

# Libya after Seven Years of Impasse **Prospects for The Transitional Period and The Roadmap**

MAY 2018

The Libyan Women's  
Platform for Peace (LWPP)



منبر المرأة الليبية من أجل السلام

Libyan Women's Platform For Peace

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**The Libyan Women's Platform for Peace (LWPP)**

was launched on the 7th of October 2011. The Platform has a particular emphasis on inclusive transitions, women's rights, youth leadership, advancement and security, as related to women's political and economic participation, constitutional reform, and education.

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## This Report

This report is an exploration of the perceptions of a representative sample of Libyan influencers with regards to the transitional period in Libya, now in its seventh year, and its relevant stages, as well as the efforts of the United Nations Mission, up to Ghassan Salamé's initiative and the Roadmap he proposed. The data was collected through a survey conducted by the Libyan Women's Platform for Peace in early 2018. The survey was carried out in collaboration with a number of local researchers and local partner organizations in a number of Libyan cities in the three regions.

## Acknowledgement

On my own behalf and on behalf of the Libyan Women's Platform for Peace, I wish to express the utmost gratitude to all those who have contributed to this earnest effort. In particular, I would like to thank the local researchers and partner organizations who implemented the survey and participated in organizing focus groups and conducting interviews in Tripoli, Benghazi, Sabha, and Zwara. I would also like to thank the assistant researchers team who worked on coding, analyzing the data and transforming it into figures.

I would additionally like to thank the people who accepted to be interviewed, and who gave their valuable time to carefully read, consider and respond to the items of the survey, expressing their positions objectively and frankly. This is a clear indication that Libyans are cognizant of their homeland's adversities and are capable of living up to the responsibility. Many thanks to the technical team who worked on the layout design, editing, and translation.

Last but not least, I would like to express our sincere gratitude to Karama for its support to this project and reiterate our appreciation of the partnership that has lasted for seven years.

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## Key Findings

- It is imperative not to reduce Libya's crisis to merely a political or a political-security one. It is important to recognize the multi dimensionality of the crisis. Subsequently, the prescribed blueprint known as the “Democratic Toolkit,” which focuses on the following mechanisms: holding of elections, formation of political parties and drafting of a new constitution, must be revisited. There needs to be a holistic and integrated strategy to chart the way forward in Libya.
- There is a deficiency in the collective sense of nationhood. There is also a distortion in conceptions of the modern nation state.
- Any serious attempt towards reconciliation & stabilization that is intended to end the transitional period must begin with the following:
  - Establishing a common vision & narrative of the nation & the nation state.
  - Parallel to institutional reforms pertaining to the process of state building, there should bottom up initiatives pertaining to socio- political cohesion and nation building.
  - This can be conducted by working on the horizontal as well as vertical levels following the adoption of a comprehensive approach to the crisis.
- In general, Libyans are not confident that future entitlements (like the elections) will result in a paradigm shift towards the right direction. However, they have not lost trust yet in the process of restoring the state and are, therefore, prepared to interact positively with these entitlements.

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## Introduction

# A Step Towards Re-Thinking the Transitional Period and Diagnosing its Crises

To begin to understand the complex constitutional history of Libya, one must first recognise that Libya indeed has a history of building and living under constitutions. Since the fall of the autocratic regime in 2011, the Libyan nation has been struggling through a so-called transitional period, aimed at restoring a constitutional framework. Libya's constitutional interregnum however long predates the recent revolution, dating back to the suspension of the Libyan constitution in 1969. That suspension occurred after Libyans had lived for nineteen years under a social contract underpinned by the constitution they had agreed to in 1951, known as the "Independence Constitution," it was a result of a consensus-building process preceded by an establishment of a national covenant in 1946 known as *the Mithaq al Harabi*.

It was within that context that legislative authority in Libya emerged and in which the criterion of political representation was achieved. This legislative authority was the

House of Representatives, where representation was based on election, and the Senate, in which representation was based on appointment. The parliamentary elections of 1952 were transparent. The executive branch, which included the King, the government, the army, the police and the intelligence services, were also established. The judiciary was formed. Within this constitutional context, the process of rebuilding the Libyan nation and building of the Libyan modern state<sup>1</sup> took place. The constitution included provisions for fundamental rights and freedoms, the inviolability of residences and property, equality and non-discrimination on any basis as well as the right of all to education.

Parliamentary life then was vibrant. This was manifested in the rapid issuance of large swaths of legislation in a relatively short period. Another characteristic was the high level of freedom afforded to the representatives in relation to their exercise of the second main duty they were entrusted with—monitoring



the executive branch. This was reflected in the intensity of the pressures that successive governments were exposed to and in the reformation of the government several times between 1951 and 1969. Parallel to the establishment of state institutions, there was a rapid movement of public initiatives and establishment of associations, forums and platforms on the community level. What signifies this movement is that it presents a nation building process from the bottom up and was not imposed from the top down.

The coup d'état on September 1, 1969 saw all the constitutional institutions that existed in the monarchy declared void. Then, under 'revolutionary legitimacy', several constitutional steps were taken. These steps did not involve genuine fundamental constitutional content, instead the constitutional declaration in December 1969 was proclaimed, in which it was decided that the Arab Republic of Libya would be handed over to the authority of the Revolutionary Leadership Council.

It later became obvious that these steps were only a smokescreen to conceal the process of setting the stage for an autocratic regime. On April 15, in the infamous Zuwara Speech, Gaddafi announced his "Five Points," laying the groundwork for what he called the "People's Revolution."<sup>2</sup> Immediately after these steps, Libya which had been governed by a social contract drafted by the people's representatives—namely the constitution—was now ruled by a new ideological framework formulated by the autocratic ruler. In 1975, Gaddafi issued the "Green Book", a book that he had written himself, and made it the ultimate reference for the Libyan nation and state. Gaddafi imposed the Green Book on the Libyan nation and on the state's institutions, denying anyone the right to discuss, modify, comment, criticize, reject or vote on it. The Green Book presented principles contrary to the concept of justice. On March 2, 1977, Gaddafi announced the Authority of the People, to inaugurate the era of the Jamahiriya

and the collapse of the state. Ultimately, the Libyan nation lived for forty-two years without a constitutional framework. Moreover, it has been forced throughout this period to be ruled according to principles that contradict the most basic principles of justice and the essence of the concept of constitutionalism.

This, from the perspective of comparative constitutional studies, represents one of the longest constitutional interruptions experienced in modern political systems. Thereafter, the National Transitional Council, which was formed after the Feb 2011 Revolution to exercise the powers of the transitional authority, issued the first Constitutional Declaration in August 2011, so that it would be the cornerstone of the process of restoring a constitutional framework. In the autumn of the same year, the UN Support Mission in Libya was established, with the understanding that its mission would be a political one, facilitating the political process and leading the transition to democracy. The Constitutional Declaration laid the foundations of elections of the National General Conference in June 2012. The general elections were the first legislative elections in 52 years. The transparency criterion was fulfilled in these elections. However, some stakeholders boycotted them, such as those calling for the adoption of the federal system as well as loyalists to the previous regime.

The transitional period witnessed a variety of efforts aimed at achieving stability and constitutional building, and in response to that, a series of crises emerged on various levels. This prolonged the transitional period, which is now in its seventh year. During this time, the United Nations Support Mission in

Libya (UNSMIL) has had five different leaders, each of whom launched an initiative in the hope of contributing to resolving existing conflicts and stabilizing the country. The most recent leader, Mr. Ghassan Salamé, launched an initiative in 2017, which will be presented in detail in a later section.

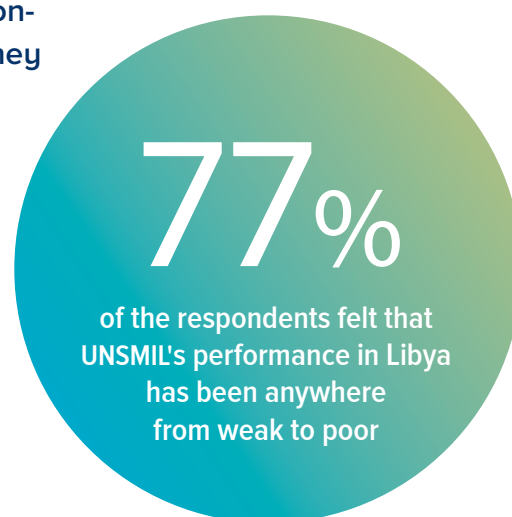
Accordingly, a series of questions arise: What are the prospects for the transitional period? Will crisis and stalemate dominate the scene and become the epithet of the transitional period? What are the chances of Ghassan Salamé's initiative succeeding?

### Why this study is important?

In an attempt to contribute to a fruitful discussion and widen the scope of societal dialogue around these issues, the Libyan Women's Platform for Peace designed a survey according to scientific qualitative methodology. The survey addresses the critical transitional stages, the UN Roadmap and the initiative of the current head of the UN Mission, Ghassan Salamé. The purpose of the survey is to re-examine the transitional period, to diagnose its crises through studying and analyzing the perceptions of Libyan influencers. Hence, in a way this study aims to presents the voices of the local community and their own take of the challenges and chances of the transitional period.

The survey was designed according to a scientific methodology. First of all, the sample of 203 people was carefully selected according to several criteria. The first of these was the background of the participants; having extensive experience, including active, continuous and effective participation as well as having influence on large areas of

The survey revealed that 40% of the respondents felt that the performance of the United Nations Support Mission in Libya has been poor, 37% felt it has been weak overall, while 15% of the respondents believed it has been good, 7% said that they did not know, and 1% did not care.



the public domain. The second criterion is the diverse geographical, cultural and gender representation. Focus groups and personal interviews were held in large cities in Libya's three regions; the East, the West and the South, specifically in Benghazi, Tripoli, Sebha and Zuwara. In cities where focus groups or personal interviews could not be held, they were replaced by an online survey.

The survey covered a number of issues. The first is the comprehension by collective consciousness of the nature of the transitional period and its evaluation of the performance of the UN Support Mission in Libya. The second issue is societal interaction with the process of developing and amending the Political Agreement. The third is societal interaction with the proposal of the Inclusive National Conference. The fourth issue is societal engagement with the constitutional process, including the drafting of the constitution and the referendum on it. The fifth is societal interaction with the past and next elections.

The questions have been formulated carefully in a neutral fashion to allow for the greatest diversity and avoids directing participants to a specific answer.

This research is divided into five sections. The first section of the report reviews the major crises during the transitional period. The second section focuses on the most important efforts made towards stabilization. These two sections are necessary as they present a conflict analysis of the transitional period: the nature of the conflicts & controversies that emerged during its phases, contextualizing these crises, and mapping the main stakeholders in the transitional period. In this section as well, Ghassan Salamé's initiative is briefly discussed. The third section presents the main highlights of the results of the survey. In the fourth section, a comprehensive reading and diagnosis of the conflict is introduced as well as an attempt to chart a way forward. The fifth section presents the report's policy recommendations.

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## Section I

# Crises on all Levels During the Transitional Period

Restoring a constitutional framework to Libya is a fundamental step toward bring stability. It has always been clear that this critical step would be a challenge, and since August 2011 Libya has struggled to build momentum toward constitutional restoration. The reasons have long been clear. It is normal for any country in transition after an autocratic regime and after a long-term constitutional suspension to experience severe complications. Constitutional interruptions have serious implications on the continuation of sense of belonging to a nation, and hence on the process of nation building. The state and the state-building process are also affected by the constitutional interruptions. Any autocratic rule or constitutional suspension that lasted for an extended period of time clearly had significant moral and material foundations. The removal of these foundations — a substantial legacy — is not an easy task. Despite the challenges, there has been popular momentum toward restoring a constitutional framework, manifested in a number of steps and gains such as the elections. As we will see later, during the transitional period, different sorts of elections were held; the legislative body, the constitutional body and municipal councils. In general, the elections were successful, especially the first elections of 2012. Electoral campaigns were designed and the voter turnout was very high. All age groups in Libyan society participated in the elections despite the impact of tribal influence and political money. However, the deteriorating security and economic conditions during the transitional period reduced the societal interaction with elections and with the transitional period's entitlements in general. Despite that, the general Libyan public has not lost confidence altogether in the possibility of overcoming the crisis of the transitional period. All Libyans are still ready to engage positively with the entitlements of the transitional period, including new elections and the restoration of a constitutional framework.<sup>3</sup>

Crises emerged at various levels. In the following paragraphs, we address these crises, mentioning some of them at each level. It is important to note that these crises are intricately intertwined.

### **Crisis of Overlapping Jurisdictions of the Legislative and Executive Powers & Authorities**

According to the Constitutional Declaration, the General National Congress (GNC) was given legislative and executive powers simultaneously. The GNC inherited these executive powers from the Transitional Council. The GNC began to exercise its functions in light of the continuing chaos of arms proliferation and the widespread influence of armed groups. This resulted in a growing tension between the GNC and the government. For a long time, this twofold crisis was the main headline of the conflict between the political powers.

The granting of legislative and executive powers to the Congress was a flagrant violation of the separation of powers principle and of the concept that power should not be concentrated. The National Congress elections had resulted in the advancement of the National Forces Alliance (NFA). However, political Islamists and their allies made use of their organizational superiority, their external influence and the support of a number of armed brigades to put pressure on the GNC. This was clearly manifested in the adoption of the Political Isolation Law. During the period of the GNC, Libya witnessed the lowest levels of consensus and stability amid the rising tension between the GNC and the government over executive powers. In the absence of rule of law, the militias loyal to different political parties would intimidate the members of the GNC with weapons, which eroded the prestige and authority of the GNC, the state and the rule of law in general.

### **Conflict Over the Expiration of the General National Congress's Mandate**

As February 7, 2014 approached, the crisis of the impending end of the General National Congress's mandate exploded, and was added to the preceding crisis to headline the new conflict between the political stakeholders for many months. This predicament emerged in a climate rife with crises, such as the shutdown of oil refineries, local governance problems, and the continued repression of cultural minorities, including the sidelining of their cultural and linguistic rights. In November 2013, Mr. Tarek Mitri, head of the UN mission from 12 September 2012 to 14 August 2014, launched a three-month long political dialogue. He stressed the

necessity of achieving national consensus and avoiding a zero sum equation. Mr Mitri emphasized that holding elections amid a state of polarization would not achieve the desired stability, and that the conflicting political forces would need to collaborate with each other to form a government of national accord regardless of the results of the elections.

Mr Mitri's position in this regard was considered by the civil movement (Tayyaral-Madani) to be an attempt to entrench or appease the political Islamists, who, having lost their popularity, were cognizant that their chances in the elections were poor. Therefore, the civil movement (Tayyaral Madani) rejected Mr Metri's approach.<sup>4</sup> Just before February 7, 2014, civil society and the civil movement organized campaigns and protests calling for the end of the mandate of the GNC under the banner of "No Extension," forcing the GNC to accept a seventh amendment to the Constitutional Declaration so that parliamentary elections could be held within months. As a way out, "The February Committee" was formed. The Committee consisted of independent figures, as well as members of the GNC. The Committee proposed amending the Constitutional Declaration so that parliamentary and presidential elections could be held. The GNC issued the Seventh Amendment to the Constitutional Declaration on March 11, 2014.<sup>5</sup> However, disagreement over the presidential elections, whether they should be direct or indirect, soon became heated. Ultimately, the presidential elections were indirect, after the establishment of the House of Representatives (HoR). This effectively meant the end of the GNC's mandate.

### **Conflict over the recognition of the House of Representatives (HoR) and the peaceful transfer of power**

With the end of the House of Representatives elections held on 25 June 2014, a new crisis broke out over the peaceful transfer of power, and subsequently the recognition of the newly elected House of Representatives (HoR). This complication was added to the list of crises, for months becoming the most prominent issue in the conflict between the political stakeholders. The elections were held in an unfavourable security climate. Civil society leaders made an extraordinary effort to mobilize society to participate. Some of them paid for this with their lives, such as Salwa Bugaighis, a human rights activist who played a central role in mobilizing the protests of the Libyan Revolution in February 2011.

On July 11, 2014, three weeks after the parliamentary elections and amid an intense dispute over the location of the elected HoR and the mechanism of handing power from the GNC to the HoR, Fariha al-Barkawi, a former member of the GNC for Derna, was assassinated. The city of Derna had previously boycotted the HoR elections as it had been under the control of armed extremist militias. Ms. Berkawi

had resigned from the GNC on February 7, the day its mandate ended according to certain interpretations. The last thing she called for before her assassination was the necessity of accomplishing the peaceful transfer of power. The elections had resulted in the victory of what is known as the ‘civil movement’ and the failure of political Islamists. The House of Representatives (HoR) was planned to convene in Benghazi, according to the Constitutional Declaration based on the February Committee Proposal. However, due to the security situation in Benghazi, there were calls for changing the location to Tobruk.

This was met with opposition from some of the newly elected members who boycotted the transfer of power ceremony and were later known as the «Boycotting Members of the HoR.» This resulted in a dispute over the legitimacy of the transfer of power. It is worth mentioning that, immediately upon attaining power, the elected House of Representatives made an eighth amendment to the Constitutional Declaration on August 6, 2014, which nullified the essence of the February Committee Proposal on holding presidential elections.<sup>6</sup> This led further to undermining the separation of powers between the legislative and executive, bringing us back to square one.

## The Conflict over the Constitutional Drafting Assembly

The Constitutional Drafting Assembly is one of the bodies created during the transitional period, which caused wide controversy and whose legitimacy was undermined and questioned. It has also suffered from the political schism the country has experienced. According to the Constitutional Declaration, the mandate of the GNC was associated with to the constitutional process, which was supposed to be completed within one hundred and twenty days from when the Constitutional Drafting Assembly (CDA) commenced work, and the transitional period would end within a maximum of two years. However, the very formation of the CDA caused great contention, which contributed to delaying the constitutional process.

This tension was also added to the earlier conflicts to become the major issue of the conflict. Initially, the tension was over the balance of representation in membership of the CDA. The other controversial issue in the Constitutional Declaration in Article 30 was the mechanism of choosing the Constitutional Drafting Body (whether by appointment or election). The text of the article was also ambiguous with regards to the independence of the Assembly from the GNC. After some pressure from the political stakeholders and civil society, two amendments were made. The first amendment in March 2012 decided that the assembly would be formed along the lines of the “60 Committee” that drafted the 1951 Constitution. This allocated twenty seats to the western region, twenty to the eastern region and twenty to



the southern region in order to overcome objections, especially from pro-federalists who had previously boycotted the elections for the GNC.<sup>7</sup> Another amendment (the third Constitutional amendment) was made on July, 5th, 2012, amending the second paragraph of Article 30 to state that the Assembly should be elected to be fully independent of the GNC.<sup>8</sup> However, soon another serious tension rose during the process of issuing the CDA electoral law, which was being supervised by the GNC. Civil society stakeholders especially women's rights activists protested against the poor female representation in the CDA, considering representation within the Assembly was a blow against inclusivity.<sup>9</sup> Cultural minorities, such as the Amazigh and the Tebu, also protested against the unfair representation within the Assembly, and the lack of conciliatory mechanisms pertaining to the articles related to identity and language. Hence most of the cultural minorities<sup>10</sup> boycotted the elections of the CDA.

Moreover, some political stakeholders called for the postponement of the CDA elections until the rapidly deteriorating security situation could be improved. On another level, a movement calling for a return to the Constitutional Legitimacy emerged. The premise of this movement's argument was that Libya had faced a constitutional suspension of forty-three years after the inactivation of the 1963 Constitution, an act that lacked proper legal basis, depriving the country of a constitutional framework for so long. Therefore, common constitutional legality dictates that the first action taken by a country restoring a constitutional framework after an illegal constitutional suspension should be the activation of the suspended constitution, after which, there would be three legitimate alternatives: 1) keeping the constitution as it was. 2) amending the constitution. 3) reaching a constitutional consensus—based on the constitution itself—to conduct a constitutional process that would result in a new constitution. The movement considered any action other than re-activating the last constitution a null procedure that would not have a legal effect.

Opposing the re-activation of the most-recently approved constitution means persisting in the violation of constitutional legitimacy.<sup>11</sup> Along with legal and constitutional reasons, this movement also justified itself by reasoning that amending and drafting a new constitution must be deferred until a climate of stability is attained to allow it. Others rejected this completely. Nevertheless, international powers turned a deaf ear to the constitutional restoration movement, and instead pressed for holding elections, regardless of the continuing turmoil and security deterioration. Hence, the CDA elections were held on February, 20th, 2014 amidst deteriorating security conditions, the boycotting of elections by some cultural minorities, and by the city of Derna which, was held by extremist militias.

Voter turnout in the CDA elections was low. Nevertheless, the elected Assembly practiced its duties during the subsequent years, which were characterized by a



sharp political division and security turmoil, inhibiting societal participation in the constitutional process. The political division was soon reflected in the CDA itself and its members, which in turn led to intervention of international powers and the mediation of Oman. Although the mediation resulted in a conciliatory draft, known as the «Salalah Draft», the parties failed to reach a final agreement on the Constitution, especially as the draft was full of controversial articles.<sup>12</sup> Furthermore, the majority of civil society stakeholders—especially the civil rights and women’s rights movements—opposed the draft Constitution, based on their disappointment with its provisions on human rights and women’s issues.<sup>13</sup> Amid these circumstances, some members of the CDA boycotted the meetings in protest against the draft. Soon after that, another dispute broke out among the members of the CDA regarding the final vote on the draft Constitution, in which 43 members voted, i.e. more than two-thirds of the Assembly.<sup>14</sup> This led some individuals who were not members of the CDA to file a suit at the Al-Bayda Court of First Instance, challenging the validity of the vote. The Supreme Court recently issued a ruling rejecting the case due to lack of jurisdiction. The ruling of the Supreme Court, nevertheless, did not verify the validity of the voting.<sup>15</sup>

It is notable that Article 23 of the Political Agreement, which was

not included in the Constitutional Declaration by the HoR, stipulates that the House of Representatives and the High Council of State must be consulted with regards to the draft Constitution between them by forming a joint committee two months before the end of the Constitution Assembly's work. This committee would be charged with proposing two draft laws; the referendum law and the general elections law, which are essential for the completion of the transitional period, as well as other relevant legislation, while other draft laws are submitted to the House of Representatives for approval.<sup>16</sup> However, as the Political Agreement was not included in the Constitutional Declaration, they were not consulted on the last version yet, extraordinarily, they are required, according to the same Political Agreement, to confer together on the referendum and elections laws to be approved by the House of Representatives.



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## The Aggravated Security Crisis

On a parallel track, security matters began deteriorating with the assassination of the US ambassador in Benghazi on September 11, 2012, especially in the eastern region where the influence of the Jihadi armed brigades was prominent. This security deterioration reached its nadir in 2013-2014, which witnessed the highest rates of assassinations.<sup>17</sup> Three months before the House of Representatives elections, the security crisis erupted in conjunction with the political crisis over the end of the GNC's mandate.

This crisis was added to the list of previous crises, becoming to become the most prominent issue for months. On February 14, 2014, Major General Khalifa Heftar, on behalf of the Libyan army, announced in a televised recording the freezing of the Constitutional Declaration, an act that was rejected by both the GNC and the Interim Government, who both considered it a military coup.

On May 15, 2014, Major General Heftar returned and launched a military operation, «Operation Karama», with the declared aim to root out terrorist and armed groups in general, which had extended their control over parts of the east. Parallel to the military operation, military leaders, in alliance with tribal leaders and some advocates of the civil movement, launched a propaganda campaign to mobilize support from within communities.

On the other hand, political Islamists in alliance with regional militias—especially militias belonging to cities like of Misrata and Amazighi militias—launched a military operation in September 2014 known as «Operation Dawn of Libya,» to confront the Zintani brigades and expel them from the capital in what was later known as the “The Airport War.” Mirroring Operation Karama, political Islamists and their allies launched a propaganda campaign to garner popular support for their military action. The two opposing operations polarised wider society around each other. Both mobilization campaigns were characterized by exclusion and the adoption of a zero-sum mentality. This resulted in a clear security schism, leading to an increase in a societal division that had already existed on other levels.

## The Conflict over the political dialogue and the inclusion of the Political Agreement in the Constitutional Declaration

In this tense situation and under the extreme political divide, the Political Dialogue was launched on September, 29th, 2014 in Ghadames under the auspices and facilitation of the Head of the United Nations Mission, Bernardino Leon. After a strenuous process, the Agreement was initialed on July, 11th, 2015, with final signing taking place on December, 18th, 2015 in Skhirat, Morocco. The dialogue lasted

18 months and two and a half years have passed since the final signing, in which time we have witnessed the HoR's delay in granting confidence to the Government of National Accord and in including the Political Agreement in the Constitutional Declaration. Parallel to this, there continued to be an escalation in tensions, along with a degree of general political impasse.

Among the major obstacles to political settlement and major factor of the perpetuating conflict and impasse, is the fact that the Political Agreement—whether in terms of process or content—has fundamental flaws in legal, constitutional and human rights aspects. These flaws inevitably lead to the outcome on the ground. Most notably the obscurity of the language of the Agreement, especially after the addition of amendments after the initial signing in July. The Political Agreement was also impractical and suffered from major gaps. All this has led to a degree of confusion and dispute in the implementation process. These flaws have also affected a number of fundamental issues the Political Agreement was supposed to address, particularly with regard to security arrangements, transitional justice, missing persons, prisoners and displaced persons.<sup>18</sup>

In accordance with the Political Agreement, it was decided that the Constitutional Declaration be amended to include the Political Agreement. The



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Agreement in its last version, signed on December 17th, 2016, deliberately omitted stating the competent authority to implement this,<sup>19</sup> which could fall under what Bernardino Leon, the former envoy of the UN Secretary-General, called «constructive obscurity». This later proved to be the very opposite of what Mr Leon claimed, rather it was destructive obscurity that simply pushed the crisis further down the road. For its part, the elected HoR has refused to include the Political Agreement in the Constitutional Declaration to this day. Meanwhile, the defunct GNC became involved. Though the GNC mandate had ended, it became a part of the political dialogue after the Supreme Court's Constitutional Section ruling nullifying the amendment to the Constitutional Declaration regarding the elections of the HoR. The GNC included the Political Agreement in the Constitutional Declaration. As a solution to the crisis stemming from the rejection of the peaceful transfer of power by the GNC and its conflict of legitimacy with the HoR, it was decided that a new

body would be established, the High Council of State, as an advisory body, with most of its members being from the defunct GNC.

On December 17th 2017, the tension over the mandatory duration of the Political Agreement itself heated up, after it had been decided that it would have a maximum time limit of two years. However, the Presidential Council did not exercise much of its powers as a result of the HoR's refusal to include the Political Agreement in the Constitutional Declaration on its part. It also refused to grant confidence to the Government of National Accord, which has operated for two years as a provisional government. The political schism has also been reflected in the Presidential Council itself, which has been unable to make decisions due to its internal division, which means that decisions are often taken individually.

The dominance of armed groups, which were not dealt with in the Political Agreement properly, except in a small appendix titled «Security Arrangements», was a major challenge to the Presidential Council, also contributing to the failure of the Political Agreement. These factors made most parties believe that the Political Agreement was «stillborn» and needed to be fundamentally amended.

Over time, the tension between the HoR and the State Council, the two parties tasked with amending the Political Agreement, escalated.<sup>20</sup> Although the division was over a number of issues, the disagreement over Article 8 concerning the Commander-in-Chief of the Army was the main controversial issue.<sup>21</sup> On the basis of this dispute, the army leadership and the presidency of the HoR in the East developed their positioning and their legal and political discourse to make their alliance the de facto political and security authority in the eastern region of the country. Also, on the basis of this disagreement, the High Council of State, the Presidential Council and their supporters developed their positioning and legal and political discourse to make their alliance the de facto security and political authority in the western region.<sup>22</sup>

## Social crises

The transitional period also witnessed crises at the social level. Initially, the issue of forced migration and Internal displacement surfaced. One of the most critical cases during the transitional phase—and one that is yet to be resolved—is the forced migration and Internal displacement of the people of Tawargha since August 2011, who were supposed to return on February 1st 2018. Despite pledging to resolve this problem, the Presidential Council has been unable to fulfill its promise.<sup>23</sup> Armed conflict also resulted in the internal displacement of people in various cities. Libya is a country of just over 6 million people, with the latest report by the Office of the High Commissioner for Human Rights (OHCHR) identifying 1.2 million internally displaced persons and refugees affected by war and armed conflict and in need

of support, the required humanitarian aid is estimated at \$580 million.<sup>24</sup>

Despite the fact that years have passed since some of the acts of displacement and relocation, there have been many attempts to find solutions and settlements, which have all proved fruitless. The problem of displacement has remained unresolved in every way throughout the transitional period. Secondly, the transitional period saw an increase in the range of groups in need of support and social protection programs, which are supposed to be implemented by the relevant ministries. However, no support and social protection programs were implemented during the transitional period. Thirdly, during the same period, divisions between a number of cities and tribes continued. Fourthly, more tears appeared in the social fabric, leading to a deficit in social capital, especially during the beginning of the uprising. Trust levels in traditional leaders—such as tribal elders—declined sharply. The representatives who won votes in the elections were unable to maintain the people's trust through their work in the elected bodies. Moreover, trust in members of representative bodies has declined, and along with it in those representative bodies themselves.<sup>25</sup>

## Security and human rights crisis

The transitional period witnessed crises at the security level. Most irregular military formations (militias) continued to refuse to demobilize, and attempt to integrate them into state institutions failed. The idea of using weapons to enforce any option persisted. Weapons were used from the beginning to pressure the General National Congress (GNC), the interim governments and ultimately the Presidential Council to adopt certain positions, to blackmail them and to force them to spend large sums of money, depleting state resources and exacerbating its financial crisis. Weapons were used to liquidate those who worked in the public sphere and who made efforts to mobilize society to respect the rules of transfer of power. In addition, abductions and enforced disappearances continued in 2017, according to the latest report of the Office of the High Commissioner for Human Rights (OHCHR), as did assassinations and bombings. Women and girls have been subject to abduction and exploitation in the deteriorating security landscape.<sup>26</sup>

Even those claiming to be members of a regular military body were implicated in the enforcement of extrajudicial punishments. The state of lawlessness continued. The impunity of perpetrators of war crimes continued. During the transitional period, armed and terrorist groups planted landmines in cities, especially in Benghazi and Sirte.<sup>27</sup> Demining has not been carried out to this day, and civilians continue to fall victim to mines, which have not been removed due to the prioritisation instead of reaching a political solution. In other words, humanitarian aid and relief have been politicized and tied to the success or failure of the political settlement.

## Crisis of identity

The transitional period also witnessed a crisis on the question of identity. Cultural minorities demanded a number of formal procedures that would preserve their rights and recognize them as a natural, cultural component of the Libyan nationhood equal to the other components. The Amazigh demanded that the Amazighi language be constitutionalized and established as an official language, and to that end called for a mechanism of constitutional consensus. In response, their demands were rejected and ignored. Ultimately, there has not been yet national dialogue on the issue of Libyan national identity, its multiple circles and dimensions throughout the transitional period.

## Conflict over system of government

The transitional period also witnessed a conflict with over which system of government should be adopted in order to frame the Libyan political sphere. Since the beginning of the transitional period, there has been a demand for the adoption of a federal system, calling for a balance between centralization and decentralization. The demand is basically a call for the equal distribution of wealth across the three regions, and a protest against the claims of marginalization of the peripheries i.e the East and the South. However, many considered the call for a federalism to be divisive, stemming from a weakened sense of belonging to a unified Libya. There has been no serious national dialogue away from accusations of treason on this issue and federalism was rejected altogether without a sound debate.

## Conflict over constitutional legitimacy

Since the beginning of the transitional period, there has been a demand to re-activate the 1951 Independence Constitution. The call was based on the fact that the 1951 Independence Constitution, which was amended in 1963, is the last constitution that was in effect before the suspension of the Constitution, its replacement with the Green Book after the 1969 coup, and the disruption of the country's constitutional framework until the uprising in 2011 and the issuance of the Constitutional Declaration. The movement calls for initially activating the suspended Constitution as a declaration of the complete reinstatement of the constitutional framework. According to the rationale of this movement, common constitutional legality dictates that the first action taken by a country restoring a constitutional framework after an illegal constitutional suspension should be the activation of the suspended constitution, after which, there would be three legitimate alternatives: 1) keeping the constitution as it was. 2) amending the constitution. 3) reaching a

constitutional consensus- based on the constitution itself- to conduct a constitutional process that would result in a new constitution. In response, those opposed categorically rejected this, considering it a step back.

## Justice and Judiciary Crisis

The transitional phase has witnessed chaos in the justice sector in general and in legislation on transitional justice in particular.<sup>28</sup> During the transitional period, the work of a number of courts was disrupted in a number of cities through the security chaos, lack of the rule of law, and the targeting of judges. Attempts were also made to drag the Judiciary into the political conflict. The most prominent of which was the Court's decision to accept the appeal filed against the amendment of the Constitutional Declaration, based on the February Proposal, leading to challenging the House of Representatives' elections. Other attempts to drag the Judiciary into the political fray were made, such as the lawsuit challenging the Constitutional Assembly's recent decision to refer the Draft Constitution to the House of Representatives to issue the referendum law, or when the municipalities at their meeting called for transferring the authority of the country to the Supreme Judicial Council in the event that an amendment of the Political Agreement by the parties to the dispute ( The House of Representatives and the High Council of the State) reached an impasse.

## Crisis in the economic situation

During the transitional period, the state's economic institutions, including the central bank, were fragmented. The oil sector experienced successive crises. The main crisis was the takeover of some of the militias in July 2013 of the oil refineries in four oil export ports; Haraiga, Sidra, Zwitina and Brega. The Crescent remained a place of attack and retreat amidst opening and closing of the ports, and a zone of conflicts between Libyan National Army (LNA) and the Petroleum Installations Guards. The scene was often repeated in the west of the country. Thus, oil production stopped because the armed groups that considered themselves guardians of the Petroleum Installations halted production to either demand financial allowances or make political demands. For example, the Sharara field, one of the largest oilfields in the western region, producing 283,000 barrels per day and supplying the Zawya refinery 45 kilometers west of the capital and its port, has been shut down several times by irregular armed groups. Libya produced about 1.6 million barrels per day before the fall of the former regime in 2011. Since then, the country's chaotic security situation has had a major impact on oil production. According to the Oil Corporation, the closure of oil ports has cost Libya more than \$ 130 bil-



lion since the end of 2014. The state also cut off public spending in a large number of sectors and delayed the delivery of salaries for several months because of lack of liquidity. Furthermore, during the transitional period, the Libyan dinar lost its value catastrophically, resulting in liquid assets losing much of their value. The underground economy and the war economy thrived, in light of the rampant corruption in state institutions, theft and massive exploitation of state resources and their smuggling abroad in coordination with internationally organized criminal networks.<sup>29</sup>

### Healthcare Crisis

The transition also witnessed healthcare crises as well as the collapse of the health sector. According to UNICEF's 2017 reports, 20% of the health sector has been destroyed by the conflict. The Ministry of Health is also unable to receive external support and funding. Citizens are still unable to obtain treatment and health services.<sup>30</sup> In 2015, the number of women and children in need of humanitarian aid reached 1.35 million, representing 55% of the population in need of humanitarian assistance (2.44 million), i.e. 22% of the population of Libya.<sup>31</sup>

### Educational Crisis

Rates of school absenteeism and dropping out for a year or more have increased as have the rates of those completely abandoning education. A number of schools were unable to stay open throughout the school year. According to UNICEF's latest report for 2017, there are 315,000 children in urgent need of educational assistance.<sup>32</sup> Moreover, records show that a number of schoolchildren were killed while in school as a result of mine explosions in the city of Benghazi. Others suffered permanent disabilities such as the loss of an eye or a limb. The rates of children under the age of 18 who have joined the ranks of combatants in urban armed conflicts have increased.

### Humanitarian crisis

Human trafficking, led by organized criminals, intensified in Libya. Irregular migration flows—including Libyan emigrants—have flourished. Even slave markets and the forced trafficking of migrants have been documented. This has led the UN Security Council to unanimously adopt resolution 2380, which condemns all acts of smuggling of migrants and trafficking of human beings in and out of the Libyan territory and off the coast of Libya.







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## Section II

# Local Efforts and Steps Towards Reconciliation

In the face of these crises, there have been local attempts of reconciliation & stabilization. These efforts have been made in various aspects of life both on the community level and the state level. We shall be highlighting the major ones.

During the transitional period, which witnessed the failure of national & political reconciliation, a number of important local reconciliations were achieved. Local reconciliations gained momentum to the extent that they can no longer be ignored. These included a reconciliation agreement was reached between the Gaddafi and the Werfella tribes and in 2013. Another reconciliation agreement between the Tebu and Tuareg was reached in 2015, as well as one between the Tebu and Awlad Suleiman in 2016 under the auspices of the BeniWalid Social Council. A reconciliation agreement was signed between the Gaddafi tribe and Awlad Suleiman in 2016 through the mediation of the tribes of Barqa, Souk al-Jumah, Tarhunah and Sebha. An agreement was also completed between Misrata and Tawergha in August 2016, and some of the provisions of this agreement were translated, but it was soon faced with obstacles due to the armed groups in Misrata. A reconciliation agreement between Misrata and Zintan was also concluded in 2018. Some of these reconciliations were concluded after military confrontations, and included reaching a ceasefire, an exchange of prisoners and opening investigations into missing person cases. It should be noted that some of these reconciliations were carried out by purely local efforts, which proved to Libyans that they had the ability to reunite themselves without the need for external intervention. It should also be noted that some of these reconciliations were not limited to the tribal component, but others, such as civil society stakeholders, women and youth activists, were also involved. This is an important aspect which needs to be examined further in a separate study.

During the transitional period, the role of municipalities and local councils, which played a pivotal role in these mediations and reforms, increased. Municipalities and

local councils have been able to communicate with grass roots and understand their needs. Municipalities have succeeded in providing the minimum level of services to their local communities. This has been achieved despite several constraints, such as lack of resources, the incompetence of the central administration and its failure to meet its responsibilities, which complement the municipalities' responsibilities, and their inadequate support for the municipalities. Another obstacle was the Local Government Act, which reduced the role of municipalities. Municipalities have been able to compensate for some of the lack created by the incompetence of most official national bodies.

Furthermore, the transitional period also witnessed the increased role of civil society, especially women's and youth groups. This has been reflected in the establishment of a large number of associations, non-governmental organizations and platforms, as well as in the launching of civic initiatives and the organization of nonviolent movements and advocacy campaigns. Civil society stakeholders have also been able to play these roles despite considerable constraints and challenges, including the lack of a legislative framework that sets parameters for their work. Perhaps the most significant of these challenges is the targeting—morally and physically—of civil activism leaders.<sup>33</sup> Throughout the transitional period, the powers of civil activism have been steadfast and effective in a situation marked by the ineffectiveness of official bodies.



**During the transitional period, which witnessed the failure of national & political reconciliation, a number of important local reconciliations were achieved. Local reconciliations gained momentum to the extent that they can no longer be ignored.**

The transitional period also marked the establishment of a new and relatively vibrant media. A large number of satellite channels were established—although each satellite channel has its own agenda, reflective of who funds it which has contributed to misinformation and production of fake news. This in turn has led to increasing societal polarization. Nevertheless, the performance of some young men and women has been considerably professional in media. A number of programs and shows have become platforms of dialogue. To some extent, in new Libya media played the role of monitoring as well as putting pressure on state official and politicians.

On June 22nd 2017, and within the context of the dialectic that arose between the sequence of crises discussed above, and the efforts towards stability, Mr. Ghassan Salamé launched his initiative as an attempt to conclude a comprehensive settlement. The initiative is divided into elements; the first of which is the amendment of the Political

Agreement and the restructuring of the Presidential Council. Mr. Salamé believes that this is the main course—or Plan A—to end the Libyan crisis. Mr. Salamé has recently become impatient with the dilatoriness of the bodies entrusted with the task of amending the Political Agreement, namely the Council of Representatives and the Supreme Council of State. The second element is the convening of a comprehensive Inclusive National Conference under the auspices of the United Nations Secretary-General's Envoy, which will serve as a basis for national reconciliation. The conference was supposed to take place in February 2018 and the members of the executive institutions were supposed to be identified and selected on a consensual basis. This contributed to the confusion about the nature of the Inclusive National Conference; whether it was a parallel body or one inclusive event. In the first week of April 2018, national meetings were launched in thirty cities in cooperation with the Centre for Humanitarian Dialogue.<sup>34</sup>

The third element is aimed first at the Constitutional Drafting Assembly, after the convening of the Inclusive National Conference, urging it to review the Constitution, and then urging the House of Representatives to issue the referendum and elections laws. The fourth element is conducting a referendum on the Constitution. Lately, there seems to be hesitation about whether the referendum will precede the elections or not. The final element is the holding of presidential and parliamentary elections on the basis of the Constitution, (Mr. Salamé recently reiterated the possibility of holding presidential and parliamentary elections on the basis of an amended Constitutional Declaration).

From a close reading of the initiative and its elements, it's clear that it is also based on the same diagnosis that the essence of the crisis in Libya is political—a diagnosis adopted by all the heads of the United Nations Support Mission in Libya since its establishment, as well as by the powers of the international community. This diagnosis was first reflected in restricting the mandate of the United Nations Support Mission in Libya to a political mission. Based on this diagnosis, which was also espoused by many parties other than the UN Mission, the “democratic toolkit” solution was adopted. According to this model, any country that has passed through a period of absolute autocratic rule, has suffered a constitutional interruption and is in transition, must implement a series of specific steps. The most important of these steps are holding elections, building a multiparty polity—even without a political party culture, a free press and drafting a new constitution. The assumption is that once this “toolkit” was implemented, a general recovery would occur. The presumption that the core of the conflict is political, implicated that actors engage in high politics neglecting the multidimensionality of the conflict. This presumption results in strategizing at only the national level, neglecting the localized solutions and ignoring the successes of local structures compared to national ones.



## Section III

# Responses to the Questions of the Transitional Survey

The survey was designed according to a qualitative methodology. Initially, the sample of 203 people, was carefully selected according to several criteria. The first of these was the background of participants, having extensive experience, including active, continuous and effective participation as well as having influence on large areas of the public domain. The second criterion is the diversity representation of participants in terms geography, culture, gender and age. Focus groups and personal interviews were held in large cities in Libya's three regions; the East, the West and the South, specifically in Benghazi, Tripoli, Sebha and Zuwara. In cities where focus groups or interviews could not be held, they were replaced by a web survey.

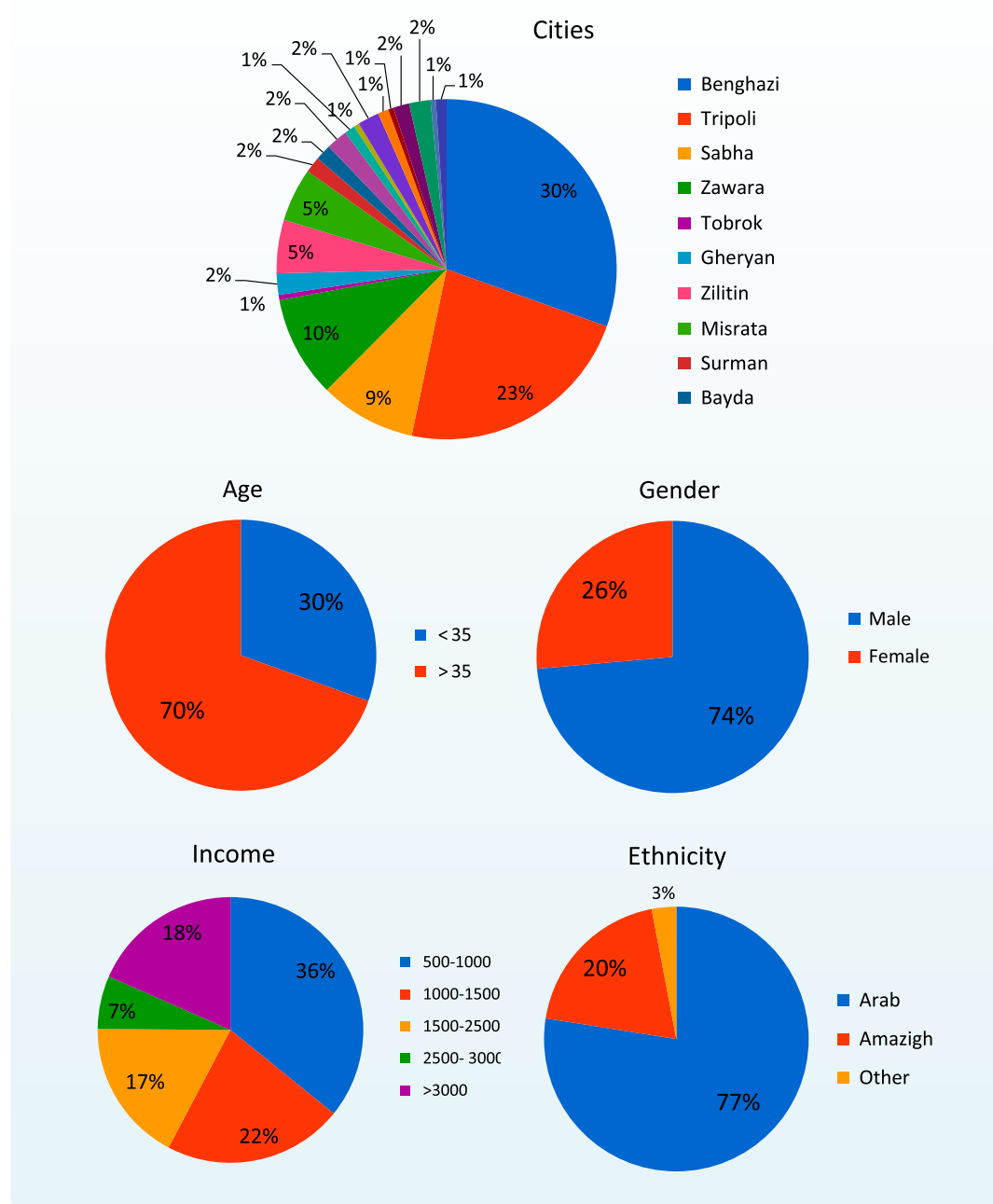
The survey covered a number of issues: First, the comprehension by the collective consciousness of the nature of the transitional period and its understanding of the nature of the role of the UN Mission. Second, society's interaction with developing and amending the Political Agreement. Third, society's interaction with the concept of the Inclusive National Conference. Fourth, society's interaction with the constitutional process, including the drafting of the constitution and the referendum on it. Fifth, society's interaction with the elections.

The questions were formulated carefully in a neutral fashion to allow for the greatest diversity and avoid directing participants to a specific answer. Hence in many cases the variables in the figures are in fact the respondents own choices. In coding and analyzing the data, we have employed a conventional content analysis method where codes and keywords are derived from the data.

On another note, the responses highlight the importance of effective community participation during transition, and in the constitutional process so that the Constitution can really function as a social contract, which in turn can mend the ripped social fabric.

■ The following are the demographics (gender, age, ethnicity, income level, and level of education) of the sample participating in the survey, whether through focus groups, interviews or the online survey. In terms of education, 59% of the participants are university graduate, 36% have post graduate degrees, and 5% have finished secondary school.

**Figure (1-5): Indicating the geographical variation of the sample surveyed**



## Part One:

### Questions on the Transitional Period and The Roadmap Announced by Ghassan Salamé, Head of the United Nations Support Mission in Libya

The survey's initial focus was the transitional period and the performance of the United Nations Mission in general as well as the Roadmap announced by Mr. Ghassan Salamé in particular. It is important to be keep in mind that the Roadmap is a product of the UN Mission, which has been in Libya for seven years.

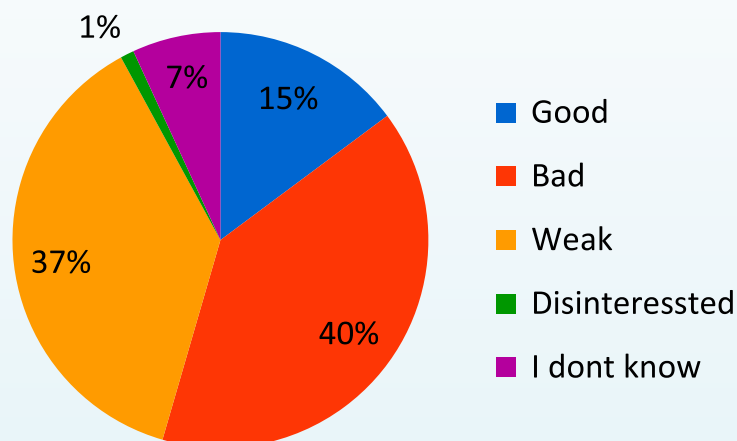
It is axiomatic that Mr. Salamé's recent initiative is based on his assessment of the UN Mission's performance in total and on his assessment of previous initiatives and the challenges and obstacles they encountered. Additionally, the perceptions of Libyan influencers of the Roadmap are an integral part of their perceptions of the UN Mission and its performance over these seven years.

## First: Questions about the performance of the United Nations Support Mission in Libya since 2011

■ With regards to the general impression of the performance of the United Nations Support Mission in Libya, which was created with the intensification of internal differences to play the role of mediator between the Libyan forces, the survey revealed that 40% of the respondents felt that the performance of the United Nations Mission of Support in Libya has been bad, 37% felt it has been weak overall, while 15% of the respondents believed it has been good, and 7% said that they did not know, and 1% did not care.

**Figure (6): General assessment of the role of the United Nations Support Mission in Libya since the start of the transitional period**

What is your overall impression of UNSMIL's performance since 2011?

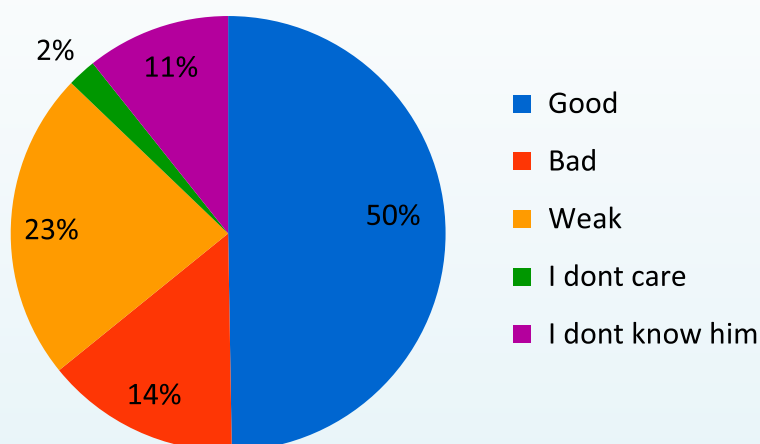




■ In contrast to the overall impression, half of the respondents had a good impression of the Mission's performance during Ghassan Salamé's leadership, while 23% of the respondents stated it was weak. 14% of the respondents felt it was bad and 11% said they did not know him (most of these answers were from Sabha) and 2% said they didn't care.

**Figure (7): General impression of the performance of the Mission during the leadership of Ghassan Salamé's**

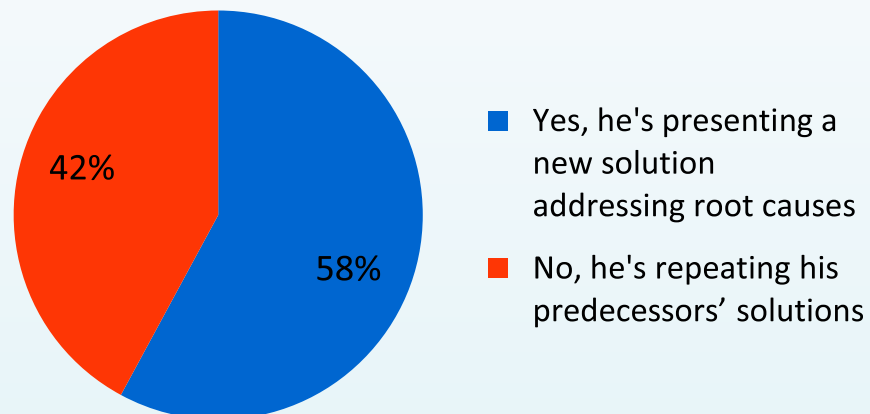
What is your general impression of the mission's performance under the leadership of Ghassan Salame?



■ On whether Ghassan Salamé is presenting new solutions to the crisis and addressing root causes, or whether he is repeating the solutions of his predecessors, the result of the survey, though close showed a clear majority; 58% believe that Ghassan Salamé's approach is different, and 42% believe that he is repeating the solutions of his predecessors.

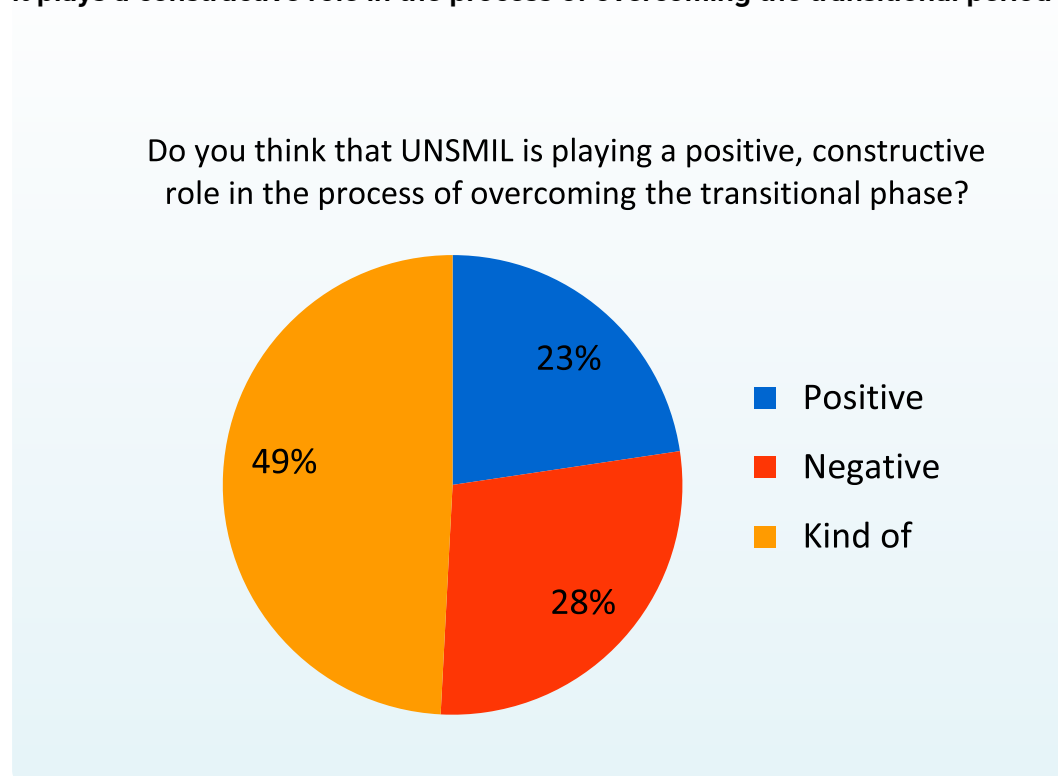
**Figure (8): Evaluating the extent to which Ghassan Salamé's approach differs from previous UN envoys and whether he presents a new approach to the crisis or repeats his predecessors' solutions.**

How does Ghassan Salame's approach differ from his predecessors (UN envoys)? Is he presenting a new solution addressing root causes or repeating his predecessors' solutions?



■ In response to the question of whether UNSMIL is playing a constructive role in overcoming the transitional period, the survey revealed that 49% of the respondents said that the role of the UNSMIL is «somewhat constructive», while 28% believe that the role of the Mission is negative and 23% believe it is positive.

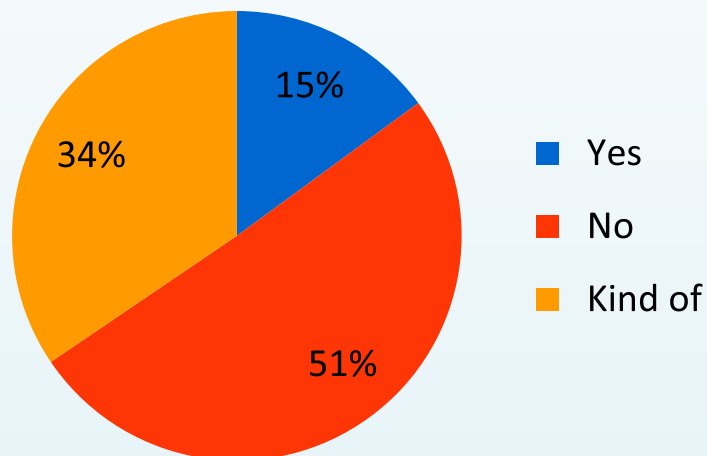
**Figure (9): Evaluating the role of the United Nations Mission and whether it plays a constructive role in the process of overcoming the transitional period**



■ The work asked participants whether they felt the Mission managed to balance between the community-based (bottom up approach) and the state-centered (top down approach). Just over half—51%—of the respondents felt the Mission does not balance between the bottom up approach and the top down approach. While 15% of the respondents believe that UNSMIL does indeed balance between the two and 34% of the respondents were of the opinion that the Mission somewhat balances between the two approaches.

**Figure (10): Evaluating the extent to which UNSMIL balances between the community based (bottom up approach) and the state centered (top down approach)**

Does UNSMIL balance between the community based (bottom up approach) and between the state centred (top down approach)?



- The focus groups explored the clearest defects in the UN Mission's method and the main obstacles that could hinder the implementation of the Roadmap as well as collecting suggestions from the respondents on how it could be improved.

It is clear that the Libyan influencers' assessment of the overall performance of the United Nations Mission is generally negative and that they are displeased by this performance on various levels. On the first level, a good number of respondents unanimously stated that the UN Mission lacked impartiality in dealing with the Libyan powers. One respondent saw that the most striking defect in the UN Mission's performance was «bias, favouritism and double standards in dealing with rival powers». Another said that the fundamental flaw in the UN Mission's performance was the failure to involve all parties and blocs in the dialogue.

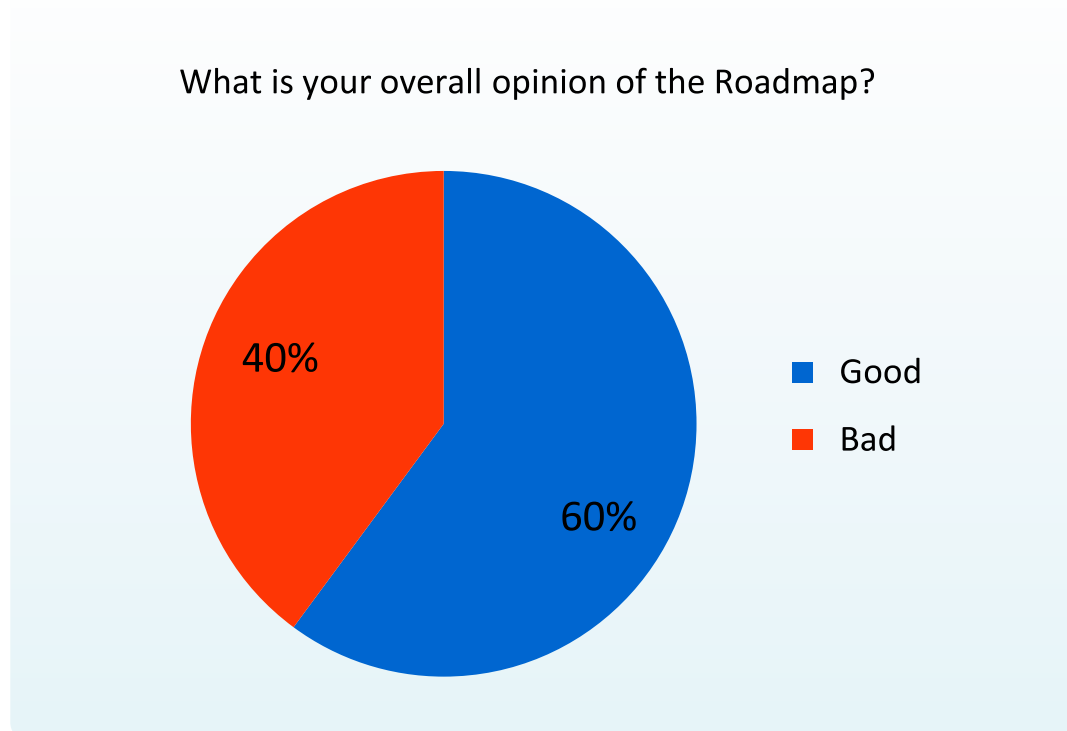
On a second level, some respondents criticized the UN Mission's understanding of the Libyan issue's unique nature. Some saw that the UN Mission's basic inadequacy was «the UN Mission's incomplete awareness and its scant knowledge of the components of the Libyan people and the sensitivity of each component». Others saw that the inadequacy was in the UN Mission's failure to observe the backlog of constitutional and political heritage, in particular the constitutional legacy from the construction of Libya as an independent state.

On a third level, some respondents criticized the UN Mission's previous plans and the priorities therein. Some saw that the UN Mission lacks «the capacity to develop an internationally resolute disarmament solution». Others considered that the UN Mission had erred by not prioritizing collecting weapons and disbanding militias in its plans. Additionally, some respondents criticized the UN Mission's inability to prevent international and regional interference, which add fuel to the conflict.

## Second: Questions on the Roadmap

■ In response to the question regarding the overall assessment of the Roadmap, 60% of the respondents think that it is good, while 40% think it is bad.

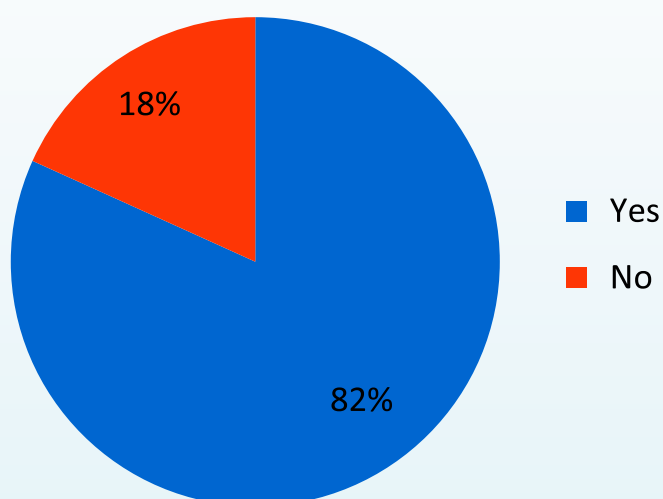
**Figure (11): General assessment of the Roadmap**



■ In response to the question regarding the stages or steps that are perceived to have been overlooked by the Roadmap, a large percentage of the respondents, 82%, believe that there are steps or stages that have been missed and just 18% of respondents believe that no steps or stages have been overlooked.

**Figure (12): Evaluating whether there are steps that have been missed by the Roadmap**

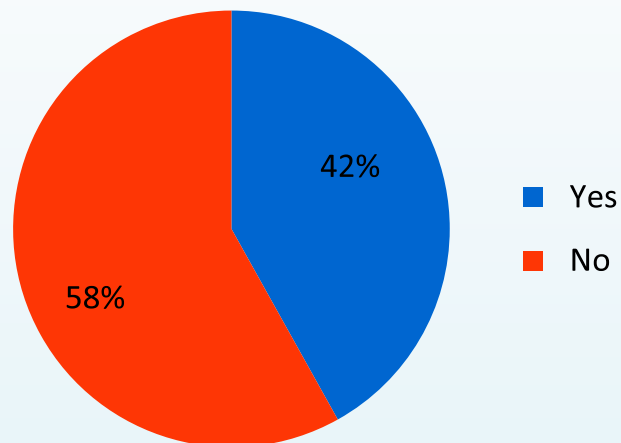
Are there any stages or steps that you consider the Roadmap to have missed?



■ Respondents were asked whether existing conditions enhance the likelihood of the success of the Roadmap. While 58% said that the conditions do not yet allow for the success of the Roadmap, 42% of the respondents believe that the existing conditions do in fact enhance the likelihood of its success.

**Figure (13): Assessing whether the existing conditions enhance the likelihood of the success of the Roadmap**

In your estimation, do the existing conditions enhance the likelihood of the Roadmap's success?





- While the perceptions of Libyan influencers on the most significant obstacles to the implementation of Mr. Salamé's Roadmap varied, all agreed that the perceived obstacles were all local rather than external.

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One respondent said that the most important obstacles are the proliferation of arms and armed militias. Some believe that the intransigence of the conflicting parties will lead to an environment that will not be conducive to elections. Another respondent expressed concern about a lack of commitment or compliance on the part of the conflicting parties on the ground. Others respondents consider the major obstacle to be financial corruption. There were those who saw that the lack of political awareness would in itself be an obstacle to the Roadmap. Responses to question about obstructions can be compared with the above responses regarding the UN Mission's performance.

In comparison, we can conclude that the lack of mention of external interference as a potential obstacle and the focus on local obstacles indicates that local constraints have a very high significance in the eyes of Libyan influencers, and not that they completely exclude external obstacles. This may provide an important key to the move from a transitional period to stability; if the Libyan powers agree amongst themselves that the chronic conflict must end, it would be difficult for foreign powers that want the conflict to continue to force its continuation.

■ As the perceptions of Libyan influencers on the most important obstacles to the implementation of the Roadmap varied, their proposals for improving it were diverse as well. Additionally, all these suggestions also focused on local parties, which confirms the conclusion drawn in the previous paragraph.

Some suggestions focused on the hierarchy of the Roadmap's steps. One of the respondents suggested «working on each stage separately, starting with the first step of including the Political Agreement in the Constitutional Declaration, then the referendum and then the elections.» Another person suggested putting the Constitution first before the elections. Another group of proposals were related to the military issue. One respondent saw that revolutionaries must be expediently incorporated in the military under military leadership. Another saw that the army must be unified. Another group of suggestions focused on the necessity of healing the social schism. Expanding the parameters of dialogue participation was also proposed, as well as guaranteeing the «representation of ethnic minorities.»

Others proposed that supporting an inclusive national conference for national reconciliation and resolving all disputes between all parties is the basis for implementing the Roadmap. Some proposals focused on taking the necessary measures to ensure the conflicting powers' compliance with the results of the ballot box, in which one of the respondents stated that a national charter must be drafted: creating a document, signed by all conflicting parties, which compels them all to comply with and submit to the results of the elections.

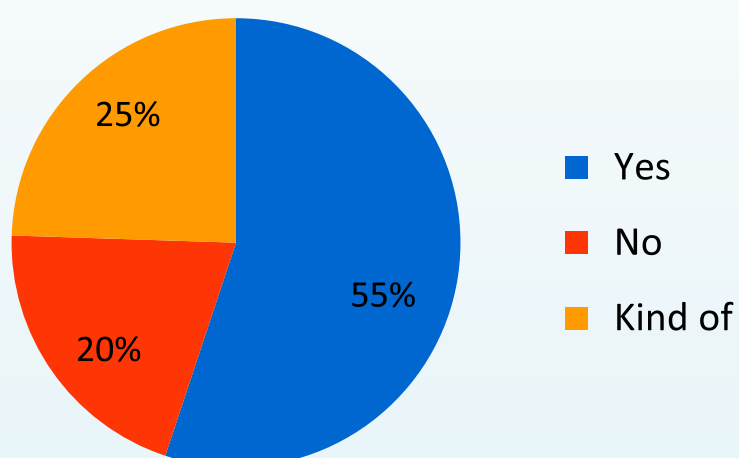
Some suggestions reflect concern that there is a gap between political stakeholders and society. This was indicated by the proposal to prioritize convincing the Libyan people of the usefulness of the Roadmap by increasing political awareness in simple ways, so that citizen on the street can view the content of the Roadmap and the political solution as a way to peace and stability. Some suggestions focused on the constitutional aspect, and stated that the Roadmap should include the adoption of the 1951 Constitution.

### Third: Questions about the stage of amending the Political Agreement as one of the stages of the Roadmap

■ In response to the question regarding keeping up with the construction process of the Political Agreement, 55% of those surveyed followed the construction of the Political Agreement, while 25% of the respondents «to some extent» followed the process and 20% did not follow the process at all.

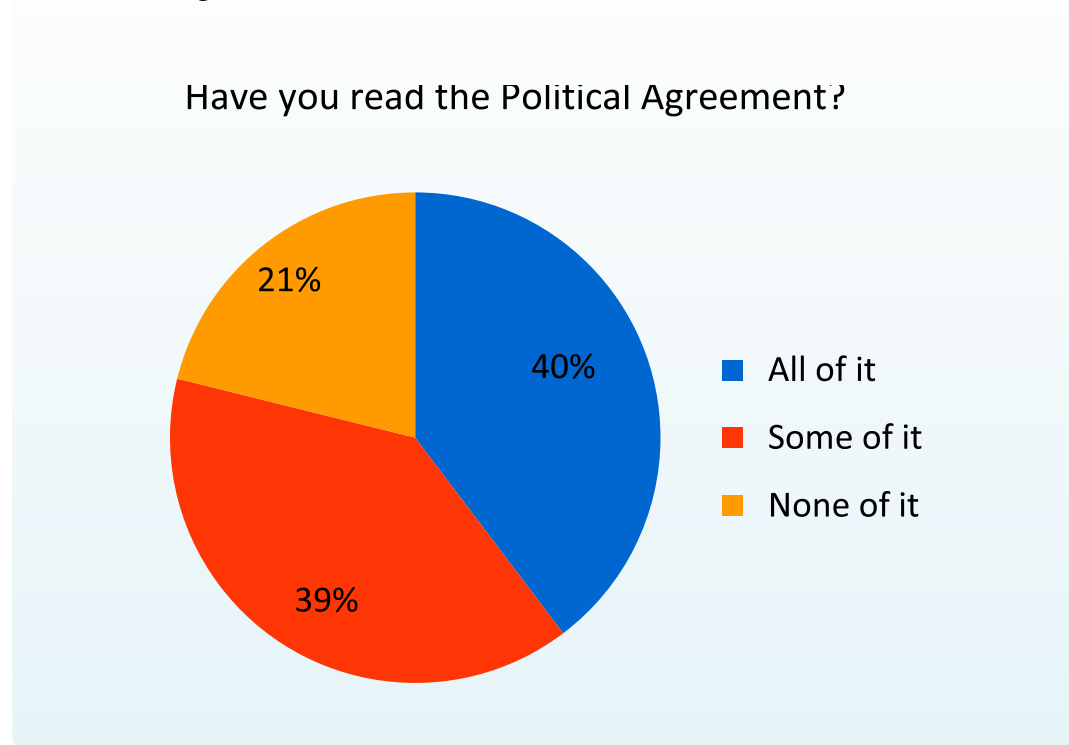
**Figure (14): Evaluation of the follow-up of the process of building of the Political Agreement**

Have you followed the process of the construction of the Political Agreement?



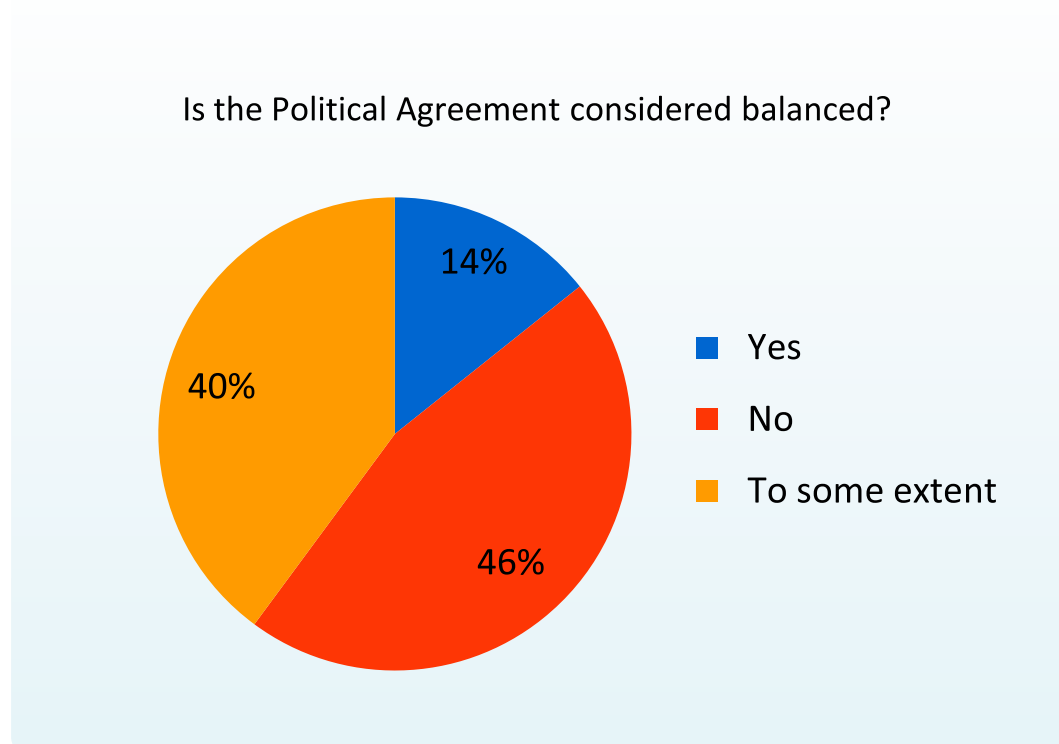
■ In response to the question regarding the extent of the respondents' knowledge of the Political Agreement, 40% of the respondents said that they were fully aware of the Political Agreement while a similar 39% of the respondents said that they had read parts of the Agreement and did not have full knowledge of it, while 21% of the respondents did not read it at all.

**Figure (15): Assessing the extent of the respondents' knowledge of the Political Agreement**



■ In response to the question of whether the Political Agreement is politically balanced, 46% of the respondents believe that the political agreement is completely imbalanced, while 40% believe that it's balanced to some extent and 14% of the respondents said that the agreement is balanced.

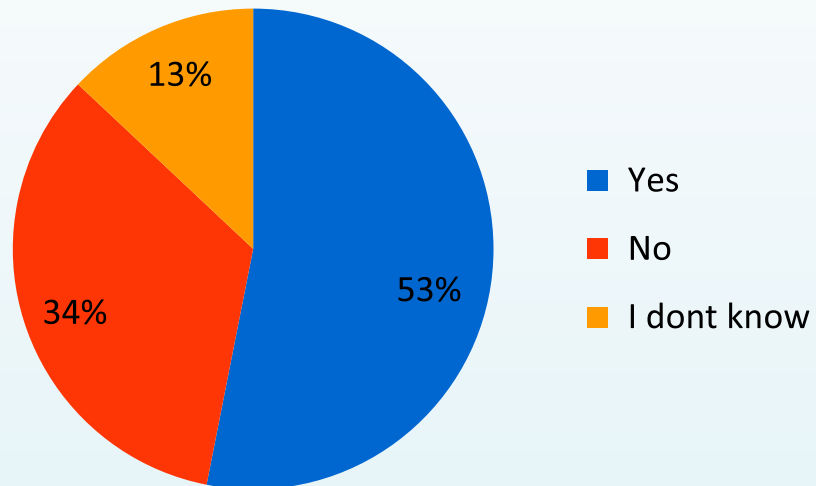
**Figure (16): Evaluating the balance of the Political Agreement**



■ The survey revealed that 53% of the respondents think that finalizing the Political Agreement represents a step forward, 34% disagree, while 13% don't know.

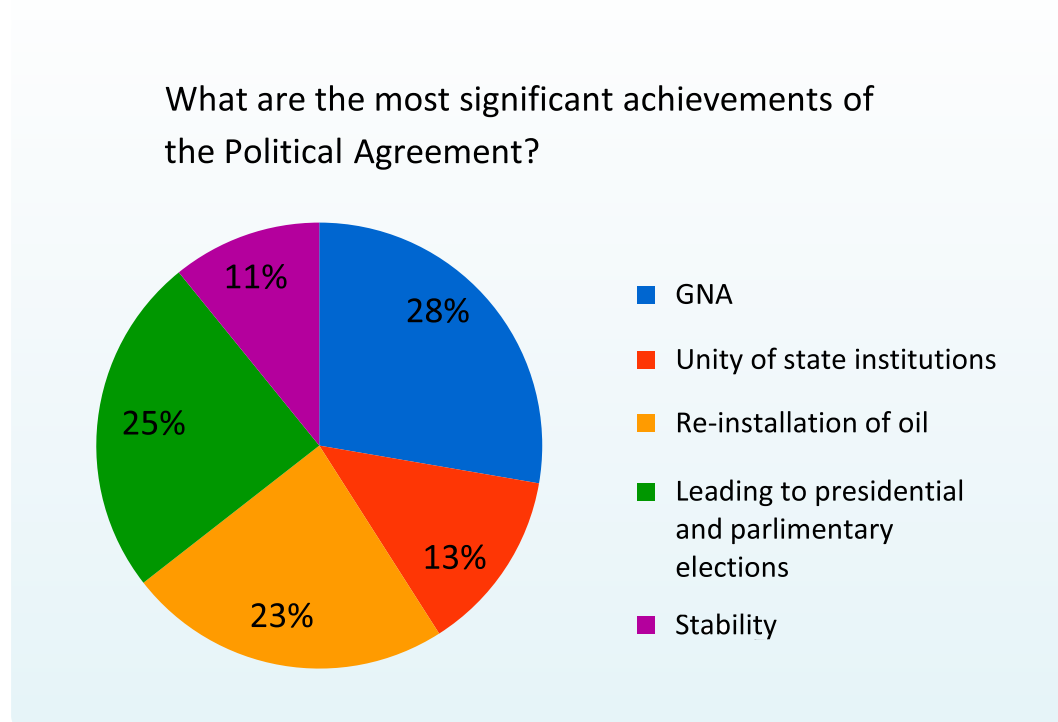
**Figure (17): Evaluating the step of finalizing the political agreement and whether it represents a step forward or backward**

Do you consider finalizing the Political Agreement to be a step forward?



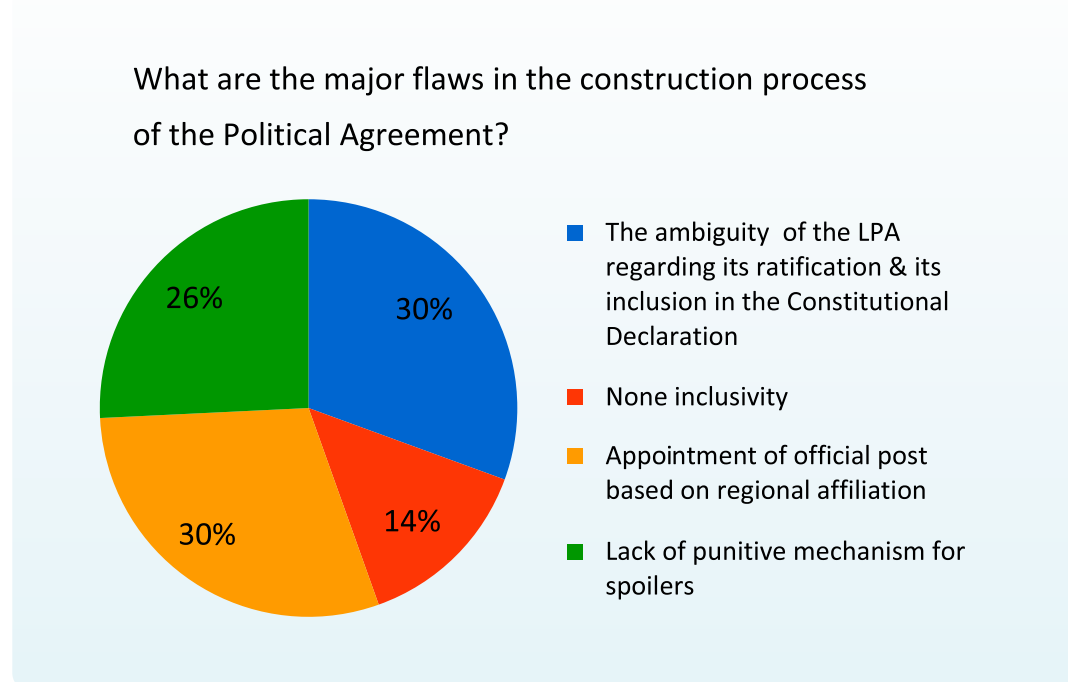
■ When considering the Political Agreement's most significant achievements, 28% of the respondents stated it was the GNA, while 23% of the respondents considered that the resumption of oil production was one of the most important achievements of the Political Agreement, with 13% naming the unification of state institutions. 25% felt that the elections were the most significant achievements of the Agreement, and 11% of the respondents said that the attaining relative stability was one of the most important achievements of the Political Agreement.

**Figure (18): Evaluation of the achievements of the Political Agreement**



■ In response to the question regarding the major flaws in the process of constructing the Political Agreement, 30% of the respondents named the ambiguity of the LPA regarding its ratification and its inclusion in the Constitutional Declaration. Another 30% see that the appointment of official posts based on regional affiliation as the leading flaw, and a similar 26% said that the lack of punitive mechanism for spoilers is the most significant flaw. Finally, 14% of the respondents believe that the lack of inclusiveness is the most prominent defect of the Political Agreement.

**Figure (19): Evaluating the major flaws in the construction process of building a Political Agreement**

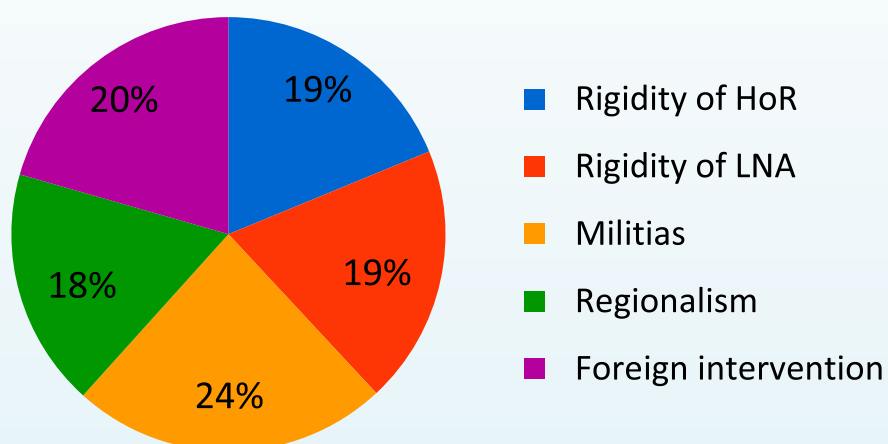




■ When considering the obstacles that impeded the full implementation of the political agreement, responses were fairly evenly split. 24% believe that militias and lack of disciplined security arrangements are the most significant obstacle. 20% believe that external interference is the most important obstacle, while 19% view that the rigidity of LNA the most important obstacle to implementing the Political Agreement. Another 19% believe that the intransigence of HoR is the most significant obstacle. 18% believe that regionalism is the most important obstacle to preventing the implementation of the Agreement.

**Figure (20): Evaluating the obstacles that impeded the full implementation of the political agreement**

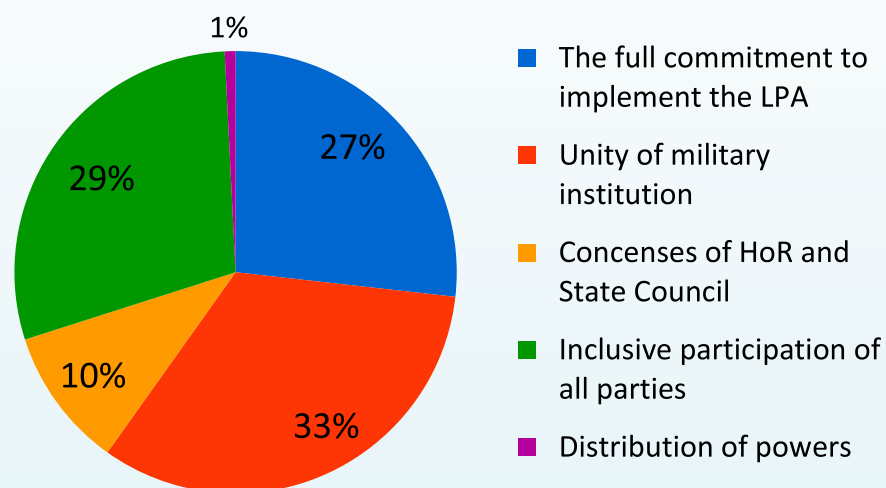
What are the most significant obstacles that have impeded the full implementation of the Political Agreement?



■ In response to the question regarding the merits of amending the Political Agreement, 33% of the respondents believe that the unification of the military institution is the most important condition, 29% said that inclusive and fair participation of all parties is the most significant, 27% believe that the full commitment to implement the LPA is the most important condition, a smaller 10% believe that no amendment is possible except by agreement between HoR and State Council, and 1% believe a better distribution of powers to be a major condition.

**Figure (21): Evaluation of the merits of amending the Political Agreement**

What are the major conditions that should govern the process of amending the Political Agreement?



- A range of proposals were made regarding elements that needed to be amended (i.e. deleted, added or modified) in the Political Agreement, some of which were based on the articles of the Agreement itself.

In this regard, one of the respondents stated that the essence of the problem in the agreement lies in Article 8: “Article 8 is the reason for the delayed implementation of the agreement.” Another respondent summed it up by stating that the crux of the problem is Article 8 because of the controversy it causes between the parties.” Article 8 is one of the Additional Provisions. Respondents also raised concerns about the ambiguity in the separation of powers between the Executive and the High of Council of State.

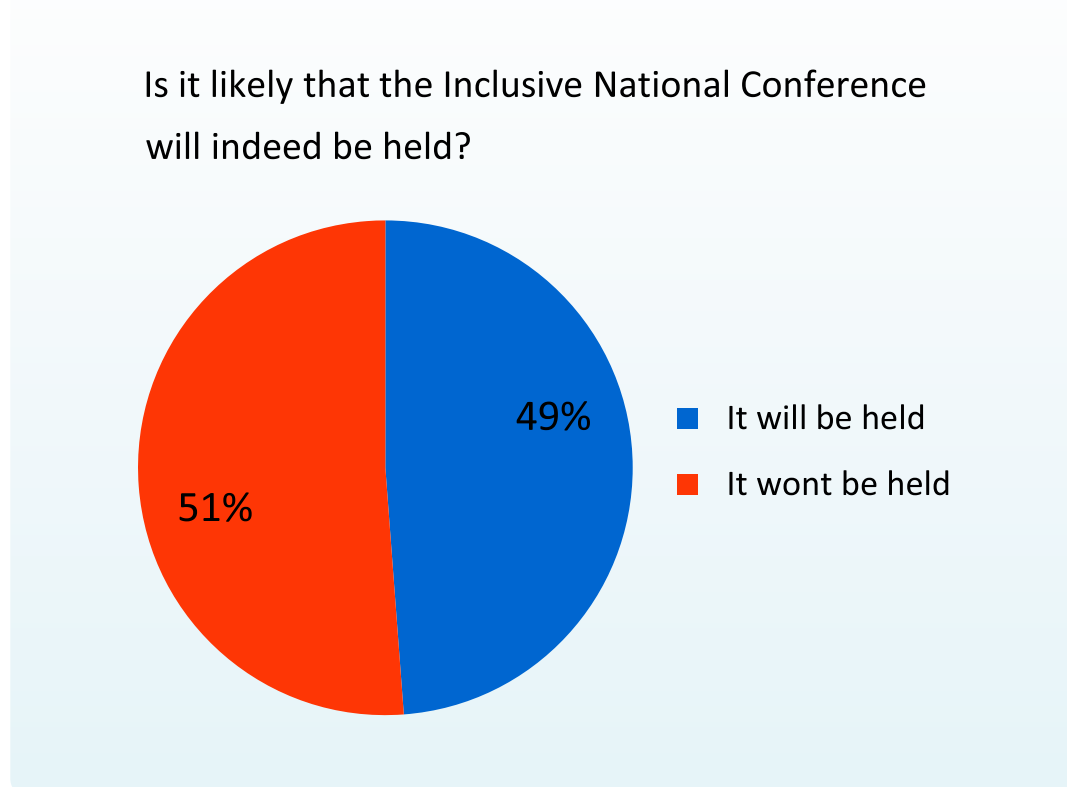
Some of the proposals suggested the necessity of amending the Political Agreement’s position towards the separation of powers concept: i.e. The legislative powers of the Council of State and the Parliament and the High Council’s executive powers. (One of the proposals stated the necessity “of providing for the implementation mechanisms of this Agreement, and adding an explicit article to penalize anyone who fails to implement the Political Agreement.” Some answers reflected a general conviction that the Political Agreement had lost its political viability and must be considered obsolete: “After two years, it all needs to be thrown out. What is the benefit of amending if there is no international intention to impose it and to punish those obstructing the Agreement, amidst the superpowers manipulation of the situation through their arms and mercenaries in Libya.”

Other responses agreed with the previous answers, but differed by stating the alternative that should be adopted if the Political Agreement is discarded: “It is necessary to review the Agreement in the light of the current circumstances which indicate that its time is over and that it would be to better focus on the Inclusive National Conference to produce a consensus document on the issues mentioned earlier.” Another stated: “Abolition of the Agreement and the activation of the 1963 Constitution.”

#### Fourth: Questions about the stage of the National Conference as a framework for reconciliation as one of the stages of the Roadmap

■ Respondents were asked if they thought it probable that an Inclusive National Conference would be held. 49% of the respondents expect that it will take place while 51% do not expect it to be held.

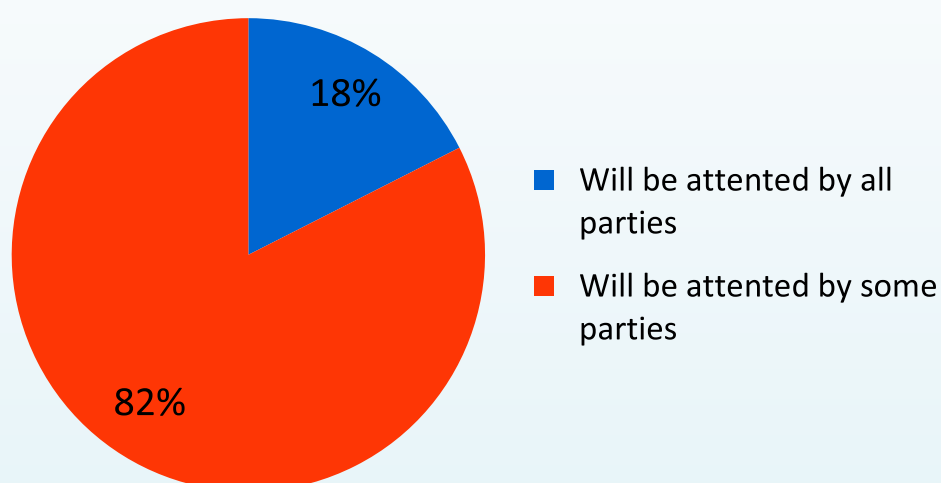
**Figure (22): Evaluating the likelihood of the Inclusive National Conference taking place**



■ In response to the question regarding the level of inclusion of the expected National Conference, the overwhelming majority (82%) of the respondents doubt that the National Conference will be attended by all parties, while 18% of the respondents believe that the National Conference will be inclusive and will be attended by all parties.

**Figure (23): To evaluate the level of inclusion of the expected Inclusive National Conference**

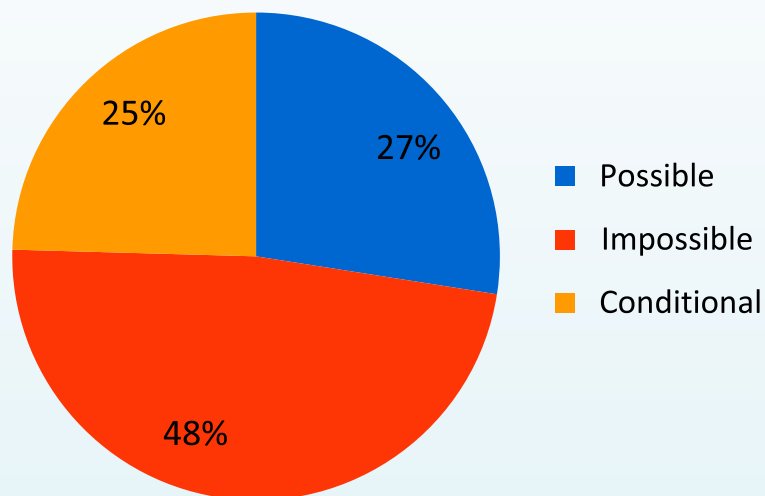
Is it likely that the Inclusive National Conference will be attended by all parties?



■ In response to the question regarding the realism of reconciliation before ending the chaos of arms, almost half the sample (48%) believe that it is impossible to launch the reconciliation process before ending the proliferation of weapons. 25% of the respondents believe that it is possible but under certain conditions and controls, while 27% thought it possible to start reconciliation before ending the chaos of arms.

**Figure (24): Evaluating the chances of success of a reconciliation before ending the arms anarchy**

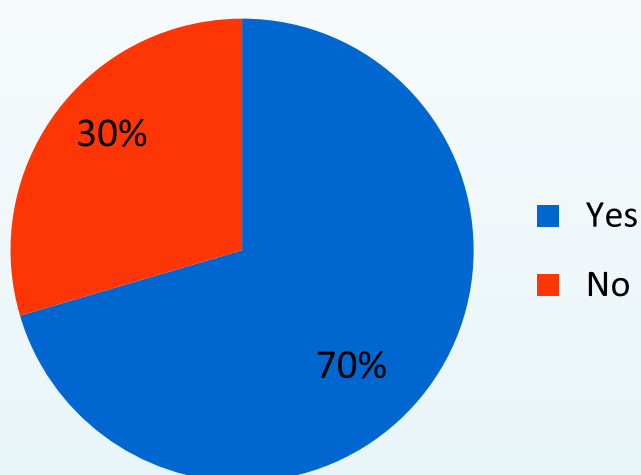
Can the reconciliation process be launched before ending the arms anarchy and proliferation of weapons?



■ In response to the question regarding the possibility of armed groups participating in the Inclusive National Conference, a large majority respondents—70%—expected that the National Conference would include these armed groups while 30% expected that the National Conference would not include these armed groups.

**Figure (25): Evaluating the possibility of armed groups participating in the Inclusive National Conference**

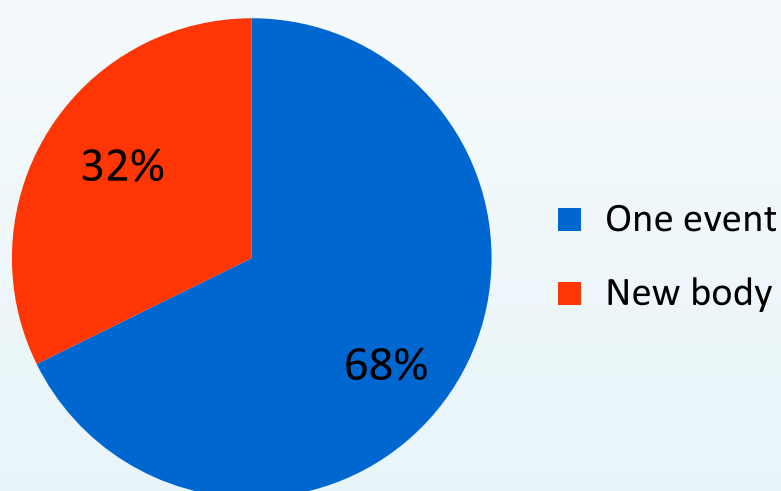
Do you expect the proposed Inclusive National Conference to include armed groups (militias)?



■ In response to the question regarding the expectations about the nature of the National Conference, 68% of the respondents believe that the National Conference will be only one event that produces results while 32% of the respondents believe that the National Conference will become a new body.

**Figure (26): Assessing the expectations about the nature of the National Conference**

Do you think that the Inclusive National Conference will be only one event or will be a new body? Or would you prefer that it was a single event, i.e. a conference that only happens once and produces recommendations?





■ Questions regarding the Libyan influencers' views on the proposed National Conference — a framework for reconciliation — were especially formulated to assess its chances of achieving genuine reconciliation rather than merely being a meeting for public relations, to score points against one another or to further complicate the existing complexity. The questions therefore sought to define the most prominent disputes and issues to be addressed by the Conference. It goes without saying that defining these disputes entails listing them according to priority. It is also worth noting that some of the disputes are intertwined.

The answers revealed that most of the Libyan influencers believe that there is a cluster of disputes and conflicts that must be addressed simultaneously. The “regional dispute” is considered to be the most significant of these in the view of Libyan influencers. What is meant by that to some is, «the historical dispute between Barga and Tripoli, and the issue of managing natural resources in a way that guarantees justice.” Others felt that the top priority was “disputes between cities.” Another group believed the priority was the dispute between the authorities, expressed by some as “disputes between the Government of National Accord and the House of Representatives and the military establishment in the east of the country,” while others referred to focusing on “disputes between institutions in order to unify the institutions of the state.”

One of the respondents compiled these disputes by urging that the Inclusive National Conference strives to reach consensual formulations with those who boycotted the constitution, the advocates of decentralization, parties with economic and developmental grievances, parties with administrative grievances and the National Number issue and parties with political grievances; «political quotas and participation in power.”

There are some who believe that the Conference should focus on cities in dire circumstances that require urgent intervention, such as “the situation of Derna,” Tawergha and BaniWalid. “The disarmament and demobilization of militias, the unification of the military establishment” emerged as a serious issue in the eyes of Libyan influencers. The return of the displaced was also mentioned by a number of respondents as the most pressing issue, while some mentioned the need to “choose an efficient government.” Others considered an inclusive national reconciliation to be the most important issue, while others insisted that such national reconciliation must be «final and must be realized” through transitional justice and reparations.

- Regarding the steps that Libyan influencers believe would enhance the role of the Inclusive National Conference:

Although the answers to the question about the steps responders believe will strengthen the role of the Inclusive National Conference as a framework for reconciliation have varied, they are, at the same time, complementary. A considerable number of respondents insisted on inclusion and comprehensiveness as well as the representation of all components and the rejection of exclusion. This concept was expressed in various ways. One respondent said: «Inviting all parties and not excluding any party.» Another respondent mentioned: «The participation of all Municipalities and the representation of youth and women.» Yet another respondent focused on: «The participation of all actors on the ground in Libya.» Some stated that it is not enough that the invited figures are representative of Libyan powers and sectors, they must be efficient and keen to make the conference a success. This is reflected in the following answer:

“The careful choice of those invited to attend, so that the attendees constitute all the political, social and cultural parties without exclusion except for terrorist organizations, taking into account that the names should be among the best available in Libya.”

Another answer, which complemented the previous responses, focused on the mechanism of selecting participants: «Mr. Ghassan's proposal is acceptable as a general framework, but what is important is the mechanisms of selection and who will be present.» Some of the answers mentioned that the most important issue to enhance the chances of success of the Conference is providing the right climate, showing good intentions and abandoning the previous intransigence: “Not requiring any preconditions for participation in the Conference by all as a gesture of goodwill, agreement on slogans that unite and do not divide, and everyone waiving the maximum amount possible of individual factional interests.”

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One of the respondents stated that a step viewed by the participants as enhancing the role of the Inclusive National Conference as a framework for reconciliation is taking certain measures in the current Libyan reality:

“The word «reconciliation» is loose and cannot be measured. Before calling for reconciliation or anything else, the first step is immediately starting to impose the prestige and authority of the state and activating its security services, establishing security, activating judicial institutions, the strong and legal prosecution and punishment of criminals and of anyone who infringed on public and private freedoms. After that, reconciliation or other issues can be discussed.”

- Among the other actions that should be taken before the Conference suggested by the responses:

The transfer of power to the Supreme Council of the Judiciary, agreeing on a constitution or, at least, a national social contract and holding elections.

Other actions suggested by the responses include: The actual implementation of Law 59 of local government, which may contribute in some way to the reduction of administrative centralization, maintaining the independence and impartiality of the judiciary, working on building a unified military establishment that is free from any agendas or orientations of all forms, in addition to supporting and developing the security institutions enough for them to undertake and perform their tasks in exclusion of armed militias.

“Referendum on the Constitution, transitional justice, reconciliation, disarmament, unification of state institutions.”

“Unification of all official institutions.”

One of the «landmark» measures which a group of answers agreed upon was ending the state of constitutional suspension resulting from the 1969 coup d'état. This is reflected in the following answers: “Returning to the constitutional legitimacy as it was on 31/8/1969 «. “Immediately adopting the 1963 Constitution of Libya with amendments by placing it for referendum by the people.”

The answers reflected a disparity regarding the «external factor». While some of the answers considered «international pressure and monitoring» a condition for the success of the Conference, other answers stated that one of the conditions was «barring the interference of foreign countries». The answers also addressed the process of the Conference itself and its aftermath as a condition for its success. This is reflected in the following answer: «Effective management of the Conference before, during and after it is held». One of the respondents highlighted the need to «direct the Conference to produce a constituent document that represents the issues previously mentioned.»

## Part Two:

### Questions about the constitutional process (constitutional drafting and the constitution referendum) as one of the stages of the Roadmap

These questions looked into the constitutional process (constitutional drafting and referendum on the constitution) as one of the stages of the Roadmap. As the constitutional stage of the transitional period is the restoration of a constitutional framework after its suspension, and that the constitutional issue is one that spans generations, it was necessary to ask the Libyan influencers about the Independence Constitution, the last effective constitution before the suspension, especially as these influencers grew up during this suspension. Accordingly, the questions focused on the parameters of the Independence Constitution as well as its suspension.

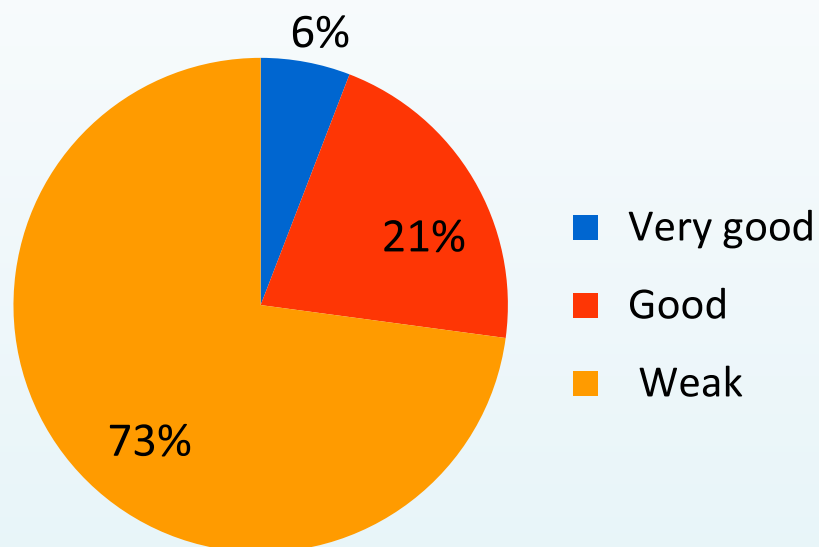
The answers indicated that «the spirit of the Independence Constitution» as well as its most prominent constitutional characteristics are still present in the collective consciousness of the Libyan influencers.

## First: General constitutional awareness

■ The survey revealed that 73% of the respondents felt that young people's constitutional awareness is weak, while in comparison 21% of the sample thought it was good, with 6% feeling the level of constitutional awareness of the youth in their surrounding circles was very good.

**Figure (27): Assessing perceptions of the level of constitutional awareness of youth**

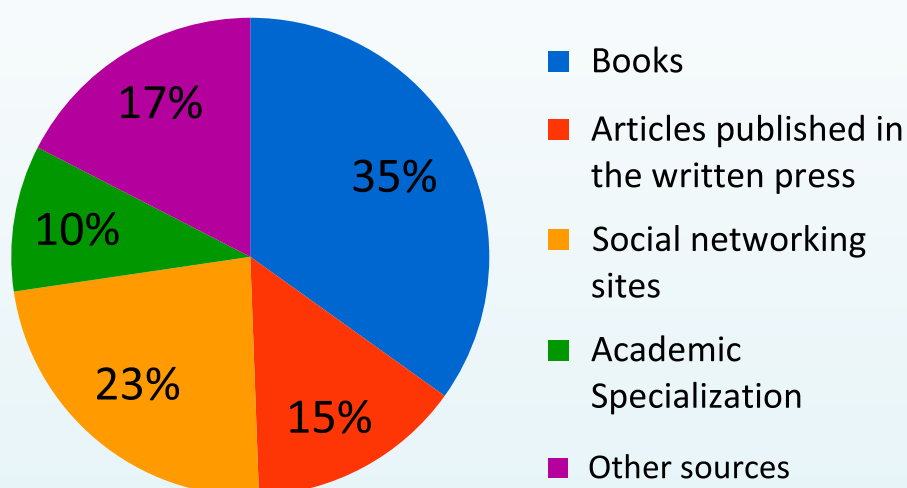
What is your general impression of the level of constitutional awareness or knowledge in young people in your surrounding circles?



■ The survey revealed that books are of the primary source for 35% of respondents' knowledge of the Independence Constitution. Social networking sites are the primary source for 23%, newspapers are the source for 15%. For 10% of respondents, academia was source of knowledge. while 17% of respondents cited other sources.

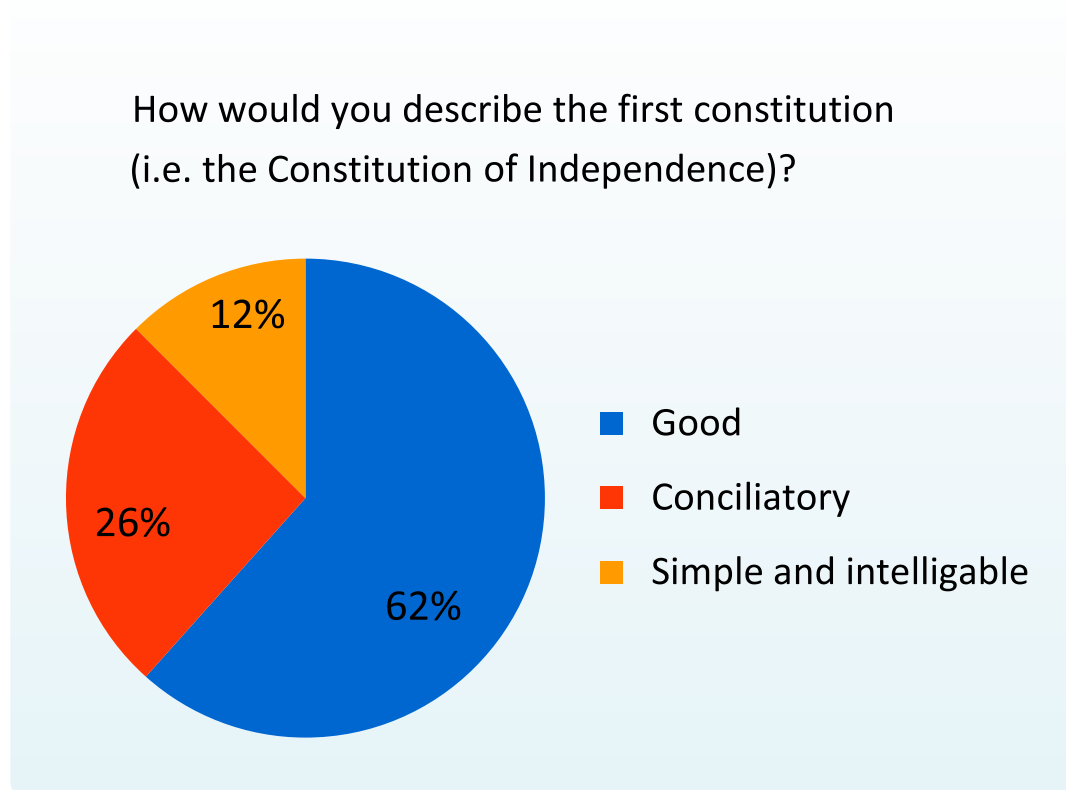
**Figure (28): Assessment of sources familiar with Libya's first constitution**

What is the source of your knowledge of the first constitution in Libya (i.e. the Constitution of Independence)?



■ Participants were asked about their overall views of the Independence Constitution. No choices was given to the respondents. A majority of 62% said they thought the it was a good constitution, 26% said it was conciliatory and 12% regarded it as simple and intelligible.

**Figure (29): Evaluation of the Constitution of Independence**





- There was a variety of responses to the question about the most important issues included in the Independence Constitution's provisions.

Firstly, one of the most prominent issues in the influencers' awareness of the Independence Constitution is the consolidation of the rule of law. This is what is reflected in respondents' answers stating that, for them, the most important issues in the provisions of the Independence Constitution are the freedom of religious belief, freedom of thought, freedom of politics and the press and the equality of all before the law. Secondly, it was indicated that the influencers' awareness of the Independence Constitution included the concept that it was the embodiment of the idea of a statehood and a tool for its consolidation. In this regard, some responses highlighted the Independence Constitution's consolidation of the concepts of citizenship and equality.

Others highlighted the Independence Constitution's consolidation of the concept of Libyan territorial integrity. While others focused on its consolidation of the idea of the unity of the Libyan nation and the inclusion and equality of all its components. Thirdly, another set of responses showed that the current influencers were aware that the Independence Constitution was a key instrument for establishing a state that had political participation, separation of powers and equitable distribution of wealth. In this context, some respondents stated that the Independence Constitution established justice in parliamentary representation.

Some responses mentioned that the Independence Constitution established the peaceful transfer of power, the independence of the judiciary and human rights. Others mentioned that it established equality in political decision-making, wealth distribution and development. Another group of responses recalled its adoption of the federal system and the alternating of the capital between Tripoli and Benghazi. Others recalled the state's administrative distribution and local government. Fourthly, another set of answers showed that current influencers are aware that the Independence Constitution entrenched the concept of a civil state. The answers reflected the use of the concept of the civil state in more than one sense. Generally, the concept was used within the context of recognizing the role of religion and religious institutions in society. There has, however, been a diversity in the degree to which religious institutions and religious actors have interfered in the affairs of public life.

■ In addition to the presence of the «spirit of the Independence Constitution» in the collective consciousness, the answers illustrated that there is a prevailing assessment, or rather a general adaptation, by the current Libyan influencers over what happened to the constitutional situation in Libya after 1969.

A first set of answers indicated that the first thing that came to mind was a radical and complete suspension of a constitutional framework. This is reflected in the answers such as the following: «There was a destruction of all constitutional concepts and of the civil state which had been based on the rule of law, institutions and respect for rights and freedoms.»

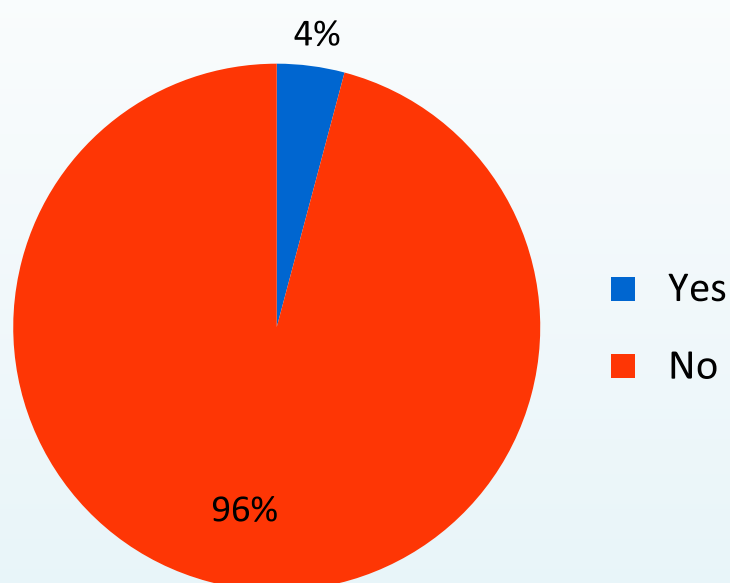
A second set of answers showed that the first thing that came to the minds of the respondents was the conjunction of the cessation of a constitutional framework and the birth of an oppressive autocratic reign: the constitutional situation was abolished and the country entered a new phase of autocratic rule and repression of freedoms. A barbaric state emerged, without a constitution and characterized by a lack of respect for laws and disregard for human rights, the state and all components of society. The Independence Constitution was suspended by the infamous Zuwara Declaration and the central state dominated in the absence of a constitution, which was suspended and the decisions of the Revolutionary Command Council adopted. Then the Revolutionary Command Council was marginalized. The Green Book was issued in its three parts and was used as the constitution of the Libyan state. The existing constitutional status was abolished and replaced by the “people’s regime” and autocratic rule.

Some answers illustrated that the first thing that came to mind regarding the events of 1969 was the difference between the nature of public life during the period of the Independence Constitution on the one hand, and the post-1969 period on the other: the country began to be governed according to the “constitution” of an autocrat who issued decisions as he wished and agreed upon laws ceased to exist. There is no comparison between the period prior to the abolition of the Constitution and the period after it. Some responses indicated that the first thing that came to mind regarding the events of 1969 was the prevalence of chaos and division: “After the Zuwara Speech, the Constitution was suspended and chaos prevailed.” ... the Constitution was nullified and Libya was thrown into an extreme state of chaos, whose results we are reaping now”.. “.... The country turned to regionalism and tribalism.”

■ Respondents were asked whether they thought the ‘Green Book’ of the Qaddafi era represented a constitution. An overwhelming amount of the respondents—96%—did not believe the Green Book was really a constitution for the country during the Qaddafi and only 4% thought it was.

**Figure (30): Green Book Evaluation**

In your view, does the Green Book represent a constitution?

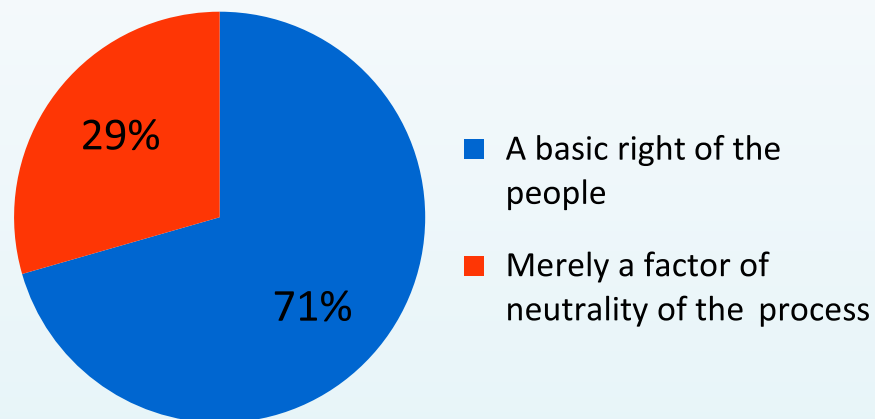


## Second: Community participation in the constitutional process

■ In response to the question regarding the importance of community participation in the constitutional process and the drafting of the new constitution, 71% of the respondents believe that it is an inherent right of the people to participate in the constitutional process, while 29% of think it's only a factor of neutrality of the process.

**Figure (31): Evaluation of the importance of community participation in the constitutional process**

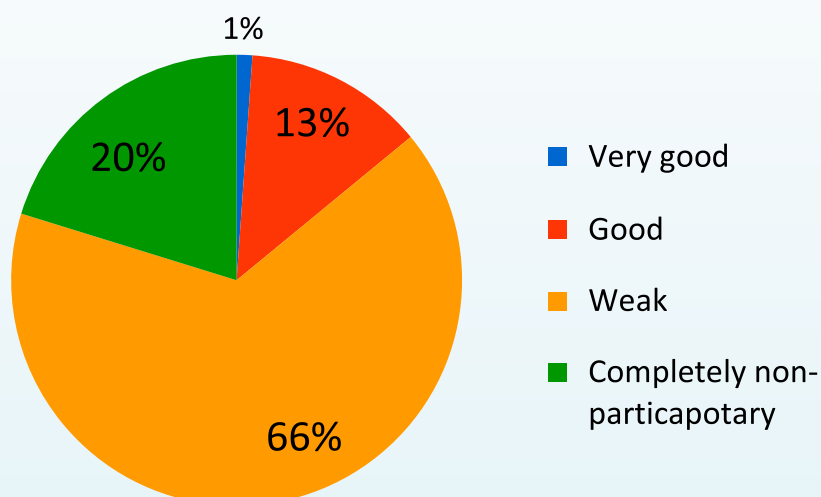
Is the community participation in the constitutional process a basic right of the people or is it merely a factor, amongst others, to increase the objectivity and neutrality of the constitutional process and its reflection of the people ?



■ 66% of the respondents see that the level of community participation in the constitutional process is weak and 20% are of the opinion that there was no form of community participation in the Draft Constitution. 13% said that the level of community participation was good, and only 1% felt that the level of participation was very good.

**Figure (32): Evaluation of the level of follow-up of the level of community participation in the constitutional process in Libya**

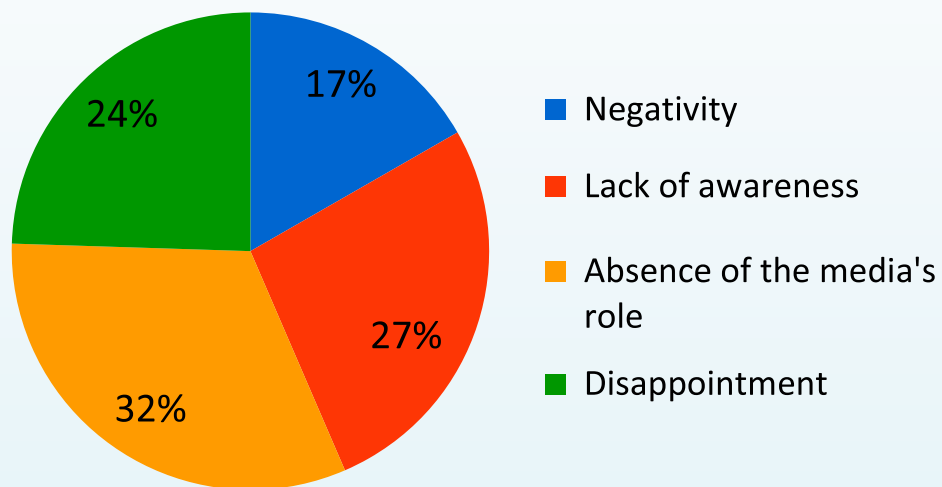
What is the level of community participation in the current constitutional process in Libya?



■ Looking at the reasons for the weak or non-existent participation of the community in the constitutional process, 32% attributed it to the absence of the media's role while 27% believe that the lack of awareness is one of the most important factors. 24% said that disappointment in the process caused poor community participation, while 17% said that negativity is one of the leading reason for weak participation in the constitutional process.

**Figure (33): Evaluating the causes of weak community participation in the constitutional process**

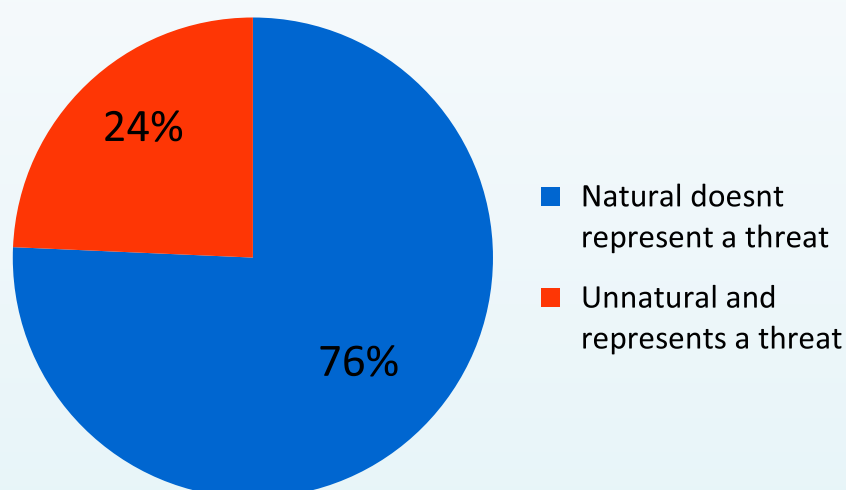
What are the reasons for poor or non-existent community participation in the constitutional process?



■ Respondents were asked to consider whether there should be a translation of the discussions of the Constitutional Assembly and a translation of the draft Constitution into other languages spoken by the non-Arab components of the Libyan people, like the Amazigh and Tabu. A vast majority of the respondents, 76%, think that it would be natural and wouldn't constitute a threat to the Arabic language while 24% believe that it would be abnormal and would represent a threat to the Arabic language.

**Figure (34): To assess the acceptability of linguistic and cultural diversity in relation to the constitutional process**

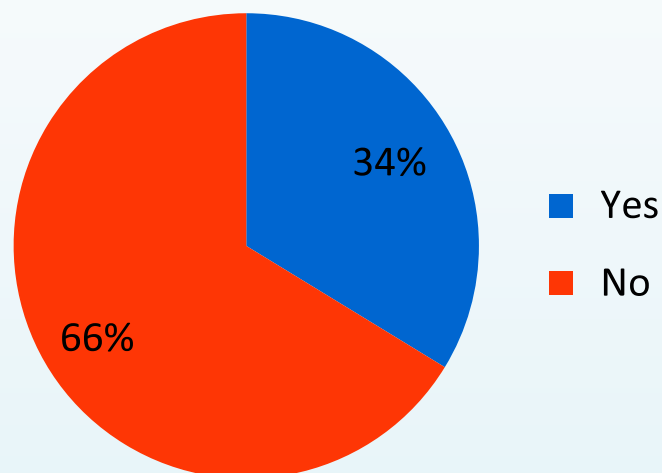
Do you think that there should naturally be a translation of the discussions of the Constitutional Assembly and a translation of the draft Constitution into other languages spoken by the non-Arab components of the Libyan People such as the Amazigh and the Tabu or do you think that would be a threat to the identity of the Arabic language?



■ While 66% of the respondents said they have not interacted or did not know anyone from their surrounding circles that has made any suggestions to raise the level of community participation in the constitutional process, 34% said that at least one of the constituencies around them had submitted practical proposals to the constituent body to raise the level of community participation in the constitutional process.

**Figure (35): Evaluate the extent of positive interaction with the constitutional process**

Has anyone from your surrounding circles come forward with suggestions for raising the level of community participation in the constitutional process?

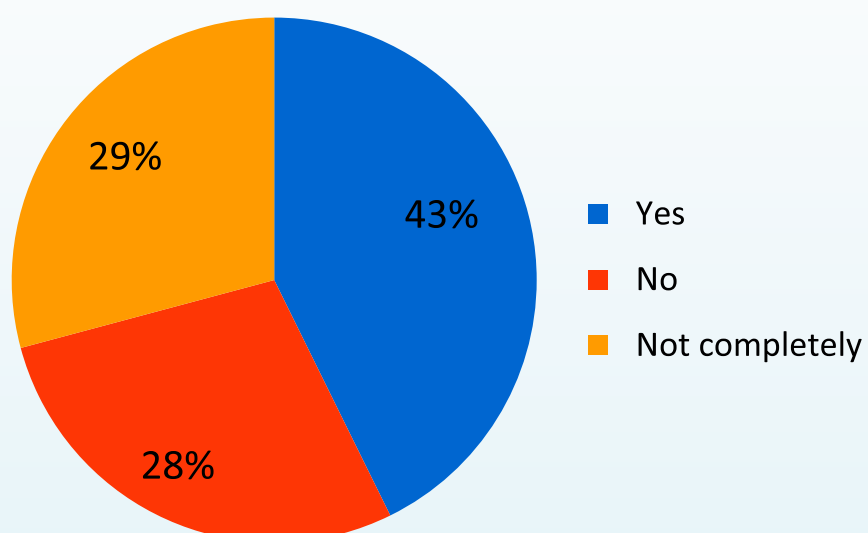




■ 43% of the respondents said they had read the draft Constitution, 29% said they had not read the draft fully, and 28% hadn't read the draft Constitution at all.

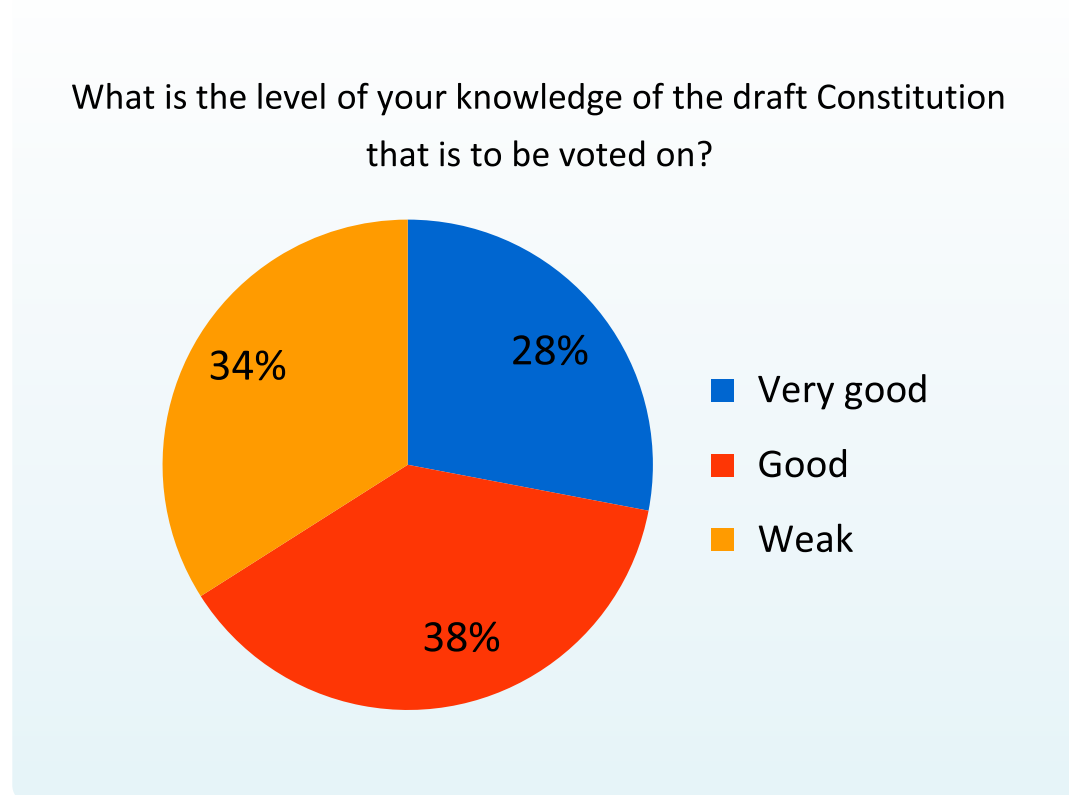
**Figure (36): To evaluate the number of recipients who have read the draft Constitution**

Have you read the draft Constitution which is to be voted on?



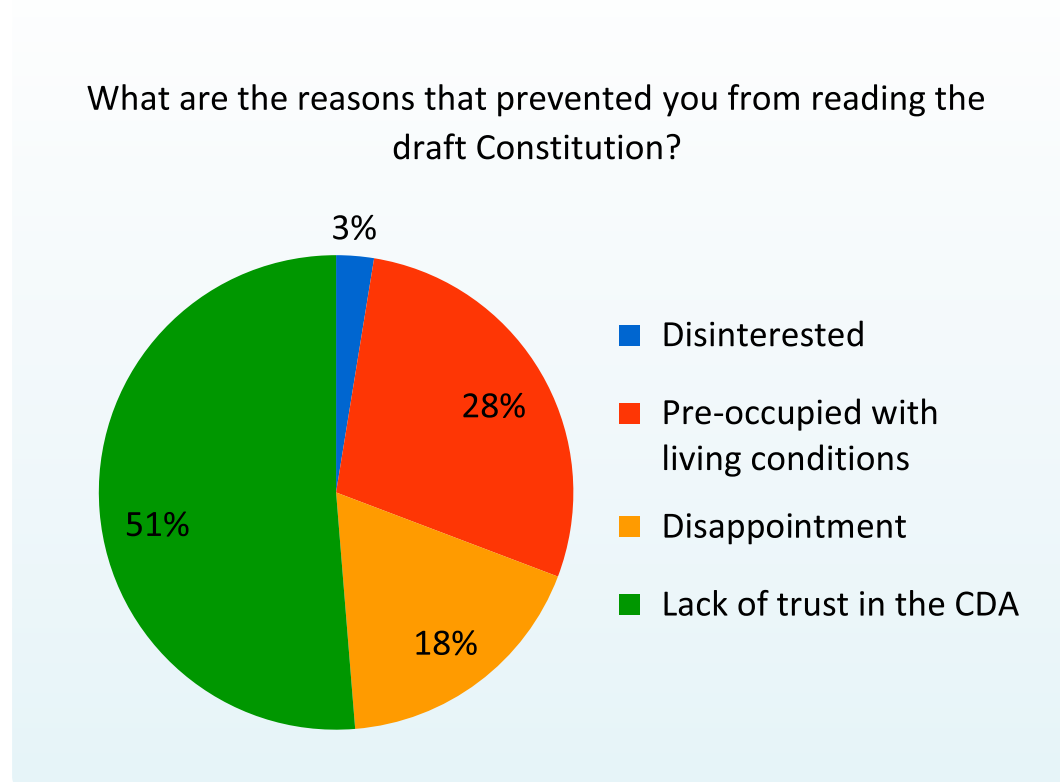
■ In regard to the question about their level of knowledge of the draft Constitution to be voted on, 28% believe that their level of knowledge very good, 38% consider their knowledge good, while 34% of the respondents consider that their level of knowledge is weak.

**Figure (37): Evaluation of the level of access to the draft Constitution**



■ For those who have not read the draft Constitution, a majority 51% -stated that their lack of confidence in the CDA was the reason they had not read the draft. 28% said that they simply did not have time to read the draft. 18% said that their disappointment in the process prevented them from reading the draft Constitution and just 3% said they are not interested in the draft Constitution and therefore did not care to read it.

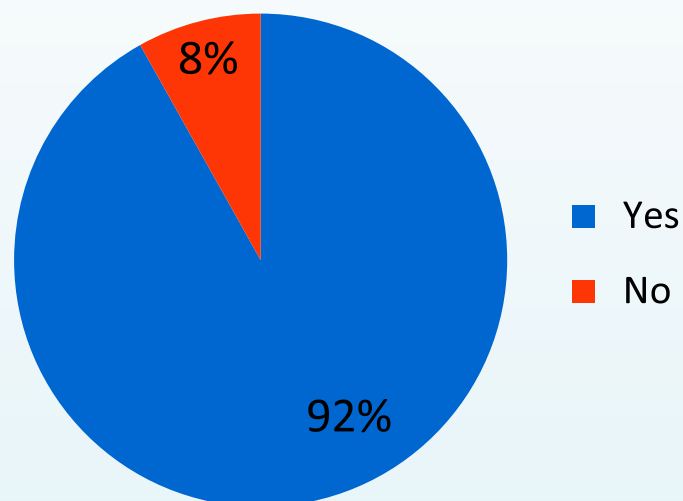
**Figure (38): Assessing the reasons for not reading the draft constitution**



■ Respondents were asked if they felt the constitutional process had taken a reasonable amount of time. An overwhelming 92% of the respondents believe that the constitution has been delayed while only 8% believe that the constitution has not been delayed.

**Figure (39): Evaluation of the general impression on the extent to which the constituent body is committed to the specified period of time**

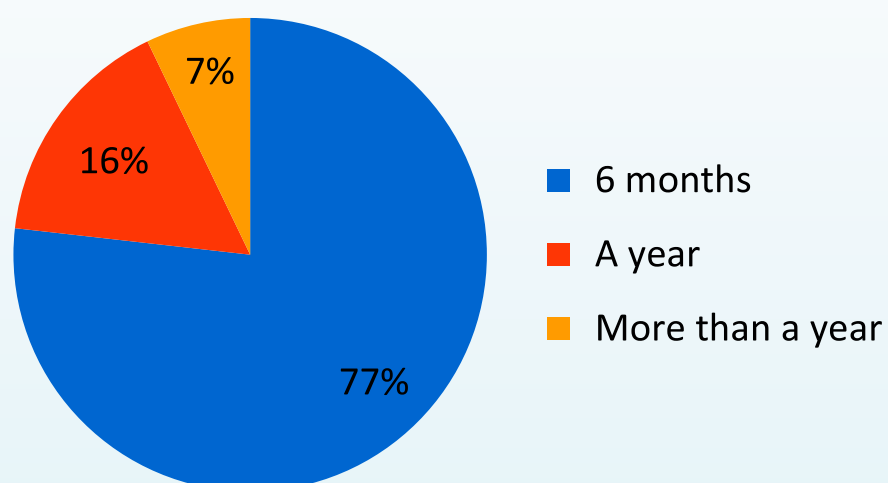
Has the constitutional process taken a normal amount of time or has it over exceeded its time? i.e Has there been a delay in drafting the final Constitution?



■ In response to the question regarding the natural timeframe for drafting the constitution, 77% of respondents believe that a constitution should be drafted within 6 months, 16% think it would take one year, and 7% felt that the constitution needs more than one year to be drafted.

**Figure (40): Assessing the general impression of the appropriate time frame for drafting the final Constitution**

In your view, what is the normal time range of drafting the final Constitution?



- When it came to factors contributing to delaying the final draft Constitution, the Libyan influencers' responses were not radically different.

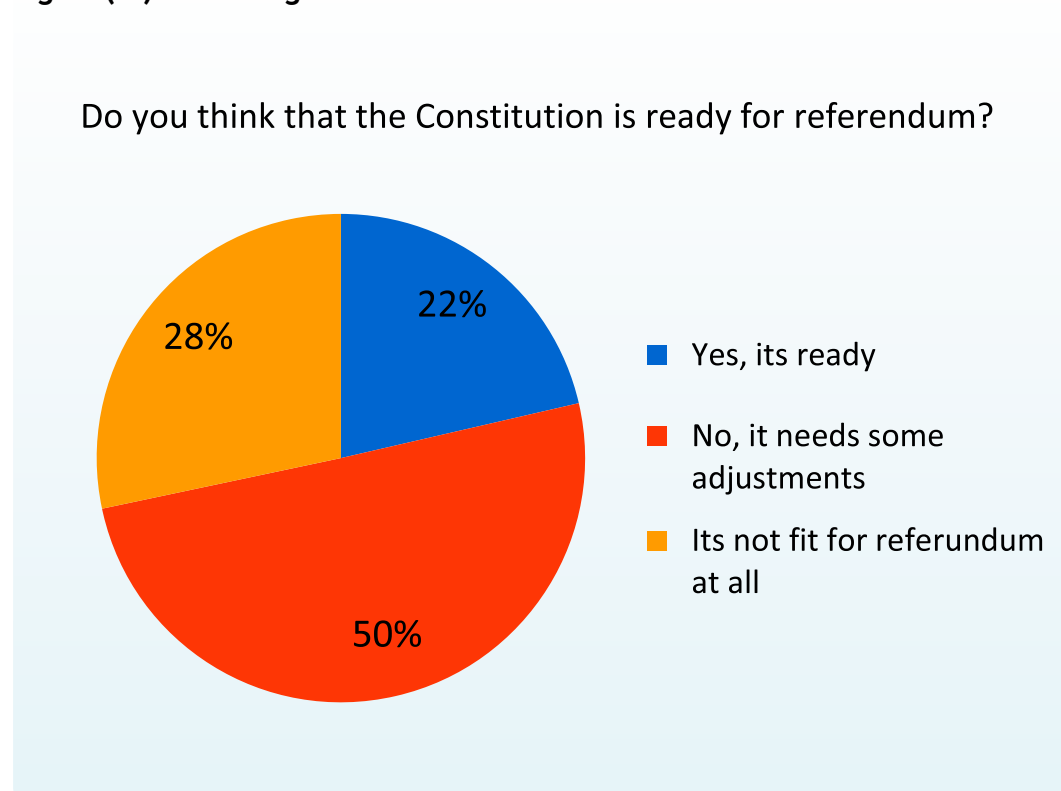
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However, the following were the most common factors discussed: "The desire of many foreign parties for Libya to remain in a state of instability," and «The clash of internal parties' interests." Followed by: "The desire of many internal parties for Libya to remain in a state of instability," and "The infiltration of the country by terrorist groups."

A small group of responses chose "The lack of clarity of the constitutional vision," "The slackness of the 60 Committee and its members' desire for an extension," and "The House of Representatives holding up the work of the Assembly," were also given as factors.

■ In response to the question on whether the constitution is ready for referendum, 50% think that the constitution is not ready and needs some adjustments before it is submitted to the referendum. 28% say the draft Constitution is not valid at all, while 22% say the draft Constitution is indeed ready for referendum.

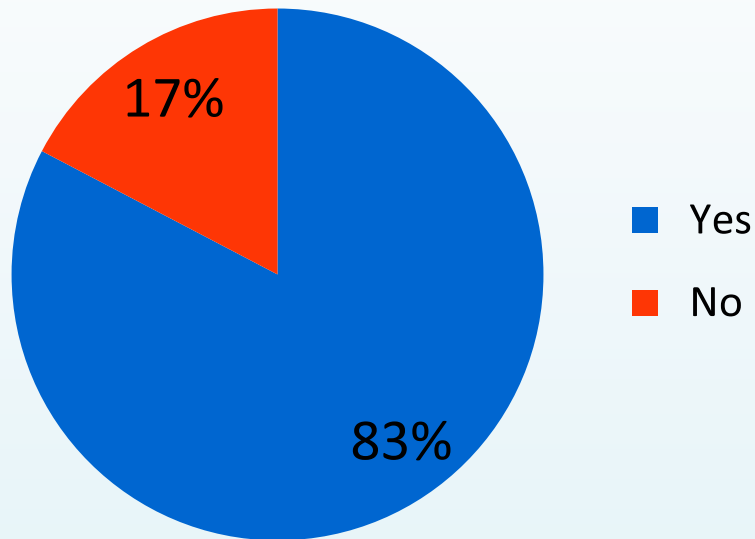
**Figure (41): Assessing the readiness of the constitution for referendum**



■ In response to the question regarding whether or not there are flaws and/or deficiencies in the draft Constitution, 83% of the respondents believe that there are fundamental flaws in the draft Constitution while 17% believe that there are no flaws at all in the draft Constitution.

**Figure (42): To assess whether or not there are flaws in the draft Constitution**

Are there any fundamental flaws or deficiencies in the constitution?  
What are they?

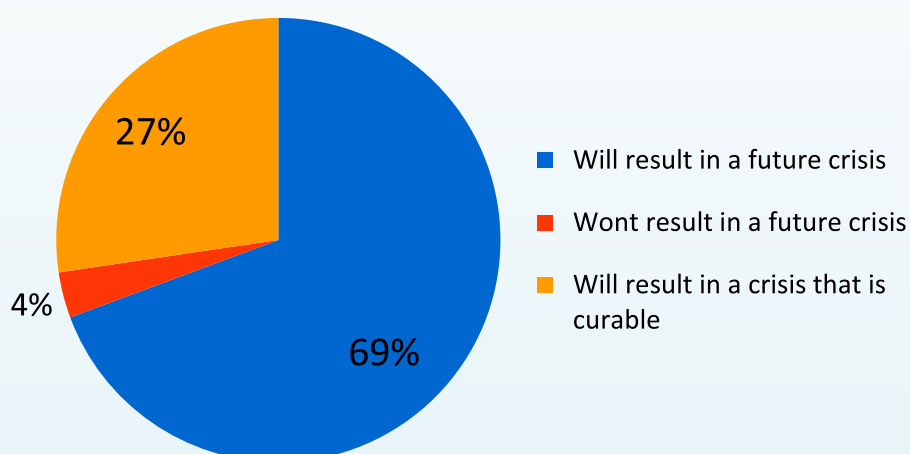




■ In response to the question regarding the future review of the draft Constitution, a ratio of 69% believe that there are fundamental flaws and deficiencies in the draft Constitution that will result in a crisis in the future. 27% of the respondents believe that although there are flaws in the draft Constitution, these flaws are treatable and curable and only 4% said that these deficiencies will not result in any crises in the future.

**Figure (43): Assessing the likelihood that the draft Constitution will lead to a crisis in the future**

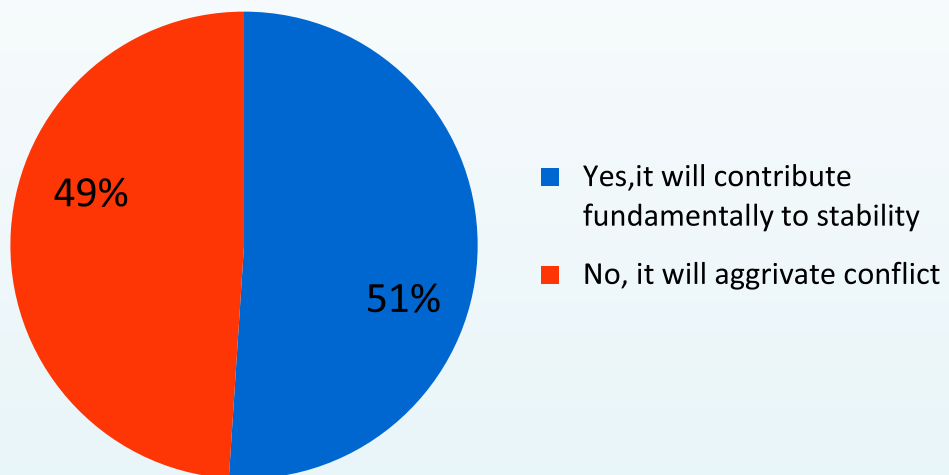
Do you think that any of the flaws or deficiencies that you perceive in the draft constitution will result in a future crisis? Or will they be treatable after the ratification of the Constitution?



■ A very small majority of 51% said that approval of the constitution will make a fundamental contribution to strengthening stability, while a large minority of 49% believe that the approval of the draft Constitution will contribute to exacerbating the current crisis.

**Figure (44): Assessing the role of the draft Constitution in achieving stability**

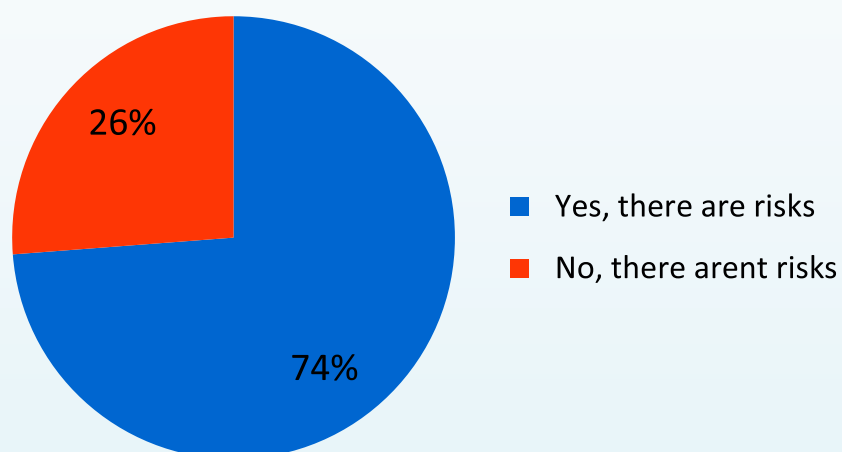
Do you think that the mere approval of the Constitution and its ratification contributes fundamentally to consolidating stability? Or is it going to contribute to the aggravation of the crisis?



■ The influencers were asked whether there are risks to approving the draft Constitution before progress is made on political and social reconciliations. 74% of the respondents believe that there are risks in doing so, while 26% of the respondents believe that there are no risks at all.

**Figure (45): Assessing the risks of approving the draft Constitution before large strides are made with regards to political and social reconciliations**

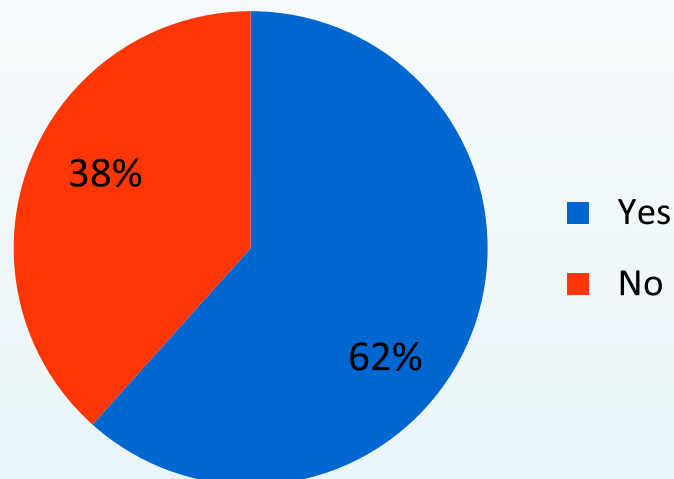
Are there any risks to approving the draft constitution before large strides are made with regards to political and social reconciliations? Or is there no risk in doing so?



■ Respondents were asked whether the activation of the Independence Constitution after being amended is better than drafting a new constitution. A majority—62%—of the said that activation of the Independence Constitution after amendment is better than the draft Constitution, with 38% stating that it is better to draft a new constitution.

**Figure (46): Evaluating the acceptance of activating the Independence Constitution after its amendment.**

Do you think that the activation of the Constitution of Independence after being amended is better than drafting a new constitution?



## Part Three:

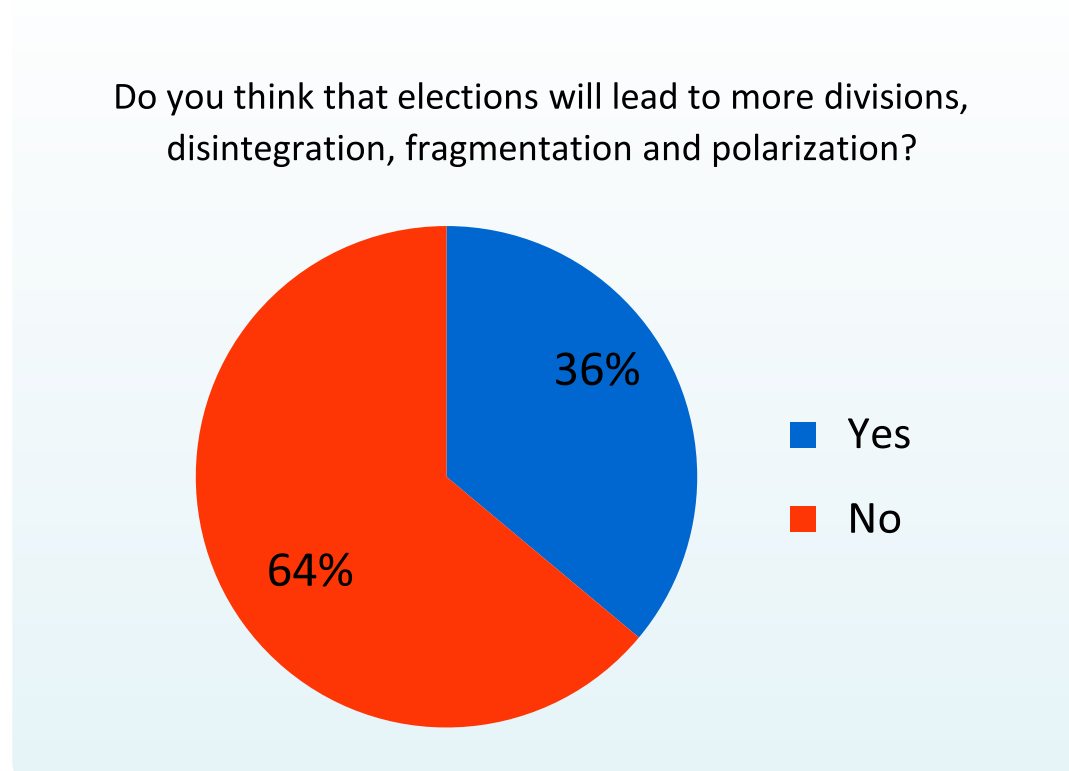
# Questions about the Stage of Presidential and Parliamentary Elections Based on the Constitution

This section is dedicated to surveying the views of the Libyan influencers regarding presidential and parliamentary elections and whether such elections will lead to division and polarization, and regarding their readiness to vote. Here, we also explore the extent to which Libyans accept holding of the elections without a constitutional framework.

In this section, we also explore the views of the influencers and their position on the need to end the transitional period, or to hold elections for a new transitional phase. We also discuss the Libyan elite's assessment of the electoral experience in Libya. We review the aspects and limits of the participation of the surveyed influencers in the previous elections and their understanding of the meaning of the elections in the democratic process, and the level of their confidence in representative institutions, both nationally and locally. We also examine the views of the influencers regarding the lessons learned from past electoral experiences in order to be able to envisage the contours of their forthcoming electoral behavior.

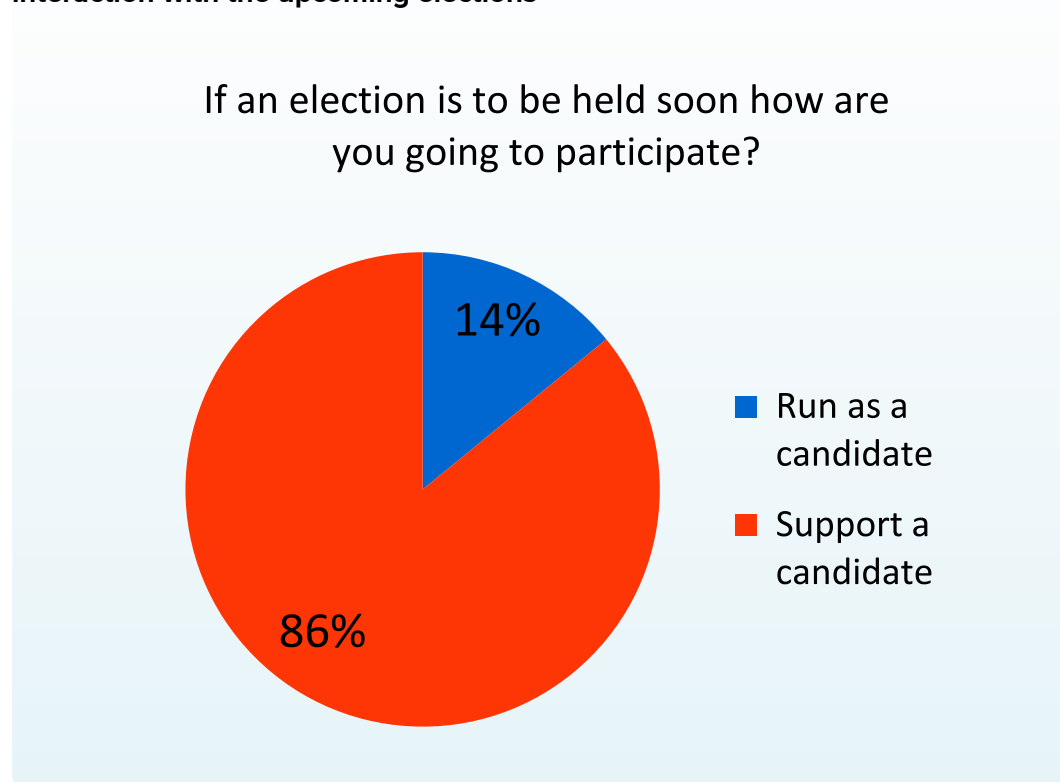
■ Respondents were asked if they thought elections will restore the atmosphere of democracy and the sense of citizenship in turn by voting, or whether the elections will lead to further division, fragmentation and polarization. The clear majority, 64%, felt that the elections will restore the atmosphere of participatory democracy while 36% said that the elections will lead to further division and polarization.

**Figure (47): Assessing the likelihood that elections will lead to further division**



■ In response to the question regarding the preparedness of respondents who are for elections and their positive interaction with the upcoming elections, 86% of the respondents said that if the elections were announced, they would participate in supporting one of the candidates and 14% of the respondents expressed their intention to run in the upcoming elections.

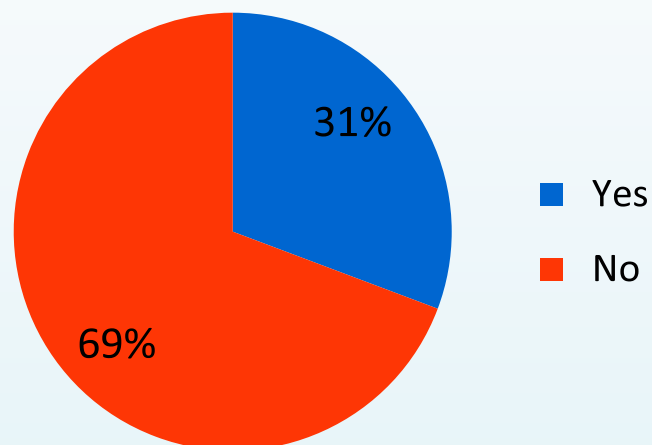
**Figure (48): Evaluating the preparedness of citizens and their positive interaction with the upcoming elections**



■ In response to the question regarding the acceptability of elections before the constitutional order is settled (either on the draft Constitution or the Independence Constitution), the proportion of 69% of the respondents do not agree with holding elections without resolving the issue of the constitution while 31% of the respondents agree to conducting elections before resolving the question of the constitution.

**Figure (49): Evaluating the acceptability of elections before the constitutional issue is settled**

Do you agree to holding elections before the constitutional referendum (either on the draft Constitution or the Constitution of Independence)?

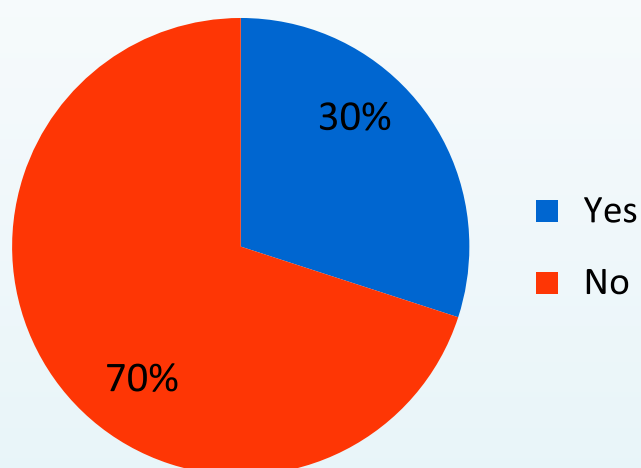




■ In response to the question regarding the acceptability of the elections for another transitional stage, 70% of the respondents do not agree to holding other elections for another new transitional stage. While 30% are in favor of holding other elections and remaining in a transitional period.

**Figure (50): Assessing the acceptability of holding elections for another transitional stage**

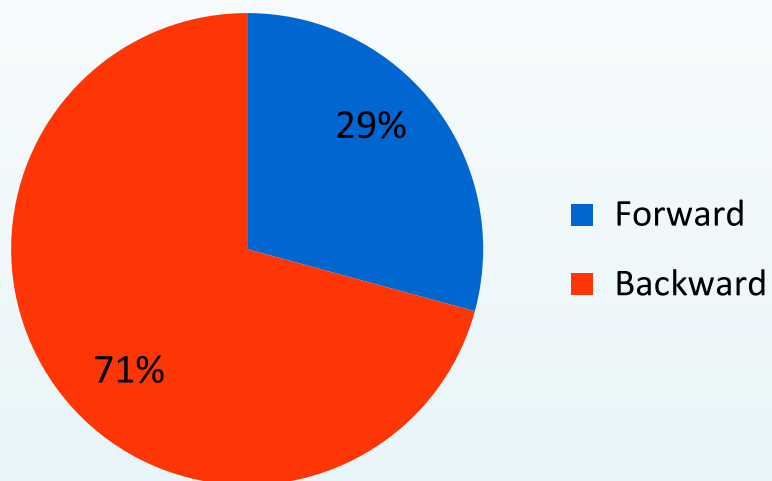
Do you agree to holding other elections and to continuing the transitional stage?



■ In response to the question regarding whether the previous elections took the Libyan nation a step forward or a step back, 71% of the respondents think that the previous elections have taken the Libyan nation backward, while 29% believe that the previous elections have moved the Libyan nation forward.

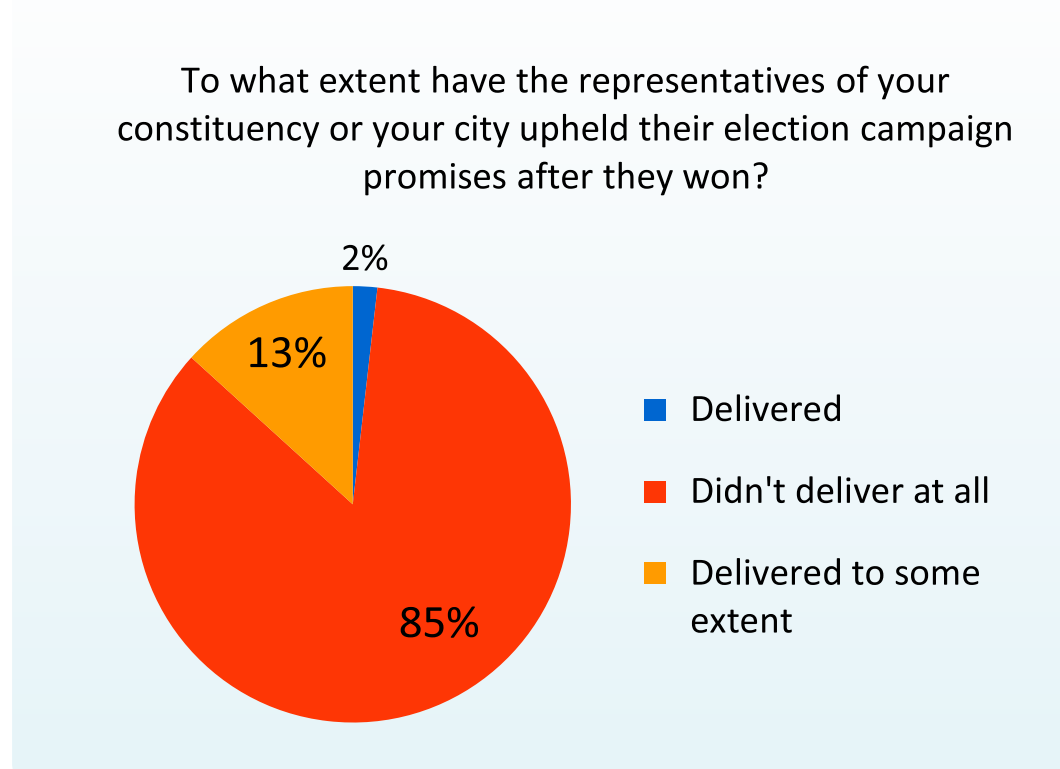
**Figure (51): Assessing the impact of previous elections on the situation in Libya**

Do you think that the previous elections have led the nation  
a step forward or backward?



■ Reflecting deeper in the impact of previous elections, 85% of the respondents felt that elected representatives, members of the legislative bodies did not achieve any of their electoral promises while 13% believed that the representatives of the constituencies achieved some of their electoral promises and only 2% said that the representatives of the constituencies have achieved their electoral promises after winning the elections.

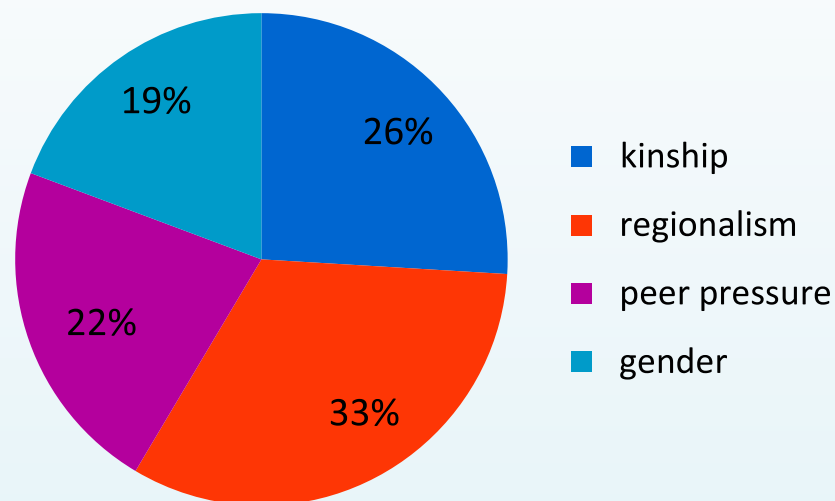
**Figure (52): Evaluating the extent to which previous electoral promises have been achieved**



■ Respondents were asked about factors they would give less weight to in the next elections. 33% of the respondents expressed their opinion that they will abandon the criterion of regionalism, 26% said they will abandon kinship, 22% said they would give up the pressure of others and 19% said they would abandon the criterion of gender.

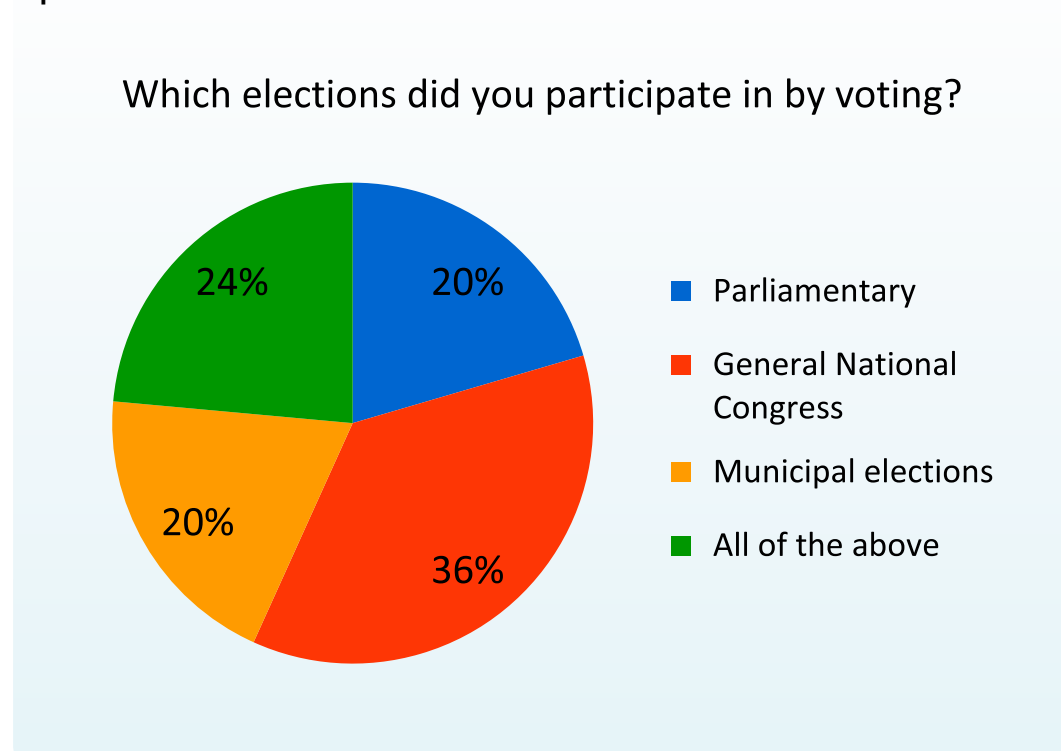
**Figure (53): Evaluation of the change in voting standards in the previous and upcoming electoral experience**

What are the criteria that you will abandon or give less weight to in the next elections?



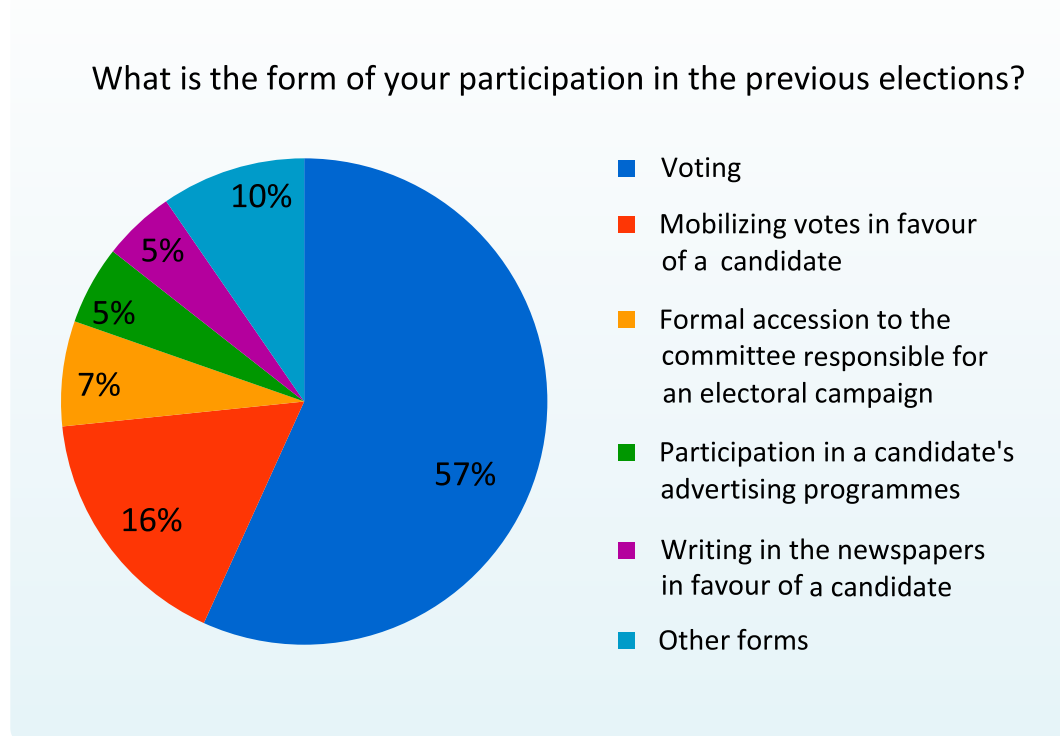
■ In response to the question regarding the participation in the elections of the former representative bodies, 36% of the respondents participated in the general elections while 20% participated in parliamentary elections and another 20% participated in municipal elections. 24% of the respondents participated in all the elections.

**Figure (54): Evaluation of participation in the elections of the former representative bodies**



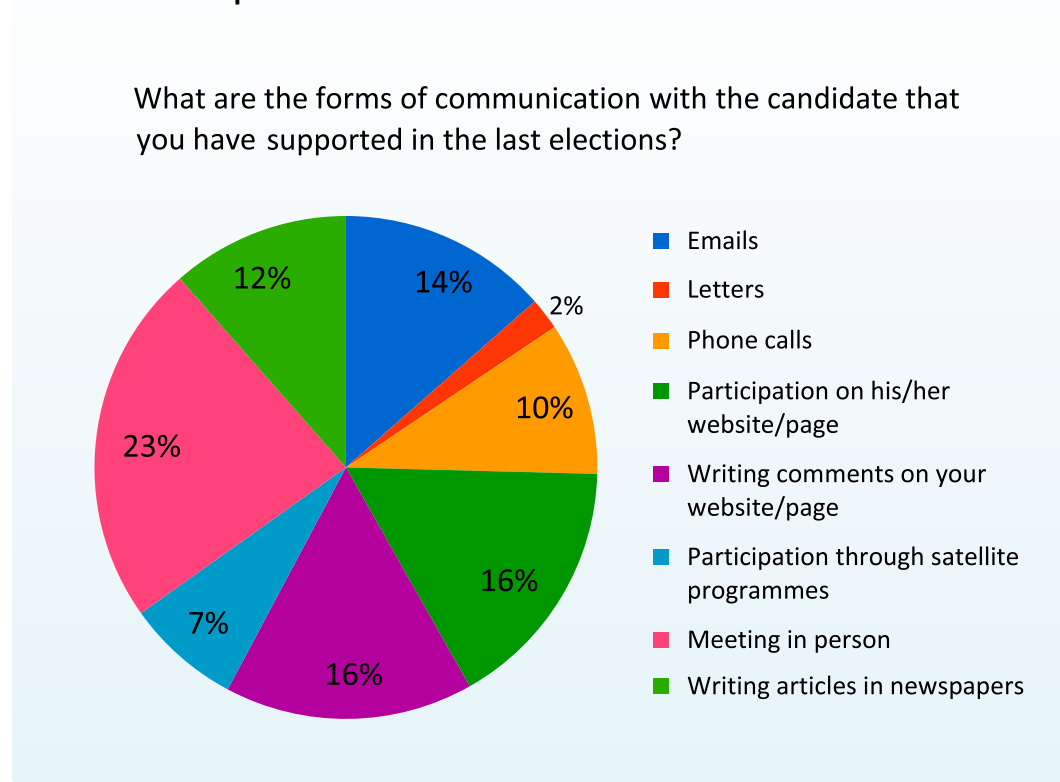
■ In response to the question regarding the most significant level of engagement in the last elections, 16% of the respondents had mobilized votes in favor of a candidate while 7% had joined the committee responsible for campaigning for an electoral campaign. 5% had been involved in a candidate's advertising programs to promote a candidate and another 5% reward rate wrote in newspapers to promote a candidate. 10% engaged through other forms while the majority of the respondents, 57%, only voted.

**Figure (55): Evaluation of the most significant level of engagement in the last elections**



■ In response to the question about the means of communication & follow up with the candidate that the respondents supported in the previous elections. 23% of the respondents met personally with their winning candidate, 32% communicated through the social networking sites (whether through the candidate's profile page or citizen page) to communicate with the candidate, 12% of the respondents said that the medium of communication with their candidate is writing articles in newspapers and 7% said they communicate through satellite channels and 26% of the respondents said they communicate through normal means of communication (i.e. emails, letters, phone calls).

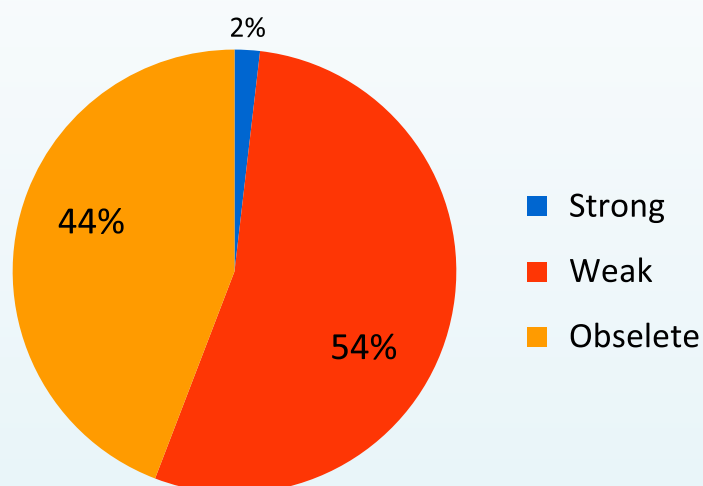
**Figure (56): Evaluating aspects of communication and follow up with the candidate in the previous elections**



■ In response to the question regarding the level of trust in the previously elected institutions, 54% believe that their level of trust in representative institutions is weak while 44% consider their level of trust in them to be obsolete/lacking. Only 2% of the respondents consider their level of their trust in representative institutions strong.

**Figure (57): Assessing the level of trust in the institutions that were previously elected**

What is the level of your trust in elected institutions such as the Congress, the Parliament and the Municipal Council?





## ■ Lessons learned from previous elections to overcome challenges in the upcoming ones.

The proposed elections within the Roadmap have been preceded by parliamentary and municipal elections. It is therefore natural for Libyans to have learnt a series of lessons from their choices during the previous elections, the results of these choices, the behavior of the representatives who they gave their votes to, and the behavior of the political powers towards the results of the previous elections. These lessons will affect the behavior of Libyans in relation to voting (electoral behavior).

One of the most prominent lessons learned, according to some responses, is “Prioritizing institutionalism and collective performance over individual performance.” This is reflected in what one of the respondents said: “The lesson learned is to trust in political entities and not individuals,” while another respondent stated that the lesson learned is “the importance of political entities and the prevention of fragmentation of votes through individual electoral systems.”

In the eyes of others, the lesson learned is “To ignore the candidates’ disingenuous slogans as well as any tribalistic or regionalistic slogans,” “To ignore regionalism” and “Not to elect those who speak rigidly and are always on television or the radio.” The lesson for others is that elections must be based on constitutional legality. One respondent stated that “Elections must be held on the basis of the Constitution to move from the temporary to the permanent.” Another respondent said, “No elections without a constitution and without an agreement on disarmament.”

While another said, “No elections without a clear constitution.” A third said: “Amend the Constitutional Declaration in a way that prevents the next Parliament from amending it in order to extend their mandate until a permanent constitution is issued.”

One of lessons learned for a significant number of respondents is the importance of taking the necessary measures to ensure that the political

*continuous on next page ►*

powers acknowledge the results of the elections, and do not refuse to recognize them in the event of losing. One respondent said there must be “real guarantees that all the conflicting parties will accept the elections’ results,” while another said that “guarantees must be put in place regarding the recognition of the results of the ballot box.” One of the respondents insisted on naming certain powers when referring to this lesson, saying: “If some parties, foremost of which are political Islamists, refuse to accept the results of the elections and in the presence of armed militias the elections would be considered useless and a waste of time.” Another group of answers focused on the electoral system.

One respondent said that the lesson learned was that “the proportion of representation between regions should be reconsidered.” Another person said that the single transferable vote (STV) should be avoided. Another person said that “the list system is bad and is one of the causes of the political problem.” Some of the answers that were made in this regard were very general, as they were limited to mentioning that the lesson learned was “the election law.”

Some emphasized the importance of inclusivity and comprehensiveness in the upcoming elections. Some stressed that «the circle of participation should be expanded.”

Others stressed that the next electoral system must be “representative of grassroots and minority groups.” Women emphasized the importance of “Having a system that ensures fair representation of women, such as a quota or parity in the lists.” On the importance of the establishing guarantees and conditions before the elections, some stressed “international monitoring and commitment pledges” as an essential prerequisite to ensure the success of the elections. Others stated that, “Disarmament and restrictions on campaign spending to prevent wealth distorting democracy are prerequisites for the success of the elections and their outcomes,” while others said that “The call for democracy without the stipulation of strict accountability is a call for chaos and corruption.”

- The responses of the Libyan influencers with regards to the things that undermined confidence in elected institutions such as the Congress, the House of Representatives and the Municipal councils showed a very high degree of dissatisfaction and rejection.

A number of responses mentioned a “Failure in fulfilling electoral promises” and not implementing what they were elected for as the primary factor that has weakened trust in representative institutions. Some answers went so far as to describe the behavior of members of representative institutions as a gross departure from representative performance standards. One of the responses described the political behavior of members of representative institutions as “Persistent lies, weak positions and (that there was) pervasive financial corruption,” while another response described that behavior as a “lack of transparency and credibility.” Another answer stated that the performance of the representatives of the people was characterized by “Irresponsibility on the part of representatives as well as their prioritizing their own personal interests.”

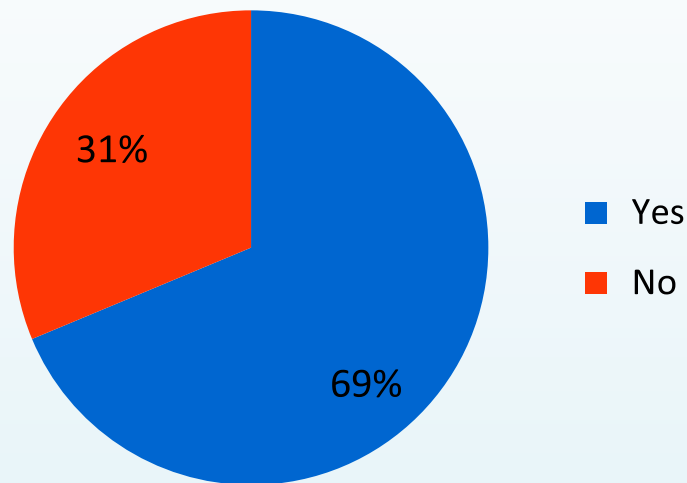
A group of answers stated that: “The weak abilities, competence and experiences of the people’s representatives” was the key factor. This is reflected in the responses that asserted that the behavior of the representatives of the people was characterized by a “Weak political and cultural composition,” and that it was characterized by “Non-compliance with the regulations governing the institutions and a lack of experience,” as well as “inefficiency,” and that performance was generally “poor.” Other answers highlighted the disconnect between the elected representatives of the people and the base that elected them specifically, and societal bases in general. They stated that the behavior of the representatives was characterized by a “disconnect from society and a preoccupation with making gains” and that “the connection between representative institutions and the street was tenuous.”

Another answer asserted that the representatives of society in the institutions were responsible for the “Failure in reaching safety and stability in Libya.” Some responses agreed that the behavior of the representatives has been excessively biased, beyond accepted limits, to the interests of political powers. These responses stated that the performance of the representatives was characterized by “Conflict and prioritizing of personal and regional interests,” as well as “Their strong following of political and ideological orientations.”

■ In response to the question regarding the respondents' intentions to participate in any upcoming elections, 69% of the respondents are willing to participate in the upcoming elections while 31% do not intend to participate.

**Figure (58): Assessing the turnout of the upcoming elections**

Do you intend to participate in any upcoming elections?





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## Section IV

# A Comprehensive Diagnosis Towards Charting a Way Forward

### Multidimensionality of the crisis and the need for a holistic and integrated approach

It is clear that the essence of the crisis in Libya is not only political but also a multidimensional crisis. The country is suffering not only from political and security level divisions but also from schisms and deterioration at the constitutional, social, economic, administrative, regional, cultural and value levels at the same time. The multidimensionality of the crisis requires a holistic and integrated approach and do not benefit from initiatives that utilize unilateral approaches.

### A conceptual deficiency in the collective sense of nationhood

There is a lack of a collective sense of nationhood which in turn reflects on the process of nation building. The idea of «nationhood» is a conception shared by a group of people who may be multi-ethnic and multicultural, but are connected to a homeland whose sons and daughters identify with a shared and common 'national personality' with unique characteristics, hold shared memory and narrative, and have shared concerns. As for nation-building, it is all the steps that contribute to consolidating the sense of nationhood, and the moral and material interpretation of this feeling at all levels. It is a result of the establishment of the concept of the political nation in the consciousness which is an ongoing effort to find and reform what reflects this idea, morally and materially. The deficiency of a shared sense of nationhood is manifested in social divisions and exclusion on the basis of belonging

to certain minor units of identity and also in the rise of these minor units of identity (tribal/regional/ethnic) at the expense of the national identity. The shortcomings in the process of nation-building are reflected in the mismanagement of the tensions over identity issues and also in the failure to counter violent extremism.

The spread of imported extremist religious ideologies, has had tremendous negative implications on the local religious identity which was known to be moderate (wasati) for centuries.<sup>35</sup> To understand the nature of the problem in lacking a shared sense of nationhood, it might be useful to recall the policies followed by the previous autocratic regime in destroying the moral fabric of the Libyan nation, causing a deficiency in social capital and disruption of the national memory for forty-two years.

## **A conceptual distortion in relation to the idea of the nation state**

The entire region, not just Libya, has a difficult legacy in relation to the nation state. As Nazeeh Ayoubi points out in his book “The Amplification of the State,”<sup>36</sup> the state suffers from incompetence and lacks the legitimacy of achieving development and institutional rationalization, and depends on its survival on two elements—the monopoly of wealth in rentier states, and the monopoly of violence under military rule.<sup>37</sup> Abd

Al-IlahBalqiziz adds that there is, “a weak comprehension of the state in the public imagination,” explaining that historically, national states have not emerged in the region as they did in the European context, i.e. after years of war and conflict followed

by consensus-building process. He also believes that states in our region do not possess a vision nor a project, and therefore failed to leave an imprint in the collective consciousness, while also suffering from weak community representation.<sup>38</sup>

This brings to mind the problem outlined by George Megdal, in his book “Weak States and Strong Societies,” where he pointed out the need to understand the different cultural contexts in which states arise, and that there are societies such as ours, which have social entities such as tribes or religious sects, tend to have a distinctive dynamic relationship between the state and society. The State contributes



**It is clear that the essence of the crisis in Libya is not only political but also multidimensional... The multidimensionality of the crisis requires a holistic and integrated approach and does not benefit from initiatives that utilize unilateral approaches.**

to the shaping of society just as society contributes to the formulation of the state, neither dominating the other. Neglecting this nature would lead to the failure of any state building.

Libya was not an exception to the region. The state in Libya was fragile and based its existence on both the aforementioned two elements—the regime held the monopoly of wealth and the monopoly of violence, making it more of an authority than a state. In fact, the Libyan experience was more fragile compared with others in the region due to its short experience of the nation state, as the state of independence lasted only for nineteen years, after which Libya became an autocracy that systematically demolished the nascent state institutions. Therefore, it is imperative to remember that most of the crises facing Libya as a state are the product of autocratic policies and methods which have consistently employed the concepts of «public takeover» to invalidate the values of peaceful transfer of power and rule of law. These crises are also the result of the suspension of the constitutional framework that lasted for two decades. This does not exempt political actors during the transitional period from accountability for their negative role.

Therefore, there is a distortion in the public imagination of the state, and hence what it entails to have a process of state-building. The first symptoms of this distortion appeared in the mismanagement of the dispute over constitutional legitimacy, peaceful transfer of power and how the 42year constitutional interruption was addressed. The NTC issued a new Constitutional Declaration (based on the new ‘revolutionary legitimacy’), which further violated constitutional legitimacy.<sup>39</sup>

It also appeared in the way of structuring official bodies and defining their competencies during the transitional period, which was characterized by improvisation, conflict, prioritizing gains and abandoning self-evident constitutional principles such as the separation of powers and the devolution of power. This has been evident in the overlap of legislative and executive jurisdictions.

This deficiency in comprehension also manifested in the unequal distribution of wealth among the three regions as well as in the mismanagement of the dispute over which system of governance is needed; whether it was better to adopt a federal or a unified system. Another manifestation of the distorted concept of the state was the refusal of militias to submit to state authority, willingly disarm and letting go of assets they controlled, and integrating in state institutions.

The deficiency in understanding the concept of statehood and the need to combine nation rebuilding and state rebuilding efforts appeared in the structuring of “political representation.” Most conflicting political actors and leaders lack real constituencies, and are not representative of sectors of the local communities. They represent condescending leaderships who, forcing themselves into the scene, claimed to be representative of local community. Some political actors have



weak representation; they do not represent constituencies of considerable weight. However, this has not stopped them from claiming to be representative of broad segments of Libyan society.

Another manifestation of this deficiency is the monopoly management of the transitional period by an elite who lacked a popular constituency. This elite was proposing solutions and negotiating the fate of the Libyan nation. This fundamental flaw overshadowed the transitional period, the political dialogue and negotiations, causing marginalization and exclusion of local communities. The consequence is that a conviction of the lack of national ownership of the management of the transitional period and of any constitution that will emerge from this period, which complicates its implementation, settled into societal consciousness. It was a flagrant violation of the essence of a constitutional building process to exclude local communities from contributing to the management of the transitional period, and ignoring their views on the proposed solutions, proper constitutional framework is the fruit of a contract between all the stakeholders and any proposed solutions are intended to organize

the polity for society as a whole, not just the relations between the conflicting influential stakeholders. This has resulted in a shift in approaches; from the “societal will” approach to one which prioritizes the “will of political actors and their ex-

ternal allies.” The major concern of “societal will,” since the start of the February 2011 uprising, is fixing the fundamental flaw in the Libyan constitutional framework and ending the four-decade-long constitutional suspension, whose essence was the confiscation of “societal will.” This major concern was not merely temporary or incidental for the Libyan nation; it has been deeply rooted in the Libyan political polity since the birth of the nation state began in the Independence era.

The most dangerous aspect about the manner with which the conflicting actors and the UN Mission deal with the ongoing negotiations is the inclusion of disputes between the conflicting parties in the Constitution, known as the “constitutionalization of disputes or tensions,” which is basically the creation of constitutional articles solely to regulate these disputes and prevent their exacerbation. This is a flagrant violation of the essence of the concept of the constitution, i.e. that it is a framework for establishing accord and unity, not animosity and division.



**One of the fundamental steps of state building is establishing a social contract based on a balanced political representation, equitable distribution of powers and of wealth, social justice, good governance, the rule of law, and human rights.**

The misunderstanding of the concept of statehood and the need to combine nation building and state rebuilding efforts also appeared in the weak structure of the political actors that are supposed to lead the settlement and peace-building process. There is a lack of political, social, cultural, psychological, economic and developmental expertise in the structure of each team representing one of the conflicting Libyan parties and thus, they are incapable of formulating long-term visions and strategies for a solution. This social, psychological, economic, developmental and cross-disciplinary expertise, if available, could have contributed in diagnosing the cracks in the collective consciousness at the political, security, economic and identity levels. It could also have contributed to designing a national dialogue process that would address serious substantive questions, making a real contribution to resolving these issues.

The deficiency also appeared in the imposition of a democratic “blueprint” approach by influential international powers since the start of the transitional stage, an approach that is presented to the majority of countries undergoing a transitional period. The basic elements of this pre-fabricated approach are: “holding elections, forming political

parties, drafting a new constitution and holding a referendum on the new constitution.” When this approach failed to yield the desired result, the international powers were forced to hold a political dialogue between the parties. However, the politi-

cal dialogue itself was only an alternative “pre-fabricated” approach. In other words, influential international powers did not deviate from stereotypical thinking, adhering to the usual templates, despite the fact that many experiences over the past half century have clearly indicated that there is no transition “blueprint” suitable for all countries and all conflicts. The patterns of political organization in transition vary from country to country, as do the natures of the conflicts and the capabilities for their resolution. It is important to point out that some studies show that there is a major problem in the international community’s approach (especially the neoliberal approach) to reconstructing failed states, as they tend to only address the institutional approach and focus on what is known as good governance and economic reform policies, ignoring the urgent need to address the issue of legitimacy and the political and social cohesion of societies.<sup>40</sup>



**One of the steps towards nation-building is fostering the collective consciousness of the Libyan identity, building a national social covenant based on re-identifying the National Libyan Character**

## **Crises on the levels of the nation and the state remain relatively limited in quantity and severity**

Despite all the previously mentioned, it's important not to exaggerate these crises on the nation and state levels. For they remain relatively containable in terms of quantity and severity as these crises and this behavioural dysfunction is restricted to some segments of Libyan society. It is noteworthy that the previously mentioned local efforts towards stability and the limited nature of the crises prevented a relapse and held the country back from a full-blown civil war.

## **The restricted jurisdiction of the United Nations Support Mission in Libya**

Limiting the UN Mission's jurisdiction/mandate to the political aspect led to its hands being tied when it comes to addressing fundamental security issues and drafting long-term policies and strategies. Additionally, the time periods of renewing the UN Mission's mandate tend to be short as the UN Security Council grants the UN Mission periods ranging between 3 months, 6 months and a year at the maximum. This obstructs any serious efforts to find long term solutions and strategies. It also reflects the international community approach to the Libyan crisis, one that tends to be improvised and focused on 'short fixes'.

## **The crises are largely due to foreign intervention**

Foreign interventions are common in transitional periods. These interventions are aimed at crises in the transition, but they are driven by solving the crises from the interest of foreign and not local perspective. This leads inevitably to further local crisis.

## **Charting a way forward**

If that is the case, how can a shared sense of nationhood be constructed in a process of nation building? The nation building process begins with raising awareness and educational campaigns on national narrative and collective and memory via all possible methods. One of the steps towards nation-building is fostering the collective consciousness of the Libyan identity and establishing the concept of multiple units of identity and building a national social covenant, which is based on re-identifying the National Libyan Character highlighting the commonalities and the unique characteristics of each of its components, reconstructing a collective national narrative and fostering the collective memory.

This solution must be, first and foremost, socio-political one. And it must be founded on a bottom-up approach which is, in turn, based on localized solutions. One of the ways of ensuring the success of such a solution is engaging important local community stakeholders, such as women and youth.

When it comes to rectifying the misconception of statehood, state building, it begins with clarifying these concepts. One of the fundamental steps of state building is establishing a social contract based on the following: a) balanced political representation, b) equitable distribution of powers to prevent a concentration of powers, c) equitable distribution of wealth, d) social justice, e) decentralization and local governance mechanisms,<sup>41</sup> f) accountability and transparency, g) good governance, h) disarmament and demobilizing of armed groups and rehabilitation according to an economic security approach (not just a security one), i) rule of law and human rights, j) improving the competence of the judiciary, k) and finding alternative frameworks for conflict resolution.

Finally, there is clearly a significant overlap between nation reform and state reform. One of these areas of overlap is probably the concept of citizenship which is based on respecting multiculturalism. The inclusive national reconciliation framework is also one of the frameworks with noticeable overlap. The order of the steps must be taken into consideration and a holistic approach must be adopted.

## **The Salamé Initiative's chances of success**

There are many factors that afford the Salamé Initiative a greater chance of succeeding in comparison with the initiatives of previous heads of the UN Support Mission in Libya. The first is the relative retreat of terrorist groups, with ISIS as a prime example. The second factor is the lengthiness of the transitional period, which has exhausted the majority of political powers. The third factor is that a new wave of horizontal reconciliations is emerging and gaining momentum, which contributes to creating a more suitable environment on the vertical level. Last but not least, Mr. Salamé's bottom-up approach to expanding societal participation in the dialogue through national meetings paving the way for the Inclusive National Conference is a noteworthy and commendable effort. Mr. Salamé recognizes the fragmented Libyan society's need, at this stage, of re-establishing a new social contract,<sup>42</sup> before a procedural decision is made about its constitution. However, caution must still be exercised regarding how these national gatherings and the Inclusive National Conference are followed up, so that they do not further confuse the situation. Recommendations in this regard will be included in the Policy Recommendations section.

There is still one more factor that is the major obstacle to stability in Libya; the regional and international intervention and proxy war inside the Libyan territories, which worries Libyans as well as UN envoys, as more than one UN envoy has referred to the obstruction of his mediation efforts due to the gross interference of regional and international foreign countries.



## Section V

# Policy Recommendations

In general, Libyans are not confident that future entitlements will result in a paradigm shift towards the right direction. However, they have not lost all confidence in the process of restoring the state and are, therefore, prepared to interact positively with these entitlements. Libyans are concerned about holding elections and referendums in the current state of arms chaos, institutional political schism and the collapse of constitutional legitimacy.

### Recommendations related to the Roadmap

- It is imperative to ensure that the future entitlements, including elections and referendum, do not lead to more division and violence and also to maximize the intended value they are supposed to add.
- Elections must not be held without a constitutional framework. The predicament is that the Constitutional Declaration did not include any articles necessitating holding other parliamentary and presidential elections. Moreover, the Political Agreement is yet to be included in the Constitutional Declaration. Therefore, there will be a need to amend the Constitutional Declaration in order to establish the constitutional framework that regulates the elections.
- A question poses itself here: who will amend the Constitutional Declaration; the House of Representatives or the House of Representatives and the High council of State, and on what basis? Another question arises: which version of the Constitutional Declaration will be amended after the many amendments that were made? The seventh of these amendments was based on the February Committee Proposal and was challenged before the Supreme Court. The Court ruled to

accept the challenge, leading to the beginning of the schism in the state institutions. It is probably very obvious that the conflicting parties have grossly and exaggeratedly strived to employ the law and litigation as political tools, which have led to the present labyrinthine situation in which we find ourselves. Everyone is improvising, which will only add to the state of anarchy.

- There is an urgent need to unify the state institutions before acting on these entitlements, i.e the elections and/or the referendum. What would enhance the added value of these entitlements is creating a comprehensive, realistic vision of how to handle the arms chaos and the hegemony of armed groups before the time for the entitlements arrives, especially as reports from international organizations and monitors warn against holding elections in an environment of arms chaos and impunity. This is what the latest report from Human Rights Watch indicated, stating: “The violence that came on the heels of the last general Libyan Elections in 2014 led to the collapse of the central authority and the main institutions, especially law enforcement and judicial powers, which produced two opposing governments, competing over legitimacy. The criminal justice system collapsed and civil and military courts remain largely closed in the east and the south of the country, while operating in a limited capacity in other places. Low enforcement and criminal investigation administrations all over the country are only partially operative, mostly unable to implement arraignment orders issued by the courts or to enforce arrest warrants...Libyan courts are not in the position to resolve electoral disputes, including registration and results.”<sup>43</sup>



**What would enhance the added value of these entitlements is creating a comprehensive, realistic vision of how to handle the arms chaos and the hegemony of armed groups before the time for the entitlements arrives.**

- Factors that would maximize the added value of these entitlements:
  1. Clarifying and demystifying the nature of these entitlements. Therefore, the nature of the Inclusive National Conference and its agenda must be explained and why neutral Libyan parties (especially from the civil society) must be included in planning this agenda and drafting the Conference’s decrees, to achieve “national ownership” in these national meetings and in the Inclusive National Conference.

2. An agreement from all parties expressing their prior commitment to accepting and complying with the results of these entitlements in the case of losing. This could be in the form of a national charter emanating from the Inclusive National Conference.
  3. The existence of independent international and societal monitoring and international guarantees to achieve a peaceful transfer of power and to penalize those obstructing the process.
- It is essential to exert the utmost effort to maximize the benefit from these entitlements in strengthening societal unity, and to ensure that they do not yield unfavourable results, such as exacerbating division. It is also imperative to strive to call on all parties to announce their commitment to forsake severe polarizing speech which entrenches division and this could also be in the form of a national charter emanating from the Inclusive National Conference.
  - There must be a guarantee in place ensuring that the proposed Inclusive National Conference does not turn into a new public body, which would add to the state of institutional dysfunction.
  - As for the referendum, the articles included and the mechanism of conducting the referendum must be agreed upon beforehand. Additionally, the situation and the possible alternatives if people reject the Constitution via the referendum must be stated. Is there a plan B? There is a fear based on antecedents in other countries which indicate that the referendum—contrary to what is envisioned—might contribute to increasing polarization and violence, especially if the country is in a transitional period and still subject to armed conflict.<sup>44</sup> Other studies indicate that holding public referendums in multicultural and multiethnic countries could have unfavourable results; because, while a referendum is a legitimate mechanism from a democratic procedural perspective, realistically, it might have a negative impact on the situation of some of the components of society. Therefore, the lesson learned here is the necessity of ensuring that none of the fundamental rights of any components of society are left to public referendum and majority rule, as that would go against the essence of inclusive democracy.<sup>45</sup>

## Recommendations related to the United Nations Support Mission in Libya

- The UN Mission should:
  - Reformulate its strategy



- ❑ Assemble a neutral advisory team for itself, comprised of local civil society members.
- ❑ Combine the interaction with political actors and the interaction with civil society powers and benefit from their expertise in implementing the Roadmap.
- The UN Security Council should:
  - ❑ Widen the scope of the UN Mission's mandate/jurisdiction so that it can deal with fundamental issues so as to address root causes.
  - ❑ Amend the UN Mission's structure with regards to its allocated resources and how well they function.
- The UN Security Council should amend the Mission's structure through:
  - ❑ Increasing the expertise of the staff in the UN Mission who have in-depth knowledge of the Libya and who have expertise in the region.
  - ❑ Increasing the expertise of the UN Mission in mediation and conflict resolution, women experts in particular, and those with a real record in this regard.
  - ❑ Adding experts in critical fields, including social, gender issues, psychological, economic, development as well as cross-disciplinary to the UN Mission.

## Recommendations related to the constitutional situation

The constitutional issue must be resolved before elections are held to end the transitional period. According to Libyan and non Libyan studies, the Draft Constitution presented by the Constitutional Drafting Assembly has fundamental flaws. Furthermore, the results of this survey indicate that there are concerns of an outbreak of future crises if this draft is adopted. Therefore, one of the possible conciliatory solutions could be reactivating the constitution that was suspended on August 31st, 1969, until stability is established.<sup>46</sup> Then, another inclusive constitutional process would start to draft a new constitution; one which respects human rights and the multicultural nature of the country while at once is based on the Libyan constitutional heritage.

## Recommendations related to resolving non-political crises

Bottom up societal platforms must be established, especially platforms composed of women and youth, to launch initiatives with the purpose of studying the previously mentioned non-political crises and developing comprehensive solutions that address the multi dimensions of crises.<sup>47</sup>

## Notes

- 1 Langhi, Zahra'. The behavior of official bodies towards the fall of the autocratic regime in Libya: A study in institutional development. (Under publication) A paper presented at the Experts' Group Meeting State-building and Institutional Development in Post-Conflict Settings: Opportunities and Challenges in Libya and Yemen. 23 and 24 November 2017. ESCWA. Beirut. Under publication with the Cairo Center for Human Rights.
- 2 The Zuwara Speech included five points which were in their essence a termination of the state. The points were: • The abolition of all laws that were currently in force. • The elimination of political parties and enemies of the Revolution. • The declaration of the Cultural Revolution. • The declaration of the Administrative Revolution and the elimination of bureaucracy. • The declaration of the People's Revolution. In the wake of that speech, Gaddafi imprisoned hundreds of students, writers, thinkers, journalists and intellectuals just because they opposed his treatise. Gaddafi used that revolution to claim «the installation of the government of the masses based on direct and popular democracy», a concept from which the «Socialist People's Libyan Arab Jamahiriya» later took its name.
- 3 The Electoral Commission confirmed in April 2018 that the number of citizens listed in the electoral register is 2.234.654 voters, or 53.26% of Libyans eligible to participate in the upcoming elections. This percentage is the internationally recognized standard for attesting the credibility of any electoral process. <https://hnec.ly/?p=12311>
- 4 Mitri, T. Difficult Paths: Two years in Libya and for Libya.(2015) Dar Riyath AlRayis. Beirut.
- 5 The seventh amendment to the Constitutional Declaration in the year 2014.[http://www.constitutionnet.org/sites/default/files/7th\\_amendment\\_to\\_constitutional\\_declaration.pdf](http://www.constitutionnet.org/sites/default/files/7th_amendment_to_constitutional_declaration.pdf)
- 6 The eighth Constitutional amendment for 2014 <http://www.alyassir.com/index.php?pid=4>

- 7 The first Constitutional amendment for 2012 <http://www.alyassir.com/index.php?pid=4>
- 8 The third Constitutional amendment for 2012 <http://www.alyassir.com/index.php?pid=4>
- 9 <https://www.libyaherald.com/2013/07/23/opinion-constitutional-assembly-electoral-law-blow-to-inclusivity-in-post-revolution-libya-lwpp/>
- 10 The Supreme Council of Libya's Amazigh announced on February 19, 2014, its abstention from participating in the Constitutional Drafting Assembly elections, stressing their non-recognition of the constitution that would result from this Assembly. The Supreme Council of Libya's Amazigh confirmed in a statement that «the Amazigh did not recognize the next constitution,» adding that «all options are on the table and we will use our right to self-determination.» The statement also threatened to turn the Amazigh Council into a mini-parliament that manages Amazigh affairs in areas where they reside.  
[https://arabic.rt.com/news/655535-أمازيغ\\_ليبياء\\_غايَ زام\\_أ\\_اي\\_ب\\_ي\\_ل\\_د\\_ل\\_ا\\_روت\\_س\\_د\\_ل\\_ا\\_أمازيغ\\_ليبياء\\_الدستور](https://arabic.rt.com/news/655535-أمازيغ_ليبياء_غايَ زام_أ_اي_ب_ي_ل_د_ل_ا_روت_س_د_ل_ا_أمازيغ_ليبياء_الدستور)
- 11 The calls for the activation of the Independence Constitution have been ignored, classified as mere nostalgia and described as going 'against the movement of history', which according to the modernist approach is 'progressive' and 'unilinear' and thus assumes the inevitability of moving from the monarchy to the republic even if the monarchy was constitutional and not absolutist.
- 12 According to the conclusion of the book, "Gauging the Libyan Draft Constitution", «we can wholeheartedly acknowledge that most of the articles that received high scores (8-10) are not controversial ones, and that most of the articles that scored low (1-4) are the controversial ones. What is worse is that some of the articles that have received low scores are governing articles, which means that they impact the structure of the state or basic rights... « The fact that 61.42% of the draft's articles received high grades does not necessarily guarantee its chances of winning the votes of the majority of two-thirds. This is because that even though not many articles attained low grades, (14.21%), they are mostly articles that affect fundamental controversial issues. « <http://uob.edu.ly/pages/page/89>
- 13 RagabSaad. "A Constitution That Doesn't Protect Rights and Freedoms: Libya Writes Its Constitution." (3 August 2017) Atlantic Council.
- 14 The draft Constitution was approved by the Constitutional Drafting Assembly by a majority of 43 of the 44 members attending the voting session out of its 57 elected members.

- 15 A decision was issued by the Administrative Justice Section of the AlBayda Court of Appeal in Case 104 for the year 2017 on August 16th 2017. It ruled in the summary part to suspend the decision of the Constitutional Drafting Assembly regarding the adoption of the draft Constitution. This ruling was challenged before the Supreme Court. The hearing was held on 21/1/2018. The Court ruled that appeals against the work of the assembly did not fall within the jurisdiction of the Administrative Justice Court, contrary to what was stated in the testimony of the UN Mission Special Envoy before the Security Council, namely that the voting on the draft Constitution was correct. It should be noted that there is another appeal before the Supreme Court, filed by Mr. Hassan al-Saghir, former Undersecretary of the Ministry of Foreign Affairs. It is appeal No. 4 of the Judicial year 62 on January 19, 2015 on the unconstitutionality of the meetings of the Constitutional Drafting Assembly and has not yet been resolved.
- 16 Article 23 of the Political Agreement published on the UNSMIL website. <http://unsmil.unmissions.org>
- 17 United Nations Support Mission in Libya Office of the United Nations High Commissioner for Human Rights, Human Rights Defenders Under Attack. 25 March 2015.
- 18 Langhi, Z. ( February 2016). The Libyan Political Accord through A Human Rights' Lens. The Legal Agenda. <http://www.legal-agenda.com/article.php?id=1431>; <http://www.lwpp.org/files/d3b6f-the-political-accord-through-a-human-rights-lens---english2017.pdf>; <http://www.lwpp.org/library/index/Library>; Langhi, Z. (May 2015). An Analysis of the Libyan Political Agreement after The Fourth Draft. Libya AlMostakbel. <http://assafirarabi.com/ar/4372/2015/07/02/>  
 قراءة-في-الاتفاق-السياسي-الليبي; <https://docs.google.com/gview?url=http://www.lwpp.org/files/14bf4-analysis-of-pa-fourth-draft---arabic.pdf&embedded=true>.
- 19 Article 65 of the Libyan Political Agreement published on the United Nations Support Mission in Libya website. <http://unsmil.unmissions.org>. The article reads as follows: The Constitutional Declaration shall be amended in accordance with the stipulations of this Agreement as per the legally stated procedures and according to the proposal in Annex 4 of this Agreement within a date that does not exceed 20 October 2015.
- 20 Article 12 of the Additional Provisions of the Libyan Political Agreement published on the United Nations Support Mission in Libya website. <http://unsmil.unmissions.org>. The article reads as follows: All institutions stipulated in the Libyan Political Agreement shall derive their legitimacy from the Constitutional Declaration and its amendment as annexed to this Agreement after its endorsement and adoption in its entirety, signing and entry into force. Should it be necessary to introduce subsequent amendment to the Constitutional Declaration that affects, whether directly or indirectly, the Agreement or any of the institutions that emanate from it, the House of Representatives and State Council shall commit to achieve consensus among themselves to agree on the format of such amendment. The final endorsement of this amendment shall

be given by the House of Representatives, without amendment, based on the mechanism stipulated in the Constitutional Declaration.

- 21 On January 25, 2015, the House of Representatives ratified the Political Agreement, except for Article 8 of the Additional Provisions, which concerns the post of Supreme Commander of the Libyan army.
- 22 The southern region has been beset by internal conflicts in the growing presence of foreign mercenaries and with the direct support of regional and international external parties.
- 23 Human Rights Watch report on the need for the Presidential Council to ensure the return of the people of Tawergha to their city (<http://www.hrw.org/en/news/2017/06/20/305455>)
- 24 Arbitrary and Illegal Detention in Libya: Transgressions behind Bars. The Office of the United Nations High Commissioner for Human Rights in cooperation with the United Nations Support Mission in Libya April 2018.
- 25 Social Capital & Nation Building in Libya. The Libyan Women's Platform for Peace. Under publication.
- 26 Arbitrary and Illegal Detention in Libya: Transgressions behind Bars. The Office of the United Nations High Commissioner for Human Rights in cooperation with the United Nations Support Mission in Libya April 2018. [http://www.ohchr.org/Documents/Countries/LY/AbuseBehindBarsArbitraryUnlawful\\_AR.pdf](http://www.ohchr.org/Documents/Countries/LY/AbuseBehindBarsArbitraryUnlawful_AR.pdf)
- 27 The International Criminal Court :The General Prosecutor vs. Mahmoud Mustafa Bousayf Al-Werfalli. (August 15th 2017). Available online. <https://www.icc.cpi.int/libya/al-werfalli>
- 28 Tashani, M. (2016) The Chaos of Post- Revolution Transitional Justice in Libya. The Seif Al Gadhaffi Example. The Legal Agenda <http://legal-agenda.com/article.php?id=3256>
- 29 For more on the war economy and trafficking networks in Libya, see: Tim Eaton, Libya's War Economy Predation, Profiteering and State Weakness. (April 2018 ) Middle East and North Africa Programme. <https://www.chathamhouse.org/sites/files/chathamhouse/publications/research/2018-04-12-libyas-war-economy-eaton.pdf>
- 30 UNICEF Libya Humanitarian Report 2017. [https://reliefweb.int/sites/reliefweb.int/files/resources/UNICEF Libya Situation Report - End of Year 2017.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/UNICEF%20Libya%20Situation%20Report%20-%20End%20of%20Year%202017.pdf)
- 31 Presentation of the Humanitarian Needs in Libya in 2015. September
- 32 UNICEF Libya Humanitarian Report 2017.

- 33 The report presented by the Office of the United Nations High Commissioner for Human Rights and the UN Support Mission in Libya documented the attack on leaders of civil society which peaked in 2014.  
United Nations Support Mission in Libya Office of the United Nations High Commissioner for Human Rights, Human Rights Defenders Under Attack. 25 March 2015.
- 34 The Centre for Humanitarian Dialogue is an international organization based in Geneva, which organizes dialogues, including the Municipals' dialogue, both within and outside of Libya. It is worth mentioning here that the Centre for Humanitarian Dialogue was one of the strongest opponents of the Skhirat Agreement which was under the auspices of United Nations Support Mission in Libya and under the leadership and mediation of former envoy Bernardino Leon, for several reasons, the most important of which is that the dialogue channel was not sufficiently inclusive. For more on the position of the Centre for Humanitarian Dialogue team in Libya, please see this paper, which was submitted in August 2015, before the signing of the political agreement. The paper proposed the adoption of the Ta'if Solution and asked Saudi Arabia to play a mediating role in resolving the Libyan crisis.  
Thornton, C. (2015) Libya on the brink and how to pull it back: options for international actors. Riyadh: King Faisal Center for research and Islamic Studies.
- 35 For more on Libya's religious sector during the transition and how it was one of the major factors feuding the conflict in Libya and what needs to be done to restore wasati Islam and establish peace in Libya, read: Libya's Religious Sector. Efforts of Peace Building. Palwasha L. Kakar and Zahra Langhi. (March 2017) United States Institute of Peace.
- 36 Ayoubi, N. The Amplification of The State: Politics and Society in The Middle East. (March 2011). Amjed Hassan (trans.). Beirut: Arab Unity Studies Centre.
- 37 Balqiz, A. The State And Society: of Unification and Division in The Current Arab Polity. (2008). The Arab Network for Research and Publication.
- 38 Joel S. Migdal. Strong Societies and Weak States State-Society Relations and State Capabilities in the Third World. Princeton University Press, 1988.
- 39 As previously stated, the correct application of the law and constitutional legality dictated that the first action taken by a country restoring a constitutional framework after an illegal constitutional suspension should be the activation of the suspended constitution, after which, there would be three legitimate alternatives: 1) keeping the constitution as it was. 2) amending the constitution. 3) reaching a constitutional consensus- based on the constitution itself- to conduct a constitutional process that would result in a new constitution. Taking into consideration that any action other than activating the last constitution is a null procedure that would not have a legal effect.

- 40 Nicolas Lemay-Hébert. State building without Nation-building? Legitimacy, State Failure and the Limits of the Institutional Approach. *Journal of Intervention and State building* Volume 3, 2009 - Issue1. <https://www.tandfonline.com/doi/abs/10.1080/17502970802608159>
- 41 For more on why federalism can be a way forward in Libya, read: Karim Mezran and Mohamed ElJareh, The Case for New Federalism in Libya.( DECEMBER 23, 2014) Atlantic Council.[HTTP://WWW.ATLANTICCOUNCIL.ORG/IMAGES/FILES/IS-SUEBRIEFFEDERALISMINLIBYA\\_HARIRI\\_5.PDF](http://WWW.ATLANTICCOUNCIL.ORG/IMAGES/FILES/IS-SUEBRIEFFEDERALISMINLIBYA_HARIRI_5.PDF)
- 42 Mr Ghassan Salamé has written an extensive study about our societies' need of restructuring a new social contract. In it, he explains his view of the constitutional legitimacy issue and the need to bypass it to a rational institutional legitimacy through a new social covenant based on a rights perspective.  
Salamé, G. Towards A New Arab Social Covenant. (2011). Beirut: Arab Union Studies Centre.
- 43 Libya: No Free Elections in Current Climate. Human Rights Watch, 21 March 2018, [www.hrw.org/news/2018/03/21/libya-no-free-elections-current-climate](http://www.hrw.org/news/2018/03/21/libya-no-free-elections-current-climate).  
Nashed, Matt. "Holding Libyan Elections This Year Could Be Disastrous." *Al-Monitor*, 15 Mar. 2018, <http://www.al-monitor.com/pulse/originals/2018/03/libya-elections-conditions-un-envoy-risks-backfire-war-soon.html>.
- 44 Katherine Collin, Do Referendums Resolve or Perpetuate Contention? In *Contentious Elections From Votes to Violence*. New York, Routledge, 2015.  
EceÖzlemAtikcan&KeremÖge (2012) Referendum Campaigns in Polarized Societies: The Case of Turkey, *Turkish Studies*, 13:3, 449-470, DOI: <https://doi.org/10.1080/14683849.2012.717440>
- 45 Maria Koinova. Referendums: A Legitimate Democratic Tool or a Mechanism for Nationalist Co-optation? <http://blogs.lse.ac.uk/lsee/2014/06/08/referendums-a-legitimate-democratic-tool-or-a-mechanism-for-nationalist-co-optation/>
- 46 FadeelLamen et. Karim Mezran. A Constitution for Libya: A Futile Debate? (6 January 2016), Atlantic Council.  
<http://www.atlanticcouncil.org/blogs/menasource/a-constitution-for-libya-a-futile-debate>
- 47 Zahra' Langhi, Gender & State Building in Libya. Towards the Politics of Inclusion. (March 2014) *The Journal of North African Studies*.Volume 19. Issue 2. <https://www.tandfonline.com/doi/abs/10.1080/13629387.2014.881736?scroll=top&needAccess=true&journalCode=fnas20>





منبر المرأة الليبية من أجل السلام

Libyan Women's Platform For Peace

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**The Libyan Women's Platform for Peace (LWPP)**

was launched on the 7th of October 2011. The Platform has a particular emphasis on inclusive transitions, women's rights, youth leadership, advancement and security, as related to women's political and economic participation, constitutional reform, and education.

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