Restoring trust and reconciliations to establish a national charter
This study, “Restoring trust and reconciliations to establish a national charter”, was developed within the framework of the Libya Socioeconomic Dialogue Project, and funded by the German Federal Ministry for Economic Cooperation and Development (BMZ). The project was carried out in partnership with ESCWA and the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ). The aim of the project is to provide a platform for Libyans, at both the national and sub-national levels, to discuss and develop a socioeconomic vision for Libya, as well as to discuss the relevant policy options needed to support and strengthen such a vision. The platform also addresses the structural challenges inherent in developing a new social contract, institutionalising the State, and strengthening the sustainable development framework in Libya.

This document is one of a set of eight studies on policy options relating to the socioeconomic vision mentioned above, conducted by ESCWA in collaboration with a group of Libyan experts. These studies are meant to contribute to realising this vision, addressing its challenges, and facilitating the process of drafting policies and developing strategies that take into account its socioeconomic and institutional dimensions.

1. **Vision for Libya: towards prosperity, justice and strong State institutions.**
2. Titles of these studies:
   1. Towards an inclusive national identity in light of a just citizenship State.
   2. Social protection system.
   3. Human capital, youth and women empowerment, and the integration of militant forces.
   4. The role of the State in sustainable economic development and the strategic positioning of Libya in the global economy.
   5. Strengthening the State authority and the rule of law through a fair and independent justice system, and human security based on human rights and the principles of comprehensive justice.
   6. **Restoring trust and reconciliations to establish a national charter.**
   7. Building a State of institutions, regional integration and international cooperation.
Executive summary

Despite the situation in Libya slipping into acute division, there is still an opportunity to restore trust and build reconciliations between political forces and between components of society. Since the beginning of the transitional period, the goal has been to bring the country through a peaceful transition that would achieve inclusion and safely pave the way to a phase of stability. Even before the end of the protests and the start of foreign intervention, and before the Constitutional Declaration of 2011, various calls were made and diligent efforts were exerted to achieve reconciliation between political forces and between components of society. One of the holistic views predominant at the time was that the country’s social fabric would be able to gradually regain its cohesiveness, and that it would also be possible to restore trust between all parties. And although disputes between political forces have only increased over time, indications continued to appear at every juncture that the foundations for restoring trust, building reconciliations and dispelling discord were still available and could be relied upon.

Then in 2014 the country slipped into depths of violence that have grown more intense with the passage of time. During the period between 2011 and 2014, however, a constitutional process was started and representative elections were held. This was accompanied by social, political, economic and rights-based dialogues, interactions and initiatives at many levels. Such efforts aimed to resolve disputes connected to grievances dating back to the pre-2011 era, as well as a few more recent ones. The result of all this was a significant number of understandings reached between numerous societal and political actors in Libyan society. This included efforts that led to partially restoring trust between different components of Libyan society, and achieving reconciliations between cities, tribes and political forces. And while this period also witnessed rising waves of violence and attempts to militarise civilian and political life, efforts to build trust and reconciliation never stopped, and were in fact noticeably uninterrupted. However, starting in 2014, the situation deteriorated again, especially after political division brought with it institutional (executive, administrative and economic) division as well. The problem worsened as political and institutional division was accompanied by increased political and military foreign interference, warning of an international conflict erupting on Libyan soil.

The absence of a unified and effective national Government led to the spread of chaos, with increasing violence on both sides. The effects of intolerance and isolationism worsened, corrupting the atmosphere of coexistence and cohabitation all over the country, aggravating conflicts of interest, and contributing to the exacerbation of disagreements between different ideological movements and between opposing political forces.

The situation is so rife with problems that it requires exerting every possible effort to mitigate their negative impact on the Libyan people. It is therefore imperative to seek to build bridges of dialogue, find ways to reach understandings and communicate positively, and confront acts of violence. The basis for this would be for each party (whatever their power and influence) to acknowledge the existence and interests of the others. It is also imperative to guarantee the right to be different, ensure freedom of expression, promote respect for the opinions of others, and protect the legitimate rights and basic freedoms of all. Tolerance should therefore be adopted as a cornerstone and fundamental basis for achieving consensus, so as to reach the bare minimum that would ensure the approval of all parties. Yet such a goal cannot be achieved if each party clings to a rigid position towards the others, threatening the integrity and cohesiveness of the country’s social fabric.

Introduction and historical background

Restoring trust and achieving reconciliations is vitally important at the socio-economic governance level, as it would contribute to strengthening the bridges of trust that have been built and the reconciliations that have been achieved over the past decade, help avoid their reversal, and help build on them for the future. Restoring trust and achieving reconciliations is considered an essential step towards repairing the country’s social fabric and socio-economic relations, which have been badly damaged. Trust-building measures aim to increase mutual esteem among parties to the conflict, and reduce doubt about their relationships with one another, within the context of working to end the violence, reach compromises and build peace. Examples of trust-building measures at the political and security levels include: disarming, reducing military spending, releasing detainees, and issuing
Statements showing good intentions towards the remaining parties, which should be accompanied by practical measures to that effect. At the socio-economic level, examples include: allowing for the free movement of citizens and of trade; engaging in economic cooperation; withdrawing formal complaints; dropping civil or commercial lawsuits; retracting threats to take certain measures; removing the obstacles that are preventing citizens from returning to their cities and properties; and relinquishing control of disputed assets.

Among the most important measures to take in this regard is that of achieving horizontal and vertical reconciliations. Horizontal reconciliations are those that take place between components of a society, without the State (or any other effective authority) playing a central role. Examples of this include reconciliations between natural social components (tribes and extended families), between demographic groups, and between non-governmental armed groups without significant administrative authority. One could also mention here societal reconciliations achieved by informal societal forces, within the framework of a comprehensive reconciliation process. Indeed, informal societal forces usually oppose reconciliation when formal political forces are unable to achieve it, especially if the latter are in a weakened state and are unable to fully exercise their authority.

Vertical reconciliations, on the other hand, are those that take place between influential political forces, those in which the State is party to the relevant conflict, or those in which there are two ruling authorities (one “legitimate” and the other in actual control). The goal of societal reconciliations is to address the effects of the war and the damage suffered by the country’s social fabric, and to lay the groundwork for peaceful coexistence and societal peace, so as to prevent the recurrence of violations (something that political dialogue alone cannot achieve).

**Historical factors that have led to weakening social trust and reconciliation**

For more than a century, the general situation in Libya was characterised by the dominance of an extensive legacy of economic, social, political and legal factors that have weakened trust among the components of society on the one hand, and among political forces on the other. This state of weakened trust is still having an impact today, even if it is sometimes imperceptible. In fact, its negative effects may well become structural problems if they are not dealt with.

Factors that have caused the weakening of trust include the interest of formal authorities over two centuries in economically developing the centre while neglecting the periphery. In the past, some of the development policies adopted by Ottoman governors in several cities led to class-based, regional, social and tribal polarisation. This was accompanied by an accumulation of failures, on the part of some natural social components (such as tribes and extended families), to manage disputes between them. To this can also be added the failure to confront the challenges of modernisation, as well as the methods used by Italian colonial powers to dismantle existing political and societal structures and sow division, within the context of taking control of the country’s resources and preventing local societies from accessing them. During the period following independence (1952-1969), such polarisations worsened as a result of structural issues, the State assuming all public functions, and the lack of partnership between State and society in the fulfilment of those functions. Then during the period between 1969...
usually accompanied by the eruption of protest movements that follow the end of a long period of rule, which are case, as well as armed conflicts with varying levels of periods witness instability, its intensity varying from case to case, as well as armed conflicts with varying levels of escalation. This especially applies to transitional periods that follow the end of a long period of rule, which are usually accompanied by the eruption of protest movements and increased foreign interference. Yet what has happened since 2012 has been that the overwhelming majority of components of the Libyan nation, and most of its political forces, have worked to reserve a space for themselves on the country’s new political map, using political and economic pressures, as well as armed conflict.

Historical factors that have contributed to strengthening social trust and reconciliation

Conversely, Libya also has a positive historical legacy, represented by a number of elements and practices that have contributed to restoring trust and building reconciliations. Indeed, in the mid-twentieth century, some remarkable practices were adopted that blended together restoring trust and reconciliation at both the political (vertical) and social (horizontal) levels. One of the most prominent examples of this was the Harabi Charter, signed in 1946, in which it was agreed to suspend all conflicts and feuds arising from communal and/or individual rivalries, until the rules of the State had been established. At the time, consensus over the Harabi Charter represented the main driver of efforts to complete the formal political unification of all Libyan provinces, declare independence (in 1951), and create a Libyan State. It is noteworthy that the Harabi Charter was signed during a period of political transition, as Libya was emerging from an era of foreign occupation and heading towards independence. This charter can therefore be said to represent a form of transitional justice.

In the case of Libya, socio-economic reconciliation often becomes intertwined with politico-legal reconciliation, as horizontal social reconciliation complements and becomes an essential foundation of vertical political reconciliation. Similarly, reconciliatory and reform-driven transitional justice represents the form of transitional justice best suited to Libyan society.

The lack of sufficient institutional efforts and sustainable mechanisms to prevent conflicts in Libya

Starting from 2011 and until 2020, the transitional period has been characterised by a lack of sufficient efforts and effective mechanisms for the early prevention of conflicts in Libya. In the overwhelming majority of cases, transitional periods witness instability, its intensity varying from case to case, as well as armed conflicts with varying levels of escalation. This especially applies to transitional periods that follow the end of a long period of rule, which are usually accompanied by the eruption of protest movements

Restoring trust and achieving reconciliations and the challenge of foreign interference

Numerous instances of foreign interference have contributed to incentivising opposing parties in Libya to give precedence to the principle of sitting down at the negotiation table. Yet the structures of peace-building and reconciliation processes were not efficiently designed, as they did not achieve inclusivity, and did not ensure complete national ownership of reconciliation, with foreign parties interfering for their own purposes and interests. Moreover, this framework of reconciliation was not designed to meet national needs exclusively. At the negotiation table, foreign actors reserved the main seats for forces with political influence and military power, while only secondary seats were reserved for women, young people and different components of Libyan society, with some of the latter not receiving any seats at all. Foreign actors pressured those participating in these processes to adopt pre-packaged solutions, and quickly ratify the political agreement (the 2015 Skhirat Agreement). And although the level of trust between different parties was extremely low, the designers of the peace process had completely ignored the need to incentivise those parties to take measures that would strengthen mutual trust between them. All of this made efforts to restore trust and political peace processes seems like compromises and power-sharing agreements between the different parties.

During the period between 2015 and 2020, political and armed conflict grew more intense, threatening complete division within State and society. This came with increased political and military interference by numerous foreign parties allied with parties to the domestic conflict. Those foreign parties worked to achieve what they considered suitable to their own interests in Libya, and consistent with their own policies. This was especially true as those parties were in conflict amongst themselves, in view of the sharp contradictions in their geographical, political and economic interests, when it came to Libya, the region and the world. The deployment of foreign military forces increased everywhere, and foreign powers began to frankly take control of the situation. The local lack of will became clearly apparent in the dismal failure of the peace talks held in Geneva in February 2019, under the aegis of the United Nations Support Mission in Libya (UNSMIL). The low level of trust between political forces reflected on their public positions and statements, and this in turn led to complicating the reconciliation process at the societal level, which slowed down and was unable to expand to additional areas.
Successes connected to restoring trust and achieving reconciliations that should be built upon

During the transitional period, efforts were exerted and successes were achieved at the level of restoring trust and achieving reconciliations, politically and socially. Indeed, efforts were made to restore trust and achieve reconciliations between different tribes, as well as between cities that had witnessed multiple waves of conflict. Yet it can be noted that the successes that were achieved in terms of horizontal reconciliation were greater and stronger than those that were achieved at the level of vertical reconciliation.

Another feature of the transitional period has been the emergence of new elites — elites that quickly gained capabilities when it came to restoring trust and achieving reconciliations, and began effectively contributing to the achievement of measures to that effect. Those elites included large portions of the youth and a large number of women, both inside Libya and abroad, and made their presence felt both at the level of civil society and public policy. Part of the technical and specialised capabilities acquired by those elites came as a result of their own self-improvement efforts, in terms of capacities and prospects connected to restoring trust and achieving reconciliations, and their self-reliance in pursuing specialised studies and interacting with regional and international experts.

The insufficient addressing of the root causes of the conflict

While political peace processes and societal reconciliation efforts were able to achieve certain successes, they did not address many of the root causes of the conflict, especially those connected to the economic, social and political holistic level. The most prominent of these root causes is the chronic dysfunction in the design of a holistic economic model that would be suited to the social and demographical map of Libya, and would achieve fairness and justice, as well as territorial, regional, demographic and gender balance. Economic issues that have continued to be unsuccessfully addressed include the distribution of development revenue, the management of national resources, and the diversification of the economy, as well as fairness in appointments, employment, jurisdiction, retention and promotion. This economic structural dysfunction has been reflected in the duplication of sovereign economic institutions and financial policies, and in the intensification of disputes over the administration of public institutions.

1. Methodology

Over the course of an entire year, the ESCWA team conducted preliminary studies to identify and analyse the challenges facing Libya, relying on official statements issued by Government officials. The research team then recommended reform mechanisms connected to restoring trust and achieving reconciliations. Their recommendations were presented to 88 Libyan experts, so that they may assess them, suggest additions and provide appropriate
clarifications, making use of the best past experiences at the global level. Priority issues were then identified, particularly when it comes to restoring trust and achieving reconciliations to establish a national charter. These recommendations were then discussed in a wide-ranging societal dialogue, which included various different social groups, including public and private sector employees, people with disabilities, and representatives from every region of Libya. This dialogue went on for eight sessions, with discussions involving 262 Libyan participants, and over 857 written submissions received. All of these efforts led to a set of important recommendations and priorities for the preparation of a unified national vision for the future. All of the data previously obtained were then gathered, reformulated and presented in a validation session, with the participation of 81 Libyan citizens of diverse backgrounds.

A historical approach was used in writing this publication, in view of the fact that the historical legacy connected to

II. Recommended options and policies

Transitional justice, restoring trust and achieving reconciliations

It is the view of some observers that plans for transitional justice having faced multiple challenges, and that it would be difficult to achieve reconciliation and transitional justice, under the current circumstances of weakened State institutions and general insecurity. Some of them also consider that large portions of Libyan society, as well as its political forces, have their own special understanding of reconciliation, and their own special understanding of transitional justice. Applications for reconciliation and transitional justice should therefore be created that would be suited to this multiplicity of understanding, as importing ready-made models of transitional justice would be ineffective. According to this view, some of the mechanisms of transitional justice might not work in Libya. Indeed, publicly telling the truth and making public apologies is not part of Libyan culture, while extreme strictness in judicial prosecution might in some cases have negative effects on reconciliation, and prevent flaws in the social fabric from being addressed. A model of transitional justice that would rely entirely on a punitive approach would therefore not be appropriate for the Libyan context.

On the other hand, despite acknowledging the difficulty of achieving transitional justice under circumstances of weakened State institutions, some researchers argue that there is first a need to prepare the appropriate environment for achieving transitional justice (in a broad and flexible form). This does not at all mean that there is a position of principle in Libya in favour of enshrining the culture of impunity, excluding accountability, neglecting the truth, or neglecting reparations and compensations, in the service of illusory and fragile “reconciliations”. Indeed, those rights-based mechanisms are well known in local traditional Libyan culture, as embodied in informal conciliation councils and traditional mediations to resolve conflicts. A past example of this is the Harabi Charter of 1946.

The legislative branch of the Libyan Government created a Transitional Justice and Reconciliation Commission, made up of a board of directors of seven members and a number of subcommittees, which was supposed to start working in 2012, and to examine the whole period since 1969. Yet it does not seem to have achieved anything significant so far.

Tolerance, trust and reconciliation

Tolerance is one of the most important civic virtues needed by Libyan society under the current circumstances. The slogan of tolerance has been put forward, strongly and internationally, within the context of working to quell conflict hotspots, and to remove the seeds of hatred and violent crises, which result in many casualties and much destruction and tragedy, and benefit none of the warring factions. Tolerance is not just a moral duty, but a political and legal one as well. It therefore should not simply be adhered to as a form of generosity on the part of one party to the benefit of another (or others). Rather, it should take the form of a commitment by everyone to the right to express a different opinion and to the rules of orderly dialogue, grounded in acknowledging pluralism, difference, equality, dialogue and participation within one society.
The participation of women and young people

The process of restoring trust, achieving reconciliations and building peace in Libya requires the participation of women and young people in mediation and peace-building efforts. Mediation here is meant in its broad sense and in its diverse forms, such as dialogues, negotiations, conciliations, arbitrations, peace-making, building understandings, and helping to take trust-building measures and reach agreements. It also includes the kind of mediation that works to achieve internal conflict resolution at the local level, as well as the kind that works to resolve multidimensional conflicts.

Women’s participation represents a priority for achieving prevention, protection, relief and recovery for women and girls, as one of the demographic groups that suffers the most harm from violence and conflict. Women’s participation in bringing back civil harmony, restoring trust and building peace represents their duty towards society and their country, exactly as it does for men. The same applies to the youth, as most of those taking part in armed conflict are young people, who represent the main age-group involved in armed formations. Many young people have positive expectations about the country’s development for the better, and expect structural improvements and immediate economic integration for themselves. Their disappointment can lead to instability and to disturbances that might in turn result in acts of violence, or in their returning to join armed militant groups. That is why it is important to confront these challenges, as the youth should be made to participate in attempts to restore trust and achieve reconciliations, and should be relied upon to build the future.

III. Moving forward

On transitional justice, restoring trust and achieving reconciliations

- Establishing a national charter that would give precedence to fair distribution, and to building national reconciliation on a basis of fundamental rights.

- Making use of the country’s historical legacy of mechanisms and practices to restore trust and achieve reconciliation, developing it and making it more sustainable. This should also be used to develop alternative mechanisms for justice, and engage in fact-finding on the basis of local particularities.

- Incentivising the development of national narratives that would bring together the narratives of all the different components of the Libyan population, and making the country’s historical legacy on restoring trust and achieving reconciliation more prominent in collective memory and in the various narratives.

- Making use of the successes achieved in terms of horizontal reconciliation (at the level of popular bases in society), and emphasising that efforts to restore trust and build reconciliations should not be restricted to political forces, and that the purpose of such efforts should not be to satisfy particular political forces at the expense of national principles and comprehensive national reconciliation.
• Developing mechanisms to emerge from the state of constant violence, and move to building a society where freedom is exercised, and where all members of society enjoy fundamental rights, a decent life and political participation.

• Combating the spread of corruption, the absence of transparency and the predominance of disorder; and putting an end to the state of division and the lack of effective solutions, as an essential condition of the process of restoring trust and establishing reconciliation.

• Working to develop a consensual model, within the framework of a national partnership to share roles, and as part of the process of building a sound democratic model that would ensure equal opportunity for the integration of all components of society, and start a comprehensive and balanced development process, at both the political and social levels.

• Developing mechanisms to reorganise society, and to recast its values and culture on a basis of equal rights and equal opportunities, while steering clear of the culture of discrimination in rights and obligations, and in assuming responsibilities.

• Revitalising the role played by the Transitional Justice and Reconciliation Commission.

• Working to develop plans and mechanisms to structurally reform the State and its institutions, so that they may represent a foundation for reconciliation, rebuilding trust and achieving full sovereignty.

On tolerance, trust and reconciliation

• Spreading the values of tolerance to achieve national reconciliation, and laying the foundations for transitional justice by adopting an inclusive national identity.

• Developing mechanisms to resist the manipulation of social consciousness, which has led to the collapse of societal values and of the sense of responsibility.

• Working to provide reparation for the damage suffered by many of the components of Libyan society, whether such damage is physical or psychological.

• Developing mechanisms to overcome problems of inequality, prejudice, intolerance, ignorance, resorting to violence, disregarding the common good, and irresponsibility.

• Developing mechanisms to provide psychological support to those who have suffered harm, so as to create a framework for the values of tolerance, and build upon them to restore societal trust.

On the participation of women, young people and civil society organisations in restoring trust, achieving reconciliations and building peace

• Supporting individual and institutional feminist and youth efforts and initiatives towards formal and societal mediation.

• Supporting societal platforms that contribute to the resolution of social, economic and political disputes.

• Working to document and provide a framework for Libyan women’s contribution to local mediation. In this regard, it should be kept in mind that women as a group include a wide array and broad spectrum of diversity, while still constituting a single demographic category.

• Working to give women and young people an active role at the local level, especially in the field of public services in support of reconciliation and peace-building.

• Working to develop mechanisms that would contribute to giving an important and active role to civil society organisations and labour unions.

IV. Conclusion

Since 2011, Libyan society has suffered from sharp political and societal divisions, reaching up to armed conflict between tribes, cities and regions. These wars have erupted for numerous reasons, and have been interfered in by competing foreign powers (especially after 2014). This has led to excluding the role played by local forces from efforts to end the conflict, with suggested solutions being shaped by foreign parties representing the warring factions. These wars have caused a major rift in Libyan society, which in turn has led to a complete lack of trust and the rejection of reconciliation efforts.

To restore trust and build reconciliations on solid national foundations, work must be done to reinforce the principles of transitional justice, develop an inclusive national charter that would include fair distribution, and achieve reconciliations to ensure lasting peace among the country’s citizens, at every level: horizontal, vertical and grassroots. In this context, work should be done to make use of the historical legacy of Libyan society, and how it has dealt with conflicts and tensions in the past, such as in the case of the Harabi Charter and others. Efforts to combat corruption, as well as discrimination in rights and obligations, should be supported. Work should also be done to instil the principles of tolerance, provide reparations, and revitalise the role played by women, the youth and civil society organisations in national and local negotiations.
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