



المنظمة الليبية للسياسات و الإستراتيجيات
Libyan Organization Of Policies & Strategies

The Libyan Constitution Drafting Assembly (CDA)

Path, Outcomes and Comments



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Introduction

The Libyan Constitution Drafting Assembly (CDA)¹ has launched its work in the city of El beida, 1200 km to the east of Tripoli, on Monday, 21 April 2014. The opening session took place with the absence of 13 out of 60 members of the Assembly. The High Electoral Commission couldn't complete the election of the members due to protests and security conditions.

The CDA has elected its President; Ali Tarhouni was chosen as the president of the Assembly by a majority of member votes. In addition, Jilani Abdul Salam Rhouma was selected as the Deputy Chairman and Ramadan al-Twaijer as the Assembly reporter.

In subsequent meetings, the Assembly agreed to form a committee in order to set up the Rules of Procedure of the Assembly. The Committee has completed the Rules of Procedure of the Assembly, which consist of 100 articles which illustrate all the measures, starting from the opening session until its conclusion, the attendance quorum, the necessary quorum for decision-making, the agenda, deliberations and decision-making, etc. Furthermore, the CDA has divided its members into eight committees; each is tasked with forming a specific section of the Constitution, on the condition that the whole Assembly meets to discuss each side for adoption.

Some other procedural issues were settled, such as modifying the regulations about the method for voting on the constitutional provisions and the appropriate actions that should be taken due to absences from the plenary sessions. A Proposals Drafting Committee of the Specialized Committees was elected, to be deliberated in the plenary meetings of the CDA. Furthermore, a committee was formed to coordinate and follow up on citizens' opinions regarding the

¹ The Libyan Organization Of Policies & Strategies provides its first detailed report on the Libyan Constitution Drafting Assembly by monitoring the course of the latter's work, starting from its launch in April 2014 to the first draft issued by the Working Committee. Given that the second draft of the Constitution was released in conjunction with the organization's completion of this detailed report on the outcomes of the Assembly and commentary on the draft, the research team believed this special section about the general evaluation of the Libyan Constitution Drafting Assembly's performance should be released first. Meanwhile, a follow-up as well as an evaluation of the second draft and the Assembly's performance (until the conclusion of its mandate) is being conducted by the research team.

proposals of the Ad Hoc committees and which are displayed on the Assembly's website. This Coordination Committee is composed of the CDA's President and representatives of the committees. It is also tasked with reviewing the initial form of the draft constitution with a view to preparing the final draft, as it functions with the participation of the representatives of the Ad Hoc committees to communicate with their constituencies through all available means of communication.

The CDA President announced in a press release on 23 March, 2014 what the Assembly had accomplished, as internal regulations for the work of the Assembly, the minutes of its activities, and the Constitutional roadmap which determined the sources, references and advice used for drafting the constitution were approved. In addition, the chapters and sections of the Constitution were defined and the Ad Hoc Committees for drafting the Constitution were approved.

Formation of a Committee for Agreement among Cultural Minority Groups

The CDA has composed a committee for the agreement of ethnic minorities under Resolution No. 6 of the year 2014, which was approved by the CDA on December 2014. The proposed committee, in its first meeting, has agreed on many items and topics which explain the concept of public consensus and a mechanism for its application among all the minorities, in addition to some other issues and matters which

require true consensus through dialogue and negotiation. It has also adopted a work plan as well as the implementation method for the tasks entrusted to it. Dr. Itimad Al-maslati was elected as the president of this committee and Senoussi Wahli as its reporter.

The Preliminary Proposals of the Ad Hoc Committees for Public Deliberation and Debate

The CDA has announced the presentation of its Ad Hoc Committees' initial perceptions and proposals to the people "to receive feedback and criticism about them, after which each committee shall re-evaluate its work before forwarding it to the Assembly for discussion in public meetings" in December 2014.

The proposals and perceptions of the Ad Hoc Committees represents the country, its fundamental components, system of government, judicial authority, independent statutory authority, army, police, rights and freedoms, transitional measures, local governance, financial system and natural resources.

It is worth mentioning that the proposals and perceptions of the Ad Hoc Committees which have been published on the Assembly's website have not been debated by the CDA despite the request of Abdel Qader Qaddoura, one of the Assembly's members, that they be discussed before being presented. Instead, the proposal was rejected for expediency's sake. This is how the proposals were put forward in the form of a preliminary

draft that does not reflect the opinion of the CDA. Hence, the latter called upon Libyan elites and civil society institutions to debate and scrutinize the proposals so that the Coordination Committee, which consists of the Assembly's Presidency and representatives of the Committees, should review the initial form of the draft constitution with the aim of producing the final draft.

The Division of the Drafting Assembly into Regional Working Groups

On April 2015, the CDA issued a resolution that stipulates the necessity of considering the Ad Hoc Committee proposals for every article of the Constitution according to the three electoral regions: Tripoli, Cyrenaica and Fezzan. Every region is required to provide its view on all the articles of the constitution, and thus offers three views to the Assembly representing the three regions, rather than having 56 opinions. This decision was voted on by 21 members, which was described as a simple majority, according to the Rules of Procedure of the CDA.

This decision was not approved by a number of members of the CDA. They indicated that the formation of regional committees to discuss constitutional issues separately so as to come up with suggestions and alternatives of what has been proposed by the Ad Hoc Committees should be subject to the provisions of Article 39 of the Rules of Procedure. This article necessitates the formation of committees with the approval of two-thirds plus one. This

clearly means that the establishment of these specific and objective committees which have the task of discussing constitutional issues and bringing about consensus is an obvious violation of the aforementioned article, as it was created by a simple majority of the 21 members who attended.

The group has supported its rejection of the decision in an explanatory note sent to the president of the CDA on April 27, 2015 which included several other reasons. One of the main reasons was that the CDA was elected to prepare a draft constitution for all Libyans without distinction between their places of residence or opinions. They have also insisted on the fact that the operational mechanism which is appropriate for this purpose is not to distinguish and differentiate Libyans on a regional basis.

The Constitution Drafting Assembly President did not take into consideration either the members' justification of their refusal to divide the committee into three groups or the violation of its Rules of Procedures in the formation or integration of Ad Hoc Committees. It has also not taken into consideration their call to adhere to the agreed-upon mechanism; thus, the level of tension within CDA has increased. This forced a number of members to issue another statement on 11st of May, 2015 in addition to the first statement, in which they renewed their refusal of the operational mechanism of the CDA, accusing its president of procrastination and charging the CDA Presidency with "full responsibility for what is to come if it continues in its intransigence to fail

to respond to the legitimate demands to "reject" the operating mechanism in which the CDA is divided into three regional district committees: Tripoli, Cyrenaica and Fezzan.»

On Monday, 18th of May 2015, members of the CDA voted to annul the resolution for dividing the Authority's committees on a regional basis. 32 members voted in favour, while 2 voted against, and seven members remained neutral. 42 members were present. Based on this, new names were adopted for the committees and were divided into three groups: the first group, the second group, and the third group, in place of a group for each of Tripoli, Cyrenaica and Fezzan, as had been done in the past. Also, the three groups were reintegrated so that each was made up of members from all regions rather than from one.

The Election of the Working Committee (drafting)

The purpose of forming a working committee was to make decisions on many controversial issues and to speed up the completion of the constitutional drafting process. During the meeting of 51 members of the CDA in April 2015, a new debate mechanism was discussed. However, the members continued debating in a workshop that lasted for 32 days, while the allotted time, according to the workshop proposal, was three days. The CDA has unanimously agreed upon the necessity of changing the mechanism of debate and deliberation. Consequently, a new path of dialogue over the outcomes of the committees has been created, and

thus the idea of establishing a sub-committee of the Committee on Territories which represents the three regions has emerged on the condition that they are open to any member wishing to join one of them.

On the 23th of June 2015, the CDA held a meeting in which the decision was made to form a Working Committee which represents all the constituencies. The committee was elected, consisting of 12 members, with four members from each region (Cyrenaica, Tripoli and Fezzan). The mission of this Committee has been to formulate the outputs of the committees and proposals, and to coordinate the conflicting ideas submitted by the Ad Hoc Committees of the CDA in the form of an integrated draft that includes the preamble and twelve articles within a period that does not exceed 30 days.

In August 2015, the Working Committee adopted its rules of procedure and methodology for operations within the Committee. It has also prepared a schedule for the articles of the Constitution regarding discussion and formulation. In addition, a decision-making mechanism based on voting by two-thirds of the Working Committee plus one (9 votes out of 12) has been adopted.

It is worth mentioning that the CDA suggested that both the Tuareg and Toubou be represented by one representative in each component in the Working Committee, but they refused to do so. Instead, they suggested that they be permanent oversight members

of the Working Committee; however, the Assembly rejected the proposal.

The Formation of a Committee to Communicate with the Parties Boycotting the Constitution

The Amazigh party has boycotted the CDA since the early stages of its formation, and the Toubou and Tuareg joined the boycott in August 2015. This act has forced the CDA in September 2015 to develop a Committee to communicate with the boycotting parties (Toubou, Tuareg and Amazigh), according to Resolution number 21 of the year 2015. The duties of the Committees were determined: to determine regulations concerning the parties and the compatibility of constitutional drafts with these regulations, and to build communication bridges to restore confidence between the parties. This Commission must work within the framework of the identified tasks, and consists of three members based on the geographical regions so as to communicate with the parties boycotting the constitution.

The Toubou party refused to dialogue with the Communication Commission, and on the 7th of September 2015 took to the streets in angry protests in Murzuq, Sabha, Ubari, and Kufra against the CDA. They described the CDA's position on the ethnic parties as "exclusionary and discriminatory against minorities." They also indicated that the CDA did not respect the principle of compatibility that is defined in the interim constitutional declaration. Moreover, they declared

their complete rejection of the constitution as well as their adherence to their legitimate rights as stipulated by international conventions.

Concerning the Tuareg, the Communication Committee, on the 10th of December 2015, managed to reach considerable consensus with them. In the content of the agreement between the Tuareg and the CDA were several points, including that Arabic, Amazigh, Tuareg and Toubou are to be considered national languages, because they are a shared treasure as well as a historical and cultural legacy for all Libyans. They also agreed that Arabic shall be the official language of the country. The agreement confirmed that the country shall seek to standardize the Tuareg language in its regions according to criteria, stages and mechanisms to be determined by law. Furthermore, the country shall work to protect national languages and provide the necessary means so that they are taught, used, and shall seek to integrate them into the domains of public life.

The agreement stipulated that the government shall work to provide the necessary means to teach, use and develop the Braille language for the blind and sign language for the deaf and mute. Through the Status Law, conditions in which it would be permissible to use a foreign language in official situations will be determined.

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mute. Through the Status Law, conditions in which it would be permissible to use a foreign language in official situations will be determined.

Concerning the Amazigh party, Committee reporter Monim El-Fakhri denied the CDA president's announcement that his office is communicating with the Amazigh. Mr. El-Fakhri added that there are legal committees that have been formed of Amazigh people, and that correspondence has been sent to the CDA and appeals have been sent from the Amazigh to the CDA, but the CDA has not paid attention to the correspondence for unknown reasons.

The Working Committee Finishes its Work

The Working Committee has forwarded the first draft of the constitution to the President of the CDA on 6th of October, 2015. This draft included two hundred and ten (210) Articles which were formulated by consensus. Regarding Article 2, related to the capital city, no agreement has been reached. As for the preamble, there was an agreement to include the following elements:

Regarding its form, it must be concise, focused and finely-formulated.

In terms of content, it should include the following points:

Identity in its different dimensions: religious, cultural, linguistic and geographical (including location), with reference to a brief historical account stating the three historical regions.

Ensures the need to direct the text to all Libyans, without exception

Ensures that the preamble includes a verse from the Quran and a saying of the prophet (e.g. a part of His farewell speech, PBUH)

Due to the unresolved issues in the draft submitted by the Working Committee, the CDA on 9th of October 2015 addressed ways to find solutions to the complications in some special matters, starting with the issue of the capital city. A small Committee was formed of three members from the three electoral areas, namely: Dr. Saad Ataleb from Cyrenaica, the eastern region, Dr. Hadi bohama from Tripoli, the western region, and Dr. Gaddafi Abredh from Fezzan, the southern region. The reason behind creating this committee was to find a compromise text to be included in the draft agreed upon by the Working Committee. The CDA decided that the Working Committee should start working on its tasks on the 27th of December 2015, with the condition that an opportunity would be given to the members of the CDA to communicate with the Committee and give their comments on the outputs. The decision was approved by 16 members, who voted in favour of the proposal submitted by some members so that the CDA should begin functioning on the 27th of December 2015. A number of proposals were suggested and voted on during the 64th session, among which was the formation of a committee made up of the elderly over 60 years old who would resolve controversial issues alongside the Working Committee. The Action Committee was to work for 10

days as determined by the CDA in order to revise the Working Committee's draft by re-drafting the observations on the outcome presented by CDA members. They were also to try to find solutions to some of the contentious issues in the Commission's draft, including determination of the capital city, the headquarters of government institutions, the rights of the ethnic parties, and drafting a newly-revised second draft.

Disagreements that Frustrated the Working Committee and Disturbed its Outcomes

Some members have objected to the proposal submitted by the Working Committee to CDA on the 6th of October 2015 under the pretext that the proposal requires a great deal of work in order to become a draft which might be debated in the CDA, given the large number of consistency and technical flaws. The objection was founded on the fact that the draft is "one package," and that the agreement should not be made based on one article without another, but rather on the entire Constitution. Voting could not be carried out on the articles present. This was due to several reasons, most importantly that the draft is one package and that if an article is not accepted it could be addressed in another article. The Cyrenaica members in the Working Committee refused to sign this proposal.

On 18th January 2016, CDA member Abdel Basset Al - naas from Zawiya and Salim Kashlaf from Tripolitania resigned from the Working Committee,

as they considered the CDA's method of work to be based on predominance rather than consensus, which it followed after some members required it to be the basis of the committee's work, before moving to voting in response to the same persons' request after they realized that it serves their purposes. Mr. Kashlaf believed that the Commission had become subject to the will of certain members, particularly due to the continuous threats and hints of division, partition and adoption of a federal option as an alternative formula.

Kashlaf pointed out that the concept of citizenship was not a foundation for writing the constitution, and that there is inequality among Libyans, especially with regard to political rights and representation in the legislative assemblies. This was clearly evident in the proposed formula to the second chamber (the Senate), in addition to the glaring disparities in political representation rights among what the draft named "historical territories."

Rania Sayd from Birak stressed her objection to the way the CDA is carrying out its work. She placed a large part of the blame on the CDA because it was not highly successful in drafting a timetable or setting a clear road map which facilitates the forming of the draft agreement on the articles of the Constitution.

Sayd and others have condemned the refusal of some members to determine the form and system of government and to then submit it to a referendum before proceeding with the rest of the articles of the Constitution. This is because it is

considered the most important part. They considered avoiding deliberation regarding the form and system of government to be a fatal mistake committed by the CDA which has led to uncertainty and the inability to prepare a draft.

Most Prominent Criticisms of the Working Committee

- The Committee moved too quickly and produced a deficient draft which did not address a crucial issue, that is, the capital city. The Committee should have addressed all the texts or refused to rush and issue such a draft.
- The Working Committee should have from the beginning refused to work within the limited period of 30 days due to the difficulty of drafting a whole constitution in such a period of time, especially given the differing views and their complexity.
- The formation of a Working Committee was not logical but rather regional. Instead, the Committee was divided out to members of regions which were not yet provided for by the constitution. Such Committees require expertise and efficiency that go beyond a geographical distribution.
- The Working Committee ignored the outcomes of the Ad Hoc Committees in many important and sensitive issues, which the Committee should have first taken consideration, given the serious efforts that had been put in them for months. Thus, the Working Committee did not produce provisions that could be agreed upon by the CDA and did not provide proposals for the controversial issues to the CDA as a whole.
- The Working Committee did not present the outcomes to the members of

the Commission on a regular basis so that they could discuss them and gain time. Instead, the Commission's working method was based on secrecy, privacy and hiding agreements until the last day of work, as if it were the new Constitutional Drafting Assembly.

- The Working Committee focused on secondary and detailed issues in a way that complicated the future Constitution regarding the possibility of amendment. Constitutions are supposed to contain general provisions and to leave details and particulars to the laws and regulations.

- The Committee adopted the principle of majority rule rather than consensus on controversial issues.

The Failures of the CDA's President and Correcting the Committee's Path

A number of members have issued a statement in which they considered the President of the Commission responsible for its failure to complete a draft constitution. They have accused him of unilaterality in managing the Committee and of a lack of transparency in the management of the financial and technical domains. Dr. Mohammed Balrwin, a member representing Misrata, who suspended his membership in protest against the performance of the President of the CDA, said that "the President of the Commission has committed more than 22 breaches and violations of the letter and spirit of the Rules of Procedure of the Assembly." Many members of the CDA have made comments about the

President's violations, some of which are:

- Making significant changes in management of the body, including the establishment of a media office parallel to the existing one and assigning Mahmoud Tarhouni as head of media in the Central Mainstream party, which is led by Ali Tarhouni, the director of the Assembly's media office.
- Appointing young people, affiliated with his party, in some departments of the Assembly, and individually appointing directors of departments and offices, as well as giving donations and benefits to some members of the Assembly, which some saw as a blatant attempt to win loyalties.
- Welcoming the announcement of Khalifa Haftar to assign the committee of sixty to take the reins of legislative authority. Some have considered that the dispute between the president of the CDA and its members has destabilized the performance of the Assembly. This decline was manifested in the reduction of plenary meetings of CDA members in which they must gather. This is in addition to reducing the number of regular meetings which some observers of the Assembly's work interpreted as a period of waiting for the conflict in Benghazi to be resolved.
- His unwillingness to implement Article 65, especially the text regarding "publishing on the CDA website a list of attendances and absences at public meetings within a period no later than

three working days after the end of the session."

- Failure to apply Article 22, which stipulates that the presidency "release a report for every session to be presented to the members within a maximum period of three days so that they may write their observations; this would then be corrected by the CDA President."
- His constant absence from the CDA; some members estimated that he was absent from the country more than 75 days.

Controversy over the Specified Time for the CDA's work and the Reasons behind the Delay in the Completion of its Tasks

The CDA did not adhere to the constitutional provisions of the procedural rules contained in Article 10/30 section B of the Constitutional Declaration, which represents the constitutional framework within and under which the CDA was elected. The most important breach committed by the CDA of the provisions of the Constitutional Procedural Rules mentioned in the Constitutional Declaration relates to the duration of the completion of its work. It did not comply with the constitutionally-scheduled duration for finalizing the draft constitution. This has resulted in a presentation of the constitutional appeal to the Constitutional Chamber of the Supreme Court. The appeal had to do with the unconstitutionality and invalidity of the CDA sessions after the

11th August 2014 and their outcomes, under No. 4 of legal year 62, filed on 9th of January 2015.

The question is: Can this deadline be considered as mandatory, making the activities of the Assembly invalid, or is it simply a regulatory deadline that shall not have such consequences?

The Constitutional Declaration very clearly requires the Assembly to finish its work during the period set out in the Constitutional Declaration. This date is one of the mandatory deadlines after which the CDA becomes incompetent and its work invalid due to the use of a binding formula in the text by the legislator as follows: "on the condition that it finishes drafting the Constitution and adopts it in a period that does not exceed one hundred twenty days starting from its first meeting." In light of this extract, the task of the Assembly is determined by a date that has a beginning and an end. Therefore, the CDA cannot exercise or extend its duties through the President or even the President of the parliament since it has been stipulated in the Constitutional Declaration. It would not be acceptable for the authority in charge of drafting the General Conditions of the state to be the first to violate them. The disrespecting time by the Assembly will inevitably lead to a prolongation of the transitional period without justification.

Responding to the statement of CDA member Amrajaa Nouh, the legal expert Dr. Ezzedine Boukhrij² rejected the idea that the work period of the CDA is open-ended based on the February Committee Act which determined the

working period of the parliament to be 18 months as the maximum and did not specify a limited time for the CDA to accomplish its tasks. Boukhrij believes that the Amendment of February aimed to determine the working period of the parliament in Article 5, but did not mention that of the CDA. Over-interpreting or over-extending the texts to justify the delay of the CDA to carry out its work is not acceptable. The Assembly remains governed by the provisions of Article 30 of the Constitutional Declaration which defined one hundred and twenty days (starting from the date of taking the responsibility of these tasks) as its legal term to carry out its functions. He mentioned that the main reasons which prevented the CDA from finishing its work on time is that the Committee of sixty is composed of mostly people unqualified to draft constitutions. Also, it should have sought the advice of specialists in constitutional law to assist them in the formulation of the draft constitution with some literary skill which reflected the aspirations and wishes of the Assembly. After this, the CDA had the responsibility of approving it by consensus or by vote and presenting it according to the agreed-upon referendum mechanism. However, the Commission did not agree to work with this mechanism, as it assigned its non-qualified members to write the constitution, which led to using up the time determined for the drafting of the constitution.

Many qualified parties believe that Article 30 in the Constitutional Declaration determined the mission of

the CDA as “drafting the Constitution,” a mission which must be carried out within the time period required for the completion of the Constitution. They believe that the Assembly was negligent in completing this mission and instead took part in other activities known in constitutional law as “constitutional crafting”. There is a significant difference between the two, as drafting a constitution refers to the Assembly’s action to write a draft of the constitution, or more likely the action of an Ad Hoc committee to do so. It would then present the draft to the Assembly for it to be approved or for a vote, as in the recent Egyptian experience. However, crafting a constitution does not stop at drafting a constitution, but entails many steps which end at the drafting of a Constitution; this work requires many years. The Assembly, charged with creating the Constitution, carried out campaigns to make citizens aware of the importance of the constitution and to seek their opinions; it called these activities “transparency” and made its decisions by agreement without resorting to voting. In addition to the reasons cited above, some attributed the delayed completion of the Constitution to other factors, such as³:

1. The personnel composition of the Assembly, which was formed via votes in various regions and based on different viewpoints and mind-sets. Each of the members bore the concerns of his city and region, and even of his tribe, and as such faced insistence that all these concerns be addressed in the awaited Constitution.

2. Debate regarding the relationship to the General National Conference, a relationship which was rejected. This topic took a great deal of time, and the disagreement brought about later consequences on the ability of the Assembly to work within Libyan politics; instead, it was isolated from politics.

3. Lengthy deliberation regarding communications, housing and living problems, and intervening in housing, food and drink and anything else brought up before the Assembly. This mind-set continued to rule throughout the working period of the Assembly, leading to a loss of considerable time and to marginal attention to the original topic, that being the creation of the Constitution.

4. Administrative weakness in the CDA, this being obvious in the lack of clarity regarding the roles of the Assembly and its offices. It was also apparent in personnel and time management, in addition to the considerable weakness in managing sessions and standardizing deliberation and discussions.

5. The insistence of the CDA President on continuing to have members of the Assembly go to their constituencies without anything in hand to debate, leading to the loss of time and added expenses without the benefit of writing any outcomes.

6. There were important issues on which the opinions of people could not

be sought, given the circumstances surrounding the Assembly, including the form of the state and its system of governance, unfair geographic distribution among regions, fair distribution of wealth, and the rights of cultural and racial minorities.

Deliberations Regarding the Outcomes of the Working Committee

Many researchers and specialists within and outside the CDA made a number of remarks and recommendations about the first draft of the Constitution presented by the Working Committee. We shall discuss them in this paper one by one, based on the chapters and sections found in it, named according to the primary titles as follows:

Form of the State and its Basic Components

As is known, the Working Committee did not reach an agreement in the draft Constitution regarding a determination of the Libyan state's capital. Opinions were expressed and debate was held in the CDA indicating that, forced by the exceptional circumstances Libya was undergoing, certain decisions which encouraged a calming of tensions and the stoppage of provocation, violent disputes and near-division and downfall must be taken. As such, wisdom dictated in this situation that the text assign Tripoli and Benghazi as the two capitals of the Libyan state. The following are the justifications for such a decision:

- Naming two capitals in Libya is not strange or exceptional; the two cities were the two capitals of the country according to the 1951 Constitution and its amended version in 1963. Thus, naming Benghazi as a capital along with Tripoli reactivates a constitutional text which the former regime took away from Benghazi, just as it removed a number of the country's institutions.

- Naming Benghazi as a capital with Tripoli will not harm Tripoli or take away from its place and position. Rather, the country would be significantly harmed by determining one capital (Tripoli) in the midst of this tense and contentious atmosphere which threatens the existence of the state.

- Naming Benghazi as a capital with Tripoli is an important step in the path to sharing power and roles, to addressing the issues of marginalization and choking centralization, and to achieving balanced development in different areas.

One researcher pointed out that the CDA used the Libyan Constitution of 1951 and its amended version of 1963 as references, yet the Working Committee did not agree to the request of the representatives from Cyrenaica to return Benghazi to the state it had been in until 31st of August 1969 according to the text of Article 188 in the Libyan Constitution of 1951 and its amended version of 1963.

Islamic Shariah Law

The Working Committee, in its proposition for Article 7, believed that “Islam is the religion of the state and Islamic Shariah law is the source of legislation, according to the doctrines and jurisprudence considered acceptable, without being subject to the opinion of a given religious leader in issues related to jurisprudence; the regulations of this Constitution shall be interpreted and limited as such.”

This text combines Islam and Shariah law, considering that the religion is the religion of the people. Yet Shariah law is the organized regulations for matters of worship in people’s relationships to their Creator and with each other. Such a combination may prove that the rules and regulations found in the Quran and the Sunna are the source of legislation in Libya, and as such limit legislative authority, especially in the carrying out of its responsibilities. Therefore, the Article ended with the statement, “the regulations of this Constitution shall be interpreted and limited as such”. Yet the authors of the text limited the term “Shariah law” and did not allow it to carry its known meaning by saying “according to the doctrines and jurisprudence considered acceptable” on the one hand and “without being subject to the opinion of a given religious leader” on the other! This restriction in meaning will undoubtedly lead to problems of application, such as: What are the jurisprudence and doctrines considered to be acceptable? And which are issues of jurisprudence and which are not?

Nationality, Acquiring Nationality

Some believe that there is extremism in the lack of equality between those born to a Libyan father and those born to a Libyan mother regarding nationality (Article 11). Their opinion is that at the very least the condition to be a resident for 20 years in order to acquire Libyan nationality (Paragraph 2, Article 13) should be removed, as it is better to grant nationality from birth upon request. What is new in the text is the granting of fathers the privilege to provide their children with nationality, which had previously been banned (Article 10 of the 1951 Constitution). Yet the permit for granting nationality was severely restricted and thus made the desired change impossible: it banned having nine jobs, as the text indicated that persons would be in violation of the law if they added another job! This method is strange, as it is outside the context of drafting a constitution; it would have been better to regulate this type of nationality, because we are not creating a constitution for a new state. But the mistake of Article 12 is the lengthening of the acquisition period (twenty years for acquisition), which is the same mistake related to the conditions for residency required for the granting of nationality according to Article 13. Therefore, the texts regarding nationality must be reviewed, as must the conditions for rejecting and removing nationality, as did the Tunisian Constitution. At the very least, only one text should be used to consider Libyan nationality, as is done in the Sudanese Constitution.

System of Government

The draft selected a full presidential system in which the president enjoys all powers, as he appoints the Prime Minister and ministers of government and removes them, is the chief of armed forces, and may dissolve parliament (on conditions). The President has the last word in the state. Despite the fact that the committee's foundational outcome for the system of government was a shared system in that the President and the Prime Minister were elected, their roles being determined by the Constitution, legal researchers predicted that this system would be a cause of instability, as electing one person to run the country who would be from one region, perhaps from one tribe, would thus lead to a return to the centralization of power in the hands of one man who takes charge of all powers via the constitution.

As for the legal branch of government, the draft selected a two-house system for Parliament, being the Senate and Congress; the draft mentioned that the Senate would represent the three historical regions without naming those regions (Cyrenaica, Tripoli and Fezzan). What the Working Committee did was to establish complicated procedures which limit the power of the Senate in carrying out its activities. Those procedures include the following:

1. The assembly and voting quorum requires an absolute majority, and those present must include eight members from each region. Despite assurances regarding this condition, it is a

hindrance to the work of the Senate, and as such Congress remains the original legislative power.

2. The Senate has no original power; its task is to review legislation sent to it by Congress in order to approve and amend it. This entails a set of 11 important laws and legal issues. In this instance it is clear that the Senate has two options: either it approves and returns the legislation to Congress for it to be issued, or, in the case of a difference of opinion, either a compromise committee must be formed between the two houses, if it is agreed to determine the legislation by a decision of both houses; or, if the council is unable to find a solution, the Senate may make a determination by a majority of 60 out of 72 members. All such impracticalities delay legislation's moving to the next parliamentary step, thus indicating that the Senate does not possess the final word in its role, unless it achieves 60 votes from among its 70 members. In addition, the Senate does not have power to appoint, but only to approve appointments made by Congress.

It is worth noting that the Article which discusses Congress' term of office is unclear regarding the time periods for electing members of Congress. It may be understood from the Article that it is only one time period or that there is no limit. Such a lack of clarity appears when comparing Articles 39 and 47 which consider the terms of office for

members of the Senate. As for proposed and potential legislation, the text must discuss the nature of Congress' role, being the drafting of legislation in all areas of state affairs, in addition to determining the mechanism used therein. As for the Senate, there is no need to state the system for electing the Senate; this issue may be left to normal laws until legislators have successfully determined the electoral system with sufficient flexibility given the current circumstances. As for the role of the Senate in legislation, some note a lack of clarity in the text; the necessity of the Senate's approval for laws before their being sent by Congress to the president for issuing must be ensured.

Confusion between a Unified Nation and Regional Efforts

There is confusion in the outcomes of the Ad Hoc committees mentioned above regarding the form of state, its system of governance, and local administration. Suggestions ranged between a desire for establishing a unified state and attempts to reach agreements which satisfy the intentions of regional opportunists, even if this requires sacrifice over time of a patriotic attitude seeking the good of the whole country. Article 8 establishes equality between male and female citizens; Article 37 determines balanced representation of voters; and Article 54 considers members of the two houses (the Senate and Congress) to represent all the people. On the contrary, we read in Article 45 that "representation in the Senate shall be equally distributed between the three historical regions,

and geographical balance in the distribution of seats within each region shall be maintained." Article 49 stipulates that decisions made by the Senate must be done by an absolute majority of its members, which is the same majority required for its valid assembly, as long as eight members of each region are present. Article 71 requires that in the election of the President, "balance between residential and geographical standards" be maintained.

Regional Governance (Local Administration)

Experts agree that the nature of regional governance is foundational to the building of a democratic system and to ensuring that oppressive centralized regimes do not return. The draft did not concern itself with the outcomes of the relevant Ad Hoc committees which established two systems of local governance, being governorates and regions. It also established a set of theoretical principles which may be interpreted by any government and be enlisted in order to create an administrative system through which to rule. The draft stated that the divisions of local governance are states (governorates) and municipalities. The question, then, is: Who will undertake such divisions? And how many are there? And what are their names? As for the standards established by the draft for division, there is nothing that indicates the possibility of its application, but it may be interpreted for the benefit of certain parties, and shall be amended at any time, as it is not included in the constitution. As for

roles, the draft stated that states may establish local policies, and plan, oversee, and monitor the work of municipalities under its rule. These municipalities are considered local administration and not local governance; local governance is shared between people in the taking of executive decisions.

The important issue in local governance is financial resources; the draft stated that “states and municipalities shall have centralized resources according to the amount necessary for carrying out its tasks and according to each entity’s own resources. The question arises: Who determines that necessary amount? The text, according to specialists, is a return to centralization of the setting of budgets and policies in order to allow for the restrictions which prevailed under the previous regime. Also, the draft indicated that the financial system of the state is “to distribute national funds in a just and fair manner among different levels of national and local government, such that population density and residential distribution is considered... etc.” What, then, does “just and fair” and “population density” mean? There are considerable problems with the determination of the standards which in the end are subject to personal evaluations. It would be better to establish data by which all those with rights would know their rights and so that fairness for industrial regions would be accomplished. However, through these texts the situation in developing, distant and sparsely-

populated regions remains as it has been for many years.

Quota (Allocation)

One of the most important issues which this proposal ignored in the perspective of some researchers is that of allocation or quotas. These researchers question the justification for the text’s not including the specific quota which the law ensures for women in legislative houses. They believe that such a quota determination is not in violation of the principle of equal citizenship as many say, but rather that it is a temporary procedure to address the historical wrongs and injustices, whose time has come to be addressed. Women and men do not presently begin on equal ground or upon equal circumstances or heritages. If the Constitution were to include a quota, this would restore balance and accomplish equality, not the opposite.

Political Parties

Article 197 discusses the dissolving of political parties and blocking their establishment for four years from the Constitution’s effective date. The drafting of this text is a reaction to the activities of local political parties and not built on objective foundations; it will affect the ability of political parties to build a democratic state. If the situation had to do with the immaturity of political parties, they will not mature unless they continue to carry out affairs. The most important consideration is that banning the foundation of political parties will not annul their presence or their influence; this is proven by the fact that banning candidacy based on

political parties will not take place without the establishment of political coalitions based on ideology (that is, political parties) in Congress and the CDA. All that this ban will accomplish is to preclude voters from important information regarding the ideological and party standpoint of candidates which would help them vote wisely in keeping with their convictions and political associations. This article, thought it may respond to the issue of reforming institutions and the poor performance of these bodies during the interim period, is not the best option, and it may not be justified according to what happened in the days of the kingdom, as the situation was not the same. No matter the poor image of these political parties in their limited local experience, they must be supported rather than blocked, given that they are among the building blocks of democracy.

Women

Activists participating in the conference organized in Tunisia on women's rights in the Constitution presented ten requests to the CDA and called upon it to commit to and ensure the **feminisation of the Constitution's articles** in each of its sections. They also called for the inclusion in the Constitution of the acquired women's rights discussed in international conventions signed by the state of Libya and the laws and resolutions it has issued. They also demanded that the CDA abide by the text regarding women's sharing in all political, economic and social domains, and to hold decision-making positions, at a

rate of at least 30%. They also called upon the CDA to abide by the text regarding the founding of an independent body for supporting and equipping women, and called for the amendment of Articles 7 and 151 from the Working Committee's outcomes, in which "Islamic Shariah law is one of the sources of legislation." They also called for the amendment of Article 117 in the draft Constitution by deleting the phrase "Women are the sisters of men." They also called for the state to be further committed to reviewing previous laws regarding a committee which includes the participation of women to support the protection of women's rights in order to raise their place in society. Also, they called for the amendment of Article 31 in the draft so that it would have the following structure: "The state seeks to provide the necessary social services in order to enable parents to combine both family and work responsibilities and the participation in public life." In addition, they called for the amendment of Article 119 of the draft Constitution, so that the term "women who are late to marry" would be changed to "women without a breadwinner" so that the state would provide an appropriate residence for them and give them financial grants for the purpose of not discriminating against women, as is found in the outcomes of the Committee on Rights and Freedoms. We may note that the requests regarding women are extremely similar to those of the United Nations mission in Libya, while others believe they are in opposition to the values of Libyan society. In addition, these groups do not objectively

represent the requests of Libyan women, especially as many activists who did not participate in the conference expressed their surprise at the high number of meetings of some women who were chosen in an unclear manner. They do not represent all the influence of Libyan women.

Discrimination against Women

Despite the fact that the Committee established the principle of equality between male and female citizens and that there should be no discrimination between them which would deprive, limit or block them (Article 8) in its treatment of the issue of nationality, it abided by the same previous outcomes of the CDA committees: nationality is acquired by a child through his Libyan father (Article 11). In order to reduce the force of this ruling, the Committee considered the children of a Libyan woman married to a foreigner to bear priority in acquiring nationality through a nationalization process like that of their Libyan mother's husband (Article 13). It is not indicated how the CDA, if it approves such a proposal, will defend it, as neither Islamic Shariah law, international conventions nor modern constitutions in Arab countries have adopted such a distinction. It may be said that the justification of the ruling is "preservation of the demographic structure" (Article 13.1) and the purity of society. Yet this does not preserve it from criticism, as many nations have made simple birth within the region, even if both the father and mother were foreigners, as long as there is unity of religion in the marriage and the wife is a Muslim, the only condition for

citizenship. Therefore, there is no danger to our values and special characteristics.

The Legal Branch and the High Constitutional Court

Many critics believe that the proposal includes many positives, including the adoption of a system with a constitutional court independent from the legal branch and the inclusion in the proposal of many "standards of just court trials". Other positives include the necessity to accommodate Islamic Shariah law and international conventions for a number of principles such as an independent legal system, independent members of the public representatives, and their inability to be removed (Article 1); neutrality and fairness (Article 2); the right to press charges and to defend oneself (Article 4); open committee meetings (Article 4); two-stage legal cases (Article 5); the original innocence of individuals and the right to just trials (Article 6); and regular court cases ensured by the ban on forming Ad Hoc tribunals (Article 6). The Committee also adopted an important consideration to ensure the independence of the courts and members of the public representatives, being "The Supreme Legal Council" and what is necessary regarding the components of administrative and financial independence (Article 8). Perhaps giving the searching of judges the quality of an institution (Article 14) may represent a step forward, as it has until now been considered simply an office of the Ministry of Justice. Also positive are the committee's maintaining the two lawyer systems

(public and private,) as it is considered one of the elements of the characteristics which are specific to our legal system (Articles 15 and 16), and the position of the Committee regarding military courts, as they are considered special cases. On the other hand, some have reservations, the most important being:

- The failure to consider the importance of separating the legal system and legal bodies and ensuring representation of judges in regulating the Supreme Legal Council.
- Justice among judges has not been considered; as the focus has been on presidencies of appeals courts and their being filled by the most senior president of a first-level court.
- The absence of foreign elements (that is, the participation of capable parties outside the legal system in order to provide differing perspectives, given that justice is a public matter which is important for all society)
- Neglecting the principle of the unity of the legal system which is considered an important element of the special characteristics of the Libyan legal system
- Granting the Supreme Legal Court the power to open courts; the committee thereby distanced itself from signed international conventions which limit the path which in the past three decades has led to moving outside the standards used in comparable drafting of constitutions.

- Retaining criticized rulings brought about in the federal era due to the requirement to be subject to principle; this in the end makes initial courts incapable and deprives them of the opportunity to be renewed. It should be noted that the Committee renewed its petition to review the rulings of the Supreme Court, which may very well be a result of the manipulation which occurred in recent years.

- The use of a section in the Constitution for legal expertise (Article 17); legal experts are those who serve judges, such as legal writers, preparers and court officials. It would have been preferable to leave their situation fully to the law; as such a situation would not be dangerous.

- Broadening of cases which cannot be appealed (Articles 3, 16 and 17). This reflects the path which has been followed for the last two decades.

- Indicating that members of government have no power “beyond the law and conscience”; the term “conscience” makes oversight by appeals courts impossible given that “conscience” is a personal standard which is difficult to punish. Therefore, subjection to the law is sufficient.

- The lack of an indication in the section on the legal branch regarding management of legal cases, public lawyers and the law, which in the previous regime became legal bodies. The Working Committee simply placed the text in the section on transitional activities in Article 206, which states that “The Supreme Legal Council shall

be responsible for the members of the administration...”

- There are clear mistakes in form, including the use of phrases in the wrong context. Examples of these are the use of “members of the legal branch” which carries a wide meaning; instead, “judges and members of the representatives” should be used. Also, describing the Supreme Court or the State Council as “the legal branch” is not accurate, as they are only a part of that branch. In addition, there is the lack of separation between what is considered the foundations of a state of law, those which are rights, and what has to do with regulating the legal system. Among these are including major detailed issues which should be addressed by the law, as we read for example in Article 2, in which, after having transferred responsibility to the law for organizing the affairs of members of the legal branch, the Article returned and discussed a ban on practicing political or party affairs or any other profession outside legal work. We also see this in Article 5, as temporary imprisonment and two-level court cases are combined, and the trial ceiling and other detailed issues are determined, despite the fact that their natural place is the legal system’s regulatory law.

Observations

United Nations Support Mission in Libya Regarding Outcomes of the Working Committee

The United Nations Support Mission in Libya believes that Article 7 paves the way to an interpretation of Islamic Shariah law that may be rigid. It believes that the status of women’s rights is alarming in Article 11, as the rights of women must be equal to those of men regarding passing citizenship to their children. The UN’s Mission also considers Articles 12 and 13 to violate the standards of human rights by allowing the revocation of nationality and drawing a long-term calendar to recover it. In Article 7, the status of refugees and the assurances of non-repatriation should not be limited to asylum seekers, and the treatment of refugees must comply with international standards.

Concerning the political regime, the UN demanded that more details be added regarding how Congress is elected and how consensus is developed between contradictory provisions concerning equitable geographic representation. The organization also said that Articles 38, 46 and 70, which include conditions for running for political office, are inconsistent with International Human Rights Law.

In order to make the veto power of the president less effective, the organization believes that Article 43 should allow the president to return a law to legislative authorities only when he or the authorities believes that the law is unconstitutional.

Questioning and transparency as provided for by Article 64 must be facilitated through allowing the legislative authority to adopt more confidentiality. In the section related to the executive power, the roles of the president and the prime minister are vague. This may very well generate disputes. Furthermore, there is no well-defined clarification of the role and actions of the presidency in article 71.

As for rights and liberties, the organization says that the draft Constitution contains a number of provisions that fail to protect the rights and liberties in a correct manner which is consistent with international standards and laws. Article 112 must put restrictions on the application of the death penalty “except for very serious crimes”. This article also does not specify leniency measures in the Constitution or within the relevant authority. The organization also considered it important that Article 121 include an explicit prohibition of torture related to The International Covenant on Civil and Political Rights (ICCPR) and other types of degrading treatments. Article 124 must include stronger protection against arbitrary detention and torture and must also clearly state that detained persons have the right to immediately challenge the legality of their detention before a competent and independent judicial body. The extent of protection against extradition, refoulement or expulsion to a country where the concerned individuals may be exposed to torture, as provided for by Article 148, should be expanded to include all foreign nationals. Article

151 must also expressly specify the rights that cannot be the subject of restrictive measures and must annul the supremacy of Shariah law over rights and liberties.

Regarding the chapter on transitional measures, the organization expressed reservation on banning all political parties for four years as mentioned in Article 187, considering it a dangerous provision which violates the right to engage in political activities. The organization also considered Article 19, related to provisions on nationality, harmful and discriminatory. If this article were implemented along with Articles 11 and 13 from the draft Constitution, it would add more obstacles for Libyan women and individuals of ethnic minorities to pass their citizenship on to their children. Articles 200 and 202 must include additional insurances against the state’s misuse of states of emergency. It would also be desirable to amend the paragraph in Article 208.

The international organization sees that **Article 31 on family** clearly provides for the state’s commitment to reconcile woman’s duties with their work, while making no mention of men, which is considered to be discriminatory. Furthermore, the expression “complementary roles between family members” may lead to the perpetuation of stereotypes between genders. The organization demands that this paragraph be compatible with the convention of **CEDAW** 11 which seeks to remove all forms of discrimination against women. Here it is worth mentioning that this convention does

not consider the cultural particularity of the Muslim Libyan people. Article 16 of the agreement contains a set of paragraphs which threaten national identity, strengthening the western way of life and ignoring the beliefs of world peoples, their value systems and their faiths. It also ignores the fact that the family is an institution composed of a wife and a husband and allows recognizing a child's descent from only his/her mother.

The organization also expressed reservation to Article 70 related to the condition concerning running for presidency and considered its provisions clearly restricting of the right of individuals to run for office and the right of voters to elect their president. Some restrictions may be generally acceptable such as the minimum age and the absence of criminal records, but the others should be reconsidered. The organization also considered the condition that only Muslims can run for presidency to be excluding of minorities and violating the right to run for office. Other conditions include residence in Libya for ten years preceding the elections, having not married a foreign wife, and renouncing foreign citizenship ten years before running for president. All these conditions do not comply with international standards of human rights and do not serve any clear purpose in forming a stable and democratic government.

The organization had reservations about Article 87 which provides that the House of Representatives may express a vote of no confidence obliging the

government, including the prime minister, to resign with the requirement that the president should nominate a prime minister who is supported by the House of Representatives. In case the president ignores the wishes of the House of Representatives, the prime minister designated by the president may in many cases be immediately rejected by a vote of no confidence. The organization has also expressed reservations on strong and unreasonable powers granted to the president and provided for by Article 80, which are not clearly justified and which may encourage abuse of authority.

In Article 112, the organization demands that the death penalty be limited only to "serious crimes" in order to insure justice before the law through greater respect of the standards of a fair trial. Such a demand is motivated by the fact that Libyan legislations provide for the application of the death penalty in a wide range of crimes, including crimes and activities related to drug trafficking.

Article 117 on supporting woman's rights intentionally avoids mentioning equality between women and men. It uses the religious term "sisters" which can be easily interpreted by Muslim scholars as something which has no necessary relation to the principle of equality. It is best to recommend Article 46 of the Tunisian Constitution of 2014, which provides that the state shall be compelled to protect, support and develop women's acquired rights.

Article 124: The organization requested procedural guarantees to ensure

stronger protection against arbitrary arrest and torture. Paragraph 7, Article 14 of ICCPR illustrates that no one can be retried or penalized a second time for a crime for which he has already been judged, convicted or released definitively according to the law and criminal procedures of each country. Ideally, the Constitution should state that suspects may be detained for twenty four or forty eight hours maximum without being brought before judicial authorities.

As for Articles 132 and 133 regarding the right of free speech and publishing, and the freedom of press and media, the organization demanded that Article 132 expressly provide that any legal restriction on freedom of expression be in conformity with article 19/3 of ICCPR to protect the rights and liberties of others. Also, the protection of national security and public order is essential to a democratic society. Furthermore, the sanctions restricting freedom may only be applied to journalistic abuses, including defamation, insult or other abuses related to freedom of speech. (Currently, the draft Constitution has made imprisonment an open option for such abuses and has hardly provided for the illegality of arrest before trial.) Such abuses must be within the jurisdiction of civil courts rather than criminal courts. In addition, the expression “Libyan particularity” is quite vague and may criminalize freedom of expression. The organization also states that Articles 139 and 140 regarding the right to participate, assemble, hold meetings and demonstrate are not

formulated as rights, but rather as a privilege from the state to its citizens.

As for Article 151 regarding norms of restriction on exercising rights and liberties, the Article must provide for non-derogable rights (including the right of protection against torture and discrimination) and must abolish threats “in a manner consistent with the provisions of Article no. 7,” which states that Islamic Shariah law is the source of legislation. If all rights and liberties provided for in the draft Constitution are subject to and restricted by Islamic Shariah law and its principles, this will render these rights and liberties meaningless, particularly in the field of woman’s rights, the right to life and freedom of expression.

As for Article 165 regarding recommendations of the National Council for Human Right, this Article must ensure the independence and impartiality of the National Council for Human Rights and must also provide for its right to visit detention centres in conformity with the Paris Principles.

Article 197 on political parties, regarding the dissolution of all political parties for four years, is indeed a dangerous provision that violates the exercising of political rights. This article contradicts Article 136 of the same Constitution which states that banning political parties will not prevent candidates belonging to political parties from standing for office in the elections. Regulating political parties and holding them to the principals of transparency and the

sovereignty of law is more effective and democratic than banning those parties.

In Article 208 regarding amending the Constitution, the first paragraph provides that amending the Constitution is prohibited for five years. This is unreasonable because the Constitution may contain some deficiencies and some items may require immediate amendment.

The UN's mission believes that there are some important subjects which have not been included, such as freedom of conscience, the right to worship, non-discrimination on the basis of race, religion and political opinion, etc.

In summary, despite the important observations expressed by the UN's Mission on the draft Constitution, there is blatant disregard of the distinct cultural heritage of the Libyan people. It even opposes the Charter of the UN which provides for respect of all cultural manifestations and all religious belief systems of the world. Based on that, the observations of the UN regarding women, Islamic Shariah law, and media freedom are unacceptable.

Administrative Oversight Authority

The Administrative Oversight Authority expressed its considerable surprise about the fact that the Libyan Constitution Drafting Assembly ignored the role of administrative oversight and did not include in the draft Constitution presented by it the role of sovereign statutory bodies and oversight bodies specialized in combating administrative and financial corruption. The reservation lies in the fact that if the Constitution does not provide for the Administrative Oversight Authority, the latter will lack the capacity to monitor and implement laws, regulations and resolutions and to detect crimes and offences. Including such oversight bodies in the draft Constitution is necessary for its laws to achieve constitutionality.

Provinces and the Outcomes of the Working Committee

The prominent leaders of Cyrenaica met with some members of the committee, to whom they expressed the idea of historical provinces and stressed the political and economic rights of Cyrenaica. The influence of Cyrenaica's leaders was clearly reflected in the working committees. On the other hand, leaders and activists from Tripoli considered that the outcomes of the working committee neglected and deprived the city of the historical, political and economic gains which it has obtained given its position as a city that unifies Libyans and which has always been the source of Libya's historical activity, but is now being neglected. Tripoli's historical heritage is marked by significant eras such as the Phoenicians, Islam, the Ottomans, the Italians, the royal era and the former regime, and could be totally lost during the time of the February Revolution because of the plans being hatched by fanatics who want to make their cities commercial, political and social centres instead of Tripoli.

Disagreement about the capital indicates that there are intentions to deprive Tripoli of its political and economic role, whether for the benefit of cities in the east, west or south. There is also intention to establish provinces with capitals, in an attempt to multiply capitals in the country, thus transferring economic and political activities to cities such as Misrata, Benghazi and Sabha.

According to some activists from Tripoli, the draft Constitution is a step towards a pointless change of political and economic centres in the country. People from Tripoli fear the domination of the House of Representatives by regionalists who will not consider the prosperity of Tripoli, but rather will attempt to deprive it of many of its particularities and gains in favour of other cities, which they regard as a substitute for Tripoli, either in the east, west or south.

They are seeking to replace Tripoli under the pretext of multiplicity of capitals, establishing new capitals or the large land mass of Libya.

Conclusion

- The Libyan Constitution Drafting Assembly has clearly failed in its mission. Among its significant failures is the lack of integration between the role of its members and that of the various groups in society who are directly concerned with participating in the drafting of a Constitution. Communication between the assembly and the public has been ineffective. It has wasted a lot of time and has not achieved the intended goals. As confirmed by many observers even among the members of the assembly, discreteness marked the work of the assembly, which remained isolated and did not successfully initiate communication, nor did it allow the elements of society to initiate such communication.
- Confusion was clear in the assembly's path, as it adopted many approaches in order to reach its goals but failed to achieve good results. Consequently, it was very late in accomplishing its missions while the expenses of its activities increased significantly.
- The outcomes of the assembly were below expectations, both regarding content and form. This was confirmed by the considerable criticisms, many of which were objective and pointed to the disappointing results.
- The privileges granted to the members of the assembly were subject to condemnation and criticism. The wages of the members of The Libyan Constitution Drafting Assembly reached 10,310 Libyan dinars and were increased to 10,830 dinars. Housing allowance reached 5,000 dinars while the price of the car given to each member amounted to 35,000 dinars. This is in addition to the services and facilities provided, which include health insurance, travel tickets, training sessions and diplomatic passports. Some people consider these privileges to be among the reasons which prolonged the assembly's mission.

Other Publications

1. Priorities of the Government of Accord.
2. The Draft of Political Agreement, Review of the Content.
3. The Report of the Audit Bureau (2014) and Rationalization of Public Spending.
4. A Framework for the Comprehensive Transitions.
5. The Social Impacts of the Political Division in Libya.
6. The Political and Security Scene in Libya ... an Analytical and Forward-Looking Vision.
7. The Economic Impacts of Political Division in Libya.
8. Is it Possible to Bring Peace to Libya?
9. Policies of Commodities Subsidy in Libya.
10. Libya 2015 Report: Year in Review.
11. Government Performance Evaluation.
12. War on ISIS in Libya through the Accord.
13. The Libyan Dinar Crisis: Causes, Impacts and Sloutions.

ABOUT THE LIBYAN ORGANIZATION OF POLICIES&STRATEGIES

The Libyan Organization Of Public Policies & Strategies (LOOPS) is an independent, nonprofit and nongovernmental institution founded in December 2014 in Tripoli, Libya. A representative branch was founded in Istanbul in January 2015.

The organization carries out research and studies related to emerging policy and strategy issues with the aim of generating effective and successful policies and providing support to decision-makers. The organization devotes its efforts to improving the performance of Libyan institutions and advancing the economic and social welfare of the Libyan people. It seeks to spread the notions and concepts of quality, good governance, strategic planning and a culture of excellence so as to improve the performance of Libyan institutions.

LOOPS aspires to promote and spread knowledge about public policies and strategies to the state through the dissemination of statistics, studies and periodic reports. It also organizes conferences, workshops and forums as platforms for discussion, the exchange of opinions and spreading knowledge.

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