



## **Key Principles for a Rights-based Roadmap Towards Sustainable Peace in Libya**

*6 November 2020*

*In preparation of the Libyan Political Dialogue Forum (LPDF), the co-chairs of the Berlin process Working Group on International Humanitarian Law and Human Rights (The Netherlands, Switzerland and UNSMIL) facilitated two consultative dialogue sessions in October and November 2020 with representatives of Libyan civil society, including human rights and social activists, legal experts and intellectuals. The dialogues aimed to promote an inclusive, participatory and rights-based process by soliciting the views of diverse and representative individuals on critical issues related to international humanitarian law and human rights protection.*

*This document is a summary of the key principles and recommendations that emanated from the civil society dialogues. It aims to guide the proceedings of the LPDF as well as any agreement on Libya's roadmap towards sustainable peace. These principles are intended for distribution to all LPDF participants as a public document.*

### **I. The Libyan political process must be rights-based and rights-centred:**

- The Libyan people deserve a renewed commitment to human rights, enshrined in a comprehensive charter and a social contract based on human rights principles.
- Any political dialogue failing to advance human rights, or actively serving to undermine fundamental rights, will ultimately fail. Addressing human rights violations and violations of international humanitarian law must be a primary objective for any sustainable peace process with the aim of achieving justice and restoring the rule of law.
- Equitable access to economic and social rights must also be guaranteed. Denial of access to water, healthcare and education has been used as a tactic of war. These essential rights must no longer be politicised. Corruption is a root cause and driver of conflict; any political solution, at its core, must tackle corruption.
- Civil society must have a supervisory role during the LPDF, including through attending the LPDF in an observer capacity and in the implementation of its outcomes. This may be achieved by establishing an independent legal committee that includes representatives of civil society to review all agreements.

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### **II. Any political agreement must reflect the needs, interests and grievances of victims and their families:**

- The rights and needs of the most vulnerable groups in Libyan society and on Libyan territory, in its waters, or in its vicinity, including women, children, refugees and migrants, disabled persons, minorities, and victims of human rights violations, including survivors of sexual and gender-based violence, must be prioritised.
- Special attention must be given to persons illegally detained, as well as those missing and forcibly disappeared, by enabling the judicial authorities to investigate their cases. Unofficial places of detention should be identified and closed for good. All prisoners held arbitrarily should be released or handed over to official prosecuting authorities for investigation, in line with international standards. The executive authorities shall commit to respect the decisions of the public prosecutor and orders for detention or release. The executive authorities shall grant lawyers and civil society access to places of detention to monitor conditions of detention.
- Internally displaced persons must be allowed to return to their homes in safety and dignity. Their housing, land and property rights must be guaranteed.
- Victims of violations have a right to care and reparation, as well as to specialised care and support, including the provision of psychosocial support.

### **III. Impunity must end:**

- Perpetrators of serious international crimes must be brought to justice. National guarantees of accountability must be established through national courts or an international or hybrid mechanism.
- Criteria for appointments and eligibility to stand for elections must be clearly articulated and based on international standards. Persons implicated in serious violations of international humanitarian and human rights law must be barred from holding high public office or senior positions in the security and justice sectors, nor should such persons be granted any position that may shield them from legal indictment. Vetting should be performed, while ensuring transparency and due process for individuals considered for office. There can be no amnesty for perpetrators of international crimes, including war crimes and crimes against humanity. A review should take place of all legislation, including the amnesty law and all previous amnesties.
- Ending impunity requires an independent judicial authority free from any political or other affiliation. To secure such independence, the appointment of senior judicial authority positions shall be made from within the judicial authority itself, without interference from legislative and executive authorities. The judiciary should be independent and impartial. The obligation is on the executive authorities to ensure the independence of the courts and prosecutors' offices, and not to prejudice the personal or physical integrity of judges and members of the judiciary.

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- Libyan authorities should fully cooperate with international accountability mechanisms including the International Criminal Court and the Fact-finding Mission on Libya mandated by the Human Rights Council, and allow them unfettered access throughout Libyan territory.
- The disarming and dismantling of armed groups and enacting effective security sector reform through a structured law for security institutions, and a national strategy to implement it, including human rights vetting, are critical to prevent future violations.

### **IV. Women's rights, their empowerment and meaningful participation:**

- Equal and meaningful participation of women must be guaranteed in all fora aimed at laying the foundations for Libya's transition to peace, stability and development.
- Any peace agreement must take into account gender-specific impacts before its adoption, with ongoing gender analysis and focus throughout implementation.
- The equal rights of Libyan women should be guaranteed. Libyan women should, for example, have the right to give Libyan nationality to their children by birth, in accordance with the principle of equality between men and women, and in conformity with the relevant international conventions.

### **V. Fostering an environment conducive to peace, stability and democracy:**

- The separation of powers must be (re-)established and the justice sector must be strengthened through complete independence of the judiciary from the executive branch, administratively and financially.
- The National Council for Public Freedoms and Human Rights must be restored as a constitutional body that exercises oversight, operates independently and serves to restore trust and build confidence.
- Human rights defenders, activists and journalists currently facing challenges and personal risks all over the country must be protected, in accordance with international humanitarian law and human rights.
- The role of a free and open civil society must be respected and protected. Freedom of expression and freedom of peaceful assembly shall be guaranteed as preconditions for any election or referendum, through legislation in conformity with the International Covenant on Civil and Political Rights and the suspension of existing legislation that restricts freedoms.
- Hate speech and incitement to violence from inside and outside the country must be urgently and effectively countered, including by enabling the judicial authorities to exercise their powers to investigate and prosecute the accused, without prejudice to the freedom of expression.