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Plan B for a Democratic Libya?

Restoring the 1951 Constitution and
the Constitutional Monarchy

PUBLISHED IN FEBRUARY 2022



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Executive Brief

Libya Today

- Libya suffers from two crises: a crisis of governance, owing to a lack of institutions; and a crisis of legitimacy, owing to a lack of political identity or a concept of legitimacy after the Gaddafi era.
- 63 of 110 Libyans we spoke to do not trust any of the existing institutions. The judiciary, the highest ranked, is trusted by only 17 of the 110 Libyans we talked to.
- Libya has no legitimate power centre.
- The UN has planned to hold elections to create such a centre; but in view of Libya's current political context, it is hard to see how free and fair elections can actually be practically held and their results actuated on the ground.
- **Because of the risks and opportunities inherent in a 'transitional' election, it is unlikely that all necessary domestic or international parties to the Crisis would accept the results of a freely held election.**
- Libya has had over a dozen Prime Ministers in eleven years; currently has two claimants to the office of Prime Minister; does not have a unified army; and militias have the power on the ground.
- Security sector reform seems like a highly remote prospect; political power has been invested in a small number of individuals who serve their own constituencies; and national unity is fraught.
- Various plans to end Libya's domestic political crisis, and various roadmaps to extract the country, from crisis have failed.
- 93 of 110 Libyans we spoke to do not think the LPDF or UN offer real solutions to the current crisis.
- **We see a low probability that current efforts to resolve the Libyan crisis will be successful.**
- Continued political stalemate and "soft" partition along geographic lines is the single most probable outcome for Libya. A formal 'hard' partition remains a possibility.

Libya's Options

- **Libya's most realistic options are continued stalemate; a military dictatorship; or a constitutional monarchy.**
- Among the political risks of a continued stalemate are worsening geopolitical competition in the Mediterranean; the creation of a conduit for mass migration to Europe from the Middle East and sub-Saharan Africa; and a vacuum for the proliferation of extremism.
- A “winner takes all” solution is not possible in Libya due to power dynamics on the ground as well as Libya's geopolitical predicament.
- A military dictatorship in Libya would not only be undesirable; it would be extraordinarily difficult to impose in the absence of any institution.
- Only seven Libyans we spoke to were sympathetic to the idea of returning to a dictatorship.

Back to History

- There is a clear analogy between today and the years preceding Libya's founding in 1951.
- In 1948, the United Nations' initial plans to create a Libyan Republic failed, in no small part due to infighting between Libyans based along geographic lines.
- In 1951, a new national dialogue was created. The dialogue, guided by the Dutch diplomat Adriaan Pelt, founded the United Kingdom of Libya on December 24, 1951.
- The new constitution was the first authored by the United Nations; it enshrined equality before the law, freedom of the press, habeas corpus, an elected parliament, and votes for all Libyans above the age of 21.
- Prior to becoming King of Libya, Idris al-Senussi spent 29 years in exile in Egypt before being recalled to Libya to serve as a “clean pair of hands”.
- Idris was selected as king due to his place at the head of the al-Senussi family and Senussi Order.
- Idris' father, Muhammad ibn Ali al-Senussi, was a renowned Sufi leader and head of the Senussi Order, which was the vanguard of Libyan resistance to Italian occupation.
- While the Senussi family is traditionally associated with the East, they were not members of a tribe and headed a religious order that historically spanned all of Libya.
- After Libya discovered oil, corruption and embezzlement became an endemic problem, leading to the sacking of over a dozen ministers and the revision of the Constitution in 1963.
- Amidst a wave of pan-Arabism, Colonel Muammar Gaddafi overthrew the Libyan monarchy in a bloodless coup in 1969, instating in its place a military dictatorship.

- Idris died in Cairo in 1983, without any estate. His nephew, Crown Prince al-Hasan al-Senussi, remained in Libya under house arrest until going to the United Kingdom for medical treatment in 1989.

Restoring the 1951 Constitution

- **Reinstating Libya’s pre-Gaddafi constitution today could solve many problems that have stalled its political process.**
- The 1951 Constitution would provide Libya with a clear starting point from which to rebuild Libyan state institutions and to develop its own constitutional law.
- It further offers a framework for the separation of powers; offers extensive rights for women and minorities; and enshrines the unity of the Libyan state, precluding hard partition.
- While the Constitution would have to be revised, it contains within itself the mechanisms required for such updates. It provides its own evolutionary path.
- The Constitution could be restored through a new national dialogue, held under the auspices of the United Nations, followed by a subsequent referendum on the matter.
- This process already succeeded once in uniting and stabilising the country when it faced a similar crisis in the run up to independence between 1947 and 1951.

Restoring the Monarchy

- **The factionalism endemic to Libyan politics is due in large part to an absent conception of national interest and a weak conception of national identity.**
- 42 years of autocracy and personal rule by Gaddafi ruined Libya’s social contract and did not accommodate the idea of consensus-based politics.
- Of the Libyans we spoke to, 21 blamed “struggles for power” as the root of Libya’s crisis; 20 blamed corruption; 15 blamed a lack of a concept of coexistence.
- A struggle for Libya’s natural resources was the rarest answer, with only nine Libyan interviewees suggesting it as a root cause of conflict.
- Only 4 Libyans we spoke to think Libya has a coherent “national identity”. 72 said Libya lacks a sense of national identity.
- 55 of 110 Libyans we spoke to were open to the idea of restoring the 1951 Constitution and a symbolic monarchy.
- **Of all candidates, 48 of 110 Libyan interviewees—a plurality—thought the current claimant to the Libyan throne, Mohammed al-Senussi, contributed “positively” to Libyan national identity.**

- This is especially noteworthy as al-Senussi has not launched any political campaign since 2011, and because of a concerted effort by Muammar al-Gaddafi to rewrite Libya's pre-1969 history.
- More generally, history has several good examples of monarchical restoration used to restore institutional order to a post-conflict society: England, France, Spain, and Cambodia being a few.
- History also has numerous examples of monarchy being used to constitute a new polity: Greece, Italy, Saudi Arabia, Kuwait, the UAE, Qatar, Iraq, and Jordan being a few.

Overview

The paper contains thirteen parts, divided into three sections. Each section focuses on a different aspect of the viability of the 1951 constitution and brings with it its own conclusion. The authors of each individual section came to their own conclusions, addressing the viability and utility of the 1951 Constitution and the restoration of the Libyan monarchy from their own vantage-point. The overall conclusions of this paper were reached by consensus, but the opinions expressed in individual sections are those of the individual authors. The study placed a premium on sources on the ground and ‘applied history’, the useful application of insights from history to understand and address present dilemmas.

The first section provides an overview of Libyan politics since the overthrow of the Qaddafi regime, laying out the current state of play. The first part of this section looks at the domestic political situation in Libya, outlining the key factions and stakeholders in Libya today in addition to giving an overview of the present state of Libyan politics. The second part of this section gives an overview of the key international players in Libya and considers the interests and perspectives of key European and Middle Eastern stakeholders on the Libyan crisis. The third part of this section looks at the current state of Libya’s constitutional process, with a particular emphasis on the recent efforts of the Libyan Political Dialogue Forum and Constitution Drafting Assembly. The fourth part of the section considers the results of polling and focus group work done for this project.

The second section introduces the 1951 Constitution and approaches it from the point of view of legal and political theory. The first part of this section considers the history of the 1951 constitution, namely why it came about while the second part of this section addresses why it failed. The third part of this section lays out popular cases for and against the reinstatement of the 1951 constitution. The fourth part of the section considers the results of polling and focus group work done for this project.

The third section considers the Libyan monarchy. The first part introduces the history of the Senussi family, Libya’s royal family between 1951 and 1969, while the second part gives a brief overview of contemporary discussions of the Senussi monarchy. The third and fourth parts evaluate the monarchy through the lenses of political theory and applied history respectively, drawing upon classic works of Western and Arab political theory, and considering the political and social effects of historical monarchical restorations. The role of

monarchy is considered in the context of classical Islamic thought, with specific reference to the Libyan context. The fifth part considers the reintroduction of the monarchy, introducing focus group and polling work conducted within Libya, and the perspectives of Libyans on the monarchy and historical memory of it.

Acknowledgements

The paper was enormously enriched by interviews with experts from across the world, and across a range of disciplines and fields. While many of those interviewed could not be cited, those who did agree to be named are cited in Appendix 2. We are tremendously grateful to all of them for their time, advice, and constructive criticism.

We are especially grateful to all who agreed to conduct a peer review of this project. Their insights and constructive criticism significantly improved the project across all areas.

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The Forum has not received funding from any government or government-affiliated entity or individual; Libyan national; resident of Libya; or entity or person with economic interests in Libya.

Any opinions, findings, conclusions, or recommendations expressed in this paper are those of the authors and do not necessarily reflect the view of the Forum or its advisory board.

Foreword

"If the road is blocked, you have to turn around". This old Italian proverb, cited by a Libyan interviewed for this project, neatly encapsulates the thinking that underpins it. Drawing from an axiomatic belief in the power and relevance of history, and undertaken in view of the importance of the Libyan Civil War for the MENA region and beyond, the Cambridge Middle East and North Africa Forum is pleased to release what it hopes will be a contribution to an increasingly timely debate about Libya's political future.

This project is the product of a year's research conducted across twelve countries, by a team of eighteen researchers. It tries to answer a simple question that concerns an extremely complex issue: What constitutional arrangement might keep Libya together as a unified, democratic state? The project examines the viability today of a constitution that has already worked in the past, namely Libya's "Independence Constitution", enacted in 1951 and revised in 1963. It further asks a theoretical question of whether the restoration of the Libyan monarchy, which was deposed of in 1969, could make a positive

contribution to the resolution of the Libyan crisis.

The scholarly literature on Libya's constitution has focused little on the prospect of "going back" to the pre-Qaddafi constitution. Following the collapse of the Qaddafi regime, Libya's constitution-making process has so far been conducted under the auspices of the United Nations. After the deposition of Libya's dictator Muammar Qaddafi in 2011, Libya's National Transitional Council published an interim Constitutional Declaration. Libya's Constitution Drafting Assembly was then elected in 2014 and in 2017, it voted for a final draft constitution while the country fought its civil war. Libya's House of Representatives rejected the draft in February 2018, instead calling for the passing of an amended version of the 1951 constitution. The suggestion was not taken seriously, and only one study has examined the question in any depth. Since 2018, the constitutional process has been largely moribund. The most recent plan in Libya, having been carried out under the auspices of the United Nations, was to revisit the constitutional question after

Libya's elections, planned for December 24, 2021.

Even less attention has been paid to the restoration of the constitutional monarchy which underpinned the 1951 constitution. This is understandable. While a monarchy was the default setting of the Libyan state when it was founded in 1951, the only monarchical restorations of the modern age have been the restoration of the Spanish monarchy in 1975 and the restoration of the Cambodian monarchy in 1993. In the first instance, the monarchy was restored as a way to transition out of Francoism. Spain's monarchy, which has an almost thousand-year-old tradition, was resurrected by a new democratic constitution, which was approved by 88% of voters. The monarch's constitutional role is to serve as an "arbiter and moderator" and as a symbol of the Spanish state's "unity and permanence." In the second instance, the Cambodian monarchy, which has an almost two-thousand-year-old tradition, came back into being in 1993. The monarch in exile, Norodom Sihanouk, led a royalist government-in-exile after the People's Republic of Kampuchea (PRK) was established by a Vietnamese invasion in 1978. Peace talks began in 1989, with Sihanouk as a leading negotiator, and a settlement was reached in 1991. Sihanouk was reinstated as head of state by a constituent assembly in 1993.

Historical models of governance in Libya, both the monarchy or iterations of the pre-Qaddafi constitution, all contain their strong and weak points from a practical and theoretical perspective. To consider what preceded Qaddafi's dictatorship seems intuitive, if not to better understand the historical narrative that constitutes the Libyan nation, then to accrue practical advice about what went wrong and to better understand the unique recurring problems in Libyan politics. But the short memory of Libya's eighteen years as a constitutional democracy was paved over by 42 years of deliberate historiographical reengineering. Libya's textbooks taught Qaddafi's curriculum for decades, burying the past under a pan-Arabist narrative and deliberately making the prospect of going back unappealing for most. Yet beyond the psychological resistance to 'going back', there is an even more convincing explanation: power politics.

Following Libya's collapse into civil war in 2014, Libya's 'knowledge economy' has been monopolized by powerful domestic actors, many of which have operated with their own media networks, the ability to inflict violence, foreign backing, and extraordinary resources for both domestic and international lobbying campaigns. As a result, alternatives to the immediate preferences of Libya's key power brokers and their international backers have been largely crowded out of

the picture. Un beholden to these considerations, this project has sought to cast light on both the positive and negative aspects of both the 1951 constitution and the restoration of the Libyan monarchy.

The project is based on the premise that the Libyan constitutional question is more than a narrow legal question. Like the civil war, it is a more profound question that encompasses Libya's history, its national identity, its kaleidoscope of ethnicities and identities, its geopolitics and international entanglements, its economy and its Islamic tradition. As a result, the project takes a holistic approach that addresses the bigger constitutional question by examining how the constitution relates to each of these subsidiary questions.

In attempting to capture a comprehensive range of perspectives, the

project includes more than fifty interviews conducted in seven languages with leading experts in the fields of constitutional law and history, war studies, Middle East studies, Libya studies, and Islamic philosophy. Among these experts are former ambassadors to Libya; former UN Special Rapporteurs for Libya; retired and current members of several intelligence agencies; leading Libya experts; think-tank experts; constitutional experts; and experts on Islamic political thought. This is in addition to fifty more interviews with Libyans from across the Libyan political spectrum, and polling work including over a hundred Libyans from the East, West, and South of the country. The paper has been peer-reviewed by an independent group of think-tank experts and academics.

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Introduction

The Libyan crisis is extremely fraught. The unravelling of Libya's rentier-state social contract, which traded political rights for access to Libya's abundance of natural resources, has created a vicious competition for access to the country's economic largesse. In many respects, Libyan society has fractured among geographic and political lines as Libyans seek organic cleavages to protect their rights and wealth. The split is primarily between the more populous West and the East, which is home to the bulk of Libya's oil resources. Libya has now been effectively split into two parts, with small elite groups leading their own circumscribed constituencies. **Our polling suggests that virtually none of the institutions or factions in power in Libya command respect or authority, and that much of the momentum that built around elections held in 2012 has dissipated.**

When Libya erupted into civil war in 2014, its political fault-lines fell primarily between East and West. The resulting power vacuum offered an opportunity for local Libyan actors to capture shares of their country's financial and material resources, as well as a chance for international actors to secure their respective security and economic interests. The formation of alliances between local and international actors within Libya led to the internationalization of the conflict in 2018. Several countries began conducting covert operations, while in January 2020, Turkey openly launched a military intervention in Libya with over a thousand soldiers. A ceasefire was reached in June 2020, but tensions between Libya's different factions remain high.

After the ceasefire was reached, the United Nations Special Mission in Libya (UNSMIL) pressed for elections to be held for December 24, 2021. After an election, the body hoped to hold a constitutional referendum by the end of 2022. Over two million Libyans registered for the elections, but for a number of reasons—from disagreement over the list of candidates to fear over electoral violence—elections were not held. **Almost all of the Libyan or international experts interviewed for this project were right to expect that elections would not take place on December 24, 2021. The experts that did expect that elections would take place were pessimistic, and saw elections as a prelude to a renewed civil war.** Those that did expect elections anticipated that widespread corruption and ballot-stuffing in Libya's East and stalling by the incumbent heads of the transitional Government of National Unity (GNU), would lead to another war.

Most of the experts that correctly predicted that elections would not happen based their prediction on a simple understanding: that because the stakes of an election are so high, key domestic or international actors would have not accepted the results of an election that does not favour their interests. Per the interim 2017 constitution, the President elected on December 24 would have been equipped with an extensive and virtually unchecked suite of powers, enabling them to play a decisive role in creating a post-war Libya.¹ These high stakes, paired with a vast deficit of trust between key Libyan and international actors, decreased the possibility of a free and fair election taking place.

Libya remains the subject of multiple, overlapping international competitions. International intervention played a decisive role in ending the forty-two-year rule of Muammar Qaddafi in 2011-2, but the vacuum that ensued broadened international involvement in Libya far beyond the narrow coalition that intervened a decade ago. Libya has become an arena for several competitions: between Qatar and the United Arab Emirates; Turkey and the United Arab Emirates; Turkey and Egypt; Turkey and France; and Turkey and Russia, to name but a few. Particularly for the Middle Eastern states involved in the conflict, the resolution of the Libyan crisis on their terms is an issue of paramount importance. As a consequence, the internationalization of the Libyan Civil War is and will continue to be one of the key roadblocks to the settlement of the Libyan crisis.

Section 1.

Section 1.

Overview of Libyan Politics Today

I. Libyan Domestic Politics

Recent Developments

It falls beyond the scope of this paper to recount the history of Libya's Civil War, but it is important to outline how the conflict has evolved over the course of the last seven years. In 2014, Libya fell into its second civil war. The General National Congress (GNC), which governed Libya from 2012 to 2014, collapsed. This was mainly due to a volatile security situation, a lack of progress in drafting a constitution, and acute ideological differences between the GNC's constituent parties. The spark that lit the fuse was the decision of the GNC to extend its tenure by a year in December 2013. In February 2014, Khalifa Haftar, commander of the Libyan National Army (LNA), insisted that the GNC dissolve; in May, he announced an offensive against the GNC, which proved to be the opening salvo of a five-year-long civil war. Haftar launched an offensive in April 2019, aimed at decisively ending the civil war. In January 2020, Turkey moved to deploy troops to Libya, allowing the Government of National Accord (GNA), which succeeded the GNC, to push back the offensive and facilitating a ceasefire on August 21.

“

A renowned policy researcher interviewed for this project emphasised that making progress in crucial matters such as a unified security apparatus, land and property rights, corruption, and national asset management are all dependent on a stable political environment in Libya.

On February 2, 2021, the Libyan Political Dialogue Forum (LPDF), a delegation of 75 Libyans selected by the UN, elected Mohammad Menfi, Libya's former Ambassador to Greece, as interim President of Libya's Presidency Council and the businessman Abd al-Hamid Dbeibah as Prime Minister designate. The ticket won an unexpected victory,

defeating a list run jointly by Interior Minister Fathi Bashagha and the Speaker of the House of Representatives Aguila Saleh. Dbeibah’s victory came as a shock to many domestic and international actors, who regarded the process as having been designed to ensure the victory of Interior Minister Fathi Bashagha and speaker of the House of Representatives Aguila Saleh. Dbeibah’s victory allowed for the establishment of a tripartite Presidency Council and a new Libyan government with 34 ministers, the later termed the Government of National Unity (GNU). The GNU received a sweeping endorsement from the House of Representatives on March 10, 2021 and acquired a mandate to lead Libya to presidential elections scheduled for December 24, 2021. The House of Representatives, based in the East, passed a motion of no-confidence in the GNU in September 2021 and following the failure to hold elections, HoR speaker Aguilah Saleh has insisted that the GNU’s mandate has expired.

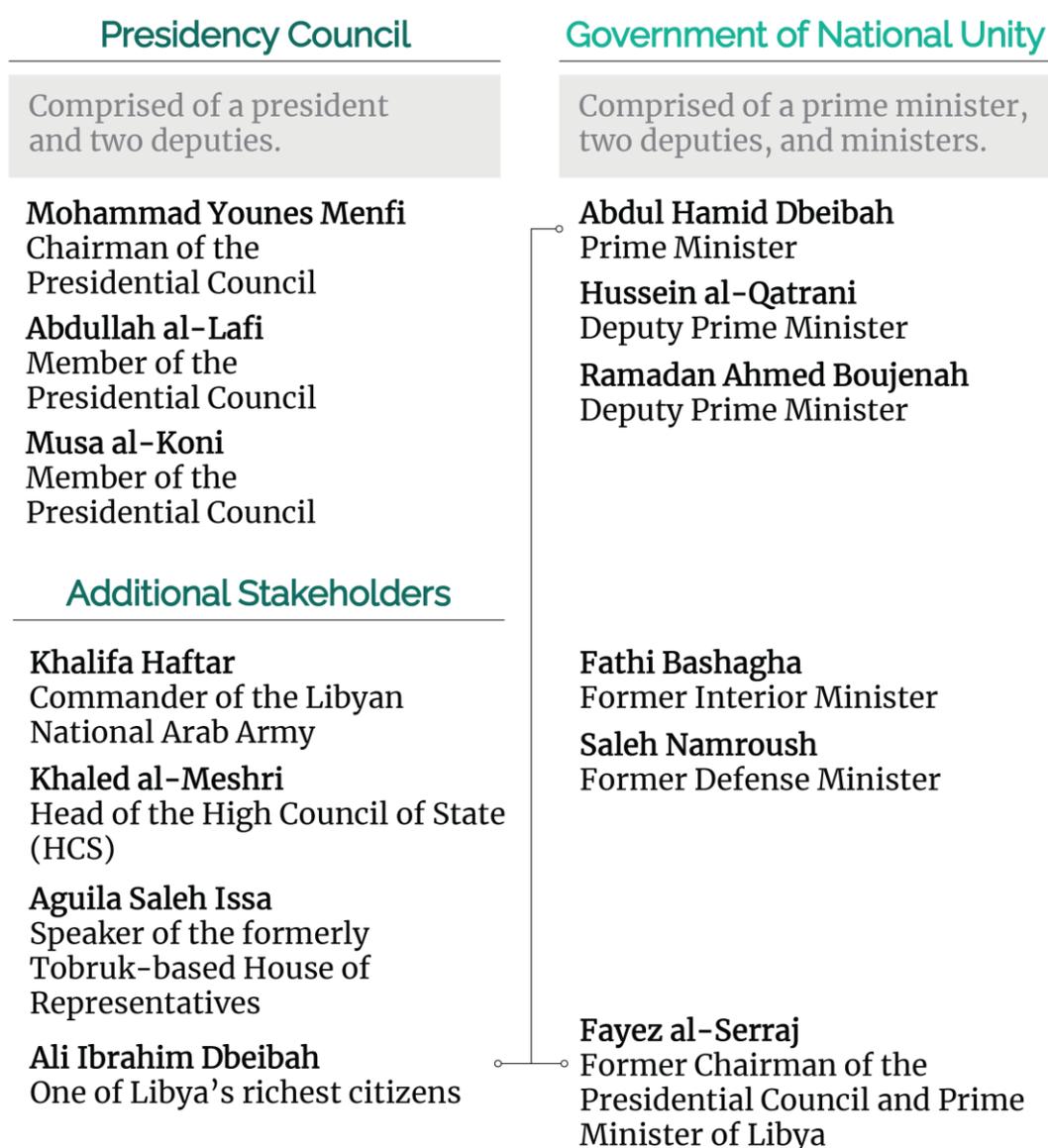


Figure 1: Key stakeholders in domestic politics.

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A member of a Libyan minority community interviewed for this project cautioned that strong suspicion will continue to drive a wedge between Libya’s tribes without concrete and independent guarantees that could incentivise cooperation between them.

While the current power-sharing arrangement has so far prevented a relapse into conflict, it has nevertheless institutionalized dysfunction with the GNU. The rhetorical buy-in of international actors to December elections represented a temporary convergence in their interests, but also demonstrated a degree of opportunism. Most factions that have international backing have a preferred blueprint for how the political transition should unfold, be it through elections, secession or conquest. The European Union and the United States insisted on the need to hold elections despite extremely limited

progress on institutional reunification, economic recovery, or security sector reform since the creation of the GNU. **Yet because of Libya’s institutional context, extremely limited prospects for socio-economic improvements, and the remote prospect of meaningful security sector reform processes, the LPDF Roadmap is highly unlikely to come to fruition.**



Figure 2. LPDF Roadmap and Key Events. Source: United Nations Support Mission in Libya.

International Actors and Domestic Politics

The short-lived endorsement of the GNU by the House of Representatives (HoR) was, more than anything, the by-product of a temporary convergence of national and international interests in the quest to stabilize Libya. European diplomacy, led by Germany, has attempted to peacefully resolve the Civil War. But as we will soon see, these efforts have been unsuccessful in circumscribing the extent of international involvement in Libya's civil war. The

most influential international actors in Libya remain, without a doubt, Turkey and Russia. Compared to these countries, the influence of the 'West' on the ground in Libya has been highly circumscribed. **Moreover, while Turkey and Russia are competing for influence in Libya, in reality the two countries have had backdoor entente since 2020, by which Libya has effectively been divided into two spheres of influence.** Kremlin-linked mercenaries from the Wagner Group are now entrenched in Central, Southern and Eastern Libya, while Turkey has effectively asserted its influence over the GNA-controlled West. EU member states have been unable to come to an agreement on how to handle the Civil War, while the Trump administration was disinterested leveraging American power and prestige to affect the situation on the ground. As a result, Western actors' credibility has been severely undermined.

“

A leading policy researcher interviewed for this project highlighted that disarmament is the most important precondition of attaining lasting peace in Libya.

“

An Italian diplomat interviewed for this project emphasised that the removal of foreign mercenaries must follow the timetable of planned elections in Libya.

Turkey and Russia unilaterally halted the civil war, paving the way for a ceasefire to consolidate and allowing for the political process to move forward. Despite ceasefire clauses calling for the repatriation of mercenaries and vacation of airbases by foreign powers, Turkey, Russia – and to a lesser degree, the UAE – still maintain a heavy military presence in Libya and retain control over key Libyan military bases. Both countries opportunistically scaled up their military involvement in Libya during the 16 months of conflict sparked by the LNA offensive in 2019 and are now deeply entrenched in Libya. **Ankara and Moscow's acquiescence to a political reshuffle in the form of Dbeibah's election suggests that they intend to use their presence on the ground as a way to maintain leverage over the GNU, with a view to extracting economic and political concessions in the future.**

December Elections

Libya scheduled a general election for December 24, 2021. Elections were called by the LPDF in June, with a view to establishing a government that can usher Libya through the remainder of the political process to stabilization. The logic of having elections before holding a wider constitutional dialogue was defended by several analysts we spoke to over the course of this project. They noted that there was no other legitimate way by which to remove the current incumbents, who have not succeeded in advancing the political process, and are widely indicted by Libyans for corruption and political horse-trading. They further noted that the advance of Libya's peace process requires a way to 'reset' the Libyan political system, and a new government with nationwide legitimacy and a mandate to move Libya forward. **Yet the process by which elections have been held was widely panned by those we interviewed, and all analysts we spoke to expressed doubt that the election would be held, as well as little to no optimism that the election would succeed in advancing Libya's political process.**

The extreme polarization in Libyan politics, the lack of confidence in the elections' results, and the absence of a unified security force were cited by most analysts as grounds to be concerned for the day *after* the elections. The discourse surrounding the elections was highly fraught, while the candidacy of some candidates was regarded as being in itself controversial. Candidates like Saif-al-Islam Qaddafi, the son of Libya's former dictator; Field Marshal Khalifa Haftar, who several interviewees accused of human rights abuses and war crimes; Transitional Prime Minister Abd al-Hamid Dbeibah, who foreswore running in the elections; and Fathi Bashagha, who several interviewees accused of being a Turkish agent, were regularly put into question. Libyan analysts from the East tended to expect the incumbents to do everything in their power to delegitimize the results of the election, which they expect would favour either Haftar or another Eastern candidate. Analysts and experts from the West meanwhile suggested that Haftar or a candidate aligned with him will stuff ballots in the East, giving him around a third of the vote by fiat.

II. Libya in Geopolitics

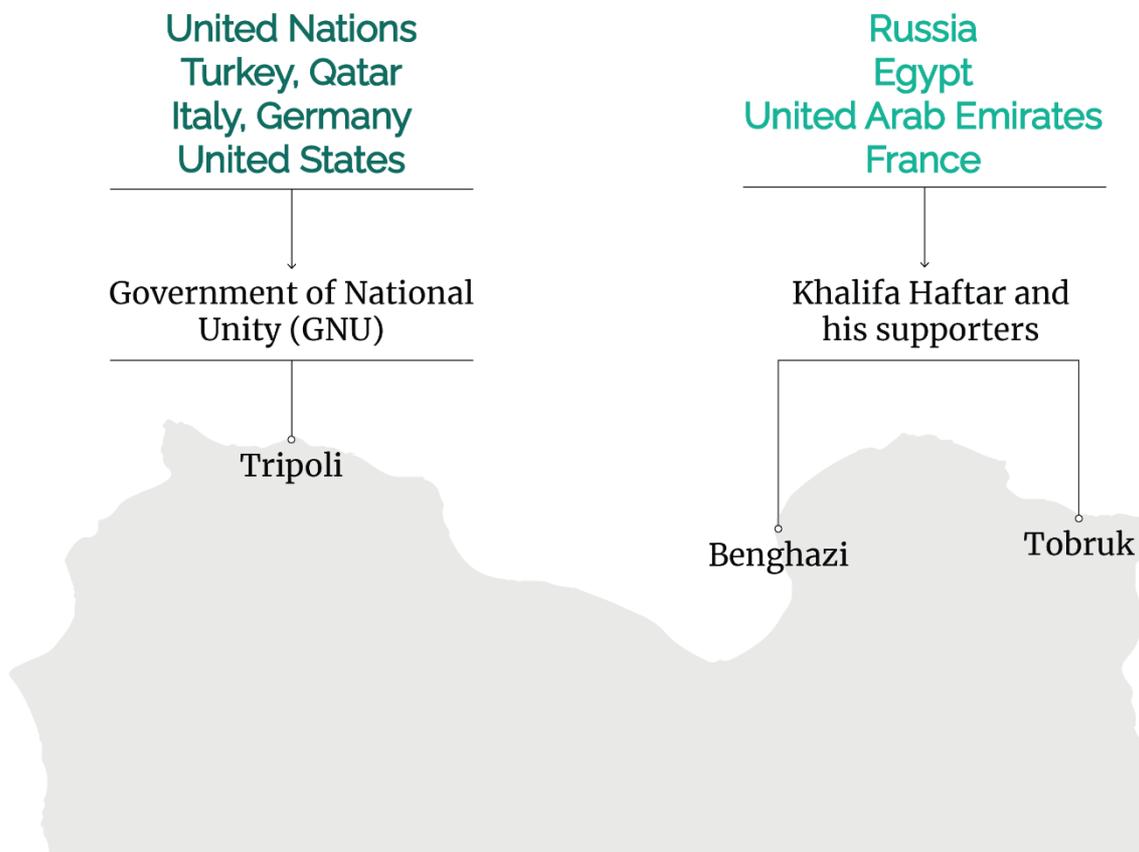


Figure 3: International involvement in Libya.

Recent Developments

International intervention is a defining feature of Libyan politics today. Since the inception of the Libyan Civil War, international actors have gradually ramped up their involvement in the conflict. Foreign intervention in Libya has grown exponentially in the last five years. Egypt, the United Arab Emirates, France, and Turkey view Libya as a core national security issue. For Russia, Libya's power vacuum offers a unique opportunity to acquire leverage over NATO and to further build its clout in the greater Middle East. Other players, including Italy, Spain, Morocco, Algeria, and the United Kingdom, also see themselves as having a stake in Libya. Because of these overriding national interests, attempts by the United Nations to diminish international involvement in Libya have been uniformly futile.

Libya has become an arena for numerous simultaneous geopolitical competitions:

- The ‘counter-revolutionary bloc’ that emerged out of the Arab Spring, comprising Egypt, the UAE, and Saudi Arabia versus the pro-Islamist bloc of Turkey and Qatar
- Russia versus Turkey
- NATO versus Russia
- France versus Turkey

Since the beginning of the Libyan Civil War, international actors have shaped the course of the Libyan Civil War. The downfall of Muammar Qaddafi was enabled by British, French, and American airstrikes in 2011. During the ‘Second Libyan Civil War’, the UAE allegedly outfitted the LNA with more than \$200 million in aid² and Turkey trained GNA forces. The rout of the LNA’s advance in Western Libya in June 2020 was the direct result of Turkish military intervention in February. The positions of regional actors in particular have changed little. For key regional players, Libya policy is determined through their own perceptions of the risks posed by alternative outcomes in Libya. For Egypt and the Gulf states, and for the UAE in particular, the need to intervene in Libya is driven by a fear of Islamism and the expansion of Turkish influence. For Turkey, a key driver is preventing Russian influence and securing its own sphere of influence in the Eastern Mediterranean. **The net effect of international intervention has been the paralysis of Libya’s state-building process and a moribund democratic transition.**

Egypt

Egypt is deeply involved in Libya for both strategic and ideological reasons. Cairo began its stealth intervention in Libya in 2014 as Egyptian President Abdel-Fattah el-Sisi saw in Khalifa Haftar a natural ally to contain the perceived Islamist threat in Eastern Libya and to protect Egypt’s Western border. A wave of terrorist attacks in the Sinai Peninsula prompted Sisi to provide Haftar with military and diplomatic assistance months into the launch of his Operation Dignity in January 2015. Egyptian involvement in the conflict has been closely coordinated with the UAE, which has allegedly transferred materiel to Libya through Egypt. Intervention also has an ideological logic: like the UAE, Egypt views Libya a central battleground for the shape of post-revolutionary states’ orders and the role of political Islamist groups - such as the Muslim Brotherhood - which it sought to repress both domestically and regionally. A senior source suggested that Egypt’s perception of the Libyan crisis has changed in the last year, moving from a predominantly military-security approach to a more diplomatic approach that involves parties from across the Libyan political spectrum. The source further suggested that Egypt has even reached out to the GNU in Tripoli

with a view to hedging its bets on Libya's political future, implying a reduced level of confidence in the viability of the 'military first' strategy.

Morocco and Algeria

Morocco has been deeply invested in the resolution of the Libyan Civil War since popular uprisings first erupted in Benghazi on February 15, 2011. As part of the strategy that Moroccan state officials described as one of "active neutrality", Morocco has promoted inter-Libyan dialogues by hosting a number of meetings between key Libyan stakeholders. While Morocco allegedly turned down a 2020 offer from the UAE to back Khalifa Haftar³ and has stayed out of the conflict, it did threaten to intervene in Libya in June 2021. Since the signing of the UN-brokered Skhirat agreement by Libya's warring factions in Morocco in December 2015, the Government of National Accord (GNA) has been internationally recognized as Libya's sole legitimate authority.

Morocco has important economic and strategic interests in actively participating in the stabilization of Libya. After more than four decades of strained relations with the country under Muammar Qaddafi, Morocco is ready to benefit from closer relations in terms of trade in goods as well as energy. From a strategic perspective, Moroccan involvement in Libya aspires to counteract rivalling Algeria's regional hegemonic aspirations. Concurrently, Morocco's strategic alignment with the United States and key European powers is part of the country's efforts to raise its profile in international relations.

After years of reluctance to assume the role of mediator, Algeria began to assert itself more openly in Libya in 2020. After Abdelmajid Tebboune became President of Algeria in December 2019, Turkish President Recep Tayyip Erdogan viewed Algeria as a prospective partner in Libya. Algeria's cooperation with Turkey signalled the former's explicit support for the Government of National Accord (GNA). At the same time, Algerian state officials have fostered connections with Libya's Eastern factions too.

Sharing a nearly 1,000 km long border with Libya, Algeria's interest in its neighbour primarily stems from security considerations. In February 2020, Algerian Foreign Minister Sabri Boukadoum visited Khalifa Haftar in Tobruk. Algiers has tried to position itself as a mediator between Libya's warring parties. Algeria has emphasized the importance of diplomatic efforts and decried any form of military intervention in Libya's affairs by foreign powers.

The UAE

The United Arab Emirates has been highly engaged in Libya since the onset of its revolution. The UAE's involvement in the Libyan Civil War falls very much into the scheme of its broader foreign policy in the Middle East, which is focused on closing vacuums and preventing the rise to power of Islamists and Islamist-affiliates. Since the Arab Spring, a longstanding Emirati concern about the danger posed by Islamists to the authority of the Gulf monarchies has metastasized. Following the success of Egypt's counter-revolution in 2013, the UAE has been empowered to move against other potential Islamist surges to power, by being the first to recognize the victory of Bashar al-Assad in the Syrian Civil War and most recently backing the dissolution of the Tunisian parliament. In the Libyan context, the UAE's goals have been the same. The UAE seeks to close the Libyan vacuum and expel from Libya the foremost supporters of political Islam, namely Qatar and Turkey.

The UAE is keen to prevent Libya from falling to an Islamist government. Libya's geographic location is critical to the UAE's economic strategy of dominating Mediterranean shipping lines. Libya's vast energy resources and reconstruction needs—both sectors in which the UAE excels—have provided lucrative opportunities that the Emiratis hope to seize after failing to do so previously.⁴ As a result, the UAE was a major backer of efforts to restore military rule to Libya, particularly the Eastern-based LNA. The UAE has furnished the LNA with both advisors and materiel, and was one of the key military and financial backers of the LNA's October 2019 offensive. Following the failure of the offensive, the UAE has continued to back the LNA and the government backed by the House of Representatives. It is unlikely to accept any solution that involves opportunities for Islamism to take hold in Libya, or the presence of Turkish troops or political influence in Libya.

Qatar

On the opposite end of the spectrum is Qatar. Qatar emerged as one of the key players in Libya immediately after Qaddafi's fall, primarily because it provided unilateral economic, political and military support to factions with which it shared pre-existing relationships. This was broadly an effort to influence the governance of the post-revolutionary states in the wider region, Qatar's aim being to create a network of grateful governments through which Doha could shape the Middle East's regional order. Many of the figures Qatar backed in this endeavour were exiled Islamists that had returned to Libya in 2011 as rebels. The support Qatar offered to these factions was primarily financial. As the split between Qatar and the UAE grew, Qatar's attempt to compete with Abu Dhabi in Libya drove the outbreak of Libya's civil war in 2014. **After 2014, Qatar's assertive foreign policy gradually waned, and so did the political clout of its proxies in Libya.** Most of Doha's local allies have grown to become

unpopular, and most are in exile or voluntarily living abroad, and Qatar's role has moved into the shadows.

France

France suffered three major attacks in a short period of time: the Charlie Hebdo attack in January 2015, the Paris November 2015 attacks, and a brutal attack in Nice in July 2016. These events turbocharged an extant French fear of Islamism and drove France into an ideational condominium with the UAE, and France is now the most active European country in the Middle East. France's chief priority is, like the UAE, to counter the presence of its regional rival Turkey and to stem migrant flows from Libya that undermine the political stability of the European Union. As a result, France has been a major backer of the LNA along with the UAE and Saudi Arabia. The LNA has been found using French weapons systems,⁵ and French special forces soldiers died in Libya in support of the LNA.⁶

Italy

Libya has stood at the centre of Italian foreign policy considerations for decades now. Their special relationship dates back to colonial times when Italy occupied the regions of Tripolitania and Cyrenaica in 1911. Although the Italians retreated from the areas that eventually became established as a free Libyan state in 1943, their economic and strategic interests in the North African country persisted into the new millennium. A notable episode in bilateral relations was the signing of the Treaty of Benghazi in 2008 between then-Prime Minister Silvio Berlusconi and Colonel Muammar Gaddafi, further solidifying already existing commercial partnerships between the two countries.

Since the fall of Gaddafi and the eruption of the civil war in Libya, Italy has been among those with the most persistent diplomatic and military presence in the country. Indeed, Italy has kept its embassy open throughout even the most turbulent periods over the past decade. Signalling the continued relevance of Libya is that Italian Prime Minister Mario Draghi, as well as his Minister of Foreign Affairs, Luigi di Maio, visited their Libyan counterparts as part of the first foreign trips of the new Italian administration in March and April 2021.

Italy's notable commercial interests in Libya include Italian energy giant Eni's large stakes⁷ in Libya's oil and gas fields, as well as several contracts for the building of highways and the reconstruction of Tripoli's airport. The official Italian position vis-à-vis Libya is one of active multilateral cooperation with European partners and the United States for the stabilization of the country via establishing democratic legitimacy through popular elections. The latter is the precondition of any further investment in Libya's economy on the Italians' part.

The EU

The key priority for the European Union is stemming the tide of migration from Libya and further afield in the Middle East and Africa. The question of migration has critical implications for political cohesion within the Union and is a headline item for the Union's counter-terrorism strategy. The Libyan Civil War broke out during a wave of terrorist attacks which shook many European countries; Within a NATO context, another key headline issue is preventing Russia from gaining a foothold to the south of the Union.

The EU has undertaken some effort to try and exert an impact on the ground. Operation EUNAVFOR MED IRINI⁸, launched in March 2020, has attempted to prevent violations of the UN-mandated arms embargo, having received a mandate from UN Security Council Resolution 2292.⁹ Other European operations, EUBAM and EUNAVFOR MED Sophia, aimed to reduce the number of migrants reaching Europe's shores. Alongside these operations, the EU has allocated several million Euros to try and stem Libyan migration, namely via the EU Trust Fund for Africa, and the EU Neighbourhood Instrument.¹⁰¹¹ **But because of internal divisions, the European Union has not been able to effectively intervene in Libya or to exert a significant influence.**

The United Kingdom

While the United Kingdom was considered a key actor in Libya in 2011 and 2012, its influence has considerably declined over time. While the UK was instrumental in establishing the no-fly zone in March 2011, its core contribution to stabilisation in the aftermath of Qaddafi's fall came in the form of training Libyan cadets, which ended in 2014. **None of the experts or officials interviewed for the purposes of this project viewed the UK as an important player in Libya.** Like other European states, the key priority of the United Kingdom in Libya is reducing migration flows and ensuring that Turkey and Russia do not acquire the ability to effect migration crises in Europe. Within a NATO context, the United Kingdom also has an interest in preventing the development of a Russian stronghold in Eastern Libya, which could affect European and NATO access in the Eastern Mediterranean.



An Italian official interviewed for this project reiterated that Italy considers Libya as a key strategic partner in securing the Mediterranean Sea, and curbing irregular migration.

Italian foreign policy will continue to be based on multilateral strategies in which Germany, France and the United States are also considered as key players.

The United States

The U.S. have also engaged at various degrees throughout Libya's post-revolutionary history. **While the United States took a leading role in effecting NATO intervention in Libya in 2011, the murder of United States Ambassador to Libya Christopher Stevens in 2012 caused the U.S. to distance itself from the Libyan question.** While a significant amount of State Department and USAID funding is attributed to Libya, and while several American development organisations offer development programmes within the country, overall American engagement at the political level has been limited, at times resulting in unclear policy. The overall rationale of America's Libya policy began to change during the Trump administration, shifting from counterterrorism to great power competition. As a result, the United States has placed a wider policy focus on Russian and Turkish activity in Libya and has paid less attention to national-level political and military struggles involving local belligerents. **In view of Russia's growing role in Libya, the U.S. has started describing its priorities in the country as countering the "three Ms"—Money, Militias, and the Muslim Brotherhood.**¹²

Russia

Since Libya's 1969 coup, Russia-Libya relations have vacillated between transactional indifference and cautious alignment. The Soviet Union offered economic assistance to Libya after the 1969 coup, but Qaddafi viewed his regime's synthesis of Islamism and socialism to be incompatible with Marxist-Leninist ideology.¹³ The USSR's partnership with Tripoli peaked from 1974-85 owing to a billion-dollar arms deal in 1975 and the training of thousands of Libyan military cadets in Russia.¹⁴ Ties between Russia and Libya stagnated well after the collapse of the Soviet Union, until April 2008, when Russian President Vladimir Putin visited Tripoli and cancelled Libya's \$4.5 billion Soviet-era debt to Russia.¹⁵ Qaddafi's overthrow in October 2011 cost Russia at least \$4 billion in arms contracts and Libya pivoted sharply towards supporters of the NATO military intervention. Today, Russia wishes to avoid a repeat of its post-2011 loss of influence and sees Libya as a low-cost, high-reward theatre for power projection.

Since 2015, Russia has transformed from a peripheral player to an indispensable stakeholder in Libya. It has provided military support for the LNA offensive on Tripoli but remains engaged with nearly all of Libya's warring factions, in addition to international powers. **Today, it is well-positioned to be a pivotal player in Libya's transition out of civil war.** The dramatic turn-around of Russia's geopolitical fortunes in Libya is an extension of its broader resurgence in the MENA region, which began with its military intervention in Syria. Moreover, while Russia's involvement in Libya via its Wagner mercenaries is most often

viewed through a geostrategic lens, Russia also seeks to revitalize stalled investments in Libya's energy sector and develop new commercial opportunities in defence and other industries.¹⁶ Yet its success can also be explained by its synthesis of private military contractor (PMC) deployments, shuttle diplomacy, and information warfare.

Russia views Libya as a crucial gateway to Sub-Saharan Africa and the Mediterranean. Russian publications regularly discuss resurrecting Qaddafi-era naval base negotiations in Benghazi and establishing an air base in Tobruk.¹⁷ As the LNA occupied large swathes in eastern and southern Libya from 2016-18, Russia believed that its alignment with the LNA would give it access to Libyan oil reserves and the Benghazi port. Russia's support for Haftar had its limits, however, as the Russian expert community was rightly sceptical of Haftar's ability to carry out a successful offensive against Tripoli.¹⁸ Instead, Russia backed the LNA's offensive in order to bolster Haftar's bargaining position in international peace talks.

In 2019, leveraging the LNA's setbacks in Western Libya, Moscow deployed an estimated 1,200 Syrian mercenaries and fighters from the Kremlin-linked Wagner Group, mercenaries advancing Russia's interests abroad, to support his war effort on Tripoli.¹⁹ While supporting the offensive, Russia also consulted with the Government of National Accord (GNA) to ensure that its diplomatic influence would outlive Haftar's defeat.

After the failure of the LNA offensive, Russia recalibrated its Libya strategy. First, Russia praised the peace plan of HoR speaker Aguila Saleh and condemned Khalifa Haftar's unilateral abrogation of the Skhirat Agreement.²⁰ Russia further tried to stall the GNA's counter-offensive by dispatching 14 MiG-29 and Su-24 fighter jets to Libya.²¹ Third, Russia began covertly pushing for a partition of Libya; doing so would enable Moscow to leverage its array of partnerships in the country.²² Russia also viewed a partition as a means of crowding out other external players, such as the UAE and Egypt, and saw the de-facto division of Libya into Turkish and Russian spheres of influence as an optimal scenario.²³

The brokering of a "permanent ceasefire" in Libya on October 23, 2020 caused Russia to accommodate the new status quo. Russia's accommodation of the GNU surprised some Russian analysts, as the new Prime Minister, Dbeibah, had been hostile to Russia during the Qaddafi era.²⁴ Nevertheless, Russia hailed his appointment as an "important step"²⁵ and on March 15, Jamshed Boltaev, Russia's charge d'affaires in Libya, announced plans to reopen a Russian embassy in Tripoli.²⁶ Dbeibah travelled to Moscow the next month, and important commercial breakthroughs have since taken place as Gazprom resumed its operations in Libya after a ten-month hiatus on May 26.²⁷ Russia has called for presidential elections to be held on time in December 2021.²⁸ Despite appearing as a friend of the LNA, however, Russia remains more of a spoiler.

In defiance of international pressure to withdraw its mercenaries, the Wagner Group recruited an additional 300 Syrians to fight on Haftar's behalf in April 2021.²⁹ Russia has also backed a political role for Qaddafi loyalists, used its media outlets to burnish Saif al-Islam Qaddafi's image, and announced plans to open a consulate in Benghazi.³⁰ **These actions suggest that Russia could re-emerge as a destabilizing force in Libya if elections are not held or if the souring Haftar-Dbeibah relationship escalates into armed conflict.** They also reflect the ongoing turf war between the Russian Ministry of Defence, which staunchly supported Haftar's efforts and has close ties with the Wagner Group, and the Russian Ministry of Foreign Affairs, which views mercenaries as reputationally damaging and supports political dialogue.³¹

Turkey

Until Italy's triumph in the 1911-12 Italo-Turkish War, the Ottoman Empire controlled the Western province of Tripolitania and had the allegiance of the Emirate of Cyrenaica in the East. Throughout the Qaddafi years, relations were inconsistent. In the 1970s, Libya had good ties with Turkey, but by the 1980s and 1990s, ties cooled when Qaddafi expressed solidarity with Kurdish nationalist movements; ties improved again in the mid-2000s. By 2010, Erdogan accepted the Al-Qaddafi Prize for Human Rights and by early 2011, Turkey had 25,000 workers and billions of dollars in construction contracts with Qaddafi's regime.³² Because of these deep economic interests, Turkey bucked its enthusiastic support for Tunisia and Egypt's revolutions, and led Turkey to oppose the implementation of a no-fly zone in Libya in March 2011.³³

Today, Turkish involvement in Libya is defined by two strategic imperatives. First, Turkey sees a hegemonic presence in Libya as necessary to expanded influence in the Eastern Mediterranean and Africa. Turkey views influence in these two regions as critical to its international status, as outlined in the Blue Homeland doctrine³⁴. Libya is also a key component of Turkey's energy plans. On November 27, 2019, Turkey signed an exclusive economic zone agreement with Libya which would expand Turkey's ability to extract offshore oil off the coast of Cyprus, and would in turn limit Greece's ability to extract gas between Turkey and Libya.³⁵ Turkey has also leveraged its presence in Libya to engage more closely with Algeria on North African security and to sign a security pact with Niger in June 2020. Turkey's military intervention on the GNA's behalf has allowed it to ensure that its energy agreement can be implemented and encourages African countries to consult with Ankara on regional affairs. Moreover, Turkey has tried to prevent Libya from adopting an Egypt-style secular authoritarian system. The 2013 coup in Egypt drastically eroded its

influence in North Africa, and Turkey's ruling AK Party is ideationally aligned with the Muslim Brotherhood.³⁶

Turkey's diplomatic influence unravelled at the November 2018 Palermo Conference, as it was excluded from meetings that included Haftar.³⁷ Turkey's marginalization from intra-Libyan diplomacy eventually encouraged it to rebuild its influence through military means. In 2019, Turkey took the opportunity to leverage the GNA's vulnerability against the LNA's offensive; the GNA signed two memoranda of understanding on defence cooperation and maritime demarcation in exchange for a full-fledged Turkish intervention that saw Turkey deploy troops, tanks, Syrian mercenaries, drones, aerial defence systems and electronic warfare systems to support the GNA. On January 2, 2020, the Grand National Assembly of Turkey authorized the deployment of Turkish forces to Libya on a one-year mandate. Already by the summer, Ankara effectively rolled back Haftar's gains in Western Libya and routed his forces towards Central Libya. When the October 23 ceasefire was declared, Turkey had ensconced itself as the decisive international stakeholder in Libya.

The LNA's international backers doubted Turkey's resolve to militarily intervene in Libya. As a result, Turkey gained a first-mover advantage and augmented that edge with rapid recruitments of Syrian mercenaries. Turkey had the most to lose of any foreign stakeholder from a ceasefire. As a result, Ankara backed the GNU in the hope that the foreign and security policy of the last government would be maintained. For this reason, Turkey enthusiastically supported Dbeibah, a move which paid off. Dbeibah has promised to uphold the November 2019 energy agreement with Turkey, arguing that it was "in the interest of the state of Libya," and was received in Turkey on April 11, 2021.

From an economic point of view, the reconstruction of Libya offers numerous opportunities for Turkish participation. Turkish firms have signed an estimated \$40 billion in construction contracts since 1972³⁸, and the backlog of Turkish contracts in Libya is estimated at around \$16 billion³⁹. The chairman of the Egyptian-Libyan Association for Businessmen is reported to have gone as far as describing Turkey "as a direct competitor to Egypt's efforts to entering the Libyan market"⁴⁰. Numerous meetings have been held between Turkish and GNA officials to discuss possible reconstruction contracts, including immediate agreements on providing energy relief to Western Libya and the possible consultation of Turkish advisors to rebuild the Libyan banking sector⁴¹.

III. Libya's Constitutional Process

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A member of one of Libya's minority communities interviewed for this project argued that Qaddafi instilled a sentiment of suspicion and hate towards minorities in the country.

At the turn of the Libyan Revolution, violence and bribery had a well-rooted 42-year pedigree, while the old memory of consent and contractualism had been displaced and obfuscated in the historical record. Over the course of the last ten years, attempts to establish a constitutional framework for Libya fell through as a result of this dominant, violent legacy. The shadow of Qaddafi's system, predicated on violence and rentierism, continues to loom large. By

the time Libya's first elections were held, local interest groups had time to regroup. They quickly moved to capture resources and to undermine attempts to restoring a semblance of consent and contractualism in Libya. Illegitimate violence and bribery quickly ran rife, even becoming features of political proceedings held under international auspices, particularly within the Libyan Political Dialogue Forum (LPDF). Religious populists associated with the Muslim Brotherhood, long suppressed by Qaddafi, also regrouped and re-emerged, serving as the antipode to the veterans of 'anarchist authoritarianism.' While these two parties disagree on most issues, they have one fundamental goal in common: obfuscation.

At various junctures of the political process, Libya's 'religious populists' and 'anarchist authoritarianists' have both played a role in depicting the political process as a futile endeavour or engaging with it in bad faith, manipulating constitutional drafts and postponing attempts at constitutional deliberation in order to render the entire process devoid of serious meaning. Those actors who are acting in good faith do not take adequate stock of where Libya is coming from. While they are troubled by the minimal progress made over the last decade, they are oftentimes unwilling to ground their prescriptions in a prognosis based on Libya's tortured history. In other words, actors in good faith do not recognize the structural nature of Libya's anarchy. The conjecture is that the constant obfuscation is ad-hoc or circumstantial. As a result, good-faith actors have failed to come up with a consolidated strategy to confront Libya's broader structural problems.

Libya's Constitution Drafting Assembly (CDA) has been mired in controversy for several years. In the words of one Libyan analyst interviewed for this project, "the draft it produced is not only deficient but tainted". The Constitutional Declaration notes that the mandate of the National General Congress should be coterminous with the publication of the constitutional draft, which was itself meant to be ready 120 days after the beginning of the CDA's work. The transitional period should have, per the CDA's own provisions, ended within

two years at most. Yet a dispute arose over the composition of the CDA, compounding the constitutional crisis even further.

Article 30 of the Constitutional Declaration, which prescribes the selection process for the CDA (by appointment or by election), is similarly controversial. Article 30 is obscure with respect to the political independence of the committee. As a result of political pressure, Libya's Transitional Council amended the Constitutional Declaration, first on March 2012, deciding that the constitution should allocate twenty seats to each of Libya's three regions. Then on July 5, 2012, another amendment was made, the third constitutional amendment in less than three months, with the amendment of Article 30 stipulating the need for the committee to be completely independent from the General National Congress, Libya's legislative body. The provision thrust the CDA into crisis.

Civil society activists decried the lack of gender balance on the Assembly while Libya's ethnic minorities, particularly the Amazigh and the Tabu, protested that the Committee lacked any mechanism for reaching consensus about the articles of the constitution that concern identity and language. Yet another swathe of Libyan society threatened to boycott elections. On February 19, 2014, the High Council of Libyan Amazigh declared a boycott of the election, emphasising their refusal to recognize any constitution produced by that Assembly, further declaring that "all options are open to preserve our right to self-determination." Other components of Libyan society demanded that the elections be postponed as Libya's security situation began deteriorating precipitously. Disregarding this, the international community exerted pressure to facilitate elections, which were held on February 20, 2014, with weak participation. In the years that followed, the elected assembly carried out its work in a state of political division and rampant anarchy. Participation in the political process declined as security became the overarching priority for most Libyans. Political division soon reached the assembly, leading to another round of intervention by the international community.

International mediation produced a draft paper, the so-called "Salalah Draft," the members did not reach a final agreement regarding the constitution. To cite the epilogue of the book *Criteria for the Libyan Constitutional Project*:

"We can admit... the articles that were received little consensus are actually governing articles... that they affect the very structure of the state and essential rights. The fact that 61.42% of the articles in the Constitutional Project achieved high degrees of consensus does not necessarily guarantee ratification with a two-thirds majority... despite the small number, the articles that received little consensus (14.21%), they were the Articles that touch upon the crucial issues under discussion."

Viewing the dispute from another angle, significant sectors of Libyan civil society are opposed to the Constitutional Project and consider it a failure with respect to human rights and women's rights in particular. As a result of this opposition, some of the members of the CDA boycotted the sessions in objection to the Draft. A new dispute soon arose between members of the assembly concerning the final vote on the Project. 43 out of the 57 who attended the voting session voted in favour of it, and it passed by the Founding Assembly with a majority. This was challenged in court, and the Court of Appeals in Baida in Eastern Libya ruled on August 16, 2017 that the ratification of the Constitution Project was invalid. A further objection to the draft holds that per Article 23 of the Political Agreement, questions pertaining to the Constitutional Draft must consult with both the House of Representatives (HoR) and the High State Council (HSC) by forming a 'Common Committee' two months before the end of the Founding Assembly's work on the Constitutional Draft Project. This 'Common Committee' is charged with designing the framework for a constitutional referendum and a framework for holding the General Elections.

In January 2020, the Berlin Conference on Libya was held. The Conference called for a political track based on the Libyan Political Agreement (LPA). The UN Security Council approved this with its Resolution 2510, which in turn resulted in the establishment of the LPDF. The LPDF received a mandate to lay down a roadmap for a transition in Libya, later termed the Roadmap for the Preparatory Phase of a Comprehensive Solution. Pursuant to the decision in Hurgada, the roadmap aimed at holding elections on December 24, 2021. The first article of the Roadmap stipulates that "the overarching objective of the preparatory phase is to strengthen political legitimacy through presidential and parliamentary elections." In other words, the role of the LPDF is to facilitate the return of legitimacy to Libyan politics.

In February 2020, UNSMIL facilitated a dialogue between the HoR and the HSC, known as the Constitutional Track, in Cairo and Hurgada. Among the proposals discussed were a proposal to hold a referendum on the Constitutional Project, followed by elections; and a converse proposal to hold presidential and parliamentary elections followed by a referendum. Just one day before the end of the 60 days stipulated by the LPDF roadmap, the HoR and HSC came to what was, at the time, a surprising conclusion. The Constitutional Track decided to hold a referendum first based on the HoR's Referendum Law No. 6 and 'immunized' the tenth Amendment of the Constitution. But the agreement bypassed the HoR's internal regulation, which expressly stipulates the need for a quorum of one hundred and twenty votes to amend the constitutional declaration. However, this is impossible due to the fragmentation of the HoR and its inability to reconvene.

Since December 2020, the Legal Committee of the LPDF has had an internal organizational bylaw (TOR) defining the powers and authorities, in addition to a mechanism by which proposals can be received and evaluated within the LPDF. Some seven proposals were submitted, including a proposal arguing for the reinstatement of the 1951 Constitution and the activation of the 1951 Constitution's Article 52, which would transfer the powers of the monarch—in the event of absence or death—to the head of the cabinet. The committee instead opted to hold elections. This proposal was, too, fraught with difficulties.

A source on the LPDF suggested that the committee was keen to work along these lines, yet its unity dissipated over disagreements about such matters as the procedure of the elections (direct or indirect) and the eligibility of candidates (military officers, dual citizens, and convicted criminals). These disagreements caused some of the members of the legal committee to seek the advice of UNSMIL. A statement was produced stating that the legal committee and the LPDF as a whole do not have the mandate to address the constitutional process, but must focus only on establishing a *constitutional rule* for holding the elections. As a result, the LPDF itself has become a polarizing factor and a threat to the roadmap, its own greatest achievement. While the roadmap has put the proverbial train on the right track, defining its destination by setting clear milestones and dates, it has not proved immune to the factionalism that plagues Libyan politics. **Today, the LPDF is no less partisan than any other Libyan institution and is more likely than not a moribund institution.**

On the heels of this disagreement, some factions have used the constitutional logjam as a pretext for prevarication and procrastination, aiming to obstruct the elections in order to sustain the status quo which benefits them. Some members of the LPDF have tried to work around this obstructionism with proposals that look beyond the 'Elections First, Constitution First' tug-of-war; but to no avail. At the last round of the LPDF, the Forum formulated proposals that contradict the roadmap altogether as well as UNSCR 2570. Remarkably, the leadership of the United Nations mission allowed the members of the LPDF to deliberate and discuss these proposals under their very own auspices. Despite objections from within and outside the Forum, nothing was done to parry this transparent attempt at undermining the Forum's procedure. UNSMIL continues to insist on forming an endless chain of new sub-committees which revolve in vicious circles.

Today, there are two streams of thought on the constitutional project. The first altogether rejects the draft constitutional project and views the Assembly as being altogether illegitimate, in both form and substance. The view of this camp is to hold elections on a legal-constitutional basis using the Constitutional Declaration as a basis from which to do so. They argue that a government is needed to govern the country and usher it through the constitutional process. **The second camp insists on holding a**

referendum on the Constitution Project prior to holding national elections, which were tentatively planned for December 24, 2021 per the UN Mission in Libya Roadmap. The argument here is the need to bring Libya out of transitional governance and to lock in what has so far been a period of relative stability.

The international community has exhibited a distinct preference for “quick fixes,” namely through crude mechanisms for power sharing. The roadmap proposed and championed by the United Nations has been limited to issues such as the separation of powers yet has not made any progress on addressing the entire constitutional framework or the substantive causes of the conflict. The UN’s process in Libya has been conducted with a narrow perspective, aiming to corral and displace Libya’s ‘political dinosaurs’ rather than working from the bottom up or engaging with local actors in a substantive way. Because of this deficit in local representations, large segments of Libyan society in addition to politically powerful forces have not been proportionately represented in key dialogues and negotiations.

Moreover, the UN allowed a future problem to take root by failing to enforce accountability for members of the ancien regime. Those responsible for crimes against humanity and other human rights abuses could infer, from the loose policies and positions adopted by key international actors, that they retained licenses to continue participating in Libyan politics despite the absence of any organic political base for them to resume their activity. This contributed to the rise of Libya’s warlords and armed militant groups. International intervention similarly failed to make any contribution to the resolution of the socio-political grievances that had festered beneath the surface during the 42 years of autocratic rule and which are subsequently exploited by warlords. This oversight can be attributed to a lack of historical thinking and a lack of sensitivity to the unique, post-trauma nuances of Libyan society.

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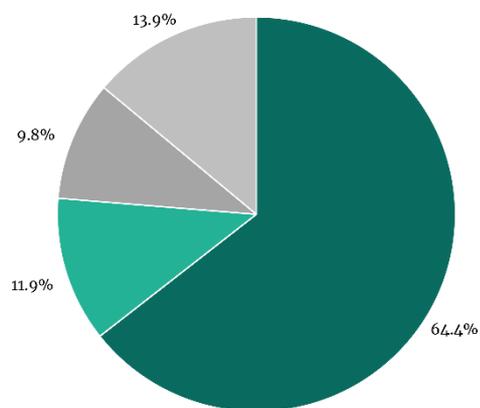
A leading public intellectual from Libya interviewed for this project pointed out that there is considerable confusion among Libyans about the contents of the constitution-drafting project.

IV. Polling and Focus Group Results

- Libyans polled during this process were overwhelmingly pessimistic about the ability of democracy to exist in Libya today, but only a small minority would rule it out altogether.
- Most of those polled hope to see a civil democratic system established one day.
- Most of those polled expressed little confidence in the ability of the United Nations to successfully guide Libya out of its current quagmire, assigning the blame to foreign and domestic actors in equal measure.
- Most of those polled expressed very little faith in any Libyan institution, actor, or faction to deliver Libya out of its crisis or to provide honest, trustworthy leadership.

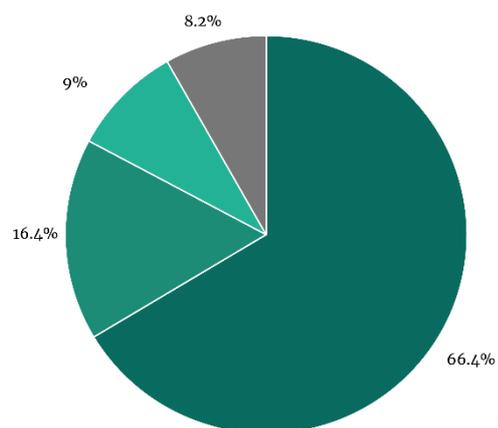
What is your experience of democracy in Libya after 2011?"

- 64.4% of Libyans thought that Libya was not an environment amenable to real democracy.
- 11.9% thought that the democratic experience in Libya could not yet be evaluated.
- 9.8% would not express a negative view.
- 13.9% believed that democratic experience had completely failed.



“What is your experience of democracy in Libya after 2011?” (July 2021)

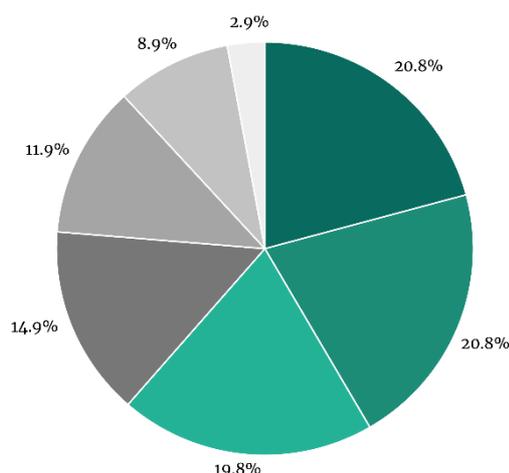
- 66.4% of Libyans thought that Libya was not an environment amenable to real democracy.
- 16.4% said it was “too soon to say”
- 9% would not express a negative view.
- 8.2% believed outright that democracy was not suited to Libya.



Since polling conducted in July 2021, feelings that democracy was not suitable for Libya increased by 5.7%.

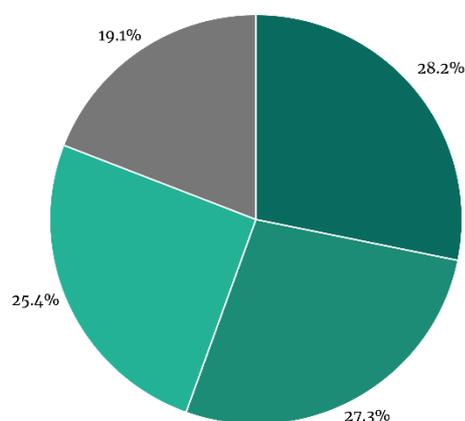
“What is the main reason for the Libyan Crisis?”

- 20.8% of Libyans blamed foreign intervention for the crisis
- 20.8% blamed domestic Libyan factions and jostling for power.
- 19.8% blamed financial and administrative corruption.
- 14.9% considered the weakness of the concept of coexistence and an absence of the culture of acceptance as a reason.
- 11.9% blamed the proliferation of weapons.
- 8.9% viewed a struggle over wealth at the heart of the conflict.
- 2.9% of respondents could not name the main reason for the crisis.



“What is the main reason for the Libyan Crisis?” (July 2021)

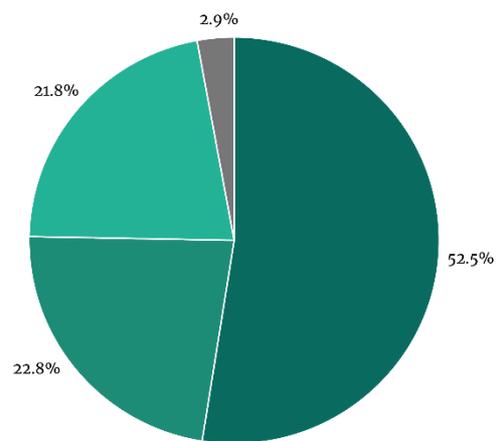
- 28.2% of Libyans blamed foreign intervention for the crisis.
- 27.3% blamed domestic Libyan factions and jostling for power.
- 25.4% blamed the proliferation of arms in Libya.
- Only 19.1% viewed a struggle over wealth at the heart of the conflict.



Foreign intervention and a range of domestic actors competing for influence still rank as the primary reasons of the conflict according to Libyans. In the most recent polling, Libyans identified more potential reasons for the conflict than in polling conducted in July 2021.

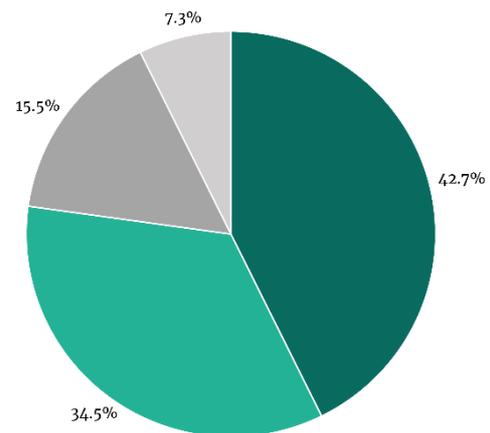
“What is your opinion about the ability of the United Nations to resolve Libya’s political impasse?”

- 52.5% did not believe that the LPDF would lead to the solution.
- 22.8% expressed a positive view of the dialogue but were sceptical about the ability of the UN to do anything.
- 21.8% did not view the UN was not neutral and was a way for foreign countries to ‘stealthily intervene’ in Libya.
- 2.9% thought the dialogue was “very good” and expressed confidence in the UN.



“What is your opinion about the ability of the United Nations to resolve Libya’s political impasse?” (July 2021)

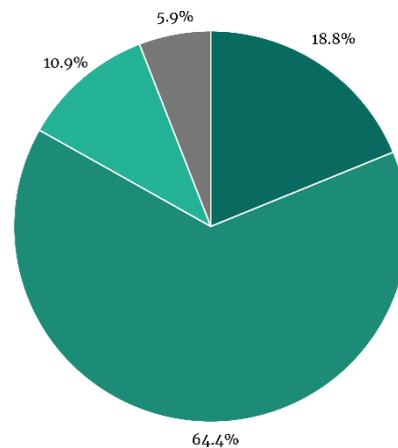
- 42.7% did not believe that the LPDF would lead to the solution, and sees the international community as prioritising crisis management rather than crisis resolution.
- 34.5% expressed a positive view of the dialogue but were sceptical about the ability of the UN to do anything.
- 15.5% did not view the UN as neutral and was a way for foreign countries to ‘stealthily intervene’ in Libya.
- 7.3% thought the dialogue was “very good” and expressed confidence in the UN.



Scepticism in the potential for the LPDF and UN efforts to culminate in a comprehensive solution for the Libyan crisis increased by almost 10% since polling conducted in July 2021. Respondents who saw the outcomes of the dialogue as good but not implementable were reduced by 12.7%. Those seeing the LPDF and UN efforts as positive decreased by 4.4%.

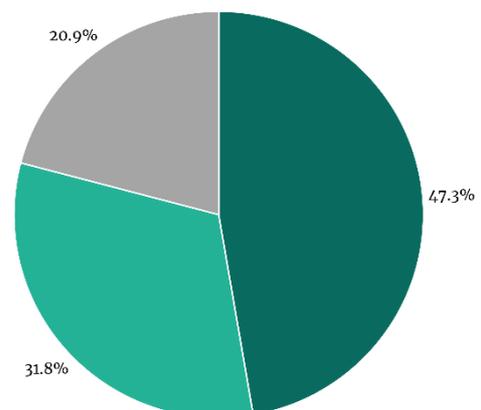
“Do you think the LPDF has potential to take Libya out of its current crisis?” (July 2021)

- 18.8% answered that the dialogue could potentially have an effect in resolving the crisis, but did not think the conditions on the ground would allow it to have an effect.
- 64.4% of respondents expressed no hope that the LPDF could solve the crisis.
- 10.9% expressed confidence that the dialogue could provide a solution to the crisis.
- 5.9% of respondents could not answer the question with confidence.



“Do you think the LPDF has potential to take Libya out of its current crisis?” (July 2021)

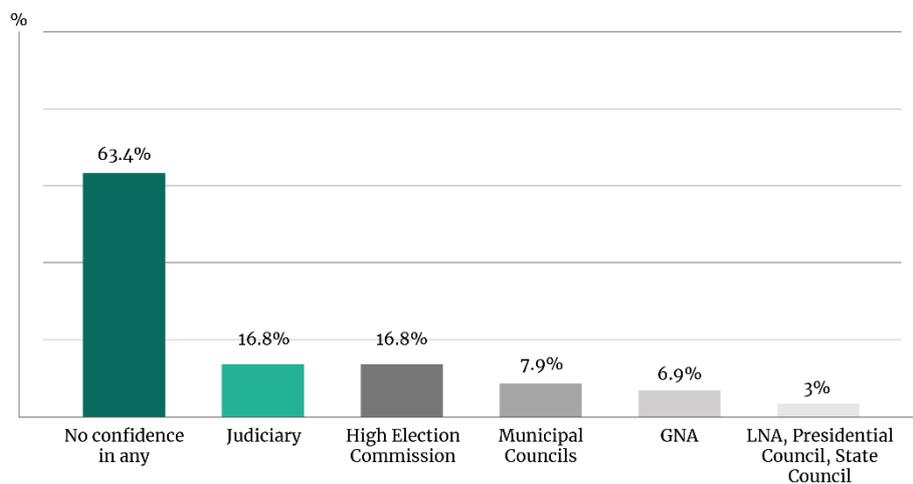
- 47.3% answered that the dialogue could potentially have an effect in resolving the crisis, but did not think the conditions on the ground would allow it to have an effect.
- 31.8% expressed no hope that the LPDF could solve the crisis.
- 20.9% expressed confidence that the dialogue could provide a solution to the crisis.



64.4% of respondents believe the dialogue has no potential, that is, more that 100% more since polling conducted in July 2021. Concurrently, only about a half of respondents believe that the LPDF could provide solution to the crisis.

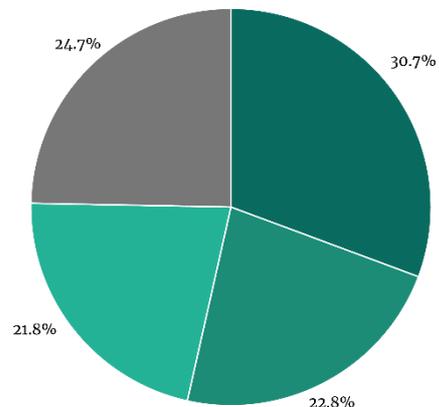
**“Which institution do you view as having been the most trustworthy in recent years?”
(Multiple responses allowed)**

- 63.4% of respondents did not express confidence in any institution.
- 16.8% Judiciary branch of government
- 16.8% High Election Commission
- 7.9% Municipal councils
- 6.9% Government of National Accord
- 3% Libyan National Army, the Presidential Council, the State Council.



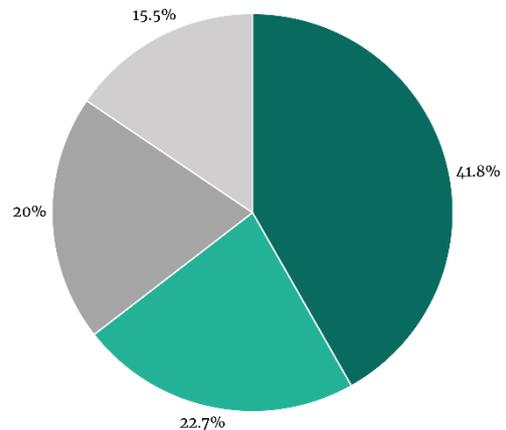
“Can some forms of intervention in Libyan affairs help or contribute to the restoration of stability in Libya?”

- 30.7% of participants said that some countries are positively contributing to the situation while others are contributing negatively.
- 22.8% responded saying they think international pressure helps force domestic players to abide by their promises.
- 21.8% viewed all foreign intervention as negative.
- 24.7% viewed foreign intervention as necessary in attaining stability.



“Can some forms of intervention in Libyan affairs help or contribute to the restoration of stability in Libya?” (July 2021)

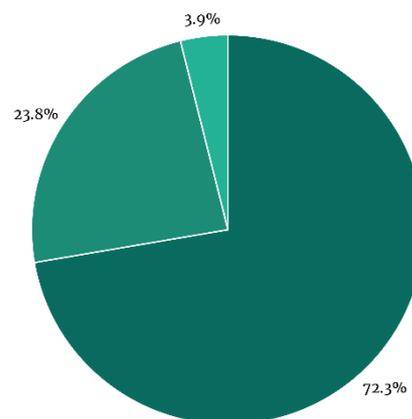
- 41.8% of participants said that some countries are positively contributing to the situation while others are contributing negatively.
- 22.7% responded saying they think international pressure helps force domestic players to abide by their promises.
- 20% viewed all foreign intervention as negative.
- 15.5% viewed foreign intervention as necessary in attaining stability.



Since polling conducted In July 2021, the share of Libyans considering some form of foreign intervention as necessary in attaining stability increased by 9.2%.

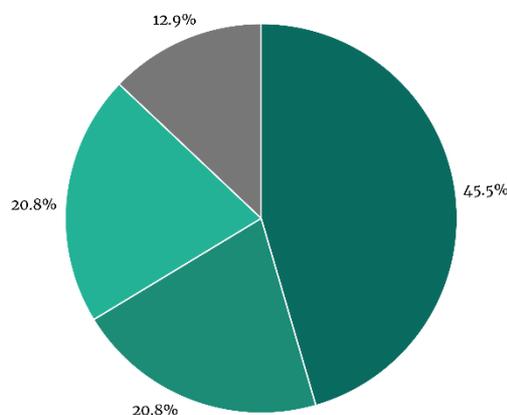
"Do you think Libya has a sense of unity as a nation?"

- 72.3% of respondents believed that Libya lacks a national identity.
- 23.8% believed that Libya is united to some extent, but social cohesion could be improved.
- 3.9% thought that Libya does not have a strong sense of unity.



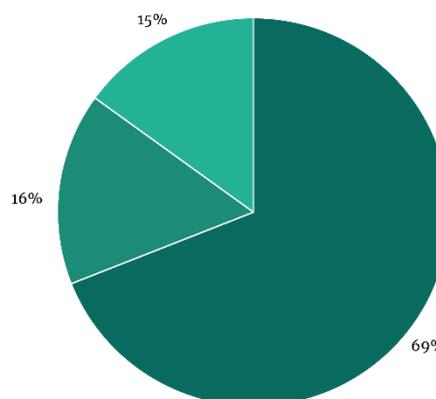
"Is It possible to reach consensus about Libya's future through elections?"

- 45.5% of believed that the result of elections would not be respected.
- 20.8% believed that there would be multiple challenges to the elections taking place.
- 20.8% expressed that elections are not the solution.
- 12.9% of respondents do not know if elections will ever take place.



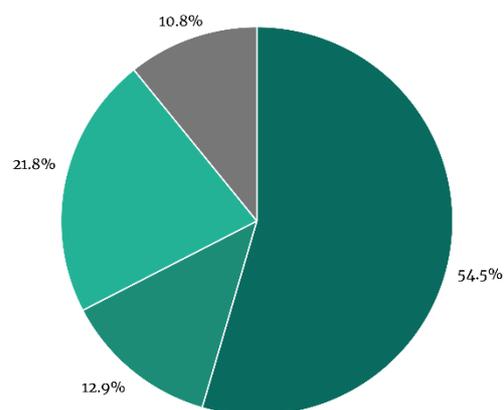
"Would you participate in upcoming elections?"

- 69% of respondents said they would participate in upcoming elections.
- 16% answered that they would participate if the integrity and transparency of the process could be ensured.
- 15% of respondents would not participate, either because they lost interest or because they were not registered.



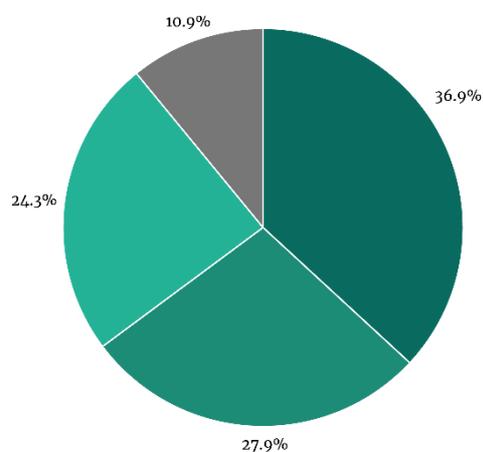
"Do you want political parties to run in the elections?"

- 54.5% of respondents answered they would want them to participate.
- 12.9% answered with a flat no.
- 21.8% said they did not care about participation as they did not expect change.
- 10.8% did not know.



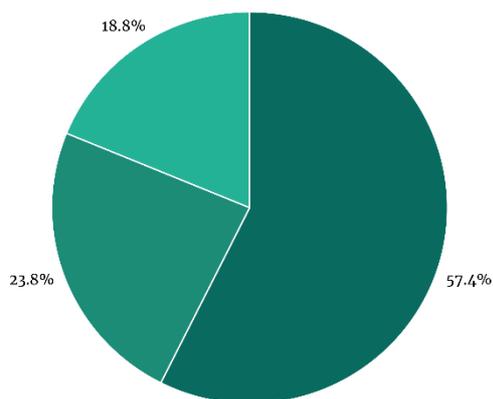
"Do you want political parties to run in the elections?" (July 2021)

- 36.9% of respondents answered they would want them to participate.
- 27.9% answered with a flat no.
- 24.3% said they did not care about participation as they did not expect change.
- 10.9% did not know.



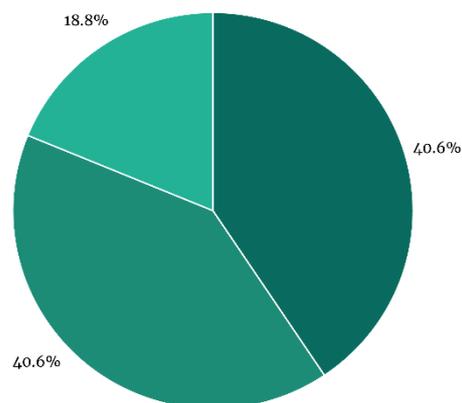
“Have you discussed the topic of the constitution as a potential solution to the crisis with your family?”

- 57.4% of respondents said yes.
- 23.8% answered no.
- 18.8% participants said they did not remember.



“Have you discussed the topic of the constitution as a potential solution to the crisis with your family?” (July 2021)

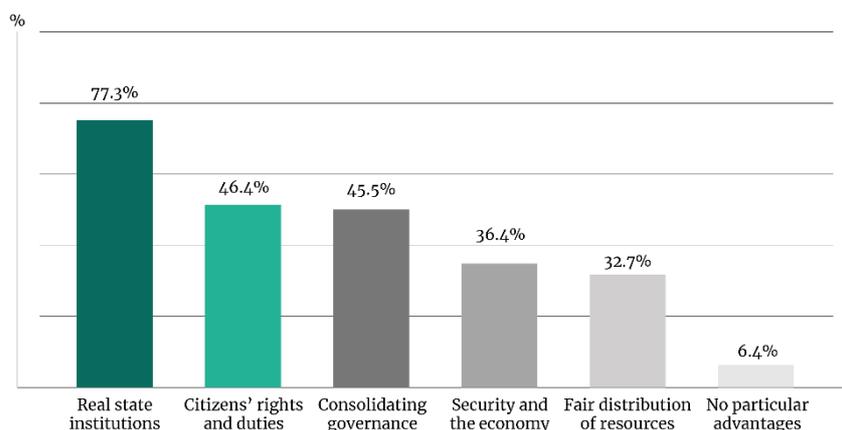
- 40.6% said yes.
- 40.6% answered no.
- 18.8% of participants said they did not remember.



Personal interest in Libya's constitutional future increased by 16.8% since polling conducted in July 2021.

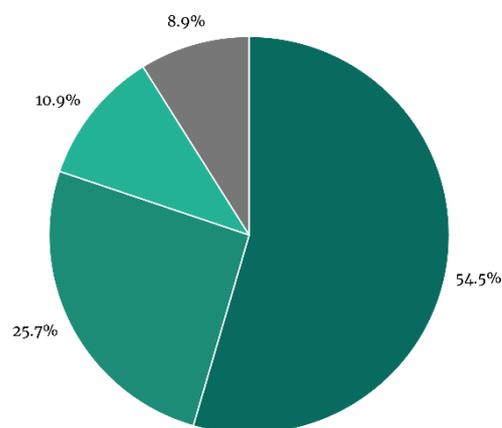
“What are the advantages of the creation of a constitution for Libya?” (Multiple responses allowed)

- 77.3% thought the establishment of real state institutions is the most important advantage of having a permanent constitution.
- 46.4% of respondents thought that clarifying citizens’ rights and duties was a further advantage.
- 45.5% thought an advantage would be consolidating governance in Libya.
- 36.4% thought a constitution would have a positive effect on security and the Libyan economy.
- 32.7% of participants thought the constitution would help fairly distribute resources in Libya.
- Less than 6.4% of participants did not see any advantages in having a constitution, or view the Libyan crisis as the result of the absence of a constitution.



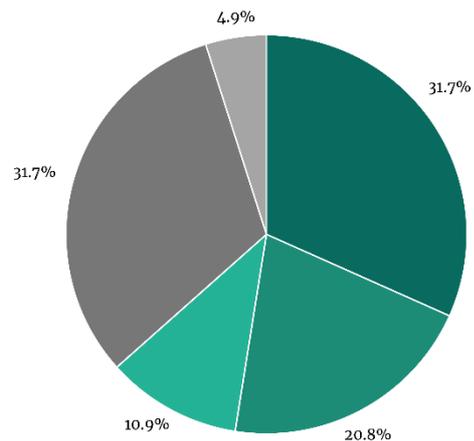
“Do you think the constitution approved by the Constitution Drafting Assembly should be put to a public referendum?”

- 54.5% would like a referendum about the constitution.
- 25.7% thought the current draft needs review and amendment.
- 10.9% think the constitutional referendum should take place after elections to allow Libyans to learn about the available options.
- 8.9% do not know if there should be a referendum.



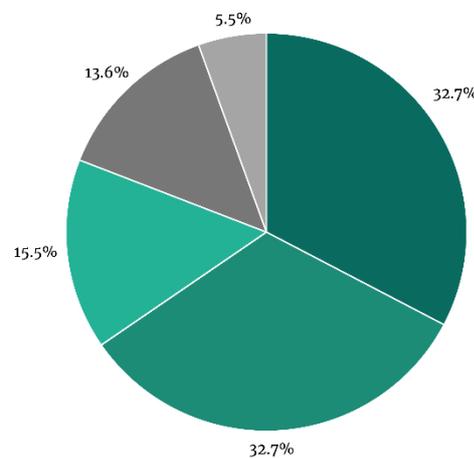
“What do you think about a federal system for Libya?”

- 31.7% said they would prefer an expanded decentralized system, but not federalism.
- 20.8% said they viewed federalism as a potential danger to Libya.
- 10.9% said the federal system is what Libya needs.
- 31.7% would not mind experimenting with a federal system.
- 4.9% do not think centralization is a key issue in Libya.



“What do you think about a federal system for Libya?” (July 2021)

- 32.7% said they would prefer an expanded decentralized system, but not federalism.
- 32.7% said they viewed federalism as a potential danger to Libya.
- 15.5% said the federal system is what Libya needs.
- 13.6% would not mind experimenting with a federal system.
- 5.5% do not think centralization is a key issue in Libya.



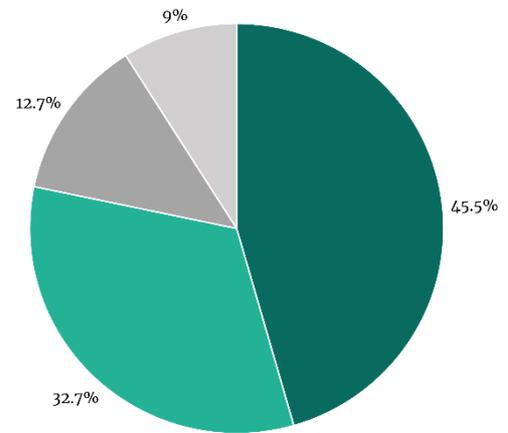
The share of those who would not mind experimenting with a federal system increased by 18.1% since polling conducted in July 2021.



A leading policy analyst interviewed for this project argued that federalism in practice would be unthinkable to establish in today’s Libya.

“What is the most appropriate solution, in your opinion, to the crisis and [the best way] to return stability to Libya?”

- 45.5% viewed the adoption of a constitution as a solution to the crisis.
- 32.7% viewed elections as the solution.
- 12.7% thought an expanded federal system was the best solution.
- Among the remainder of the answers, which collectively made up under 9% of the remainder, respondents included the equitable distribution of wealth, dictatorial military rule, and resolving social divisions.



Section 2.

The 1951 Constitution in History, Theory and Polling

I. History of the 1951 Constitution

After the Second World War, two visions were put forth for the Libyan constitution. The first entailed a vision of constitutional monarchy with a strong parliament, drawing on the experiences of neighbouring Egypt and the United Kingdom. Sayyid Idris al-Senussi, leader of the anti-Italian resistance in the East, pushed for this proposition and became its main proponent. This proposition took much inspiration from the British and Egyptian experiences, but also drew on the history of the Senussi Family. The second proposition offered a republican vision for Libya's future. Bashir al-Sa'adawi, who led the anti-Italian resistance in the West, was the chief proponent of this vision. The Senussi proposal won out, and the first Libyan Constitution was brought into force on October 7, 1951.

Idris, aged 61 and fresh from thirty years in exile in Egypt, was elected King of Libya by the Constitutional Assembly on December 2 and on December 24, Libya formally declared its independence; Idris announced the foundation of the United Kingdom of Libya from the al-Manar Palace in Benghazi.⁴² The new nation was forged through a United Nations initiative to craft a constitution and form of unified government for the heterogeneous regions of Tripolitania, Cyrenaica, and the Fezzan.⁴³ After independence, the united regions shared one expansive border, but each had their own challenges, history, economic systems, geography, and ethnic divisions.

To bridge these divides and establish a governing system which would represent all Libyans, the United Nations convened a Libyan National Assembly tasked with selecting the new form of government and crafting a constitution.⁴⁴ The Libyan National Assembly was

composed of 60 members representing in equal numbers Tripolitania, Cyrenaica, and the Fezzan. The process of drafting and approving the constitution proved to be a contentious responsibility; representatives of the three provinces vied for equality of status despite the great disparity in resources and population among them”.⁴⁵ Eventually, the Assembly came to accept compromise and a new Constitution was adopted in October 1951.

The 1951 Constitution established the Libyan state as a federal constitutional monarchy that endowed significant power and authority to provincial governments. The Federal system of government decided economic and political relations between the Libyan state and its constituent provinces until 1963, at which point the constitution was amended to abolish redundant federal structures and strengthen the power of the central government.⁴⁶ A Libyan historian, who asked to remain anonymous, noted that King Idris fired multiple prime ministers prior to 1963, and opted to create a unitary state. While the amendments served to address structural issues with the Libyan government, they failed to prevent narrow coalitions from profiting extraordinarily at the expense of the country as a whole.⁴⁷

Libya discovered oil in 1959, eight years after its founding. The effect of oil on the deformation of the Senussi state is hard to overstate. At its founding, Libya was one of the poorest countries in the world. Then, by 1962, oil revenues were \$40 million per year. By 1967, they had exploded to \$625 million.⁴⁸ The scholar Dirk Vanderwalle notes that the United Kingdom of Libya became, in large part because of oil, an “accidental state.” Because of the huge revenues generated by oil exports, governance increasingly became based on distribution, “albeit in a highly unequal fashion.”⁴⁹ By the time of the Coup in 1969, Libya exported some 3 million barrels per day, but Libyans received some of the smallest revenues per barrel in the world.⁵⁰ Despite immense national wealth after the discovery of oil in exportable quantities in 1959, ordinary Libyan citizens struggled to obtain necessary public commodities, services and meritocratic employment opportunities in state-controlled markets.⁵¹

Warmer ties with the United States were another effect of the discovery of oil: American companies took the lead in developing the Libyan oil industry, but moreover, both Britain and the U.S. acquired access to the Wheelus and al-Adem Air Bases, a fact which made Libya “the single biggest per capita recipient of U.S. largesse in the world.”⁵² The oil boom, combined with the influx of American aid, meant that the Libyan state had little scope to evolve or develop. The Libyan military – Libya’s “most politicized and coherent group” – stepped in. A nationalist wave, emanating mainly from neighbouring Egypt, captured the Arab world; Libya would not be an exception.

Oil contributed to deeper structural issues, as did the fact that Idris - by all accounts a pious and humble man - had always been highly reluctant to serve as King in the first place.⁵³ The premise of the original Senussi state was that the central government, headed by a king, would be able to facilitate an "institutional compromise... capable of bringing the different parts of the country together politically and economically while leaving sufficient autonomy to the existing provincial administrations."⁵⁴ An explosion of wealth made it impossible to form a political community, especially as tribal loyalties endured in a powerful way. The federal system also had its problems: Provincial borders were marked by borders and required visas to pass; the provincial governments of Tripolitania and Cyrenaica had governments respectively six and four times larger than those of the federal government; and between 1953 and 1963, infighting between the palace and the Cabinet resulted in frequent government collapses, with the palace often exerting a heavy hand.⁵⁵

While Libya's federal system had more or less worked for an aid-dependent agrarian economy, it was challenged by the rapid development of Libya's oil sector in the mid-1950s.⁵⁶ While effective and creative legislation such as the 1955 Petroleum Law managed to get the industry started and attract international oil companies, foreign firms still worried about the lack of clarity surrounding property rights and the local enforcement of rules announced by the national government.⁵⁷ In addition, substantial infrastructure was needed to transport oil to the coast for export. These pipelines needed to cross provincial borders and required cooperation among the different regions. By the early 1960s it became increasingly clear that Libya needed financial and bureaucratic integration in order to ensure that all three provinces "enjoy the benefits of oil."⁵⁸ Thus, in response to the demands of a burgeoning oil economy that required unified legal structures and centralized control, the parliament ratified substantial changes to the constitution in 1963, which eviscerated the federal system to concentrate planning, administrative, and economic power at the national level.⁵⁹⁶⁰⁶¹

On September 1, 1969, Colonel Mu'ammarr Qaddafi and his coterie of disaffected military officers ousted King Idris in a bloodless coup d'état while the aging monarch sought medical treatment in Turkey. Qaddafi ascended to power in his place, quickly establishing himself as a heavy-handed autocrat. Qaddafi's Free Officers Movement abolished the constitution in December 1969 and in 1975, effectively replaced it with his "Green Book."

Libya today, much like in the mid-twentieth century, needs to adopt a form of unified government that glues the country together and bridges social, economic, and geographic divides. At some point in this process, either before or after a government is established, a formal constitution should be adopted to lend credibility to future governments and unify the country.⁶² Whether Libyans decide to move forward with reinstating the 1951 Constitution or drafting a new one, it will be necessary to adopt pragmatic reforms which

immediately have a broad vision of what is needed for the future, but also tangible steps for how to pursue those goals.

Modern Debates



One former senior government official from Italy expressed his surprise and enthusiasm for any solution that might involve the potential restoration of the 1951 constitution in Libya.

One idea that has been posed over the years since Qaddafi's death is a return to the original 1951 or 1963 Constitution.⁶³ The Libyan Constitutional Drafting Assembly voted against reinstating the 1951 Constitution in 2016, in favour of drafting a new document.⁶⁴ However, the lack of progress on the issue gives credence to a re-evaluation of the 1951 Constitution as a potential option for the country to move forward and rebuild. The sections below will address how the 1951 Constitution came to be, how

the constitution (and the monarchy) dealt with issues relevant to economic development in Libya today, and how a restoration of the monarchy and the federal system might be viewed by local and foreign investors interested in doing business in Libya.

II. The Decline of 1951 and the Qaddafi Years

Libya's political and constitutional impasse is not temporary; it is structural and multidimensional. Much of this can be owed to the previous regime's concerted effort to *de-constitutionalise* Libya with an eccentric program of what might be called anarchist authoritarianism, Qaddafi's syncretic blend of fascist, socialist, pan-African, and Arab nationalist ideas. Before considering the current state of Libya and its constitutional framework, it is necessary to consider the damage that was wrought over the 42 years of autocratic rule.

On September 1, 1969, Muammar Qaddafi took power via a coup, supported intellectually and ideologically by Gamal Abd-el-Nasser in Egypt. The coup suspended the 1951 constitution and initially instituted a form of governance close to oligarchy. Qaddafi emerged as the head of the Revolutionary Command Council (RCC) which was comprised of other 'comrades' who started weaving networks of influence. In December 1969, the RCC promulgated a new constitution, making itself "the supreme authority in the Libyan Arab Republic" and giving itself "the powers attached to national sovereignty," the right to "promulgate laws and decrees," and the power to "decide in the name of the people the

general policy of the State.”⁶⁵ It did so in the name of the “popular will,” but this was not confirmed by any democratic procedure or ratified by any other similar process.

In the years that followed, Qaddafi changed Libya’s form of governance into a full-scale autocracy. He created the idea of “marching”, which can be taken as a symbol of his anarchist ideology. The essence of the idea of “marching” is the deconstruction of all kinds of law and order, including moral authority in the social sphere and institutional authority in the official sphere. In 1975, Qaddafi published his Green Book, inspired by the Little Red Book of China’s Mao Zedong. The political ‘treatise’ was written by Qaddafi and his confidantes, and outlined what Qaddafi called the ‘third way,’ his own ideology inspired by a miscellany of autocrats from the early 20th Century. The book was made part of educational curricula, and turned into a feature of Libyan popular culture, a staple of television, film, and radio. It is worth noting that Qaddafi did not even impose the Book as a ‘coercive dictated contract’. He imposed it as a ‘coercive dictated ‘instruction’. This behaviour is telling that what he had in mind is the total removal of the idea of contractuality from the Libyan milieu. The Green Book did not become a new constitution, but in 1977, the 1969 constitution was amended to change the name of the Libyan Arab Public to the Socialist People’s Libyan Arab Jamahiriya, an homage to Qaddafi’s own dabbling in political theory and in his view, “the absolute and decisive solution to the problem of democracy.”⁶⁶

Qaddafi enforced his ideology through fear. Among his gruesome methods were the execution of young people conducted in public squares and university campuses; arbitrary arrests; torture; mass surveillance of citizens; and the kidnapping and killing of opposition members, in addition to the desecration of their remains. The autocratic regime was meant to provide a ‘centrifugal’ force to the centre of Libya and to reengineer Libya in an image predetermined by Qaddafi. Among his goals were to undermine the influence of Tripolitania in Libya’s West, by weakening what remained of Libya’s once-energetic private sector; weakening the Eastern region of Barqa (Cyrenaica), which had hosted the Monarch and was the main source of military resistance against the Italian occupation; and weakening Libya’s Southern region, the Fezzan, which endured as a symbol of local autonomy. It is often asserted that this effort at ultra-centralization was meant to enrich the West at the expense of the East and South. This is not entirely true, as the regime’s policy of constraining private sector and impoverishing the nation, was applied across all three regions with equal vigour.

The only circle that was enriched by contracts and tenders was Qaddafi’s own inner cadre. The narrative of a lopsided pro-Western regime served as a recruiting tool for the regime in Western Libya, the more populous part of the country, and was a component of a classic ‘divide and rule’ strategy which worked well in a relatively young country with a history of being broken into distinct components. In addition to this strategy, Qaddafi’s autocratic

regime dismantled social bonds to weaken the moral authority of the older generations. Qaddafi isolated the leaders of prominent institutions and aggressively promoted young people to senior positions in his government. In the military apparatus, Qaddafi formed battalions that were personally subordinate to him and relied extensively on non-Libyan mercenaries. Finally, drawing from the example of China's Cultural Revolution, Qaddafi employed the media, educational system, and security forces in systematically brainwashing Libyans to adopt the maxims that he personally invented.

In the political sphere, Qaddafi abolished the mechanism of representation at the level of public participation. He instead established what he called the 'People's Congresses,' the leadership of which was assigned to loyal individuals. He terminated the contribution of professional craft and trade in co-regulating professions in cooperation with the executive authority, and further prevented elections in syndicates and disrupted the independence of trade unions. In the economic sphere, Qaddafi abolished private property, allowing the government to arbitrarily seize property, and seized the majority of the country's oil revenues. The idea of a national budget was similarly scrapped, and the Libyan social contract was reduced to a sinister exchange: the complete abdication of political and social rights in exchange for grants or other forms of access to Libya's abundant, state-owned oil wealth.

As can be seen from this brief narrative, Qaddafi's approach and ideology are the embodiment of some extreme political conceptions of modernity as well as of some political conceptions of "liquid modernity," also known as post-modernism. Qaddafi was a consummate modern dictator, adopting elements from Hitler, Stalin, Mussolini and Lenin and creating the dystopian reality outlined in George Orwell's best-selling novel *1984*. His rule rested on the possibility of coercion, rather than consent and contract. It is, therefore, better to understand Libyan constitutionalism as having been *suspended* for 42 years. It is out of this vacuum that Libya must now find a way to rebuild its constitutional fabric.

III. Modern Constitutional Debates

As the process towards political reconciliation after the 2011 revolution unfolds in Libya, a legacy of weak governance and deliberately hollowed out state institutions has weighed down the transition towards a unified government.⁶⁷ Most Libyan stakeholders agree that a permanent Constitution is the most secure way to end the political turmoil, transition, and legal confusion that has affected the legitimacy of all of Libya's institutions since the 2011 revolution. Where no one seems to agree is what constitution to adopt - the ratification process has been stalled since 2017 when the House of Representatives failed to approve a

new constitution drafted by the Constitutional Drafting Assembly. The debate continued in 2021, as the UN-led Libyan Political Dialogue Forum (LPDF) failed to reach a consensus on the constitutional framework for elections to be held at the end of the year.

Stasis in the current debate over the basis for elections has once again given rise to the idea of returning to the 1951 Constitution, which established Libya as a federal monarchy until 1963, when it was amended to convert Libya to a unitary model. For the most part, this idea is espoused by a small but wide array of actors in Libya and is most popular among Federalists, Monarchists, and some eastern factions. Some supporters argue this constitution should be implemented as is, or propose modern amendments and interpretations, while others see the 1951 Constitution as a model to build a new document from.

This section engages with some of the strongest proponents of the 1951 constitution as well as some of its strongest detractors, in addition to experts who are not overwhelmingly convinced in either direction.

Case for the Constitution

Proponents of a return to the 1951 Constitution represent various camps in Libya, from Monarchists, to Federalists, to those who simply believe that it would be easier to amend something than to start from scratch. Among the advocates, there are disagreements over how to implement the constitution, which version to use, and what modifications (if any) should be made. Still, in the last ten years supporters of the original constitution have organized events and rallies to advocate for a return to the original constitution. **For the most part, they are viewed as a vocal minority rather than a large coalition, possibly due to internal differences of opinion.** At the extreme end, some supporters go as far as to claim that this Constitution is still legally valid, given that Qaddafi's coup in 1969 only "disrupted the application of the Constitution," but did not cancel it.⁶⁸

Many proponents of the 1951 constitution claim that **the Constitution is a symbol of Libya's sovereignty and unification, emphasizing its "intrinsic legitimacy and authority."** Its supporters also point out that the constitution was **the first legislation that formally codified the rights of all Libyan citizens. The Constitution offered a wide range of political and social freedoms to its people including historically subjugated minorities and women.**⁶⁹ A proponent of the 1951 monarchy who served as an ambassador after the fall of Qaddafi compared the 1951 Constitution to the American constitution, arguing that the document is "intrinsically connected with the founding of the Libyan nation, the moment of its conception, and the decision made 62 years ago to form a community of destiny." While the constitution was not

perfect, they note that the constitution of the United States is venerated despite its provisions for slavery in the original document. They further point out that the Libyan constitution is a post-World War document, which was ratified by the United Nations; “It was not created for a family, or a tribe, or a city, or a county; it was created for the Libyan people with the ideals of representative democracy in mind. No other Arab country can say that. And besides, it cannot be that bad if it was the first document ratified by a United Nations aware of the horrors of the war.”

Another proponent of the 1951 constitution suggested that a return to the constitution and the reappraisal of Libya’s pre-Gadhaffi history would serve to create a sense of “common vision.” “I spent three decades opposing Gadhaffi, and had a clear sense that Libya should return to where it began. The alternatives to a constitutional monarchy are, inevitably, either Islamism or military dictatorship. But we have in our institutional history an example of what Libya can be, politically speaking.” It would further serve the ends of political education. “Libya’s institutional history has been completely destroyed. Starting from 1951 would **give Libyans a foundation for their political education**, teaching them to work in an atmosphere of historic institutions and to build on an extant foundation.” With respect to the question of engendering corruption, the proponent continued that “**The speed and scale of oil money was too great for the 1951 constitution. It did not fail a stress test; an elephant sat on it.** With the arrival of such massive wealth in Libya, one must ask if it would be possible for any other political system to control corruption or prevent collapse. A military dictatorship would have given the money to generals. A more autocratic system would have put all the money in a Senussi Swiss bank. And we saw what Gadhaffi did with the oil wealth when his palace was opened during the revolution.”

Advocates of the Federal model point to the autonomy the constitution afforded each of Libya’s regions, a provision that allowed local decision makers to affect the change needed in each community. When challenged about the risk of further division or the potential for partition in Libya,⁷⁰ many respond that the imposition of a historic constitution will serve as a unifying force that will embody the nation as a whole.⁷¹ Others say that the constitution is flexible and allows for a transition away from a monarchy.⁷² A key talking point among those who advocate for a return to the 1951 Constitution is that it will engender a “**tolerant, rights-based, democratic system of government, with a constitutional monarchy that would be a model for the region.**”⁷³

The prominent Libyan academic and activist Zahra Langhi expanded her argument for this paper in a number of points:

Political Arguments

1. **The constitution offers a starting point from which to rebuild the Libyan state:** The restoration of the 1951 constitution, which was ratified by the United Nations and is of a democratic character, would provide Libya with a clear starting point for the resumption of normal, democratic political life as well as an institutional context for Libyan state-building to commence. A decade of other, experimental approaches seems to have deepened divisions. The absence of such a framework has been an absolutely endemic problem in Libyan political life, and has facilitated international intervention, corruption, lawlessness, and endangered the political fabric of the Libyan nation. The restoration of the 1951 constitution is an obvious starting point that has been neglected not due to its intrinsic inadequacy, but due to the apprehensions of Libyan and international actors as well as the ulterior motives of Libyan politicians.
2. **The constitution offers a chance to restore Libya's constitutional organs.** The 1951 Constitution offers a framework within which to conduct Libya's state-building process. If implemented for even a five-year period, as articulated at length by Langhi⁷⁴, Libya will have a chance to restore the core institutions of the state, and to adjust and redesign them in a 'safe' context, without the lawlessness and constitutional ambiguity that dominates Libyan politics at present. The constitution would give Libya a period of stability, ensuring an exit from Libya's dragged-out transitional stage, creating a climate for conflict resolution and further offering a basis upon which future constitutional arrangements can be made.
3. **The constitution offers a framework for the separation of powers.** Throughout the transitional stage, Libya's state institutions have been working in what Langhi calls "a constitutional vacuum, which caused them to flounder and fall into anarchy." On that basis, Langhi advances the 1951 Constitution as a "comprehensive constitutional structure that allows the legislative, executive and judicial authorities to do their work smoothly, without constitutional ambiguity."
4. **The constitution protects minority rights:** On the heels of pressing debates about the inclusion of Libya's ethnic minorities,⁷⁵ Langhi argues that the 1951 Constitution "enshrines, with complete clarity, the rights of all citizens regardless of gender, ethnicity, religion or race."
5. **The constitution offers a way to assert Libya's independence in the international arena:** In view of blatant external interference in all aspects of Libyan politics, the 1951 constitution offers a framework to express Libya's independence and territorial integrity. Most importantly, the constitution offers a clear and binding framework that can allow Libya to act in the international community as a sovereign state, capable of

extending its authority over its own national territory. In Langhi's view, Libya already has a constitution; failure to acknowledge it has led Libya to make legal agreements which are not, in fact, legally binding.

Philosophical Arguments

1. **The constitution reflects Libyan national unity, harking back to Libya's founding.** Langhi argues that the 1951 Constitution expresses "numerous legitimacies" including the notion of "one Libyan nation," "one Libyan territory," and "independence," all of which are "essential to Libya's political and sociological coherence". The document is also recognized by the United Nations, the first constitution drafted and ratified by the body and therefore a particularly valuable document from a historical point of view. Above all, the document "evokes the spirit and values of the founding of the Libyan state," offering a chance "to animate the present, which resembles that decisive moment in history." For Langhi, "the Libyan nation has the chance to draw inspiration from its institutional and constitutional heritage, and from a document that, with international backing, "preserves the unity of the national group, the integrity of Libyan territory, and national independence."
2. **The constitution transcends political factionalism.** The 1951 Constitution is "a consensually-accepted social contract," not imposed by any particular political faction within Libya and in fact arose after Libya's founding disputes were put to rest and was accompanied by the renunciation of prior disputes by the membership of the Constitutional Assembly.

“

“The point isn't to reengineer the country in a way that is suitable for the next 45 years. You need to stabilize the country and then to think clearly.”

-

Hani Shennib

Alongside Langhi, another advocate of the 1951 Constitution is the internationally-renowned cardiologist Hani Shennib, who is also President of the Washington D.C.-based National Council on US Libya Relations. When interviewed for the project, Shennib argued that Libya requires a "reference point. Shennib shares Langhi's arguments about the 1951 Constitution offering **“a solution that will avert war... serious war... because we're headed towards**

one.” The 1951 Constitution, in his view, is the only option “authoritative enough to have Libyans accept it, even on a temporary basis... not out of nostalgia or passion [but] on merit.” He notes that the historical constitution could serve as a substitute, even on a temporary basis, for Libyans' political experience.

For Shennib, “In the last ten years, the grievances of individual regions surface in ways we have not seen before. Even between 1963 and 1969, everyone knew the rules of the game... and they played it well. There were two capitals, equal distributions of power, and respect for the major provinces.” **For him, the key selling point of the 1951 Constitution is that it can avert the risk of a hard partition in Libya.** Shennib himself advocates federalism, per the 1963 amendment of the Constitution. He noted that “in 2011, the mention of federalism would have been perceived as partition” or even as “treason,” but today, “**Libya is already partitioned via Sirte.**” He expanded that Libya has, in effect, “two armies fighting and threatening each other” and have “extremely different views on governance.” It is here that the 1951 Constitution can act as an “urgent alternative.” Shennib notes that from his recent travel to Tripoli, “more people, who are deeply involved in the constitutional question, think a federal model could be a good idea” and that “it isn’t as much a bad idea as opponents are saying.”

With respect to arguments about the division of Libya’s oil wealth, Shennib notes that “Local, regional and economic interests in Libya today are based on the umbrella rent economy, not sound economics.” Even if salaries are higher or roads are built, there is “nothing truly constructive and nothing conducive” in the current model “to building a modern state.” While in the East, the federal version of the Constitution is highly popular, in the South, there are “a few notable proponents,” **the cities of Misrata and Tripoli are reluctant to engage with the federal model.** He notes that while “Tripoli is reluctant to go back to a model that reduces the power of the cities”, “Misrata sees itself as having more power in the status quo or in a new model whereby Misrata and its environs are recognised as a region per se.”

Opposition to the Constitution

As the 1951 constitution is not widely discussed, there is little in the way of vociferous opposition to the proposition from within Libya. The key critiques, however, lay in the constitution’s perceived excessive concentration of power and inadequate provisions for a bill of rights.

The main rebuttal used against pro-1951 activists comes from Democracy Reporting International-Libya (DRI), a Berlin-based NGO that has worked closely with Libyan civil society groups since 2012. A DRI brief opposes the reintroduction of the 1951 constitution on the grounds that it is not up to the standards of modern constitutional theory: “**it lacks many important elements: it does not back up human rights protections against the risk of erosion by ordinary laws, does not clearly articulate checks and balances, and does not provide for independent democracy-preserving institutions.**”⁷⁶ Having been written before several

advancements in modern constitutional theory, the DRI argues that the constitution in its current form is inadequate.

Lorianne Updike Toler, a legal academic at New England Law School with experience in Libya, strongly opposes the restoration of 1951, on the grounds of a “gross imbalance of power” in the constitution, and “ramifications of the resource curse.” Updike Toler argues that the constitution would “provide passage back not to Libya’s golden era, but to its darker, more recent period heralded by autocratic and authoritarian rule.”⁷⁷

Toler further notes the short lifespan of such documents: “Since Constitutions began to be written in 1789,⁷⁸ there have been 56 reinstatements in 43 countries: 21 in Europe, six in the MENA region, four in Sub-Saharan Africa, seven in far and Southeast Asia, and eighteen in South America.⁷⁹ Essentially, **reinstatements have occurred in roughly only 22% of countries.** Although more research is needed to understand why reinstatements were made, preliminarily, it seems that reinstatements usually followed suspension of the constitution or a political event such as revolution, or reorganization under a totalitarian regime. This was the case in Austria (1945), Romania (1944), and Georgia’s (1992) constitutional reinstatements in the wake of World War II and the fall of the iron curtain, which provided a means towards stabilization. **In this sense, Libya’s case would not be entirely unique, and would follow the political and legal circumstances that normally precede reinstatement.**”

“However, despite its relative frequency, constitutional reinstatement is no panacea. **After reinstatement, constitutions survived thereafter for an average of 14.6 years, 4.4 years less than the median constitution’s life cycle of nineteen years.**⁸⁰ If the past is prelude, reinstating the 1951 Constitution would therefore not outlive even one generation, a poor performance for a document most Libyans hope will be multi-generational. Additionally, there are only three examples (Argentina, Bulgaria, and Latvia) where constitutions were reinstated more than 50 years after its creation as would occur in Libya.⁸¹ None has been reinstated after 70 years... If constitutions are designed to endure, comparative constitutional experience teaches that reinstatement is not a quick-fix solution, especially where the initial constitution was created more than fifty years ago, and is an entirely untried experiment in an oil-rich country like Libya.” Toler argues that the “**biggest reason why the 1951 Constitution is unsuited for modern reinstatement is the discovery of Libyan oil in 1959.**” The constitution, for this reason, is “unsuited to all of oil’s temptations and regulation.” Toler argues that “**as has been shown in other MENA and OPEC countries, the infamous ‘resource curse’ has helped to bring about totalitarian monarchical regimes... and totalitarian presidential regimes,**” arguing that this is the case without exception in any OPEC member state.⁸² Toler argues that “those in power are tied more to providing rent to oil companies

than to the polity they represent on whom they are no longer reliant for taxation. Without accountability or visibility, democracy and freedoms deteriorate in all oil-rich countries.”

An independent contributor to this project, who did not wish to be named, expressed concerns that after years of civil war, a strictly federalist system could further entrench the fragmentation of Libya and diminish national unity.^{83,84} From a historical perspective, they argued that the federal system in Libya caused more harm than good. Under the federal system, four governments sitting in two national and three provincial capitals ruled Libya. There were fifteen federal ministries, while each province averaged eight ministries.⁸⁵ By the late 1950s, the government payroll included nearly 40,000 civil servants. Meanwhile, Cyrenaica and Tripolitania employed more civil servants than the federal government and their salaries accounted for at least 12% of Gross National Product.⁸⁶ As oil revenues increased, state expansion created offices and ministries that served no regulatory purpose and only existed to provide employment and distribute state revenues.⁸⁷ The sheer size of the government had an enormous cost from an economic and social perspective. Additionally, ineffective communication between the national and local governments, and among the provincial governments more than once resulted in contradictory policies or duplication of services.⁸⁸

There is also the question of corruption. Many historians of Libya have repeated claims of corruption, citing them as a major failing point of the 1951 system.⁸⁹ An eminent Libyan historian who did not wish to be named responded to these claims by emphasising that Gadhaffi was in fact advised to propagate claims of corruption in Libya before him and to maximally associate monarchy with corruption; yet because of the state of the Libyan state archives, there is a dearth of archival evidence to substantiate claims of the royal family *per se* being corrupt and that indeed, a first cousin of King Idris was executed for attempted corruption, with no veto exercised by the king, in 1963. Still, the Constitution of 1951 provides some basic framework for course correction as principles of accountability and anti-corruption mechanisms are explicitly mentioned in the document. Article 90 bans ministers from holding other offices in the government and from taking an “active part in any commercial or financial enterprise,” including serving on a board of directors.⁹⁰ The independent contributor concluded that neither the 1951 Constitution nor the most recent draft created by the Constitutional Drafting Assembly is a panacea for ending corrupt practices in Libya, and that anti-corruption provisions in either draft would require significant consolidation.

Libya expert Tarek Megerisi, who was interviewed for this project, noted that from a historical point of view, “the federalist idea led to immense problems in the fifties and sixties, including the centralization of power and other issues.” Moreover, Libya lacked a bill

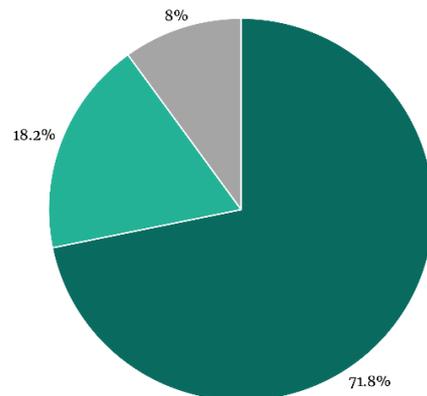
of rights; an outcome of which was “fine for political elites but not normal people.” **In a future constitutional arrangement, it would be imperative to renegotiate Libya’s governing structure for these two reasons alone.** He noted that the prospect of reintroducing the 1951 Constitution would be popular with older Libyans, and that doing so could “give Libyans a degree of *ontological* security.” But the number of questions that have to be answered in modern Libya is “truly vast,” spanning land and property rights; civil registry issues; citizenship, particularly for Libya’s minority groups; preempting corruption; mitigating the concentration of state revenues in certain people’s hands; tracking down tens of billions in misplaced assets; and creating a unified security apparatus. Megerisi notes that none of these issues can be tackled without a stable political environment, and that Libya at present does not have one.

Tarek Megerisi instead suggests drawing out the constitutional process further. While he notes that there is no precedent for a “twenty-year pause,” such a pause would be necessary to satisfactorily and systematically work through the serious problems that Libya faces today. Similarly, Libya expert Jalel Harchaoui, who was interviewed for this project, argued for the need for Libyans to “do their homework and prepare a new constitution, rather than try to go back to an old one or to rush.”

IV. Polling and Focus Group Results

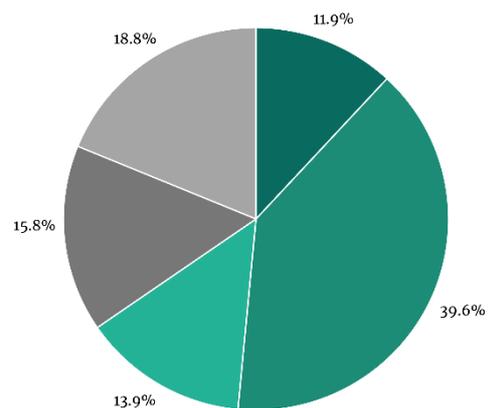
“What would be the best sort of political system for Libya?”

- 71.8% expressed a desire for a “civic democratic system”
- 18.2% desired a “monarchical system”.
- The remainder of votes went to either a totalitarian military dictatorship or a theocratic system, but neither option received more than 8% of the vote.



“Which constitution is most relevant to Libya today?”

- 11.9% of respondents said the CDA draft
- 39.6% of respondents said the CDA draft needed amendments in order to be ready for adoption.
- 13.9% of respondents answered the 1951 draft, with some amendments, would be most appropriate.
- 15.8% answered that the amended independence constitution of 1963.
- 18.8% would draft an entirely new constitution.



Section 3.

Prospects for a Constitutional Monarchy

I. The Senussi Monarchy: A Brief History

The story of the Senussiyya begins with the grandfather of King Idris, Muhammad ibn Ali as-Senussi. Otherwise known as the Grand Senussi, Ali al-Senussi founded the eponymous, Sufi order (*Tariqa*) in Mecca in 1837.^{91 92 93} A scholar of Sharifian descent from Mustaganim, in what is now Western Algeria, the Grand Senussi's educational pursuits carried him first to Kairouan University in Fes, then to Mecca where he studied under the notable Ahmad ibn Idris al Fazi.⁹⁴ Al-Senussi is among several of Idris' pupils who moved on to found their own Sufi orders around the same time, and became a noted scholar of Sufism in his own right.⁹⁵

Thus, the Senussi Order surfaced as part of a wave of religious revivalist movements that are widely viewed as Islam's response to western expansion upon the decline of the Ottoman Sultanate.⁹⁶ Ultimately, mounting tension with Ottoman authorities and other religious movements drove the 51-year-old leader to leave Mecca and return to his North African origins. After traveling through Egypt and Tunisia, al-Senussi and his entourage settled in Eastern Libya, the mountains of Ottoman Cyrenaica between Benghazi and Derna. Upon his arrival in 1843, Grand Senussi founded the premier *Zawiyya Bayda*, meaning White Lodge. Here the religious movement quickly gained traction as its leader's reputation as a holy man and source of knowledge preceded his arrival. Before long, the immigrant Senussis mastered the ways and workings of their new environment and cultivated Cyrenaica's unwelcoming terrain as the centre of their ever-expanding operations throughout the region.

Muhammad Ibn Ali as-Senussi's movement was one that by far surpassed the boundaries of religion. While teaching the Quran and the early days of Islam with the assistance of his various scholars was a cornerstone of education in the multitude of *zawiyyas* (lodges) created by as-Senussi, practical training and acquiring life-saving skills for living in and transiting through the desert was just as important. Agricultural knowledge, manufacturing skills and

combat training were all part of an elaborate cultural programme, which disseminated a way of life, including a way of Islamic spirituality. Importantly, as-Senussi's creed did not follow methods of active proselytising. His centres of thought and training led with example, and the nomadic Bedouin tribes of North Africa, who were often left without protection, food and water while making it from one oasis to another along trading routes leading through the desert, were eager to learn.

As-Senussi's aim first and foremost was to create a functioning Muslim society, one based on practical skills and cooperation rather than a competition for power and authority. Instead of imposing ideology on people in a top-down hierarchical structure, the *Senussiyya* endeavoured to build a peaceful society from the bottom-up by means of education. The military element only served the purpose of protecting of carts passing through the *zawiyyas*, enabling agricultural work, production, and all other types of activities in the community. Therefore, the *Senussiyya* can be considered as a primarily social rather than political movement. Once the socio-economic and cultural foundations of a community are laid down, argued as-Senussi, people can build a plethora of state structures based on justice and *shura*, and serving their particular needs.



A formerly prominent political figure in Libya elucidated that nomadic life in the deserts of North Africa did not allow for the development of full-time establishments or full-time religious practices. This is the gap that the *Senussiyya* so aptly filled.

The Senussi Order reached its apogee as an economic, spiritual and, to some extent, political force in the late 19th century. Its *zawiyyas* (lodges) drew in new adherents across North Africa and the Hijaz. The Senussi expanded their influence along peripheral trade routes and through additional state-like provisions of services such as courts of law and open markets.⁹⁷ The system of lodges forged a place for “high culture and safety in the desert wilderness.”⁹⁸

The lodge at Jebel al-Akhdar would serve as the order's headquarters until 1856, at which point the Grand Senussi shifted his attention to Jaghbub. Though the location did not provide much potable water or fertile land, it was strategically located between the warring tribes of eastern and western Libya. Despite the environmental limitations, he cultivated the *zawiyya* at Jaghbub to become a prominent education centre for the brotherhood.

In a practice quite common in North Africa, the Senussi ethos endorsed a reverence of the Grand Senussi and other leaders that could be compared to sainthood. In such an elevated position, the leading ranks of the Senussi increasingly wielded their divinely endowed

*baraka*⁹⁹ as a compelling force in the nascent sphere of local politics in Libya.¹⁰⁰ The fraternal followings' intense devotion to Muhammad ibn Ali as-Senussi, and later, subsequent leaders of the order, facilitated intragroup interactions and dialogue between otherwise disparate, nomadic tribes across Libya's hinterland. Later, the Senussi legacy would lay a foundation for the consolidation of Libya as a unified state.

Historian Ronald Bruce St. John parallels the missionary and political activities of the Senussiyya in the latter half of the 19th century with that of the Ottoman efforts in other parts of the province.¹⁰¹ That is to say, both facilitated the rise of law and order through judicial institutions, promoted education, and sedentism with agricultural development. In this way, the Senussi established its authority among the nomadic tribes of the interior, and away from competing centres of power along the coast. The network of *Zawiyyas* and the religious aspect of the mission allowed the Grand Senussi to connect and spread his influence with great success. Before his death in 1859, his disciples spanned from Western Egypt, across Cyrenaica and Tripolitania, and beyond the southernmost borders of Libya.¹⁰²

Upon the death of the Grand Senussi in 1859, his son al-Mahdi Senussi assumed charge of the Order and vastly expanded the Senussi's reach across the region. The Senussi had transplanted themselves from the Hijaz to Cyrenaica peacefully and had actively disdained the aggressive jihadi doctrines of the Sudanese Mehdiyya. Yet, al-Mahdi Senussi inspired a defensive tradition of anti-imperial *jihad* (holy war) through his struggles against the advance of French colonialism northward through modern-day Chad. To this end, al-Mahdi moved the order's headquarters from Al Jaghub to the Al-Kufra Oases, a central traffic point for desert caravans and trade and a better vantage point to oversee and protect the missionary activities of the order.¹⁰³

His success never passed on to his regent successor Sayyid Ahmad ash-Sharif who led the order from 1902 until 1917, when his younger cousin Muhammad Idris Senussi took control. The record of Ahmad's rule is marred by a series of defeats at the hands of the Christian French forces which begot the devastation of many Senussi lodges in Northern Chad. During this time, the Senussiyya became more anti-imperial, seeing European powers as conspiring to dominate their lands and divert trade away from their traditional caravan network. The Senussiyya's increased involvement in military affairs during the struggle against imperial powers caused a shift in its pattern of relations with the tribes and the people so that as the Senussiyya failed militarily, its position among the tribes deteriorated. Likewise, as military actions became the most prominent of the Senussiyya's operations, its claim to religious legitimacy declined.¹⁰⁴ Although the rebellion against the Italians is remembered as a great crusade, the Senussiyya's defeat uprooted the majority of their empire, which could never be properly reconstructed.¹⁰⁵

The violence came to a close with the adoption of the Treaty of Acroma (1917), which limited Italian sovereignty over the Senussiyya and led to the recognition of Muhammad Idris al-Senussi as Emir of Cyrenaica in 1920.¹⁰⁶ He achieved that position as the British backed his candidacy and worked with him to depose his uncle as leader of the Senussiyya.¹⁰⁷ At the time, Idris was living in exile in Cairo and had established quite a network of contacts among other Libyan exiles and British colonial officials which facilitated his political ascension. The young leader spoke fluent English and presented himself to the British officers in Egypt as a charismatic organizer who alone harboured the potential to bridge the divided tribal society in Libya's hinterlands.

As Emir of Cyrenaica (1917-1923), Idris entered a new arena of international diplomacy—Western recognition of his authority opened diplomatic channels ordinarily out of reach for tribal leaders.¹⁰⁸ The Emirate's numerous western visitors left their meetings with Idris convinced that he was destined to become a powerful, progressive force in North Africa. British records show how they admired his ambition and described the future king as a tough, but honest interlocutor.¹⁰⁹ Idris' leadership and dialogue with the west during this time helped solidify the Senussi legacy as the dominant indigenous political force in Libya for decades to come.¹¹⁰

The rise of fascism in Italy marked the end of Idris al-Senussi's first tenure as Emir of Cyrenaica, and he returned to Cairo in 1923. Benito Mussolini's coup and subsequent Reconquista efforts to colonize Libya as Italy's fourth shore led the colonial administration to increase its use of force in an attempt to extend state presence into the Libyan interior. The Italians employed brutal tactics to subdue the civilian population and defeat local opposition led by Senussi leaders.¹¹¹ In Idris' absence, Senussi *shaykhs* once again redefined the Senussi Tariqa as an organized movement of anti-colonial armed resistance. The legacy of the resistance against the Italians during this period (and earlier efforts against colonial powers) is woven into the fabric of Libya as a unified nation. **Its cultural significance is exemplified by the memory of Omar Al-Muhktar, a teacher-turned-general and prominent figure in the Senussi movement who to this day is regarded as a martyr, national hero, and symbol of resistance across the Arab world.**¹¹²

Although Idris al-Senussi did not directly participate in the resistance, but as head of the still-influential Senussi order he continued to influence Libyan politics among elite diaspora groups in Cairo and parlayed with government officials from abroad. During this time, divisions among the Libyan diaspora affiliated with different tribes and regions took hold over differing visions for Libya's present and future.¹¹³ These fractures foreshadowed disputes which would inevitably shape the formation of Libya's first independent government when the United Nations convened a Libyan National Assembly to draft a

constitution for Libya in 1949.¹¹⁴ Drafting a constitution acceptable to a majority of delegates proved to be a difficult task, with representatives from the three provinces competing for equal status despite vast differences in resources and population.¹¹⁵ Notwithstanding the group's differences, Idris al-Senussi prevailed as the most prominent candidate for head of state throughout the discussions.

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One member of a minority group in Libya interviewed for this project recalled that King Idris sustained an equilibrium between Libya's factions and was friendly towards minorities.

The Assembly eventually came to terms with compromise, and a new constitution was ratified in October 1951.

At that point, Libya was founded as a federal constitutional monarchy with provincial administrations receiving substantial powers to protect regional interests. At the head of this government, Idris al-Senussi ascended to the throne as King of the newly united, independent Libya. As envisaged in the Constitution of 1951, King Idris was expected to serve as a living symbol of the nation and a cohesive force in the federation.¹¹⁶ **The foundation for Idris' ascent to power was founded on his record as Emir of Cyrenaica, the historical legacy of the Senussiyya, and the backing of international powers such as the British.**

Following the discovery of oil in Libya in 1959, Idris oversaw the development of a thriving oil sector that supported economic growth. Nonetheless, Idris' reign proved tenuous in the face of regional upheaval, namely the rise of Arab nationalism in neighbouring Egypt. Egypt exported its ideology around the Arab world, particularly through the radio broadcaster *Sawt al-Arab*, which had bespoke programs for Libya and other Arab countries aimed at spreading the nationalist gospel.¹¹⁷ At the tail end of the powerful Arab Nationalist movements that toppled a number of the Western-backed regimes of the post-war world order, on September 1, 1969, Colonel Qaddafi and his military officers ousted King Idris in a bloodless coup d'état while the monarch sought medical treatment abroad.

The eccentric character of Qaddafi's leadership and pseudo-philosophic credo captured the imagination, and thus attention, of many intellectuals and policymakers who aspired to make sense of the quagmire that is Libyan politics and the country's history. **Qaddafi himself played a hand in obscuring the historical record and reconstructed the collective memory of the Libyan people. In consequence, the narrative of the Senussiyya, King Idris' rise to power, and his years on the throne are understudied and often underappreciated for their historical significance in the development of Libya as a nation.** The role the Monarchy should play in modern discussions of the future of the Libyan state is up to the Libyan people. Should the

Monarchy serve as a symbol for unity, the building blocks for a new government, or simply a shared history?

II. The Senussi Monarchy: Contemporary Discussions

Following the Qaddafi coup in 1969, King Idris returned to exile in Egypt. In November 1971, Idris was put on trial in absentia and sentenced to death. Idris died in 1983 at the age of 94, leaving his nephew Hasan as the heir to the throne. An instrument of abdication had been signed by Idris on August 4, 1969, stipulating that Hasan would take the throne on September 2, 1969. Yet the September 1 coup prevented this from occurring. Hasan was tried by an emergency military tribunal in November 1971, and sentenced to three years in prison. Following the end of this sentence, Hasan and his family were placed under house arrest for seven years. In 1984, the house was burned down, as was the Senussi Mosque in Jaghboub, and the remains of Mohammad bin Ali al-Senussi, founder of the dynasty, were scattered in the desert. In 1987, Prince Hasan suffered a stroke; Gadhaffi permitted him to go to London for medical treatment. He died in poverty in 1992. The current head of the Senussi family is Mohammad al-Hasan al-Rida al-Senussi, who was interviewed for this project.

Mohammad al-Senussi is a commentator on Libyan affairs and is an active campaigner for the 1951 Constitution. He is currently resident in London and makes a living by importing and exporting medical equipment. His other brothers work in graphic design and catering respectively, while another lives in Jordan, where he served in the military. Senussi has stopped short of staking a claim to the throne, instead extending an open-ended offer to "serve" in any way he can. Senussi states that he has received a number of offers from domestic and international players to return to Libya as the figurehead for the initiatives of various players but has turned them all down. He states that he does not want to be a "pawn" and will "only serve the Libyan people, not other countries or individuals."

When asked about why he has been "quiet" about his position in Libya, he related: "In 2011, Libya was encouraged to try a new political path. It was a euphoric time. Like all Libyans, I was hoping for a bright future for our country. So, I wanted to stand back." He further noted that because of the "infinite possibilities" that seemed available at that time of the revolution, he did not want to come across as imposing or as an obstacle to whatever system of governance Libyans might decide upon. He further noted that there was little support for the 1951 constitution at the time of the rebellion, again due to the "infinite possibilities" of governance that Libyans aspired to. He anticipated that Libya, as a hollowed-out state

without institutions, would enter into a “phase of experimentation” that would likely result in violence. He did not want to be implicated in the mess that he expected would ensue, anticipating that he could be called back as a “clean pair of hands” if Libya sought out a neutral arbiter. He underscored that he did not refrain from returning to Libya for fear of assassination, noting that since his childhood, he grew “used to the threat of being killed until the day Qaddafi was gone.”

When asked about the 1951 Constitution and any potential role he could play in the future of Libya, al-Senussi emphasised that the unifying role his family had played in the country's history required him to stand back from political factionalism by avoiding taking sides. He noted that this is something that the 1951 Constitution makes clear as well by assigning executive power to the Prime Minister. In Senussi's view, the last eleven years have made it clear that “none of the plans proposed actually worked.” Senussi is concerned about deepening divisions as well as the influence of international powers pursuing their own interests rather than the common interest of the Libyan people. Senussi sees a historical analogy with the pre-1951 period of Libyan history, in which Libya was divided along geographical and political lines, and due to the polarising fact of Italian intervention; many Libyans had collaborated with the Italian occupation, and had been responsible for killing their fellow Libyans. His ancestor, King Idris, served a conciliatory function and as a unifying force in the new state.

Senussi feels that that 1951 constitution needs to be updated to reflect modern rights, but argues for the potential of the 1951 Constitution to serve as a “practical starting point that governed Libya.” He notes it as a prospective basis of promoting security and the development of Libya's political and institutional framework, al-Senussi added that a return to the country's “national roots” could be appealing to Libyans, particularly in the context of frequent foreign interference in Libyan politics. An advantage of the 1951 Constitution, he added, is that the document “is ready for implementation and contains within itself the procedural mechanisms for its own necessary modernisation.” When asked about what he thought of the monarchy, he suggested that a “highly limited constitutional monarchy” could be a prospective source of unity and a “pretext for further democratic development.” He concluded the interview by saying that “every Libyan,” including himself, “must focus on reconciliation rather than endeavouring to change the past, which is impossible.”

International commentators shared a range of thoughts with the research team about the prospect of restoring the Libyan monarchy. Professor Dominique Moïsi, a Senior Fellow at the Institut Montaigne in Paris, noted that monarchy has a tendency to seem “immediately anachronistic” and recounted his encounters with the pretenders to various thrones. A monarchy, in his view, is “Far from absurd, because it is essential for a fledgling state to exist

on a principle of legitimacy.” Yet he noted that in the Libyan case, “the creation of a constitutional monarch in a country that, de facto, has no constitution is extremely difficult.” Nevertheless, he suggested that “While monarchy is a solution of last resort, it may well be the case that in Libya, it is nigh time to use the last resort” and that in the Libyan context, “Constitutional monarchy is probably the best answer for such a democracy, because symbolic power, the spirit and ideals of a state, and real power, the lived political reality of a state, are not the ends of one person. The problem is when symbolic and real power are enmeshed in one person.” A monarch, in his view, requires “Charisma, modesty, and comfort in the knowledge that he will not have real power. There can be absolutely no air of suspicion of corruption at all.”

Lieutenant General H.R. McMaster, former United States National Security Advisor, spoke based on his experience in Iraq. He argued that, in a post-conflict context, it would be necessary to find a “form of governance that resonates with the people, based on the institutional history of how governance functions in that country.” Otherwise, there would be a resort to “parallel systems,” namely militias operating along tribal or sectarian lines which function as “patronage networks that function as defensive organisations in the event that the situation devolves into a complete civil war.”

Professor Noah Feldman at Harvard Law School suggested that the plan was not ‘far fetched’ but further noted that a monarchical revival has never happened in the Muslim world. He continued that the best historical analogy to the Libyan case is most likely the Spanish case, but this instance was procedural and orderly because it was planned by Francisco Franco, who required a mechanism by which to replace the monarchy. He recalled from his experience in Iraq that “a constitution is not a peace treaty,” and that what is essential to any peace is a “real constituent assembly” comprising politically influential Libyans. The power sharing arrangement that they reach would subsequently become the constitution, which crystallises the arrangement to distribute power among them.

Libyan experts shared a range of views. Perhaps most prominently, Tarek Megerisi suggested that the proposal made sense “in theory” but that “it is not a solution to the bigger problems that are maintaining divides in Libya.” While the argument about the importance of national unity “holds to a degree, it shows a misunderstanding of the conflict.” He continued that “The problem is not a disagreement between Misrata and Benghazi... To buy into the argument is to buy into the delusion that Libya’s intractability is caused by an intractable split between political and geographic splits.” Libya’s crisis, in his view, comprises “International involvement, which a monarchy will not fix; and factions of politicians who don’t care about the question of national identity - their identity is money, and the constituencies comprise only the number of people they pay.” He lamented that in

his view, there were no solutions for either of those questions, and suggested that the involvement of a would-be monarch as a broker could serve to ‘taint’ that individual given the current political climate in Libya. The only way a monarchy could work, in his view, is if Prime Mohammad were to arrive in Libya “with a plan of his own,” not as a broker but as an alternative to the current options and as the leader of an organic movement. “Nobody cares about the Senussi brand enough to be willing to die for the monarchy, at least nobody under the age of 50.” He continued that “to be taken seriously, the plan would require a clear, comprehensive plan to investigate corruption, war crimes, and the question of the military.” Otherwise, any hope for a “messianic solution” would be “ill-founded.”

The remainder of this section features contributions which approach the question of the monarchy from the perspective of political theory and applied history.

III. Monarchy in Political Theory

Assessing the potential benefits of Libyan monarchical restoration requires not only an understanding of Libya’s historical and political nuances, but also a grasp of the nature, principle, and strengths of monarchy itself. The history of political thought provides ample analysis of monarchy. Beginning with ancient tradition, monarchy was recognised as a fundamental, perhaps the primary form of human political organisation. This understanding of monarchy is extremely sensitive to local context, and rests upon broader assertions about the nature of political life, human nature, and social structures. To comprehend the role and advantages of monarchy, we must therefore return to the beginning of political theory—that is, Western and Western-influenced political theory—and trace these arguments as they develop.

This approach allows us to remove the distinct biases that modernity inculcates, most importantly an aversion to non-democratic forms of governance. Indeed, it is difficult to conceive of politics in modern terms without reversion to democracy. Rousseau’s assertion that every legitimate government is republican has been taken to an extreme, modified by obscure and contradictory intellectual influences to create a deep-seated aversion to alternative forms of political organisation. But Joseph Schumpeter’s “procedural” definition of democracy—that of a competitive struggle for the people’s vote—provides no help for those who wish to step beyond modern political economy and grasp the totality of the political problem.

Thus, we may begin by delineating the concept of monarchy in the history of political thought, initially with reference to the Socratic tradition of Plato and Aristotle, then turning

to the Islamic thinkers al-Farabi and Ibn Khaldun, and finally to Hobbes, who may be called the first and last modern political *philosopher* to defend monarchy against its oligarchic and democratic alternatives. **Through this examination, we may identify monarchy's three benefits: it enables social *reconstitution* after periods of internal crisis, it facilitates the *constitution* of the political unit itself, and it enables the *survival* of the political unit when faced with external threats.** Historical examination of both Arab-Islamic and Western instances will demonstrate the relevance of these claims to practical politics, and by extension, to the Libyan situation.

Monarchy in Arab and Western Political Thought¹¹⁸

Understanding the nature of monarchy requires beginning with the history of political thought in the Western tradition. This entails a return to Plato and Aristotle. Moreover, both situate monarchy in a broader picture of political life, one that rests upon the ends of human existence. Thus, we must briefly delineate the purpose of the political in the Socratic tradition, before identifying monarchy's role within it. We will integrate insights from Islamic tradition, specifically al-Farabi and Khaldun, as necessary, with the recognition that no fundamental contradiction exists between mature Islamic *falsafa* and the classical view more broadly. Finally, we will present Hobbes as a modern counterpoint to strengthen arguments for monarchical independence. Synthesising these diverse thinkers is difficult in any context. Particularly on this issue, disjunctions exist between the Socratic tradition, both Islamic and Greek, and Hobbes' modern perspective. Nevertheless, three core insights may be identified that historical analysis will support.

Unlike the modern view, which begins with man as an animal or atomistic individual, the ancient view considers man in relation to his *ends*.¹¹⁹ Every action, Aristotle argues, aims towards some end. An artisan crafts his creation for a purpose: the cooper creates barrels to store objects, the cobbler and tailor creates shoes and clothing.¹²⁰ Similarly, the poet, playwright, and composer create beautiful objects in speech and song, while the military commander issues orders to achieve a combat objective. The question, however remains—to what end are all things directed, if any?

For Plato and Aristotle, this ultimate end is virtue or excellence, the route to a happy life.¹²¹ This excellence takes different forms depending upon its context. Individually, the excellent man is the moral man. He makes the proper moral choice in every situation, having habituated himself to identify right from wrong. But moral choices are naturally ambiguous, particularly when they involve a larger group. As Plato's investigation of justice in the first three books of the *Republic* demonstrate, any simple definition of justice, distributive or commutative, contains internal tensions when pushed to extremes.¹²² It is from this fact, the

necessarily ambiguous nature of individual and group ethics, that separate political units take on their distinct identities. The political community in its ideal form is a community grouped around a shared conception of justice, that is, shared ends.¹²³ Man is capable of constructing these conceptions of justice, as embodied in law or *nomoi*, because of *speech* and the intellect it implies—hence man as an *animal rationale* implies directly man as a *zoon politikon*, a political animal.¹²⁴

However, these political units do not emerge *ex nihilo*. Rather, they stem from the animal aspects of human nature, the need for humans to associate to survive in a world indifferent to their existence, and populated by other groups with their own ends.¹²⁵ It is here that turning to the Islamic tradition, specifically Ibn Khaldun, is of assistance. Khaldun agrees with the Socratic tradition's fundamental premises. But his attempt to delineate a science of history distinct from political science, but still subordinated to it in a fundamental teleological respect, makes his restatement of the Socratic tradition's view of social evolution particularly helpful.

Man is born into a social unit, the family, which may include dozens of individuals depending upon circumstances.¹²⁶ And families may be grouped into tribes, bound by descent from a common ancestor. But after a certain point, population pressures and resource scarcity demand expansion, while the obvious efficiency of the division of labour prompts economic interaction. Mutual advantage drives families and tribes together into a formal group. Thus, an organic social unit begins to emerge, bound by an inchoate yet apparent socialising instinct, *asabiyyah* or social solidarity.¹²⁷ This initial solidarity is familial, a fact that persists in the tribe. However, as the social unit expands, kinship ties become weaker, and the communal memory of common ancestry fades. It is instead replaced by common myth, which stems from the community's shared experience, particularly in conflicts with other communities. At a certain point, the social community settles in a specific area and becomes the political community, centred upon the city, the building block—and for Plato and Aristotle, the only reasonable form—of political life.¹²⁸ And the city's laws, ideally undergirded by divine sanction, provide the political community with its ends. Hence the ultimate synonymy between mutual advantage, which prompts increasing human sociability, and right or justice, which emerges as the social unit grows in complexity.¹²⁹

Returning to the Socratics, it becomes apparent that the manner in which this political community is governed has extreme importance. The laws give shape to human existence. If left to their own devices, the majority of individuals will be unable to grasp the ends of human life—the life of pure reflection, while possible, is only reasonable for the few. And those who rule the political community are capable of making, or once the community is institutionalised, changing, the laws. Thus, it must be asked, what is the best manner to

organise political power, particularly without an individual, like the *Republic's* philosopher-king, who conjoins political power and rational inquiry?¹³⁰

In practical terms, as Aristotle contends, there are three functional ways to distribute political power.¹³¹ Either *one* individual rules, the *few* or minority within the political community rule, or *the many* or majority of the community rule. However, we encounter a problem unexamined above. If the laws shape the ends of human life, then it is reasonable to infer that there may be good and bad laws, corresponding to good and bad ends. Thus, a distinction must be made, at minimum in the abstract, between good and bad political units.¹³²

From these two metrics arise Aristotle's political taxonomy. Every regime is defined by its end, either good or bad. And every regime is defined by its number of rulers. Thus, six regimes can be identified: the rule of one, if good monarchy, if bad tyranny; the rule of the few, if good aristocracy, if bad oligarchy; and the rule of many, if good democracy, if bad ochlocracy.¹³³

Each regime has its own virtues and vices. However, all share the same fundamental issue. Apart from a regime organised with the rigour of Plato's *City-in-Speech*, the one or few who rule any polity will not all be the most qualified or "best". Plato's philosopher-king may be possible, but he appears and vanishes fleetingly in the *Republic*—as Socrates admits, this sort of rule is highly unlikely.¹³⁴ Similarly, it is unlikely that those who rule Aristotle's regimes will be the unqualified best individuals in the political community. Thus, internal *material* tension exists within each regime. The aristocracy, and ironically to a lesser extent the monarchy, pits the wealthy few against the poor many. Unless their material interests are harmonised, the political community will dissolve, as aristocrat-oligarch fights democrat for control in the fratricidal spectacle embodied in Thucydides' discussion of Corcyra.¹³⁵ In practical terms, no individual or group has uninterrupted access to the common good, not a monarch, not an aristocratic council, and *not* the democratic multitude.¹³⁶

The most effective way to harmonise communal interests is to blend aspects of each form of political organisation and create a "mixed regime".¹³⁷ In reality, nearly all regimes are mixed, with power being distributed between classes. Effective and durable governance requires balancing all three sorts of regimes in the correct proportions, which will vary depending upon political circumstances. Aristotle displays an anti-monarchical bias. This tendency is natural for a citizen of Athens writing shortly after the restoration of democracy, and in the shadow of renewed competition with oligarchic Sparta and monarchical Macedon. It is reflected in Aristotle's proposed mixed regime, a combination of oligarchy and democracy intended to balance class interests with an unclear role for monarchy.¹³⁸

However, Aristotle's discussion of Sparta, a contemporaneous if imperfect example of a mixed regime, demonstrates monarchy's potential role in this balanced system. At its core, Sparta was oligarchic, controlled by the *gerousia*, a council of 28 permanently elected individuals over 60.¹³⁹ But it balanced this oligarchic power with democratic *and* monarchical elements. Although the *gerousia* drafted legislation, it required the consent of the *apella*, an assembly of all Spartan men over 18, to enact legislation. The *apella*, moreover, elected the *ephoroi*, the five individuals who along with the two monarchs served as Sparta's executive and judiciary for year-long non-renewable terms. Sparta's kings were responsible for defence and religious ceremony, along with specific judicial tasks, and as *ex officio* members of the *gerousia* also had a legislative function. Spartan society was saturated with oligarchic *and* democratic principles, albeit in a restricted sense. But the implication, per Aristotle's insertion of Sparta, is that the mixed polity may include a monarchical element. Moreover, Aristotle's *criticisms* of Sparta target its social stratification, pervasive tax evasion, and the alleged corruption of the *ephoroi* more directly than the monarchy, as the division of power amongst kings and between kings and *ephoroi* exercised a moderating influence.¹⁴⁰

Aristotle's tacit acceptance of the Spartan monarchy may stem from its inextricable link with the *polis'* founding. The monarchy's existence within the Spartan regime demonstrates its mixed character, and was fundamental to its survival. Sparta's kings were the only members of the community who stood outside the traditional social structure.¹⁴¹ They took their meals separately, rather than in the barracks as other Spartiates. They were the only men who could draft legislation before 60. And they wielded absolute command authority until the fifth century. Even after, as hereditary generals in a martial society, Sparta's kings exercised immense domestic power. This arrangement was necessary because the Spartans were not autochthonous. Sparta's two royal houses, the Agiads and Eurypontids, were considered descendants of Heracles. Their ancestors had conquered the Peloponnesus, subjugating its Achaean residents and making them the core of the Lacedaemonian helot slave system. Thus, Sparta's survival was linked to maintaining the monarchy—without it, Sparta's claim to supremacy over the native Achaeans would disappear, and bring with it divine wrath.¹⁴²

Monarchy according to Al-Farabi and Ibn Khaldun

With this concept of a mixed regime in mind, we may turn to Islamic philosophy more directly. It provides two main contributions—al-Farabi's argument for the extension of virtue beyond the city, and Khaldun's explication of monarchy's role in social development.

Broadly speaking, al-Farabi follows Plato more closely than Aristotle in matters of political philosophy. *The Virtuous City* and *The Political Regime* contain explicit

endorsements and defences of the philosopher-king, repackaged in Islamic terms as the philosopher-prophet-legislator, with prophecy serving as the link between philosophical capability and legislative decrees.¹⁴³ But al-Farabi does break with the classical tradition in one important respect. Like Plato and Aristotle, he identifies the city as the core political unit, the initial site of virtuous behaviour. However, two other political units can be just: the nation, an association of cities, and the association of nations, a prospective world-state. In part, one can attribute this modification to al-Farabi's Islamic context. Medieval Islamic political theology supported caliphal expansion, and as an ideal espoused a vision of pan-Islamic unity in the *ummah*.¹⁴⁴ Thus, it was necessary for al-Farabi to justify an imperial or global political unit in a manner unthinkable to Plato or Aristotle.

Nevertheless, al-Farabi's break raises the possibility of *national* political life in a more recognisably modern sense. No longer need justice be restricted to the polity. Of course, the city or small community must remain the core location of political justice— the nation cannot be just if not comprised of just cities. But there may be an overarching bond *between* the cities that form a nation transcending mutual advantage.¹⁴⁵ This may exist even if different sub-units have distinct political structures. More controversially, it may exist when *religious* differences can be identified between the nation's constituent parts, an implication of al-Farabi's that one can identify through his subtle de-emphasis on prophecy and religious revelation in creating the just community.¹⁴⁶ Thus, one broad political unit can contain within its multiple sub-units, each of which is governed by its own tradition and custom, but all of which are bound by more than prudence.

While al-Farabi creates the possibility of a national political unit, it is Ibn Khaldun, through his historical investigations, that describes the role monarchy may play in the political unit's development. As stated above, Khaldun describes the political unit as developing from need in a manner generally consistent with Aristotle and Plato. He is far more explicit, however, in describing the primitive social community's transition from tribe or clan to an institutionalised polity, first as the city, then as a nation, and finally a civilisation.

Once again, *asabiyyah*—the socialising impulse that drives humans to live in groups—is rooted in kinship ties. As the community expands, shared myth, history, and eventually religion replace kinship, but *asabiyyah* remains a reflection of the social bonds that constitute the family.¹⁴⁷ This has two implications. First, the social unit and the family both internalise hierarchy. In the family, parents rule over children. The social unit requires this same stratification. However, unlike the family, there is no apparent socio-biological hierarchy between parent and child. A gerontocratic impulse is likely, as expressed in the power of tribal or clan elders. But hierarchical structures remain confused and ambiguous, as powerful

families compete for power. Moreover, the mythical and religious forces that solidify *asabiyyah* in larger societies paradoxically create distinct centres of power—the division of social labour between priestly, political, and economic classes has no clear resolution, apart from divine sanction of a certain group.

Khaldun sees the king as a solution to this confusion. The king asserts himself against all other classes as an independent power, he brings order and structure to an otherwise confused political unit, marking the transition from a loose, primitive form of culture to a more sophisticated culture. Warfare reinforces the political unit as it expands, defining its identity with victories. Domestically, the same process applies—a polity lacking internal order cannot survive when competing with other polities.

Initially, the independent monarch survives due to his military capacity. By gaining the loyalty of the armed forces, he can suppress internal dissent and combat external enemies—like al-Farabi’s philosopher-prophet-legislator, he must remove from the city the “weeds” within it.¹⁴⁸ But over time, this rule from fear becomes *institutionalised*. The stability the monarchy offers, and the continued victories it provides in war, ultimately generate a more robust form of social solidarity, a completion of *asabiyyah* that nearly transcends it.

The process of institutionalisation, however, requires more than months or years. In Khaldun’s view, it takes a generation or more for the people to become acclimated to a new regime.¹⁴⁹ This stems, in part, from the monarch’s reliance upon force. Fear may prevent dissent, but ruling purely through fear is unstable. However, it also stems from a recognition of *asabiyyah*’s role in human relations. If social solidarity replicates and replaces kinship ties, then reproducing the natural bonds that link parent and child will take time. A new regime must demonstrate its consistency before it gains public acceptance. Otherwise, the old forces that defined society before the monarchy will reassert themselves. The difficulty is compounded by the new regime’s continued reliance upon *asabiyyah*. Previous cultural authorities must retain their importance if they are to be believed, while denigrating them is guaranteed to prompt rebellion. But they must submit to the new regime and accept their subordinate role. Thus, the monarchy’s survival depends upon the new king’s ability to adapt to context while remaining independent from extant power structures.

It is here that Khaldun—and embodied within him the Socratic tradition more broadly—is in greatest agreement with the modern view. That is, in agreement with Hobbes, the ironic progenitor of the modern view and, by even contemporaneous standards, its first non-theological theorist of state power.

Any apparent agreement between Hobbes and the Socratic tradition must be prefaced with a recognition of the deep *disagreement* between them. Hobbes began his intellectual life

squarely within the Socratic tradition. His first work of political philosophy, his translation of Thucydides' *Peloponnesian War*, is saturated with Aristotelian themes, against which he turned in his later career.¹⁵⁰ It is intended as a counterpoint to Aristotelian political philosophy. While the former provides the full picture of human life through its depiction of excellence, it does not demonstrate the common, base instincts and actions that define the majority of human history. By contrast, Thucydides' account of the war between Athenians and Spartans offers examples of the high contrasted with the low, for example, as expressed in Periclean statesmanship and the Melian Dialogue.¹⁵¹

Hobbes' mature political theory, however, breaks from the Socratic depiction of human life and human ends. Indeed, Hobbes' greatest objection to Aristotle is this focus on ends. Rather than beginning with the good, and investigating how this end relates to political life, Hobbes begins with the base and violent, with human greed and envy, *fear* and *pride*.¹⁵² Society exists purely as a compact for mutual protection. Through this compact, this "law of contract", man exits the natural state.¹⁵³ The subsequent leviathan, the "king of the proud", mitigates mutual fear by restraining the few but proud humans that wish to appropriate to themselves more than is their due.¹⁵⁴ This stability enables market interaction, a paradoxical sphere of private life enabled by the state's total power, that allows individuals to control the means of their own self-preservation through commercial success and financial accumulation.

Despite Hobbes' thorough objections to the Socratic tradition, of which Khaldun was a disciple, on the level of practical politics a link can be built between their conceptions of political authority. For Hobbes, as for Khaldun, the political leader's primary objective is to ensure the community's survival.¹⁵⁵ Absent physical security, no communal end can be achieved. In this, Hobbes is not unique, although he stands against the Augustinian-derived tradition that views political survival as subordinate to other ends in practice, and therefore alongside the non-Christian and pre-Christian arguments of his Greek and Islamic antecedents.

Hobbes, however, was the first modern thinker to identify the necessary link between *unitary political power* and political survival. It is for this reason he merits our attention.

The leviathan, the "mortal god" that drags humans from the natural state, is an "artificial person" that resembles man. It has a metaphorical head, limbs, joints, and sinews. But its *soul* is the sovereign, the central power that guides every public action. The sovereign, in Hobbes' view, need not be a single individual – following Aristotelian typology, one, few, or many may constitute the sovereign. But this sovereign must be *unified*, its power *de jure* unlimited. Three reasons necessitate this sovereign independence. First, the sovereign is

tasked with identifying the political community's enemies, whether internal or external, and defeating them. This entails that the sovereign be capable of acting with dispatch, secrecy, and at times extreme violence, a task impossible in the regime that holds the sovereign to account for every specific action. Second, internal and external foes will attempt to manipulate the sovereign. They will present themselves as friends, and provide counsel that furthers their interests and undermines the leviathan. The less independent the sovereign is, the easier it becomes for adversaries to manipulate it. Third, there will be natural disagreements within the state, both due to class differences *and* the pride that takes hold of certain men. And pride is a sort of irrationality, as the proud man attempts to appropriate to himself far more than is needed to survive. Indeed, the *burgher* economy that Hobbes identifies as the modern state's bedrock encourages this pride, for competition defines market interaction. Thus, absent legal and political independence, individuals and groups within society may co-opt the sovereign, manipulating state power to further their own interests, and ultimately undermining the political unit.

If the sovereign power must be unitary and independent, then it is reasonable to infer, with Hobbes, that only a small number of individuals should comprise the sovereign's legal personhood. Hence monarchy, the rule of one, is the most logical expression of sovereign power. A single individual is less susceptible to the whims of the crowd, and can more easily follow a specific will than an oligarchic council or democratic assembly. Moreover, those who are drawn to political power are more likely to be prideful, and thus susceptible to the irrational avaricious impulses that demagoguery manipulates. It is here that Hobbes is most consistent. He signals his monarchical bias throughout his political theoretical career, beginning with his praise of Pericles' democratic monarchy in his *Thucydides* translation, and ending with his support for monarchy in *Behemoth*.

This theoretical investigation prompts three claims concerning monarchy's social role that are applicable in particular to a society following a civil war.



One leading policy researcher interviewed for this project noted that promoting democratic practices before establishing security guarantees is a flawed sequential approach in a country that has not had the opportunity to solidify and embody such practices.

*First, the monarchy may play a central role in social reconstitution. Civil wars are uniquely damaging to internal social fabric. If *asabiyyah* expresses the same sentiment as kinship ties, then civil war is tantamount to fratricide. Ensuring post-civil war stability requires a government that can ameliorate the interests of the conflict's various factions, restraining their most brutal impulses and desire for revenge, and reconciling their contradictory views of the nation's future.* This is particularly important in a civil conflict that ends absent a clear victor, but instead through a negotiated settlement of

some form. A deliberating body, whether an aristocratic council or democratic parliament, can fall prey to the factionalism that initially sparked the civil war. By contrast, a monarch with an independent political role can serve as the adjudicator between multiple factions and classes. In this manner, the monarch's foremost role is not legislative or judicial, but factional-political.

Second, the monarchy's central task is to ensure political survival. All polities face internal and external threats. Indeed, the entire tradition we have examined, despite its contradictions, recognises that the political sovereign's central task is survival. Representative democratic systems are capable of defending the state. But a monarch, as a single individual, can become identified as the guardian of national sovereignty and independence. Moreover, the correspondence between his individuality and the individuality of the sovereign's personhood enables the transcendence of partisan political affiliation in periods of military crisis.

Third, the monarchy helps facilitate social constitution in societies that lack organic bonds. Societies that lack organic cohesion encounter difficulties when employing purely representative systems. Like societies reconstituting after civil wars, the legislature can become a battleground for factional interests, at minimum reducing state cohesion, and in extreme cases leading to an internal fracture. Developing national sentiment takes time, even in societies with strong *asabiyyah*-based links. The mythology it requires stems from decades to centuries of political, religious, and social development. **The monarch, as an individual person, may help cultivate the loyalty necessary to create *asabiyyah*, both by serving as a symbol of national unity and by commanding loyalty from a new society's diverse factions.**

IV. Monarchy in Applied History

While the history of political *thought* offers ample intellectual evidence for monarchy's benefits during periods of social division, political history offers practical support to the same proposition. Successful monarchies are those able to ameliorate social tensions stemming from internal conflict, create linkages between the monarchy and the national interest, and stand as an independent symbol that can be identified with the nation. Historical evidence abounds with both effective instances of monarchical institution or restoration, ineffective instances of modern monarchical rule, and missed opportunities in societies that required monarchy's social glue.

England (1660–1700)

Perhaps the first modern example of monarchical restoration is the English experience between 1660 and 1700. The 1660 Restoration enabled the reconstitution of the English political unit, while the 1689 “Glorious Revolution” finally resolved the internal contradictions within English society, allowing England to consolidate control over the British Isles and rise to global power.

As Hobbes rightly identified, the English polity lacked a founding moment.¹⁵⁶ It began as a commonwealth by acquisition when the Norman William conquered it, subjugating the Anglo-Saxon kingdoms, and introducing a feudal structure atop traditional Saxon custom and language. Its evolution, however, as any acquired commonwealth would be, was halting and irregular. English kings gained power during the 13th and 14th centuries, but a century of war with the Valois over the French throne prompted an economic-political crisis and increased the power of local lords against that of the monarch.¹⁵⁷ The War of the Roses, a 15th century dynastic civil war, resolved some of these tensions.¹⁵⁸ The Tudor monarchy brought the nobility to heel and asserted England in European affairs through Henry VIII's break with the Latin Church and Elizabeth's wars with Spain. However, religious tensions between the Anglican Church, latent Catholicism, and various strands of Protestantism, combined with the contradictions between the English and Scottish political-legal systems prompted another crisis, the focal point of which was the relationship between the Crown and Parliament. After 11 years of personal rule, this exploded into a civil war pitting parliamentarians of diverse religious affiliation, Catholic and Anglican royalists, and various Scottish factions against one-another, supercharged by the presence of hybrid Scholastic and Humanist intellectual currents.¹⁵⁹

The English Civil War's resolution is a testament to the monarch's ability to resolve social contradiction, quite literally in his own person. Post-1651 England and Scotland required centralised authority. The religious and ideological divisions between Independents, Presbyterians, and remaining Royalists, along with parliamentary incompetence despite notional legal supremacy, necessitated Oliver Cromwell's military dictatorship, termed the Protectorate. But Cromwell could not institutionalise the Protectorate. His support never extended beyond the Army: republican-minded parliamentarians opposed the new regime's religious reforms, while the Scots opposed wholesale absorption into the new state. The Protectorate collapsed after Cromwell's death, prompting Parliament to reconvene and in legal terms repudiate the Civil War's central factor by offering the Stuart Charles II the English throne, scarcely a decade after executing his father.¹⁶⁰

Charles II's reign had its difficulties. Most importantly, he could never resolve the tension between his family's Catholic sympathies, his personal support for sectarian toleration, and the anti-Papal sentiment that dominated Parliament. However, rather than collapsing into renewed Civil War, in this instance Parliament became an outlet for political disagreement, resulting in the genesis of the English party system.¹⁶¹ Moreover, Charles' diplomatic role allowed him to make a bid for English maritime dominance.¹⁶² Although he made peace with the Dutch Republic due to parliamentary pressure, the Third Anglo-Dutch War enabled the subsequent diplomatic realignment that would prove so critical to containing Bourbon France over the next century.¹⁶³

The Stuart monarchy was overthrown three years after Charles II's death. But the Restoration had demonstrated that the monarchy and parliament could coexist, and indeed, that a monarch provided the *only* solution to England's internal contradictions. It was the Dutch William of Orange who ultimately resolved these social tensions, inaugurating the sophisticated parliamentary system that defined English politics until the early 20th century. Nevertheless, **absent monarchical rule, it is unlikely that England would have survived as a coherent territorial unit, let alone a great power, given clear French, Dutch, and Spanish interest in dismembering it and projecting power upon it. The English experience demonstrates the difficulty *and* value of institutionalising monarchy in a society that resists and accepts it in equal measure.**

France (1830–1848)

If the English experience demonstrates the potential of monarchy, France's attempted restoration indicates the *dangers* of monarchy if not tempered with political prudence. The forces the French and Napoleonic revolutions unleashed had transformed French society, institutionalising new rights, and creating a dynamic bourgeoisie that displaced the *ancien*

regime's nobility.¹⁶⁴ The restored Bourbon monarchy could survive only if it gained a broad support base, balancing the nobility's demands for a restored conservative social system with bourgeois demands for political representation and broadly liberal politics.

The general slant of historical scholarship does not do justice to the Bourbon monarchy's initial success. Louis XVIII remained uninvolved in day-to-day politics, seldom advocating for specific legislation. This, however, was his greatest strength. He understood that the French Parliament, like its English counterpart, could be used as an outlet for internal tensions *if* handled by a prime minister of sufficient skill. Until the last three years of his reign, he turned to liberal-conservative *Doctrinaire* political leaders who could represent bourgeois interests but still command support from the upper classes.¹⁶⁵ Louis XVIII's primary political role was to adjudicate between the French bourgeoisie, who had emerged from Napoleonic land reforms, and returning nobles who demanded their lands returned to them. Although the king did restore the Catholic Church's institutional privileges, he resisted royalist attempts to purge French society of republican elements, and defended the Napoleonic bourgeoisie's property rights against demands for compensation. If his successors had acted with equal political skill, the Bourbon monarchy may have survived.

In the event, Louis' brother Charles X turned to the right, guided by the reactionary Jean-Baptiste de Villele.¹⁶⁶ Charles X's conservatism and attempts to resurrect the *ancien regime's* religious and political structures prompted a reaction, culminating in the 1830 Revolution. The liberal July Monarchy, however, was never truly institutionalised. Orleans king Louis-Philippe narrowed his support base almost exclusively to the *haute bourgeoisie*, but concurrently resisted demands to expand the franchise.¹⁶⁷ Francois Guizot, functional prime minister for the July Monarchy's last eight years, proved unable to resolve Louis-Philippe's resistance to increased suffrage with the *petit bourgeoisie's* desire to participate in politics.¹⁶⁸ The result of this inflexibility was the 1848 Revolution, which ironically restored a Bonaparte to French political primacy, and four years later to the French throne.

France's example demonstrates the dangers of monarchical political inflexibility. Adapting to post-war circumstances requires accepting broad social and constitutional changes and co-opting them to expand the monarchy's popular base. The Bourbon monarchy was most effective when it gained the trust of both the bourgeoisie and the old nobility: it could accept demands from both, while limiting the excesses each party demanded that would destroy French internal stability. France's progressive domestic unravelling stemmed from a pervasive denial of this political reality—the conservative Charles X *and* the ostensibly liberal Louis-Philippe were unable to grasp the need for domestic balance to preserve the restored regime.

Greece (1831–1914) and Italy (1866–1920)

Nearly every modern monarchy is a mixed regime, combining aristocratic and in many cases democratic elements. **Domestically, the monarch may ease the natural tension between and within classes that are particularly salient after internal conflict. A monarch's international role is equally important,** as the utility of monarchy in Greek and Italian independence demonstrate. The Greek and Italian states were equally modern phenomena, emerging from the nationalist intellectual currents that Napoleon's conquests popularised. Neither had been governed as a unitary polity for two thousand years. Northern, central, and southern Italy had distinct political and cultural dynamics, while Greece had been governed as a Latin and then Ottoman colonial possession since the early 13th century.

Given the lack of historical depth to both Greek and Italian national sentiment, it is unsurprising that both contained dominant liberal strands. This is clearest in Giuseppe Garibaldi's nationalist movement—Garibaldi was a socialist who became a symbol for the pre-Marxist international left. Greek nationalism was more aristocratic, but in neither case was royal authority the objective of national revolution or unification. Nevertheless, in both cases the monarchy was central in *constituting* the new political unit. Greek and Italian kings were central in their new nations' foreign policies, and in the latter case successfully won over the left-liberals that were ideologically opposed to the monarchy.

In the Greek case, monarchy was an external imposition, a *de facto* condition of Greek independence. The Greek revolution had geopolitical implications for every European power, most notably France, Russia, and the UK, because of its linkage to the Eastern Question.¹⁶⁹ Greek independence would undermine Ottoman power, and threatened to unleash nationalist forces in Ottoman Balkan territories that would disintegrate the Sultanate. This would benefit Russian interest at the expense of British and, to a lesser degree, French objectives. However, domestic pressure prompted British and French intervention that saved the Greek rebels and ensured an independent Greek state. In return, a compromise was reached: a Bavarian king would rule Greece as an absolute monarch.¹⁷⁰

Domestically, the Greek monarchy oscillated between failure and impotence. Otto I's personal rule resulted in the 1843 Revolution that institutionalised a constitutional monarchy. The 1862 revolution deposed him, and installed the young George I as king, who presided over a "crowned republic".¹⁷¹ This transition likely was inevitable. The Greek aristocracy resisted monarchical power, saturated as it was with liberal republican intellectual themes. And the Greek lower classes remained attached to the *klephts*, bandits who played a central role in the Greek revolution and who resisted monarchical power.¹⁷² Internationally, however, the Greek monarchy enabled the new kingdom's survival. The king

became the mediator between internal forces that demanded expansion, hoping to create a “Greater Greece” that monopolised the Aegean and controlled territory in the Balkans and western Anatolia, and the great powers, namely France and the UK, that considered Greek ambition reckless and destabilising.¹⁷³ This contradiction undermined the monarchy’s legitimacy—Otto was seen as a tool of British interest, which contributed to the 1862 revolution. But George I continued this moderating role, extracting concessions from Britain and the Ottomans while ameliorating the ire of the great powers, while also leading the Greek military during multiple wars in the early 20th century.¹⁷⁴ **The unitary nature of monarchy enabled this elaborate balancing act: per Hobbes, the monarch’s personal independence allowed him to resist contradictory impulses, and until 1914 steer the Greek state between competing domestic and international pressures.**

The Italian case was markedly more successful. Italy’s monarchy construed itself as the embodiment of Italian national hopes. As such, it retained the support of Italian society at large *and* played a central role in Italian foreign affairs during and after unification.

Like its Greek counterpart, Italian nationalism emerged from post-Napoleonic liberal intellectual themes. Early Italian nationalists turned to Rome as the foreseen state’s predecessor. No single unit had governed Italy since Byzantium’s height under Justinian in the 6th century. Unlike Greece, Italy was not colonised. The northern Italian city states, Venice, Florence, Milan, and Genoa foremost among them, monopolised Mediterranean trade and early modern European banking. Popes exercised temporal power, with the Papacy reaching its apex in the late 15th century under Julius II. In the south, Norman conquests and a successful revolt against Angevin control established independent monarchies in Sicily and Naples, eventually united in 1816. Thus, unlike in Greece, Italy did contain a number of relevant political units. Much like in neighbouring Germany, Italian unification was contingent upon state action, and occurred because of power-political decisions.

In this context, the Sardinian-Piedmontese House of Savoy became the central political actor. Its success stemmed from the partnership between Victor Emmanuel II and prime minister the Count of Cavour. The House of Savoy had sided with the revolutionaries in 1848, but received a stinging defeat at Austrian hands. Austria’s dominant role in Italian politics was the central impediment to national unification, particularly under a northern Italian state. Thus, Cavour and the newly-crowned Victor Emmanuel attempted to isolate Austria, and thereby remove Habsburg military power from northern Italy. Sardinia-Piedmont therefore joined the Crimean War alongside the UK and France.¹⁷⁵ Although Austria supported the Anglo-French alliance, it did not enter the war itself, fearing Russian territorial gains in the Balkans. Hence Austria alienated Russia, its stalwart conservative partner in 1848, but gained no more political leverage during the 1856 negotiations. By contrast, Sardinian

involvement enabled a tacit partnership with France, aided by Louis-Napoleon's personal sympathies for Italian nationalism. This diplomatic leverage facilitated French involvement in the 1859 war with Austria, which gave Sardinia control of the bulk of Austria's northern Italian possessions.¹⁷⁶

Not only was Sardinian victory a political-strategic success: it also pre-empted the left-wing republican strands of Italian nationalism that could have precluded a monarchical Italy. Garibaldi's Expedition of the Thousand toppled the Bourbon monarchy in southern Italy, while Sardinia defeated Papal forces. But despite his republican political inclinations—Garibaldi was a staunch secularist who had fought for the short-lived 1849 Roman Republic—he enthusiastically accepted Victor Emmanuel as Italian king.¹⁷⁷ This popularity stemmed from the House of Savoy's public role in liberating Italy from Austrian domination. Victor Emmanuel faced domestic opposition to the new Kingdom of Italy. But this stemmed from southern Italian disorder and political dissent, rather than republican sentiment.

Unification was completed in 1866, with Italian victory over Austria. The new Italian kingdom granted significant concessions to liberal parliamentarianism, reducing the monarch's role in domestic politics. However, until Mussolini's rise in the 1920s, the Italian monarchy remained synonymous with Italian independence.

Greece and Italy demonstrate the role the monarch's individual person can play in ensuring national stability. In both cases, monarchy increasingly became the locus of national independence, and more clearly in the Italian example, synonymous with even the *liberal* hopes of the nation.

Saudi Arabia (1932)

Libya's case contains similarities to the examples above. But the greatest disjunction is the lack of Libyan political identity, notwithstanding 60 years of monarchical, Arab republican, and hybrid Islamist-Socialist rule. In each case, a unitary state never truly emerged. Rather, tribal and regional affiliations were employed to maintain stability. Contemporary examples of Islamic monarchy, specifically Saudi Arabia and the United Arab Emirates, demonstrate the possibility of balancing tribal structures with the unitary functions necessary for a stable modern political unit, particularly one like Libya that faces predatory international actors.

Fundamentally, the modern Saudi state is a commonwealth by acquisition. Ibn Saud resurrected Saudi political ambitions after two successive defeats and exile, carefully expanding Saudi power in the Arabian peninsula by conquering smaller tribes, partnering with ultra-conservative Wahhabi preachers to recruit Bedouin soldiers, allying with regional

and great powers, and timing his actions with broader strategic shifts to preserve Saudi freedom of action.¹⁷⁸ Even absent oil wealth, the Saudi state was a formidable political unit when it completed external consolidation in 1932. However, Ibn Saud's approach created a contradiction that still lies at the heart of the Saudi state.

This contradiction can be stated as follows. Internally, Saudi Arabia relies upon Wahhabi religious authorities to maintain the monarchy's legitimacy. These authorities reinforce the tribal political links that Ibn Saud first developed in early 20th century by supporting the more conservative, rural elements of Saudi society, and justifying the House of Saud's rule on religious grounds. However, the House of Saud's oil revenues are central to its survival. The country lacks heavy industry, arable land, and global commercial centres, creating an extreme petrochemical dependence. This, in turn, creates a relatively static economy that requires significant public involvement and support, necessitating a robust central state. The House of Saud must therefore balance the demands of political economy and tribal social stability, neither encroaching upon the tribal and religious system too much, nor ceding too much power to each force. The Royal Family's sprawling nature complicates the situation—its multiple branches create several potential locations for power, and naturally foster competition.

These tensions did undermine Saudi political stability, forcing the regime to shift self-identity between 1960 and 1980. An internal family struggle deposed King Saud in favour of his brother Faisal, who encouraged domestic modernisation.¹⁷⁹ Faisal was then assassinated in 1975 by his nephew, perhaps in retaliation for the death of Prince Khalid several years earlier, who had opposed Faisal's social reforms.¹⁸⁰ Four years later, religious extremists seized the Grand Mosque in Mecca, prompting the new king, Khaled, to increase religious controls on social life to pre-empt another incident.¹⁸¹ Internal power struggles remain apparent today, most notably during Crown Prince Mohammed Bin Salman's purges over the past five years.¹⁸²

The Saudi state has survived these threats, and the Saudi monarchy remains stable. However, this is due to the political prudence of Saudi Arabia's central leaders and the monarchy's ability to command military and economic loyalty, *not* the inherent robustness of its social structures. **The Saudi system demonstrates the inherent difficulties of reconciling tribal and religious systems with the needs of centralised state power.**

By contrast, the United Arab Emirates offers an example of internal political balance. The Emirati system incorporates traditional authority structures, but surrounds them with a robust central authority, limited in scope while plentiful in power.

United Arab Emirates (1971-1975)

Like Saudi Arabia, the UAE emerged from shifting geopolitical circumstances. It was preceded by the “Trucial States”, a series of port cities that previously sponsored piracy in the Persian Gulf and Arabian Sea, but abandoned the practice in return for British protection in the 19th century.¹⁸³ The future Emirates were quasi-protectorates, obedient to British foreign policy aims, but in other respects independent. Given their geographic proximity and cultural similarity, major eastern Arabian tribes maintained branches in multiple emirates, creating an integrated but competitive political system. The prospect of British withdrawal in the 1960s prompted the UK’s erstwhile protectorates to look to their own defence. Saudi Arabia’s internal issues appeared contained, and Arab nationalism had not yet lost its potency. Thus, after several years of negotiation, seven of the nine former protectorates formed the UAE for mutual defence—the remaining two, Qatar and Bahrain, were engaged in a border dispute, and therefore withdrew from the proposed union.¹⁸⁴

Apart from a 1975 *coup* attempt in Sharjah, the UAE has avoided major internal dissent, even as the Arab Spring transformed the Near East and threatened every other Arab monarchy.¹⁸⁵ Emirati robustness stems from the state’s ability to synthesise tribal structures and create a mutually reinforcing political and social system. As stated above, the geographical proximity between emirates has allowed prominent tribes to maintain a presence in multiple areas, rather than carving up the country into fiefdoms. Naturally, each sheikh does represent a leading tribe in his sheikhdom, all of which have been politically significant since the mid to late 19th century. This tribal integration has made maintaining the UAE a central political interest of all its members. Each sheikhdom retains internal autonomy, with their own police forces and political systems. Although Islamic law does apply to some extent in every sheikhdom, there are wide variations in the application of *sharia*. For instance, Abu Dhabi applies *sharia* to virtually every aspect of its legal code, while Sharjah is the only sheikhdom to prohibit all alcohol sales and enforces the strictest modesty laws. The court system is also diverse—Ras Al Khaimah and Dubai operate their own supreme courts, deferring to the Federal court only on matters of inter-emirate relations. The Federal government’s responsibilities are primarily economic and defence related. And the Federal government’s composition ensures representation from every sheikhdom, despite deference to Abu Dhabi and the UAE as the largest and most populous members of the federation.

It is this ability to integrate local interests while permitting reasonable internal autonomy that makes the UAE’s system effective and durable. It is neither tribal nor centralised – monarchical – it instead resembles a traditionalist aristocracy, a union of smaller polities with a common language, culture, and history.

This body of evidence demonstrates an inextricable link between political stability, cultural specificity, and regime institutionalisation, and in turn between monarchical consistency and social stability. Modern attempts to establish new regimes, particularly in the Arab world, have failed because of their inability to adapt these new regimes to extant political, social, and historical structures. Afghanistan and Iraq are the clearest examples of these failures. Similarities are deceiving, as contingent historical and social circumstances in each case created distinct political environments. Nevertheless, both failures stemmed from a thorough lack of institutionalisation, an inability to create a stable regime that could perpetuate itself absent overwhelming external support.

Afghanistan (1823–1973) and Iraq (1932–1958)

It is worth recognising the gulf between Afghan and Iraqi social and historical experiences. The Pashtun Barakzai dynasty ruled Afghanistan from 1823 to 1973. Internal divisions in the dynasty between its Kandahar-centred Mohammadzai and Peshawar-centred Musahiban branches weakened the 19th century Afghan state, combining with Anglo-Russian antagonisms to reduce Afghan territory.¹⁸⁶ Nevertheless, modern Afghanistan occupies a reasonable portion of historical Afghan territorial units, which have existed since the 18th century Hotaki dynasty.¹⁸⁷ Afghanistan's shifting borders have created a structural issue. The plurality of Afghans is Pashtun, but the majority of Pashtuns live in Pakistan, comprising around 15% of the population—this disparity has created a notoriously porous border between the two countries, complicating Kabul's ability to defeat Pashtun-centric insurgents like the Taliban.¹⁸⁸ This does not, however, negate the historical reality of an Afghan state.

By contrast, before 1932 no independent political unit had exercised power over Mesopotamia from Baghdad since the last gasp of Abbasid strength in the 13th century.¹⁸⁹ After the Ilkhanate's disintegration in 1335, the equivalent of petty lords ruled over the region. The rise of Ottoman and Persian power then made Mesopotamia a strategic battleground for Turkish and Iranian ambition, much as it had been during Byzantine-Sassanid conflicts. Following the First World War, Britain created the Mandate of Iraq, installing as its king the Hashemite Faisal after their aborted attempt to form a Syrian monarchy. Thus, while the Kingdom of Afghanistan was the successor to several centuries of Afghan political units, the Kingdom of Iraq was created in a single decade. Indeed, Iraqi society had not universally opposed Ottoman rule during the First World War. Support for the Arab Revolt came from Sunni areas, whereas the Shia south generally avoided participation, and greeted Faisal with little enthusiasm. The 1920 Iraqi Revolt was the only unifying experience in modern Iraqi history—Shia and Sunni Arabs and Kurds all resisted the proposed

British Mandate for Mesopotamia, which would have placed Iraq under British Indian administration.¹⁹⁰

Iraq's experiment with monarchy ended in 1958 with the murder of Faisal II, his family, and his core supporters during the 14 July coup. But violence had defined Iraqi internal politics for the previous two decades. Six coups occurred between 1936 and 1941, the first of which King Ghazi I backed against the civilian government—Ghazi died in 1939, possibly having been assassinated. *De facto* British occupation from 1941 to 1947 provided Iraq with its greatest stability since Ottoman collapse: ironically, the sort of colonial administration Iraqis had so staunchly opposed in 1920 was far more effective than the independent Iraqi state with its Hashemite king.

Modern Iraq's subsequent history is well-known given American and allied involvement in the country. The 1968 coup brought Iraqi Baathists to power, with Saddam Hussein as the new regime's most competent and ruthless member. Saddam consolidated power by purging non-Baathist elements from the new government, executing a series of internal economic reforms, repressing any ethnic or religious opposition, and in 1979 purged the Baath Party after becoming Iraqi president. Saddam had complete control over the security services, and relied upon support from tribal and familial allies in his home city of Tikrit.¹⁹¹ But Saddam's dictatorship could never institutionalise itself. He remained far too paranoid to create an independent military, civil service, or party structure. This paranoia progressively hollowed out Iraqi state institutions. War with Iran proved economically disastrous. Saddam's attempts to steal Kuwaiti oil revenues resulted in the 1991 Gulf War and a decade of sanctions that further compounded internal issues.

The US invasion in 2003 toppled Saddam, installing a transitional US administration in his place before proposed Iraqi elections. "De-Baathification" receives much of the opprobrium for American failures in 2003–2004. But of greater importance was the US inability to recognise the Iraqi state's fundamental incompetence. Saddam's regime held Iraq together purely through fear. De-Baathification was not accompanied by a concerted attempt to maintain internal stability, leaving Iraqi Sunnis vulnerable to Shia reprisal after Saddam's Sunni-centric political system.¹⁹² Abu Musab al-Zarqawi capitalised upon this vacuum, transforming a US-directed insurgency into a sectarian civil war that empowered the country's most brutal internal actors.¹⁹³ The 2007 Surge did re-establish stability. However, the subsequent 2010 elections were a disaster. They demonstrated the degree to which sufficiently determined internal actors could manipulate the political system and maintain power.¹⁹⁴ Nouri al-Maliki effectively stalled for nine months, ultimately retaining the presidency and boxing out the Iraqi National Movement's 91-seat parliamentary plurality. It is entirely unsurprising that the Iraqi security forces dissolved in 2014 under ISIS

pressure – the Iraqi state had become a battleground for sectarian interests, absent any robust unifying factor or the institutionalised legitimacy that effective transfers of power inculcate in democracies.

The Afghan monarchy, by contrast survived until 1973, presiding over Afghanistan's last 25 years of internal stability. Mohammed Zahir Shah pursued a non-aligned foreign policy, attempting to ensure Afghan independence from both the Soviet and American camps. Internally, however, he supported political and economic liberalisation. In 1964 he enacted a new constitution that introduced universal suffrage, a bill of rights, and increased parliamentary power over the monarchy while preserving the monarch's executive functions. In 1973, intra-Barakzai tensions and growing communist sentiment – possibly inflamed by Soviet authorities – led to a bloodless coup, organised by the Musahiban Mohammed Daoud Khan.¹⁹⁵ The domestic situation progressively denatured, resulting in the 1978 coup and 1979 Soviet coup and intervention. Since 1979, and to this day, no Afghan government has controlled the entirety of the country's territory.

Afghanistan's political system demonstrates the continued power of monarchical symbolism in the still traditional society. As of 2018, only 43% of Afghan adults were literate.¹⁹⁶ The government views all representatives as *de jure* independents, and employs a single non-transferrable vote system for parliamentary elections. The result has been confusion and poor turnout. The competitive electoral field in the first Afghan parliamentary election compounded the issue – in some cases, winning candidates gained only 10% of their constituency's votes. By contrast, before the escalating violence in 2019, turnout for the presidential election was high, with between six and seven million of Afghanistan's approximately 10 million registered voters casting ballots. Moreover, Zahir Shah remained popular until his death: indeed, his support for Karzai was central in legitimising the 2004 Afghan election. A single political figure, whether president or monarch, paradoxically can connect better with the majority of Afghan society than a localised parliamentary democratic system as it is currently employed.

Neither Afghanistan nor Iraq are incapable of self-governance. Nor is democracy in *some* form impossible in either circumstance. **Rather, the issue is the form and structure of democratic governance.** In both cases, voters and citizens require reassurance that the state will protect their interests and avoid becoming a vehicle for antagonistic ethnic and religious claims. A parliamentary system enables factional fragmentation and alienates the broader population, particularly dangerous in a situation like Iraq's where a forceful internal actor can maintain power despite functionally losing a governance mandate. **The central mistake in Iraq and Afghanistan was believing that *any* political structure can exist without some sort of social glue, both through common history *and* common interests. The limited successes of**

political transition in each context stem from either capitalising upon or expanding from extant social-national forces. The overwhelming failures of both examples are derived from a lack of sensitivity to these factors, a stubborn conviction that national identity may emerge absent cultivation.

Monarchy in the Libyan Context

The Senussi began as a Sufi religious order or *tariqa*, emerging in the same environment as other Islamic revivalist movements in the early 19th century. Mohammed ibn Ali as-Senussi, the order's founder, travelled across North Africa and onto Mecca, making contact with Mohammed ibn Abd al-Wahhab. Both Mohammed ibn Ali and Mohammed al-Wahhab opposed what they saw as the political and religious corruption in the Islamic world. The Battle of the Pyramids and Napoleon's subsequent conquest of Egypt was a psychological shock to the Muslim *ummah*.¹⁹⁷ It demonstrated the Christian West's distinct political and military superiority over the Ottoman Sultanate – this increased support for revivalist movements that criticised the Ottoman state's ineffectiveness and the jurisprudential conservatism of its *ulema*.

From 1911 until 1945, the Senussi became the spiritual, political, and military centre of the Libyan independence movement. The Senussi continuously fought the Italians from 1911 until 1943, siding with the Ottomans during the First World War and fighting the British until 1917.¹⁹⁸ This chronology is noteworthy because the future King Idris of Libya became the Senussi order's leader in 1916, and was instrumental in negotiating a peace between the Senussi and the UK, and was then a central player in post-1918 negotiations between Italy, the UK, and Libyan political actors that gave Libyans significant autonomy from Italian rule. Mussolini's rise in 1922 ended this arrangement – from then on, the Cyrenaica-based Senussi were the only effective Libyan opposition to Fascist Italian colonialism.

Unlike Iraqi identity, which was created by French and British diplomatic manoeuvring in the Levant, Libyan identity is inextricable from this anti-colonial struggle. Alongside Idris, Omar Mukhtar headed the Libyan resistance movement, and by his capture and execution in 1931 had become a national hero.¹⁹⁹ Italy only broke the resistance by resorting to concentration camps and mass deportations.²⁰⁰ This political context made the Senussi and their Bedouin allies natural British co-belligerents during the Second World War – Idris fought alongside the Eighth Army in North Africa until Libya's liberation from Italian occupation. Of course, Libya's consolidation as a single state in 1951 was not a foregone conclusion. The Senussi were far less popular in Tripolitania and Fezzan than Cyrenaica. The Senussi fought with Berber-centric resistance organisations in 1916, and the Tripolitanian

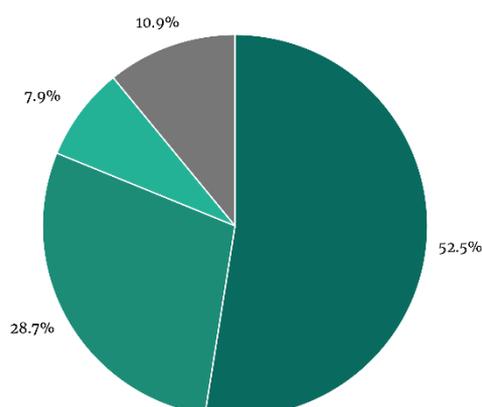
Republic during its short four-year existence. However, the Senussi also fought alongside Berber opposition to Italian colonisation.

We may identify a clear parallel between the Senussi's integration into Libya's Bedouin tribes from the mid-19th century onwards and the organic formation of the first Islamic political units. **The Sufi Senussi did not begin as "indigenous" Libyan Berbers or Bedouins. But they provided the Bedouin tribes with a spiritual and political attachment point that transcended factional affiliations.**²⁰¹ The House of Senussi's central role in Libyan resistance to foreign occupation reinforced this position. **Absent the Senussi, the political consolidation that defined 20th century Libya before Qaddafi's *coup* would have been impossible. In this, they simply followed an established tradition in Islamic history, facilitating the transition from tribal *asabiyyah* to a coherent national identity.**

V. Polling and Focus Group Results

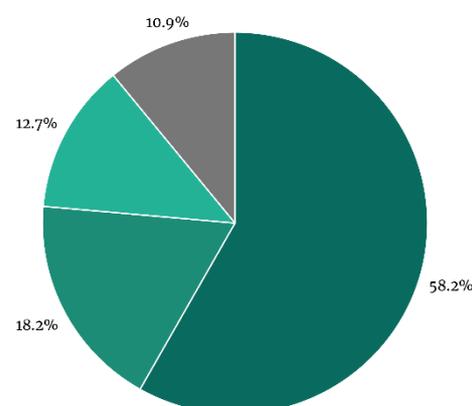
"Would the restoration of the monarchy be capable of stabilising Libya?"

- 52.5% of respondents answered no.
- 28.7% answered this was an initiative worth trying.
- 7.9% answered yes.
- 10.9% of respondents said they are unsure.



"Would the restoration of the monarchy be capable of stabilising Libya?" (July 2021)

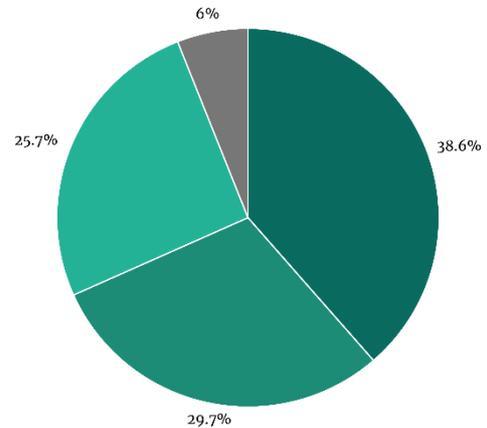
- 58.2% of respondents answered no.
- 18.2% answered this was an initiative worth trying.
- 12.7% answered yes.
- 10.9% of respondents said they are unsure.



Since polling conducted in July 2021, the share of Libyans who outright reject the monarchy as a means to stability decreased by 5.7% while those who would consider it a worthwhile initiative increased by more than 10%.

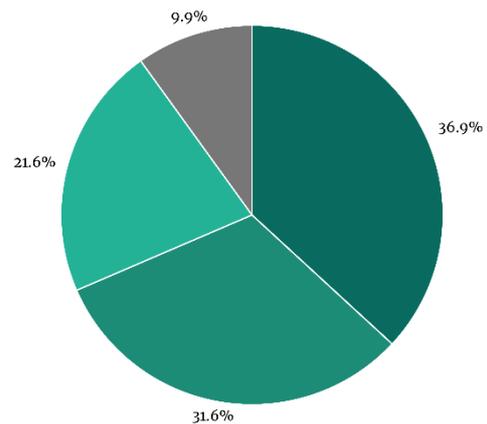
“Do you think a return to the constitutional monarchy of 1951, where the king does not have political power, could contribute to national unity?”

- 38.6% of respondents said no
- 29.7% of respondents said maybe
- 25.7% answered yes
- 6% said they did not know



**“Do you think a return to the constitutional monarchy of 1951, where the king does not have political power, could contribute to national unity?”
(July 2021)**

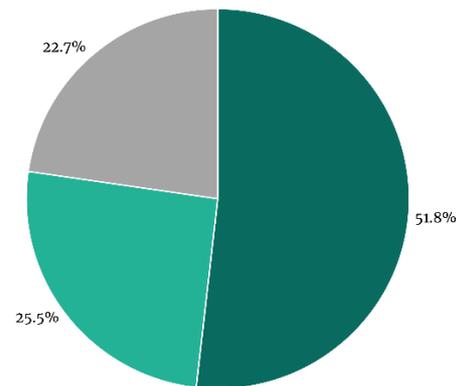
- 36.9% of respondents said no
- 31.6% of respondents said maybe
- 21.6% answered yes
- 9.9% said they did not know



Since polling conducted in July 2021, the share of Libyans who think a constitutional monarchy could restore national unity increased by 4.1%, and it did so at the expense of the undecided camp.

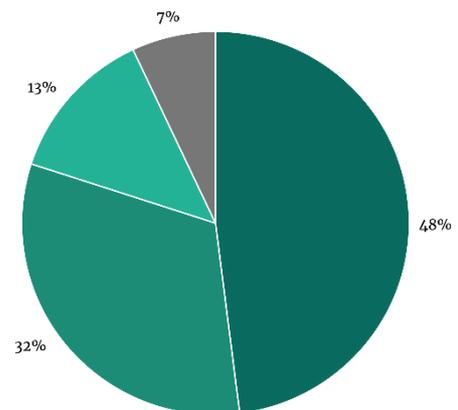
“Do you know about the current Crown Prince?”

- 51.8% answered yes
- 25.5% answered that they might have heard of him before.
- 22.7% of respondents said they had never heard of him.



“What do you think about the Crown Prince, Mohammed el Senoussi, in the context of Libya's future?”

- 48% of respondents thought the Crown Prince contributes to Libya's future positively.
- 32% considered him harmful.
- 13% considered him somewhat harmful.
- 7% of respondents said that he does not contribute to Libya's future.



Conclusion

The Libyan crisis still appears to be far from a final resolution. Despite an uptick in international engagement, on the eve of the December 24 elections, the problems at the root of the Libyan crisis appear to be without a palliative. International intervention remains a profound structural issue in Libyan politics, while geographical and tribal interests continue to take precedence over any overarching conception of a Libyan ‘national interest’. Worse still, the prolongation of the crisis stands to serve the interests of several domestic and international actors within Libya, a fact that bodes ill for the comprehensive resolution of the conflict. It seems more likely than not that the elections would be an exacerbator more than a lenitive to Libya’s crisis, soon set to enter its eleventh year.

It is in this light that this project has explored ‘alternative’ solutions to end the Libyan crisis. The project has considered the reactivation of the Libyan constitution of 1951 and the Libyan monarchy after nearly six decades of dormancy. As mentioned in the introduction to the paper, the statistical success rate of attempts to revive constitutions is low; for the restoration of monarchies, the success rate is even lower. Yet the attempt to ‘apply history’ in this paper comes from a recognition that each instance of potential constitutional and monarchical restoration is a *sui generis* case, unique for its own set of geopolitical circumstances; social and political history; and the political questions that arise from those distinct and contingent factors.

The privilege of determining which model of constitutional and institutional governance would best fit Libya should be the exclusive preserve of Libyans. In view of Libya’s political predicament, however, it seems less likely at the present moment that a solution will be sourced from Libyans than imposed on them by a condominium of international and powerful domestic interests. Yet despite this reality, this paper concludes by asking two questions as to the future of Libya:

1. If one concludes that a lack of national unity led to the creation of a vacuum in Libya, can this process be reversed? Could a political strategy rooted in Libyan history and based on the axiomatic importance of national identity, break the deadlock in Libya and create a positive momentum for Libyan democracy?

2. If elections fail to stabilise Libya and put the country on a positive trajectory, are there feasible alternatives to the 1951 constitution as at least an interim measure for the stabilisation of Libya and the provision of basic political institutions?

The arguments proffered for the Libyan constitution put forward that reimplementing the constitution would offer a way to “resume institutional normalcy” in Libya and would provide a solid basis upon which to “continue” Libya’s democratic institutional development. They argue that the constitution is imbued with a modicum of “trust” that is sorely missing in Libya today, and that it contains within itself the mechanisms for its own development and reformation. Finally, they argue that restoring the constitution would preserve an ideal of a Libya that existed prior to 42 years of autocracy. Detractors to the constitution argue that the constitution is not suited to the development, having missed out on the opportunity for the organic development that constitutions have over a 42-year span, let alone years filled with so much economic, technological, social, and political change. They further dispute the idea of reimplementation on the lines that the reconstitution of the Libyan state requires a new document that reflects those socio-political changes and in more practical terms, reflects the new political balance of power within Libyan society; this is while arguing that the old constitution contains loopholes for the abuse of power, factionalism, and corruption. This is in addition to the obvious question of its feasibility in view the small size of the constituency currently arguing for the restoration of the constitution. All of these points have been made in this paper. But as Libya’s constitutional debate remains moribund, the 1951 constitution should be considered again.

With respect to the monarchy, supporters of a monarchy have in this paper argued that a monarch would provide Libya a degree of continuity with its past; offer the prospect of an “adult in the room,” an independent adjudicator that can stand above the partisan fray and assert Libya’s sovereignty to international actors who dispute it; and provide a rallying point for what seems to be a dwindling sense of Libyan national unity. Arguing outside the Libyan context, supporters of the monarchy have noted that historically, monarchs have proved to be useful nodes of national consolidation and reconstitution in several broadly analogous historical situations. Detractors of the monarchy point to the potential of a monarchy to devolve into autocracy, as well as the limited demand that exists today for a monarchical restoration.

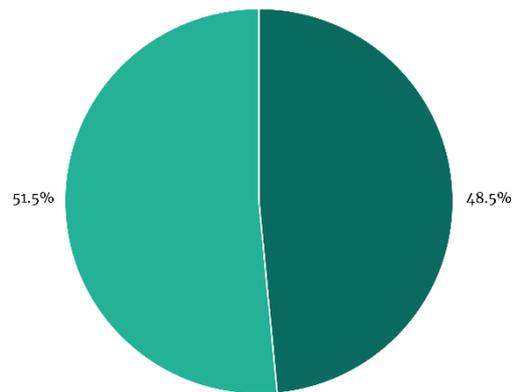
There is no solution currently being offered that offers a panacea to the morass of the Libyan crisis. It is also important to note that whatever ‘solution’ is in fact chosen for Libya will only be the close of the first chapter in the history of the third Libyan state. In view of this impasse, however, and in view of the merits of the two ideas discussed in this paper, this paper concludes despite the obvious drawbacks of both suggestions, that both proposals

contain merits that could contribute to the long-term health and reconstitution of the Libyan state, and are certainly worthy of further consideration and debate by Libyans themselves.

Appendix 1: Polling Sample

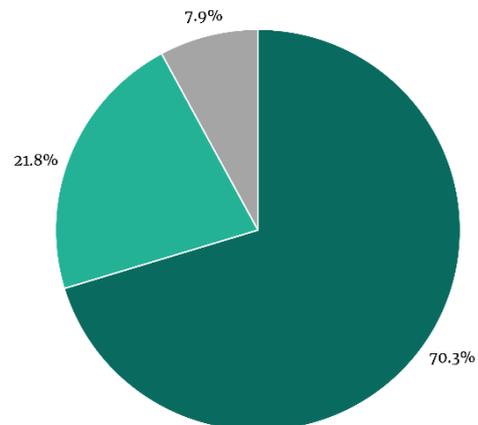
Gender

- 48.5% of respondents were male.
- 51.5% of respondents were female.



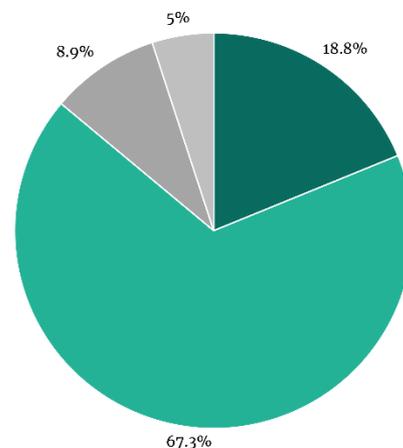
Age

- 18.8% - 16-25 years old
- 67.3% - 26-35 years old
- 8.9% - 36-45 years old
- 5% - above 45



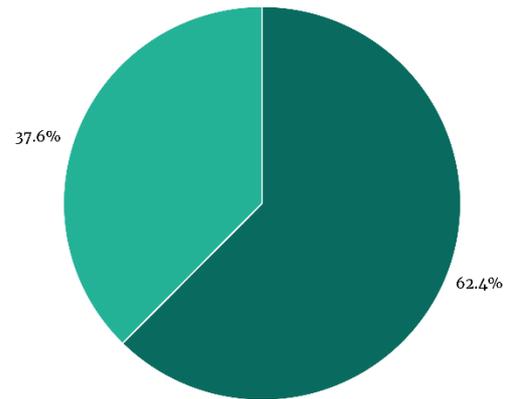
Geographical distribution

- 70.3% of respondents came from Tripolitania.
- 21.8% of respondents came from Cyrenaica.
- 7.9% of respondents came from Fezzan.



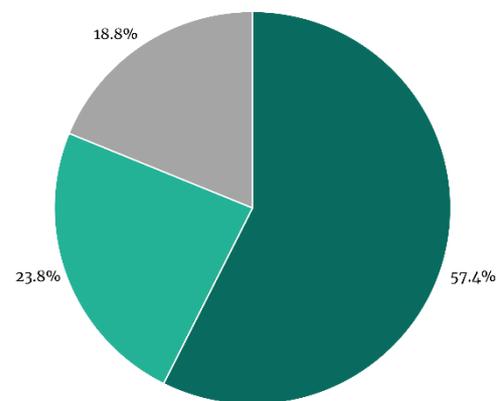
Personal job situation

- 62.4% of respondents reported having a steady job and flow of income.
- 37.6% of respondents reported having doubts about the stability of their job or having an irregular flow of income.



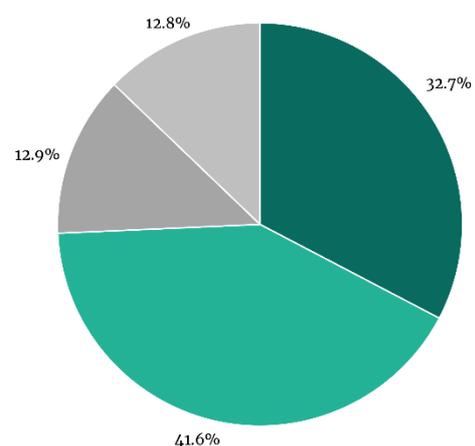
Future prospects

- 57.4% of respondents were hopeful about the future and that they could reliably sustain themselves and their families.
- 23.8% of respondents were certain that they could reliably sustain themselves and their families in the future.
- 18.8% of respondents thought it was not possible to reliably sustain themselves and their families in the future.



Desire to emigrate

- 32.7% of respondents reported often thinking about leaving Libya.
- 41.6% of respondents reported sometimes thinking about leaving Libya.
- 12.9% of respondents reported never considering leaving Libya.
- 12.8% of respondents were members of families who emigrated from Libya.



Appendix 2:

List of People Interviewed

A number of additional professionals, activists, and stakeholders, both international and Libyan politics, were kind enough to engage with the Forum but requested to remain anonymous. We are grateful to everyone, anonymous and named, for being generous with their time, and for both engaging and sharing their informed opinions with us.

Emanuele Comte

Libya Director, Italian Ministry of Foreign Affairs

Jean-Claude Cousseran

Director of the Directorate Général pour Sécurité Externale (DGSE);
French Ambassador to Syria, Iran and Turkey

Mohammad Dorda

Director, Libya Desk

Jalel Harchaoui

Fellow, Global Initiative

François Heisbourg

Senior Advisor, International Institute for Security Studies

Geoffrey Howard

Senior Analyst, Foreign, Commonwealth, and Development Office (UK)

Hager Ali

Doctoral Researcher, German Institute of Global and Area Studies

Asma Khalifa

Doctoral Researcher, German Institute of Global and Area Studies

Robin Lamb

British Ambassador to Libya and Bahrain

Mohammad al Messiry

Libya Desk

Karim Mezran

Resident Senior Fellow, Atlantic Council

Lt. Gen. (Ret.) H.R. McMaster

United States National Security Advisor

Tarek Megerisi

Fellow, European Council on Foreign Relations (ECFR)

Peter Millett

British Ambassador to Libya (2015-18) and Jordan (2011-15)

Dominique Moïsi

Special Advisor for Geopolitics, Institut Montaigne

Jason Pack

Non-resident Fellow, Middle East Institute (MEI);
Journalist

Sayyed Mohammad al-Senussi

Crown Prince of Libya

Dr Damian Valdez

Lecturer in Politics, University of Cambridge

Arturo Vervelli

Director, European Council for Foreign Relations (ECFR)

Professor J.J. Weiler

Professor of Constitutional Law, New York University

Noah Feldman

Felix Frankfurter Professor of Law, Harvard Law School

Daniel Lansberg-Rodriguez

Adjunct Lecturer of Global Management, Kellogg School of Management,
Northwestern University

Dr Hani Shennib

Public commentator on Libyan politics and internationally
renowned cardiovascular surgeon

Zahra Langhi

Peace activist and expert on gender, conflict resolution, and peace building

Alfredo Conte

Deputy Director General of Mediterranean and Middle Eastern Affairs,
Ministry of Foreign Affairs and International Cooperation, Italian Republic (2018-)

Giulio Terzi di Sant'Agata

Minister of Foreign Affairs, Italian Republic (2011-13);
Ambassador of Italy to the United States (2009-11);
Permanent Representative of Italy to the United Nations (2007-08)

Dr Federica Saini Fasanotti

Non-resident Fellow, Center for Security, Strategy and Technology, Brookings Institution;
Senior Associate, ISPI Milan (Italian Institute for International Political Studies) (2019-)

Mr Elio Raccah

Member of Libya's former Jewish community living in Rome.

Dr Daniel Fargion

Member of Libya's former Jewish community living in Rome.

Dr David Gerbi

Member of Libya's former Jewish community living in Rome.

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- ⁶ <https://www.lowyinstitute.org/the-interpreter/french-special-forces-deaths-libya-illustrate-west-difficult-position>
- ⁷ <https://www.eni.com/en-IT/eni-worldwide/africa/libya.html>
- ⁸ The mission’s mandate document is available here: <http://data.consilium.europa.eu/doc/document/ST-6414-2020-INIT/en/pdf>
- ⁹ The resolution can be accessed here: [https://undocs.org/en/S/RES/2292\(2016\)](https://undocs.org/en/S/RES/2292(2016)) It must be noted that the resolution grants IRINI the authority to inspect vessels in high seas if suspected to be carrying weapons to Libya, however IRINI’s mandate document also specifies, in article 7, that such authority doesn’t cover vessels entitled to “sovereign immunity” – a notion defined vaguely enough to hinder the mission’s practical impact.
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⁴³ Under Ottoman rule, Libya consisted of the three wilayets (states) of Tripolitania, Cyrenaica, and Fezzan, roughly corresponding to the country's current west, east, and south. Geographically separated by Libya's vast and foreboding desert expanses, the three regions developed distinct social and political structures. See Kane, S. (2011)

⁴⁴ Representatives to the Libyan National Assembly were selected by the United Nations Commissioner Adrian Pelt and the Council of ten representatives composed of representatives of various foreign states, Libyan regions, and one member representing Libya's minority populations. (Khadduri, Majid. *Modern Libya: A Study in Political Development*. 1st Edition, Baltimore, MD, The Johns Hopkins University Press, 1963).

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⁴⁶ Vandewalle, Dirk. *A History of Modern Libya*. (Cambridge: Cambridge University Press, 2006).

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⁴⁸ *Ibid*.

⁴⁹ A History of Modern Libya Vanderwalle 44

⁵⁰ Ronald Bruce st John in Vanderwalle 128

⁵¹ All provisions that a functioning government would ordinarily exchange for public recognition of legitimacy. See Blackwell, Stephen. "Saving the king: Anglo-American strategy and British counter-subversion operations in Libya, 1953-59," *Middle Eastern Studies*, 39:1, (2003)

⁵² Vanderwalle 45

⁵³ 50 Idris

⁵⁴ 46 Vanderwalle

⁵⁵ Vanderwalle 48

⁵⁶ The nation struggled to balance its budget on limited exports of esparto grass (used to make paper), castor seeds, and scrap metal scavenged from the remains of World War II. The national deficit was covered with aid from friendly countries and rent in return for foreign military basing rights.

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⁵⁸ Quoted from Vandewalle (1998), page 51.

⁵⁹ *Ibid*.

⁶⁰ Following a change in the constitution abolishing the federal makeup of the country in 1963 the three provinces were reorganised into ten governorates (muhafazah in Arabic) which were ruled by a royally appointed governor. The amended constitution granted the national government authority for all transactions involving customs, companies, ports, finance, transportation and economic development.

⁶¹ Sentiment repeated, with emphasis on the role IOCs played in this decision, in interviews with Mohsen Derregia (06/23/21), William Lawrence (07/09/21), Hafed AlGhwell (07/07/21).

⁶² There is much debate at the LPDF as to whether a full constitution needs to be adopted before elections or after once a government is established. This essay does not attempt to answer that question.

⁶³ The main options are returning to the 1951 Constitution or its 1963 amended version; adopting the February Committee Proposal of 2014; or adopting just parts of the 2017 Constitutional Proposal.

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⁷⁴ Advanced by Langhi for this paper

⁷⁵ See XXX

⁷⁶ <https://democracy-reporting.org/en/office/libya/publications/libya-comparing-constitutional-texts-against-international-democracy-standards>

⁷⁷ Slouching towards authoritarianism, October 1 2021, written by Lorianne Toler updyke for this project

⁷⁸ Written national constitutionalism began in 1789, when the U.S. Constitution was ratified and enacted. However, written constitutionalism was generally begun thirteen years earlier in 1776, when New Hampshire enacted the first state constitution on January 5, 1776. Twelve of the thirteen British North American colonies enacted constitutions before the federal document was ratified.

⁷⁹ Zachary Elkins and Tom Ginsburg, *Chronology of Constitutional Events*, Version 1.3., Comparative Constitutions Project. Last modified May 20, 2021. Available at comparativeconstitutionsproject.org [hereinafter CCP data].

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⁸¹ CCP data.

⁸² Iraq of all MENA countries that is also a member of OPEC boasts a democratic republic, which of course was attained through exceptional circumstances.

⁸³ “In Search of Lost Legitimacy: The Constitutional Process in Libya.” Rule of Law Initiative, American Bar Association, 2020. Accessed: https://pdf.usaid.gov/pdf_docs/PA00XDJF.pdf

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⁸⁶ IBRD; Anderson, Lisa (1986)

⁸⁷ Vandewalle (1968)

⁸⁸ St. John, Ronald Bruce (2008); See also Lewis, William H., and Robert Gordon. “Libya after Two Years of Independence.” *Middle East Journal*, vol. 8, no. 1, 1954, pp. 41–53. JSTOR, www.jstor.org/stable/4322564. Accessed 3 June 2021.

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⁹¹ For consistency this text will use ‘Senussi’ and ‘Senussiyya.’ The religious order is referred to as The Order of Senussiyya. (Arabic: السنوسية) Alternate spellings include Senusi or Senussi.

⁹² Evans-Pritchard, E., *The Senussi of Cyrenaica*. (Oxford University Press, 1949).

⁹³ Hassanien, A. M. “Saints of the Desert,” *The Century Magazine* (New York City: The Century Company, June 1925).

⁹⁴ Ibid.

⁹⁵ Eileen Riley, PhD Dissertation at Columbia University in 2012, “Italy and the Senussiyya: Negotiating Authority in Colonial Libya, 1911-1931.” Riley notes that al-Senussi was among several of Idris’ protégés who founded their own Sufi tariqas.

⁹⁶ Akin to the Wahhabis in Saudi Arabia, the Senussi doctrine promoted a strict interpretation of sunna, and rejected “innovation,” bid’aa, return to the original practices of the Prophet Mohammad. The order stressed a kind of Lutheran ethos, forbade fanaticism and promoted a hard work ethic.

⁹⁷ Viktor, Knut S. *Sufi and Scholar on the Desert Edge: Muḥammad B. ‘Alī Al-Sanūsī and His Brotherhood*. (Northwestern University Press, 1995).

⁹⁸ In the grand tradition of Bedouin hospitality, the Grand Senussi instructed and funded his followers, members of the *ikhwan*, to construct Zawiyas along trade routes and pilgrimage passages and disseminate the Senussi doctrine. The lodges offered shelter to weary travelers, but also functioned as cultural centers, schools, and cultivated a sense of community in an otherwise desolate area. Chapin Metz, Hellen. *Libya: A Country Study*. (Washington: GPO for the Library of Congress, 1987).

Retrieved from <http://countrystudies.us/libya/18.htm>

⁹⁹ Merriam Webster defines *Baraka* as a blessing that is regarded by various Eastern religions as an indwelling spiritual force and divine gift inherent in saints, charismatic leaders, and natural objects. The word in Arabic means blessing and is usually used in Sufi Islam to refer to the charisma of the founder of an Order.

¹⁰⁰ Chapin Metz

¹⁰¹ R.B. St John

¹⁰² “When the Mahdi died in 1902, he left 146 lodges in Africa and Arabia and had brought virtually all the Bedouins of Cyrenaica under the order's influence.” Ibid.

¹⁰³ Viktor, Knut S.

¹⁰⁴ Anna Baldinetti, *The Origins of the Libyan Nation: Colonial Legacy, Exile and the Emergence of a New Nation-State* (Oxford: Routledge, 2010).

¹⁰⁵ Pack, Jason. “The Antecedents and Implications of the so-called Anglo-Senussi War (1915-17),” *The First World War and its Aftermath: The Shaping of the Middle East*, (Ginkgo Library, 2015).

¹⁰⁶ Atkinson, David, “Nomadic Strategies and Colonial Governance,” *Entanglements of Power: Geographies of Domination/Resistance*. (Routledge, 2002) pp. 93-122.

¹⁰⁷ Negotiations between Idris Senussi and the Italians, facilitated by the British, resulted in the former's appointment as Emir of the Oases and Hinterlands of Cyrenaica, while the Italians retained control of the Cyrenaican coast and Jebel al-Ahkdar, the original headquarters of the Senussi in Cyrenaica.

¹⁰⁸ His official authority and titles served to contextualize his role and authority over the tribes of Cyrenaica in a manner digestible to Western audiences. Thompson, Todd. (2011).

¹⁰⁹ Thompson, Todd. (2011).

¹¹⁰ Pack, Jason.

¹¹¹ In such a short essay, it would be impossible to acknowledge the brutality and depth of suffering the Italians inflicted on the local Libyan population during this time. For more information see *Bernhard, Patrik. Behind the Battle Lines: Italian Atrocities and the Persecution of Arabs, Berbers, and Jews in North Africa during World War II, Holocaust and Genocide Studies, Volume 26, Issue 3, Winter 2012, Pages 425-446, https://doi.org/10.1093/hgs/dcs054*

¹¹² Hala Khamis Nassar & Marco Boggero, Omar al-Mukhtar: the formation of cultural memory and the case of the militant group that bears his name, *The Journal of North African Studies*, 13:2, 201-217, DOI: 10.1080/13629380801996539 (2008).

¹¹³ These fractures would later hinder efforts to build a functioning government for Libya's post-colonial future.

¹¹⁴ Representatives to the Libyan National Assembly were selected by the United Nations Commissioner Adrian Pelt and the Council of ten representatives composed of representatives of various foreign states, Libyan regions, and one member representing Libya's minority populations. Khadduri, Majid. *Modern Libya: A Study in Political Development*. 1st Edition, Baltimore, MD, The Johns Hopkins University Press, (1963).

¹¹⁵ Khadduri, M. (1963)

¹¹⁶ Ibid.

- ¹¹⁷ Boyd, Douglas A. (1993). *Broadcasting in the Arab World*. Ames, Iowa: Iowa State University Press. p. 310-20
- ¹¹⁸ I have indicated if I use a single translation for the majority of references to a text. In all cases, I have provided the translator of the text in question. For Plato and Aristotle, I generally employ Stephanus or Bekker numbers rather than pagination for ease of cross-comparison between editions. Additionally, I generally refer to Plato's ideas as "Platonic" rather than "Platonist", to avoid the implication that this analysis discusses Platonism as a school, or Neoplatonic thought.
- ¹¹⁹ Aristotle, *Nicomachean Ethics*, Robert Bartlett and Susan Collins (trans) (London: University of Chicago Press, 2011), 1094a-b.
- ¹²⁰ *Ibid.*
- ¹²¹ *Ibid.*, 1095b. Compare Plato, *Republic*, Allan Bloom (trans) (2nd Ed) (Basic Books, 1991), I:354b-c.
- ¹²² *Republic*, I:331c; I:332a; I:334b; I:338d.
- ¹²³ *Ibid.*, IV:420b-d. Compare Aristotle, *Politics*, Carnes Lord (trans) (2nd ed) (London: University of Chicago Press, 1984 2013), 1252a.
- ¹²⁴ *Politics*, 1253a.
- ¹²⁵ *Ibid.*, 1252b. Compare *Republic*, II:369b. Compare also Cicero, *De Re Publica*, in Francis Barham (trans), *The Political Works of Cicero*, Volume 1 (London 1841), Book 1, 172.
- ¹²⁶ "Human social organisation is something necessary. The philosophers express this fact by saying: 'Man is political by nature'. That is, he cannot do without the social organisation for which the philosophers use the technical term polis." Ibn Khaldun, *The Muqaddimah*, Franz Rosenthal (trans) 1:1. Few adequate English translations of the *Muqaddimah* exist. In lieu of page numbers, I have provided Chapter and Section numbers, per Rosenthal's translation, which is available online as a moderate-quality PDF. The majority of this analysis stems from the beginning of the *Muqaddimah*, specifically Chapter 1's section entitled "The First Prefatory Discussion" in Rosenthal's text, Chapter 2 on Bedouin civilisation, and Chapter 3 on Royal Authority. Khaldun's debt to Aristotle is evident at the beginning of the *Muqaddimah* – compare *Muqaddimah* 1:1 with *Politics*, 1252a.
- ¹²⁷ *Ibid.*, 1:1.
- ¹²⁸ *Ibid.*, 3:11 ff.
- ¹²⁹ *Ibid.*, 1:1.
- ¹³⁰ *Republic*, V:474a-b, 477c, 478a-c; VI:496a-e.
- ¹³¹ *Politics*, 1279a-1280a.
- ¹³² *Ibid.*
- ¹³³ "Polity" and "democracy" may be substituted for "democracy" and "ochlocracy", and more accurately reflect Aristotle's statements in the *Politics*. I use democracy and ochlocracy to bracket the fascinating but less relevant interpretive questions this choice would raise.
- ¹³⁴ *Republic*, VI:499b-500a.
- ¹³⁵ Thucydides, *History of the Peloponnesian War*, Thomas Hobbes (trans), in *The English Works of Thomas Hobbes*, Volume VIII (London: John Bohn, 1843), 338 ff.
- ¹³⁶ *Politics*, 1279a-1280a. Compare *Republic*, I:339a.
- ¹³⁷ *Politics*, 1294a-1295a.
- ¹³⁸ *Ibid.*
- ¹³⁹ Paul Rahe, *The Spartan Regime: its Character, Origins, and Grand Strategy* (New Haven: Yale University Press, 2016), 41.
- ¹⁴⁰ *Politics*, 1270b.
- ¹⁴¹ Rahe, *The Spartan Regime*, 42.
- ¹⁴² *Ibid.*, 42.
- ¹⁴³ Al-Farabi, *The Political Regime*, Fauzi M Najjar (trans). In Ralph Lerner and Muhsin Mahdi (eds), *Medieval Political Philosophy: A Sourcebook* (New York: The Free Press, 1963), 36. All citations from *The Political Regime* are from this edition.
- ¹⁴⁴ The reality was far more complex. This statement must not be construed as ascribing to Islam a uniquely aggressive character. Rather, it is an intellectual historical observation that describes the relationship between Islamic theology and political organisation, a relationship that differed from that in Latin Christianity, and that enabled al-Farabi's and Ibn Khaldun's philosophical inquiries.
- ¹⁴⁵ *Ibid.*, 32-34.
- ¹⁴⁶ "Because it is difficult for the multitude to comprehend these things themselves as they are, the attempt was made to teach them these things in other ways, which are the ways of imitation. Hence these things are imitated for each group or nation through the matters that are best known to them; and it may very well be that what is best known to the one may not be the best known to the other". *Ibid.*, 41.
- ¹⁴⁷ Khaldun, *Muqaddimah*, 2:9; 2:26.
- ¹⁴⁸ *Ibid.*, 1:1. Compare Al-Farabi, *The Political Regime*, 53-56.
- ¹⁴⁹ *Ibid.*, 3:1-2.

- ¹⁵⁰ See Thomas Hobbes, *De Cive (On the Citizen)*, Richard Tuck and Michael Silverthorne (ed, trans) (Cambridge: Cambridge University Press, 1998), 4 (until the end of Hobbes' introductory material). Compare with Hobbes's Thucydides translation, iv-vi, vii (particularly the beginning of Hobbes' "Note to the Reader" in his translation).
- ¹⁵¹ Hobbes, *Thucydides*, vii.
- ¹⁵² Thomas Hobbes, Edwin Curley (ed), *Leviathan: With Selected Variants from the Latin Edition of 1688* (Cambridge: Hackett 1994), VIII:41; XIII:75. Compare to *De Cive*, Epistle Dedicatory, 5-6. All *Leviathan* citations are from this edition. I will provide page and, where relevant, chapter numbers for each citation.
- ¹⁵³ *Ibid.*, XIII:80.
- ¹⁵⁴ Compare Job 41 with *Leviathan* VIII:41 ff.
- ¹⁵⁵ *Ibid.*, XIII:80.
- ¹⁵⁶ Thomas Hobbes, *A Dialogue Between a Philosopher and a Student, of the Common Laws of England*. In Alan Cromartie and Quentin Skinner (eds), *Thomas Hobbes: Writings on Common Law and Hereditary Right* (Oxford: Clarendon Press, 2005), 25.
- ¹⁵⁷ Robin Frame, *The Political Development of the British Isles, 1100-1400* (Oxford: Clarendon Press, 1990 1995), 130-134. See also Richard W Kaeuper, *War, Justice, and Public Order: England and France in the Later Middle Ages* (Oxford: Clarendon Press, 1988), 118-125.
- ¹⁵⁸ Michael Hicks, *The Wars of the Roses, 1455-1485* (Osprey Publishing, 2003), 7-8.
- ¹⁵⁹ Hobbes, *Behemoth*, 167-168. The intellectual roots of the English Civil War are extremely controversial. But the influence of Renaissance Humanism is undeniable, as curricular records from major educational institutions at the time demonstrate. See Skinner, *From Humanism to Hobbes: Studies in Rhetoric and Politics* (Cambridge: Cambridge University Press, 2018), along with Hobbes, *Behemoth*, emphasis on Part 1.
- ¹⁶⁰ David J Appleby, "Veteran Politics in Restoration England, 1660-1670", *The Seventeenth Century*, 28:3 (2013), 323-324.
- ¹⁶¹ Caroline Robbins, *The Eighteenth-Century Commonwealthman: Studies in the Transmission, Development and Circumstance of English Liberal Thought from the Restoration of Charles II until the War with the Thirteen Colonies* (New York: Atheneum, 1968), 24-25.
- ¹⁶² Steve CA Pincus, "Popery, Trade and Universal Monarchy: The Ideological Context of the Outbreak of the Second Anglo-Dutch War", *The English Historical Review*, 107:422 (January 1992), 3-7, 21-26.
- ¹⁶³ Alfred Thayer Mahan, *The Influence of Sea Power Upon History: 1660-1783* (Boston: Little Brown, 1890 1918), 166-167.
- ¹⁶⁴ William Doyle, *The Oxford History of the French Revolution*, 2nd Ed (Oxford: Oxford University Press, 2002), 185-188.
- ¹⁶⁵ Fabian Rausch, "The Impossible *Gouvernement Représentatif*: Constitutional Culture in Restoration France, 1814-30", *French History*, 27:2 (2013), 226-230.
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- ¹⁶⁸ Kurt Weyland, "Crafting Counterrevolution: How Reactionaries Learned to Combat Change in 1848", *American Political Science Review*, 110:2 (May 2016), 218.
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- ¹⁷⁶ Kissinger, *Diplomacy*, 112-113.
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