A Multilateral Approach to Ungoverned Spaces: Libya and Beyond

by Andrea Dessì

ABSTRACT

This paper summarises the proceedings of a closed door international workshop on the Libyan crisis jointly organised by the Istituto Affari Internazionali (IAI) and the European Council on Foreign Relation (ECFR) on 13 May 2015. Invited experts convened in London to discuss the evolving civil war in Libya and debate various diplomatic and policy scenarios meant to address some of the most pressing challenges facing the Libyan authorities, neighbouring states and multilateral actors as they seek to bring about a negotiated solution to the crisis. The workshop was conceived within the framework of the New-Med Research Network, an ongoing project run by IAI, in cooperation with the Compagnia di San Paolo of Turin, the Italian Ministry of Foreign Affairs and the OSCE Secretariat with the aim of creating a network of analysts and research centres to foster dialogue and an exchange of ideas on comprehensive security issues in the Mediterranean region.

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Introduction

The Istituto Affari Internationali (IAI) and the European Council on Foreign Relations (ECFR) jointly organized an international workshop on Libya and the MENA region in London on 13 May 2015. The workshop was held in the framework of the New-Med Research Network, an ongoing project run by IAI, in cooperation with the Compagnia di San Paolo of Turin, the Italian Ministry of Foreign Affairs and the OSCE Secretariat with the aim of creating a network of analysts and research centres to foster dialogue and an exchange of ideas on comprehensive security issues in the Mediterranean region.

Invited experts from a variety of backgrounds and nationalities convened at the ECFR's London office to discuss the evolving civil war in Libya and debate various diplomatic and policy scenarios meant to address some of the most pressing challenges facing the Libyan authorities, neighbouring states and multilateral actors as they attempt to bring about a negotiated solution to the crisis.

Against the backdrop of UN-sponsored diplomatic talks on Libya, invited participants expressed doubts on the possibility that UN envoy Bernardino León will reach an accord before the self-declared mid-June deadline meant to coincide with the beginnings of the holy month of Ramadan. While the objective of reaching a national unity government between the two opposing governments located in the east (Tobruk) and west (Tripoli) was recognized as the only realistic avenue capable of restoring semblance of stability to the war-torn country, experts concurred on the urgent need to begin considering alternative scenarios in the event that no agreement is reached. Participants therefore debated the broad contours of a possible "plan B" for Libya, carefully assessing what tools and strategies multilateral actors – the UN and EU in particular – may employ to increase the chances of success in Libya.

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On top of these issues, experts assessed other related challenges stemming from the immigration crisis in the Mediterranean and evolving Western reactions to this phenomenon, possible strategies to counteract the emerging threat of *Daesh* (the so-called Islamic State) in Libya, the worsening state of human rights in the country and the regional dimension of the Libyan crisis.

Ultimately, participants highlighted their fear that, if the current talks collapse, the Libyan crisis will be left to fester in much the same way as was done with Syria, essentially leading international powers to "give up" on the diplomatic track and revert to simply containing the conflict to avoid regional and international spill-overs, particularly with regards to the immigration issue. There was much talk of a military operation to curtail the migration wave, but a majority of experts agreed this would not represent an efficient or realistic response to the crisis. While the Libya crisis is no doubt complex and enormously challenging, not least because of the country's geographic location and the fact that it was precipitated by a NATO intervention, Western powers cannot simply stay aloof and must redouble their efforts to convince all sides in the conflict, including their regional backers, that no military solution exists and only diplomacy and negotiations would allow for a gradual return to normality.

Divided in two sessions, the half-day workshop coincided with important international, local and regional developments which are likely to have a significant impact on the Libyan crisis. On the same day of the workshop, the EU was debating a Security Council resolution meant to authorize the use of force to counter illegal human trafficking from Libya and related plans for a mandatory quota-system for the parcelling out of migrants among EU member states. Moreover, the United Nations Human Rights Council was also conducting its Universal Periodic Review (UPR) of Libya,[1] the first time the country has undergone this review since 2010, when the Gadhafi regime was still in power. Within this context, other significant developments tied to a gradual rapprochement between Qatar and the Gulf Cooperation Council (GCC), a dynamic further strengthened by the succession in Saudi Arabia and the less confrontational strategy pursued by the new Saudi monarch towards the various regional incarnations of the Muslim Brotherhood, were also highlighted as a potential opportunity to increase regional pressure on both sides in Libya to reach an agreement. In this respect, Turkey's policy in Libya was also discussed, with the recent attack on a Turkish cargo ship off the coast of Libya and the official response from Ankara being cited as a possible sign of a less forceful Turkish policy towards Libya,[2] particularly with regards to Ankara's support for the Islamist-leaning government in Tripoli.

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[1] See http://www.ohchr.org/EN/HRBodies/UPR/Pages/LYSession22.aspx.

[2] David D. Kirkpatrick, "Turkish Cargo Ship Attacked Off Libyan Coast", in *The New York Times*, 11 May 2015, http://nyti.ms/1ARZuUY.

Session I. Libya's ungoverned spaces and the escalating civil war

In session one, participants focussed on the worsening state of human rights in Libya, noting how arbitrary detentions, extra-judicial killings, the harassments of journalists and civil society activists, torture and the complete collapse of the judicial system in the country represent ominous signs for the future ahead. Invited speakers highlighted how human rights conditions have further deteriorated since 2010, noting that none of the UN's recommendations from Libya's last Universal Periodic Review have been implemented. In the context of the 2015 UPR of Libya, experts noted that Egypt was actively seeking to shield Libya from UN criticism, given its close support for the internationally recognized Libyan government in Tobruk and its active lobbying for the lifting of the UN arms embargo on Libya to aid in Tobruk's and General Haftar's self-declared war against Islamists in Libya. In this respect, participants highlighted how the label of "internationally recognized government" often associated with the non-Islamist leadership in Tobruk may be misleading, given that at present no Libyan actor enjoys enough legitimacy or elements of sovereignty to justify such preferential treatment and labelling. Moreover, while it is authorities affiliated with either the Tobruk or the Tripoli governments that are currently the focal point of UN-sponsored negotiations, experts noted that in reality these politicians have only marginal impact on the ground, where a galaxy of different militias actually command ultimate authority. In this respect, participants highlighted that, none of the six points of the UN plan for Libya includes a focus on human rights or civil society,[3] the latter of which was described as the "biggest casualty" of the Libyan civil war. Participants stressed that the restrictive laws of the Gadhafi era are still in place while new laws restricting the right to assembly and protest have also been approved. Moreover, the current draft of the Libyan constitution also put several constraints on civil society, by ruling that non-governmental organizations must register with the government and seek prior approval of their activities. It also restricts foreign funding for these organizations.

With regards to the judicial system, Libyan speakers noted that currently there are only two functioning courts in eastern Libya, both of which deal solely with civil law while criminal courts have completely ceased to operate. Much of the same is true in western Libya under the Tripoli government, where courts enjoy no real oversight power or independence. Experts also noted that the establishment of Islamic courts in Derna, the eastern Mediterranean city currently controlled by *Daesh*, risk setting the wrong example for the rest of Libya, possible leading to more such courts appearing in areas where the official judicial system no longer functions. There is a serious risk that the current east-west division of Libya be further solidified in the event that a second Supreme Court is established. In Tripoli the Supreme Court only deals with the western government, leading some in the

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[3] United Nations Support Mission in Libya (UNSMIL), *UNSMIL Presents to Parties Ideas to End Political Crisis, Military Conflict, Hopes to Expedite Talks*, 24 March 2015, http://unsmil.unmissions.org/Default.aspx?ctl=Details&tabid=3543&mid=6187&ItemID=2013641.

east to call for the establishment of a rival Supreme Court. Such a development would be disastrous, as it would further cement division and rivalry between the two opposing governments. Within this context, Libyan and international human rights activists have been calling on the International Criminal Court (ICC) to commence a new investigation in Libya, to demonstrate that individuals in both governments as well as within the militias will be held accountable for their actions. This point set off a debate on the issue of justice without accountability, with invited activists insisting that in order to tackle the culture of impunity currently present in Libya accountability must be placed at centre stage in international efforts to stabilize the country. Other invited experts expressed doubts on this issue however, noting that in Algeria the issue of accountability was side-lined in favour of reaching an agreement to end the civil war that included mass amnesties for both conflict parties. Moreover, other experts pointed to the very limited resources available to the ICC prosecutor, highlighting that the ICC's budget for Libya is smaller than in other theatres in which the court operates.

Ultimately, experts emphasized that out of the six points addressed in the UN plan for Libya the security track has been indefinitely postponed, meaning that the important task of dealing with Libya's militias, their disarmament and reintegration, as well as other issues relating to accountability, have not been addressed, leaving many unanswered questions that could potentially derail any prospective agreement reached by UN mediators. In this respect, participants noted that both the UN and more so the EU have not employed all possible tools to exert pressure on the militias in Libya. According to some participants, sanctions, asset freezes and travel bans should be employed in conjunction with the negotiations as a means to pressure all sides into making the necessary concessions for an agreement. In this respect, however, other participants noted that the UN-envoy has demonstrated a preference to avoid employing such measures as they are generally considered more valuable as threats against one side or another and that, once they are employed, international leverage over these actors would actually decline.

Session II. The regional dimensions of the conflict in Libya

In session two, the workshop focussed on the regional dimension to the civil war in Libya. Experts highlighted the important role played by Egypt, Saudi Arabia, Turkey, Qatar and the United Arab Emirates as well as that of the conflict in Mali. The Libyan civil war can therefore be understood in the context of the current power struggles amongst the Sunni powers in the Middle East. Out of all regional players supporting one or another side in the conflict, Al-Sisi's Egypt appears the most problematic. This is because of Egypt's deep mistrust of political Islam since the military overthrow of President Morsi and its alliance with the Tobruk government in Libya in the anti-Islamist campaign launched by General Haftar. Current developments tied to the Saudi succession, the gradual rapprochement between the GCC and Qatar and Turkey's less forceful stance on Libya could however change this scenario. Egypt is highly dependent on the GCC for economic

aid and regional support and the new Saudi leadership has begun displaying a less confrontational stance towards the Muslim Brotherhood affiliated leadership of the Libyan government in Tripoli.

Experts were united in their warnings against addressing the Libyan crisis through the prism of the "war on terror" noting that such approaches have failed in the past and would actually lead to a strengthening of radical Islamist forces in the country, particularly *Daesh*, which appears intent on provoking such a Western response. Moreover, other more moderate Islamist forces affiliated with the Muslim Brotherhood would also be more prone to embrace violent means to reach their objectives, as the recent examples of Egypt, Syria and even Algeria in the 1990s demonstrate. With regards to the emergence of *Daesh* in eastern Libya, experts noted that their appearance was prompted by the growing military activism of the French-led mission in Mali and its expansion into neighbouring Chad and Niger (as well as Southern Libya) which has effectively pushed these radical elements further north towards the Mediterranean. While the threat of *Daesh* in Libya has been overblown by the media and local actors, it would be a mistake to underestimate the possible expansion of *Daesh*'s ideology in the event that negotiations fail or a foreign intervention in Libya occurs.

Turning to local events in Libya, experts noted hesitant changes occurring in the Tripoli government. Some elements in the leadership in Tripoli as well as in the city of Misrata are slowly distancing themselves from the more hard-line Islamist tendencies in the country, creating a possible window of opportunity for the negotiations. In this respect, any military approach to Libya's internal troubles should be avoided – including recent talk in the EU about a possible military intervention against human traffickers – which would only heighten tensions and recriminations between the conflict parties, while possibly giving further respite to radical Islamist elements. The EU has closely supported the UN-sponsored mediation attempts by Bernardino León, while focussing on humanitarian assistance and the fostering of dialogue with various local elements in Libya. However, experts concurred on the need for a more decisive EU role in the negotiation process. While the EU acknowledged the problematic nature of the security track, including in particular the disarming of Libya's various militias, the EU supports UN efforts to reach a ceasefire and Unity Government between Libya's rival governments as a first necessary step to stabilizing the country. While monitoring the ceasefire was acknowledged as problematic – as it requires a strong UN contingent on the ground – other tools can be employed to ensure that actors abide by the agreement, including targeted sanctions, asset freezes and travel bans. These tools may serve to dissuade potential spoilers among Libya's militias. The heads of these militias are well known to UN and EU authorities and can be singled out and hopefully isolated in the event that an agreement is reached. The crucial but complicated tasks of disarmament, demobilization and reintegration (DDR) and security sector reform (SSR) will eventually have to be addressed and currently the EU is coordinating with member states and regional actors to devise possible means to facilitate these tasks. In this context, the EU and UN support the continuation of the arms embargo on Libya and in the event that no agreement is

reached the EU could pare up with the United States to impose unilateral sanctions on individuals and militias to increase the costs of their actions.

Ultimately, experts noted that time was running out and that while everyone hopes that UN efforts will succeed in bringing about a negotiated solution to the crisis, preparations for a plan b must continue in parallel to these diplomatic efforts. Most importantly, both Europe and the UN should widen the scope of dialogue with local actors on the ground in Libya and seek concerted action and pressure on regional actors involved in the Libyan civil war. In order for diplomacy to succeed, the cost-benefit calculus of the major players in the conflict must change, and international powers should focus on eliminating those sources of revenue that are allowing parties to fuel the conflict. As in every civil war, conflict economies have emerged throughout Libya and an efficient means to change the calculus of local actors would be that of squeezing their revenues and ability to pay militias or purchase weapons. In this context, close coordination with neighbouring states – Algeria, Tunisia, Egypt, Mali, Chad and Niger – is essential, as is a greater effort to convince Saudi Arabia and the GCC countries to increase their pressure on local players to reach an agreement. Finally, experts highlighted that Libya's financial resources are quickly evaporating and that, according to recent estimates, the Libyan Central Bank – which is currently one of the few independent institutions in the country, although it subsides both sides in the fighting – is likely to run out of funds in about ten months, a dynamic that could serve both as an inducement to reach an agreement and a potential new crisis factor that would lead to worsening conditions on the ground and attempts by one side or the other to take control of other financial revenues streams such as Libya's oil sector for example, a development that is seen as a red line for the international community and could potentially force Europe to intervene more forcefully in the conflict.

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Workshop Programme

London, 13 May 2015, ECFR Office

Welcome remarks   **Nicolò Russo Perez**, Compagnia di San Paolo

First Session

Libya's ungoverned spaces and the escalating civil war

Chair	**Mattia Toaldo**, Policy Fellow, European Council on Foreign Relation (ECFR)
Introductory Speeches	**Tarek Megerisi**, London-based Libya Analyst, former advisor to Libya's Prime Minister's office
	Claudia Gazzini, Tripoli-based Senior Analyst, International Crisis Group (ICG)
	Wolfram Lacher, Senior Researcher, Stiftung Wissenschaft und Politik (SWP)
	Hassan al Amin, Editor, Libya *al Mustakbal*
	Guma Al Gumaty, NTC representative to the UK at the time of the 2011 intervention

Second Session

The regional dimensions of the conflict in Libya

Chair	**Emiliano Alessandri**, OSCE Mediterranean Focal Point
Introductory Speeches	**Younes Abouyoub**, Special Advisor, United Nations Support Mission in Libya (UNSMIL)
	Roberto Aliboni, Scientific Advisor, Istituto Affari Internazionali (IAI)
	Wolfgang Muehlberger, Senior Research Fellow, Finnish Institute of International Affairs (FIIA)
	Florence Gaub, Senior Analyst, European Union Institute for Security Studies (EUISS)
	Abdulrahman Al Ageli, former advisor to the Libya's Prime Minister's office on borders and security

Conclusions

A multilateral approach to ungoverned spaces in the Middle East & North Africa

Istituto Affari Internazionali (IAI)
Founded by Altiero Spinelli in 1965, does research in the fields of foreign policy, political economy and international security. A non-profit organisation, the IAI aims to further and disseminate knowledge through research studies, conferences and publications. To that end, it cooperates with other research institutes, universities and foundations in Italy and abroad and is a member of various international networks. More specifically, the main research sectors are: European institutions and policies; Italian foreign policy; trends in the global economy and internationalisation processes in Italy; the Mediterranean and the Middle East; defence economy and policy; and transatlantic relations. The IAI publishes an English-language quarterly (The International Spectator), an online webzine (AffarInternazionali), two series of research papers (Quaderni IAI and IAI Research Papers) and other papers' series related to IAI research projects.

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