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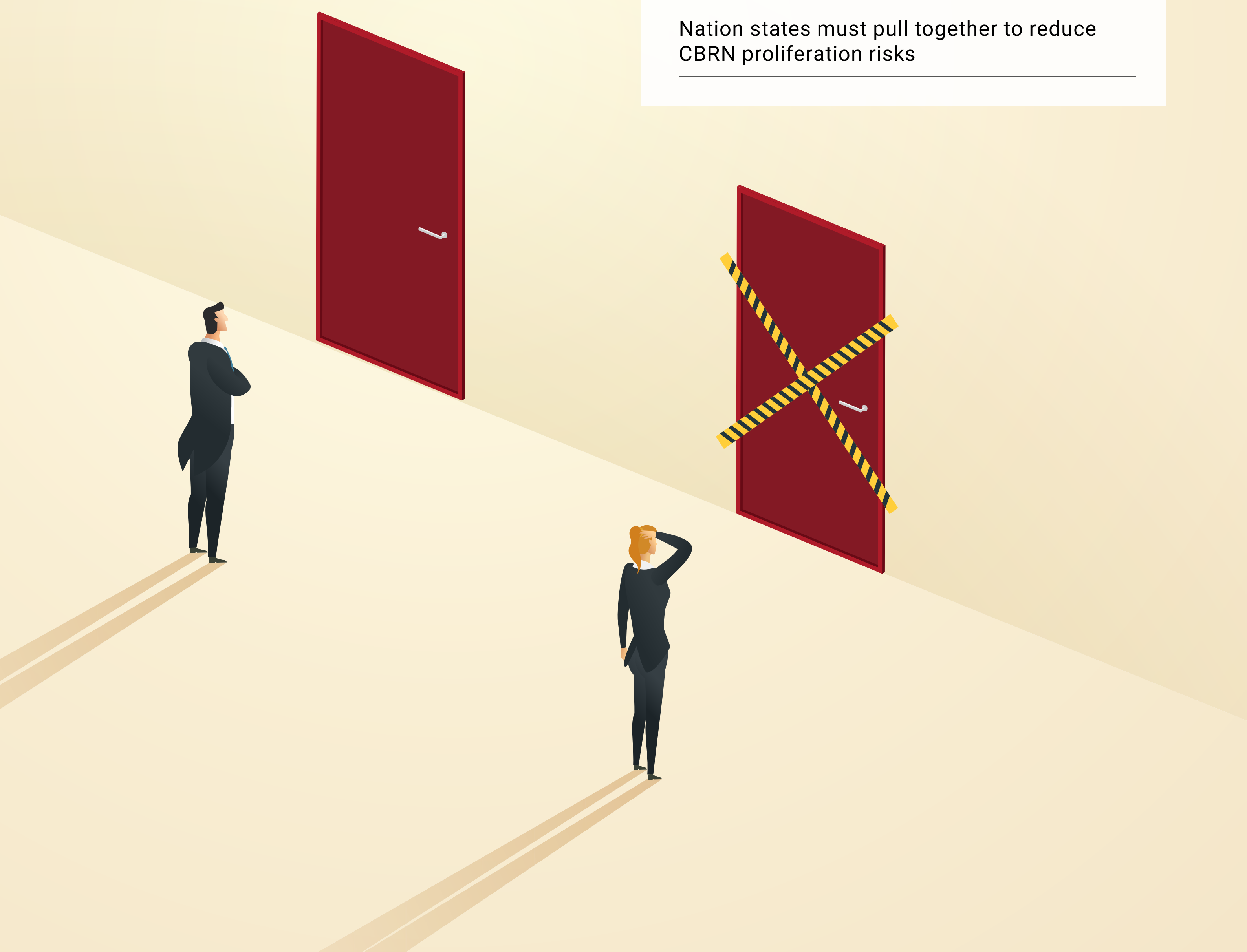

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# Hard Act to follow for Libya?

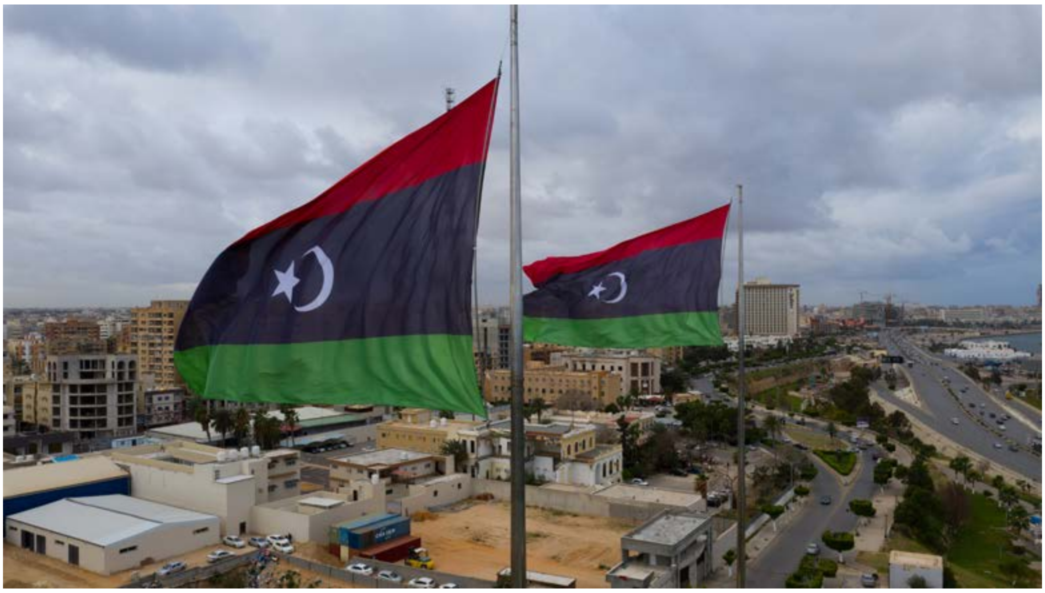
**Presidential elections in December may prove to be a landmark in Libya's turbulent history. Against that backdrop, Noura Abughris looks at the potential of the Libya Stabilization Act to end conflict in the country – and advance US interests.**

With a cast of characters ranging from beloved national actors to alleged war criminals competing, the first round of the Libyan presidential elections on 24 December 2021, is sure to be memorable – assuming it isn't pushed back (again). And it takes place against the backdrop of some potentially significant US legislation.

Historically, Libya's diplomatic relations with the United States have always been controversial. In brief, after the discovery of oil in 1959, Libya transformed into one of Africa's richest countries. This piqued the interest of foreign investors, in particular directors of American oil companies seeking to capitalise on the country's newly discovered oil reserves. A decade and a coup later, Libya decided to nationalise its oil industry and, in the process, annoyed the United States which consequently recalled its ambassador. Later, in 1979, the United States designated Libya a 'state sponsor of terrorism' due to its government's support of a number of left-wing militant groups. The United States then imposed sanctions on Libya that took decades and a lot of money and political negotiations to remove.

Following the Arab Spring, Libya's relationship with the United States was thrust into the spotlight once more, especially after the assassination of the US ambassador in Benghazi on 11 September 2012. Despite this and the civil war that followed, diplomatic relations have not been severed and US diplomats have continued to maintain regular dialogue with the provisional Libyan governments.

The upcoming Libyan presidential elections mark a



new chapter in Libya's future. They are widely supported by the international community, including the United States, as it is believed that the country will slide into more chaos if they do not take place. To assist with paving the way to a more democratic and stable Libya with little foreign intervention ahead of the elections, the United States House of Representative and the United States Senate were introduced to the Libya Stabilization Act in 2019.

### What is the Libya Stabilization Act?

On 28 September 2021, the US House of Representatives passed the Libya Stabilization Act – a bipartisan legislation the intention of which is to 'advance a diplomatic solution to the conflict in Libya and support the people in Libya' through United States sanctions.

If the Act successfully passes through the United States Senate and obtains approval by the president, it will become law and will be enforceable by the United States government.

The Act will grant the president of the United States a range of powers which include imposing sanctions on 'foreign persons threatening the peace or stability of Libya' and 'foreign persons who are responsible for or complicit in gross violations of internationally recognised human rights committed in Libya'.

Further, the Act would authorise the United States Treasury to instruct US executive directors at international financial institutions such as, the International Monetary Fund, 'to develop a framework for the economic recovery of Libya and an improved public sector financial management complementary to the United Nations-led peace efforts'. This will include creating policy proposals that aim to 'Restore, respect and safeguard the integrity, unity and lawful governance of Libya's key economic ministries and institutions in particular the Central Bank of Libya, the Libya Investment Authority, the National Oil Corporation and the Audit Bureau.' In addition, policy proposals that will aim to 'Restore the production, efficient management and development of Libya's oil and gas industries so such industries are resilient against malign foreign influences and can generate prosperity on behalf of the Libyan people.'

### Why is it significant?

At the outset, the Act is being praised for its strong human rights language. If the Act becomes law it will impose a form of accountability on individuals who commit human rights violations or breach the arms embargo in Libya, which the United Nations has not been able to successfully achieve so far.

Further, while the Act utilises human rights-friendly language and a focus on a 'Libyan led process', its role in the advancement of US national interests is clear. One only needs to look at s.303 (b) (9) of the Act, which makes the Act's role in creating and supporting opportunities for United States business in Libya, not just a matter of diplomacy, or foreign policy but law. This exemplifies the importance of diplomatic relations between the United States and Libya.

In many ways the Act enforces mechanisms that are already in place through other legislations such as the US Global Magnitsky Act.[1] Therefore, the assertion by many that the Act is an innovative piece of law, is misguided.

A potentially worrisome aspect of the Act is the further threat of sanctions it imposes on key economic Libyan institutions such as the Central Bank of Libya and the sovereign wealth fund, the Libyan Investment Authority ('the LIA'). Significantly, the LIA has been under UN sanctions since 2011 and it was previously reported that its portfolio could have been worth $4.1 billion more if it had not been under sanctions. Therefore, the imposition of more sanctions could be detrimental to the survival of the wealth fund's portfolio, as sanctions enforce a new layer of bureaucratic checks and balances on it.

Interestingly, the Act specifically refers to nationals of countries that have played an active diplomatic role in Libya such as Russia, Turkey and the United Arab Emirates. The reference to foreign parties suggests that the Act is almost designed to act as a deterrent and punish other states for interfering in the interests of the United States in Libya through secondary sanctions. The threat imposed by the Act to third parties vis-à-vis Libyan affairs can be harmful to a variety of US foreign policy interests, increase anti-American sentiment and draw attention away from the harmful behaviour of some actors in Libya.

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The threat of sanctions on third parties also raises issues about potential compliance with the Act. As previously demonstrated in Cuba and Iran, it is no secret that with time, international compliance with sanctions can diminish as the target country and interested parties find ways to work around the sanctions and adopt ways of living and doing business that make the sanctions bearable.

The Act alone will not be able to protect the United Nation's peace process in Libya. It might help the relevant authorities to hold those who commit human rights violations accountable. If the Act is signed into law, it will no doubt play a key role in furthering American diplomatic and trade interests in Libya, as well as solidifying the United States' position in Libya's next chapter (regardless of who the next president elect will be).

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## LINKS AND NOTES

1 The US Global Magnitsky Act, authorises the president of the United States to impose economic sanctions and deny entry into the United States to any foreign person identified as engaging in human rights abuse or corruption.