# Libya's Political Transition: The Challenges of Mediation

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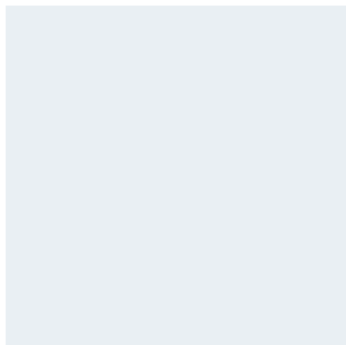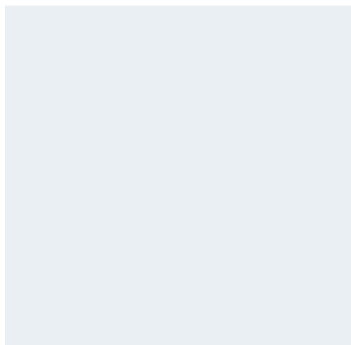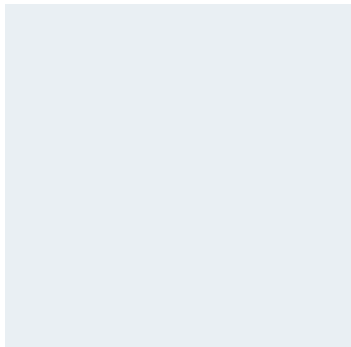
He was deployed to Benghazi as a member of the 2011 UN Standby Mediation Team for a number of months in conjunction with UN DPA staff and was part of the first UN team to arrive in Tripoli after it fell.

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## ACKNOWLEDGEMENTS

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## Executive Summary

This paper explores the unsuccessful attempt to mediate a peaceful resolution of the Libyan conflict in 2011 by the UN Secretary-General's Special Envoy for Libya, Abdelelah al-Khatib. After the fall of Tripoli, attempts by the UN Support Mission in Libya (UNSMIL) to support and mediate Libya's transition to constitutional government also faced challenges. How and why did these previous UN mediation efforts to support a Libyan-devised political transition prove ineffective?

Al-Khatib's efforts were thwarted by a multitude of, at times, diametrically opposed mediation approaches, and he was unable to preserve and protect the mediation space from the revolutionary war effort and its supporters. The real challenge for all mediators, including al-Khatib, was convincing Muammar Qaddafi to accept a genuine political transition in Libya. An added complexity resulted from the different voices within the revolutionary camp and their competing visions of a new Libya. It was not always clear who represented whom on either side. With all interlocutors, al-Khatib was a straight-talking, unambiguous mediator who brooked no nonsense.

For its part, UNSMIL, led by Ian Martin and later Tarek Mitri, provided on-demand technical support to a Libyan-devised political transition that over time lost legitimacy and saw Libya on the brink of civil and regional war. This happened despite the UN being comparatively better prepared than ever before to lead support to a political transition. While Libyan actors determined most aspects of the transition, the UN and Libya's bilateral supporters might have better anticipated the impact of Qaddafi's legacy, namely the absence of institutions and the lack of experience with political compromise. In addition to a reimagined national dialogue process, UNSMIL's renewed engagement in Libya could consider an enhanced political-military mediation capacity to help the Libyans establish more stable security arrangements across the country.

## Introduction

The various uprisings across the Middle East and North Africa in early 2011 left few countries untouched. Tunisian leader Zine El Abidine Ben Ali's abrupt departure into exile in Saudi Arabia on January 15th and Egyptian president Hosni Mubarak's removal on February 11th left the region asking who would be next. Emboldened by the surrounding strife, Libyans also took to the streets, first in Benghazi on February 15th and then, in later days, in many towns including the capital Tripoli.

The demonstrators asked for Qaddafi to step down and called for long-promised reforms that would bring the country back into the fold of nations. The initial hope was that Qaddafi's son Saif al-Islam could perhaps steer a transition back to representative government. However, Saif gave an erratic televised address to the nation on February 20th in which he promised reforms on his family's terms, or war. His father's address on February 22nd sent a chilling message to the demonstrators and to the outside world too: It railed against the "drug addicts," "jihadists," and "rats" who dared oppose him and how, at the end, millions from the Sahara would "cleanse Libya inch by inch, house by house, home by home, alleyway by alleyway, person by person, until the country is cleansed of dirt and scum."[1]

In New York at the UN Security Council, Libya's top diplomats, Permanent Representative Abdurrahman Shalgam and his deputy Ibrahim Dabbashi, defected from Qaddafi's government and persuaded the Security Council to unanimously pass the far-reaching Resolution 1970 on February 26th, having the day before given a compelling appeal in which Shalgam equated Qaddafi with Hitler and Pol Pot before embracing a tearful Dabbashi on the council floor. Remarkably, Resolution 1970 referred the situation in Libya to the International Criminal Court (the first ever unanimous referral to the ICC by the Security Council), applied an arms embargo, including asking states to inspect cargos moving by

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1  Michael Peel, "The Colonel's Last Stand," *Financial Times*, May 12, 2012.

sea, placed a travel ban on Qaddafi's family and senior ministers, froze the Qaddafi family's assets, and established a sanctions committee under the Security Council. It also welcomed the decision by the UN Human Rights Council on February 25th to urgently dispatch an independent international commission of inquiry into human rights violations in the country, which the Security Council described as widespread and systematic attacks against the civilian population that "may amount to crimes against humanity." On March 1st, the UN General Assembly unanimously voted for Libya's suspension from the Human Rights Council.

Separate statements of condemnation had been made by the League of Arab States, the African Union (AU), and the Organisation of Islamic Cooperation (OIC), reflecting a consensus about imminent bloodshed in Libya, amplified by Qaddafi's speech and the fact that Libya is at the center of a Venn diagram of geographic and political interests. The North Atlantic Treaty Organization (NATO) and the European Union (EU) would also shortly enter the equation, as would a number of states acting on a bilateral basis. On March 10th, France became the first country to recognize the National Transitional Council (NTC), formed by the revolutionary leadership in Benghazi on February 27th, as the sole legitimate representative of the Libyan people.

But key for spurring consensus in the Security Council was the barrage of statements from all regional organizations in the Middle East. The Arab League on February 22nd had suspended Libya from the League, an unprecedented action for the body.[2] On March 7th, the Gulf Cooperation Council (GCC) requested the Security Council to enforce a no-fly zone over Libya, and on March 8th, the OIC secretary-general announced his organization's support for a no-fly zone. On March 12th, Qatar and Saudi Arabia railroaded a resolution through the League calling on the Security Council to establish a no-fly zone, establish safe areas to protect Libyan civilians, and to cooperate with and support the recently established NTC in Benghazi, as the "Libyan Authorities" had lost their legitimacy on account of their actions.[3]

# A UN Special Envoy for Libya

Al-Khatib was first approached by the UN secretary-general on March 3, 2011, to become the UN Special Envoy for Libya. He accepted the position on a $1/year contract, being officially appointed on March 7th, after a telephone conversation between the secretary-general and Libya's foreign minister, Moussa Koussa. He knew the assignment would be tough, but a challenge worth attempting because he felt that events in Libya would impact the course of the wider Arab Spring and its reform demands across the region, which al-Khatib supported. At the same time, he saw Libya, like Syria today, as one of those conflicts where reconciling both sides would be difficult. Expectations that the mediation track would succeed were also very low at the UN headquarters in New York. It was thought that Qaddafi would quickly be deposed from within or that the matter would be decided on the battlefield.

Al-Khatib was a former foreign minister for Jordan with a reputation for integrity and hard work, and he had past experience with the UN, having represented Jordan on various General Assembly committees since 1982. More importantly, he had a profound understanding of the region and, of course, spoke Arabic. He took on the envoy role when Security Council Resolution 1970 had more or less set the "rules of the game" in terms of sanctions and the referral of the situation in Libya to the ICC.

The referral to the ICC so early in the Libyan case made al-Khatib's mediation role even more difficult. If a warrant was issued for Qaddafi's arrest, then this would likely increase his reluctance to relinquish power and make the prospects for a negotiated transition leading to his exit much more difficult. Once the ICC actually issued an arrest warrant on June 27th for Qaddafi, his son Saif al-Islam, and his military intelligence chief Abdullah al-Senussi, the regime became less flexible. In the circumstances, al-Khatib kept his distance from the ICC track in an attempt to protect his mediation space.[4]

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2  Egypt had been the only country previously expelled from the League after the Sadat-Begin peace treaty in March 1979.

3  See Arab League, Council Resolution 7360, March 12, 2011.

4  United Nations, *Guidance for Effective Mediation,* September 2012, p.11.

Another constraint was that Resolution 1970 made no specific mention of mediation. However, this is not unusual. The resolution happened quickly, before al-Khatib's appointment by the secretary-general. Mediators do invariably carve out their own spaces, and it is usually very clear to whom they report. In a typically vague formulation, the Security Council "[a]cting under Chapter VII" demanded an "immediate end to the violence" and called for "steps to fulfil the legitimate demands of the population"—though it was unclear what or who would represent the demands of the Libyan population.[5]

## FIRST STEPS AT MEDIATION

Al-Khatib, as the main UN interlocutor with the Libyan regime, went to Tripoli for the first time to meet the Qaddafi government on March 13th, only days after his appointment and a day after the Arab League resolution. He led a sizeable UN delegation that included senior staff from the Department of Political Affairs, the Office for the Coordination of Humanitarian Affairs, the Office of the High Commissioner for Human Rights, and the UN Resident Coordinator in Tripoli. The large delegation was intended not only to convey the seriousness of the UN approach but also to negotiate humanitarian access for the different UN agencies so the true extent of the crisis could be ascertained and addressed.[6]

Al-Khatib met Minister of Foreign Affairs Moussa Koussa (who defected on March 30th to London) among others, to discuss a cease-fire and an end to violence as called for in Resolution 1970. On the second day of the visit, Qaddafi asked to see al-Khatib alone, but al-Khatib said he would meet only on the condition that two members of his delegation could also attend. The meeting did not occur and at no time subsequently did al-Khatib ever meet the "Leader," a second opportunity being missed on account of intense NATO bombing around Tripoli on June 7th.

During the discussions, al-Khatib asked to visit Benghazi but was told by Koussa to postpone the visit as the situation was unstable. Koussa said that members of the NTC had been killed and if al-Khatib would wait for two days "everything would be finished."[7] While visiting downtown Tripoli on March 14th, al-Khatib saw an organized demonstration outside the UN offices. The crowd shouted Benghazi was falling and that members of the NTC had been killed. Later, al-Khatib flew to Malta where he received a call from Koussa who said the government would stop its operations in Benghazi at the weekend after the "armed gangs affiliated with al-Qaida had repented."[8] Al-Khatib was short with Koussa and bluntly told him that he was missing the point.

At this time, al-Khatib was dealing with a common mediation scenario. The government of a UN member state was responding violently to an internal uprising, and the mediation was focused on achieving a cease-fire and preventing an escalation into civil war. Al-Khatib had told Koussa that it was in the government's interest to comply with Resolution 1970, otherwise more pressure would come.

Parallel to the UN effort, the AU was preparing its own response to the Libyan crisis. On March 10th, the AU Peace and Security Council established an Ad Hoc High-Level Committee on Libya consisting of the heads of state of five countries: Mali, Mauritania, Republic of Congo, South Africa, and Uganda. The thinking was that the committee needed stature and gravitas if it was to be taken seriously by the UN and the Arab League.

## SECURITY COUNCIL RESOLUTION 1973

As Qaddafi's columns converged on Benghazi on March 17th, the Security Council passed Resolution 1973 that introduced authorization for member states, acting nationally or through regional organizations, to "take all necessary measures" to "protect civilians and civilian populated areas under threat of attack" including the establishment of a "no-fly zone." In fact, Resolution 1973 has gone down in history as "the

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5  UN Security Council Resolution 1970 (February 26, 2011), UN Doc. S/RES/1970, para. 1.

6  Al-Khatib worked directly for the UN secretary-general's office and discussed his strategies with the secretary-general's senior staff, including the Department of Political Affairs (DPA) chief, Lynn Pascoe. In most of his meetings, al-Khatib was accompanied by UN DPA staff who also funneled support from the UN Mediation Support Unit, which provided position papers for al-Khatib as events evolved.

7  Interview with Abdelelah al-Khatib, Amman, April 19, 2014.

8  Ibid.

first Security Council approval of force in the name of RtoP [Responsibility to Protect]."[9]

Of the Security Council's permanent members, the United States, the United Kingdom, and France voted in favor of the resolution, while China and Russia abstained. Among the nonpermanent members, Bosnia and Herzegovina, Colombia, Lebanon, Portugal, and three African countries— Gabon, Nigeria, and South Africa—also supported the resolution, without which it would not have passed.

The South African President Jacob Zuma had been advised by his foreign ministry that "all necessary measures" meant the resolution could be subject to flexible interpretation and thus potentially negate the AU initiative. The South African vote was thus only assured an hour before- hand, with the inclusion of language noting the AU's High-Level Committee and its intention to visit Libya "with the aim of facilitating dialogue to lead to the political reforms necessary to find a peaceful and sustainable solution."[10]

However, paragraph five of the resolution referred only to the League of Arab States and its "important role … in matters relating to the maintenance of international peace and security in the region,"[11] and bearing in mind Chapter VIII of the UN Charter, asked only the Arab League member states, not those of the AU, to cooperate with other states in protecting civilians. It was clear: the AU was out and the Arab League was in, courtesy of its earlier actions and statements that provided the three Western permanent members of the Security Council (the P3) the cover to act.

Unlike the AU, the Arab League appeared to have a near-consensus against Qaddafi; of its twenty-two members, only Algeria, Mauritania, and Syria had not supported the vote on March 12th. And at the UN in New York, Lebanon's Permanent Representative Nawaf Salam was particularly effective in negotiating the second resolution, which went down to the wire.

However, under the new resolution, the mediation mandate for al-Khatib was fundamen- tally altered. At the very least, it had to accommo- date the new reality of how bilateral states and NATO would interpret the "civilian protection" mandate. Suddenly, the NTC had an ally, and it changed the equation enormously. Also, in the resolution, al-Khatib's role had been noted alongside that of the AU to find a "solution to the crisis which responds to the legitimate demands of the Libyan people." To get the resolution over the line and secure South Africa's vote, a parallel mediation effort was endorsed by the council. But how would it alter the incentives for achieving a mediated solution for either Qaddafi or the NTC?

Soon the AU would see its efforts frustrated by the UN-sanctioned intervention. On March 19th, French warplanes commenced Operation Harmattan and then joined the US and the UK in the coalition Operation Odyssey Dawn, the precursor to the NATO-led Operation Unified Protector. These intensive air operations destroyed Qaddafi's troops at the gates of Benghazi as well as the air defense systems across the country. AU efforts were again impeded when a planned visit to Tripoli by its Ad Hoc High-Level Committee on March 20th had to be canceled because the US, UK, and France would not guarantee its security. On March 25th, the AU released its first road map proposal for Libya,[12] which called for a cease-fire, humanitarian access, dialogue between the parties, an inclusive transitional period, and political reforms to meet the aspirations of the Libyan people.[13] Pointedly, the AU did not attend the first meeting in London on March 29th of what became the Libya Contact Group, but al-Khatib did, along with the UN secretary-general.

## ATTEMPTS TO SECURE A CEASE-FIRE

When al-Khatib returned to Tripoli on March 30th, it appeared the government understood the severity of its situation and was more willing to discuss a cease-fire. He met with Prime Minister Baghdadi al-Mahmoudi, the acting Foreign Minister Abdul Ati al-Obeidi (who later visited Ankara as Qaddafi's special envoy), and Juma

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9  Michael W. Doyle, "The Folly of Protection," *Foreign Affairs,* March 20, 2011.

10 Alex de Waal, "African Roles in the Libyan Conflict of 2011," *International Affairs* 89, No. 2 (March 2013): 368.

11  UN Security Council Resolution 1973 (March 17, 2011), UN Doc. S/RES/1973.

12  African Union, "The African Union Ad Hoc High-Level Committee on Libya Convenes Its Second Meeting," press release, March 25, 2011, available at www.au.int/en/sites/default/files/Press_release_-_Libya__eng__0.pdf .

13  See African Union, "Communique: Consultative Meeting on the Situation in Libya," Addis Ababa, Ethiopia,  March 25, 2011.

Ibrahim, the secretary-general for African Affairs. The prime minister said the government accepted the March 25th AU road map but also took seriously the need for a real political transition that al-Khatib conceptually introduced for the first time. However, as al-Khatib traveled to Benghazi, he received press reports citing Prime Minister al-Mahmoudi that the regime did not support a political transition. On April 1st, al-Khatib met in Benghazi with the NTC Chairman Mustafa Abd al-Jalil who agreed to a cease-fire but on the basis that Qaddafi first step down.

In mid-April, al-Khatib returned again to Tripoli and continued discussions with al-Mahmoudi and al-Obeidi as to how to link a verifiable cease-fire with a genuine political transition. The government officials agreed that the UN should coordinate an international monitoring mechanism for the implementation of a cease-fire, in close cooperation with the AU, but were reluctant to embrace a political transition.

On April 30th, NATO jets bombed Qaddafi's family home in Tripoli and killed his son, Saif al-Arab. Qaddafi and his wife survived the attack.[14] Qaddafi publicly harangued the international community and passed a message via the prime minister to al-Khatib that "the issue is in your hands." Al-Khatib sent a condolence letter. The UN premises in Tripoli were ransacked later that night, and the UN humanitarian mission in Tripoli had to leave temporarily due to the overall security situation. Al-Khatib must have wondered if the NATO mission was working at cross-purposes with his mediation mandate.

By May 3rd, the government's position was that a comprehensive cease-fire had to include an end to NATO attacks to allow for a national dialogue concerning elections, democracy, and constitutional reform. The government would also consider an international monitoring mechanism for the cease-fire, in close collaboration with the AU. On the other hand, the NTC would only support a cease-fire if it was directly linked to the departure of Qaddafi and his family with whom

they refused to negotiate.[15] While al-Khatib had good discussions with the prime minister and the foreign minister in Tripoli concerning a potential political transition, they could not accept or negotiate the departure of Qaddafi.

To bridge the gap between Tripoli and Benghazi, al-Khatib discretely proposed at the end of May a power-sharing transitional mechanism where each side would provide two people and collectively agree on a neutral chairman or interim president. This body would be empowered to manage a political transition and oversee an interim government and a credible comprehensive cease-fire. The idea was to short-circuit the fruitless debate whether Qaddafi and his family would stay or go and get Tripoli and Benghazi further advanced in a discussion about a political transition.

On June 7th, al-Khatib returned to Tripoli to meet Qaddafi following a telephone invitation from al-Mahmoudi. NATO bombing around the capital was particularly intense. June 7th was Qaddafi's birthday, and it was suspected, but never confirmed, that NATO was sending a message. According to the prime minister, Qaddafi had wanted to see al-Khatib but felt he could not leave his place of hiding. Instead, after a long wait, the prime minister and protocol officials took al-Khatib to the Mohari hotel, where in a back room he had a face-to-face meeting with Saif al-Islam. Saif did not appear confident with the situation and confided to al-Khatib that if the Qaddafi family tried to leave they would be killed by their own people. Al-Khatib was later told that NATO had written to the UN indicating that his unscripted meeting at an "un-cleared" location had meant a "close call" for the envoy.[16]

## Competing Mediation Efforts: The AU, Turkey, France, and Russia

As seen earlier, South Africa only supported Resolution 1973 on the basis that it mentioned the AU mediation effort. Indeed, for many AU

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14  "Libyan Leader's Son Saif al-Arab Killed in NATO Strike," Reuters, April 30, 2011, available at www.reuters.com/article/2011/04/30/libya-attack-idUSLDE73T0CN20110430 .

15  A comprehensive cease-fire entailed (i) lifting the siege on all cities, especially Misrata and Zintan; (ii) withdrawing military forces from all cities; (iii) allowing immediate humanitarian access and assistance to all cities under military attack; (iv) releasing all detainees; (v) resuming basic supplies (water, electricity, medical supplies, fuel, and communication services) to all parts of the country; and (vi) securing the passage of foreign workers stranded in the cities.

16  Because of the no-fly zone, al-Khatib's flights into Libya and his itinerary had to be cleared in advance with NATO via UN headquarters.

member states, Libya was seen as an African country, and therefore, the AU deserved the lead role in mediating an end to the conflict. But other concerns existed too. A prolonged crisis in Libya could destabilize the Sahel region (as subsequently transpired), not the Middle East. Also, Qaddafi's historical support for liberation and decolonization movements across Africa and his debt relief and support for the AU and some of its member states were all strong arguments for an AU lead—Qaddafi called himself the "Lion of Africa," after all. For the UN Security Council to follow instead the League of Arab States' March 12th resolution, led by Qatar, which called for a no-fly zone, seemed arbitrary, if not disingenuous.

In reality, the AU was deeply divided between countries beholden to Qaddafi for largesse and political support and those that had suffered the worst of his meddling, such as Sudan and states led by those who disliked Qaddafi. This included most West African states and key countries such as Ethiopia and Nigeria. Sudan and Tunisia both supported the Benghazi-based NTC from the beginning, with Sudan also providing significant weapons, ammunition, and even direct military support in the south.[17]

Al-Khatib made a special effort to reach out to the AU. He attended its meetings and regular summits and consulted with South African President Jacob Zuma, who was under domestic pressure from the youth wing of the African National Congress to be more forcefully involved in the crisis. Al-Khatib also briefed regular multilateral meetings of the UN, AU, Arab League, OIC, and EU. On June 18th, AU Commissioner Jean Ping presented a more mature AU plan in Cairo and indicated that Saif al-Islam had agreed to elections and a new constitution.

But the Libyan revolutionaries had little faith in the AU's mediation efforts. When the presidents of Congo-Brazzaville, Mali, Mauritania, South Africa, plus Uganda's foreign minister met with Qaddafi in Tripoli on April 10th, Qaddafi supposedly accepted

the AU road map in principle. However, when the delegation, less Jacob Zuma, arrived in Benghazi, the AU road map was rejected outright by the NTC as it did not explicitly call for Qaddafi's departure.[18] Zuma would see Qaddafi again on May 30th when he flew to Tripoli, after consulting with the Russians, but was unable to convince Qaddafi to leave.

According to Ibrahim Dabbashi, the AU's approach, by not insisting that Qaddafi step down, made mediation almost impossible as it "encouraged Gaddafi to stay."[19] The NTC felt that the AU's cease-fire proposal meant the division of Libya around the respective lines of control, which they would not accept. Dabbashi met with the AU mission, which came to New York in mid-June to present its main proposal for a transitional national unity government. The Libyans felt the AU panel was made up of Qaddafi sympathizers; "their plan was Qaddafi's plan."[20] Notwithstanding, Dabbashi told the Mauritanian foreign minister that if he could convince Tripoli to form an interim government and get a public statement from Qaddafi that he would leave power then there would be no reservations from the NTC. Dabbashi said: "[G]o see Qaddafi … just give us one statement … and you will get no reservation from us on the interim government; you can have the acting Foreign Minister Abdul Ati al-Obeidi or [Secretary-General of the General People's Congress] Mohamed al-Zwai."[21] But Dabbashi heard nothing further.

Turkey also presented itself early as a mediator in the conflict and released a road map too on April 7th calling for a cease-fire, humanitarian access, and a transition to constitutional government.[22] Al-Khatib found both Prime Minister Recep Erdoğan and Minister of Foreign Affairs Ahmet Davutoğlu supportive, and the Turkish road map complemented al-Khatib's own ideas. In any event, Turkey decided by the beginning of May to throw its lot behind the NTC and withdrew its diplomats from Tripoli, although it remained diplomatically active.

France, which had been the first country to

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17  See de Waal, "African Roles in the Libyan Conflict of 2011,"  pp. 375–378.

18  Ibid., p. 372.

19  Interview with Ibrahim Dabbashi, New York, April 21, 2014.

20  Ibid.

21  Ibid.

22  "Press Statement by Prime Minister Recep Tayyip Erdoğan on Libya," April 7, 2011.

recognize the NTC on March 10th and the first to commit warplanes in Libya, became more anxious as the conflict wore on. The prospect of a stalemate on the battlefield would also have led to the de facto partition of Libya, and it was not clear if the NTC could manage the areas under its control. This led to a renewed interest in the mediation track—though, at the same time, military support to the revolutionaries expanded, especially from individual states. France asked in early July at one Security Council meeting for the UN secretary-general to step into the mediation effort. And, President Sarkozy reportedly met with Qaddafi's chef-de-cabinet, Bashir Saleh, who was the most active Libyan government interlocutor.[23] Saleh was traveling constantly through June and July for meetings, trying to secure an exit for Qaddafi, and al-Khatib would hear of these meetings usually only after the event.

Other NATO members were also active in backchannels with the regime. For example, Norway reached out to the NTC and to people believed to be close to Qaddafi; however, nothing serious came of it, only the United States was informed, not al-Khatib.

Russia, believing also that Qaddafi had lost his legitimacy, had already agreed with the United States in May that it would try and persuade Qaddafi to step down by reaching out to senior members of his inner circle. Russia first sent Mikhail V. Margelov, its special envoy to the Middle East and Africa, to Benghazi and Tripoli in mid-June. Moscow also dispatched the head of the World Chess Federation, Kirsan Ilyumzhinov, who played chess with Qaddafi in June but also failed to convince him to step down.[24] Despite this support to the mediation track, Russia also played hard on AU resentment over Libya, and at "BRIC" meetings would try to steer away support for the new democratic movements in the Middle East.[25]

## SEEKING CONSENSUS: THE CONTACT GROUP

Finally, on July 15th at the fourth Contact Group meeting in Istanbul, the UN and al-Khatib's lead mediation role was confirmed. "All actors" were asked to cooperate and coordinate their efforts with al-Khatib in "finding a solution to the crisis."[26] By this time, the Contact Group included thirty-two countries and the UN, EU, NATO, the Arab League, the OIC, the GCC, and as an invitee, the AU. Russia and China turned down invitations to Istanbul. The Contact Group took the fundamental step of recognizing the NTC as the legitimate governing authority in Libya, and a number of states began to make Libyan sovereign assets frozen under Resolution 1970, available to the NTC.

The Contact Group also spelled out for the first time a consensus vision for Qaddafi and a political transition, namely: Qaddafi had to leave power "according to [a] defined framework to be publicly announced." The transition period would "reflect the principles outlined in the NTC's Road Map, including the formation of a national congress, an interim government, and a supreme executive council." The transition process would be "inclusive, Libyan-owned and representative" and include "the potential participation of select members of the previous bureaucracy…; the opposition; and other elements of Libyan society. The process should lead to national reconciliation [and] all groups should have their voices heard."[27]

The next day in Tunis US officials Jeffrey Feltman, Gene Cretz, and Derek Chollet met with senior Libyan government officials and explained unambiguously, to the still incredulous group, that Qaddafi had to go. Al-Khatib was informed in advance of the meeting and debriefed on its results.

Turkey had been instrumental in pushing the Contact Group meeting to move on a mediated solution to the Libyan crisis ahead of the holy

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23  Christopher S. Chivvis, *Toppling Qaddafi: Libya and the Limits of Liberal Intervention* (New York: Cambridge University Press, 2014). Chivvis cites a report in *Le Monde* on July 11, 2011.

24  For an overview of some of the mediation efforts, see ibid., pp.148–154.

25  Russia had no investment in Libya and was not negative per se. But Vladimir Putin, Sergey Lavrov, and Vitaly Cherkin were veterans of the Cold War who felt that Russia had been pushed around over the 1999 Kosovo intervention, and they were nervous of further NATO involvement in Syria.

26  "Chair's Statement (Final)," Fourth Meeting of the Libya Contact Group, Istanbul, July 15, 2011, para. 7.

27  Ibid., paras. 4–8.

month of Ramadan which would begin on August 1st. The day before the Istanbul meeting Ahmet Davutoğlu took credit for presenting a "third way" approach via a new road map. He explained that the AU's plan wanted Qaddafi to remain in power but to make the reforms demanded by the opposition. The French approach, he opined, was to arm the regime opponents and overthrow the Qaddafi regime by force. The Turkish formula, he said, would allow for a safe haven to be temporarily found for Qaddafi. The regime structures would be preserved, but an interim joint governing council made up of two mutually acceptable representatives from each side would elect a fifth person agreed upon by its members as the interim president of Libya. This approach, said Davutoğlu, sought to avoid the erroneous policies in Iraq such as de-Baathification and, rather than convince Qaddafi to leave on his own, would ensure that "his allies drove him away from the helm."[28]

Davutoğlu's triumphalism aside, Turkey's so-called "third way" and its representation in the Contact Group's statement cohered elements of al-Khatib's transitional mechanism proposal with the NTC's May road map. Finally, it seemed, a consensus approach had emerged from the expanded Contact Group. But this did not necessarily translate into acceptance by the Libyans in Benghazi and beyond.

## Libyan Agency and Attitudes toward Mediation

The NTC in Benghazi was consistent throughout the conflict that any negotiation with Tripoli had to first and foremost address the question of Qaddafi's departure. From its perspective, the "legitimate demands of the Libyan people" in Resolution 1973 meant the removal of Qaddafi, period, and this was all it wished to negotiate.

The NTC members thought if Qaddafi remained in Libya, then he would influence the process and outwit everyone. Another widely shared imperative was fear of the man and his family and collective

outrage with Qaddafi's response to the uprising. The NTC leadership also had to navigate strong views among the *thuwwar* revolutionary fighters that talking to the regime was an act of betrayal for those on the front line. Some NTC members felt that direct talks with the regime would also undermine the council's legitimacy in the eyes of the population. Others wanted to explore any and all proposals to stop the bloodshed but had to approach talks with the regime very delicately. For example, the Libyan cleric Ali Sallabi met in Cairo with Abu Zayd Umar Dorda, the head of Qaddafi's External Security Organization, for talks facilitated by Egyptian intelligence in May 2011.[29] But the view of the NTC was that Dorda was not in direct touch with Qaddafi at the time and, therefore, had little influence.

However, as the conflict continued, there were extensive discussions concerning a transition, including some more flexible positions on Qaddafi. In early June, NTC Chairman Abd al-Jalil told al-Khatib that Qaddafi could stay in Libya but under international supervision, possibly by the UN. However, Qaddafi did not respond, and in July, Abd al-Jalil withdrew the offer, only to resurrect it again a few weeks later despite some public protests against the idea.[30]

But by mid-July, the NTC was becoming more assertive vis-à-vis the international community, and Abd al-Jalil had threatened to withdraw from the Contact Group altogether if promises of financial assistance were not forthcoming. This assertiveness increased after the recognition and legitimacy afforded the NTC from the July 15th Contact Group meeting in Istanbul. The NTC was also deeply engaged in an internal debate as to how to approach a transitional phase after Qaddafi stepped down. And there were two camps: one led by Mahmud Jibril, the de facto prime minister and chief of the NTC's executive office, and one led by members of a populist Islamist trend within the NTC proper in Benghazi who swayed Chairman Abd al-Jalil on this issue. These rancorous debates over the nature of the transition would set the tone

28  "Libya Contact Group To Discuss Turkey's 'Third Way' Formula in Istanbul Meeting," *Today's Zaman,* July 14, 2011, available at www.todayszaman.com/news-250467-libya-contact-group-to-discuss-turkeys-third-way-formula-in-istanbul-meeting.html .

29  Interview with Abdelelah al-Khatib, Amman, April 19, 2014.

30  See Maria Golovnina, "Qaddafi Can Stay in Libya if He Quits: Rebel Chief," Reuters, July 3, 2011; and Charles Levinson, "Rebel Chief Says Qadhafi, Family Can Stay in Libya," *Wall Street Journal,* July 25, 2011.

for the months and years ahead including the political calendar and milestones for a return to constitutional government encapsulated in the August 3rd Constitutional Declaration.[31]

The populist Islamist trend successfully argued for elections, as soon as possible, for an interim government to manage the transition process. But Mahmud Jibril lost the fight for a more stable but less democratic process managed by an expanded NTC, including a technocratic approach to drafting a constitution and the deferral of first legislative elections until after a new constitution had been approved in a referendum. The Islamists thought they would win with early elections, while Jibril wanted NTC continuity to manage a swift transition to constitutional government, as he thought it was the more stable option.[32] Jibril was supported on this issue by the United States, in particular, which remembered only too well how Iraq's transition had gone awry, being front-loaded with several elections.

The July 15th Contact Group statement resurrected the NTC's road map, which had been presented by Mahmud Jibril to the second Contact Group meeting on May 5th in Rome,[33] and which called for the inclusion of technocrats and high-ranking officers from the "old regime" to take part in an interim government. But this very same road map had been roundly rejected by Islamic currents and the broader population in Benghazi, and, in any case, the NTC was internally renegotiating a new transition sequence when the Contact Group met in Istanbul. Either the Contact Group was ignorant of the debates in Benghazi (some actors undoubtedly were), or, as some Libyans suspected, the Contact Group was trying to influence an approach to the transition that not only echoed the transition sequence favored by Jibril, but which also allowed for the participation of former regime technocrats and security chiefs. For many of the *thuwwar,* this was a red line and went against their revolutionary aims of a complete expunging of everything associated with Qaddafi.

Such was the paranoia in Benghazi about external actors that some of NTC Chairman Abd al-Jalil's close advisers thought the international community was intentionally withholding funding from the NTC to pressure them into a negotiation track with Qaddafi. It was in this tense environment that the chief of staff of the revolutionary army, Abd al-Fattah Yunis (and former interior minister under Qaddafi, whose defection in February had saved the revolution), was assassinated in Benghazi on July 28th by a militia group in circumstances that have never been fully clarified.[34] In response, Abd al-Jalil fired the entire executive office on August 8th so that when Tripoli fell on August 20th, the revolution was officially without a "government," and the capital was overrun by an eclectic hydra-headed force over which the NTC had marginal political control.

In essence, the NTC legislature led by Abd al-Jalil rejected the Contact Group July 15th formula for resolving the conflict and the attendant mediation track, in favor of its own Constitutional Declaration of August 3rd. In his final meetings with the NTC and senior regime officials, al-Khatib would find both sides increasingly entrenched: the mediation track was dead.

## UN Support Mission in Libya (UNSMIL)

Historically, the UN had been instrumental in the creation of the modern Libyan state. Under a post-World War II UN General Assembly resolution, UN official Adrian Pelt had overseen a transitional period from 1949 to 1951 in which Libyans wrote a federal constitution incorporating the three regions of Cyrenaica, Fezzan, and Tripolitania into one country,[35] seemingly a positive experience for most Libyans, before independence in 1951. As a

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31 *Constitutional Declaration,* August 3, 2011, available at www.wipo.int/wipolex/en/details.jsp?id=11248 .

32 For more on these debates, see Peter Bartu, "The Corridor of Uncertainty: The National Transitional Council's Battle for Legitimacy and Recognition," in *The Libyan Revolution and its Aftermath,* edited by Peter Cole and Brian McQuinn (London, UK: Hurst, 2014).

33 "Chairs' Conclusions," Second Meeting of the Contact Group on Libya, Rome, May 5, 2011, available at www.esteri.it/mae/doc/20110505_MeetingConclusions.pdf .

34 The assassination of Yunis revealed a serious leadership crisis within the NTC, not to mention a fundamental disagreement concerning the separation of powers between the NTC legislature and the NTC Executive Office, which would also haunt subsequent governance arrangements. Yunis' killing also set in train a cycle of revenge assassinations in eastern Libya between former regime military and revolutionary militias with arguably a clear genealogy to the fighting in Benghazi during "Operation Dignity" in 2014.

35 Richard M. Brace, review of *Libyan Independence and the United Nations,* by Adrian Pelt, *International Journal of African Historical Studies* 5, No.3 (1972), available at www.jstor.org/discover/10.2307/217101?uid=3737952&uid=2&uid=4&sid=21103937578931 .

consequence, and in the context of distrust more broadly of bilateral agendas, the NTC looked to the UN to play a key role in Libya's imminent political transition.

In addition to al-Khatib, the UN secretary-general had appointed Ian Martin as his special adviser to coordinate postconflict planning of the UN system for Libya on April 26, 2011.[36] Martin's role was first discussed at the Contact Group meeting in London on March 29th, and it meant that the UN was more prepared for the transition than usual. Martin felt there was a clear division of responsibility with al-Khatib and that it was a good model. If the mediation had developed into a detailed negotiation over a political transition, then both roles would have come together. When Tripoli fell, Martin agreed to start up the UN presence in Libya but made clear he would stay for a limited period, believing that the job required an Arabic speaker.

Concerning the NTC, the UN had to tread a fine line as the NTC was *an* interlocutor, not *the* interlocutor, meaning other Libyans would also need to be consulted about UN support to a transition. With the UN unable to plan exclusively with the NTC, the UK Department for International Development (DfID) led a postconflict-planning process in Benghazi in June 2011, which had tested Libyan sensibilities concerning ownership and direction of the process and was a harbinger to come of the delicacy of working with the Libyans concerning future governance arrangements, security sector reform, and diversifying the economy away from an oil-based revenues distribution system.

When Tripoli fell in August, Martin had just completed a pre-assessment planning exercise within the UN system, including several inputs from the NTC, which had requested UN support for elections, police reforms, and transitional justice and human rights. Support to these sectors had been mutually agreed, and reaffirmed, prior to and upon Martin's arrival in Tripoli in early

September 2011. In Martin's first meeting with Ali Tarhuni, acting in a self-appointed capacity as prime minister, Tarhuni had instructed Martin to bring "his talent" and match it with "our talent" and to make it a special relationship led by the Libyans.[37] The UN "Support Mission" in Libya (UNSMIL) was thus named in deference to Libyan sovereignty and structured to provide on-demand technical assistance with a minimal footprint.

Moreover, it was quickly established that the Libyans had difficulty producing empowered, legitimate interlocutors with whom the UN could work. The UNSMIL mandate therefore went through two interim three-month periods before the first twelve-month mandate could be launched in 2012. When the interim prime minister, Abdul Raheem al-Kib, was appointed by the NTC on November 1, 2011, it took until November 24th before the government had appointed its ministers who could formally relate to the international community. While this was an important milestone, the reality was that Libya was operating in an institutional vortex, perhaps the chief legacy of Qaddafi's forty-two-year rule. Behind the façade of government, there was little depth in any sector and no experience with parliamentary and executive procedures, including consultative processes and transparent decision-making mechanisms.[38] The UK, notably, advocated a more assertive approach with the Libyans and wanted the UN to press decisions on the Libyans with which Martin disagreed.

## ELECTIONS

Typically, the UN relationship with Libya's electoral bodies—first the NTC's election committee and then the High National Elections Commission (HNEC)—matured earliest. Perhaps this reflected UN expertise in this sector, and that the HNEC was an independent institution outside government. Initially, the first election for the General National Congress (GNC) was held in July 2012 and widely applauded. For the eighty seats contested by political groupings, Mahmud Jibril's

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36  United Nations, "Secretary-General Appoints Ian Martin of United Kingdom Special Representative, Georg Charpentier of Finland Deputy Special Representative for Libya," press release, September 19, 2011, available at www.un.org/News/Press/docs/2011/sga1307.doc.htm .

37  Ali Tarhuni held the oil and finance portfolio in the NTC's Executive Office in Benghazi. When Tripoli fell, he negotiated a plane and flew from Benghazi to the Nafusa mountains with $7 million in cash and little else. As luck would have it, he met the NTC's justice and media ministers and then entered Tripoli on August 22nd with the assistance of militias from Zintan and, in the absence of anyone else, presented himself as the de facto prime minister. See Peter Cole and Umar Khan, "The Fall of Tripoli: Part 2," in *The Libyan Revolution and its Aftermath,* edited by Peter Cole and Brian McQuinn (London, UK: Hurst, 2014).

38  To put Qaddafi's legacy in stark terms, one might think what a political transition in North Korea might entail after the violent overthrow of Kim Jong-un by revolutionary forces.

National Forces Alliance (NFA) won 48 percent of the vote and thirty-nine seats.[39] The Muslim Brotherhood's Justice and Construction Party won 10 percent of the vote and seventeen seats. The allegiances of the 120 members elected in local constituencies were initially unclear. According to the 2011 Constitutional Declaration, the GNC had two key responsibilities: to form an interim government to run the transition and to appoint the Constituent Assembly to write the new constitution. But, in April 2013, the GNC would agree, in a gesture to regional and federal pressure groups in the east, that the Constituent Assembly would be directly elected.[40]

The purpose of the July 2012 elections was first and foremost to elect a legitimate interim government to manage the transition. This had been the whole point of the showdown in the NTC over the transitional sequence in the 2011 Constitutional Declaration. But it took several attempts and four months before the GNC could sign off on a government, which undermined the legitimacy of both institutions in the eyes of the population. Additionally, once the government was formed, GNC President Mohamed al-Magariaf and Prime Minister Ali Zeidan often found themselves at cross purposes and struggled with the separation of powers between them, because the 2011 Constitutional Declaration was silent on these issues. Within the GNC, Mahmud Jibril's main NFA bloc disintegrated quite quickly, and few in the GNC could follow disciplined decision making. At this time, some of the militia groups openly supported the different political factions, and corruption and extortion also became evident.

### DEFENSE

The security sector evolved in a wholly different manner from the electoral system, reflecting the regional balance of forces that had emerged within Tripoli after it fell. The interior minister post was given to a Misratan leader, Fawzi Abdel Al; the minister of defense to a Zintani, Osama al-Juwaili; and the army chief of staff went to a regime defector, Gen. Yousef al-Mangoush.

By early 2012, after a request from General al-Mangoush, it was clear that UNSMIL had to extend its remit and coordinate international advice to the defense sector from the six key bilateral defense relationships at the time: the US, UK, France, Turkey, Jordan, and the United Arab Emirates. Thus, in March 2012, UNSMIL put forward a comprehensive one-year proposal for the mission that addressed security sector reform and the control of small arms and ammunition. In mid-July, UNSMIL also recruited a retired three-star general from the Australian military. In hindsight, this could have been considered in September 2011 noting Libyan agreement then for UN support to the police.

However, it is unlikely that the UN or anyone else would have had traction on military issues during the al-Kib government. As an unelected interim body, it took a limited short-term view of its responsibilities and, indeed, was accorded little legitimacy by others. It had an uncoordinated approach to security sector policy, and UNSMIL found it had to prepare serious position papers for managing the security architecture, the control of arms and ammunition, and disarmament, demobilization, and reintegration of the various militias. The primary challenge was always how to assert state control over the brigades with the consent of the brigade leaders, as the state had no coercive instruments at its disposal.

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By all accounts, UNSMIL gave good technical advice in accordance with its mandate; yet the Libyans did not follow it.[41] Dabbashi believes the UNSMIL mandate and concept was sound and that the main problem was the lack of institutions in Libya. "When UNSMIL presented the security white paper, it was the Libyans who changed it. When the UN presented suggestions for the rules of procedure for the National Assembly, the Libyans changed it."[42] Fundamentally, he thought the Libyans had been reluctant to ask the international community for advice in some areas "because they didn't want their hands tied."[43]

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39  Initially, Jibril had the support of a number of independents that made for a combined bloc of eighty seats.

40  This issue preoccupied the GNC for months and helped dissipate popular support for the body.

41  Christopher S. Chivvis and Jeffrey Martini, *Libya after Qaddafi: Lessons and Implications for the Future* (Santa Monica, CA: RAND Corporation, 2014), p. 12.

42  Interview with Ibrahim Dabbashi, New York, April 21, 2014.

43  Ibid.

In October 2012, Martin was replaced by Tarek Mitri, a distinguished academic from Lebanon who also had government experience at the ministerial level. Mitri soon encountered a drift in the transition process and, in early 2013, advocated for an "inclusive, national dialogue" that would allow "the different actors, whether political, communal or from civil society organizations, to build consensus on guiding principles and priorities" until a new constitution could be adopted.[44]

However, throughout 2013 the situation deteriorated further. Perhaps the most perplexing development had been the extent of the Political Exclusion Law (*Qanoon Alazel Alsiyasi*) that the GNC passed in May 2013 (in an alliance between the Muslim Brotherhood, representatives from Misrata, and some independent members). The law barred from "future high positions" for ten years: any person who held a position as prime minister, minister, revolutionary guard, ambassador, university dean, university department head, local council head, member of a Green Book-promoting agency, security agency head, army member, police member, head of a students' union, head of a special court, head of a Qaddafi media organ, and anyone who opposed the February 17th revolution.[45]

UNSMIL had first encountered this issue in the context of vetting candidates for the 2012 GNC elections. The law was a direct challenge to the National Forces Alliance (NFA) of Mahmud Jibril and other revolutionary leaders and could also be seen as part of a wider struggle for control of the bureaucracy. It threw reconciliation out the door and further estranged the more than half a million Libyans who had fled to neighboring countries and who were unclear on what terms they could return to their country. It arguably set the stage for the repeated and escalating crises through 2013 and 2014, including General Khalifa Haftar's attempts to take over the transition and related attacks against rival and Islamist groups in Benghazi and Tripoli.[46]

The new parliament that emerged from the June 2014 elections immediately saw its legitimacy questioned by political currents that fared poorly. In the meantime, in the context of an ongoing conflict among various Libyan factions inside and outside government, the US, UK, France, Italy, UAE, AU, and the Arab League have each appointed envoys to Libya in an attempt to salvage the political transition. Efforts by the UN to initiate a national dialogue process prior to the June elections were roundly criticized, and the UN was accused of bias by some Libyan factions.[47] And on July 10th, the UN mission evacuated Libya altogether as rival militias fought for control of Tripoli's airport. By year's end, Libya had divided between an elected parliament based in the east in Tobruk that was led by Abdullah al-Thinni, and Tripoli-based holdouts of the last (Islamist-backed) GNC that prevailed in the summer fighting and control the capital. To be sure, there is much to put in order.

Some close observers of Libya are pessimistic about its prospects and describe the ability of foreign envoys to mediate among and influence local actors as negligible. This is partly due to ambiguous stances by some countries over the recent fighting as well as a steadily rising suspicion of external actors by Libyans—including international institutions—in the past two years. Only a genuine Libyan-led process has prospects of success, however slim.[48] Others posit preconditions for a turnaround; namely, a renewed commitment by Libya's political-military elite to an all-inclusive, transparent process and a deeper and more ambitious commitment to Libya by European states in particular, including more assertive approaches.

From the UN perspective, two missed opportunities stand out: one was not commencing work on the defense sector immediately, noting that this would have required invitation from the Libyans; the second one was to not initiate a structured national dialogue process in early 2013, as

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44   United Nations, *Report of the Secretary-General on the United Nations Support Mission in Libya,* UN Doc. S/2013/104, February 21, 2013. p. 17.

45   "Political and Administrative Exclusion Law," Legislation No.13 of 2013, Tripoli, May 14, 2013.

46   One interpretation is that they were seeking to negotiate an amendment to the Political Exclusion Law before new parliamentary elections in June. For a compelling argument, see Wolfram Lacher, "Libya's Transition: Towards Collapse," SWP Comments 25, Stiftung Wissenschaft und Politik, May 2014.

47   For an account of the flack the UN attracted in trying to establish the national dialogue process, see Mohamed Eljarh, "Can the United Nations Save the Day in Libya?" *Foreign Policy,* July 4, 2014, available at http://transitions.foreignpolicy.com/posts/2014/07/04/can_the_united_nations_save_the_day_in_libya .

48   Lacher, "Libya's Transition: Towards Collapse," p. 4.

UNSMIL itself requested.[49] Notwithstanding, UNSMIL's newly appointed chief Bernardino León is giving renewed impetus to a national dialogue process.[50]

## A Stabilization Force?

Scholars have argued for an international stabilization or peacekeeping force in Libya, given the current pervasive insecurity across the country and the inability of the Libyans to generate legitimacy with any of their transitional structures and institutions.[51] There are various angles on this question. For example, the "Responsibility to Protect" doctrine also includes a responsibility to rebuild.[52] If NATO and a number of bilateral states so assiduously pursued regime change in Libya behind a civilian protection mandate, then could they not have done more under the same doctrine to provide security after the fall of Tripoli?

Setting aside the debate about the utility of external troops in political transitions, the key variables in these arguments concern whether or not the NTC could have been persuaded to invite an international force into Libya—supposedly when NATO's influence was at its peak.[53] And, once invited, who would provide the necessary troops, for what functions, and for how long?

However, the historical evidence shows a unanimous aversion to the presence of foreign troops in Libya. To be sure, the UK, Qatar, France, and Italy had all deployed military advisors by the end of April 2011 to train and coordinate the various revolutionary militias. And, after the conflict, it became known that there were, in fact, several hundred special forces troops operating in Libya from Qatar, the UAE, France, the UK, and Italy who became steadily more involved in the fighting including in the fall of Tripoli. And even a

liberal interpretation of paragraph four of UN Resolution 1973 would not cover these.[54]

However, it was not clear then, or since, which Libyan institutions would invite foreign forces into the country, or which countries would accept. Bilateral security assistance also risked being seen as supporting one faction or another, as happened with Qatar. Bilateral security training abroad also confronted the question of which units to include, and, once trained, how they would be used on return to Libya.

## Mediating the Transition

The situation until the first elections in mid-2012 and, indeed, the end of that year had long-term observers cautiously optimistic that Libya might experience a successful return to constitutional government.[55] The Libyan population and their leaders were also optimistic (and adamant) that Libyans would lead the transition process.

In the local disputes that emerged through 2011 and even 2012, the Libyans were able to respond quite effectively. The Centre for Humanitarian Dialogue (HD), which was assisting the Libyan authorities in mediating conflicts after the revolution, noted in mid-2012 that where the "Libyans have made it clear that national ownership of their revolution is paramount" the most appropriate international mediation support was technical advice, process, and design support "to reinforce critical state consolidation efforts."[56]

In mid-2013, HD would also report that it was neither "feasible nor efficient for international organizations to engage directly as mediators in the local conflicts which continue to destabilize Libya."[57] While HD had supported the Crisis Committee in Prime Minister Ali Zeidan's office and some of the traditional dispute resolution

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49  Mattia Toaldo, "A European Agenda To Support Libya's Transition," Policy Brief ECFR/102, European Council on Foreign Relations, May 2014.

50  Mustafa Fetouri, "UN Envoy Balances Rival Factions in Risky Libyan Talks," *Al-Monitor,* December 8, 2014, available at www.al-monitor.com/pulse/originals/2014/12/libya-tripoli-parliament-recognize-united-nations-envoy.html .

51  See particularly Chivvis and Martini, *Libya after Qaddafi,* pp. 65–76; and Bruce Jones, *Still Ours to Lead* (Washington, DC: Brookings Institution, 2014), p. 135.

52  International Commission on Intervention and State Sovereignty, *The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty* (Ottawa: Government of Canada, 2001).

53  NATO's relationship with the revolutionaries was complex, as between the revolutionaries and their bilateral supporters.

54  See Chivvis, *Toppling Qaddafi,* pp. 154–159; and Frederic Wehrey, "NATO's Intervention," in *The Libyan Revolution and its Aftermath,* edited by Peter Cole and Brian McQuinn (London, UK: Hurst, 2014).

55  See Dirk Vandewalle, "After Qaddafi: The Surprising Success of the New Libya," *Foreign Affairs,* Nov./Dec. 2012.

56  Sean Kane and Kenny Gluck, "Mediation after Revolution in Libya," Oslo Forum 2012 Background Papers, June 2012, pp. 48–55.

57  Christopher Thornton, "Local Mediation in Libya," Oslo Forum 2013 Background Papers, June 2013, pp. 47–49.

mechanisms, such as the "Elders" (*Etihad Majalis al-Hukama*), which had met with some success, these mechanisms were "less effective in finding long-term solutions to protracted local conflicts" particularly in the absence of state structures to guarantee them.[58] UNSMIL encountered similar constraints in mediating local disputes, notably the government's response to the pro-Qaddafi town of Bani Walid in 2012, where UNSMIL had come close to facilitating a peaceful resolution but could not restrain a government assault at the eleventh hour.

UNSMIL had the mandate it needed to engage with the transitional authorities and mediate the transition. In consecutive Security Council mandates from 2012 to 2014, UNSMIL was to help the Libyan government define its needs and priorities and assist its management of the democratic transition, including support to elections, constitution-making, and inclusive national dialogue processes.[59] UNSMIL did this through myriad interactions with the key political actors and civil society, including through an active media campaign in support of the transition objectives. This included encouraging eastern federalists to make their case within the transitional legal framework and political processes and not to create parallel security and governance structures.[60]

However, was UNSMIL's light footprint and its approach with on-demand technical advice appropriate given the reality of Libyan exceptionalism mentioned previously? Between a stabilization force and a too light footprint, it seems there are several possibilities. The first option would entail a larger good office's presence throughout the country with a focus on consultative mechanisms in support of Libya's transition objectives; perhaps to include a formal national dialogue process up front. The second option would be to increase UNSMIL's presence within the government and the GNC to more robustly address questions of process, capacity, and the separation of powers to enhance the legitimacy of Libya's transitional institutions.[61] A third option would be to reconfigure the mission to include a

political-military mediation capability that could initially address the ongoing crises around the security sector in the capital Tripoli. These questions should be addressed in a reimagined national dialogue process including a reexamination of the lustration legislation. Key here will be appropriate Libyan representation where political parties, local councils, Shura councils, revolutionary militias, former regime officials, and civil society groups all have a role.

## Findings and Lessons Learned for Mediation

The international response to the Libyan crisis was framed by geography since Libya is at the crossroads of Africa, Europe, and the Middle East. The different responses also showed that Libya was in the crosshairs of unresolved debates about civilian protection, humanitarian intervention, and normative responses to regime change. Certainly, these debates are context driven. In the circumstances of the Arab Spring, it was widely believed that Qaddafi's fall was imminent as had happened with Tunisia's Zine El Abidine Ben Ali and Egypt's Hosni Mubarak.

Qaddafi's violent response and his alarming speech on February 22, 2011, galvanized Libyan diplomats in New York to break with their government and convince the Security Council to pass Resolution 1970, including the first unanimous ICC referral in the body's history. In parallel, the NTC was formed in Benghazi providing a focal point for the outside world, and the GCC, OIC, and Arab League all supported action from the Security Council. Resolution 1970 set the rules of the game even before al-Khatib was appointed. The ICC referral at the onset did not help the mediation effort, and the opposition interpreted the "demands of the people" as meaning the removal of Qaddafi and his family.

Resolution 1973 passed with the barest consensus and acknowledged the AU Ad Hoc High-Level Committee on Libya as a parallel mediation track.

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58  Ibid.

59  See UN Security Council Resolution 2040 (March 12, 2012), UN Doc. S/RES/2040; UN Security Council Resolution 2095 (March 14, 2013), UN Doc. S/RES/2095; and UN Security Council Resolution 2144 (March 14, 2014), UN Doc. S/RES/2144.

60  Ian Martin, "The United Nations' Role in the Transition," in *The Libyan Revolution and its Aftermath,* edited by Peter Cole and Brian McQuinn (London, UK: Hurst, 2014).

61  This option had been offered before and was never received well by the Libyans.

While this helped secure the resolution's passage, specifically paragraph four, it further complicated the mediation effort, which was met with low expectations. The AU track would have Qaddafi stay in power but commit to a reform process and a political transition. A cease-fire in this context would most likely have led to Libya's partition. The nightmare scenario for NATO and other NTC supporters would have been a division of the country where the rebel-held areas collapsed into anarchy and were outlasted by the capital Tripoli. Al-Khatib at times had to mediate amid NATO operations, which on one occasion thwarted a meeting with Qaddafi.

The AU mediation effort via the Ad Hoc High-Level Committee, which included five heads of state, was given too much credit as being something serious. Jacob Zuma withdrew from the AU delegation after visiting Tripoli, and the delegation was mobbed in Benghazi. Africa was as divided over Qaddafi as was the Security Council. Sudan and Tunisia actively assisted the opposition effort; Ethiopia and Nigeria wanted Qaddafi gone as did most West African states and some senior officials at the AU Commission.

Moreover, Qaddafi never empowered his senior officials to conduct negotiations for a serious political transition. The NTC agreed to negotiations only on the basis that they focus on the departure of the "Guide" and his family. Mustafa Abd al-Jalil and Mahmud Jibril gave mixed and confused messages in relation to mediation and sat atop a number of Libyan constituencies who did not support negotiations and who had widely varying notions concerning the aims of the revolution and how the transition should unfold.

The July 2011 formulation by the Contact Group in Istanbul as to how the conflict should end and how the transition should be managed was a logical attempt to bring together the different mediation efforts under al-Khatib once and for all. However, the plan put forward by the Contact Group was rejected by the NTC, which deliberated its own transitional sequence and responded to popular demands for early elections.

Internal fighting within the NTC and among the Libyans through the transition period after Tripoli fell was anchored in schisms and arguments that emerged in July 2011. Notwithstanding, the Libyans recovered and the transition appeared to
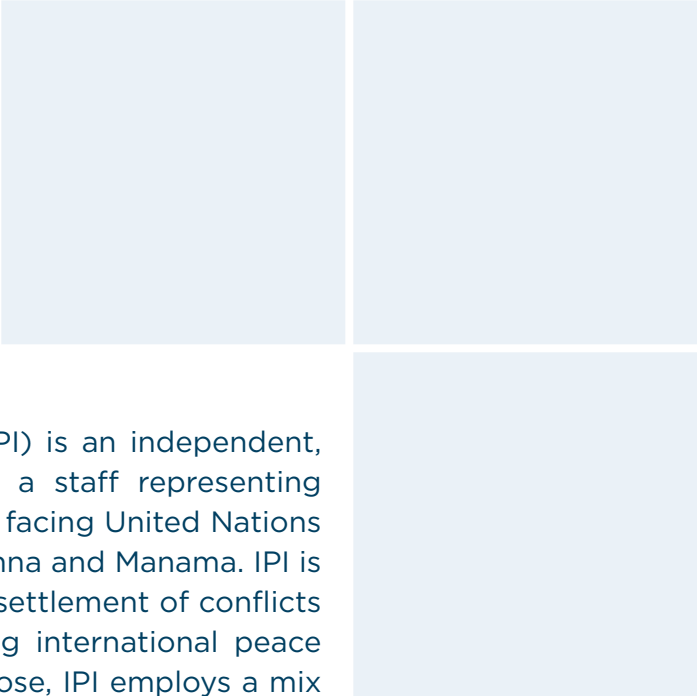
be proceeding smoothly until after the first elections for an interim government in mid-2012. But these elections and the 2014 elections failed to produce legitimate institutions in the eyes of the population and the revolutionary militias who controlled the country.

The Political Exclusion Law set in train a series of events that finally led to a complete breakdown of the central authority's control over the country, a state of undeclared civil war with multiple factions fighting for turf and seeking military support from regional actors—namely Algeria, Egypt, the UAE, Sudan, and Qatar—with varying degrees of success.

Transitions from eclectic authoritarian systems like Qaddafi's Libya to representative government require a deeper rethink. The timing and sequencing of transitional governance arrangements, elections, national dialogue, and constitution-making emerge out of a complex context of domestic processes, external advice, and international history. In this regard, the Libyan example provides a complex case study in the comparative experience of political transitions.

However, more urgent is the need for the international community to think through lessons learned from the Libyan mediation as it contemplates the current chaos in the country and ponders how to reengage there. For UNSMIL in particular (and integrated special political missions more broadly), there is an opportunity to examine afresh options for national consultative mechanisms in support of political transitions, including formal national dialogue processes. However, the overarching lesson for mediation from the Libyan crisis in 2011 is the importance of having only one mediation effort and, where possible, having this reflected in Security Council resolutions.

The international community and the UN in particular could have done things differently at many stages along the way, and it is arguable whether there were viable alternatives at the time those choices were made or even whether they would have made a difference. It is, however, unequivocal that the multiplicity of voices and efforts has, in part, determined the current detrimental outcome. In this new phase, the international community needs to be less divided and more interested in a genuinely multilateral approach to Libya in which it may be necessary again to consider the question of foreign forces.

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