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The weaponisation of Libya's elections

Libya was supposed to hold elections early this year. Instead, it now has two rival political administrations — a return of the divisions of the past

Libya is entering a new cycle of its political crisis. In December 2021, a mere 48 hours before polls were supposed to open, the elections were postponed. Emad Sayah, the head of Libya's High National Election Committee (HNEC), declared it to be a case of force majeure. He then proposed to Libya's parliament, the House of Representatives (HoR), to reschedule the elections for 24 January 2022. This deadline has now also passed. But rather than resolve and reschedule elections, the HoR appointed a new rival Prime Minister Fathi Bashagha on 10 February, dividing Libya between two rival political administrations.

Libya's now faces a dangerous new reality, as rival factions cling to power returning the country to the political divisions of the past, whilst proposing future election roadmaps designed to bring about the demise of their political rivals while guaranteeing their own political survival. The tactical moves on the part of rival factions go back at least twelve months. Since then, Libya's constitution, election law, and judiciary have become weapons in a new battle over Libya's electoral roadmap as political actors attempt to either stall or re-sequence elections to push a rival out of power, whilst preserving one's own institutional power indefinitely.

The crisis began shortly after the Libyan Political Dialogue Forum (LPDF), a United Nations appointed body of 75 members, was tasked with appointing a new interim unity government and establishing a political roadmap to culminate with democratic elections. The LPDF made early progress in appointing an interim Government of National Unity (GNU) to be led by Abdulhamid Dbeibah that took office in March 2021 and in agreeing to schedule simultaneous presidential and parliamentary elections for 24 December.

Libya's political deadlock

Since last summer, however, the LPDF faced internal political deadlock over how to proceed with the legal framework, namely a constitutional basis for elections. Libya has had a draft constitution since 2017, but it has faced criticism for its lack of inclusivity. At the same time, it became clear that the widespread threat of a boycott of the referendum would almost certainly lead to further delays to the political transition – especially if the constitution were rejected at a pre-election referendum. The debate over how to establish a constitutional basis before the elections swiftly became a reality check over how long Libya's political transition would last, as factions within the LPDF alleged this would stall the transition and extend the GNU's interim mandate beyond 24 December.

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In the LPDF's stalemate, the HoR's chief speaker Aguila Saleh captured an opportunity to reshape the political roadmap to remove the GNU from power whilst preserving his own power in parliament. In September, Saleh illegally bypassed a parliamentary vote and issued a presidential elections law by decree. The law rescheduled the LPDF roadmap by sequencing presidential elections before parliamentary elections instead of holding them simultaneously, a move designed to ensure an end to the GNU's eight-month political tenure whilst extending Saleh's eight years of institutional control over parliament.

Moreover, the law sidestepped the constitutional referendum and used Libya's rump 2011 constitutional declaration that offers weak legal restraints and limits on the power of Libya's first elected president, increasing the prospects of a winner-takes-all outcome at the polls.

The law also faced criticism by the GNU's prime minister Abdelhamid Dbeiba for including conditions to block his candidacy, whilst being tailored to allow Saleh and one of his key allies responsible for Libya's civil war, Khalifa Haftar, the self-styled leader of the Libyan Arab Armed Forces (LAAF), to run on the presidential ballot, but return to their positions in parliament and the LAAF should they lose.

Major setback for the UN's Berlin process

Saleh's law sparked outrage from parliamentarians and members of the LPDF, but was accepted by former UN Special Envoy to Libya, Jan Kubis, who – rather than reject the law and mediate – decided to accept Saleh's law to expediate the process to hold one (but not both) elections by any means on 24 December. When Kubis resigned one month before the elections and was replaced by his predecessor Stephanie Williams as UN Special Advisor, it became clear that confidence was lost in the UN mediation and election process under his custodianship. However, it was left to HNEC, the body responsible for administering elections, to announce the news – without compromising their apolitical standing.

The future of parliamentary and presidential elections remains unclear under the HoR's new political roadmap but what comes next is certain to be a deeper political crisis and potential delays to full elections by years. The international community have already ruled out recognising a replacement for the GNU before elections. The appointment of a new parallel administration is thus a cynical attempt at a power grab in the knowledge it returns Libya to the tense years of political divisions between East and West that legitimised Haftar's war on Tripoli in 2019. Secondly it is a major setback for the UN's Berlin process that will require the UN to reverse course on its democratic roadmap to address the present elite power struggle before future elections can be rescheduled.

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Finally, the HoR's roadmap remains weaponised to include milestones to extend the political life by years, and in the process sparking new legal disputes that will drag Libya into a new complex crisis. Saleh has passed a motion to allow the HoR to draft a new constitution rather than pass a referendum on the current draft prior to elections. Saleh's own constitutional process is designed to allow him to delay parliamentary elections until the HoR's work on a new constitution is completed.

Given the 2017 constitution was drafted by a democratically elected assembly in 2014, Saleh's proposed constitution lacks an elected mandate to replace it and would open so many further legal disputes and political challenges prior to parliamentary elections that the HoR's new roadmap could delay parliamentary elections and extend the HoR's mandate by years not months.

The lack of good will

Today's crisis is in large part based on the assumption that individuals responsible for Libya's political crisis and wars will demonstrate self-sacrifice and willingly give up the political institutions and military power they have clung to for years through an electoral roadmap of their own design.

The UN's Berlin roadmap offered the international community an opportunity to erode the power of spoilers by dismantling the political and military institutions responsible for war into a unified neutral state rather than reward the figures at their helm with an opportunity to revive their political fortunes through elections.

Now it's high time for the UN to demonstrate bold leadership and resuscitate the aims of the Berlin Process, and sequence a neutral political roadmap, setting sober election milestones based on substantive compromise and institutional reform, rather than stick to dates and timelines for political expedience that disguise conflict and reward spoilers with custodianship over Libya's future.



Anas El Gomati

Anas El Gomati is the founder and current Director General of the Tripoli-based Sadeq Institute, the first public policy think tank in Libya's history established in August 2011.