



ISSUE BRIEF

KARIM MEZRAN AND MOHAMED ELJARH

The Case for a New Federalism in Libya

DECEMBER 2014

The French intellectual Jean Baudrillard once said, “It is always the same: once you are liberated, you are forced to ask who you are.” In the case of Libya, this question should have been at the center of every political initiative immediately following the collapse of Muammar Qaddafi’s regime. Libya’s new leadership had the opportunity to convene a national dialogue in an effort to explore questions of national identity and a new vision for a national mission. Unfortunately,

TODAY, THE COUNTRY’S LOCAL LEADERS ARE ENGAGED IN THE STRUGGLE FOR POWER AND RESOURCES THAT THREATENS THE VERY EXISTENCE OF THE LIBYAN STATE.

the Libyan elites who emerged from the 2011 civil war did not make national dialogue a priority, opting to appease local forces—armed and political—rather than to undertake the difficult but critical task of nation-building.

Today, the country’s local leaders are engaged in the struggle for power and resources that threatens the very existence of the Libyan state. In the absence of a strong central government that could bolster national unity, the transitional authorities’ actions—or lack thereof—in the immediate aftermath of Qaddafi’s ouster inadvertently empowered local forces and

Rafik Hariri Center for the Middle East

The Rafik Hariri Center for the Middle East at the Atlantic Council studies political transitions and economic conditions in Arab countries and recommends US and European policies to encourage constructive change.

entrenched their interests. As a result, Libya has experienced utter fragmentation, prompting its people to return to their most basic allegiances of family, tribe, and city. Soon after the uprising, some political segments in the eastern provinces advocated a federalist system based on the three historical regions of Libya—Tripolitania in the west, Cyrenaica in the east, and Fezzan in the south. These calls did not take root because they did not reflect realities on the ground; old regional identities no longer have the same strength as they once did. Today, the three regions are much more diverse because of high levels of urbanization over the last forty years.

Although a unitary,¹ decentralized system remains the best choice to realize the post-civil war aspirations of a stable, democratic country, Libya’s heightened and deepened divisions compel a new thinking about political legitimacy and state structure. Instead of insisting on the formation of a strong, central government as the core of a decentralized political system, a more productive approach would be to revisit the concept of federalism. This may be the only way to maintain a semblance of unity that could preserve the Libyan nation, secure its borders, provide basic services to all its citizens, revitalize national infrastructure, and effectively utilize its economic resources (i.e., oil).

¹ Unitary in this context means a strong state with most functions centralized in the capital but with a high degree of decentralization regarding administrative duties.

Karim Mezran is a senior fellow at the Rafik Hariri Center for the Middle East at the Atlantic Council.

Mohamed Eljarh is a nonresident fellow at the Rafik Hariri Center for the Middle East.

The Case for Federalism

Could federalism be the answer to Libya's current challenges? It will not immediately solve the underlying causes of the country's ongoing struggle over power and resources—that is, mistrust in the political process and institutions due to the central authorities' inability or unwillingness to adequately respond to regional and local demands. Eastern Libya's current calls for federalism are founded on fears of marginalization and domination of the political landscape by one political or regional group. These concerns are especially rooted in the uneven population distribution in favor of the western provinces (Tripolitania), as well as the Qaddafi regime's forty-year neglect of the eastern part of the country. It is critical, therefore, that a new governing system in Libya disincentivizes any one group or alliance from attempting to concentrate power in one locale from which it controls the whole country.

A federal governing structure that takes into account issues such as political participation in the country's central institutions, increased economic opportunities for the eastern region, and cultural rights and recognition for the country's ethnic minorities could be a good start to rebuilding confidence between the

**EASTERN LIBYA'S
CURRENT CALLS FOR
FEDERALISM ARE
FOUNDED ON FEARS OF
MARGINALIZATION AND
DOMINATION OF THE
POLITICAL LANDSCAPE
BY ONE POLITICAL OR
REGIONAL GROUP.**

people and the central government and restoring faith in the political process.

For the purposes of this analysis, federalism refers to an arrangement that eases the burden on the central government by shifting authorities and responsibilities to regional and local administrations, thus providing a mechanism for honoring local interests without compromising national unity or the existence of the state.

The authors propose an approach whereby local communities determine the parameters of geographical unity and craft new regions. With the devolution of powers, each one of these regions would enjoy the highest degree of autonomy possible, leaving the central government to administer only matters pertaining to defense, foreign affairs, and the distribution of economic resources. The latter would require strict agreement that the central government would dispense monetary assistance proportionally based on population and geographic size, thereby allowing the local governments to expend funds on the issues over which they have jurisdiction, such as education and local police.

Libya's Experience with Federalism

Libya experimented with a federalist system in 1951. The monarchy was established as a federal entity comprising the three regions of Cyrenaica, Fezzan, and Tripolitania. This endeavor grew out of two competing pressures. First, Great Britain asserted its power by appointing its protégé, Idriss al-Senussi, then emir of Cyrenaica, to the Libyan throne. At the same time, however, western Tripolitarians continued to agitate to fight for a unitary republic. The federalist system seemed an intelligent move at the time, one that would allow the country to be united while distinct local and regional entities maintained some autonomy.

However, by 1959, the system proved bureaucratically cumbersome, economically costly, and politically complicated. Four years later, as soon as Libya obtained enough revenues from oil sales to wean itself off foreign aid, authorities abandoned federalism and tightened central control. Qaddafi took centralization to an extreme. Abolishing any form of effective local government, the regime centralized every kind of decision in Tripoli—from the political to the administrative to the fiscal. In his attempt to bolster transnational identities,² Qaddafi paid little attention to local needs and realities except for when it served his divide and rule approach to consolidating his grip on power.

Present-Day Libya

Given this disastrous and destructive experience with centralization, and a history of Tripoli neglecting the eastern provinces, it is not surprising that after the fall of the Qaddafi regime, some elites from the east called for a return to a federalist model. They asserted

² Qaddafi first emphasized pan-Arabism, then pan-Islamism, and lastly pan-Africanism as the driving ideologies of his regime.

that such a model would allow for a more equitable distribution of resources and ensure development of the eastern provinces, where most resources lie. Despite genuine grievances, the calls to revive the old three-region model are misguided, as developments in the last few years demonstrate that even the eastern province of Cyrenaica is highly divided. Instead, today's situation calls for the adoption of an alternative federal model based on different geographical, cultural, and regional dynamics.

Present-day Libya comprises many different local realities trying to exist and prosper within a highly anarchical context. In this patchwork landscape, it is difficult to make the case for national allegiances, considering that some divisions are ideological (as in the case of Islamists versus secularists) while others are local (Zintan versus Misrata).

These multifaceted fractures are manifesting themselves in political and armed struggles that undermine stability and rule of law throughout the country. Libya has an internationally recognized parliament, the House of Representatives, which was elected on June 25, 2014, with only 20 percent of the populace casting ballots due to boycotts by some minorities, apathy among youth, and general insecurity in large swathes of the country. The parliament meets in the far eastern city of Tobruk and cannot convene in its constitutional seat of Benghazi, where battles are raging between the so-called national army and Islamist militias, nor in the capital Tripoli, which is controlled by an alliance of Misratan and Islamist militias. Similarly, the government led by caretaker Prime Minister Abdullah al-Thinni meets in the city of Bayda but does not control any other part of the country. Meanwhile, Misratan militias that seized control of much of Tripolitania revived the former parliament, the General National Congress, and propped up a rival government in the capital. In the mountains immediately south of the capital, the Zintani militias confront their Berber neighbors and other rival militias. Between Tobruk and Bayda lies Derna, where extremists declared an Islamic emirate. Farther west, around the city of Ajdabiya, rogue militias supporting former revolutionary commander Ibrahim Jadhran control most of the oil facilities. In the south, where tribal allegiances dominate, single tribes control other important oil installations. The far south of the country is practically lost to any central authority and is dominated by quarreling Tuareg, Tebu, and Arab tribes.

Evolution of the Eastern Federalist Movement

Libya's federalist movement has alternated between

violent and nonviolent phases. On March 6, 2012, the Cyrenaica Transitional Council (CTC) united thousands of tribal, military, and political figures, who gathered in Benghazi to demand the establishment of a federal governing structure in Libya based on the country's 1951 constitution, under which Libya was divided

THE PARLIAMENT MEETS
IN THE FAR EASTERN
CITY OF TOBRUK AND
CANNOT CONVENE IN ITS
CONSTITUTIONAL SEAT
OF BENGHAZI, WHERE
BATTLES ARE RAGING
BETWEEN THE SO-CALLED
NATIONAL ARMY AND
ISLAMIST MILITIAS.

into the three historical, federal states. In August 2013, Jadhran laid siege to Libya's main oil terminals, attempting to impose by force the movement's vision for a federal governing structure. Though his supporters continue to control key oil installations, his efforts ultimately failed to advance the federalist agenda.

Since their official declaration in March 2012, the federalists faced both political and physical attacks. The then-ruling National Transitional Council (NTC) and its chairman Mustafa Abduljalil, who relocated to Tripoli immediately after the capture and killing of Qaddafi, accused the federalists of wanting to divide the country. On the streets of Benghazi, armed anti-federalist men fired on protesters at pro-federalism rallies on multiple occasions. In response, the federalists boycotted the political process in the country and unilaterally withdrew their recognition of the country's central government. The CTC did not resort to violence as it sought to realize its goals, even though some federalist hardliners within its ranks issued threats that they would. The central Libyan authorities, however, failed to engage the federalists constructively or offer any guarantees for an inclusive political process and equitable distribution of Libya's wealth. The trust deficit increased as Islamist factions—through undemocratic tactics and the use

of militias—overpowered and influenced the political process. A particularly illustrative episode occurred in the spring of 2013 when they seized government buildings, culminating in the forced passage of the controversial political isolation law. This and subsequent incidents demonstrate that a weak central government is opening up the space for peripheral armed groups to fill the power vacuum.

A year after the federalist movement established its presence, Jadhnan, the leader of the Petroleum Facilities Guards³ in the central region (from Ajdabyia in the east to Sirte in the west), announced the formation of the Cyrenaica Political Bureau, followed shortly by the announcement of a regional government for Cyrenaica. Jadhnan rejected the CTC's peaceful approach, deciding instead to blockade Libya's main oil terminals and infrastructure and try to sell oil illegally. His actions

IN AUGUST 2013, JADHRAN LAID SIEGE TO LIBYA'S MAIN OIL TERMINALS, ATTEMPTING TO IMPOSE BY FORCE THE MOVEMENT'S VISION FOR A FEDERAL GOVERNING STRUCTURE.

drained the central government's coffers and sent oil prices soaring. US Navy Seals ultimately intervened in March 2014 to prevent an illicit oil transaction, an incident that triggered a UN Security Council resolution against the illegal sale and purchase of Libyan oil. With this move, the international community sent a clear message to the federalists that such unilateral moves would not be tolerated. A few weeks later, the central government announced an agreement with the armed federalists to end the oil blockade.

The failure of the armed option encouraged the movement to shift tactics toward formal participation in the parliamentary elections that took place on June

3 The Petroleum Facilities Guard is a de facto militia that was paid by the Libyan government to protect the eastern oil fields. Since the spring of 2013, it decided to take control of the oil fields directly and began operating autonomously.

25, 2014. Federalists made significant gains, winning almost half of the sixty seats allocated for Cyrenaica. In this new phase, federalists within the House of Representatives are seeking to rectify the movement's reputation as a secessionist or semi-secessionist one, and to present a more nationalist image.

Federalism as a Possible Solution for the Contemporary Crisis

A federalist governing structure in Libya based on a decentralized executive branch and centralized legislative branch with limited legislative powers devolved to local and regional municipalities could prove an effective governance choice for post-revolution Libya. The devolved legislative powers would include budget planning, taxes, and local planning and development, along with responsibility for parks and recreational services, police and housing services, primary health and emergency medical services, management of municipal courts, public transportation services, and public works. A degree of self-governance would provide institutional solutions that allow the competing factions and local communities to realize their aspirations for ownership over their respective local issues while simultaneously preserving the overall social and territorial integrity of the nation.

To support a federalist structure, successful nationwide institution-building must be driven by a web of relationships between the state and local communities. The process must be simultaneously bottom-up and top-down. Paradoxically, for the central government to bolster its legitimacy and credibility, it needs to devolve powers and functions to effective local government institutions. This way, subnational institutions, which are better positioned to respond to the expectations and aspirations of the Libyan people, would demonstrate that the government is capable of providing goods and services to the citizenry, thereby gaining their confidence. It would essentially be a system of mutual reinforcement between the levels of government that would result in the legitimacy of an overall institutional framework.

The Case for Federalism

Libya is struggling with an unhealthy relationship between a center weakened by regional and political rivalries and peripheral areas that gained strength from the experience of the revolution. How could a federal system help address the current crisis in Libya?

- It offers real democratic choice to the voters on the

regional-local level within Libya, thus providing opportunities of equal political participation and ownership over local issues.

- Federally and constitutionally decentralized systems are more flexible than centralized ones and thus more malleable to effective constitutional engineering. That is, they provide decision-makers more opportunities to find efficient and practical solutions to the various problems that emerge in fragmented societies like that of Libya today.
- It mandates clearly defined areas of oversight and jurisdiction exclusively to local governments.
- It creates a system that allows local public policy choices in each region to be made autonomously by those elected in that jurisdiction. Thus, local problems are resolved locally, while risks of national sovereignty and security are shared.
- It helps to eradicate the threat of partition.

Although all of these benefits could also be obtained in a strongly decentralized but still unitary system, such a framework gives the central government the authority to determine which powers to devolve to local administrations. In a federalist system, however, the locus of authority is in the regional entity, which decides in agreement with the others which powers are to be given to the central government and which it will keep. In Libya, where national allegiances are breaking down and new regional identities and demands are emerging, a federalist framework would be more appropriate.

Challenges

Federalism is meeting the fiercest resistance in the west, where the people long feared that the movement provides a cover-up for what they perceive to be the federalists' real agenda: to secede and take control of most of the east's oil resources. For this reason, the western Libyan population favors a strong central government that manages the country's resources. Due to this view of the federalist movement as secessionist or semi-secessionist, lingering misperceptions permeate the federalism debate. Political and physical clashes targeting federalists have hindered a healthy discourse, giving those within the federalist camp who are inclined to take up arms a pretext for their actions. Jadhran's occupation of the oil fields is a case in point, and has merely reinforced the western population's suspicions about the federalists' objective to break away.

Another factor that explains why such suspicions

persist is that the federalists are divided among themselves, undermining their own efforts to communicate their political aims. Supporters of federalism disagree over several issues, including the extent to which powers should be devolved and the geographical makeup of the regions over which local governments would have jurisdiction. Further exacerbating the lack of cohesion are tribal and communal rivalries, which have prevented the formation of a representative and determined leadership with a coherent strategy on how best to proceed with the federalist agenda within a wider nationalist framework.

PARADOXICALLY, FOR THE CENTRAL GOVERNMENT TO BOLSTER ITS LEGITIMACY AND CREDIBILITY, IT NEEDS TO DEVOLVE POWERS AND FUNCTIONS TO EFFECTIVE LOCAL GOVERNMENT INSTITUTIONS

Recommendations

Given the current polarization between the various factions, it may be difficult to imagine how a federalist system could be realized in Libya. However, steps taken toward federalism would serve as necessary confidence-building measures that could help to create an environment more conducive to negotiations to resolve the political crisis. For example, the United Nations could propose a roadmap that culminates in a federal system that addresses most grievances and demands throughout the country. The elements of that roadmap would include the formation of a national unity government that would carry out a basic program to establish minimum security in the country, persuade the militias to withdraw from the major embattled cities and resource installations, and enable the Constituent Assembly to carry out its work.

The constitution-drafting process underway in Libya provides a potentially effective vehicle for institutionalizing a practical solution to the country's current crisis. Unfortunately, when the Constituent

Assembly conducted an online public opinion survey to gauge citizens' preferred governance structure for Libya, it did not list federalism as one of the options. Constituent Assembly members later clarified this as a mistake. This omission caused an uproar among the federalist movement in Libya, with some armed federalists questioning the validity of the assembly's work.

Libya's political leaders, especially those within the Constituent Assembly, are in the best position to shape a healthy, constructive debate about federalism. To succeed, the platforms they provide must be accompanied by a consultative process so that the discourse is extended beyond just the elites. This means creating channels for a sustained national dialogue initiative whereby grassroots communities can vocalize their thoughts, concerns, and suggestions. The recommendations below seek to address the gaps that might hinder the country from achieving a federalist system, which could create a conducive environment for peacebuilding and reconciliation in post-conflict Libya.

For the Constituent Assembly:

- The Constituent Assembly should practice transparency and initiate a more consultative approach in order for the debate on Libya's political system to be productive. Since other national dialogue efforts either failed or stalled, the body should launch a new initiative to hear from local communities on the choice of which political system would be most effective in addressing Libya's unique challenges. This would serve to demonstrate transparency and inclusiveness and garner buy-in from the wider population.
- The Constituent Assembly should explore the option of federalism or constitutional decentralization as a potential conflict resolution tool. As the body in charge of drafting the constitution, the assembly possesses a national platform with the responsibility to convene different voices on how federalism might work to address underlying regional and tribal grievances over political inclusiveness and access to resources.
- Once a system of governance is determined, the assembly must clearly define the separation of powers between the central and local levels. Regardless of the political system, the constitution should, to some extent, give communities a sense of local ownership over local affairs as a mechanism for checks and balances vis-à-vis the central government. At the very least, the provisions should aim to minimize prospects for a return to dictatorship or authoritarianism.
- In an effort to address power sharing in a country of many inequities and imbalances, the assembly should consider institutionalizing the direct election of a bicameral parliament, which will address representation by population and geography.
- The new reality in Libya, with the emergence of strong peripheries struggling for power and resources, necessitates power sharing at the center. Therefore, the institutional outcome should be a sovereign consociation. For such an arrangement to be successful, it is crucial for the Assembly to draw the internal geographical borders of provinces in the draft constitution before putting it up for referendum.

For Libya's Leadership and Their International Partners:

The constitution would provide the legal framework for establishing federalism. It will be up to Libya's broader elected leadership and the international community to institutionalize its practice:

THE UNITED NATIONS
COULD PROPOSE
A ROADMAP THAT
CULMINATES IN A
FEDERAL SYSTEM THAT
ADDRESSES MOST
GRIEVANCES AND
DEMANDS THROUGHOUT
THE COUNTRY.

- Once the constitution is written, it is important to launch a civic responsibility initiative to inculcate a culture of addressing governance issues within the framework of the law of the land. As part of a continued outreach and educational awareness campaign, Libya's leadership, with support from the international community, should prioritize and provide training about the provinces' freedoms to self-govern in particular matters and the legal

and administrative mechanisms available to each province in governing local affairs.

- The international community should provide Libya with technical experts and lessons learned from other post-conflict states that have institutionalized devolution of governing powers. The projects should prioritize enhancing clear and effective communication between various levels of government and building the capacity of the central and local governments to fulfill their areas of responsibility.

In the short term, making federalism the winning prize for warring forces harboring deep-seated grievances could bolster negotiations to peacefully resolve the struggles that threaten Libya's dissolution. In the longer term, robust, comprehensive, and coordinated efforts to institutionalize federalism in an effective, transparent manner could turn Libya into a unified, stable country where diversity is respected and embraced.

Atlantic Council Board of Directors

CHAIRMAN

*Jon M. Huntsman, Jr.

CHAIRMAN, INTERNATIONAL ADVISORY BOARD

Brent Scowcroft

PRESIDENT AND CEO

*Frederick Kempe

VICE CHAIRS

*Robert J. Abernethy

*Richard Edelman

*C. Boyden Gray

*Richard L. Lawson

*Virginia A. Mulberger

*W. DeVier Pierson

*John Studzinski

TREASURER

*Brian C. McK. Henderson

SECRETARY

*Walter B. Slocombe

DIRECTORS

Stephane Abrial

Odeh Aburdene

Peter Ackerman

Timothy D. Adams

John Allen

Michael Ansari

Richard L. Armitage

*Adrienne Arsht

David D. Aufhauser

Elizabeth F. Bagley

Sheila Bair

*Rafic Bizri

*Thomas L. Blair

Francis Bouchard

Myron Brilliant

*R. Nicholas Burns

*Richard R. Burt

Michael Calvey

Ashton B. Carter

James E. Cartwright

John E. Chapoton

Ahmed Charai

Sandra Charles

George Chopivsky

Wesley K. Clark

David W. Craig

Tom Craren

*Ralph D. Crosby, Jr.

Nelson Cunningham

Ivo H. Daalder

Gregory R. Dahlberg

*Paula J. Dobriansky

Christopher J. Dodd

Conrado Dornier

Patrick J. Durkin

Thomas J. Edelman

Thomas J. Egan, Jr.

*Stuart E. Eizenstat

Thomas R. Eldridge

Julie Finley

Lawrence P. Fisher, II

Alan H. Fleischmann

Michèle Flournoy

*Ronald M. Freeman

Laurie Fulton

*Robert S. Gelbard

*Sherri W. Goodman

*Stephen J. Hadley

Mikael Hagström

Ian Hague

John D. Harris II

Frank Haun

Michael V. Hayden

Annette Heuser

Jonas Hjelm

Karl Hopkins

Robert Hormats

*Mary L. Howell

Robert E. Hunter

Wolfgang Ischinger

Reuben Jeffery, III

Robert Jeffrey

*James L. Jones, Jr.

George A. Joulwan

Lawrence S. Kanarek

Stephen R. Kappes

Maria Pica Karp

Francis J. Kelly, Jr.

Zalmay M. Khalilzad

Robert M. Kimmitt

Henry A. Kissinger

Peter Kovarcik

Franklin D. Kramer

Philip Lader

*Jan M. Lodai

*George Lund

Jane Holl Lute

William J. Lynn

*John D. Macomber

Izzat Majeed

Wendy W. Makins

Mian M. Mansha

William E. Mayer

Allan McArtor

Eric D.K. Melby

Franklin C. Miller

James N. Miller

*Judith A. Miller

*Alexander V. Mirtchev

Obie L. Moore

*George E. Moose

Georgette Mosbacher

Thomas R. Nides

Franco Nuschese

Joseph S. Nye

Sean O'Keefe

Hilda Ochoa-Brillembourg

Ahmet Oren

*Ana Palacio

Thomas R. Pickering

Daniel M. Price

*Andrew Prozes

Arnold L. Punaro

*Kirk A. Radke

Teresa M. Ressel

Jeffrey A. Rosen

Charles O. Rossotti

Stanley O. Roth

Robert Rowland

Harry Sachinis

William O. Schmieder

John P. Schmitz

Brent Scowcroft

Alan J. Spence

James Stavridis

Richard J.A. Steele

*Paula Stern

Robert J. Stevens

John S. Tanner

Peter J. Tanous

*Ellen O. Tauscher

Karen Tramontano

Clyde C. Tuggle

Paul Twomey

Melanne Verveer

Enzo Viscusi

Charles F. Wald

Jay Walker

Michael F. Walsh

Mark R. Warner

John C. Whitehead

David A. Wilson

Maciej Witucki

Mary C. Yates

Dov. S. Zakheim

HONORARY DIRECTORS

David C. Acheson

Madeleine K. Albright

James A. Baker, III

Harold Brown

Frank C. Carlucci, III

Robert M. Gates

Michael G. Mullen

Leon E. Panetta

William J. Perry

Colin L. Powell

Condoleeza Rice

Edward L. Rowny

George P. Schultz

John W. Warner

William H. Webster

HARIRI CENTER ADVISORY COUNCIL

^Bahaa Hariri

Hanan Ashrawi

^Shaukat Aziz

^Richard Edelman

^Ray R. Irani

Wolfgang Ischinger

Hisham Kassem

Fredrick Kempe

^Alexander Kwasniewski

Javier Solana

James D. Wolfensohn

*Executive Committee Members

^International Advisory Board
Members

List as of September 11, 2014

The Atlantic Council is a nonpartisan organization that promotes constructive US leadership and engagement in international affairs based on the central role of the Atlantic community in meeting today's global challenges.

© 2014 The Atlantic Council of the United States. All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any means without permission in writing from the Atlantic Council, except in the case of brief quotations in news articles, critical articles, or reviews. Please direct inquiries to:

1030 15th Street, NW, 12th Floor, Washington, DC 20005
(202) 463-7226, AtlanticCouncil.org