"Bringing Libyans Together"

Towards unity and reconciliation in Libya

A consultative approach

UNSMIL Preparatory Expert Meeting

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Comprehensive conference report

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1. **Introduction**

The Libyan Political Agreement signed in December 2015 clearly acknowledges the importance of national reconciliation and its contribution to creating a more peaceful and inclusive society. It also provides a supportive political framework for the establishing of a national reconciliation process, including through the creation of a fact-finding commission and a commission on the missing persons, various accountability mechanisms, local governance mechanisms, DDR programs and institutional reforms.

The Presidency Council and the Prime Minister have repeatedly stated that national reconciliation and transitional justice are a priority, and a Ministry was specifically created to that end. However, despite the centrality of reconciliation in political discourses since 2011, the issue has not been comprehensively addressed yet, which may have actually contributed to entrench divisions, and led to further polarization of Libyan society. The challenges of moving forward with reconciliation in a context of on-going conflict and unsettled political issues might also partially explain inaction in this area.

The international community's support to the peace process so far has mostly focused on a top-down, institutionalized approach that seems to be currently finding its limits. Current challenges in the endorsement of the GNA and implementation of the LPA reveal deeper fractures, including regional, social and political ones that need to be addressed, among other axes of intervention, through a comprehensive reconciliation framework and strategic initiatives to that end. Doing so would also require accounting for the many human rights grievances of the Libyan people committed under Gaddafi's rule, but also during the revolution, the civil war and the transitional period.

While the international community can play an important role in providing advice and technical support, this process, however, must be nationally led, nationally owned and fully independent. Indeed, successful reconciliation and local peace initiatives exist in Libya. They need to be acknowledged and built upon, as they demonstrate the country's capacity to develop such a process on its own resources.

In April 2016, a UN Peacebuilding Support Office (PBSO) mission report recognized this imperative and stressed the need to address the prevailing deep mistrust and identity crisis in Libya through a national program of reconciliation. It recommended providing technical support to the newly created GNA State Ministry of National Reconciliation as well as to other independent reconciliation mechanisms and to bottom-up initiatives.

Because national reconciliation should be entirely nationally owned, the design and implementation of any comprehensive strategy, timeline or project document to that end should be preceded by inclusive and representative consultations with a wide range of stakeholders, including government officials, parliamentarians, tribal leaders, elders, armed groups, city councils, victims groups, media outlets, civil society organizations, women's groups, youth, minorities, IDPs and refugees.

To that end, a workshop with 75 Libyan activists, experts, politicians and associations, all experienced in national dialogue, transitional justice and reconciliation, representing various constituencies and enjoying political credibility, was organized by UNSMIL in Tunis in August/September 2016, with support from the United Nations Development Program, the

Mediation Support Unit, the Peacebuilding Fund, as well as the Swiss and Dutch Foreign Affairs Departments.

The goal of this workshop was to map and evaluate existing initiatives in the area of national and local reconciliation, as well as to provide a platform for discussing the main obstacles, challenges, and opportunities for national reconciliation in Libya. Through a series of working groups, panel discussions and presentations, learning from others' experiences, participants have moved towards defining the general goals, framework, outputs and actors of the desired national reconciliation program. The essence of these discussions and recommendations are reported here.

2. <u>Building blocks for a national reconciliation strategy</u>

The following parts reflect both the presentations made in the various panels of the workshop and the discussions that followed among the participants.

a) <u>On the meaning of reconciliation</u>

<u>Summary</u>

- National reconciliation is the process of addressing the grievances of parties to a conflict in order to build (or rebuild) political relationships and to establish a new social contract.
- Reconciliation is about symbols, narratives, and relates to the political track. It does not imply impunity.
- Reconciliation should be fully led and owned by the Libyan people. The UN and external actors can only play a facilitating and mediating role. Foreign experiences have a limited value for the Libyan context.
- Reconciliation does not belong to the elites: it is inclusive and should be understandable to all. Sensitization is key, as is the wide participation of youth and women.
- One should not wait for peace, justice and stability to start national reconciliation: there is no checklist or perfect sequencing. All "tracks" should thus go together.

1. ***SRSG Martin Kobler*** defined national reconciliation as the process of addressing the grievances of parties to a conflict in order to build (or rebuild) political relationships and to establish a new social contract. It implies reflecting upon what ties a group together, and what are the conditions for living together in the future. One should therefore ask how would Libya look like in 10 or 20 years: what is Libyans' vision for their country's future? Youth, who compose more than 75% of the country's demographic balance, should be more fully included in the process of rebuilding Libya's social fabric. The national reconciliation process in Libya should be fully Libyan owned and Libyan led. It belongs to the Libyan people, to the PC, the LPD, and the HoR. The UN can only facilitate the process.

2. Based on the experience of South Africa, transitional justice expert ***Howard Varney*** warned that reconciliation takes a long time and is a cross-generational task While truth, justice, reparations and institutional reform are important ingredients for meaningful reconciliation in the long term, they should not be seen as absolute preconditions without which there can be no reconciliation. Such an approach disempowers those on the ground since it turns over the responsibility of reconciliation to technocrats. The balance sheet or checklist approach should be avoided in favour of creating an enabling framework for reconciliation to take place in the Libyan context.

3. Reconciliation has a variety of meanings. It potentially includes mediation, peace agreements, conflict resolution, healing, forgiveness, restoring trust, coexistence and nation building. There are three levels of reconciliation: interpersonal (between victims and perpetrators); community (both between and within communities); and national (through new values, national identity, nation-building). Many years of global research has still not fully grasped what reconciliation means for each individual, community, or nation. For each context, a new definition has to be crafted to meet the evolving understanding of the dynamics surrounding the complex relationships that exist following a

nation's collective trauma and individual suffering. It would therefore be premature to attempt to define what reconciliation means for Libya. This is a journey for Libyans to take. What is required in the short term is thinking around an appropriate and inclusive framework for such a journey. What are the steps that can be taken in the short term for Libyans to engage in meaningful deliberations on what reconciliation means for them – and what processes will serve them best.

4. Reconciliation is not an elite process. It should come from the people, "the street", not the technocrats. Any project for national reconciliation should be understandable to all. Outreach and sensitization around national reconciliation are keys to its success. In the absence of a functioning state, **Howard Varney** recalled that community reconciliation initiatives could be the way forward. Indeed, community reconciliation occurs when positive contact across community boundaries is established to foster or improve relationships. These real world interactions can challenge misperceptions and reduce prejudices. These interactions may potentially demonstrate how communities can experiment with coexistence and local forms of justice between individuals, families and groups that do not presume closure or eschew grand narratives of forgiveness and redemption that are sometimes seen at the national level.

5. Symbolism, however, is at the heart of national reconciliation. Egyptian academic **Amr Abdallah** invited participants to reflect on what makes them Libyans, what ties them together, what are the historical moments, figures, or memories that they can be proud of as a people. A common ground and common interest must be found.

6. Participants recalled that there are strong opportunities for reconciliation today in Libya: there is common ground, there is a will for disarming demonstrated by the many local ceasefire agreements that have taken place since 2015, especially in the West and in the South. The Harabi Charter is a historical model of what Libyans can achieve for reconciliation, and what they have done in the past. Therefore, foreign experiences and "models" should be used carefully, due to the exceptional nature of the Libyan context. Western concepts do not necessarily work in Libya.

7. National reconciliation requires paying attention now to the national narrative and to the danger of some groups feeling excluded, including victims, armed militias and former associates of Gadhafi. If people are excluded, the youth in particular will develop a narrative of oppression, which will feed into new grievances and negativity in the future. Reconciliation must therefore involve defining the concept of citizenship in Libya, and can only be done by including all different identities. Reconciliation should not be about security but rather about building citizenship, and this process must be monitored by the State itself. Libyans cannot build a political system or a reconciliation program that does not respect the social structure of their society.

8. European Council on Foreign Relations expert **Mattia Toaldo** stressed that the reconciliation process should not be seen in isolation from the political process, the economic dialogue or constitution-making. In fact, if seen as separated from these "tracks", reconciliation risks becoming just a process to discuss grievances and crimes, without any positive or forward-looking agenda. Reconciliation should be seen as a wider dialogue process where big issues tearing apart the fabric of the country are dealt with. It is hard indeed to think of reconciliation as separate from an economic dialogue on how to distribute the country's oil wealth, and it is problematic to reconcile Libyan Arabs and the cultural minorities without mentioning the constitution or the laws governing citizenship and ID cards. The players involved in the political dialogue or in the constitution-making should not be led to see reconciliation as either an irrelevant process or one that competes with their role. To this end, members of the political dialogue, of the CDA and of other tracks should be gradually included at least as observers to such meetings.

9. Typically, national reconciliation policies set out the principles that underpin reconciliation. According to *Howard Varney*, reconciliation policies in the past have proposed a range of activities, including:

- Researching and publishing historical records
- Methods to include civil society
- Establishing new values for society
- Recognition of suffering of victims and their families
- Law reforms, particularly in relation to access to economic resources and combatting corruption.
- Reparations for victims
- Assistance to veterans and former combatants
- Apologies
- Promoting transparency
- Promoting dignity for survivors and victims
- Forging a new national identity, patriotism and active citizenship
- Inviting submissions and contributions on national visions
- Erecting of memorials and holding of remembrance days
- Steps to promote unity and cohesion and bridge divides
- Community building activities
- Anti-xenophobia campaigns.

10. *Marieke Wierda*, expert at the Dutch Minister of Foreign Affairs, quoted Nelson Mandela who said: "Reconciliation means working together to correct the legacy of past injustice." But she identified various challenges on the path to national reconciliation, including:

- On-going conflict and fragile peace agreement.
- Absence of strong state institutions that can accompany the process, and lack of agreement on the structure of the State: political reconciliation must go along with national/social reconciliation.
- Legitimacy issues around selected participants, institutions, agencies.
- Distrust of the international community and fear of any foreign "interference" in many parts of Libya.
- Difficulty of finding an impartial and neutral mediator.
- Politicization of the reconciliation agenda, and growing confusion between political agreement and social reconciliation.
- Erosion of trust and social fabric of the country, with a widening of the East/West divide.
- Grievances of marginalized groups, including former regime representatives and victims.
- Marginalization of women, youth, and minorities as well as IDPs.
- Dire economic and security conditions, which may make reconciliation seem a luxury when it actually is a necessity.
- Weakness of the justice system and lack of a coordinated detention policy, creating new grievances and cycles of revenge.
- Proliferation of weapons and extremist groups with no interest in reconciliation.
- Negative role of the media, often diffusing hate speech.

b) <u>On the connections between local and national reconciliation</u>

Summary:

- While national efforts so far have not proved successful, positive experiences exist for reconciliation at the local level, especially in the South and West. But these need to be brought into a national framework or risk producing more fragmentation.
- These initiatives are mostly *ad hoc* and based on a rather "thin" understanding of reconciliation (ceasefire, prisoner exchange, compensations).
- Elders, Shura councils, notables and wise men often act as mediator and monitor the implementation of the local agreements.
- A hybrid reconciliation approach, between traditional and formal, should be found, while local and national levels should be better connected.

1. While national reconciliation was needed since 2011 to rebuild trust between communities and forge a common sense of "the new Libya", priority was rather given to building strong and legitimate state institution through elections and security provisions. Discourses and laws on "transitional justice" replaced the establishment of a comprehensive reconciliation program, and rapidly disappeared under the pressure of political rivalries and the multiplication of local conflicts.

2. In 2014, the division of the country into two rival coalitions and their direct military confrontation led to the collapse of the transitional political process envisioned in 2011-2012. The national conflict then reverberated at the local level. To end these local conflicts, many reconciliation initiatives emerged, implemented through traditional actors (tribal leaders, notables, wise men) and through traditional mediation structures.

3. UNSMIL consultants ***Virginie Collombier*** and ***Ahmed Khaled*** offered an overview of these local initiatives and the structures established to promote and facilitate reconciliation in Libya. In 2011, the National Transitional Council asked local councils to establish "Wise Men and Shura Councils" throughout the country to solve local crisis. The assumption was that, faced with the collapse of central state authority, elders, notables and wise men were the most legitimate, respected and influential actors. These councils later coalesced into regional bodies, such as the Council of Notables of the Nafusa Mountains, or national ones, such as the Libyan Council of Notables for Reconciliation, the "Libyan Senate" and the Libyan Council of Elders for Reconciliation. At the national level, besides the failed attempt at creating a Truth and Reconciliation Commission under NTC law 12/2012, the GNC created in 2012 a National Reconciliation and Transitional Justice Commission and, in 2013, a National Dialogue Preparatory Committee (NDPC), headed by ***Fadeel Lamin***. But the voting of the Political Isolation Law in 2013 and the 2014 conflict seriously hampered these initiatives.

4. The two experts explained that most local reconciliation initiatives since 2011 adopted the same model: social leaders from the region played the role of intermediary between the warring groups, in order to restore the *status quo*. The experts gave an overview of some of these initiatives:

- <u>In the Nafusa Mountains</u>, mediation was put in place to solve conflicts between Zintan and al-Mashashiya in September 2011, and between Zintan and Kikla in November 2014. These conflicts were mostly tribal and historical, although in 2014 the conflict between Libya Dawn and Dignity also reverberated at the local level. In 2012, the Shura and Elders Council

intervened to solve these multiple conflicts through a single initiative. In March 2015, a "Dialogue for comprehensive peace and reconciliation in the Nafusa Mountains" gathered around 40 representatives from the main Nafusa Mountains cities and from Libya's Council of Wisemen for Reconciliation in Djerba (Tunisia). An agreement was reached on the resolution of these conflicts with concrete trust-building measures and implementation mechanisms that included the delivery of humanitarian aid and the safe return of IDPs, as well as the creation of a Council of Elders for the Nafusa Mountains.

- Between Zintan and Misrata, under the mediation of the city of al-Sasaba (including Sheikh Musa Baqr), the Council of Zintan tribes and the Shura Council of Misrata agreed on the withdrawal of Misratan forces from the Warshafana area and the surrounding of Tripoli, the creation of a buffer zone and of a dispute resolution committee, the exchange of prisoners, a ceasefire, and the formation of a joint committee on oil distribution from Al-Zawiya. Al-Zawiya and Zintan also signed a reconciliation agreement in June 2015 to ensure the distribution of oil into Nafusa Mountains, as well as Warshafana and Al-Zawiya.

- Between Misrata and Tawergha, an agreement was reached on August 31st, 2016 after more than one and a half years of negotiations under the auspices of UNSMIL. The agreement included provisions for the return of displaced families, accountability, truth-seeking measures and the payment of compensations through the creation of a fund and of a compensation committee to decide on their payments. Despite important flaws, including one that it makes return of displaced persons dependent upon compensations, the agreement is a major step in addressing one of the bitterest legacy of 2011. The representatives of the two delegations, who were present at the meeting, *Abderrahmane Shakshak* and *Youssef Zarzeh*, underlined that the UN did not impose anything on in the process, nor did the municipality councils, and that both parties made compromises to reach a common ground, always putting the rights of victims first. The political will and the participation of victims to the negotiations committee were strong assets, along with the support of public opinion. The agreement now requires the State to make an indispensable contribution in paying compensations.

- Between Warshafana and Zawiya, the conflict dates back to 2011 with the opposition between supporters of Gadhafi and revolutionaries. The reconciliation initiative took a classical tribal form and helped solve issues of land and territories, through the Shura and Elders Councils of the region. However, conflict between these two groups continued after 2014, as both the Libya Dawn and Dignity camps instrumentalized local divisions.

- Between the Touareg and Tebu: Under the supervision of the city councils of the Nafusa Mountains, an agreement was reached in July 2015 allowing the return of the displaced and the creation of a monitoring committee to ensure that communication is maintained between notables from the South, but also securing the exchange of prisoners and the opening of roads. The Hawsana tribe, the San Edigio Community and the state of Qatar played important mediation and monitoring roles, with Qatar even paying compensations to the affected parties.

- Between Misrata and Obeidat: in August 2016, a 15-points reconciliation agreement was reached. The agreement stated its support to the GNA and called on the UN to support their reconciliation efforts while bringing spoilers to the ICC. The agreement was widely criticized by the general leadership in the East and by tribal leaders. However, it demonstrates the possibility of dialogue between supporters of reconciliation in the East and

in the West. This initiative may also be revealing of a new turn in reconciliation: from local projects, aiming mostly at ending security and humanitarian crisis in 2015, reconciliation risks becoming a political bargain between rival camps (roughly corresponding to the East/West divide). The risk is also that political agreements get confused with social reconciliation, and that the traditional leaders usually involved in local reconciliation initiatives refuse to get more organized in national structures by fear of being manipulated for political interest.

5. One common feature of these initiatives is that they included similar confidence-building measures, including prisoner exchanges, opening of roads and communication, and in some cases, compensations.

6. Furthermore, these initiatives appear more as *ad hoc* responses to crisis situation than full-fledged and future-looking reconciliation. Local reconciliation initiatives seem more visible in the West and in the South, partly because of the prevailing social and power structure there: the diversity of multiple military groups in the West has indeed enabled a certain balance of power between factions and communities. The military dominance of one single force in the East, to the contrary, has been an important obstacle to the success of local reconciliation initiatives, stressed ***Virginie Collombier*** and ***Ahmed Khaled***.

7. Apart from the Misrata / Tawergha and the Tebu / Touareg, none of these initiatives have received external funding or sponsoring. The actors therefore had to rely on local sources, which often led to political or religious pressures being exerted. The timing of reconciliation initiatives is also an important factor, or they risk being politically exploited to alter the balance of forces on the ground.

8. The absence of a central state to supervise the implementation of the agreements prevented them to have a strong, national impact, while reinforcing tribal and ethnic senses of belonging. Local initiatives so far failed at building a national identity, sometimes leading to higher levels of social fragmentation and weak national institutions.

9. ***Seth Kaplan*** considered that, in the view of this mapping, an incremental, piecemeal progress approach to building peace in Libya could be more effective, by gradually expanding local peace processes and building a momentum at the national level. Increasing the functionality of the central state and reconciliation must go hand in hand. There will be no reconciliation without strong institutions that are legitimate and work impartially across society. Libya itself is a country that is between the traditional and the modern: a hybrid approach to peacebuilding may be needed. Any future institutions need to reflect this unique synthesis of Libya.

10. Libya has good local governance assets: parts of the country work well locally. Participants stressed that we should focus on strengths, not weaknesses. Libyans need to find ways to incrementally expend the scope of these local approaches, to make piecemeal progresses, so that the institutions that work will do more and better.

11. But too much reinforcing the role and power of cities could also go against the goals of statebuilding, warned ***Professor Seth Kaplan.*** Two reconciliation tracks could therefore be installed: one on local problems, using local conflict resolution mechanisms, and one on a strategic national reconciliation plan for the whole country. The two levels should work in parallel, in a mutually reinforcing manner.

12. A powerful example of this interaction between national and local is the impact of the changing of

Misrata's position towards the UN-facilitated Political Dialogue and the LPA in 2015. Indeed, **Mattia Toaldo** recalled that it is not just a coincidence that local ceasefires came into effect at the same time as the political process had begun (with the meetings in Geneva in January 2015). To the contrary, this shows that the national level can help local peacemaking as well. It is therefore very important to build a national structure based upon these energies, and not to only remain at the purely local level.

13. Furthermore, some root causes of local conflicts can only be addressed at a national level. The distribution of oil and gas revenues is the most immediate example, as well as detention issues, IDPs or compensations. National reconciliation is the necessary framework to strengthen often-fragile local agreements, particularly where issues such as prisoners, accountability and rights are involved. Confidence-building at the local level can also help national reconciliation but needs, in turn, some legal framework at the national level in order to be more solid.

14. The reconciliation process should therefore include a number of confidence-building measures that would help to build trust between the different communities (horizontal trust) and between local communities and the government (vertical trust). Some of these measures can resemble those adopted under many of the existing local ceasefires, but at a more regional or sub-regional level, i.e.:

- The release of prisoners and improvements in the conditions of the detention centres.
- The opening and securing of roads and communications.
- The sharing of humanitarian aid.

15. The relationship between local and national reconciliation will have to work both ways in order to be effective. In the initial stages, existing examples of local reconciliation could bolster the confidence of the different actors in the possibility of reconciliation at the national level. This is why it will be important to bring,to the preparatory stage of the process, experiences from the Nafusa Mountains or the South of Libya, where several successful attempts at reconciliation have been made.

16. In many local ceasefires, monitoring committees have been established. These included elders but also civil servants from the municipalities, individuals with relevant ties to armed groups or with expertise relevant to the implementation of the agreement. While some of the monitoring work can be done nationally, UN member states could provide independent monitoring when requested by the parties involved. Municipalities could also play an important role, but it will have to be legalized. **Abdelbari Shinbaro,** expert at the Libyan Ministry of Local Affairs, recalled that in order to adopt a strategy that establishes social peace on the local level, there has to be a legal framework that protects the citizens' rights with guarantees from the central state. One of the most important foundations that organizes the official work at the local level is stipulated in Law No. (59/2012) and its internal statute. In Articles (14) (15) (40) of the Local Administration Act, competencies of governors, mayors and chiefs of areas are defined as including:

- Full responsibility for ensuring social and food security to the citizens.
- Maintaining security, morals and public values of the citizens.
- Preventing attacks on public and private properties, abolishing such procedures and addressing grievances.
- Resolving local conflicts, working on reconciliation of civil disputes and personal status in accordance to legislations in force.

Municipalities could therefore play a central role in reconciliation.

17. According to **Howard Varney**, these various encouraging developments may hold the key for the future of Libya and ought to be examined closely in order to discover the essential features that laid the grounds for their success. Any commonalities between the examples should be identified, while the big issues, approaches, methodologies and pitfalls should be shared amongst other communities contemplating similar initiatives. The spread of inter and intra community agreements could facilitate the development of the basic fabric of reconciliation that becomes interwoven across the country. This fabric could lay the basis for a more enduring effort at national reconciliation in Libya.

c) <u>On the role of the State</u>

Summary:

- Reconciliation demands trust and social capital, but also financial resources - not only security and strong institutions.
- Local initiatives need a strong and legitimate State to be fully successful: traditional mechanisms should work together with a longer-term vision and strategy for reconciliation.
- Strong institutions and commitment of elites are needed to make any agreement hold.
- Piecemeal, bottom-up solutions are needed *in parallel* with on-going efforts to develop an all-encompassing, top-down political settlement.

1. A functioning and legitimate state is necessary in Libya before national reconciliation can be possible, raising the difficult issue of sequencing of measures: should we focus first on state and institution building, or on reconciliation from the ground? Or should the two "tracks" work together? *Ahmed Khaled* and *Virginie Collombier* recalled that traditional actors and mechanisms may be useless in the absence of longer-run objectives and strategy for reconciliation, and in the absence of state institutions. For instance, the reconciliation agreements in the Nafusa mountains failed to address the root causes of the conflict, including the issue of the displaced and exiled, the problems of land and pastures, the needs of the victims, or the relations between the municipalities and the armed groups. It was therefore flawed from the start.

2. Participants stressed that the on-going armed conflicts in various areas of the country such as Syrt, Benghazi or Derna, shows the need to implement the security provisions of the LPA before talking of national reconciliation. Without security, it will be hard for any reconciliation mechanism to function properly. On the other hand, focusing only on restoring security and neutralizing perpetrators without reconciliation can lead to a failed social contract, and may make reconciliation seem as something imposed from the victors.

3. Political dialogue member *Zahra Langhi* stressed the difficulty of rebuilding a strong state without homogenous social structures and a strong social capital: focusing on the political and security tracks only can indeed render peace fragile. Sustainable peace and nation building implies building trust and social capital in Libya, reflecting upon the relationships that link people together. Ways to assess this social capital include measuring the level of participation in elections and the level of trust more generally. Any future institutions thus need to be grounded in the values of the society, so that they enact the will and spirit of the people, and thus contribute to national reconciliation.

4. Participants explained that national reconciliation implies reconciling the three main regions of the country, which do not trust each other. It is still very hard to identify what the Libyan identity is beyond these three regions, and how to define it: most Libyans recognize its fundamental diversity, but they cannot find what it is precisely.

6. Legal expert *Azza Maghur* exposed the more than 20 laws adopted in Libya since 2011 that are relevant to national reconciliation. She stressed that these many laws demonstrate the failure of the central State in promoting reconciliation. Indeed, laws did not stop violations to be committed or conflict to be reignited: when law has no power, it is because the state has no authority and there is no political will to implement them. Furthermore, some elements of this legislation are problematic and

play even against reconciliation. This is the case of Law 29 providing for withdrawal of a person's Libyan nationality, as well as the Political Isolation Law.

7. *Azza Maghur* recalled that the Constitutional Declaration remains the constitutional document that governs the transitional period up to today, and that it does not include any reference to national reconciliation or transitional justice. This led the Libyan expert to two conclusions: (1) these notions were new and unknown to Libyan legislations at that time; and (2) the NTC did not anticipate the problems and divisions that will soon emerge among Libyans, among regions, cities, tribes and sometimes even neighbourhoods. *Azza Maghur* explained that the Political Agreement, to the contrary, does address national reconciliation and transitional justice, and provides a strong basis to implement them.

8. Within the implementation process of the LPA, participants considered that the role of the UN is mainly to facilitate networking, to create a space between national and local levels, to implement the agreements, not only at the top institutional level, but also from the grassroots. The top level is indeed too divided, politicized, and not enough representative of the people, especially youth and women. Libya needs more agreement such as the one between Misrata and Tawergha, but these social processes should have a legal basis as well: they need the State at some point to come into force, for instance for the payment of the financial compensations. A State is indeed needed to determine the level of compensations, and prevent it from becoming bankrupted. The Constitution process also should be considered as part of reconciliation: if rightly implemented is can be a powerful social contract building moment.

9. *Seth Kaplan* recalled that reconciliation is only possible when there are institutions capable enough to equitably implement agreements made between different parties and to ensure that public authority will act equitably. Weak institutions, unable to keep powerful actors in check, make reconciliation harder to achieve. Establishing public entities that are widely accepted and strong enough to stand up to powerful political and economic actors depend upon particular distributions of power and wealth that Libya may not have today. To the contrary, high levels of inequity or great differences in the strength of political groups create incentives to work against reconciliation.

10. Mechanisms to promote reconciliation and enforce the commitments of elites are especially crucial as a first step in strengthening the rule of law. They are needed to safeguard political settlements, maintain stability and move toward a predictable and inclusive political process. Without such mechanisms, one or more parties are likely to withdraw from the reconciliation process, torpedo its implementation, appeal to external actors to override it, or seek to use violence, money, or some sort of pressure to accomplish their goals. By contrast, the better central institutions are, the more likely various groups will have an incentive to reconcile, and the more likely reconciliation will advance as envisioned. However, while establishing some sort of national government is important - as is finalizing the Constitution, strengthening the national identity and installing credible national institutions - a top-down approach alone is unlikely to produce an authority legitimate and strong enough to arbitrate between all factions.

11. Comparatively speaking, reconciliation and negotiations at the local level have shown more promises. Indeed, roughly one-third of the country's 102 municipalities are functional at this time. International actors should be doing more to facilitate, support, train, and advise local actors on how to advance more piecemeal, bottom-up solutions *in parallel* with on-going efforts to develop an all-encompassing, top-down political settlement. If the local agreements were structured to allow other actors to join later, they could eventually grow to incorporate a significant part of the country and,

eventually, address nationwide issues such as the degree of decentralization the country needs and how to ensure that the distribution of power and resources is handled in a more equitable fashion.

12. **_Seth Kaplan_** concluded that only the creation of more robust, credible institutions is likely to engender sustainable reconciliation between the wide ranges of actors. Given the current state of the central government, some hybrid institution, leveraging outside support, may be necessary. Such an institution must be tied to a specific agreement between key players, include oversight and verification instruments and provide credible sanctions in cases of noncompliance.

13. Finally, international actors can help ensure compliance with local agreements either through legal means (such as UN resolutions) or through direct involvement (such as mediating settlements, co-signing agreements, issuing declarations of support and providing funding) which creates incentives, penalties and reputational risk for the parties.

d) On the role of tribes

Summary

- Tribes rely on a societal model of reconciliation based on restorative justice and customary law, which is a collaborative and participative form of conflict resolution.
- Reconciliation in Libya should build upon such indigenous practices adopted in customary laws and rituals that are culturally embedded within the society, but these should also conform to international standards.
- These traditional actors, however, should be better linked with youth and armed groups through communication channels and sensitization forums.
- Tribes are often divided, sometimes politicized, and not equally relevant in each part of the country, especially in urban centres. One should be careful of not idealizing tribes.
- The building of a Libyan nation integrating but also overcoming tribal attachment should remain the goal of reconciliation.

1. According to Professor *Najla Mangoush*, people's conflict behaviour is often based on more emotional consideration and thus may not be changed simply by rational negotiation processes and subsequent agreements. Therefore, we need to aim at a *societal* reconciliation, which is based on tradition and customs rather than on the law only: it is a form of restorative justice where victims and offenders participate on a voluntary basis, and the offender accepts responsibility for the offence he committed. Restorative justice is a way of viewing justice that puts the emphasis on repairing harm caused by conflict and crime. Crime is understood as a violation of people and relationships and a disruption of the peace of the community: it is not simply an offence against the state.

2. Reconciliation in Libya should build upon indigenous practices adopted in customary laws and rituals that are culturally embedded within the society, including religious and tribal ones. For instance, *Najla Mangoush* described *Solha,* an embedded mechanism within the Libyan society to resolve conflicts, where traditional leaders act as mediators between victims and offenders in handling cases of harm. *Solha* has a preventive role as well: the process continues sometimes even after the offender has been sentenced.

3. Conducted by traditional and religious leaders, the customary system was given a greater role in Libyan society during the Gadhafi regime, especially from the 1980s onward. Rather than trying to ignore or to control this legacy, *Najla Mangoush* affirmed that we should think of creative ways in which we can transform both colonial and Gadhafi legacies into healthy relationships capable of helping and healing society. Once the formal legal system will be rebuilt, customary practices can then be woven into it, creating a balanced, stable mechanism for resolving conflicts.

4. One of the reasons tribes became more important after 2011 is the absence of the law and of any clear political project from the main parties, according to *Musab Al-Gaed*, member of the Social Dialogue initiative and youth representative. The absence of state gave managerial and administrative tasks to the tribes, and some municipalities came to be dominated by tribes. Several tribes became politicized, aligned with various tendencies (Libya Dawn or Dignity) and in some cases military leaders even eclipsed tribal ones.

5. Participants regretted that there is no communication mechanisms in place between traditional leaders and younger activists, so these local initiative remain seen as remote by most of the

population. There is no channel of communication established between the various local reconciliation initiatives and actors from several regions either, and no exchange of experiences between them.

6. The more polarized the country is, the more difficult it becomes implement reconciliation initiatives. **Omeyya Seddiq**, special adviser to the Humanitarian Dialogue Centre, stressed the need to separate reconciliation efforts from the political track, while finding a merger between societal reconciliation efforts and armed elements. Indeed, most successful efforts so far are those where societal leaders and those carrying weapons came together on an agreement.

7. However, reconciliation is mostly about reconfiguring the role and idea of the citizen in Libya, not just solving security problems: it is impossible to build a political system against the characteristics of the social fabric and its components, stressed anthropologist **Rafâa Tabib**, and Libya cannot be reduced to simplistic notions such as "tribe" or "party". Indeed, each region has its own characteristics, and tribes are not significant in the cities, where any urban Libyans cannot relate to tribes.

8. Tribes and tribal leaders themselves are divided (for instance the Magharaba, Obeidat, etc.), and there is no consensual agreement on who are the leaders of some tribes. Tribal youth are now carrying weapons: they have become political actors in their own rights, because they have gained new sources of legitimacy. External interferences play against reconciliation, because they often instrumentalize tribal affiliations, as was the case between Tebu and Touareg in Awbari. One should therefore be careful of any "romanticization" or idealization of the role of tribes in Libya, warned **Rafâa Tabib**.

9. Reconciliation therefore needs to go beyond tribes and towards a more comprehensive framework building upon the example of what Habib Bourguiba accomplished in neighbouring Tunisia. While Libya is a tribal society, the nation remains key.

e) <u>On the importance of women and youth</u>

Summary

- There will be no reconciliation without a proper representation of women, who suffered most from the repression and conflict and yet continue to be excluded from the peace process.
- Youth compose the majority of Libyans: their grievances and needs should be addressed, or they risk taking up arms or joining extremist groups.
- Innovative ways to include youth in the reconciliation process should be found.

1. ***Omm al-Azz al-Farsi*** deplored that while women form more than 50% of the Libyan population, and they suffered the most from the conflict, yet they are still being excluded from the peacemaking process.

2. 75% of Libyans are under 35. If the young generation is not properly integrated, they risk taking up arms. The more they are feeling excluded, feeding into new grievances, the more distant prospects for national reconciliation are. Journalist ***Heba Al Shibani*** stressed that too many young people in Libya are involved in conflict, but often they do not even know why they are fighting, or they fight simply because they get paid. A national reconciliation strategy must therefore urgently address these needs and include the views of both women and young people. This is a reminder that the economic, reconciliation and political tracks should go all together. The lack of economic development is indeed the fuel of conflict: people today take part in the conflict for material benefits mostly. This is an important obstacle to reconciliation.

3. ***Omm al-Azz al-Farsi*** stressed that the Libyan Political Agreement excluded women, when women are the main victims of the past. The expert warned against people exploiting dialogue and reconciliation for their own political objectives. Including women in the process is a way to guarantee its independence and neutrality.

4. ***Zahra Langhi***, member of the Political Dialogue, agreed on the need to pursue the political dialogue and institution-building process while also focusing on building social homogeneity. The main obstacle to reconciliation today is Libya's weak social capital, and studies show that the level of civic trust is even lower among women and young people since 2011. Women can contribute to bringing the best out of the country: they remind us of what is positive in Libya. However, they also need psychological support to be part of the reconciliation process.

5. Participants all agreed that specific efforts should be devoted to include these two categories in any future reconciliation process and strategy.

f) <u>On transitional justice</u>

Summary:

- Transitional justice as a concept has been imported since 2011, but it may not fit to the Libyan context.
- The 2013 transitional justice law should be annulled as it politicizes the process by making distinctions between crimes committed before and during the revolution.
- Some form of political reconciliation, stability and security, including for the protection of victims and witnesses, are required before Libya can engage on a transitional justice process and in setting up a truth commission.
- The right to truth should be promoted in the name of reconciliation by putting in place first, in line with the LPA, an inquiry commission on missing persons, and by supporting documentation of human rights violations efforts on the ground.

1. Most participants criticized the transitional justice process as being "Western", and rejected the general concepts included in the 2013 Transitional Justice Law n°29, stressing instead the strongly political essence of the current crisis in Libya. They called for reconsidering this legal framework which is considered as out-dated and filled with loopholes and ambiguities. Dutch expert ***Marieke Wierda*** regretted that the law was already revised many times, delaying the process, and that the Fact Finding and Reconciliation Commission put in place was too judicial and distant from the public. There was no engagement and prior consultation with the population.

2. The right to truth is at the heart of this process: Libyans need to know the truth about violations that happened up to the present, including in Abu Salim prison, but also during military interventions in Uganda or Chad as well as on crimes committed before, during and the revolution. Contrary to the framework proposed by the transitional justice law, there should be no distinction made between crimes that happened before 2011 and after, recalled ***Amr Abdallah***.

3. However, the truth is not only judiciary. The executive branch also has a role to play, as well as civil society organizations and victims' groups. Certain security and political conditions are needed for the truth to be revealed, said the participants, to ensure that victims will give their testimony without fears of retaliation. The absence of a protection system for witnesses in Libya is therefore a strong obstacle to truth-seeking, as is the weakness of the judicial authorities.

5. Professor ***Jazia Shater*** underlined the need for a comprehensive law that deals with all violations of human rights before we can talk of transitional justice: this includes documentation efforts by civil society organizations, institutional reforms, the setting up of a new independent National Reconciliation Commission or a Ministry of Transitional Justice (as in Tunisia), and other judicial and non judicial tools. Institutional reforms have become a necessity for transitional justice: there are its preconditions, not its objectives.

6. ***Ahmed Jehani***, Libya representative to the ICC, regretted that most of the discussions focused on social reconciliation while he believes Libya first needs a political reconciliation: priority should be given to overcome the current political crisis before talking about reconciliation. The first reconciliation is between the Presidential Council and the House of Representatives, and within each body as well. Then, a referendum should be organized on the draft Constitution followed by national elections. ***Ahmed Jehani*** argued that the relation of Libya with the ICC is unequal: it is a vertical one

that therefore does not contribute to reconciliation. ***Marieke Wierda*** considered also that the trials at the national level of important former regime figures in Libya were a lost opportunity for reconciliation in Libya: the security climate was not conducive, the politicization, restrictions of the rights of defendants and the treatment of detainees played against reconciliation. There was no public involvement or sensitization around these trials.

7. Individual or inter-personal reconciliation should not be legalised or cast as a transaction, warned ***Howard Varney***. Such transactional approaches to reconciliation encourage deal making between perpetrators and victims. Perpetrators seeking immunity or a lighter sentence will have cause to incentivize victims through financial or other material inducement, or worse, through intimidation. Individual reconciliation is an intensely personal and subjective matter that should not be made the subject of a legal process. Rather than legalizing reconciliation, the most appropriate framework for victims and perpetrators to come together should be explored in the Libyan context. This could involve providing safe and secure spaces for such acts of reconciliation and means of formally recognizing and promoting acts of healing and reconciliation.

8. With regards to reparations, participants warned that, while necessary, their overestimation could go against reconciliation and even lead the state to financial bankruptcy. Libya therefore needs a ceiling for reparations, a comprehensive law on reparations to avoid impossible demands or expectations. Reparations will probably be mostly symbolic in the current crisis context.

9. ***Mohamed Othman***, former head of the Commission on Missing Persons, estimated the number of missing persons in Libya at more than 20,000. The country needs a strategy to deal with these files, which include those since 1969 and during the 2011 revolution, which we still do not know the truth about. Decision makers must establish the right mechanism to find the truth, as families of the missing persons are still suffering from financial, administrative issues on a daily basis. The first victims, here again, are women, who often lost their only source of income and are not yet recognized as victims.

10. The identification of missing persons, through DNA expertise, is an expensive procedure that needs to be undertaken. Indeed, tackling the issue of missing persons (particularly through the establishment of the truth and reparations programmes), can contribute to accelerating reconciliation. However, proper attention was never given to the issue of missing persons by the successive governments sine 2011. Although a committee on the missing was established in October 2011, it was "frozen" by the transitional government. Another Commission was later established by Zeidan's Government but it was never was operational. The LPA (art. 26) provides for the establishment of a Commission on missing persons, but no action was taken in this regard for its implementation. The international community should therefore push for the implementation of LPA article 26 and the setting up of a missing persons commission that complies with international standards, recommended ***Mohamed Othman***.

11. Transitional justice in Libya will have to find a difficult balancing act between accountability and peace. Libya, and particularly some parts of Libya like Benghazi, proves that one of the root causes of violence is impunity, recalled ***Mattia Toaldo***. When no system of justice deals with criminals, eventually individuals and groups start to think that the best option is revenge. This creates a vicious circle: the lack of transitional justice leads to more violence, and violence hampers the prospects of transitional justice and, ultimately, of reconciliation.

12. Therefore, one should not wait for a comprehensive transitional justice process to start realizing reconciliation in Libya. Reconciliation should not be left to the rigors of legal proceedings and the courts, to which most people have little or no access or involvement. When doing so, reconciliation is

then left to a small band of investigators, lawyers, prosecutors, judges and experts to deliver, warned *Howard Varney*. For a country like Libya struggling to emerge from years of violent conflict reconciliation should not be left to a "balance sheet" type of approach. Ultimately there should be no 'preconditions' placed in the path of reconciliation, because many will never be met in the lifetimes of those struggling today to build peace and reconstruct shattered lives and communities.

13. However, before commencing with a transitional justice process, it is important to assess whether the responsible institutions are ready to handle such programs. Are they sufficiently independent? Do they have the necessary capacity? If they do not, as is likely the case in Libya, it may be advisable to wait until such bodies are adequately reformed. Alternatively, and if feasible, *ad hoc* or temporary institutions could be created to run such programs in the short term. Additional considerations, particularly relevant for Libya, include prevailing conditions on the ground, such as levels of stability, political will and public mobilization. Generally speaking, few transitional measures are carried out all at once, recalled *Howard Varney*. Some are done in parallel while others are staggered or wait for the completion of earlier measures. Some steps, such as criminal justice, are sometimes seen as long term processes, even taking place decades later, whereas fact finding, exploring the underlying fault lines in society, redressing the suffering of victims and rebuilding broken institutions should take precedence in the context of a country such as Libya. It should be recognized at the outset that most programs aimed at addressing the past are long term in nature. Their ultimate benefits may only be enjoyed by future generations.

14. *Marieke Wierda* recommended that any future transitional justice process put victims and civil society at the center, and be build upon a wide public engagement. The rights of the accused should not be violated as it undermines the rule of law: justice is not revenge. Furthermore, the issue of illegal detention should be addressed: it will be impossible for Libyans to conduct all trials in a fair manner. Other options should therefore be explored, including limited amnesties for less serious crimes. In any case, the timing is key: if it seems impossible to launch a comprehensive transitional justice process in Libya now, some steps can be taken, such as building the capacities of civil society organizations and the justice sector, documenting gross human rights violations, fostering public engagement, and continuing to support bottom-up, local approaches such as in Tawergha/Misrata.

g) <u>On vetting and security sector reforms</u>

Summary:

- Former regime representatives should participate, at some level, to the reconciliation process: imposing too strict and exclusive categories politicizes the process and goes against reconciliation.
- The Political Isolation Law of 2013 is one of the main reasons of deep divisions and social tensions today in Libya, including the difficulties of rebuilding the judicial sector. Its abrogation by the HoR in 2015 is a positive step.
- However a comprehensive vetting process is needed to build a competent and honest administration and to strengthen its legitimacy, but it should be based on clear, transparent and well-defined criteria.
- The vetting process should not create a capacity deficit in the administration or new grievances among the targeted groups, especially in the army. It should not be used for political purposes.

1. Several participants asked about the role of former regime members in the national reconciliation process, judging it as necessary. They also warned against imposing too strict categorizations when talking of "former regime": categories are fluid; some former regime officials supported the revolution, were arrested and thus became victims. The case of GNC chairman El Magariaf is revealing of these ambiguities. Others may have been associated to the regime of Gadhafi in the past without being "former regime representatives". For national reconciliation to work, the process should therefore not exclude any group. Furthermore, no one is the single recipient of the legacy of the 2011 revolution. Participants said that Libyans should all work together away from any exclusive or rigid categorization.

2. Post-Gadhafi Libya introduced two closely related vetting processes that succeeded each other, explained *Alexander Mayer Rieckh*. The Integrity and Patriotism Commission was established in 2011 and was to function for the duration of the transition. It operated throughout the year of 2012 and during the first months of 2013 but came to an end with the entry into force of Law no. 13 (2013) on Political and Administrative Isolation on 8 June 2013. The law was voted with a two-thirds majority, but a number of GNC members appear to have been coerced to pass the law, including through personal threats and occupation by pressure groups of the GNC buildings.

3. *Mohamed Tumi,* himself a member of the 2013 Political Isolation Law Committee, stressed that the exclusion law should be limited to specific acts rather than only by association. Acts such as "glorifying repeatedly Gadhafi" should not be considered crimes. The lesson learned from the Political Isolation Law is that exclusion is a negative thing that will impede reconciliation. As long as they did not commit gross crimes or corruption, associates of the former regime should take part in the reconciliation process.

4. Most participants agreed that the Political Isolation Law (PIL) was one of the main reasons for the deepening problems in Libya. While vetting processes are necessary in times of political transition, they should not be intrumentalized to serve a political agenda or target any specific person. The PIL, indeed, was meant to particularly affect the camp of the Coalition of National Forces including its leader, Mahmoud Jibril, as well as the chair of the GNC Mohammad El-Magariaf. It resulted in the

isolation of entire groups rather than individuals. Its *de jure* abrogation by the HoR in 2015, and its *de facto* abrogation by the composition of the PC and the GNA, are positive steps in that regards.

5. According to **Alexander Mayer Rieckh**, the High Commission for the Application of the Criteria for Occupying Public Positions, tasked with implementing the law, reviewed during its first year of operation a total of around 7,000 persons. Those reviewed included candidates and members of the Constitutional Drafting Assembly, candidates in local council elections, members of the General National Congress, candidates to the House of Representatives, members of Government and officials from the Ministry of Foreign Affairs.

6. On 18 February 2014, the Constitutional Circuit of the Supreme Court heard challenges against Law no. 13 (2013), which were brought by five individuals and the National Council for Civil Liberties and Human Rights. The session was adjourned several times to allow all parties to adequately prepare their arguments. To date, the Supreme Court has not yet ruled on the constitutionality of Law no. 13 (2013). On 2 February 2015, the House of Representatives revoked Law no. 13 (2013). The status of the law and related legislation remains unclear because of the existence of two legislative bodies in Libya.

7. The Political Isolation Law does not correspond to basic international standards of vetting public officials in transitional settings. In particular, the criteria to disqualify an official from public service are so broad and vague that political isolation resembles more a purge than a vetting process. Disqualification on the basis of affiliation tends to be discriminatory and to violate other fundamental rights such as the right to freedom of expression, to access to public office or to run for elected office.

8. Moreover, the number of persons disqualified may be so significant that it could severely affect the functioning of the public service because critical expertise and knowledge are lost. Disqualifications of many individuals on the basis of vague and broad criteria may also create new grievances among those disqualified that can render the transition more difficult.

9. The number of positions covered by the law is huge and likely to overburden the process, which may again render it arbitrary. Moreover, the kind of positions covered varies greatly and raises different legal and operational challenges. Processes targeting legislative bodies need to be approached differently from processes targeting the judiciary or processes targeting security and military institutions. Political isolation processes targeting legislative bodies need to take great care so that they do not violate the rights to vote and to be elected to public office.

10. **Alexander Mayer Rieckh** recalled that a fair and effective vetting process facilitates the transition and promotes the democratic rule of law in that it affirms the validity of basic norms and values; strengthens the legitimacy of public institutions; removes spoilers and disables criminal structures and networks with vested interests. Moreover, vetting can provide some form of non-criminal sanction and can help to fill the "impunity" gap by ensuring that those responsible for past abuses at least do not continue to enjoy the rewards and privileges of public office. Experience shows, however, that vetting processes often do not promote but rather undermine democracy and the rule of law, because basic international human rights standards are not respected in the process. Processes that violate norms cannot affirm their validity, lawlessness cannot promote the rule of law, and arbitrariness does not instil trust.

11. The consequences of a botched vetting process may be worse than no vetting at all because it may provide legitimacy to abusive officials who were not removed and can, therefore, credibly claim to meet the standards required for service in a reformed institution. Hence a failed vetting process is likely to further erode civic trust and to undermine confidence in the transition.

12. But *Alexander Mayer Rieckh* concluded that this analysis does not mean that there should be no vetting at all. Lessons should be learned from the mistakes made with political isolation in Libya. A new process should be designed that meets the basic conditions of fair and effective transitional vetting, thereby contributing to reconciliation. Such vetting should, in particular:

- Not be called political isolation. Legislation related to political isolation should be revoked.
- Apply disqualification criteria that are clearly and narrowly defined, based on individual conduct, and focus on serious abuses.
- Ensure that basic standards of administrative due process are respected.
- Treat all conflict actors equally and disqualify all persons who committed serious abuses irrespective to what group they belonged to.
- Focus on past abuses with a clear cut-off date, e.g. the official end of the conflict on 23 October 2011.
- Differentiate between institutions such as the military, the police, the judiciary, the government and elected bodies, and devise different processes adapted to institutional specificities.
- Concentrate on key institutions that were involved in the most serious abuses, that have the means to commit serious abuses in the future, or that represent corner stones of the rule of law such as institutions in the security and justice sectors.
- Be transitional (as opposed to regular employment vetting) and feasible with given resources, to be completed within a foreseeable, transitional timeframe.
- Be complemented by regular employed vetting and various regular oversight and accountability mechanisms.

13. Efforts to establish a Presidential Guard may well represent a first opportunity to introduce a fair and effective transitional vetting process in Libya, at least in the security sector. *Ashour Shwayel,* former Minister of Interior, remarked that while in Tunisia and Egypt the armed forces supported the revolutions, this was not the case in Libya. Instead, militias overran the regular forces and took their weapons. The state institution collapsed leading to a total security breakdown. Today, most armed groups are no longer "revolutionary" and have become instead quasi-criminal organisations. Some of these factions now have customs offices and border control that are not controlled or authorised by the state. These groups do not want to disarm and have no interest in reconciliation: we need to find ways to make reconciliation appealing to them.

14. *Abdul Rahman Al Ajeeli,* former security advisor within the Prime Minister's office, recalled that DDR and SSR programs aim at consolidating the state's monopoly on the use of force. Since many members of the armed groups come from the people and reflect the basic fabric of the country, they cannot simply be disarmed but must be provided with means of political and economic empowerment, as well as strong incentives for peace. We need to find them a new source of revenue and legitimacy. Indeed, at the moment, weapons are the only means of empowerment in Libya. These groups will not want to engage in reconciliation if it will undermine their interests.

h) <u>On the political process</u>

Summary

- There will be no reconciliation without a strong political will and commitment from the government. Even if this push risks alienating some important parties, it is not possible to conceive reconciliation without a strong political framework.
- Reconciliation is broader than transitional justice: it is a deeply political process.
- Reconciliation includes deep discussions on the legitimacy of institutions and the Constitution, the role of religion in the State, the protection of minorities' rights or the fair distribution of resources.
- Reconciliation should be opened to all who wish to reconcile and not be based on exclusive categories: confidence-building measures are essential.

1. As the **SRSG Martin Kobler** recalled, there are three pillars of the Libyan peacemaking process: the political track, the security track and the reconciliation track. These three pillars should have been integrated and launched simultaneously from the beginning of the negotiations, as each pillar reinforces the other. **Musa al-Kony**, member of the Presidential Council (PC) stated indeed that reconciliation supports the political process, and *vice versa*. **Abdesalam Kajma**, Vice-President of the PC, added that Libyans should focus on commonalities rather than differences, and that communication and sensitization are key to its success. Reconciliation is not difficult and Libya has a strong experience in this topic, but it requires political will and a political umbrella, which can only be obtained through the internationally recognized government.

2. **Lamia Busidra**, professor at Benghazi University, confirmed that reconciliation should be the sole responsibility of the government, but core efforts should also be made to reach out to the streets as well. Indeed, the weakness of the PC is that it came to exist through agreements reached behind closed doors: now, the PC needs to bring the street on board and build its popular support, especially in the East.

3. **Fadeel Lameen,** Political Dialogue member and former head of the National Preparatory Dialogue Committee, stressed that reconciliation can only come after the constitution of a functioning government, and that there can only be a functioning government after there is stability. At the moment, there is a civil war in Libya, it is becoming a failed state: in the absence of State institutions, we need to take a bottom up approach, through municipalities and tribal councils, and to establish links between them, the people, and the central state. Indeed, the purpose of reconciliation is to create linkages between the different parts of society that work on this process.

4. Reconciliation in Libya cannot be just about transitional justice, because past violence and crimes are not the only source of violence and grievances, stressed ECFR expert **Mattia Toaldo**. In Libya reconciliation should be about rights to be enshrined in legislation and policy, as well as about confidence-building measures between different communities and between these local communities and the central government. In some ways, deep and comprehensive reconciliation is as important as a Constitution: in Libya, reconciliation should aim at discussing a new social contract and establishing legitimacy for the new institutions.

5. Since 2011, many Libyan institutions and initiatives have suffered from questions about their legitimacy and representativeness. Therefore, two principles could be adopted for the national

reconciliation process: (1) no single actor or group should be given veto power over the reconciliation process, while the door remains always open to those who want to join; (2) the reconciliation process encouraged by the UN involves the support of the Libyan government and the international community, but there should be no provision to exclude the existence of separate reconciliation processes as long as their goal is not to undermine this one. One example of such separate initiative is the Nalut meeting in mid-September 2016.

6. The lack of structured and organized actors is a strong obstacle to reconciliation. The Gadhafi regime has indeed left Libya deliberately without functioning institutions, political parties and civil society organizations. In the past two years, what little had grown after 2011 was mostly wiped out by violence and further fragmentation of the social fabric. This challenge means that reconciliation models based on the participation of formalized political and social groups must undergo serious scrutiny if they are going to be implemented in Libya.

7. The East-West split between the areas controlled by General Khalifa Haftar's Libya National Army and the rest of the country under the authority of the Government of National Accord is a strong impediment to reconciliation as well. The former increasingly blocks any interaction of the part of Libya under its control with the rest of country, with acts such as the prohibition issued by the LNA's Chief of Staff for Eastern municipalities to join in any initiative organized by the government in Tripoli or the UN.

Recommendations

The following recommendations on the general process of national reconciliation reflect the various discussions that followed the panel presentations, as well as from three group discussions that were organized on the last day of the meeting. During these group discussions, participants were asked about what reconciliation means to them, who are the actors of reconciliation, what are the main challenges they face, and how to make reconciliation a reality.

1. Form **a joint reconciliation committee** composed of the three main bodies (PC, HoR, SC) as well as key local actors (municipalities and tribal councils) and civil society actors to monitor, promote and follow-up on national reconciliation with the actors involved, formed of 5 independent members from each representative institution or stakeholders. The joint committee or "National Reconciliation Commission" will be tasked by (1) establishing a national charter for reconciliation based on a comprehensive strategy and national consultations; (2) discussing the draft constitution and make, where appropriate, suggestions for changes; (3) coordinating policy between the local and the national level, pushing all actors and agencies to implement policies that support reconciliation and facilitating networking between them; (4) regularly meeting with the GNA, the Libyan Political Dialogue and other stakeholders on reconciliation issues and for advocacy. The reconciliation committee should ensure an equal representation of women.

2. The establishment of a truth commission as envisaged in Law n°29 and the LPA is premature. In the short to medium term it is recommended that a **national human rights documentation project** be conducted to gather data on past violations, including sexual and gender based violence for purposes of informing and facilitating redress and accountability through subsequent mechanisms, including a potential truth commission[1]. Indeed, regardless of what transitional justice strategy is agreed upon in Libya, it will require reasonably accurate information on the nature and extent of human rights violations committed during the selected time period. Human rights documentation will allow future mechanisms to base their strategic decisions on indications of actual events rather than on speculation. It should provide well-grounded estimates of the resources needed and the best approaches to adopt for future investigations. The capacities of civil society organizations in documentation should therefore be reinforced.

3. The question of the **missing and disappeared** must feature in any reconciliation and transitional justice efforts going forward. Failing to do so will delegitimize such programs in the eyes of the affected families and leave a festering sore in the new Libya. In that regards, *Law No. 1 of 2014 on the Care for Martyrs and Missing Persons of the 17 February Revolution* does not stand up to scrutiny. It should be tested against various international standards, and **a national committee on the missing persons** should be created, in line with the LPA.

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[1] A national documentation in Libya project is planned for in Libya, with support from the Swiss and Dutch embassies.

4. A **national reparation strategy** should be established within the PC, as planned in the Tawergha/Misrata agreement. It would be tasked to develop a national reparations plan for all victims in Libya on a reasonable basis, **including victims of sexual and gender based violence**.

5. Conduct efforts on the ground to prepare the Libyan society and "street" for reconciliation, through **an awareness raising campaign** led by national partners, using a wide variety of media. An educational campaign about reconciliation and a public event where experts present and explain what is reconciliation, facilitating circles, presenting simple brochures with simple information in readable language. **Establishing communication** between traditional leaders and youth will be central.

6. **Training and capacity building** should be provided to traditional leaders, municipal council members, justice and security sector actors, medias actors and members of civil society, **including women and youth organizations**, in all aspects related to reconciliation, including mediation, dialogue, transitional and restorative justice, but also on documentation and memorialization.

7. Including **elders, tribal leaders and civil society** in any reconciliation process.

8. Including **30% of women** and **50% of youth** (under 35) in all reconciliation related meeting and mechanisms.

9. Incorporating **representatives of victims** and always considering their best interest, while providing **some form of accountability against perpetrators** of gross human rights violations (trial, vetting, truth-revealing, reparations…).

10. Ensure a **good representation of all cultural components of Libya**, including minorities.

11. Giving **municipalities and local institutions/councils** a significant role in the process, while always keeping ultimately **a state-centric approach**.

12. Supporting **a widely inclusive process** to all Libyans, **including the former regime associates**, except for those responsible for grave crimes.

Step forwards

NB: These suggestions reflect the propositions made by various experts and participants during the meeting, as well as from discussions with various partners, including UNDP, the UN Peacebuilding Fund, donors, and other international and national organizations.

A comprehensive project document for this process, based on the conference report will be drafted by UNDP, with UNSMIL and the UN Peacebuilding Fund. It will include a more precise timeline, as well asa list of activities and partners, including the UN Libya Country Team, the UN Mediation Support Unit, international NGOs (such as Interpeace, Peaceful Change Initiative, ABAROLI, USIP, Humanitarian Dialogue Centre, Search for Common Grounds…), national NGOs and community associations.

After the experts meeting in Tunis in August-September, participants and partners stressed that it is paramount not to lose momentum. The recent political and military events make reconciliation more complicated, as they have the potential to further divide the country between East and West – but also make it all the more necessary.

In the immediate future, consideration should not be focussed on the contents of a reconciliation program for Libya: attention should rather be given to creating an inclusive and participatory framework and process for how to identify the issues and challenges that need to be addressed. While typical national reconciliation projects are not feasible in the short term, research and consultations should be carried out on how to empower different communities, particularly marginalized groups, to meaningfully engage in reconciliation and nation building. Capacity building and communication will therefore be key to any future national reconciliation process.

To oversee and coordinate this process, **a technical committee** should first be established. Composed of national experts, representing a cross-spectrum of opinions and expertise, it will be tasked with planning, defining, and designing the process of the elaboration of the national reconciliation framework.

A. Towards a national reconciliation strategy

1. **Thematic committees** to be convened, if possible, in Libya. Each thematic committee would be formed of 10 to 15 participants, including some of those present during the first experts' meeting in August (ensuring a good representation of youth and women), as well as others suggested and agreed upon by the technical committee. The working groups will also be an opportunity to identify main training needs and provide short additional capacity building sessions to all participants. The thematic committees will discuss the 14 thematic baskets pre-identified by the participants to the August workshop (and amended by the technical committee), divided into 4 thematic groups i.e.:

   o **Thematic group 1**: *Justice and the rule of law*

- **Missing persons and truth-seeking**: How to address the needs of victims of forced disappearances and how does this relates to reconciliation and accountability measures? What should be the mandate, and who should be the members, of the future missing persons' commission?
- **Prisons and detention facilities**: How to establish shared rules against arbitrary detention and political kidnappings, which are among the main drivers of violence today? How to rethink the framework of prisoners' exchange, which is part of many local ceasefire agreements?
- **Members and constituencies of the former regime**: How to build a neutral, honest but also competent public service (including in justice and security sectors) without discriminating against any specific groups?

o **Thematic group 2**: *Peace and security*

- **Weapons, armed groups and security sector reforms**: How to bring militias to the table of negotiation, how to create disincentives for violence, especially among youth, and what confidence building measures could be implemented to that end?
- **Local conflicts and local reconciliation**: What are the root causes, processes, strategies, and actors of local reconciliation, and how to connect them together in a joint forum or national network?
- **The psychology of peacebuilding**: How to address the psychological legacy of years of conflict and dictatorship in Libya?

o **Thematic group 3**: *Key actors for reconciliation*

- **Women:** How to guarantee the protection of their rights in the Constitution and legal system while addressing their grievances, including with regards to sexual violence and what specific role can they play for national reconciliation? How to address the current obstacles in their full participation in such process?
- **Youth:** What role can youth play for national reconciliation and what innovative incentives can we find to encourage their participation and prevent their radicalization?
- **Tribes:** How to build upon tribes' experience and legitimacy in local reconciliation efforts, and how to link them to national reconciliation strategies? What role for restorative and traditional justice systems in the reconciliation process?
- **IDPs and refugees**: How to ensure their safe return home and the implementation of humanitarian ceasefires? What compensations could be defined to encourage their return?

This also includes the issue of Libyan diaspora and their integration in the new state.

- o **Thematic group 4**: *Reconciliation and the other "tracks"*

  - **Economic rights and public service delivery**: How can Libyans share the oil wealth between different communities, strengthen citizenship instead of patronage and start building a post-oil economy? This also includes property rights, land issues and service delivery, as root causes of local conflicts today.
  - **Protection of minorities and cultural rights**: How to ensure it both in the Constitution and in practice?
  - **The role of the medias**: How to build a truly independent media sector in Libya, and what role could it play in the national reconciliation process?
  - **Defining a new social contract**: What defines being Libyan? What is the national sentiment: on what basis is it built (history, geography, culture)? This includes discussions about the kind of state Libyans want (role of religion, legal system, etc.).

2. **Geographic meetings** on national reconciliation to be held throughout Libya. Based on the mapping of local reconciliation initiatives conducted by UNSMIL, **key localities** where such regional meetings could take place will be identified. These geographic meetings, in the format of widely broadcasted "town halls", will address transversal issues specific to reconciliation in each locality, as well as root causes of the conflict and best ways to build upon the local expertise in reconciliation. **Local councils** and municipalities would have a leading role in organizing these meetings, to engage their communities in discussions over reconciliation with the goal of feeding them into the national strategy.

3. These various working groups (thematic and geographic) would come up, with the support of the technical committee, with a **comprehensive preparatory document** including a list of sub-issues to be discussed further and integrated in the future national reconciliation strategy, as well as propositions for its implementation. On this basis, UNSMIL would facilitate **a national reconciliation meeting** ("conference" or "forum") towards January 2017 in Libya, in order for each working group and regional groups to present, discuss and agree on each building blocks for the strategy, and symbolically kick off its implementation.

B. Connecting the national and the local

1. **Establishing a national forum for local actors of reconciliation**: support **wide-scale rapprochement** between influential and respected figures from the different communities and constituencies of the country, going beyond the traditional social and tribal leaders, and **bringing in new actors who enjoy legitimacy at the local level**, gradually widening the circle of communication, experience-sharing and common work (from the communities, to the regional level, between regions and across Libya).

Concretely, this means helping establish **a new space for dialogue and team work between different types of influential actors at the local level** (traditional social leaders, rights activists, youth, professionals and technicians with specific skills, businessmen and military people), in order to help local actors of reconciliation to understand that they have a common interest in working together, and that their capacities and skills complement each other. This forum would also be a way **to facilitate communication** between actors who usually don't talk to one another, such as **youth and tribal elders.** These "town hall meetings" would be **broadcasted nationally.**

2. **As an enabling condition, consider establishing new and more inclusive mechanisms for political dialogue** to be connected to the existing ones, to be used to build consensus among Libyan communities and the influential figures among them and to bridge the widening gap between Western and Eastern leaderships and ensure a better representation of women and youth. The main objective here is **to widen the circle of those involved in negotiating a political agreement,** by establishing channels of consultation and communication with local communities through actors enjoying influence and legitimacy because of what they bring to their communities (protection, services, representation). Depending on the regions or communities, this might mean tribal leaders, elders, businessmen, women, members of municipal councils, or military leaders.

C. Building support for reconciliation: media campaigns and nationwide consultations

1. **National outreach and awareness raising campaign on national reconciliation**, in cooperation with national media, including through training of journalists, thematic TV shows and debates, short TV and radio spots, and social media action. These will all aim at **sensitizing the population** about the need for the process of reconciliation, creating ownership and support for it, as well as inviting as many Libyans as possible, in particular the young generations, to take part in it. The thematic and geographic meetings described above would also be broadcasted nationally. The campaign would also aim at **building the national Libyan pride and sentiment**, by putting forward national history, figures, memory, or **organizing cultural or sport activities.**

2. **Election of a national ambassador(s) for national reconciliation:** a key and consensual sportsman, actor, artist, singer or TV star to help carry the message of national reconciliation in the media and various forum, and build support for it especially among youth.

3. **Capacity building** to be provided to various constituencies and stakeholders of the national reconciliation process (justice and security actors, civil society organizations, youth, women associations, journalists, tribal elders, municipalities), on issues related to the respective "building blocks" and the **general methodology of reconciliation** (mediation, dialogue, restorative justice, documentation of violations…).

4. **Quantitative and qualitative analysis** to be conducted through national polls and focus groups organized throughout the country, based on a comprehensive

questionnaire, in order **to ask Libyans about their understanding of reconciliation**, their needs and expectations in the process, and what are the best conditions to make it happen. This study could be conducted by a Libyan polling institute and through a national NGO, and its results would feed into the future national reconciliation strategy.

5. **Thematic consultations with key constituencies** to be held in the format of **focus groups on national reconciliation**, including with civil society organizations, businesses, armed groups, and political parties. These discussions would feed into the national strategy document. Each group or association would also be invited to submit its own proposition or draft in writing.

6. Members of **the Political Dialogue** and of **the Constitutional Drafting Assembly** could be consulted in parallel about their views in each defined topics, feeding into the strategy, and/or asked to participate in the wider meeting as observers. **The SGSR** could also consult with relevant member states, the EU, Arab League and AU on how to best support the process along the lines described above.

D. The future of Libya: putting youth at the centre

1. In a transversal manner, the national reconciliation strategy will include **innovative ways** to put the young generation at the centre of the project, including through the organization of **youth forum throughout the country**, the **support to youth NGOs** in their national reconciliation related projects, **social media and cultural campaigns** around youth's vision for Libya's future, and de-radicalization activities.

Appendix 1: Legal framework of national reconciliation

	Date	Legislation	Source
1	03/08/2011	Interim Constitutional Declaration	NTC
2	2011	Law No. 5 of 2011 on Establishment of Public Liberties and Human Rights Council	NTC
3	26/02/2012	Law No. 17 of 2012 on Establishing the Foundations of National Reconciliation and Transitional Justice	NTC
4	02/05/2012	Law No. 35 of 2012 on Amnesty for Some Crimes	NTC
5	02/05/2012	Law No. 38 of 2012 on Some Measures for the Transitional Period	NTC
6	11/06/2012	Law No. 50 of 2012 on Compensating Political Prisoners/and Regulations (2013)	NTC
7	14/04/2013	Law No. 10 of 2013 on Criminalization of Torture, Forced Disappearance and Discrimination	GNC
8	26/06/2013	GNC Decision No. 59 of 2012 on the Abu Salim Prison Massacre	GNC
9	30/07/2013	Law No. 18 of 2013 on the Rights of Linguistic and Cultural Components	GNC
10	16/12/2013	GNC Decision No. 123 of 2013 on Development of a Roadmap to Resolve Current Disputes between some Libyan Cities.	GNC
11	18/12/2013	Law No. 31 of 2013 on Deciding some Provisions for Abu Salim Prison Massacre	GNC
12	02/12/2013	Law No. 29 of 20013 on Transitional Justice	GNC
13	26/05/2013	Law No. 4 of 2013 on Deciding some Provisions for those Injured during the Liberation War who have Permanent Disabilities	GNC
14	19/01/2014	Law No. 1 of 2014 on Providing Care for Families of Martyrs and Missing Persons.	GNC
15	23/02/2014	Council of Ministers Decision No. 119 of 2014 on Addressing the Situation of Sexual Violence Victims.	Council of Ministers/Interim Government
16	19/04/2014	Law No. 3 of 2014 on Anti-Terrorism	HoR
17	08/06/2015	Law No. 2 of 2015 on Cancellation of Law No. 13 of 2013 on Political and Administrative Isolation.	HoR
18	07/09/2015	Law No. 6 on General Amnesty	HoR

Appendix 2: Agenda

Day 1

Why Reconciliation?

Opportunities and lessons learned

8.30: Registration and welcoming of participants

9-9.30: Opening remarks by the SRSG *Martin Kobler*

9.30-10.30: What is reconciliation? How does reconciliation relate to *peacebuilding*, transitional justice and other processes? Why is it needed in Libya? (*Amr Abdallah*, Institute for Peace and Security Studies, facilitated by *Muin Shreim*, Director of Political Division at UNSMIL)

10.30: Coffee break

11-11.30: Building peace from the bottom-up: a local approach to reconciliation in Libya (facilitated by *Seth Kaplan,* Institute for Integrated Transitions)

11.30-13: Mapping of existing reconciliation initiatives in Libya: lessons learned, actors, challenges and way forward (*Ahmed Khaled,* lawyer and consultant, with *Virginie Collombier,* researcher at the European University Institute)

13.14: Lunch

14-14.30: Lessons learnt from the Tawergha-Misrata initiative (*Abdulrahman Shakshak*, Tawergha chief of municipality; and *Yousef Massoud Zerzah*, head of the Misrata Delegation, facilitated by *Claudio Cordone,* Director of Human Rights Division at UNSMIL)

14.30-15.15: Mapping of the legal framework of reconciliation in Libya (*Azza Maghur*, lawyer and consultant)

15.15-16.15: Lessons learnt from other countries - case studies of relevant international experiences (*Howard Varney*, Constitutional lawyer, with *Serge Rumin*, Swiss Task Force Dealing with the Past)

16.15-17.15: Lessons learnt and building block for a preliminary reconciliation strategy, discussion facilitated by *Brendan McAllister* (MSU)

17.15-17.30: Closing and coffee break

Day 2

Session 2 - Actors of reconciliation

<u>8.30-10</u>: *Tribes and traditional justice: local conflict resolution as a means for national reconciliation*

- <u>National expert</u>: ***Musab el Gaied*** (Social Dialogue Member); ***Marai Al-Awami*** (Director of the Libyan Organization for Dialogue and Reconciliation), ***Najla Mangoush*** (Fellow, George Mason University, Centre of World Religions, Diplomacy, and Conflict Resolution)

- <u>International experts</u>: ***Rafâa Taabib*** (anthropologist, lecturer at Tunis Manouba University); ***Omeyya Seddiq*** (Humanitarian Dialogue Centre)

- <u>Facilitator</u>: ***Claudia Gazzini*** (Libya Researcher at the International Crisis Group)

This panel will address the following issues:

- How can Libya's indigenous practices be mobilized to serve national reconciliation while respecting international standards?
- What lessons can be learnt from local reconciliation processes and how to link them with a reconciliation strategy at the national level?
- What specific role can elders, tribal and social leaders play in supporting change to resolve local conflicts and transforming conflict, and how to ensure their gender-sensitiveness?
- What are the main assets and limitations of traditional justice mechanisms and local customs, and how can it be effectively mobilized in Libya?
- Do the current social conditions in Libya allow for such positive mobilization of traditions, and do tribal and social leaders enjoy the necessary trust in their own constituencies? How can this form of justice reflect the complexities of the post-revolutionary social fabric in Libya?

<u>10.30-10.45</u>: Coffee break

<u>10.45-12</u>: *Building a truly inclusive process: women & youth role in building national reconciliation*

- <u>National expert</u>: ***Zahra Langhi*** (Libyan Platform of Women for Change); ***Omm al-Azz al-Farsi*** (Head of the Political Science Department, Benghazi University)

- <u>Facilitator</u>*: **Heba Al-Shibani**,* (anchorwoman at Libya Channel)

This panel will address the following issues:

- What specific role is there for women and youth in the reconciliation process?
- Why are women and youth an asset for reconciliation?
- What initiatives exist so far in that regards that can be built upon?

Issues of Reconciliation

12-13.30: *(Re-)defining citizenship: Cultural components, land, property, refugees and national identity*

- National expert: ***Abdelbari Shinbaro*** (UNDP Expert on Local Development, Co-founded the Ministry of Local Governance); ***Youssef Ahnesh*** (former head of the compensation commission under law n°4)

- International expert: ***Peter van der Auweraert*** (International Office for Migrations)

- Facilitator*: **Mary Fitzgerald** (journalist and researcher)

This panel will address the following issues:

- How can Libya's various cultural components be empowered and integrated in the national reconciliation process and narrative, in order to enjoy full citizenship and be recognized in their particularities?
- What forms of collective reparations could be promoted to encourage the safe return of displaced and marginalized communities, including in terms of land restitution and property rights?
- How can land and displacement-related grievances be addressed within the national reconciliation and transitional justice process?
- How can building effective property rights become a source of reconciliation rather than a driver of conflict?
- How can marginalized and displaced communities be fully included in the reconciliation process?

13.15-14.15: Lunch

Approaches to reconciliation

14.15-15.30: *Transitional justice as a contribution to reconciliation*

- National experts: ***Jazia Sheiter*** (Professor at Benghazi University); ***Ahmed Gehani*** (Libya representative to the International Criminal Court)

- International expert: ***Marieke Wierda***, (Transitional justice expert at the Dutch Minister of Foreign Affairs)

- Facilitator: ***Salwa el-Gantri*** (Head of Tunisia office of the International Centre for Transitional Justice)

This panel will address the following issues:

- What should be the main elements of a transitional justice strategy in Libya? What sequencing if any between truth seeking, reparations, accountability and institutional reform?
- Who is legitimate to define the transitional justice strategy, priorities and implementation process?
- Is Transitional Justice Law n°29 of 2013 a good framework for such a strategy or should it be reformed?
- Who are the actors of transitional justice in Libya?
- What is the relationship between transitional justice and reconciliation in Libya?

15.30-17: *Truth seeking & memories: Reconciling Libya's narratives?*

- National experts: **Mohammed Othman** (former head of the Commission on Missing Persons); **Kuni Abuda** (academic, Tripoli University)

- International experts: **Oula Ben Nejma** (Commissioner of the Tunisian Truth and Dignity Commission)

- Facilitator: **Howard Varney** (Constitutional lawyer)

The panel will address the following issues:

- Is Libya ready for the Fact–Finding and Reconciliation Commission envisaged by Law 29 of 2013?
- What are the conditions for the Fact-Finding and Reconciliation Commission to be established effectively, and what are the priorities?
- How can the new forces *vs.* old guard dichotomy be overcome positively, and what existing memorialization initiatives contribute to that end today? What does it mean to be *Libyan* in that regards?
- What role can the establishment of the fate of missing person play in a broader reconciliation strategy?
- What role can civil society and media play in bottom-up documentation and memorialization?

17: Closing of the day and coffee break

Day 3

8.15-8.45: Guiding principles for a national reconciliation strategy – some elements for reflection - **Brendan McAlister** (UN Mediation Support Unit, Standby Team Expert)

<u>8.45-10.15</u>: *Vetting and institutional reforms. Re-establishing public trust through institutional reforms*

- National expert: ***Mohamed Tumi***, (Political Isolation Law Committee President); ***Azza Maghur*** (Consultant and writer)

- <u>International expert</u>: ***Alexander Mayer Rieckh*** (independent expert)

- <u>Facilitator</u>: ***Rhodri Williams*** (International Legal Assistance Consortium)

The panel will address the following issues:

- How can the vetting legal framework be reformed so as to comply with international standards and promote institutional trust and the rule of law?
- What are the key sectors to reform for national reconciliation between people and State to take place?
- How to de-politicize the vetting process and promote the reintegration of former regime elites that were not involved in gross human rights violations?

<u>10.15-10.30</u>: Coffee break

<u>10.30-12</u>: *Security Sector Reforms (SSR) & Disarmament, Demobilization and Reintegration (DDR): Combatants' role in national reconciliation*

- National expert***: Dr. Ashour Shwayel*** (Former Minister of Interior); ***Abdul Rahman Al Ajeeli*** (former security advisor)

- <u>International expert</u>: ***Wolfram Lacher*** (German Institute for International and Security Affairs)

- <u>Facilitator</u>: ***Serge Rumin*** (Swiss Task Force Dealing with the Past)

- What role can DDR/SSR programs play in promoting national reconciliation and how can these be included into a comprehensive strategy to that end?
- Can effective links be established between the (pre-)DDR process in Libya and future transitional justice and reconciliation mechanisms?
- How to combine combatants' requests for immunity with victims' demands for accountability?
- How to effectively reintegrate former combatants in their community without creating more social tensions, and how to balance these programs with the rights of victims?

<u>12-13.30</u>: *National reconciliation and the political process – a wider picture*

- <u>National expert</u>: ***Fadel Ameen*** (Political Dialogue Member and Head of the National Dialogue Committee)

- International expert: **Mattia Toaldo** (European Council on Foreign Relations)

- Facilitator: **Christopher Thornton** (Humanitarian Dialogue Centre)

The panel will address the following issues:

- How does the political process, including Constitution drafting and elections, impact national reconciliation, and how can national reconciliation facilitate the political process in return?
- What are the lessons learned from effective local governance systems at municipality level and how can they impulse a national dynamic?
- How can economic reform, including distribution of resources and regional equality, positively contribute to national reconciliation?

13.30-14.30: Lunch

14.30-16.15: Smaller groups discussions on next steps forward: agenda, methodology of selection and participants' list for the national reconciliation strategy drafting and conference – Facilitated by **Enrico Formica**, MSU Standby Team, with **Seth Kaplan**, Institute for Integrated Transitions

16.30-17.15: *Recommendations and steps forward: Towards a preliminary national reconciliation strategy?* Process design and methodology for future implementation and follow-up (**Brendan McAllister**, MSU Standby Team with **Tammy Smith**, *United Nations Peacebuilding Fund*)

17.15: Closing remarks by **Sihem Benssedrine** (President of the Tunisian Truth and Dignity Commission)