

Libya's absent national dialogue

By Mustafa Fetouri

■ Executive summary

Dealing with the consequences of a violent upheaval such as the civil war in Libya in 2011 is problematic in a context of political instability such as the one that pertains in the country currently. Libyans need to reach a consensus on how to proceed through a process of inclusive national dialogue to achieve national reconciliation. However, the country's politicians do not understand Libya's reality and assume that all Libyans supported the "revolution", which is not the case. Furthermore, the General National Congress has passed several measures that undermine reconciliation. The government has not supported reconciliation initiatives, while the country's inexperienced civil society does not have the capacity to implement successful dialogue initiatives. This report concludes by laying out the conditions needed for successful dialogue, discussing the role of the international community in this regard, and listing the goals and objectives of a national dialogue.

Every major upheaval is followed by a series of violent, cross-cutting and largely unexpected transformations of the social fabric. These changes touch on questions as deep and sensitive as identity, social behaviour, and previously cherished values. Dealing with these issues in the aftermath of a major upheaval is far more complex than in a context of political stability.

What happened in Libya in 2011 has illustrated exactly this, with the additional complexity of a tribe-dominated social structure and the instability caused by major stakeholders continually trading places.

To remedy the situation Libyans have now to go back to their social drawing board to reach a consensus on how to proceed. In a country where tribes have been a pillar of power for over four decades and where, to a lesser extent, regionalism has played an important role, any solution to the country's serious problems of instability and lack of progress are bound up in society, not outside of it.

Tribes do not build modern states and are in fact often a hurdle preventing their realisation. But they do create stability, however temporarily, and even temporary stability is a prerequisite for any state-building efforts. Tribes can enforce or deny security, which is essential for stability.

Why is national dialogue important?

It is obvious why national dialogue leading to reconciliation is vital to Libya's very existence as a state, particularly a unified one. But dialogue cannot be an exclusive realm limited to the country's typical political actors. Indeed, most of the country's political players are either ideologically driven and thus represent a small minority (i.e. Islamists of all colours) or liberal parties that only came into being in the last couple of years. These groups, like many others, have neither social roots, nor a wide political base among a population that has had no experience of political parties. Indeed, while political entities are important to any democratic process, their particular political agendas make them untrustworthy in dealing with an issue as sensitive as a national dialogue to achieve national reconciliation.

However active political parties and civil society are at the moment, Libya today is as it was fifty years ago: a tribal society in which tribal loyalty precedes loyalty to the state. It will be years before we can say that the country's political entities are actually representative of the wider population. Tribes can therefore play a significant role in any potentially successful national dialogue – which does not mean that other political players like parties and civil society organisations should be excluded. Indeed, unless Libyans at the tribal level come to terms with what happened in 2011 and agree on a frame of reference accepted by all at the national level, any dialogue will always be handicapped.

Why has dialogue failed thus far?

In Libya national dialogue has neither been taken seriously nor been given a prominent place on the national agenda. Just after the former regime was overthrown and Qaddafi was killed in October 2011, the new political leaders continued to commit two major and fatal errors. Firstly, they seemed to know very little about the reality of their country and, secondly, they appeared to think that a winner-take-all policy might work to pull the country together, based on the assumption that the majority of Libyans supported the so-called “revolution”. Such a belief comes as no surprise if we remember that many of these leaders, particularly those who led the first two transitional governments from November 2012 to March 2014, were members of the Libyan diaspora, some of whom had not been in the country for decades. Thus, their basic knowledge of the country they were brought in to govern was questionable, at the very least. It is noteworthy that none of the transitional governments from 2011 to the present has made it a priority to initiate national dialogue with the aim of eventual reconciliation.

Similarly, at the height of the euphoria of the time, almost none of the newly founded political parties or leading figures of the “revolution” considered dialogue to be an important first step to rally Libyans around key issues like reconciliation, transitional justice, conflict resolution and preventing war in the immediate future. Many, including the first and second prime ministers, thought that Libyans would soon forget what happened – since people were united around the single goal of the regime’s fall – and that any grievances could be settled once the Qaddafi regime had been overthrown. Of course, this proved to be short-sighted political thinking by novices who had only a superficial understanding of the country that they supposedly governed.

Government measures that contradict reconciliation

Under continuous pressure from burgeoning and heavily armed militias, each government was more concerned with its day-to-day survival, which did not include dialogue. The General National Congress (GNC) – the first parliament elected in July 2012 – also passed a series of laws that hardly prioritised reconciliation, if not contradicting its principles altogether. In fact, the infamous Political Isolation Law (PIL) is effectively a huge block to national dialogue and reconciliation. Passed in May 2013 under threat of force, the PIL aimed at purging the state of former regime officials. However, it ended up excluding large sections of highly qualified Libyans and preventing them from playing any political role in building the “new Libya”. Those who were excluded, labelled as “losers” of the “revolution”, felt alienated and therefore tended to act as a disruptive force.

Another GNC decision came to constitute a major obstacle to reconciliation. In October 2012 the GNC – once again

acting under threat – passed another deeply divisive ruling known as Decision no. 7. This decision authorised the use of force against the city of Bani Walid, the home to the Warfalla tribe and the community that had constituted the most serious opposition to the NATO-backed rebels in 2011. The decision was grounded in accusations that the city was harbouring wanted individuals and former regime officials. Yet it proved highly counterproductive as it widened the confidence gap between the local community and the new central authorities. If Bani Walid’s inhabitants are to play any constructive role at the national level in the future – which they undoubtedly must – they will have to insist that the decision be retracted before any rapprochement can take place. In the political conditions currently prevailing in the country this still seems highly improbable, however.

Lack of government support for the only serious initiative

The only serious attempt to bring Libyans together was the initiative taken by the National Forces Alliance (NFA) led by Mahmud Jibril in 2013, which aimed at gathering tribal and regional leaders together with political parties and civil society. Both the NFA and the Justice and Construction Party (JCP), the two major political blocs in the GNC at the time, were to take part in a dialogue, which made it a potential element for success. Libya’s mufti, along with other Islamist leaders, was invited, as well as “revolutionary” leaders who were included in the initiative as a way to pacify or neutralise militias.

Especially important for the credibility of the initiative was that it was inclusive, with no preconditions for participation other than the shared objective of saving the country. Moreover, the initiators tried to avoid the most divisive issues in the first stage, since it was assumed that bringing such issues to the table could jeopardise dialogue.

Yet the prevailing political atmosphere at the time – one of growing tensions and polarisation – along with the militias’ dominance and the weakness of ‘Ali Zeidan’s government, hampered the initiative and eventually brought it to an end. ‘Ali Zeidan’s government, in addition to being very weak, chose neither to get involved nor to publicly support the initiative because the NFA and JCP were competing for power. The media also largely ignored the initiative.

Failed initiatives by civil society

From November 2011 to early 2014 many civil society groups tried to play a role in the national reconciliation process and chose to focus on establishing dialogue as a priority. Yet all these attempts failed.

The National Dialogue Preparatory Commission (NDPC), created in August 2013, constituted the most serious of these civil initiatives. An independent body led by Fadeel Lamin, an international expert in public law and political

transition, the NDPC included representatives of all political factions and communities in Libya. It conducted several tours throughout the country in an effort to facilitate some sort of dialogue with local actors. Its leaders enjoyed undeniable credibility and included well-known figures such as lawyers and human rights activists Salwa Bugaighis and Fethi Terbel, both from Benghazi, and Tripoli university professor Al Hadi Abu Hamra. Yet without serious political support and in a poisonous political context, the initiative had no chance of succeeding. The NDPC ceased its activities without the government being capable of following up on and enacting its recommendations. On June 24th 2014 Salwa Bugaighis, the NDPC's most prominent member, was murdered. While many such efforts were sincere, inclusive and unbiased, they lacked vibrancy, clear communication and the kind of approaches required in a tribal environment.

Challenges for civil society organisations in a tribal context

As a rule, the country's lack of experience with civil society proved to be a major hurdle preventing these dialogue initiatives from achieving results. Under Qaddafi, Libya had no real experience of civil activism apart from government-supported trade unions.

Instead, what appeared closest to civil society organisations (CSOs) were mechanisms established by the regime itself, such as the People's Social Leadership, whose main role was to settle arguments and conflicts between tribes at the national level, while its local offices would handle local conflicts. Ironically, such organisations have proved to be useful for administration, crisis management and security provision at the local level after 2011. They have largely remained operational, even though under different names.

Starting in 2011 Libya witnessed a national frenzy of CSOs advocating for almost everything. They lacked leadership, however, and had little experience or knowledge of what they were supposed to be or do. For this reason they were clearly not the most relevant actors to tackle sensitive issues such as national dialogue and reconciliation. Indeed, it has been difficult for them to operate and facilitate positive results in a context largely shaped by tribes and tribal structures. Tribal leaders would address issues from a social angle, not through a political approach. A tribal leader from Bani Walid, for example, would find it difficult to understand or make himself understood by a young person operating under a CSO umbrella and with little knowledge of history. The tribal elder would prefer to talk to a peer who is directly involved with the issues at hand. This was illustrated, for instance, by the success of the reconciliation efforts undertaken by tribal elders from the Warfalla tribes and the city of Zawiyah in 2014. Success was possible mainly because peers from both sides could meet face to face.

Dealing with the legacy of the revolution

Besides, none of these numerous CSOs managed to distance itself from total submission to or acceptance of the so-called February 17th Revolution's principles and goals, even though these principles and goals are neither documented nor publicly stated in a document that would reflect wide consensus. CSOs did not realise that, even if such goals and principles exist, not everyone in the country accepts them as facts: they are as controversial as the event that produced them.

Looking at the matter differently leads automatically to the dangerously misleading conclusion that almost all Libyan tribes hated the former regime to the point that they welcomed NATO's operations aimed at toppling it, whatever the destructive consequences of these operations. In fact, NATO's war on Libya in 2011 constitutes one of the most contentious issues among Libyans and is likely to remain a major hurdle to any reconciliation process, making it very difficult, though not impossible.

As a rule, CSOs seemed to consider the issue through either a legal prism or a political one – or both – but they failed to recognise that what happened in 2011 was more of a civil war than a nationwide revolt against the former regime. Hence, most CSOs that dealt in one way or another with the issue of reconciliation seemed to agree on the assumption that after 2011 Libya has been divided between "losers" and "winners". This cannot be a good starting point for any national dialogue aimed at saving the country, since victors always dictate their own terms and exclude all others.

Conditions for successful dialogue

In the August 2014 round of fighting between the city of Zintan and the coalition of Misratan and Islamist forces, Zintan approached the Warfalla tribes in search of allies, building on their common history of tribal links and alliances. One of the conditions for the Warfalla to agree on such an alliance was that Zintan should recognise what happened in 2011 as anything but a "revolution". The Warfalla, as well as other like-minded tribes, wanted their peers who supported the "revolution" to climb down from their "false" claims of being the great "victors of the revolution". This episode illustrated that "victorious" cities cannot go forward without the "defeated", including the Warfalla.

Another factor for successful dialogue would be if all Libyan tribes accepted that the pre-2011 events have to be either set aside or at least shelved until the state can carry out its judicial responsibilities properly and exercise full sovereignty. Consequently, violence should be renounced and the role of the militias in law enforcement will have to come to an end. Displaced communities should be allowed to return or be compensated, missing persons should be accounted for, corpses repatriated, and Libyans who have been detained arbitrarily should be freed.

Just as importantly, foreign – particularly regional – interference in Libyan affairs will have to cease. United Nations (UN) Security Council Resolution 2471 – which threatens sanctions against local militias ransacking Libya – touched on this issue, but has so far lacked teeth. The UN should act appropriately to implement and reinforce this measure. No other country should be given a free hand to meddle in Libya's affairs. The same should be said about illegal groups and terrorist organisations that operate from bases in Libya. Such groups continue to deter efforts to rebuild the country and hamper any national dialogue, let alone reconciliation. Unless it actively supports dialogue, no financial assistance or arms should be provided to any party in the country.

The role of outsiders and the international community

At the outset the so-called international community was part of the Libyan crisis. From 2012 we saw it shy away from Libya as the country descended into chaos. The international euphoria that surrounded Libyan military, diplomatic and economic issues in 2011 has given way to despair and inaction, effectively leaving Libyans to fend for themselves in an increasingly turbulent region.

It took two years (from 2012 to 2014) for the UN to recognise the severity of the problem facing Libya and adopt Resolution 2471. Though late and lacking teeth, if the resolution were implemented it could bear fruit. It would have been much more effective, however, had it been adopted and enforced a year ago.

Comparing the UN's swiftness to act in 2011 to its current inaction makes any reasonable observer question the international body's sincerity and seriousness about Libya. It increasingly validates the theory that the UN's main objective back in 2011 was to topple the regime, come what may.

Libya is increasingly becoming a regional proxy war for Qatar, Sudan and Turkey, on one side, and Egypt, Saudi Arabia and the United Arab Emirates, on the other. Major world powers seem either busy with other urgent crises or like what they see and hope that a single victorious party will emerge out of the bloodshed in Libya. In the meantime well-known terrorists are in positions of power, but no one seems to be bothered by this.

Goals and objectives of national dialogue

National dialogue is not only essential, but must be the first step of any serious transition process because it aims to bring Libyans together again to set their country on a new course. If Libya is ever going to be a viable, stable and peaceful state, it will be the people who will carry the torch forward, but divided people are likely to create more divisions.

In the short term, national dialogue is likely to produce a social safety net for the transitional justice process, once it starts. But transitional justice has a minimal chance of success in settling any serious grievances unless it occurs within a nationally accepted legal framework. Such a framework can only be achieved once the state is functioning properly and people broadly understand and accept its mechanisms.

If transitional justice is going to settle legitimate complaints at the national level it has to be preceded by a national dialogue that leads to reconciliation, otherwise it will look more like settling scores than a genuine healing process.

Offending individuals on both sides of the 2011 conflict must be held accountable for their actions, regardless of their political or tribal affiliations. This should include acceptance of the jurisdiction of the International Criminal Court (ICC). Moreover, besides its already ongoing investigations, the ICC must also investigate a series of crimes that appear to fall within its jurisdiction, i.e. the cases of the thousands of Libyans who suffered at the hands of unruly militias after October 2011. Anything short of this will lengthen the process, jeopardise its credibility and subject it to disruption.

To save time and move forward Libyans will have to agree on a different mechanism to address any legitimate complaints against the state for what happened during the four decades of the Qaddafi era. With little respect for the law and far less confidence in the judicial institutions currently in place, it is hard to see how certain tribes could, for example, hand over their members to stand trial for crimes allegedly committed decades ago if the most recent offenders are not held accountable.

Even former regime officials currently imprisoned are considered as victims of militias' brutality, not as prisoners detained in jails run by the state. Their communities and tribes consider them "prisoners of war" at best. According to international law, prisoners of war should be freed once hostilities end. Yet this view is countered by another more radical view in which the "victors" see the "losers" as having no place in a new Libya. This is an attitude that must be neither condoned nor tolerated.

National dialogue is so critical because the process itself will lubricate the wheels of social harmony and set in motion a return to social values shared among community members. The loss of this harmony is to blame for many of today's social ills in Libya.

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