Mashreq, Gran Maghreb, Egypt and Israel
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Libya. Which strategy for a political solution?

On 15 July Fa'iz as-Sarraj's government announced an initiative to end the Libyan crisis by March 2018. The details of the strategy were not formalized, but the head of the Tripoli government outlined some points that could have been consolidated by that date: parliamentary and presidential elections and institutional unification of the country, thus going beyond the existing political entities' duplication in West and East of the country. A roadmap that must necessarily go through a general ceasefire and the re-establishment of security and stability, at least for making free elections credible. Moreover, such initiative could not ignore the involvement of who exercises an effective control over important areas of the country. In particular, Tobruq's Parliament and General Khalifa Haftar.

A few days later, out of the blue, France announced the organization of a meeting between as-Sarraj and General Haftar in the French capital on Tuesday 25 July. The meeting, concluded with a ten-point joint statement, provided for a generic commitment to cease fire, excluding the fight against terrorism, and to work in the direction of parliamentary and presidential elections. Nothing particularly new if compared to the previous agreements - and timely disregarded - during other meetings in Rome and Abu Dhabi. In addition, in the following days, Haftar himself issued some statements which fanned the flame towards the head of the Tripoli government, also reporting that not everything agreed in Paris would have been feasible. Although the meeting has contributed to promoting a moment of relaxation between the parties, it cannot be said that it was a solution to the six years of conflict and chaos in Libya. Indeed, all the elements indicate how the Parisian event of 25 July was more of an improvised media event, functional to the figure of the newly elected French president, dealing with a decrease in domestic popularity.

One element of perplexity is the French intention to not involve any other international partner on its initiative. Certainly not Italy, the country that most of all has spent itself in settling a political solution for Libya. Rome, in addition to not having been involved in the meeting, became aware of the news through the press. So, on the contrary, the French impromptu initiative seems to respond more to the demands of image and grandeur. In terms of concrete results, official legitimization of General Haftar's political ambitions has emerged, recognizing his *de facto* control on Cyrenaica, not only at the military level but also at the political one. If this result can reasonably be reflected in the ratio of the French political line towards Libya, the other immediate consequence, namely Italian dissatisfaction for such diplomatic discourtesy, would easily have been avoided, at the very least taking into account the aims and principles of the European Union's common foreign policy. Another very significant detail concerning the Paris agreement is the absence of precise dates and a detailed roadmap leading to the elections.

The draft constitution

On 29 July the Constitutional Assembly met at al-Bayda, a city of eastern Libya, and approved a final draft constitution with a favourable vote of 43 members out of 44 present and 60 total members (a two-thirds majority vote was required). Voting took place in a climate of tension and some members of the assembly contested the regularity of the vote. The approved text provides for the election of a Chamber of Deputies and a Senate within 180 days of the approval of the Constitution through referendum.

According to the report by Nadia 'Umran, member of the Assembly, the vote took place under the threat of armed groups linked to General Haftar, which also attacked the Assembly building as a gesture of disapproval of the vote on the constitutional draft[1].

According to local sources, two hours before the vote, the Assembly building had been surrounded by armed demonstrators opposing to the vote. The city security chief, Khalid al-Basta, on behalf of the interim Interior Minister in eastern Libya, urged to cancel the voting session, ordering evacuation to security personnel who were protecting the palace.

The President of the Assembly, Nuh 'Abd as-Sa'id 'Abd Allah, on members' request, decided for the continuation of the work until a group of protesters broke into the palace holding the members of the Assembly hostage and sequestering their mobile phones for over an hour. According to local sources, some members were physically assaulted (including Hadi Abu Hamra and Salim Keshlaf). The protesters then released the members of the Assembly on condition that the chairman announced to postpone the voting session to the next day[2]. Although the whole story has been reported by contrasting versions[3], in spite of the promise made under blackmail, the Assembly voted and approved the final constitutional draft.

One of the most important nodes on which the clash was focused was Article 110 on the accusation of the President of the Republic as well as three clauses regarding the eligibility requirements for candidates running for President. Such latter clauses prevented those candidates who had dual nationality until 5 years earlier; had military roles up to a year before; had not lived in Libya in the 10 years prior to the candidacy. Such provisions would affect the eligibility of as-Sarraj and Haftar and, for this reason, the clauses were eventually removed from the final draft[4].

On July 31, Nuh 'Abd as-Sa'id' Abd Allah, President of the Constitutional Assembly, said he had sent a copy of the constitutional draft to all members of Parliament and the High Electoral Committee. These actors will play a key role in raising awareness and consciousness among all the components of Libya. A copy has also been sent to the United Nations and to all the international organizations that Libya is part of[5].

The troubled path of the constitutional project

The final approval of the draft constitution by the Constitutional Assembly is only the first step of a long and delicate procedural process. In fact, to make sure that the final draft becomes Constitution, it will have to be approved by a referendum for which, in turn, it will be necessary a referendum law to be approved by the Parliament in office, setting the exact date for the popular consultation. Only then the Libyans will be able to decide whether to approve the project (with the majority of two-thirds of the voters) and make it the new Libyan constitution. Once approved, the elections of the new Parliament and the President of the Republic will be made within 180 days.

All this unless glitches. If, for example, the favourable referendum vote does not reach the required majority, the institutional crisis will push the wheel of Libyan history back at the beginning of the constituent's work, three years earlier. For all these reasons, it is a complex and delicate process.

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1 http://www.marsad.ly/en/2017/07/29/libyan-constitution-draft-approved-cda-al-bayda/
2 http://www.marsad.ly/en/2017/07/30/libyas-constitution-drafting-assembly-attack-happened/
3 https://www.libyaherald.com/2017/07/29/cda-president-wants-key-constitution-vote-to-be-retaken-tomorrow/
4 http://www.alwasat.ly/attachment/113/%D9%85%D8%B4%D8%B1%D9%88%D8%B9
   %D8%A7%D9%84%25D8%AF
5 http://www.marsad.ly/ar/2017/07/31/%D8%A8%D9%88%D8%A7%D8%A8%D8%A9-
   %D8%A7%D9%84%D9%88%D8%B3%D8%B7-%D8%AA%D9%86%D8%B4%D8%B1-%D9%86%D8%B5-
   %D9%85%D8%B3%D9%88%D8%AF%D8%A9-%D8%A7%D9%84%D8%AF%D8%B3%D8%AA%D9%88%D8%B1-
   %D8%A7%D9%84/

In addition, so that Libyans can express themselves through a free referendum vote, it will be necessary to ensure security and stability that at the moment, however, not all parties seem to be able to guarantee.

The same endorsement of the final draft is the end of a tormented process lasted more than three years, since the Constituent Assembly was elected on 20 February 2014. During this long period the constituent body failed to reach a final draft. The approval of a definitive text has run up against the difficulty of determining symbolic issues (capital, flag, hymn), power issues (competence allocation and distribution of parliamentary seats), principles issues (rights, freedoms) and the controversial theme of Shari'a as a source of law

This last issue was at the heart of a tough confrontation between the parties. The first draft of 2015 stated that Islam would be the religion of the state, the norms of Shari'a would be the source of all legislation and that any legislative act in contradiction with Islamic law would be invalid. In the final version, the one adopted on July 29, Article 6 (The source of legislation) more generically states that: "Islam is the religion of the state and Islamic Shari'a is the source of legislation." Although such wording is wider than the previous one, the article 195 on constitutional amendments stipulates that constitutional norms on constitutional principles and foundations cannot be amended (article 6 is explicitly listed among others).

According to some analysts, the vagueness of such constitutional provisions on Islamic law would undermine the respect for human rights and fundamental freedoms[6]. However, it is important to emphasize that the same abstractness of Article 6 allows an important margin of manoeuvre and arbitrariness, which is directly proportional to the vast spectrum of religious interpretations. Moreover, there are many and more different states that in their constitutions have religion as a source of law. Moreover, in this regard, the strong difference between the first version of 2015, the one in which Shari'a was the source of "all the legislation" and the invalidity of laws in contradiction with it, cannot but be assessed in a positive way. These are two diametrically opposite perspectives. In one it is expected a generic and abstract principle, while in the other it is required the legislator to legislate in accordance with the Shari'a and not to oppose any of its norms. The difference is sensible.

The forces on the ground

Isolating Libya from the crisis scenario that involves the area is a theoretical exercise that does not hold water. The Libyan crisis is in fact one of the most important expressions of the regional disorder in the so-called "Enlarged Mediterranean". Troubles in Libya cannot be simplistically reduced to tribalism and regionalism, or to a struggle between secular forces and Islamist forces.

What is often underestimated is the decisive role played by international actors in the Libyan scenario. It is a proactive role played since the outbreak of the Libyan crisis, in which the major regional and international powers have sponsored a specific local force, in the exclusive function of their own interests[7]. The variable of natural resources, first of all oil, is the main engine that determines these dynamics. If, on the one hand, Haftar's rhetoric of struggle against Islamic extremism is in tune with priorities of its main sponsors, the underlying reality that reinforces such agreements has far more to do with issues of economic and geostrategic interest.

Haftar's rhetoric breaks among the Libyan population, exacerbated by years of conflict and the perception that the possibility of Islamic extremism is an always lurking incognita. The promise of normalization and stabilization is also a good argument for the vast masses - in Libya and in the

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6   http://www.atlanticcouncil.org/blogs/menasource/a-constitution-that-doesn-t-protect-rights-and-freedoms-libya-writes-
    its-constitution
7   http://www.ispionline.it/it/articoli/articolo/mediterraneo-medio-oriente/foreign-actors-libyas-crisis-ispi-report-17135

whole Arab world - who perceive Haftar as the only one who can impose an order that is not the jihadist one. But, as a side effect, the highly anti-Islamic rhetoric of Haftar, in tune with his closest sponsor al-Sisi, does not clearly distinguish Islamism (the so-called "Political Islam") from jihadism which are lumped together, triggering dynamics of tactical convergence between such actors which would be hostile to each other in normal circumstances.

The split between Qatar and the other Gulf emirates (plus Egypt) is reflected in the Libyan context and perhaps it can be said that the same Libyan conflict has partially contributed to such split. Indeed, among the supporters of General Haftar and Tobruk's Parliament, Egypt and the United Arab Emirates are in the front row together with Russia, through political and military support to the composite army of Haftar. Cairo and Abu Dhabi are strongly committed to the anti-Islamism campaign led by Haftar, particularly against the Muslim Brotherhood. Moscow, for its part, aims to recover the good economic relations between Russia and Gaddafi's Jamahiriyya, as well as to seek a bridgehead in the Mediterranean. In this regard, excluding all the proper differences, the parallelism between Russian intervention in Syria and its role in Libya is, in some respects, self-evident. On the other hand, Qatar, Turkey and Sudan had immediately supported those forces of the provisional government of Tripoli led by Khalifa Ghwell who carried on an Islamist agenda. France, who plays an ambiguous and short-lived role, has tried to act as a mediator between the involved parties, but, as already mentioned, does not seem to have achieved better results compared to the previous attempts.

Italy, in turn, is the European and Western country that has the greatest interest in Libya's stabilization and pacification, if only because of the *de facto* common borders. For this reason, Rome has convincingly supported the UN initiative, without however demonstrating a determined and decisive will. Italy is the country that, in terms of national interest, lost more than any other country in the Libyan crisis. National interest that includes and goes beyond the protection of oil and infrastructure investments, for which held a nearly undisputed hegemony up to the deposition of Gaddafi. In these years of wars and anarchy inside some countries of the so-called Enlarged Mediterranean, migratory flows turned from crisis to structural phenomenon. The management of such flows has its partial solution in Libya, especially in Fezzan's area where human traffickers operate undisturbed on the Niger border.

Which strategy?

Macron's diplomatic sleight of hand has highlighted the persistence of a fragile long-term perspective that is common to all the previous attempts to put an end to the Libyan crisis. France has thus repeated a paradigm that had already proved to be simplistic. It is possible to understand and, then, solve the problem only through its contextualization within the international context.

The experience of the Sakhirat agreement, whose weakness stemmed from the lack of involvement of all parties on the ground, highlighted the most important element for remodelling a proper strategy. The main limit of Sakhirat was the narrow involvement of the involved parties: on the one hand, General Haftar and Tobruq's Parliament; on the other, Muslim Brotherhood and Islamist groups.

In order to target an effective national reconciliation through a successful political solution, it is essential to involve other entities, such as the Libyan Tribal Assembly, which includes a large spectrum of tribal notables. This and other entities have effective control of significant portions of territory and base their authority on a considerable authoritativeness among the population. Excluding such actors from a virtuous process of dialogue can only preclude the achievement of a comprehensive and effective political solution to the crisis.

The lack of broad involvement of Libyan actors has also a negative recession in the short term. The ceasefire, a necessary precondition for implementing any successful political solution, cannot be disregarded by the consent of the vast majority of militias on the ground, that is to say those who actually hold the weapons and use them. However, if as-Sarraj and Haftar can hardly guarantee the many militias on which they exercise a different level of control, the same cannot be said of the militias that they do not control. That is all the more reason for a general disarmament. It therefore appears evident that limiting any agreement to only two parts, albeit significant, undermines a generalized ceasefire in Libyan territory. Unless all other militias have to be considered as "terrorist", thus excluding them from the ceasefire and the national reconciliation. However, such a move would be a short-sighted one, bordering on absurdity. Therefore, the generalized ceasefire, necessary condition for the political solution, is in turn a precondition for the involvement of the broader spectrum of Libyan actors. The alternative is the continuation of chaos, instability and uncertainty.