of the country, which runs counter to the principle of popular participation and democratization.

5. The fact that many municipalities have established direct lines of communication with international stakeholders and act as independent entities. Indeed, some municipal councils have signed agreements without obtaining the approval of the central government authorities.

Factors that could support the decentralization process include the following:

1. The adherence by the authorities to objective criteria when establishing municipalities or defining their borders and geographical areas.

2. The development of a comprehensive legal system to support decentralization, together with public awareness of the need to promote democracy and local participation in order to achieve sustainable development.

3. The linking of decentralization to spatial development by promoting integrated planning and coordination among different sectors.

7.5 Role of ICT in governance

Many studies praise the importance of ICT and its various uses in public policy, education and health, and in various departments to achieve decentralization, especially through the use of e-government. As defined by the World Bank, the concept of e-government refers to the use of ICT to bring about a transformation of government that makes it more accessible, more efficient, and accountable. A World Bank report on e-government in developing countries affirms that the promising effects of the digital revolution strengthen democracy and make Governments more responsive to the needs of their citizens.

Examples of e-government initiatives include government information and services websites on the Internet, and the publication of regulations and forms that allow citizens to renew identity cards, submit tax procedures and join electoral register, which helps improve the electoral process.

Those technologies can serve a variety of different ends: better delivery of government services to citizens, improved interactions with business and industry, citizen empowerment through access to information, or more efficient government management. The resulting benefits can be less corruption, increased transparency, greater convenience, revenue growth and/or cost reductions.[102]

Libya was ranked 140th in the world in the 2018 United Nations e-government survey, and, overall, was deemed to have achieved a middle e-government development index score. The scores achieved by Libya for the various survey components are shown in table 6.[103]

Despite significant data gaps, Libya has launched a number of initiatives in this area. These include the E-Libya initiative, which was proposed by the General Authority for Communications and Informatics to enhance service delivery to citizens through the provision of essential technology to government authorities and the private sector.[104] The E-Libya initiative was approved by the Council of Ministers in November 2012 and by the Libyan Audit Bureau in January 2013.[105] The initiative focuses on four key areas, namely:

- Open government: enhancing transparency and accountability within State institutions to improve their effectiveness;

- E-government: promoting the adoption of e-government applications to improve the services provided by government;

- E-commerce: creating an innovative business platform to facilitate business transactions both inside and outside Libya and boost Libyan economic activity;

- E-learning: employing innovative educational approaches to support and improve the Libyan education system.

Table 6. E-government development index scores for Libya, 2018

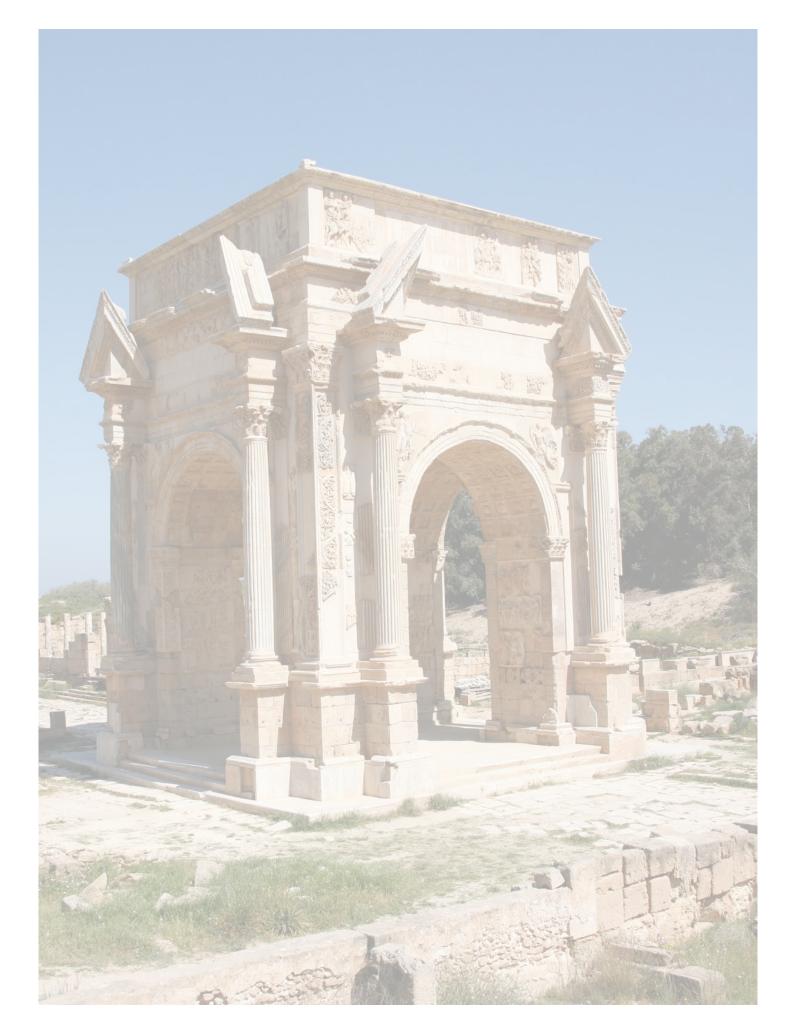| Global rank	Overall e-government development index (EGDI) score	E-government development index	Online service component	Telecommunications infrastructure component	Human capital component
140th	Middle EGDI	0.3833	0.0972	0.3353	0.7173

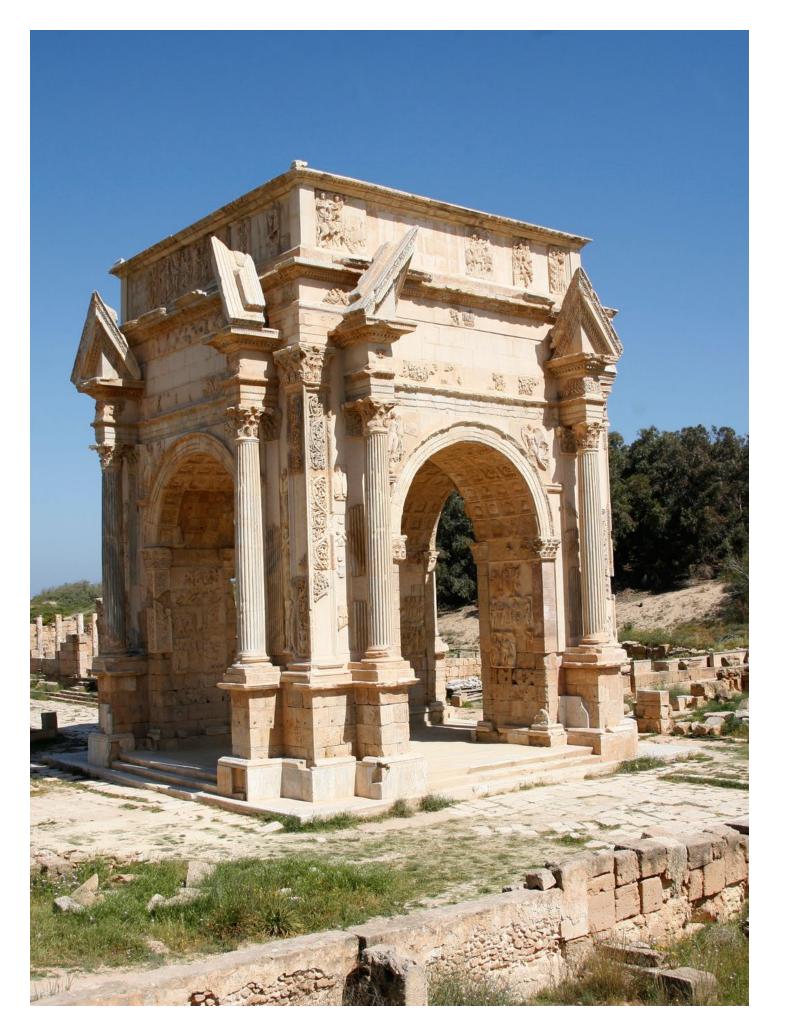**Source:** 2018 United Nations e-government survey.

Implementation of the E-Libya initiative came to a halt in 2014, however, because of the political division, and the initiative was criticized for not providing an alternative to decentralization. Furthermore, the former Deputy Minister of Information, Lamia' Bousadrah, underscored the need to "restructure the administrative framework and establish a decentralized administrative system before seeking to automate administrative procedures".[106]

Cybersecurity is an important factor in the transition to e-government, and security measures must be strategically incorporated into platforms during the design phase. Despite the importance of information and communications technology as a tool for economic and social development, its misuse will call into question the security of the State and the protections offered to individuals and companies.

Key challenges impeding the implementation of e-government initiatives include:

1. Low levels of computer literacy among the public.

2. A lack of political will to support the adoption of e-government platforms.

3. Inadequate training and capacity-building programmes and low levels of Internet access.

4. Security and privacy challenges, many of which can be addressed through:

   • The adoption of laws to prevent the misuse of information and communications technology for criminal purposes;

   • The development of technical capabilities to detect and prevent cyberattacks;

   • In-depth analysis of digital transformation and the ongoing roll-out of updates to promote security and facilitate access by users.

8. A focus on governance in future visions

The political divisions and armed conflicts that have taken place since 2014 have had a very significant impact on Libyan institutions and governance mechanisms. Libya today faces numerous challenges, including a political vacuum, increasingly frequent acts of violence, instability and a lack of security, the fragmentation of the country's social fabric, increasing migration and displacement and significant economic contraction. It is therefore critical to establish institutions to address the country's economic, social and security challenges. That can only be achieved, however, if relevant stakeholders adopt a clear vision that promotes social peace, restores security, rebuilds the country and maintains the country's stability.

To advance the State building project, restore social cohesion and develop robust national institutions, serious efforts must be made to address the challenges facing Libya today, including the lack of security, increasing violence as a result of the civil war and the ongoing political division of the country, which, in turn has given rise to multiple institutional divisions. Concerted efforts are also needed to address the root causes of the country's socioeconomic, political and security crisis. In that connection, economic development may play a pivotal role as a catalyst for political and institutional change. In the light of the above, relevant institutional stakeholders must, as a matter of priority, endeavour to:

1. Formulate a comprehensive political framework that can help lead the country out of the current impasse and heal the political and institutional rift.

2. Launch a societal dialogue with a view to drawing up a new social contract among relevant stakeholders on the nature of the State and its economy and other contentious issues. That dialogue could pave the way for an effective State and institution building progress and national stability.

3. Establish and develop a decentralized system of administration that provides for spatial development, while also working to develop the capabilities of municipalities and determine the relationship of central government with the various parts of the country.

4. Work with governmental and civil society organizations and the media to strengthen public awareness of good governance standards relating to integrity, transparency, accountability and combatting corruption and of ways to ensure that those standards are upheld.

5. Provide support to and enhance the autonomy of central government institutions so that they can promote the reintegration of divided institutions.

6. Rebuild confidence in the State and its institutions by promoting the concept of a common national identity and providing opportunities for young people and women, civil society institutions, and informal actors, including tribes and armed groups, to participate in the political process, and adopt a "bottom-up" approach in initiatives to promote nation-building and political engagement.

7. Relaunch the constitutional process in order to draw up a consensually-based constitution that lays the foundations for a new Libya and a social contract and promotes national reconciliation.

8. Understand that, in order to address the issue of governance in Libya, it is critical to take into account the nature of the ongoing

conflict, which has only deepened the institutional divide.

9. Remain cognizant of the strong interlinkages among economic, political and security governance, and understand that no one governance type should be studied or addressed in isolation.

10. Ensure that all discussions and debate concerning governance, reform and institutional development incorporate a gender perspective.

11. Empower women in the judiciary by amending relevant laws to ensure that women are appointed to senior judicial posts.

12. Combat all forms of corruption by drawing up a set of rules and regulations on integrity and transparency for all departments and offices.

13. Promote and achieve decentralization and the reorganization of municipalities.

14. Reform electoral systems to ensure that political parties and entities in the electoral process are held accountable for their actions, and increase the number of women participating in elections.

15. Take steps to achieve political reconciliation among rival parties in administrative institutions in Libya during the transitional period and reach agreement on ways to consolidate and strengthen those institutions, which have been undermined in the ongoing struggle for power and wealth.

16. Entrench the concept of human security, which takes into account all other aspects of security.

17. Ensure democratic oversight of security and military institutions, in order to promote respect for human rights and the concept of human security.

18. Re-evaluate citizens' professional skills and capabilities and promote skills development.

19. Launch a frank and wide-ranging dialogue on ways to decentralize key aspects of security sector operations and governance.

20. Ensure judicial oversight of the implementation of proposed judicial reforms, in order to ensure that the judiciary remains impartial and independent.

21. Implement measures and procedures to ensure that women make up a greater proportion of members of the judiciary.

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Ali Nawah, member of the Constituent Assembly, telephone interview, 25 March 2019.

Aminah al-Hasiyah, human rights activist and researcher at the al-Bhoth Center, Omar al-Mukhtar University, al-Bayda, telephone interview, 21 March 2019.

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