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Ten years after the uprisings in North Africa and the Middle East

Historical roots, political transitions and social actors

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Ten Years after the Libyan Uprising: The Journey of the State and its Political Losers

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Abstract

The 2011 uprisings in North Africa are usually intended as a u-turn in the recent history of the region and an opportunity for social and political change. The scholars usually focused their analysis upon the new and young social forces unleashed by the uprisings, however another relevant trajectory is that related to the losers of the political and social conflicts who did not simply disappears. Ten years after the 2011 uprisings, looking at the defeated elites is important because, in more than one case, they were still playing a role in their countries. In Libya this was the case of al-Qaddafi's second child Saif al-Islam's candidature for the presidency of the state at the general elections that were scheduled for December 2021. This fact testifies the multiple continuities of the previous regime and could explain the weakness of the current Libyan transition both in writing the new constitutional charter and in reshaping the political system as well as the idea of nation.

Keywords: Libya, al-Qaddafi, constitution, decentralization, conflict

Introduction

Après des décennies d'efforts délibérés, pour ébranler l'Etat, les élites mêmes de cet Etat pourraient remporter un succès pervers car la Libye elle-même pourrait bien se désintégrer après le départ de Kadhafi. Le pays se divisera alors entre des camps armés, organisés autour d'appartenances provinciales ou religieuses, et la bataille qui finira par engendrer un régime reconnu par tous les Libyens ou, en tout cas, par la plupart, pourrait durer des années.

(Anderson 2000: 15)

In 2000, Lisa Anderson, among the most prominent scholars in the field of Libyan studies, wrote what now seems like a prophecy: Mu'ammar al-Qaddafi's attempts to deconstruct the post-colonial state during the four decades of his continuous revolution had concentrated and personalised power in a manner that could never be compatible with a smooth regime change.

Despite some general representations and analyses where the current Libyan civil war has foundations in an aprioristic weakness of the state, in reality the history of the last forty years was characterized by a long process of minimising the role of post-independence institutions and massively reshaping their functions according to al-Qaddafi's revolutionary ideology. In Western countries, the fall of al-Qaddafi's regime in 2011 represented an opportunity to normalise Libyan exceptionalism and finally include the country in the Western democratic order. However, the resilience of Libyan exceptionalism was insufficiently considered: the uprisings across the Middle East and North Africa region enabled the Western Counties to widely try to impose democratic conditionalities and in fact military intervention in Libya was intended to "achieve security objectives and further liberal goals, [but] should not be expected to [foster] democracies overnight" (Chivvis 2014: 204). Meanwhile, NATO's intervention under the auspices of the UN far exceeded the provision of Resolution 1973 "to take all necessary measures [...] to protect civilians and civilian populated areas under threat of attack in the Libyan Arab Jamahiriya"[1] in pursuit of the real objective of toppling al-Qaddafi's regime (Boyle 2013: 173). NATO's intervention set in motion the violent transition that fuelled the then-germinating civil war: the lesson of the operation in Libya is that "liberal ideas could may be universal, [but] decisions to intervene are always particular in nature" (Chivvis 2014: 203). Moreover, the popular movement that emerged to counter militias and foreign allies was not able to challenge the military hold on power (Asseburg and Wimmen 2016).

The expectation of regime change in Libya was fostered by international supporters in connection with local elites and representatives of the Libyan diaspora. Thus, the international and domestic dynamics of the present Libyan crisis are intertwined: external forces reacted with the internal sense of discontent towards al-Qaddafi's leadership, especially those marginalised by the redistribution system based on oil revenue. The National Front for the Salvation of Libya (NFSL) in London was particularly active in cultivating aspirations for a democratic transition (Alunni 2019: 246-252), collaborating with the other anti-regime groups that had increasingly embarked on a process of politicisation during the 1980s and 1990s, when al-Qaddafi's internal repression was compounded by the country's international isolation. The hope for a regime change was equally desired by the anti-regime Islamist groups abroad which were always the main target of al-Qaddafi's repression (Mezran 2012: 164-169). After al-Qaddafi's fall, all these different groups acted to influence the transition according to their respective ideas and plans. Notably, although the founder of the NFSL,

Mohammed al-Mugariyaf, was formerly a Muslim Brother, the group is not considered an Islamic organisation by Western or Arab governments; nonetheless, the group still represents the importance of Islamic opposition in the shaping the anti-regime stance (Pargeter 2011: 87).

The idea of a transition towards a Western-style democracy was challenged by entities that preferred to make Libya an Islamic state, according to a very broad ideologic pattern that extends from the most militant jihadists to the more moderate supporters of Islam in the public sphere and from the Muslim Brotherhood to the supporters of Hezbollah and the Iranian theocracy model (Adly 2012: 54). Neither model had achieved any substantial grip on the Libyan society, partly because of al-Qaddafi's prolonged internal repression and persecution of not only Islamists but also Western-minded political activists. Furthermore, the tension generated by ideologies of change imported from abroad, whether democratisation or political Islam, did not consider the fact that, inside Libya, the discontents of al-Qaddafi's regime mostly aspired towards a different allocation of economic resources, especially oil revenues, and there was no coherent and clear political ideology. The main target of the rioters was al-Qaddafi's power and the Jamahiriya itself. That is, the idea of a democratically motivated pre-meditated uprising was an oversimplification and definitely incorrect interpretation, as too was the notion of a secular revolt, an understanding that did not properly consider the role of Islam.

The difficulties associated with importing foreign state models into post-al-Qaddafi Libya were connected not only to the continued foreign interferences in the Libyan crisis or even simply competition between the possible alternative models, but also to the objective complexity posed by the peculiarity of the al-Qaddafi state as a starting point. The Libyan Arab Jamahiriya represented the highly original form of the al-Qaddafi state, a nation that the Colonel characterised in terms of direct democracy and Arab identity. However, instead of the principle of representation, upon which Western democratic models are based, al-Qaddafi's Jamahiriya adopted the principles of delegation and general consensus to cultivate direct participation and democracy. In this context and considering broader historical understandings, this paper extends beyond the well-known competition between Westernised and politically Islamified elites in the current Libyan scenario and analyses the legacy of the former regime and the resilience of the losers of the 2011 uprising and its influence on Libya's present transition. Specific reference is made to the process of constitution writing, the reappraisal of electoral representation after the abolition of political parties in 1952, and the rethinking of the Libyan nation in order to discuss the logic of change and the logic of reproducing previous apparatuses and political practices during the decade of transition between 2011 and 2021.

Because the 2011 Libyan crisis erupted as a civil war, the ongoing role of the loyalist forces cannot be reduced to the first phase of confrontation with the revolutionary

forces and their international allies. Many ordinary people remain convinced of al-Qaddafi's idea about "the evils of political representation and political parties" (Lacher 2020: 22-25), and the supporters of the former regime, whether military personnel or civilians, continued to represent an important part of the Libyan society long after the defeat of al-Qaddafi's last troops in 2012. These individuals adopted a strategy of non-visibility and undercover actions, but they did not disappear at all. Furthermore, in the medium term, they reorganised and tried to return to play a political role. This makes it possible to understand al-Qaddafi's second child Saif al-Islam's candidature for the presidency of the state at the general elections that were scheduled for December 2021, but have since been indefinitely postponed.

From the Jamahiriya towards the Constitution

After al-Qaddafi's regime fell, the search for a new institutional state structure became among the most disputed issues in Libya. In al-Qaddafi's Jamahiriya, there was no need for a constitution or political parties because of the different form of al-Qaddafi's state compared to Western models. The political legitimation derived from the 1969 Revolution overcame the concurrent legitimation related to the constitution and made political parties out of date, granting full power to the military elite: "[t]he individual - said al-Qaddafi - has the right to decide for himself to govern himself without representatives, without parties, rulers or government" (reported in De Bona 2013: 122). In the Cold War context, al-Qaddafi's revolution promoted socio-economic and cultural rights as a means of overcoming foreign dependency and internationally enhancing the principle of self-determination at the expense of the principle of separation of powers. In 1977, "the Declaration of Authority of the People" established the Jamahiriya and assumed the status of basic law in Libya with the political purpose of addressing the problem of "quasi"-sovereign post-colonial states (Jackson 1990). According to al-Qaddafi's political discourse, the Western international limitations on Libyan independence and, above all, the presence of US-UK military bases on Libyan soil represented proof for the "false independence" obtained in 1951 (Vandewalle 2006: 86). The abolition of private commerce and rental contracts, the transfer of property ownership to the sitting tenants and the establishment of a minimum wage, interest-free loans and free access to education and medical care were all revolutionary measures intended to deconstruct the social and institutional assets of the post-colonial state. Among the pivotal concepts in al-Qaddafi's *Green Book* was the notion of statelessness, which refers to the absence of state and hierarchical bureaucratic institutions in combination with the promotion of egalitarianism across society. In this sense, al-Qaddafi's Revolution was literally dismantling the post-colonial state and, for the same reason, the concept of a constitution was rejected. For the al-Qaddafi's thinking, the principle of representation and the Western parliamentary democracy is questionable because, hypothetically, 51 per cent can rule over 49 per cent and for

this reason this principle should not be really able to implement democracy unlike the principle of delegation and general consensus of al-Qaddafi's system.

The single-party model was adopted at the very beginning of the Libyan revolution and, along with the Nasserist example, established, in 1971, the Libyan Arab Republic and the Arab Socialist Union. This model became outdated in 1973, and in 1977, the Jamahiriya took control. Under the new order, political address remained in the hands of al-Qaddafi and his military companions of the Revolutionary Command Council, while the country's governance was handed over to the Revolutionary Committees, which were granted police functions and tasked with guaranteeing internal stability and dispensing justice. Al-Qaddafi's idea of direct democracy intended to utilise the Basic People's Congresses to mobilise the Libyan people and involve them in the governmental activities of the People's Committees and in the legislative prerogatives of the General People's Congress. Despite the theory, "no actions may be taken without the intervention of the country's revolutionary sector and the Revolutionary Committees reduce the freedom of direct democracy to that of an occasional democracy" (Mattes 2011: 59). The system remained unchanged until the 1990s when the rising internal discontent in combination with the foreign isolation and international embargos urged a series of adjustments - if not real reforms - of the revolutionary apparatus. Nonetheless, all the changes primarily intended to secure al-Qaddafi's power into the new era and reinforce the Jamahiriya: mobilising the people meant to replace the expertise of the bureaucracy of the post-colonial state with a constant turnover of the leadership that would produce a "temporary elite" in power; however, in reality, the new government served to defend the monopolistic power of al-Qaddafi and his inner circle (Obeidi 2011: 105).

Since the 1990s, al-Qaddafi's political discourse concerning the people's rights updated the institutions of the Jamahiriya and combined the introduction of Islamic law, the *shari'a*, with a massive process of economic liberalisation and privatisation (*infitah*). In 1998, 26 regional bodies, or *sha'biyat*, were created to liaise between the Revolutionary Committees and the central authorities with the purpose of more heavily involving the people in the revolutionary regime. Despite this attempt to decentralise power without really entering al-Qaddafi's central leadership into discussion, the public response was poor. Accordingly, the practice of al-Qaddafi's power turned to the co-option of the chiefs of *qabila*-s (extended kin groups) in the government and administration of the state. Their role was institutionalised with the establishment of the People's Social Leadership Committees: al-Qaddafi "attempted to create a dense network of clients through which the leader's initiatives could be translated into political action" (De Bona 2013: 65), but his "utopia" of governing without a state in a world of states finally fuelled an "alternative organisation based on tribal identities and loyalties" (Anderson 2000: 13). Involving chiefs and families in decision-making seemingly shifted Libya back towards the King Idris period, when the political system and the state administration

were based on a loose network of family and religious alliances. However, the notable people and chiefs that al-Qaddafi involved in the final phase of his regime change were not those same people that he dismissed at the very beginning of his revolution, i.e. those who had served the Sanusi monarchy.

Al-Qaddafi emphasised and manipulated the idea of a nomadic and rural society in Libya as well as belonging to the *qabila* that represented an important part of the Libyan history, but not necessarily experienced or prioritised by all Libyans. Although this manipulation of the historical and social concept of *qabila* had different purposes, it ultimately functioned similarly to the colonial times. The colonial invention of the *qabila* passed through the racial construction and the territorial bordering of the kin groups with the precise intention of galvanising the supposedly different identities and facilitating the colonial government and the Libyans' subordination to the Italian colonisers. During al-Qaddafi's era, the *qabila* was called upon to serve the opposite goal, namely, to become a shared foundation for the independent Libyan society and to involve the people in the Jamahiriya. However, the manipulation of the group identities was ultimately intended to strengthen the revolutionary orthodoxy and finally achieve the marginalisation of the urban and bourgeois elites that had ruled the country before 1969, after their intermediation with the colonial power. In fact, beyond al-Qaddafi's political discourse of equal participation of the masses, his revolution promoted the political dominance of the military leadership that mostly originated in the popular strata of rural areas in the country's interior (Obeidi 2011: 118-123). Al-Qaddafi's system of power built upon a patronage network that had strongly co-opted clients from his own *qabila*, al-Qaddafa, from Magarha in Fezzan and Warfalla in Tripolitania. As such, the barycentre of al-Qaddafi's state had shifted westward, notably overturing the concentration of King Idris' power in Cyrenaica (Mattes 2011: 73-76).

Another innovation in the context of the Jamahiriya was the establishment of the Green Charter of Human Rights in 1988, which intended "to provide the legal provisions that were missing in the country and to update the Libya's legal profile" (De Bona 2013: 75). The introduction of individual rights for the first time reduced the predominance of people or group rights. This was further solidified by the creation of the Secretariat for Mass Mobilisation and Revolutionary Leadership, which had the power to investigate activities of the Committees and their possible abuses (Djaziri 1988: 632). Civil rights were intended to form part of human rights in a manner that counteracted the emerging Western normative concept of human rights and, consequently, the international order. This process signalled al-Qaddafi proposing a different conceptualisation of human rights that would enable him to pursue his imperative to counteract the Western hegemony and represent Libya and his revolution as a possible alternative model, despite the international embargo and the country's isolation. However, this model remained unaccepting of any form of internal dissent, and al-Qaddafi's system never really delivered "the privileges of citizenship" (Djaziri 1996: 197). On the contrary, in

1997, the Charter of Honour legally allowed collective punishment for *qabila*'s fellows in the event of a single member's crime; this confirmed the collective imprinting of the Jamahiriya despite any overture to the concept of individual rights.

In 1996, al-Qaddafi decided to introduce *shari'a* to the Libyan legal system with the intention of pre-empting the rising popular consensus in favour of the Islamic opposition, whose proponents were using the Algerian civil war as a template for a possible regime change in Libya. At the very beginning of the 1969 revolution, al-Qaddafi's vision of a progressive and nationalist Islam was intended primarily to dismantle the power of existing religious elites, who were linked to the Sanusiya Order and the previous monarchy. During the 1990s, "al-Qaddafi remained a true Arab nationalist at heart, the descendant of a generation of secular nationalist leaders that viewed Islamists as reactionary agents of the West", leading to the proscription of the Muslim Brotherhood and other Islamist organisations since 1973 (Pargeter 2011: 84). Notably, the instrumental use of the *shari'a* did not really challenge any of the basic elements of the Jamahiriya.

Finally, the political and institutional process of revitalisation of the Jamahiriya produced a "new form of state privatisation" that combined with the relinquishment of the state-planned economy in favour of recovering private enterprise and promoting economic liberalisation (Ouannes 2014: 136). After 2000, al-Qaddafi publicly stigmatised the failure of the planned economy and its corruption, while the process of Libyan adhesion to WTO crowned at the same time the changing economic policy and Libya's readmission into the global arena with the progressive lifting of the international embargo. Shukri Mohammad Ghanem's appointment as prime minister in 2003 was intended as a further step in the process of economic reform, especially considering his closeness to Saif al-Islam al-Qaddafi's political organisation, Libya al-Ghad (Tomorrow's Libya). However, the limits of this process appeared clearly when Ghanem's call for a constitution was quickly silenced by the regime apparatus that declared that there was no need for the separation of powers, precipitating his 2006 dismissal (Vandewalle 2011: 230). Because the Libyan version of the market economy did not imply the creation of a free and fair market, there was no anticipation of political liberalisation; instead, Libya introduced a "monopoly-dominated market where only a few individuals were permitted to own the country's economic resources" (De Bona 2013: 17). At the beginning of the 2000s, the economic boom that Libya experienced combined with the lifting of the international embargo to enrich the regime's closest supporters and increase the discontent of ordinary Libyans, setting the stage for the 2011 uprising. Notably, the military elite, which had led the revolution from the beginning, continued to represent the most privileged group in the country and progressively lost its revolutionary spirit to become the main recipient of "the logic of patrimonialism" (Vandewalle 2011: 235).

During the last few years of al-Qaddafi's era, the leader's second child and designated successor al-Saif al-Islam spoke openly about the need for a constitution as part of

the process of power reform. However, this question became imperative only after the 2011 regime change. On 3 August 2011, after several months of civil war, the anti-al-Qaddafi coalition represented by the National Transitional Council (NTC) released the Constitutional Declaration, its first public declaration of its intention to break with the past. The Declaration explicitly called for the election of a Constitutional Drafting Assembly (CDA) "through direct free ballot in order to draft a permanent Constitution for the country" (Article 30).[2] In February 2014, the CDA was elected according to the principle of a majoritarian electoral system (first-past-the-post in individual constituencies) and with quotas of six seats for women and two seats for each of the minority communities of Amazigh, Tebu and Tuareg. The total of sixty seats was divided into regional areas: twenty for Tripolitania, twenty for Fezzan and twenty for Cyrenaica. However, escalating political and military confrontation in the country meant 47 seats were filled instead of sixty. With the intention of overcoming the impasse, the CDA passed a contested reform that would allow the Assembly to work with reduced numbers and only with the designated representatives. On February 2016, the CDA finalised a first draft of the constitution that was immediately opposed both internally and externally, to the Assembly. In June 2017, the final draft was passed by the CDA, but the referendum that would have definitively approved the text on the basis of regional constituencies was never conducted, and Libya remains without any form of constitution (Cherif 2021: 2-11).

In Search of the State

The process of developing a constitution for post-al-Qaddafi Libya undoubtedly involved various relevant issues related to the shape of institutions, citizens' rights and duties and relations between the state and the society, that is, the collective conceptualisation of the Libyan people. Compared with the previous experience of the Jamahiriya, the incorporation into the constitutional process of concepts such as accountability, citizenship and individual as well as collective rights should be considered an important sign of change and rupture with the past. Despite the enormous opportunity for Libya represented by the constitutional redesign of the state, there are risks, namely, the possibility of institutional weakness and, consequently, political fragmentation. Of course, "the military did not deliver on its institutional mandate" to allow for a smooth political transition, but did contribute to reproducing and worsening the logic of patrimonialisation that had characterised the last period of al-Qaddafi's regime (Gaub 2019: 193). In this context, military groups became increasingly linked to political actors who had progressively lost any capacity for control, as Prime Minister Ali Zaydan's kidnapping spectacularly demonstrated in October 2013 (Anderson 2017: 241). Thus, the military grip on the country's transition and the political struggle between different visions of the new Libya obliged the CDA to allow for relevant compromises when writing the Draft Constitution, to the point that various pivotal issues were not clearly resolved.

The Constitutional Declaration of 2011 declared that "Libya is an independent democratic state" without precisely identifying the form of this state. Nonetheless, Article 1 of the Draft Constitution stated that Libya is a Republic and would officially change the name of the country from Libya to the State of Libya. Opposing call for a revival of the monarchy led by Mohammed al-Sanusi (the son of Hasan al-Senusi, the brother of Idris al-Sanusi, who became the first King of Libya in 1951) and his political fellows never achieved consistent support, even in his native Cyrenaica. An issue related to the discussion around the form of the state involved the relationship between central and local institutions and the question of decentralisation which has become increasingly vocal during the 2011 uprising against al-Qaddafi's patronage network of power. This decentralisation was primarily intended to counterbalance the process of territorial and political fragmentation and conflict that had characterised the Libyan transition, but also aligned with the trend upon which al-Qaddafi's regime had already been embarking with the establishment of the *sha'biyat* in 1998.

Although decentralisation had apparently obtained a very wide consensus during the Libyan transition, in actuality, it was not so easy to practically define how and to what extent the new Libyan state would be decentralised. Meanwhile, a hypothesised federal Republic became a prominent ideal during the first few years after the fall of al-Qaddafi's regime, with a federalist manifesto issued in Benghazi at the very beginning of the uprising receiving notable media interest. The partisans of federalism referred idealistically to the historical experience of the federal monarchy led by King Idris al-Sanusi. More concretely, they proposed returning to the federal state enclosed in the Libyan Constitution of 1951. In 2014, the decision to elect the CDA on the base of regional constituencies, allocating twenty representatives each in Tripolitania, Cyrenaica, and Fezzan, represented "a bid to conquer the hearts of federalists" (Parolin 2015: 42). However, as in the case of the monarchists, "public opinion polls repeatedly showed federalism to be a minority movement" (St John 2015: 91). Despite this, the Draft Constitution remained a compromise text: although no mention was made of the federalist option, the statement in favour of the promotion of an "expanded decentralisation based on governors and municipalities" (Articles 143 and 144) was so general that it could not allow for power subdivisions between central, regional and local institutions.

The contradiction of the federalist option was exactly that a federal Libya had already existed and had been proven not to function. In 1963, the federal system was abolished by King Idris because it could not effectively address the new challenges posed by the discovery of the oil in 1959: to efficiently manage the hydrocarbon industry and, above all, share its revenue, King Idris unified the Libyan state in 1963 (Ouannes 2014: 144). Subsequently, the beginning of al-Qaddafi's era marked the peak of state centralisation, which was characterised by the nationalisation of the oil industry and the monopolisation of its revenue. As already stated, the failure of the 1990s reforms

established the foundations of the 2011 uprising and, in the meantime, reinforced the parochial vision of the state and of its decentralisation. As such, decentralisation became the instrument for locally appropriating the country's resources instead of a way of efficiently and cooperatively sharing those resources on a regional or sub-regional basis. In present-day Libya, although decentralisation continues to be used in the same way, it is not performed by a single organised political regime, but by a multitude of military and political actors. The most pertinent example might be the growing autonomy of the Misurata mini-state, a state within the state, which does not work cooperatively with other regional bodies but tries, with some success, to subdue them via its power. Thus, ultimately, the federalist option did not work properly because its implementation would imply the partition of Libyan resources; on the contrary, conflicting parties are struggling for exclusive dominance over the country's resources. Regardless of the degree of decentralisation, there was further debate concerning which institutions would implement the decentralisation envisioned. The aforementioned articles from the Draft Constitution leave no room for doubt when making explicit reference to the governors and municipalities as actors in decentralisation. Nonetheless, the *qabila* has been regarded as another possible instrument of decentralisation, despite there being no mention of this discussion in the Draft Constitution. In actuality, the institutionalisation of authorities, institutions and polities that trace their origins to pre-colonial times has had a wider usage in contemporary African countries to decentralise the state (Fauvelle-Aymar and Perrot 2003). However, both in post-al-Qaddafi Libya and in other African countries, the image, perception and understanding of the *qabila* have been imbued with negative connotations due to its perception as a synonymous with backwardness or a former instrument of colonial power and, in the Libyan context, as an instrument of al-Qaddafi's power. During an interview recorded in Tripoli in November 2013, a candidate for the CDA admitted that the *qabila* might not only be a useful instrument for decentralising the state and solving conflict but might also have functioned in this manner during the most turbulent phase of the Libyan transition. However, it is considerably difficult to officially acknowledge its role because of both the political exploitation of the *qabila* during the regime and its perception as an outdated social institution (in comparison with the supposedly more sophisticated modern state institutions).[3] Nonetheless, the call to the *qabila* was very important at the beginning of the uprising, mobilising the youth against al-Qaddafi's regime and ensuring Libya's safety from loyalist forces (Ouannes 2014: 164-165). Evidence of this appears frequently in interviews made by the author in Libya before 2014, when young Libyans would openly admit that older members of the *qabila* had urged them to fight.[4] However, there was a growing risk that, once the *qabila* was mobilised, it might overplay the specific objectives for which it was mobilised, potentially triggering other processes that are anything but positive, such as the conflict between the parochial identities encapsulated in the *qabila* (Fraihat 2016: 217).

Notably, the Draft Constitution also failed to address the choice between a parliamentarian and presidential form of government. After 2012 general election, the head of the state was elected by the new parliament, the General National Congress, while, in 2014, he was directly elected. The rising political conflict inside and especially outside the parliament prevented the possibility of arriving at a common position. Another controversial topic concerned the voting system, with Article 4 of the 2011 Constitution Declaration stating that "the state shall seek to establish a democratic political regime to be based upon political pluralism and the multi-party system" with deputies elected on the basis of a "general, free, secret and direct election". Accordingly, in January 2012, the Transition National Council (TNA) lifted the ban on political parties that had been in place since 1952 and enshrined the freedom to establish political and civil society organisations. The Jamahiriya cornerstone of the principle of delegation and general consensus was definitively replaced by a fully-fledged system of representation. Nonetheless, political parties never became the main political actors responsible for implementing this system. In the general election of 2012, only 80 seats were designed for the political party lists, and 120 were disputed on the basis of personal candidacy. This situation stimulated the main parties to try to make affiliations and alliances with individual candidates to control the soon-to-be-elected parliament, fuelling political fragmentation. The Justice and Construction Party led by Mohammed Sawan, a former political prisoner and partisan of the Muslim Brotherhood, emerged as the most coherent and cohesive party but could not obtain a majority. Instead, the election was won by the National Forces Alliance (NFA) led by Mahmoud Jibril, former director of the Economic Development Council and reformist under the previous regime. The NFA was a coalition of many small political parties and civil society groups that effectively utilised its loose party network to make broad alliances and gain support from various seats not associated with a party.

The worsening of the political situation significantly affected the institutional transition. In May 2013, under Islamist pressure from Sami al-Saadi, a former jihadist ideologue, and with the endorsement of the Grand Mufti of Tripoli, Sadiq al-Ghariani, the General National Congress passed the Political Isolation Law, which amended the Constitutional Declaration and barred broad categories of officials who had served under al-Qaddafi from holding public office in the new Libya. This law sent "a strong signal for the continued marginalisation of former regime elements and the rejection of reconciliation; it also signalled a definitive rupture within the coalition that had led the 2011 revolution", directly targeting Mahmoud Jibril (Lacher 2020: 30).[5] The Isolation Law not only politically impacted the targeted Libyans but also battered them economically, because in Libya, as well as in many other post-colonial states, the roles in public bureaucracy represented one of the most recurrent employment and for this reason the exclusion from public offices could have a major economic impact for those affected (St John 2015: 90). Thus, the political and economic ban on former al-

Qaddafi partisans fostered the possibility of their autonomous reorganisation and the reproduction of the ideals of the previous regime.

The involution of the trajectory of the Libyan transition was compounded by the updating of the electoral legislation to exclude political party candidatures. In the context of both the CDA election and the second general election, voters could only choose from individual candidates. This system fuelled political fragmentation and discouraged participation, with only 14 per cent of eligible voters voting in the general election, a considerably lower turnout than recorded for the general election of June 2012 (St John 2015: 92). The impossibility of forming a consistent majority provoked the political crisis that soon overlapped with military escalation. The Islamists did not recognise the electoral result or the new parliament, and they reconvened the former parliament in Tripoli (the General National Congress) with the new parliament (the House of Representatives) relocating to Tobruq under the tutelage of the self-proclaimed Libyan National Army of Field-Marshall Khalifa Haftar, who had begun targeting the opposition military front led by the Misuratan political and military elite. That conflict persisted until the formation of a unitarian government in 2021 under the guidance of Abdul Hamid Dbeibeh. Nonetheless, the disagreement concerning the new election provoked a new national split in April 2022, when Fathi Bashagha contested Dbeibeh's government and established his own government in Sirte, supported by the parliament in Tobruq. The short-circuiting of the situation and the new Libyan crisis transformed the instrument for smooth political transition (i.e. the electoral process) into a main cause of conflict.

In this high-conflict scenario, the *qabila*, as already noted, became a powerful instrument for mobilising people in the absence of real political parties. However, the issue was not a preconceived and preordained vote along tribal or even ethnic affiliations; instead, "a small number of voters were reflecting their tribal or regional affiliations" (Hammady 2017: 162), indicating that political negotiation, especially over individual candidacies, occurred on the basis of the parochial or local interests of the representatives, positioning the *qabila* as a means of using localised agendas to obtain consensus: "the actual lines of conflict between groups did not correspond to the divisions of tribes according to lineage, [...] instead, leaders emerged by constituting a following [...] through the adoption of clients, forming patchworks of power groups that competed and feuded with each other" (Lacher 2020: 68).

Finally, the writing of the constitution intermingled with the political process that was rethinking the relationship between the state and the society to reshape the idea of the nation. Although the strong (pan-)Arabism that had characterised the al-Qaddafi regime was destabilised by the outcomes of the 2011 uprising, the Arabic language remained "the key element of the national identity" in post-al-Qaddafi Libya (Baldinetti 2018: 434). Among the main challenges for Libyan arabness were the claims of the minority groups. However, since 2011, Amazigh, Tabu and Tuareg have called for a more varying Libyan nation to enable them to recover their rights as sub-national groups.

This represented a response to al-Qaddafi's imposition of Arab names and reduction to folklore of their languages and social customs via a process that argued, for example, that the Amazigh identity was an invention of the Italian colonialists designed to divide and rule the country (Joffé 2013: 37-38). Although the Constitutional Declaration of 2011 invoked state protection over "the cultural rights for all the components of Libyan society" (Article 1), the minority discourse could become very challenging if it moved beyond demands for the recognition of the minority rights and the equal status to begin to politically exploit their supposed specificity, diversity or autochthony to demand an autonomous national identity that would contrast with the notion of the nation envisioned by the Libyan state. Although no minority-based political movement pursued a secessionist strategy during the decade of civil war, some minority instances did develop a proper alternative national discourse and identity that might have fuelled political fragmentation (Morone and Pagano 2016: 128-157). However, the Draft Constitution did not substantially or strongly acknowledge the issue of the minority groups.

Beyond the discourse of minorities, the Islam-related political discourse presented an important and further challenge to the concept of Libya as an Arab nation or better it proposed an alternative concept of identity in opposition to the national identity. All of the political actors in Libya represented themselves as Muslims, including the NFA of Mahmoud Jibril, which the Western media often described as a liberal political party but which did indeed present "itself to the Libyan electorate as a moderate Islamic movement that recognised the importance of Islam in political life and favoured *shari'a* as the basis of law and the main source of legislation" (St John 2015: 88). In this context, the issue is not Islamic belonging but the relevance of Islam in relation to the state. In Libya - as in other Muslim countries - the debate around the role of Islam in the public sphere represents one of the main themes of political confrontation. The call to establish an Islamic State (IS), which was supported by several different political groups, put in question the constitutional commitment "to establish a democratic political regime [...] based upon political pluralism" (Article 4 of the 2011 Constitution Declaration). Accordingly, the jihadist movement provoked an escalation of conflict in Libya, leading to the fall in 2017 of the IS in Sirte. Nonetheless, the 2014 proposal to constitutionally define Libya as an "Islamic state" was reconsidered, with the final Draft Constitution of 2017 stating that Islam is "the source of legislation" for the state (Article 6). However, the setback for the IS indirectly assisted the conceptualisation of the State of Libya in terms of nation rather than religion, in contrast to the prevalence for religion that would have occurred under a theocracy, as indeed it did during the realm of Idris, who was the main sheikh of the Sanusi Order before becoming the King of Libya. However, the Draft Constitution was unable to clearly manage the process of rethinking the Libyan nation, with Article 2 simply and generally qualifying Libya in geographical rather than political terms in connection with the Arab world, Africa, the Muslim world and the Mediterranean Basin.

Conclusion

On 24 December 2021, on the occasion of the anniversary of Libya's independence in 1951, parliamentary and presidential elections were supposed to be held in the country. The candidacy in the constituency of Sabha of al-Saif al-Islam al-Qaddafi represented the exiting of the loyalists of his father's regime from the political underground. Al-Saif was able to reinvent himself politically, despite his condemnation to death by the Tripoli court for his crimes against the Libyan people and the attempts of the International Criminal Court to bring him to trial. Al-Saif could evidently count on a network of supporters; however, there remain uncertainties in terms of his precise political agenda. That is, it was not clear whether his candidacy represented the idea of rebuilding the past regime or adapting the past to the new political situation. Notably, his candidacy itself meant that al-Saif evidently accepted the new rules related to the principle of representation, something that was alien to the political doctrine and power of the Jamahiriya. Nonetheless, the decision of the Central Electoral Commission to not consider al-Saif's candidacy valid on the base of the Isolation Law demonstrated that the transitional institutions perceived his candidacy as a threat. Furthermore, the decision to not hold the elections in December 2021 demonstrated the fragility of the transitional process, demonstrating its unwillingness - and even its incapacity - to openly hold elections including al-Saif or other remnants of the former regime.

The Libyan transition remains in progress, testifying to difficulties achieving a constitutional charter for the State of Libya. Still, the high level of political confrontation surrounding the effort to arrive at a constitution proves that the fight in Libya is for the state and not against the state. However, the chance to make political parties the main agents of mobilisation was missed in favour of the informal networks of political and military patronage that have resorted to *qabila* affiliations for support. This has made the *qabila* an instrument of power and not a pre-ordered social organisation that can act unanimously and univocally, as has been finally demonstrated by the split between the leaders Abdul Hamid Dbeibeh, the head of the Tripoli government, and Fathi Bashagha, the incumbent prime minister nominated by the House of Representatives in Tobruq, who are both from the Misurata mini-state. The increased bifurcation between state institutions and the informal dimension of power has progressed conflict, with the consequent political fragmentation serving parochial and local interests rather than national cohesion.

Uncertainty in reshaping and rethinking the idea of the Libyan nation echoes the limits of the reorganisation of relations between the central and the regional or local institutions. Although the Arab identity is still powerful, the Islamic identity has acquired a more prominent role compared to its status during al-Qaddafi's era. Still, it does not represent the glue holding the nation together as it did during the time of King Idris al-Sanusi. If the political legitimation of Libyan independence was encapsulated by the Sanusi fight and their Islamic appeal against the colonialists, the main source

of legitimation for al-Qaddafi was his nationalist ideology, which incorporated (pan-) Arabism alongside the fight against (neo-)colonial foreign interference. In the post-2011 period, Libya's new rulers have been mainly legitimised by the fight against the previous regime. However, there has been no elaboration of a purposeful or unifying ideology, with the concepts of Western-minded democracy and Islam-related discourse in the public sphere both contributing to partisan and conflicting models that has characterised the journey of the Libyan state during the last decade.

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Notes:

1 - UN/S/RES/1973, 17 March 2011.

2 - The English version of the full text is available at the following online repository: https://security-legislation.ly/sites/default/files/lois/2-Constitutional%20Declaration%20of%202011_EN_Consolidated.pdf (last accessed on 7 November 2022).

3 - Anonymous interview with the Author, Tripoli, 13 November 2013.

4 - Anonymous interviews with the Author, Tripoli, 15 April 2012; 15 February 2013; 20 October 2013.

5 - A translation in English of the Political and Administrative Isolation Law No. 13 of 2013 is available in Fraihat (2016: 239-247).

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