Libya and the problematic Political Isolation Lawe

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Theme

The fifth of May of 2013 could go down in history as the day in which the democratic transition in Libya was derailed. It was on this date that an ample majority of Libya's interim parliament was coerced by armed militias into passing the Political Isolation Law. The law's application could condemn the country to live anchored to its dramatic past.

Summary

The main aim of the Political Isolation bill was to break away from the legacy left by Gaddafi's dictatorship by excluding key members of his regime from political life in a new democratic Libya. Nevertheless, following months of difficult negotiations about the scope of the exclusions, the pressure exerted by armed militias –that besieged public buildings such as the Ministries of Justice and Foreign Affairs and threatened to escalate into armed action– hastened the approval of a much wider and punitive bill. The application of the law could have severe consequences on the democratic transition in Libya, its internal stability and on national reconciliation. The subsequent repercussions could also affect the rest of the Maghreb, Sahel and the north of the Mediterranean.

Analysis

Pursuant to the Political Isolation Law approved by Libya's General National Congress (GNC or the interim parliament) and set to come into force on 5 June, any individual who possessed a high rank in the Gaddafi regime between 1 September 1969 and 23 October 2011 will be banned from holding positions of responsibility for the next 10 years. This includes individuals belonging to several dozen categories, including prime ministers, ministers, high local and national law-enforcement officials, heads of public institutions, ambassadors, consuls, university presidents, heads of university departments, heads of security organisms, high-ranking military and police officers and the leaders of student unions, amongst many others.

Several presumably problematic criteria were added to an already long list of motives allowing for political exclusion. Among the criteria that could be applied arbitrarily are: having collaborated with Gaddafi's security forces, having praised him or his Green Book in public, having done business with him or a member of his family, having maintained a hostile attitude towards the '17 February revolution' that put an end to the former regime, or having become rich from money obtained illicitly from the Libyan people, amongst other criteria.

According to some estimates, several hundred thousand Libyans could find themselves excluded from public life as a result of the Political Isolation Law if it is implemented in its entirety. Citizens affected would include significant numbers of government officials and key members of important public institutions.

Those affected by the law will be prohibited from holding executive or legislative office on a national or local level, and will be barred from working in the court system or with the administration in an advisory capacity. They will not be allowed to join the armed forces or the security sector, nor will they be allowed to form part of the diplomatic corps or preside over an academic institution. Political parties and organisations with political ambitions will furthermore be off limits to them, as will directorial positions in the media, amongst other limitations. In order to oversee the fulfilment of the Political Isolation Law, an 'isolation commission' endowed with ample powers and complete immunity for all its members has been established.

Critiques of the Isolation
Numerous Libyan citizens and organisations have come to criticise the law due to the serious problems that its implementation would cause. As could be expected, some of the many critics are both former members of and individuals still nostalgic for the previous regime, but there are also many that opposed and fought against Gaddafi that consider the new law to be vengeful and unjust, in addition to favouring religious and traditionalist political movements. The law's many opponents point out that it puts the stability of many already fragile, post-Gaddafi institutions at risk and that it sets a dangerous precedent by allowing armed militias to use coercion and violence to directly influence the lawmaking process.

Those that oppose the bill that ultimately did get approved are of the opinion that not all those who worked for the regime at some point during its 42-year lifespan deserve to be punished so severely, since the law fails to take individuals who deserted, were exiled or even fought to overthrow Gaddafi into consideration. Critics maintain that the Political Isolation Law is not the result of popular demand. They believe that, if this were the case, armed militias would not need to resort to violence in order to intimidate an interim parliament whose primary goal should be to establish a constituent assembly to draft a constitution.

Victims and beneficiaries
The first 'victim' of the new law was the president of the GNC and one of the most influential political leaders in Libya, Mohamed Magarief. He was the Libyan ambassador to India under Gaddafi until he defected and went into self-exile at the beginning of the 1980s. He later became one of the leading figures in the opposition National Front for the Salvation of Libya. Magarief ran for and was elected president of Libya's interim

parliament in July of 2012 during the first democratic elections held in the country's modern history, making him the de facto head of state. Known for his pragmatism and moderation, Magarief would end up being forcibly distanced from political life as a result of the Political Isolation Law, in spite of having spent decades in exile. As a result, he voluntarily handed in his resignation on 28 May, just days before the controversial law took effect.

Manoeuvres carried out by armed militias and various political groups that included Islamists have been interpreted as an attempt to create a political crisis that would force the resignation of the current Prime Minister, Ali Zeidan. Much in the same way as Magarief, he worked as a diplomat under Gaddafi and exiled himself at the beginning of the 1980s. A liberal, Zeidan worked as a human rights attorney in Geneva before the civil war in Libya began. The alliance formed by several armed revolutionary militias and Islamist political groups seems bent on bringing in a new prime minister who is more malleable and in tune with their own interests.

It is no secret that the main target of the Political Isolation Law is the head of the National Forces Alliance, Mahmoud Jibril. Jibril's party obtained the best results in the legislative elections held in 2012, taking 48% of the vote. Jibril, the party's leader and founder, served as the interim prime minister of the National Transitional Council following the onset of the revolution, and is often credited for having mobilised the international support needed to force Gaddafi's fall. However, between 2007 and the beginning of 2011 he served as the head of National Economic Development Board under the former regime, due to which he would also end up being excluded from political life as a result of the law passed by the GNC.

The future beneficiaries of the Political Isolation Law will mainly be the Islamist political parties, beginning with the Libyan branch of the Muslim Brotherhood, the Justice and Construction Party. Contrary to what has occurred in Egypt and Tunisia, the Muslim Brotherhood failed to gain high levels of popular support in the first free elections held in Libya since the fall of the region's autocrats (only reaching 10% of the closed-list votes). Nevertheless, its members are the least affected by the version of the Political Isolation Law that was ultimately passed, and thus will almost certainly be favoured in the coming stage.

Internal and external risks of the Isolation Law
One of the potential first consequences of the Political Isolation Law would be that 40 of the GNC's 200 members be excluded from political life, a fact that would alter its composition and internal balance of power. The worst hit will be the members of the National Forces Alliance and the National Front Party, whereas members of the different Islamists sectors will see their presence steadily augment. According to an internal norm

in the GNC, representatives that end up being excluded will be replaced by the following candidates who received the most votes amongst those who ran as independents. It is, however, common knowledge that many of them are close to political parties, including Islamist ones. These changes will have a considerable impact on the formation of a constituent assembly that will later have the task of drafting a constitution, which did not exist during Gaddafi's era.

Additionally, at least four ministers (Oil, Defence, Finance and Interior) would be forced to abandon the government, and it is still not clear if the current prime minister will be purged or not. Some political parties, such as the National Forces Alliance and the National Front Party, will lose their leaders despite the fact that both parties received considerable support from Libyan voters. Likewise, several other parties amongst the 20 with parliamentary representation will lose leaders and members. All of this implies that the exclusions would only minimally affect the Islamist parties, and would pave the way for them to increase their influence in the Libyan political panorama beyond what the polls have granted them.

If political isolation is applied in its most thorough sense, Libya's bureaucratic system and the new state's institutions will be profoundly impacted. Many high ranking, competent and experienced members will be dismissed. This brings to mind the process of de-Baathification that took place in Iraq after the fall of Saddam Hussein in 2003, whereby hundreds of thousands of bureaucrats, government officials, police officers and members of the armed forces lost their jobs, giving them no other recourse but to join the insurgency that continues until today. Similarly, grave deficiencies in the design and execution of the Iraqi process contributed decisively to the collapse of numerous state functions and public services. If a repeat of this process is not avoided in time, there is nothing to stop Libya from following a similar course, especially since anyone with the will and the resources can easily acquire all manner of weapons.

The risk of collapse in the country's security structures is also a direct result of the dismissals of various high-ranking members of the law enforcement and armed forces that were entrusted with securing Libya's land borders (over 4,300 km). The knowledge they have of the terrain and the populations that inhabit the border regions will be difficult to replace in a short period of time. This is of paramount importance not only for stability within Libya, but also for the stability of the currently porous borders with the Sahel region countries, where criminal organisations, jihadist groups, illegal weapons and illicit traffic are rife. These activities are certainly a source of concern for countries in the Maghreb, as well as for the EU and the US.

To all of the above should de added that many of the chief interlocutors with foreign countries will also find themselves among those excluded by the Political Isolation Law.

Their experience is becoming increasingly necessary in the ongoing transition process, as it is vital for ensuring that state institutions within Libya take on a constructive, responsible role with regards to Mediterranean, Arab and African affairs. It is very likely that some of their 'replacements' will be viewed with suspicion abroad and that some of them were already included in lists of individuals sought for criminal activities.

Conclusions

Instead of advancing toward national reconciliation through transitional justice and the integration of marginalised sectors, Libya's new Political Isolation Law reinforces the desperation of some and the thirst for revenge of others. Absolute and utter political exclusion of every high-ranking official in an authoritarian regime, once a political transition has started, does not contribute to overcoming the problems of the past, nor does it prepare society to look to the future with hope.

Libya still has time, although it may be little, to avoid greater suffering in the future. For this to be possible it should consider other forms of transitional justice amongst the experiences of southern and eastern Europe, Latin America, South Africa and other countries. Future stability and prosperity in Libya hinge on the Libyans being capable of putting an end to the horrifying chapters of the past through a combination of justice for the victims, moral compensation and collective generosity.

Members of the international community, beginning with Libya's Mediterranean neighbours and other nations that contributed to the fall of the Gaddafi dictatorship, should continue to support political reconciliation efforts within Libya, as well as the moderate, civic and democratic sectors of its civil society. Such a support must translate into immediate technical assistance that uses high-quality training and methodology to counteract the damaging effects of the political purge. In parallel, the strengthening of the young Libyan state's weak institutions should be prioritised in such a way that they gain credibility and social legitimacy through its management of public issues. These efforts include ensuring that the rule of law and order are respected and that members of the armed militias are demobilised, disarmed and reinserted into society. Furthermore, public services of a satisfactory quality should be provided for the country's population.

The Political Isolation Law places Libya at a crossroads. One of these roads replaces revolutionary-era tyranny with an even more chaotic brand of tyranny. The other road could lead the country towards a more stable, prosperous future. For this to take place Libyans will have to learn how to correct serious mistakes made during the transition through the means of national dialogue and the search for consensus. They have the opportunity now to put it into practice before it is too late.