Less than a year after Libya’s autocratic regime was toppled, many observers, particularly in Europe, still express pessimism over the country’s chances of charting a stable transition from conflict to an effective state and democracy. The fact that all public institutions were either dismantled or corrupted by the previous regime, which fell in a chaotic civil war shaped by geographic divisions and external intervention – giving rise in the process to an estimated 350 militia groups – has generated extremely complex conditions for state-building.

Given the lack of pre-existing institutions, it is difficult to see how a fragmented population with strong tribal loyalties in a country with a significant presence of armed factions can construct a state without risking a descent into chaos. However, the peaceful outcome of elections in July, the promise of a new constitution and, not least, the flow of revenues to state coffers through renewed oil and gas production suggest that the country’s new rulers may benefit from far more benign conditions than initially expected.

The report argues that over the coming decade much will depend on the way in which institution-building and security issues are managed in parallel. This will represent an immense but unavoidable challenge, requiring donors to think hard about how to support new public bodies without smothering them in a plethora of ill-planned, externally imposed initiatives.
Libya’s new political landscape

The future of Libya is intimately dependent on a series of events that have occurred in mid-2012 the consequences of which will only become apparent in the years to come. Perhaps the most important of these has been the elections for a constituent assembly, planned for mid-June, but delayed until early July. The National Transitional Council (NTC), the sole body recognised by the international community as the legitimate representative of post-Qaddafi Libya, insisted they would take place on time; observers, in the face of the ongoing critical security situation, were less certain. In the event, there was a slight delay, caused by technical hitches. However, local elections had already gone ahead in Misurata, Benghazi and Tripoli, and the Electoral Commission was able to organise effective voter registration, to which the electorate responded with evident enthusiasm: 2.8 million voters, out of a population of ten million, were registered by the time the elections took place.

It is perhaps not surprising that, given the confusion and chaos that characterised Libya in the first half of 2012, political parties were quick to emerge, together with a thriving media landscape. According to a statement by the then-Libyan deputy premier, Mustafa Abu Shagour, on April 3rd, at least 50 political parties had been established; by the time of the elections there were over 130. Most of them, however, were personal creations around a charismatic personality and the moderate nationalist agenda they generally espouse makes them hard to distinguish. At the same time, the explosion of newspapers, magazines and television channels provides Libyans with a vastly more varied media scene, no doubt helping to counter personal charisma as the driving force behind the new political culture.

Other contenders had also been expected to enter the scene, either based on the as-yet unorganised Salafi movement or on Libya’s traditional Sufi milieu. Despite not taking part in the elections, these movements could potentially become a new source of conflict – an unknown Salafi group, for instance, was responsible for blowing up a Sufi mosque in Derna at the beginning of the summer.

One reason why such religious groups did not take part in the elections, quite apart from organisational weakness, was the fact that in April 2012 the government announced that its new electoral law would ban political movements based on religion, ethnicity and regionalism. This constraint is typical of past attempts by North African governments to hinder the growth of Islamist political movements. The Ben Ali government in Tunisia enforced it, as does the regime in Algeria today. However, recent events have effectively made it very difficult to enforce limitations on political expression, and Libya is unlikely to prove an exception. The announcement of the restriction had hardly been made before it was roundly denounced by Libya’s budding Islamist politicians.

The electoral outcome: defeat for the Islamists

In the event, 1.8 million people turned out to vote on July 7th for a bewildering array of 3,708 candidates, 1,207 of them representing 130 political parties, with the rest standing as independents. Their choice on the ballot was made even more difficult by the fact that each voter in any one of the 73 constituencies into which Libya had been divided was voting both for party candidates and for independents as well: there was an average of 34 independent candidates to choose from, not to speak of the party lists. They were to fill the 80 seats reserved for political parties, alongside the 120 seats reserved for independents, in the new assembly – the General National Congress (GNC). Despite the complexities of the process, only 3% of the ballots cast were invalid.

The assembly itself – which incidentally will have to make way for new legislative elections after a year in office – has as its primary function the appointment of a new interim cabinet to take over from the executive council of the NTC, which has run free Libya since March 2011. Then it will also have to decide whether it should assume the task of drafting Libya’s new constitution or whether it should appoint a 60-member committee to do this instead. If it decides on the second alternative – and all decisions will require a two-thirds majority – it will then have to make sure that all
three of Libya’s regions are equally represented. The decision to allocate 100 assembly seats to Tripolitania, compared with 60 for Benghazi and only 40 for the Fezzan, was one of the main bones of contention in the run-up to the election, leading to armed clashes with eastern federalists and the sacking of the Electoral Commission’s offices in Benghazi shortly before polling day.

Although the election results were announced ten days after polling had taken place, they were formally recognised only a fortnight later, after the courts had settled all disputes about the outcomes. To the surprise of most observers, top of the list, with 39 of the party seats, was a liberal-nationalist coalition of 65 parties, the National Forces Alliance (NFA), led by Mahmoud Jibril. It will be supported by Ali Tarhuni’s Centrist Party. Jibril had been the first Libyan interim premier appointed by the NTC after the Libyan civil war broke out in Benghazi in February 2011 and was forced to step down earlier in 2012 because he had been a minister under the Qaddafi regime.

His party topped the poll in every constituency except Misurata, where a local party came first, apparently because Jibril is a member of the Warfalla tribe, much disliked by Misuratans – a testament to the power tribalism can exert over Libyan politics. Indeed, outside Tripoli and Benghazi, tribalism probably still had a lot to do with electoral choices. Jibril, seen as a charismatic and experienced politician by many, had also been a senior official under the Qaddafi regime as head of the National Development Board, although he had always been regarded as a reformer and had been close to the former Libyan leader’s second son, Saif al-Islam. His past, which had also been instrumental in forcing him out of the premiership at the start of 2012, will also mean that he is barred from serving in the new assembly.

The result was a surprise because it had generally been expected that, as elsewhere in North Africa, the Muslim Brotherhood’s Justice and Construction Party, led by Mohamed Sawan, would lead in the party stakes. Instead, it only managed to win 17 seats, coming in second behind Jibril’s NFA, a defeat that it did not accept with good grace. The reasons for its disappointment are apparently twofold: it had never been able to maintain a clandestine but functioning infrastructure during the Qaddafi years – its members were repeatedly arrested and, in some cases, executed – and its electoral message was considered to be haughty and arrogant, as if it had expected victory by right. Libyans, despite their personal piety, resented this and punished the movement at the polls.

Even in Derna, a famed Islamist stronghold, the party did poorly, as did all other Islamist parties nationally. The party of the former founder and leader of the Libyan Islamic Fighting Group, Abdelhakim Belhadj, who had also headed up the military council in Tripoli after the city fell to the rebellion, failed to win a single seat, while the Qatari-backed National Rally Coalition and the former jihadist Islamic Movement for Change also did poorly, probably for the same reason. In the final analysis, the remaining 24 seats were divided among the National Front with three seats, six other parties with two seats each, and 15 parties each winning a single seat. Nationalism, tribalism and personal charisma, in short, seemed to have triumphed over Islamic orthodoxy.

In reality, however, it is going to be the independents that determine the real flavour of Libyan politics in the weeks and months to come – and here no predictions are of significance. The Justice and Construction Party fondly believes that the majority will support its positions in debates and, more importantly, in drawing up the new constitution. Other commentators suspect that the majority of independents will wield themselves together into a “third force” coalition so that the GNC is dominated by three coalitions, rather than just two as currently appears to be the case.

Yet in reality very little is known about the positions the independents will support or about what political factions they will ally with, if any. The one certainty is that they will preserve the traditional male dominance within Libyan society, for only one woman has been elected. And, as mentioned above, there are administrative arrangements to be resolved over the drafting of a constitution before political attitudes will play a part, not to speak of the separatist demands of federalists from Cyrenaica, the eastern region of Libya, under Abdulhakim al-Sanussi.
Nonetheless, a good start has been made to the process of constitutional governance in Libya. On August 8th 2012, two days later than it had promised, the NTC formally handed over power to the new GNC. In its first official act, the GNC elected a speaker, making a choice that may speak volumes for the way in which governance will be conducted in future. The body selected Mohamed Mugharieff, the former Libyan ambassador to India until he defected in 1980 to become the founder of the Libyan National Salvation Front, the foremost opposition group to the Qaddafi regime in exile thereafter. Although he has always been regarded as close to moderate Islamists, he was not the choice of any of the Islamists in the new GNC, nor indeed was he the candidate of Jibril’s NFA, thus confirming the GNC’s independence from formal party political positions. It is expected, however, that the new premier will be a partisan of the NFA, another indicator of the degree to which Libya’s Islamists remain marginalised as democratic governance emerges in Libya.

The security challenge

The reason why these elections were of such crucial importance is because they provided the first tangible evidence that institutions are emerging that might absorb social aspirations and pilot a democratic transition. However, the background against which they are appearing is one of great uncertainty, given the degree to which, until the elections, the NTC was in control of Libya’s political process.

The problem faced by the NTC is that not only did it not command the loyalties and respect of the approximately 350 militia groups that have spontaneously emerged as an outcome of the civil war, but it was also increasingly seen as a creature of Cyrenaican, rather than Libyan, aspirations. Nor could it create effective alternative security forces to articulate its authority. The Libyan national army, under General Mangoush, remains a shadow force, with conflicts over authority within the command structure. The alternative forces the NTC created – the Libyan Shield force of former militiamen under the Ministry of Defence and the new security force under the supreme security committee of the Ministry of the Interior – still lack the authority to coerce the militias into either disbanding or consolidating under their wing. The key issue, however, remains public security. Without this, the most elementary and elemental aspects of the Weberian state cannot be satisfied.

To this end, even before the end of the civil war was in sight, the NTC announced that its primary post-war objective would be “reconciliation”. By this it meant that it would eschew vengeance against the remnants of the previous regime – individuals, regions and tribes – and would look towards creating a unified and united society that would then be able to progress towards the construction of a democratic state.

The aspiration was admirable and realistic, at least in terms of outcomes; the problem was that it was not very practical or, indeed, pragmatic in terms of current realities, for it overlooked the nature of Libyan society once the coercive hand of the Qaddafi regime had been removed. Nor could it allow for the consequences of the way in which the civil war had actually developed or for the roles of external players.

Transition and the hold of the militias

At the same time, and despite these basic security concerns, there had been plenty of indications that initial failures would not necessarily be the catastrophe that observers feared. Even before the elections, the NTC still seemed to reflect the deeper aspirations of most Libyans and there were pointers to suggest that its ambitions might not turn out to be impossibly idealistic. Thus, even though confusion was initially rife over how the July elections for a constituent assembly would be carried out, once they had been completed and the results announced, the NTC lost no time in announcing it would hand over authority to the new GNC and dissolve itself on August 6th 2012.

In addition, Libyan potential for spontaneous collective action had been demonstrated even before the civil war ended by the creation of local committees – in an ironic reflection of the Qaddafi regime’s own vision of “direct popular democracy”, perhaps – to handle local administration in the absence of a functioning centralised bureaucracy.
Unfortunately, early enthusiasm began to wane and the NTC failed to take over responsibility for these activities successfully. The result was that local services began to degrade rapidly, to considerable local disenchantment. But at the same time the essential distribution systems for urban supply, vital in an economy such as Libya’s that depends on imports, never broke down.

There have been other reasons for guarded optimism. Leaders of the major militias had repeatedly said they would be willing to relinquish their autonomy to a centralised security authority if it were effective. To date, the problem has been that no such centralised body has emerged. Even so, in major urban centres personal security still seems relatively high, despite an earlier wave of at least 7,000 arbitrary arrests, detentions, severe ill-treatment and even deaths. Indeed, the latest reports, in July 2012, suggest that the number of such detentions has fallen to around 5,000 people. Against this, of course, are the claims of ill-treatment experienced by Libya’s former premier, al-Baghdadi al-Masmoudi, when he was extradited to Libya from Tunisia in late June. Brutality and ill-treatment are, perhaps, not the defining characteristics of the new Libya, disturbing though they are; on the other hand, the arbitrary nature of the process certainly is.

This issue of militia autonomy is highlighted by the continuing conflict between the demands of the International Criminal Court (ICC) and the intentions of the Libyan authorities over war crimes, not to speak of French intentions as well. It has been exacerbated by the independent actions of the authorities in Zintan, where Saif al-Islam is being held. Four representatives of the ICC, including his putative defence counsel, were detained when they visited him in June on the grounds that they had engaged in espionage, and were only released after protracted negotiations involving the ICC, the NTC and Zintani representatives. The incident was highly embarrassing, because it revealed the comparative impotence of the authorities in Tripoli and the revolutionary refusal to respect the immunity enjoyed by representatives of the ICC. Neither aspect augurs well for Saif al-Islam’s eventual trial and both highlight some of the problems Libya is facing over transitional justice in the wake of the civil war.

Sovereignty, jurisdiction and justice

The issue here is that the ICC had issued arrest warrants for the Libyan leader, Colonel Qaddafi, his son, Saif al-Islam, and the intelligence chief, Abdullah al-Sanusi during the civil war. Although the Libyan leader was killed at the end of August 2011, his son was captured by the Zintan militia in the south of Libya in late November 2011, while Abdullah al-Sanusi was arrested in Nouakchott, the Mauritanian capital, in late March 2012. The Libyan authorities have claimed the right to try the two remaining captives, as has the ICC, while France still seeks Abdullah al-Sanusi for the role he is alleged to have played in the destruction of a UTA flight over Niger in September 1989. Then there is a further tussle between the central Libyan authorities and Zintan over where Saif al-Islam should be tried and by whom.

To most observers, this is a rather unedifying argument about sovereignty, in which an incompetent, weak state without effective central authority disputes the authority of an internationally created and recognised instrument of law. In fact, this is only partially the case. There is, of course, an internal argument about authority and competence between the NTC, its Executive Committee (cabinet) or the new government that will emerge in the wake of the elections to replace the NTC, and regions still controlled by major militias, such as Misurata and Zintan. However, beyond this are two separate problems: the issue of jurisdiction, and the competency of the Libyan judiciary after 40 years of isolation and state management.

The issue of jurisdiction is significant: the ICC can normally only engage if the arena of national jurisdiction cannot guarantee a fair trial, even if the court’s prosecutor has issued an arrest warrant. In the case of Libya, the new government authorities insist that they can ensure that any trial will be fair, despite the fact that the death sentence still exists in Libyan law. So far, therefore, and in spite of the knotty issue of the death penalty, the ICC has acquiesced to the Libyan government’s demands, even though to date other countries have not been so compliant. Thus, Algeria has not agreed to extradite members of Qaddafi’s family to Libya, nor has Niger, although Tunisia
Balanced on a knife-edge: the future of Libya’s new state

has now returned Libya’s last premier, Baghdadi al-Masmoudi. France has challenged the new Libyan authorities’ desire to extradite the former security chief, Abdullah al-Sanusi, from Mauritania – although the Mauritanian authorities seem loath to release him.

Quite apart from these disputes, the question of jurisdictional competency has also been exercising lawyers in Libya itself. Many know that they do not really have the experience to guarantee a fair trial, and are thus seeking outside support to achieve this inside Libya. The issue here is not simply one of legal capabilities; it also concerns what matters could be tried, depending on the jurisdiction used, for the ICC can only try alleged offences committed after February 15th 2011, the date on which the civil war erupted in Benghazi.

The issue of competency could be addressed in one of two ways. Either the ICC could be allowed prior jurisdiction, an outcome that would not be acceptable to Libyans themselves; or professional support must be made available to the Libyan court system. In the latter case, this could be done by creating “hybrid courts” – courts under national jurisdiction, where a mixture of Libyan and foreign judges administer justice. Or the formal court system could be abandoned and replaced by the more conventional instrument of transitional justice, a truth and reconciliation commission. The problem with the latter proposal is that it usually means that retribution is displaced by forgiveness. In the current situation in Libya, this is unlikely to be acceptable.

Medium-term challenges and concerns

Despite the evidence of a general willingness to engage in the creation of representative institutions within a new Libyan state, many more-worrying signs remain. Top of the list must be the issue of security, a reflection of the failure of the NTC and its governmental arm to establish unchallenged hegemony over the post-Qaddafi political scene, as well as the consequences of the hollowing out of Libyan state institutions by the personalised nature of the previous regime. There are simply no institutions to channel the authority of the state that were not discredited by their absorption into a regime that sought to dismantle the state itself, replacing it with informal institutions based on personal loyalties or fear – the tribes and the Revolutionary Committee Movement.

Security

However, the NTC also bore an active responsibility for this as well. The Libyan revolution in 2011 was a complex process, involving three kinds of players: external forces, whether NATO (and behind it, the United Nations – UN) or individual states such as France, Britain and Qatar, often with quite different agendas; the NTC itself, ostensibly responsible for resistance inside Cyrenaica, but isolated from Tripolitania and the capital, as well as pro-regime forces in the central region of Sirtica; and, finally and conclusively, independent militias in Misurata, Zawiya and Zintan. It was the latter that, coupled with an uprising in Tripoli in late August 2011, actually won the war, often after heroic resistance earlier to pro-regime forces. The NTC’s claim, therefore, to be the sole legitimate representative of Libya – recognised with little delay by the international community – rang hollow in the ears of many who took a direct role in the struggle.

The Tripolitanian militias, in consequence, are suspicious of attempts by the NTC or its government to attempt to force them into line and, to date, have resisted all such attempts. Instead, they have carved up the territories under their control into a series of fiefdoms in which they supply a rough-and-ready law and order that could easily degenerate into arbitrary and persecutory violence – and indeed has already done so. The NTC has compounded the problem by failing to create a viable security force out of the remnants of the police and army of the former regime.

The authority of the chief-of-staff it has appointed, Yousef al-Mangoush, is highly contested, both by wild cards such as Khalifa Haftar, a former Libyan colonel detained in the late 1980s in Chad who attempted to create a dissident Libyan force and who only returned to Libya after a long exile in the U.S., and by individuals from the old regime’s armed forces. Meanwhile, to date only 13,000 of an estimated 125,000 active militiamen have
been demobilised and only around 8,000 have been recruited into the new Libyan army, where morale is said to be very low, or the Ministry of Defence’s new Libyan Shield force, which is said to be far better equipped and motivated, but is still too small to challenge the militias. It is worth bearing in mind here that, after a recent militia confrontation following the arrest of two Misuratan journalists, the Misuratan militia surrounded the town of Bani Walid with 150 tanks, which comprise only a small portion of the armed forces it now controls.

Personal histories

The NTC is seriously discredited by its inability to dominate the security agenda, but is also adversely affected by internal tensions and the perception that it is a vehicle of eastern Libyan ambitions. One of the major problems within the NTC, which also has a noisy echo outside it, has been the attitude to be adopted towards former members of the Qaddafi regime. Despite the council’s objective of “reconciliation”, significant complaints have been raised about the roles played by former members of the regime, not least those who currently play or have played roles within the NTC itself.

In July 2011 this resulted in the death of the then-military commander of the NTC’s forces and the former Libya interior minister, Abdelfattah Younis, in mysterious circumstances that have still not been clarified. Earlier in 2012, Mahmoud Jibril, then the effective premier of the NTC’s government and formerly head of the National Economic Development Board, was forced out of office. And, of course, the actual president of the NTC, Mustafa Abdeljalil, was Colonel Qaddafi’s minister of justice. The problem of the NTC in this respect will automatically come to an end after it dissolves itself on August 6th 2012, because Abdeljalil has promised to step down from public life. Jibril, of course, will continue to be a problem for the new Libya, especially if he is forced to act from behind the scenes as the leader of Libya’s largest political formation but is still banned from public office.

The pressure on these individuals is only the particular case of a general concern, i.e. what role should former officials play? Originally the NTC had intended to make use of the existing bureaucracy to administer the country after the Qaddafi regime had been vanquished. This plan, however, is now being increasingly challenged on the grounds of the criminal offences committed by the regime’s members. Linked to this is the problem of the status of former exiles who claim a leading role in the new political system, and – like Ali Issawi – are often among the most vocal opponents of former regime stalwarts. This seriously limited the effectiveness of the government led by Dr Abdurrahim al-Keib, who himself was a returned exile and was accused of ineffectiveness. In fact, the government faced dismissal by the NTC at the end of April 2012, a development that might well have contributed to the delay of the elections planned for June until early July.

Geography and tribalism

These tensions are paralleled by intense disagreements about the past. The collapse of the Qaddafi regime has not been universally welcomed; many people believed in it and its political vision, and they now are part of a persecuted minority. Such tensions divide families and, at a more formal level, cause confrontation at a tribal level too. And the tribe is a political and social reality in Libya, despite the displacement of rural populations and the modernisation of urban society.

In part, the behaviour and policies of the previous regime are responsible for these tensions because, after attempting to eliminate tribal loyalties, it eventually reified them into an instrument of political control by making tribal leaderships collectively responsible for the behaviour of tribal members. It also instrumentalised some tribes as its own supporters against those it perceived as enemies. Thus, the tribes of Sirtica were co-opted into the security services and the Revolutionary Committee Movement, while the tribes of Cyrenaica, formerly dominant as the bulwark of royal power before 1969, were subordinated to them, in a complete reversal of the traditional tribal hierarchy in Libya.

The consequences of these issues have been to embitter the social scene in Libya; this explains the ferocity visited upon Sirt and Bani Walid,
both of them strongholds of pro-regime tribes, at
the end of the civil war. Since then a series of
other groups have been the subject of attack for
similar reasons – in Tawarga, for example, where
the Misurata militia expelled the local population
because of its alleged co-operation with the
Qaddafi regime (but really because it was black,
in an echo of the September 2000 riots), or the
Warshfanna tribe outside Zawiya. More recently
there were disturbances at Zuwarra, also on the
grounds that a local Amazigh population had
collaborated with the Qaddafi regime. In the south
there have been clashes with the Tibu in Kufrah
and Sebha, while at Ghadames the local Touareg
population has been forced out for alleged co-
operation with the previous regime. The result is
that rural insecurity has increased and remnants
of the forces of the previous regime are exploiting
these divisions for criminal ends and in an attempt
to subvert the new regime.

Even more important, perhaps, is the sense
that a common Libyan destiny is increasingly
open to question, to be replaced by a regional or
tribal ethos, particularly in rural areas. This is in
part a reflection of the chaotic security situation
and in part of the resentment felt by the tribes
of Cyrenaica regarding their subordination to
a regime backed for 40 years by the Sirtican
tribes. It is complemented, too, by a growing
sense of alienation in Tripolitania and among the
Fezzan from the east of the country. This found
expression in late March 2012 in the emergence
of a separatist movement in Benghazi, which
further marginalises the NTC’s authority in the
east. A conference of 2,000 delegates, led by a
cousin of the former king, Abdulhakim al-Sanusi,
called for a federal future for Libya. There have
been similar calls from the southern, non-Arab
tribes after clashes with Arab neighbours.

Looking to the future

The fact that all state institutions were either
dismantled or corrupted by the previous regime,
combined with the chaotic nature of a civil war
shaped by geography and external intervention,
generates extremely complex and uncertain
effects in Libya. On the face of it, the outlook
would seem to be unavoidably gloomy: given the
lack of pre-existing institutions, it is difficult to see
how a fragmented population can construct them
without risking a descent into Somali-style chaos.
Indeed, this is one of the great fears that prevail
inside the European Commission and among
many European states. It is for this reason that
the recent elections have been seen as a source
of optimism about the future.

Economic realities

In any case, this scepticism ignores some of the
genuine advantages that Libya enjoys, even in its
current position. First among these must be the oil
and gas reserves it possesses. Its gas reserves
are the most modest of the two, totalling 1.5
trillion cubic metres at the end of 2010. Significant
production only began two years ago, at a rate
of eight billion cubic metres a year supplied to
Sardinia, but the production-to-reserves ratio is
98 years. At the end of 2010, with oil reserves
of 46.6 billion barrels, compared with only 22.8
billion barrels in 1990, Libya had the largest
proven reserves in Africa, equivalent to one-third
of the continent’s reserves and 3.4% of the world
total of conventional reserves, with a production-
to-reserves ratio of 76.7 years.

In 2010 Libya produced oil at a rate of 1.659
million barrels per day (b/d), and by the end of
2011, production, which had fallen to virtually
zero during the war, was back to a level of 1.5
million b/d. Admittedly, the oil facilities, particularly
storage and refinery infrastructure along the
coast, were badly damaged in the fighting, and
these production levels could only be sustained
by cannibalising existing equipment to make the
damage good. Nonetheless, it was a remarkable
achievement. Much of the country has not been
properly surveyed, so the eventual available
reserves may prove to be far greater, with all
the promise this would imply for funding the
construction of a modern state.

Although the Arabian Oil Company, which handles
oil in the Eastern Sirtica Basin and in Cyrenaica,
has recently threatened to break away from the
National Oil Company, as part of the threat of
a Cyrenaican project for autonomy, the general
attitude inside Libya is resolutely opposed to such
initiatives. The real problem in the immediate
future, of course, is security. Without it, foreign
oil and oil service companies will not return.
Nonetheless, ENI, a major operator in Libya,
is back and this will encourage others to join it, especially now the Qaddafi regime is gone and the political operating environment seems far more welcoming after the successful outcome of the electoral process.

Another important consideration will be the finances of the state, given the cost of the war and of repairing Libya’s dilapidated infrastructure—already poor before the war began, but now damaged by the fighting. In the short term, the outlook is bad: the UN froze Libya’s foreign assets at the start of the conflict and it will take a long time for this to be fully reversed, despite promises last September of speedy action. Some $15 billion has been released already, but as much as $150 billion is believed to be concealed worldwide. In the medium term—up to five years hence—this represents a very nice nest egg for a future Libyan government, and will provide a ready way of rebuilding both the infrastructure and the wider economy.

This will, of course, require firm economic policy to establish the foundations of the new state, shifting from the autarkic structure of its predecessor and from the corruption that also characterised the past. There is no doubt that any new government will encourage the development of a market economy with a vibrant private sector, although whether this will meet the full agenda of neoliberal economic development theory is not yet clear. There are also disturbing signs that entrepreneurs who were active under the Qaddafi regime have rushed to exploit the possibilities offered by the existing chaos in Libya. Whatever the outcome of national elections and, more importantly, the nature of the new constitution to be drafted later in 2012, rentier practices are going to be extremely difficult to avoid.

**The political agenda**

Alongside security, the new Libyan state will need a firm sense of political direction, and it is this that was seen as the desired outcome of the electoral process in July. Some observers have argued that it would have been better to establish a working constitution first, as a precursor to elections, and that this should have been the primary objective of the NTC. However, this would have been politically impossible in the immediate aftermath of the civil war and in view of the attacks made on the national legitimacy of the NTC itself. As a result, the constituent assembly that results from the electoral process in July will bear a heavy responsibility.

If the constituent assembly is successful by the end of this year, Libya will have a constitution designed to allow the new state to emerge and assume the reins of a reviving economy. Of course, this is predicated on the ability of the new state to dominate the security situation as well, requiring militia leaders to agree to the new constitution and accept the new state’s hegemony. However, once the nature of state institutions becomes clear, this might be easier than expected, especially if separatist tendencies are co-opted and tribal leaders find their place within the new structures. In part this will require Libya’s new elected leaders to devise ways in which the interests of these sectional and potentially fissiparous groups can be accommodated, rather as was done in Latin America in the waves of democratisation of the 1970s and 1980s.

In short, even though it would have been preferable for the security situation to have been clarified already and for the reconciliation sought by the NTC to have begun, it now seems likely that institution-building and security management will have to take place in parallel. This is going to be an immense, but unavoidable challenge. It also means that it will become a long-term project and that considerable external input will be necessary.

However, it is also clear that Libyans have been empowered by their successful struggle against the Qaddafi regime and that they will therefore jealously guard their prerogatives in controlling the construction of the new state. External players who wish to become engaged in the process of reconstruction can only do so provided they are not perceived in some way to be attempting to direct the process. Furthermore, in becoming engaged, they must also be clear about their own motives for what they propose, for they may mediate or assist, but not determine what should be done. It is not clear whether all external parties fully understand this novel and, perhaps, uncomfortable position.
Possible donor approaches

External help is at hand, although it will do little to resolve the security dilemma unless direct intervention is contemplated – something that would unite Libyans in opposition and inflame public opinion throughout the Arab world. At present there is a UN post-conflict mission, another from the European Union (EU), advice from America’s U.S. Agency for International Development, and diplomatic missions from Britain and France, all eager to contribute to the new Libya that is to emerge. Some countries may have motives not quite as noble as others, and already fears are being expressed that commercial reward may be a bigger driver in some cases than disinterested concerns about democratic governance. But the greater danger is that, without co-ordination, well-meant help might smother a nascent democracy in a plethora of ill-planned initiatives.

In reality, then, what can outside powers do? They clearly cannot engage in establishing security, nor can they overtly restructure the political scene. Engagement with the economy will certainly be easier, but almost certainly will present major problems of developmental design because of the Libyan state’s inbuilt propensity to rentier practices. That said, the following practical steps could be undertaken:

1. Once the militias have been persuaded to disarm, Libya will face the major task of rebuilding its security forces, not so much in terms of the costs involved, but in terms of training. A new police force, based on the concept of public service rather than repression, will be needed for urban centres, accompanied by a gendarmerie for rural areas. In addition, as security extends outwards from the two major urban centres, a border security force will be needed, together with an oilfields protection service (currently being undertaken by militias) to ensure security for foreign and national operators in the energy sector. Finally, the new Libyan army will require training, not least in counter-insurgency techniques, given the current situation in the Sahel. But, beyond all of this, the new authorities in Libya will need advice and guidance on civil-military relations, in a country where such political relationships have not existed for decades. European states have experience in all six fields, and should be ready to offer advice and material support over the next five years in achieving these goals.

2. In parallel to this and over a much shorter timescale, Libya will require support in establishing effective, fair and accountable electoral processes. It is important to remember that the electoral process that took place in July 2012 was only intended to create an assembly designed to draft a constitution, which must then be approved by referendum. Specialist advice may well be needed at this stage, as a further electoral process should take place within a year for a legislative assembly. Expert advice should be made available over the detailed construction of democratic procedures.

3. Nor should it be forgotten that Libya also has to establish a whole structure of local government as well, because the jamahiri system no longer exists and the plethora of spontaneous committees that have been undertaking local administration to date will need to be professionalised. Some quite specific issues need to be addressed, not least the future role of informal political structures related to the specific roles allocated to tribal leaderships by the Qaddafi regime. This is a medium- to long-term process and much professional advice will be needed.

4. The legal system, too, will need to be restructured – as the Libyan legal profession willingly admits. This, however, will be an extension of the current concerns, mentioned above, over transitional justice and reconciliation. Yet the issue of establishing effective rule of law is perhaps as important as electoral and political reform if the problems of “illiberal democracy” highlighted by Fareed Zakaria and the dangers of democratic transition emphasised by Paul Collier are to be avoided. Allied to it will be the question of penal reform, for not only will the political prisons of Abu Sulaim and Ain Zara need to be restructured, but attention must be paid to the myriad informal prisons – both from the previous regime and now those under militia control. Interestingly enough, reform of the normal penal administration under British supervision has already begun.
5. Educational reform at all levels of the system will be a priority and will take at least five years to complete. Higher education was distorted by the rhetoric of the Green Book, which also permeated down into the secondary school system as well. In addition, Libya has depended in the past on education abroad for university access, in addition to its own institutions. Education had, nonetheless, been a priority of the Qaddafi regime. By 2004 there were 1.7 million students in Libya’s 5.9 million-strong population, with over 200,000 in the tertiary sector and a further 70,000 at technical and vocational centres. This figure compared with 13,418 students in higher education in 1975, when Libya had only two universities – Al-Fatah in Tripoli and Gar Younis in Benghazi. By 2004 the number of universities had risen to nine and there were also 84 technical and vocational centres. As mentioned above, many Libyans also received tertiary education abroad with state support, although detailed statistics are not available. By 1978, for instance, more than 3,000 students were in the U.S. and about the same number in Britain. However, the skilled pool in Libya is still too small and its quality is poor.

6. Perhaps the greatest challenge is going to be economic reform, not least because the experiences of the past 18 months in the Middle East and North Africa have demonstrated that previous attempts to resolve endemic problems of under-development have failed. This is particularly true of the EU’s grandiose projects of region-wide market stimulation and integration. In other words, no ready-made model is available and thus the reconstruction of the Libyan economy will present a major challenge. On top of this, Libya presents quite specific problems as a rentier economy – an economic conundrum to which few states have found effective solutions. There is also a major question of the Libyan environment, given its status as an arid region with a burgeoning population. Water provision, despite – or perhaps because of – the Great Manmade River, is a serious problem. Dealing with all these issues will take at least a decade.

It is clear that outside support in all these areas is essential and that European states, despite their current financial problems, could easily provide it. They have the resources in terms of governmental support and NGO expertise. Whether they have the stamina and humility for the long-term engagement that will be required, however, is not so clear.

Conclusions

Provided the new Libyan authorities can resolve the issues of security control and effectiveness, together with the related but much more complex concern over “reconciliation”, Libya’s future could turn out to be encouraging. The additional condition for success will be the successful completion of the electoral cycle, which began in July 2012 and which should be completed a year later. In short, within a year it should be possible to see steady progression in Libya towards a completed democratic transition. Although financial considerations should not hamper this process, given Libya’s oil and gas reserves, the outstanding problem of frozen foreign assets could prove to be an impediment in the short term. The longer-term transition involved in rebuilding the state could take at least a decade to complete.

There are also unresolved structural problems that will have to be addressed. Should Libya continue to be a unitary state, or will a federal solution – tried after 1951, but abandoned as unworkable in 1963 – be more appropriate? To what extent can the differences between Cyrenaica and Tripolitania – partly a result of the nature of the civil war, but also a reflection of long-standing tribal tensions – be resolved in the near term? Will reconciliation be possible, or will Libya continue to be a fragmented agglomeration of antagonistic groups, each with a different narrative of the past? Even if the first stage of democratic transition described above is successful, these problems may linger for some considerable time. Indeed, they could in the end defeat the optimistic prognosis given above. At the moment, Libya is still balanced on a knife-edge; external support might be the guarantee of success, and its lack or poor application will create the certainty of failure.
Bibliography


