Decentralization and the Future of the Syrian State
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Foreword

Addressing the future shape of the Syrian state is as important as examining the political system or the security order within it. Doing so now is essential and is likely to provide answers to many of the questions often depicted as unsolvable. Syrians ought to have this discussion as they articulate the details of a common vision for their future together as a national society. They need to do it to move beyond the suspicions generated by the Assad regime’s manipulation of sectarian and ethnic differences and the ensuing trust deficit that developed between communities. They must themselves produce a homegrown model to avoid seeing outsiders draw schemes that do not relate to the country’s history or its demographic and economic realities.

The pressing demands for federalism emerging from the Kurdish community in Syria is one key reason. Another is the desire of those who successfully organized local governance in areas from which the government withdrew, to see their efforts recognized and the new local structures they set up legitimized. But the debate is also taking place against the backdrop of a failing central state which has, in effect, lost its monopoly over the “legitimate use of violence” and distributed this capacity to sectarian-based and foreign militias. Rushing to define the final structure of the Syrian state at this critical moment for the country is fraught with risks.

This policy report is based on an on-going discussion among a group of Syrians from various professional, geographic, ethnic and sectarian backgrounds since the Spring of 2016. It examines the model of decentralization that would be most appropriate for Syria and comprises three papers.

**Bassma Kodmani** calls for a far-reaching scheme of decentralization. While a large section of the Syrian Kurds see federalism as the only way to fulfill their aspirations, she warns against the risk of deciding on the shape of the future state now that the central state is failing and has lost control over much of its territory.

Principles, institutional means to enforce those principles and detailed schemes of decentralization should be designed and agreed upon as of now. The aspirations of Kurds as a people must be treated as legitimate, but Kurds, like other communities, should commit to fulfil their aspirations through negotiations rather than unilaterally declaring autonomy.

Federalism may well be a suitable option for Syria but Syrians will need to conduct negotiations based on practical considerations and interests, not merely on identity-based aspirations, and to ensure Syria is a coherent state, safe within its borders and a safe neighbour for adjacent countries.
Syria will need to have a strong functioning central state in Damascus if it is to have a successful decentralization process that would eventually lead to federalism. Federal states have a strong, highly sophisticated and effective set of institutions at the centre, capable of organizing sound relationships with all their regions. Otherwise, federalism can become a disguise for de facto partition.

Syria will need to enshrine the principles of equality and non-discrimination in its Constitution, enact new laws and create national institutions such as a higher chamber or a Senate to mitigate the majority rule and a commission to fight all forms of discrimination with the authority to enforce its decisions. Profound changes are required and the process needed to get there is going to be as important as the result.

**Riyad Ali** offers a legal perspective on decentralization and explores some of the models that can be adapted to a future Syria. He warns that implementing the existing Law 107 of 2011 on local administration in its actual form will only strengthen centralized power and a single-leader system, and underlines the need for further legal and institutional reforms in order to ensure the good functioning of a true administrative decentralization.

**Alain Christnacht** outlines the process of decentralization in France, a country that once lived under a highly-centralized state for almost two centuries, from the 1789 revolution until 1981. Syria’s territorial organization is largely a replica of the original French model. Moving beyond the sacred value of identical status for all citizens, the government sought efficacy, more participatory politics and identity-based demands emanating from certain groups, and led three major waves of decentralization. A special status for Corsica was agreed, and contributed to ending a secessionist claim by Corsican nationalists.
What Kind of Decentralization for Syria?

Bassma Kodmani*

At this critical juncture for Syria, a candid discussion on the future structure of the Syrian state and its territorial administration is required. It is no longer possible to postpone such a conversation on the pretext that this can only be decided by a legitimate representative (i.e. elected) government. This discussion must address the aspirations of the Kurds to have their specificity and right to self-governance recognized. And above all, Syrians owe it to themselves to appraise the centralized system which, for 60 years, revolved around an opaque and repressive apparatus that monopolized power and resources. Examples from around the world show that reorganization of the way that a territory is administered is an integral and decisive part of settling conflict or preventing conflict from materializing. The conflict in Aceh province in Indonesia, for instance, was only solved when a decentralized model was adopted for the whole of the country. Similarly, the French government was able to defuse Corsican separatist protests by negotiating a special status for the island within the framework of an advanced decentralization plan for all of France.

For reasons of both principle and political self-interest, it is now urgent that Syria define, if not the definitive administrative format for its territory, then at least the principles that will underpin it and the process for implementation to ensure that the reforms succeed. Decentralization is not without risks. It raises fundamental issues concerning the nature of the state and the functioning of society. Above all, it asks what capacity must be built at the central government level to make a success of decentralization. Is a specific status for certain regions – such as the Kurdish areas in Syria or Corsica in France – preferable to more extensive decentralization which applies the same status to all regions? Why did the experiences of decentralization in Iraq and Yemen fail? How can Syrians differentiate between what is properly part of a decentralization programme and what is part of the renegotiation of the social contract necessary to bring reconciliation and civil peace following conflict?

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There is a de facto trust deficit between the communities that make up Syrian society which the sectarian-based regime of the Assad family has transformed into an inter-communal military confrontation. Syria has lived through half a century of Ba’ath party rule, which advocates Arabism in its chauvinistic form and has always denied the diversity of the Syrian nation, punishing any assertions of difference emerging from within society. Once the 2011 popular uprising had evolved into a violent conflict, moderates on all sides found themselves marginalized in favour of armed groups and became virtually inaudible. The result has been a profound crisis of trust between communities.

In general, Kurds – even those on the Kurdish National Council (KNC), which is represented within the various opposition coalitions – feel that the mainstream Syrian opposition has failed to reassure them regarding their aspirations. But the trust deficit is not limited to the Kurds. Many Alawites also refer to their victimization by Sunni elites further back in the country’s history. They emphasize, for instance, that the names of all their villages were changed and that they have never been officially recognized as a community. It must be pointed out, however, that the majority of Alawites have never sought recognition as a specific community. Nationalist Arab ideology, tribal allegiances and, above all, social segregation have outweighed their religious background. They have not sought representation as a community through a formal faith council since the modern Syrian state was established. For example, when Latakia had a regional government in the 1920s, it was made up of nine politicians, only two of whom were members of the Alawite community, and this caused no resentment and brought about no calls for stronger representation.

Any suitable vision of decentralization in Syria must recognize the extreme overlapping of different communities throughout the nation’s territory, to the extent that no region – with the possible exception of the Jabal al-Druze – can be considered to be inhabited by a clear majority from one ethnic or faith community.¹ For example, Wadi el-Nassara (or Valley of the Christians) near the town of Homs has about 120,000 inhabitants, to which have been added some 300,000 persons displaced by the conflict. It is inhabited by a mixture of Christians, Alawites, Murshidis (an offshoot of the Alawite community) and Sunnis. The town of Salamiyah, north-east of Hama, is home to about 10,000 people, most of whom are Ismailis who have been living alongside Sunnis for centuries, and the town is surrounded by Alawite villages. Certain parts of Damascus are some of the most culturally and religiously diverse areas of the globe, notably the “Crystal Triangle” at the heart of the capital with its twenty-odd churches, thirty Sunni mosques, two Shia holy sites and seven synagogues.

The complexity of having geographic entanglement of communities, along with the strong economic interdependence of the country’s regions, is compounded by the nature of Syria’s traditionally highly politicized society. Despite having lived under consecutive repressive regimes, Syrian society has always been permeated by a diversity of ideologies far removed from identity politics. All of these factors contribute against the case for organizing the nation’s territory along ethnic or sectarian lines.

The popular uprising of 2011 was met with a senseless repression, turning it into an armed confrontation with a strongly sectarian character that has poisoned inter-communal relations, particularly between Sunnis and Alawites. And yet, even after more than five years of conflict, when given the choice to decide their future, Syrians almost unanimously see themselves in a united Syria and reject the principle of dividing power between the various communities. However, the formula for governing and organizing the territory remains to be found. All Syrians know it, but do not agree on the level of priority that the issue should be given.

Nevertheless, in such a diverse society, if a share of the population demands that an issue be tackled, it becomes politically necessary to do so before it turns toxic. The Kurds and, less explicitly, other communities such as the Alawites, Druze, and Assyrians are calling for a clarification of three points: the nature of the state which will be reconstructed after the dictatorship, its territorial organization within a democratic framework, and the status of the different regions. They see it as a test of the Sunni majority’s good faith and its commitment to granting minorities their full rights.

The concern felt by the Kurds, Alawites, Christians or Druze is proportionate to what they see as the rampant Islamization of the opposition as it has become dependent on military means and foreign patrons. They cite the leader of the Al-Nusra Front, Abu Mohammad al-Julani, as a good reason why they fear an Islamic government that would discriminate against minorities. Thus, the Kurds have been asking the opposition to commit to a secular state. While the Kurds are mostly Sunni themselves, they associate Islamism with Arabism and reject both.

The Dangers of Ill-prepared Federalism
While the conflict lasts, armed groups on all sides will try to impose their maximalist positions. In spring 2016, the nationalist Kurdish movement PYD (Democratic Union Party), which is known for its ideological proximity to and links with Turkey’s Kurdistan Workers’ Party (PKK) led by Abdullah Öcalan, unilaterally declared that Syria would be transformed into a federation and that the regions where Kurds were concentrated

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would become autonomous. The announcement did not garner the international support that the PYD had hoped for. However, it did remind Syrians of the importance of articulating convincing responses to the foundational issues of the new Syria. Since then, even Kurds who are part of the Syrian opposition bodies, such as the KNC, have openly declared their support for a federal Syria.

But very few Syrians, whether Arabs or Kurds, are properly informed about the issue. They look to federal countries without being aware of the historic processes behind those countries’ federal systems. The public discourse on federalism suggests it is more of a slogan than a well thought out option.

Outside commentators or political leaders who know little or nothing about Syria also talk of making Syria into a federation or even a confederation. When a research centre carried out a survey among Syrians on the issue of federalism, the (unsurprising) result was that over 85% of non-Kurds are hostile to the idea while over 85% of Kurds welcome it. Since the questions and entire survey did not bother to define federalism, the survey further polarized the debate.

Syrians need to engage in an in-depth discussion on decentralization – since they all agree on this term – and begin to define its actual content. They will learn that there are as many federal models as there are federations in the world, and that autonomy without any clear definition of the relationship between central government and local authorities leads to the failure of the whole state, as in the case of Iraq and Yemen.

For now, the conflict in Syria is generating a downward spiral of decomposition of the central state; the weaker it becomes and the lower its capacity to represent the nation, the stronger the centrifugal forces grow, and the less able the state is to deal with the demands of the various communities. Today, federalism has become the watchword for a large part of Syria’s Kurdish population, though with important differences between the mainstream Kurdish parties and the radical PYD, which is suspected of entertaining a secessionist agenda and of conducting ethnic cleansing in areas where it operates militarily.

The uprising of 2011 has revolutionized Syria in many ways. The debate on the future organization of the territory has certainly been precipitated by Kurdish demands, but even more so by the new experiences of local governance that have emerged after the state withdrew its administrative services from regions captured by the opposition.

Since late 2011, civil society has organized itself at the local level to ensure the provision of vital services to the population. In five years, almost 400 local councils have emerged in regions that the regime wanted to punish by withdrawing state services. The council members are often elected or chosen among local notables respected by their fellow
citizens. They have put in place management teams for education, health, transport, and infrastructure, as well as local police units, a civil defence force (the well-known White Helmets) and a local – albeit chaotic – judiciary. Moreover, this local governance makes corruption difficult, and has developed over the past five years into a local participatory democracy, which could inspire a decentralized and democratic system of governance.

Syrian Kurds are demanding firm and irreversible commitments from the opposition. While they express a preference for federalism, they are divided between those who want a special status for the Kurdish areas in the north (the Kurdistan Democratic Party and the PYD) and those who advocate for a uniform system of advanced decentralization or federalism for all of Syria (notably the KNC).

### An Open Process

“I want to be Kurdish, but I want Damascus as my capital, how do I go about it?” wonders Abdelhakim Bachar, a leading figure in Syria’s democratic Kurdish movement. What we propose here is an approach that does not centre on terminology (e.g. federation, confederation, administrative or political decentralization) but rather on the functional content of what decentralization should include in order for all Syrians to feel they are in control of their destiny, without prejudging the final shape of the country. It will be easier, and definitely less unsettling, to give this new administrative system a suitable name after having discussed and agreed to the fiscal, economic, social and security prerogatives of the local and provincial authorities-to-be.

After the trauma of war, the safest approach is to start with stating the attachment of all Syrians to the unity and integrity of their country, and their realization that decentralization is necessary. It will be vital to ensure that negotiations remain anchored in fundamental democratic principles (equality, liberty, protection of everyone’s rights), but also to identify the different echelons of both economic and administrative decentralization as they are applied in many other countries. This is a crucial criterion which has nothing to do with history or identity-related aspirations, but with the efficiency and transparency of governance.

A concrete and functional approach can give Syrians the cognitive tools for tackling major concerns, and opens up the possibility of negotiated arrangements on issues that seem intractable when cast in terms of identity-related aspirations against a background of accumulated rancour and fear.

One of the priority aspects of a decentralization process relates to national security. Attachment to the unity of the country implies that Syrians reach a common conception of national security and of the strategic priorities that flow from it. No defence policy or successful rebuilding of the army can succeed without such a consensus among the different social groups. The onus for reaching this consensus falls on society alone for
now. Only when the state will have been liberated from the mafia that controls it today will it become possible to enshrine these terms in the country’s new institutions and expect the government to help implement them. The Iraqi precedent serves as a warning. After the United States overthrew Saddam Hussein’s regime, Iraqis never had the opportunity to agree among themselves on what constitutes Iraq’s national security. They are still suffering the consequences.

The stakes far exceed the Kurdish issue. Syrians need to observe and draw lessons from the trends followed by the majority of modern states of devolving power from the centre to the regions, and of ensuring citizen representation and participation through local governance structures. For Syria to become a modern, democratic and cohesive state, it will need a far-reaching decentralization scheme and a strong dose of pragmatism. No blueprint designed by foreign experts can replace the model that will result from an inclusive dialogue rooted in key principles of inclusive democratic governance.

A successful decentralization process requires a trusted central government that embraces the decision and is committed to implementing it. Such a process goes hand in hand with efficient national institutions, including the creation of specific bodies that have the authority to enforce the government’s commitments. It follows that a decentralization process, potentially leading to federalism, must be preceded by the rebuilding of a strong central government as the primary guarantor of national unity and of the rights of all citizens. Without it, federalism carries a high risk of ending up in partition.

The technocratic or functional distinction between a decentralized and a federal system involves three different levels of devolution of powers. The first is the transfer of management competencies by the central state to the local level so as to implement policies that have been decided by the central government. The second level involves the possibility for local authorities to define local policies themselves, such as setting local tax rates. And the third level is when local authorities can make their own rules or even laws (with some variations as to the consultation process required with the central government, and the level of the state hierarchy at which they are required to do so).

The French experience of decentralization over almost four decades is a process by which the French state – historically one of the most centralized in the world – implemented several extensive decentralization programmes that were applied to the entire territory (in 1982, 2003 and 2014). But the central state also eventually agreed to grant a special status to Corsica to respond to the population’s nationalist demands, and led a long and hard negotiation that resulted in the creation of a unique status of advanced autonomy for New Caledonia. The latter included the promise of a referendum on self-governance after ten years that would define the final status of this
overseas territory. Although located some 8,000 km from the French mainland, a vestige of colonial days, the model is nevertheless an interesting example to study.³

A majority of Syrians, including mainstream Kurdish political figures, appear to agree that the country’s territory should continue to be administratively divided along geographic rather than ethnic or religious lines, so as to generate local governance that is both democratic (representing all inhabitants of each province) and competent. This is without a doubt the best means of preventing any ethnic or religious group which may form a majority within one region from reproducing authoritarian and discriminatory practices towards that region’s other communities. This is obviously the concern of the non-Kurdish inhabitants of north-eastern Syria where there are high concentrations of Kurds, possibly representing a near-majority, although no census ever established with precision the ethnic and sectarian distribution of Syria’s communities.

Economic and financial prerogatives, as well as the social advantages that the central government grants its citizens, will be at the heart of the negotiations on decentralization. Identity-related aspirations will surely dominate the discourse but at the end of the day, practical considerations and a rational calculus based on interest will likely determine the choices of Syrians citizens from all backgrounds. A host of practical arrangements will matter more over time, including the tax-collection system and the way it is shared between central government and local authorities, the transfer of workers’ social security benefits from central government to the regions, and the allocation of revenues from natural resources, tourism and the commercial exploitation of cultural heritage. The example of Scotland perfectly illustrates the motives that can guide citizens when they are confronted with concrete choices that affect their interests. The Scottish referendum on remaining within the United Kingdom or becoming independent played out primarily on fiscal and social considerations rather than identity-related feelings or historical references.

Finally, the above-mentioned measures can only be realized in their entirety if a security package is put in place at the very beginning of the transition period to reassure all communities. The reorganization of Syria’s security institutions at the national level must also be carried out within the perspective of an advanced decentralization scheme. It implies setting up local police forces that answer to local authorities and have carefully defined, limited mandate that would complement that of the national police force. The real challenge will lie in the (inevitably strong) temptation to assemble local police forces by integrating members of ethnic or faith-based militias (Kurdish, Alawite, Sunni, and Druze). Iraq once again serves as a negative example in this regard. The case of India also illustrates this danger: its armed forces are a successful melting-pot of all

³See Alain Christnacht contribution in this report.
communities, but its local police forces align with the ethnic and religious map of their regions and thus partake in fragmentation and sectarianism.

If a consensus among Syrians can be found based on the few principles outlined here, it could form the cornerstone of a new social contract.

But whatever the content of such an agreement might be, it will need to be founded on written commitments. The Kurds demand constitutional guarantees and want to be able to rely on an independent and effective judiciary which can ensure that the Constitution and any agreements are respected.

This is therefore the direction in which efforts must tend: towards building the other institutions required at the national level to ensure the success of any plan to delegate powers and pursue programmed decentralization. These institutions will be needed to establish the rule of law, ensure equality among the citizenry, and install checks and balances that will prevent the tyranny of the majority – challenges that preoccupy Syrians, whatever their community background.

The Kurds, for instance, demand a secular new Syria and want its secularity to be written into the Constitution. They see this as the only guarantee of equality between the denominational and ethnic elements of society, as well as between genders.

Among the new national institutions, it would be highly advisable to create an upper chamber, or Senate, whose function would be to represent all communities independently of their size. In addition, setting up an anti-discrimination body with real powers that is directly accessible to citizens could guarantee that the provisions of the Constitution are respected. The programme set out by the opposition in autumn 2016, for example, includes the creation of a supreme legal body to be the final recourse in settling individual-rights issues.

The temptation to impose either a hastily designed federal system or an inter-communal division of powers like the Taif Agreement for Lebanon could prolong the current instability for the long term. Bosnia stands out as a pertinent precedent to learn from. In their obsession with finding an inter-communal balance and prevent any nationality from gaining the upper hand, the architects of the Dayton Accords created a complex system of checks and balances that paralyzed the country and made it impossible to govern effectively. While the Accords did help end the conflict, this unwelcome political situation has been frozen for over 20 years now, despite Bosnia’s advantage of being anchored within a stable European continent. The same will not be true for Syria.

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Building on the very rich experience of local governance that has grown during the conflict, Syria cannot go back to a model of top-down governance. But broader self-governance at the local level must not be envisaged as a zero sum game whereby the central state becomes weaker as its regional parts become stronger. Any decentralization process also requires a transformation of the governance system at the centre in which all communities, especially those aspiring to more autonomy, should be actively involved.

Given the anxieties on all sides and the need for a healing and reconciliation process, it seems prudent to avoid any premature announcement of the final shape of the Syrian state. Rather, it makes sense to start work using the existing Law 107 on decentralization as a framework. Efforts should be focused on discussing the actual powers of the 14 provinces as they currently exist, defining the operational measures to transfer those powers, and organizing the relationship between each province and the central government in Damascus. This will begin to set the foundations for the ultimate administrative shape of the country, leaving open the possibility of evolving smoothly towards federalism.
Implementing Administrative Decentralization in a Future Syria

Riyad Ali*

Introduction
There has been much talk recently about the type of state that Syria should be when the Assad regime has been removed. Should Syria be a simple unified state? Or will it become a united federal state? And if so, will it be a federation delineated along ethnic, sectarian, or regional lines? These and other questions are on the minds of Syrian citizens, and opinions are divided about the potential solutions.

There is often confusion over the concepts of federalism and decentralization. Some people oppose one and approve of the other, while others use both terms to refer to the same idea, without differentiating between them. Furthermore, the term “administrative decentralization” is inappropriately used in conjunction with political decentralization. Political decentralization (federalism) is a kind of composite state, with the powers of different orders of government often defined in the state’s Constitution. Administrative decentralization, on the other hand, is a way of managing state service institutions and is usually regulated by administrative law.

The different sections of Syrian society are sharply divided over potential solutions for the eventual shape of the Syrian state. If sharp conflict over the type of state that Syria should be deepens between political powers during the transitional period and its aftermath, the state and its institutions could become tools in the conflict, leading to the destruction of what remains of the country.

Syria’s future Constitution should be a social contract between Syrians, and can only express the will of the Syrian people. This Constitution will determine the type of country Syria will be: a simple state, as it was, or a federation. Thus, we will set aside exploring the type of state until after the transitional period, because a constitution can only be passed during a more stable period, long after the unrest has subsided.

This paper aims to explore the issue of administrative decentralization, demonstrate the advantages and disadvantages of such a system, and ultimately address the calls to

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implement it in a future Syria. This is important because administrative decentralization is linked to the state’s administrative structure, and does not relate to the political regime itself. Therefore, exploring it falls under the scope of administrative law.

The Concept of Administrative Decentralization

I. Administrative Decentralization: A Definition

Administrative decentralization is defined as the distribution of administrative powers between the government and local or regional agencies that exercise their powers under the supervision and oversight of a central authority. In other words, administrative functions are the only powers divided between the central government and regional administrative authorities, with consequent legal implications. Of particular importance is the existence of financial liability independent from the state’s general financial responsibility and the fact that the employees of local institutions work under special systems that differ from the one applied to central government employees. There will be exceptions when the special system stipulates that the general system should apply or when this is stipulated by law.

In this regard, administrative decentralization differs from centralization. States or regions are given decision-making powers on many administrative matters, including the right to establish a local agency to protect local interests. In other words, administrative decentralization recognizes that local interests may differ from central ones. It gives local authorities legal responsibility as well as administrative and financial independence, but does so under the monitoring and supervision of the central authority, limiting their independence, and preventing the establishment of multiple states within the state.

II. Forms of Administrative Decentralization

Administrative decentralization can take two forms:

a. Local or regional decentralization is manifest via local councils at the governorate, district, and municipality levels. These councils become representatives of the central authority agencies inside the governorates rather than a substitute to them.

b. Service-based decentralization involves public agencies or institutions with a legal personality. They are financially and administratively independent like a public electricity company or communications agency. This form of decentralization is required both by the nature of the specialization and by the will of the central government to free the administration’s hands with regard to vital services or services that are largely independent of central government mechanisms and constraints.
III. Disadvantages and Advantages of Administrative Decentralization

a. Some experts in administrative law believe that administrative decentralization has certain disadvantages:

1. **Administrative decentralization can represent a threat to a country’s administrative unity because governorate-elected councils will manage the governorate’s administration and interests differently than the central government and the other governorates.** One might argue, however, that this is a strong factor in favor of administrative decentralization rather than a disadvantage. The needs of each state or region may differ, requiring different styles of administration from that used by the central administration.

2. **Councils elected in governorates or regions generally have less experience and often lack the technical skills and qualifications of the employees of the central administration.** This argument is inaccurate as local council employees may have expertise and qualifications that central administration employees lack. Even if we assume this argument is true, the central administration has the right to monitor and supervise the work and overrule the decisions of local councils.

3. **Decentralized administrations operate services that are less efficient than central administration and are more likely to overlap or create gaps in public services.** In reality, this is a misguided view as the efficiency and number of services provided can also be an issue in central administration.

4. **Decentralization results in the dispersal and dissolution of authority to the degree that the state itself loses status.** However, states that have implemented federalism (political decentralization) but ensured that counties have much greater powers than local councils do not suffer from the dispersal and dissolution of authority. Clearly, administrative decentralization does not threaten the unity of the nation or the dissolution of its power.

b. Administrative decentralization has the following advantages:

1. It affirms democratic principles in administration by aiming to involve people in decision-making and in managing local public services.
2. It eases the burden on the central administration; dividing administrative functions between the central administration and local agencies or services and frees capacity at the central administration to perform more important tasks such as public policy development and the management of national services.

3. It helps identify more accurately the needs of the states and governorates because the members of governorate councils handling the administration are themselves residents with detailed information about the governorate’s needs and best interests. Undoubtedly, an accurate assessment of a community’s needs will result in better administrative performance.

4. Members of governorate councils will be more loyal to their governorates than people who do not live there.

5. Decentralization can respond to the complex realities of administration and reacts quickly, especially when facing sudden crises or at times of war. In a centralized system, flaws in the capital or central government can bring the entire governorate to a halt.

6. It results in a more equitable distribution of tax revenue and service quality across the entire country, in contrast to the central administration, where the capital and big cities receive more attention, at the expense of other regions.

7. Members of the governorate councils strive to perform optimally the tasks they are given because they are afraid of public failure before people from their governorate. Conversely, if they succeed, they will earn satisfaction and acceptance from people of their governorate, which will help them rally support in the future.

Administrative Decentralization in Syria

I. Reasons to Implement Administrative Decentralization in Syria

A system of central administration will not be beneficial for the country during times of peace and stability. Nor will it be effective during or after a transitional period as Syria emerges from this destructive war.

Reasons to implement decentralization in Syria can be summarized as follows:

1. Decentralization can help the country’s regions escape the iron grip of the capital and the absolutist central government,
stopping power from falling into the hands of a specific person or group, and instead distributing it between multiple actors, including by granting broader powers to departments of local authorities. This will help ensure that authoritarianism and unilateralism do not reemerge in Syria.

2. It can help end the widespread disenfranchisement, marginalization, and deprivation that many regions of the country suffered under the Assad family rule. These regions possess much wealth but did not benefit from it. The resources were wrongly used to tighten the Assad family grip at the expense of social services and benefits. This generated strong reaction from the people of these regions, who now require involvement in the management of their local resources and compensation for what happened to them in the past.

3. Effectively implementing administrative decentralization in local development and planning helps development programmes meet the needs and demands of local residents. Administrative decentralization allows residents from different administrative bodies to participate in the process of creating and implementing development plans for their regions. It also helps with the mobilization of energy and resources, creating opportunities for the success of national development plans to guarantee a stable and a decent life for all residents across the country. This helps to ensure equality and reduce social and economic disparities between different regions. Such success depends primarily on dividing decision-making powers between central development and planning agencies and their local counterparts.

4. Administrative decentralization will help with tackling the large and complex administrative challenges that will ensue from Syria’s new openness to the world in the aftermath of the political change. There are increasing calls from people to be involved in the management of their region’s affairs. There is also a shift in thinking away from the need for an absolute connection with the central administration towards the encouragement of local leaders. New ideas about how leaders should behave are spreading in Syrian society and will be amplified when Syrian refugees return and seek to put in place the sort of governance they experienced abroad.
5. By itself, the central government will not be able to manage everything successfully. It will be required to create a new political and administrative structure, as well as solve problems related to foreign debts that will weigh heavily on the Syrian people, already impoverished by war. The overall process of managing reconstruction can best be entrusted to people in the governorates, who are most able to predict the future of their own governorates, given their experience and local geographic, social, and demographic knowledge. This will expedite development and reconstruction in the governorates and maximize usage of overall administrative capacity.

6. Administrative decentralization will protect Syria from fragmentation and divisions. It will be a favorable alternative for both opponents and supporters of federalism and help postpone the implementation of a federalist system in the governorates.

II. How to Implement Administrative Decentralization in Syria

Administrative functions can be redistributed across the central and decentralized administration in two ways:

The first way is the English method, in which the legislature explicitly delimits the powers and mandates of decentralized bodies while everything else falls under the remit of the central administration as pertaining to the country’s national interest.

The second way is the French method, in which the legislature must define areas where the central administration can intervene, while the areas of work and activities of decentralized bodies remain broad and unspecified.

A future Syria could rely on a blend of these two methods, whereby the powers and jurisdiction of the central authority are specified, as are the fields of work of decentralized bodies. In the case of an emergency, or if there is disagreement over jurisdiction between the central administration and decentralized bodies, the central government shall determine which party has sole jurisdiction by issuing a new law or amending existing laws. Administration, whether centralized or decentralized, is subject to administrative law and amending it – either by individual article or in full – is not as complicated as amending the Constitution.

The amendment of administrative law should not open the floodgates to changes that will limit the rights of administrative bodies. To ensure this, the right to appeal
amendments before the Supreme Constitutional Court should be guaranteed to all, and the Court’s decisions should be binding for all.¹

Local bodies must have a legal personality, and preferably be managed by local residents as they have a greater understanding of their responsibilities, service needs and related problems. This would also give the central administration the opportunity to focus on managing national services. The jurisdiction of local agencies must be determined by law and should only be altered by law. Their jurisdiction should cover a variety of services, including healthcare, education, electricity, water, and others.

Local authorities (the governorate, city and village councils) must be elected by local residents with respect to democratic principles rather than appointed by the government or the central administration. Appointed members should be able to participate in these councils to ensure the availability of the right skills and experience, provided they have a consultant status and no right to vote.

The governor should be from the governorate itself, elected by people from that governorate and not appointed by a presidential decree. Presently, governors are appointed by the central authority and residents have no role in the appointment, which strips decentralization of all its meaning.

Local bodies must be empowered to collect the finances necessary to fund the costs of public services. While the link between beneficiaries and taxpayers is an important one, public services should be determined by a group of beneficiaries who also have to pay for them. The ideal form of taxation is based on “taxation according to benefit” because decentralization is more effective when local bodies have the power to collect a relatively large part of their income locally. Transferring responsibilities from the central government must be accompanied by a transfer of funding capacities (tax points) to allow the carrying out of these responsibilities. Otherwise, administrative decentralization will remain no more than a fantasy. In such a situation, local bodies would remain heavily dependent on the central government funding.

Syria’s next Constitution must stipulate that governorates have broad financial and administrative powers so that they can manage their affairs in accordance with the principles of administrative decentralization. The Supreme Constitutional Court, whose decision is final and binding, should have the right to consider the constitutionality of any law and the extent to which it conforms with the principles of administrative decentralization.

¹ This should be the case after the Judicial Authority Law is amended, so that the executive branch cannot interfere in the judicial branch, and so that the head of state does not have the authority to appoint members of the Supreme Constitutional Court. This is a complex issue, however, which falls outside the scope of this paper.
Furthermore, an elections law guaranteeing electoral justice must be drafted. This law should divide Syria into multiple constituencies, where each constituency has two, three, or more seats, depending on its situation; the number of people in each constituency should be relatively even across constituencies, with no one constituency population more than 10% higher than any other. This is the system used in most countries that use the number of eligible voters as the basis for counting residents for both parliamentary and local council elections. This is done in accordance with a specific technical mechanism to ensure electoral justice and the rule of law in those countries but is not the case under the current Syrian elections law, where each governorate is considered a single constituency.

It is also advisable to ensure electoral justice by using a quota system. This is a positive type of intervention that assists women and minorities whose small percentage of the population may prevent them from winning a seat in elections, as is the case, for example, with Assyrians and Yazidis in Syria.

III. Syria’s Current Local Administration Law

Because of the deteriorating security conditions in Syria, Law No. 107 of 2011 on local administration was not implemented. While it stipulated a modern notion of administrative decentralization in Article 2, in the sense that people are the source of all authority, it also contained references to administrative centralization. The law did not grant administrative bodies in the governorates the powers and mandates they are often granted in decentralized administrative systems.

It defined the powers of the governorate, city, and village councils but noted that the governor of each governorate shall be considered a member of the executive branch who is appointed to and removed from his position by presidential decree (Article 39). The governor is also the head of the executive office in the governorate council (Article 29). As such, the position of the governor would have to have been decided through elections, especially given the governor’s powers of appointment, representation, and other tasks as set out in Part IV of the law. This raises questions about the ability to run the governorate according to a “decentralized administration” system when the governor is appointed by the central authorities.

Article 44 of the law grants the governor power to decide the council’s budget and expenditure, depriving the governorate council of most, if not all, of its prerogatives. This means concentrating the administrative function in the hands of one authority, which alone can decide on internal administrative matters through its representatives in the capital or in the regions and governorates. That is the core and essence of central administration.
Surprisingly, Law 107 gives the governor, a representative of the executive branch, the power to order an investigation into unreported crime (Article 44), which is normally part of the role of the public prosecutor of the governorate or region. In addition, although summary justice falls within the remit of the judicial authority, Article 45 instead gives the governor powers of summary justice, stipulating that if there is a clear seizure of property, he or she has the right to restore the status quo ante. In very limited cases, the public prosecutor can take necessary measures if there is evidence to suggest the occurrence of a penal offense. The powers granted to the governor under Law 107 thus not only render administrative decentralization meaningless, but also constitute a blatant intrusion into the work of the judicial branch and a violation of the principle of separation of powers, which is already breached by provisions in the constitution and judicial authority law.

According to Article 46, ministries are also required to seek the governor’s opinion concerning the appointments and transfers of heads of central departments, institutions, and companies whose work is limited to the scope of the governorate. This will negatively impact the performance of these departments and institutions because the appointed officials will work to please the governor rather than satisfy the demands of the governorate council elected by the local residents.

The methods and practices of the police state in appointing officials and decision-makers are no secret. For example, they require appointees to undergo a “security test” meant to ensure their complete loyalty to the ruling power. Despite announcing Law 107 on administrative decentralization, the Syrian regime undermined decentralization in later articles of the same law. Perhaps the clearest case is Article 122, which gives the president the right to dissolve local councils at all levels, and call for new local council elections within 90 days from the date of their dissolution. Thus, for members of local councils, seeking to win the approval of the executive branch (as represented by the president and the governor) will be more important than working to develop the cities that elected them.

It is clear, therefore, that implementing Law 107 of 2011 will give a single leader – whether that is the president, prime minister, or head of one of the local authorities – a monopoly on decision-making authority for internal affairs within the scope of administrative functions. This creates a highly administrative focus for the central administration and is the worst model of central administration. This is, however, an unsurprising action by the Syrian regime, which often granted certain rights and powers with some articles of the law and then confiscates them with other articles.
On Decentralization in France

Alain Christnacht*

One of the aspects of rebuilding democracy is to define a new system of decentralization and local democracy. Can France’s long and mixed experience with decentralization be useful for those seeking to rebuild democracy in Syria? This paper attempts to present the principles of territorial administration in France, some of which may be useful for Syrians despite the different history and population characteristics of the two countries. The paper first presents the evolution of decentralization through French history before describing how it is organized today. The various stages of decentralization in France reveal the way in which the relationship between central authority and local authority has been articulated during this country’s long history.

The French Nation Was Constituted by the State

The French nation has a diversity of populations, languages, traditions and cultures. It came into being gradually, through numerous stages. For a long time, the slowness of communications delayed any harmonization of the rules that applied in the different parts of France.

For centuries, the monarchy took steps to subjugate the local feudal lords. It had not entirely managed to do so by the eve of the French Revolution in 1789. While Cardinal Richelieu and then King Louis XIV did subjugate the most powerful feudal landowners, royal power was far from absolute. The absence of a separation of powers, and the absence of democracy, did not imply that central rule was effective over the whole of the nation’s territory.

At the end of the Ancien Régime, local territorial organization was extremely varied. Administrative, judicial, military and ecclesiastical districts did not coincide with one another. The relationship between the monarchy and its territorial components was often based on a contractual bond. Districts enjoyed different powers, depending on the date they joined the French kingdom. Charters granted special freedoms to some towns, for example, that neighbouring towns did not enjoy. In other words, privileges – that is, private laws – were somehow the rule.

This diversity could certainly be considered a legitimate reflection of local differences that resulted from history and geography. However, from the 17th century onwards, it

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was above all seen as a cause of disorder, as an obstacle to the exercise of royal authority and as a source of unjustified inequalities.

The king was, of course, represented in the provinces by royal officials, in particular by his stewards, but their levels of influence varied, and their authority collided with other local powers.

**The Role of the Principle of Equality**

According to the Declaration of the Rights of Man and of the Citizen passed by the French National Constituent Assembly in 1789 (Article 6): “The Law is the expression of the general will. All citizens have the right to take part, personally or through their representatives, in its making. It must be the same for all, whether it protects or punishes.” That the law is the same for everyone meant, of course, that privileges of order had to be abolished: the aristocracy and clergy could no longer answer to laws (privileges) that were distinct from those that applied to the Third Estate (the common citizens). Each citizen had to be subject to a law common to all. But the principle of legal equality also meant that the law had to be the same in all parts of the nation. There could no longer be special laws for a city or province. Besides, the provinces were abolished at the time of the Revolution and replaced with departments, all organized in the same way and with the same powers. With these changes, the Jacobin revolutionary faction – named after the former Jacobin convent – won against their opponents, the moderate republican Girondists. France was united.

In fact, the boundaries of the new departments were almost drawn up as equal and abstract squares on the map, somewhat like the American states, though the latter were carved out of largely empty territory. But such a subdivision would have been too far removed from the geographical and human realities of France so the 83 original departments took those realities into account (other departments were added later, along with slight modifications to the initial layout of the territory). This subdivision was based on the rule that no departmental capital could be more than a day’s horse-ride from any point in the department. The provinces disappeared, and “towns” became *communes* (local councils) like any other. They all lost their privileges.

One could hardly call France’s post-revolutionary administration of its territory decentralized by today’s criteria. Those who governed the *communes* and the departments were not elected but appointed. The central government’s representatives, the prefects, had full authority for carrying out national administrative instructions. Uniformity was the rule.
The 19th Century and the Birth of Local Democracy
In the early 19th century, communes and departments became legal entities, meaning that they acquired judicial autonomy and had their own financial resources. The councils for the communes and departments were now elected, but the right to vote was limited and mayors were appointed rather than being elected by the local councils.

The Third French Republic, which replaced the Second Empire following the defeat at Sedan in 1870, took a decisive step towards decentralization in France. A law of 5 April 1884 stipulated that mayors were henceforth to be elected by the local councillors, who were themselves now elected by universal suffrage, and that “the local council decides communal matters in its deliberations”. This gave the local councils wide-reaching competence.

At this stage, France’s territorial administration may be called decentralized – but within narrow bounds. Communes and departments were run by elected councils, but council decisions were subject to prior control by the prefect (they were unenforceable without his approval). The prefect remained the department’s executive and was responsible for preparing and implementing the departmental council’s decisions, following their validation.

Present-day Decentralization in Three Steps
The ideological debate on decentralization in France has never really stopped since the struggle between the Jacobins and Girondists, even if progress in the last 34 years might give the impression that a point of no return has been reached.

In the 20th century and early 21st century, three acts of devolution noticeably increased the powers of decentralised sub-national collectivities: the first act in 1982-83, the second act in 2003-2004, and the third act in 2014-16.

The first act of modern decentralization: 1982-83
The 1970s witnessed a decrease in the oversight that the central government exercised over local government acts through its representatives, the prefects. The number of commune deliberations that were subject to prior approval by the prefect was reduced. Communes and departments were given general operating endowments and an investment grant which they were free to allocate. Local and departmental councils were able to set local direct tax rates.

The laws of 2 March 1982 and 7 January and 22 July 1983, proposed by an eminent local politician and Mayor of Marseille, Gaston Deferre, introduced a veritable paradigm shift:

- Regions, which had since 1972 been public bodies (meaning unelected administrative structures), became local collectivities, just like communes and
departments. Regions now had regional councils elected by universal suffrage, which in turn elected their presidents.
- The prefect could no longer oppose an act voted by local or departmental councils, nor oppose an act of the new regional councils. He or she could only refer it to the administrative or financial authorities, either filing an action against administrative acts with the administrative court (to have their legality attested) or against budgetary acts with the local court of auditors (to check the budget). These are the only two authorities that can overturn an illegal act by sub-national councils.
- The prefect is no longer the executive of the departmental council nor of the regional councils. Their respective presidents now held that office, as the mayor always had the communes.
- Legislation attributed powers to the various tiers of the local and regional authorities. The commune kept its general responsibility for communal matters. Regions became responsible for financial planning, professional training, lycées or high schools (construction and maintenance, but not teacher programmes or management) while departments became responsible for roads, social work, collèges or junior high schools (with the same restrictions as regions for lycées) and school buses.
- A single unitary status was defined for the local civil service, which supplies the civil servants for the three tiers of devolved government.

Formal cooperation between communes, known as intercommunalité, was further encouraged by several reforms in the 1990s. France’s 36,000 communes were no longer seen as planning problems. The fusion of communes (while often symbolically difficult) and their cooperation in various statutory intercommunal bodies appeared to be a realistic solution. Small communes did not lose their identity, but most powers were transferred to the institutions that grouped them together.

**Decentralization act two: 2003-04**

Taking advantage of a constitutional revision in 2003, then-Prime Minister Jean-Pierre Raffarin instigated several significant changes to the principles of devolution in France.
- A phrase was added to Article 1 of the Constitution declaring that the French Republic “has a decentralized structure”, a symbolically powerful statement if one recalls the strongly centralized origins of the First Republic.
- The revisions confirmed the principle of subsidiarity: “It is the responsibility of local authorities to make decisions on all the competences that may best be implemented at their level”.

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- They introduced the principle of experimentation: local authorities may derogate from the legal and regulatory statutes defining their mandates and competences as long as it is for a specific purpose and limited time span.
- They introduced the right of voters to petition the authorities and the possibility of holding referendums on issues of local interest.
- They made it possible for overseas authorities to have different regulations.
- They confirmed the principle of full financial compensation by the state for any powers that it devolves to local authorities.

The law of 13 August 2004 stipulated new transfers of power to sub-national authorities. Thus, responsibility for the majority of highways was transferred to the regions. New powers in social affairs were attributed to the departments, such as managing the minimum income benefit.

**Decentralization act three: 2014-16**

A new stage in decentralization was announced by Prime Minister Jean-Marc Ayrault’s government after the 2012 presidential elections. The government had envisaged ultimately abolishing the departments, but dropped its plans when the opposition made it clear that it would not vote in favour of the constitutional reforms necessary for that process.

Act three of the French decentralization consists primarily of a law passed on 27 January 2014 on the métropoles (conurbations). The original territorial structure of the French Republic did not recognize the regions. Nor did it reserve a special place for towns, which were organized like communes, with a few electoral specificities linked to the number of inhabitants. However, the so-called Paris-Lyon-Marseille law of 1982 provided for a particular form of organization for these three cities, France’s largest. Notably, Paris was both a commune and a department, and all three cities had arrondissements. Some intercommunal structures were more specifically adapted to urban agglomerations, especially the métropoles, a status created in 2010.

Under this 2014 law, métropoles could henceforth wield powers that in principle belong to the department or even region. The métropoles of Grand-Paris, Aix-Marseille-Provence and Lyon have specific statutes. Lyon, for instance, has absorbed the part of the Rhône department that lies within its territorial boundaries.

Finally, there are the pays, which correspond to areas below the level of department and had until then merely been zones for territorial planning projects. They became
“hubs of territorial and rural equilibrium”: public bodies created by agreement between several intercommunal structures.

To clarify which powers lie with which tier of decentralized authority, implementation may be coordinated by a “lead manager”. Thus, the region is the “lead manager” for competences in sustainable development.

Act three continued with the law of 16 January 2015 which brought about a spectacular reform of the number of regions. When the French administrative system was criticized for having as many layers as mille-feuille pastry, this targeted not only the number of administrative tiers, but also the total number of bodies at each level: 36,000 communes, 101 departments, and 22 métropoles.

As mentioned, the fusion of communes had limited results, though with intercommunal bodies absorbing the powers of the communes, the problem has been partly solved. As for the departments, apart from the occasionally voiced, but never yet realized, proposal to abolish them, there have also been calls for them to be reduced in number, pointing out that it no longer takes a day’s horse-ride to reach the department’s capital. And regions were criticized for their sheer number as compared to their European equivalents such as the German länder, Spanish provinces and autonomous communities, and Italian regions.

In mainland France, 13 regions were created out of the 22 existing ones. Some of the combinations were difficult (Alsace-Lorraine-Champagne-Ardenne, Nord-Pas-de-Calais-Picardie, Midi-Pyrénées-Languedoc-Roussillon), as was the choice of regional capital in cases where the capitals of the regions to be joined were of comparable size (Toulouse and Montpellier). The names of the new regions are mostly still to be ratified. The most recent regional elections took place in this new setting. This is the first significant reduction in the number of decentralized authorities initiated by the government.

A la Carte Decentralization: Corsica and Overseas
The principle of equality was crucial for the post-revolutionary administrative division of France. It forbade any differentiation between the various national territories. So to take geography into account – and particularly distance – Corsica’s single department was divided into two: Upper Corsica and Southern Corsica. However, this was still a case of applying the standard status to the two departments.
In 1991, the French government took a major step by establishing a specific administrative body to replace the region of Corsica. Its main distinguishing feature is that executive power, which in regions and departments is embodied by the respective council presidents, rests with a collegiate executive. This executive council is elected by the national parliament and answers to it – especially through a mechanism of motions of censure that is not dissimilar to the one which exists for the French government before parliament. An economic, social and cultural council for Corsica rounds off the system.

The overseas departments are also a special case. When the French colonies of the Antilles, Guyana and Reunion Island were transformed into four departments in 1946, a special system was devised for them: the overseas department.

The specificity of this status lies in the possibility of adapting laws and regulations to each department’s specific situation. Their internal organization, however, essentially remained that of departments on the French mainland. Notably, the Constitutional Court had struck down a 1982 law for non-conformity with the constitution because it provided for a single assembly in each of these overseas departments, which would have given the region and the department the same geographical remit. Without prior revision of the constitution, therefore, no reform could be instituted that plainly distinguished between the organization of overseas departments and that of mainland departments. It was the 2003 revision of the constitution which made this development, and a more marked differentiation of the four overseas departments, possible (there are now five, including Mayotte, a former overseas collectivity turned department).

Only Reunion Island chose not to have a special form of government, so as to underline its determination to align itself with mainland common law. The other overseas departments now have the right to a single assembly if the people approve it in a local referendum. That is what happened in Martinique and Guyana, which both now have a single assembly each. The assembly manages departmental and regional responsibilities. This was not the case in Guadeloupe, which did not wish to avail itself of this possibility (under the constitution, Reunion Island does not have the right, while Guadeloupe does, but has not made use of it).

The 2003 revision of the constitution contained a further innovation. It is now possible for the overseas departments to adapt laws and regulations to their specific situation, at their own initiative, on condition that these changes are authorised and then ratified by the national parliament in Paris. Previously, only the national parliament was entitled to take such initiatives.
The case of the overseas collectivities is different yet again, setting them apart from the overseas departments. These remote collectivities are located in the southern Pacific, with the exception of Saint-Pierre-and-Miquelon in the North Atlantic, and two collectivities that have recently separated from Guadeloupe, Saint-Martin and Saint-Barthélemy. They all opted to remain a part of the French Republic in 1958, when its African territories chose independence.

*French Polynesia* enjoys higher levels of autonomy; *New Caledonia* has its own constitutional system created by the 1998 Noumea Accord, which is valid for 20 years. This extended the Matignon Agreements which had put an end to years of violent conflict between Kanak independence fighters and those who wished New Caledonia to remain part of the French Republic.

What these two South Pacific collectivities have in common is that all powers have been devolved to them except those related to foreign affairs, defence, security, justice, and currency, which remain the prerogatives of the central state. Thus, the deliberative assemblies of these collectivities lay down their own legal norms; the laws passed by the national parliament do not apply to them. None of the taxes voted by the French parliament are collected in the two collectivities. The collectivities are free to set and collect their own taxes and allocate resources. The local parliament elects a government, and in Polynesia it directly elects its president, who has the title of “President of French Polynesia”.

A major innovation was introduced in New Caledonia with the creation of the Congress of New Caledonia, which consists of representatives from the parliaments of the three “provinces” that make up the territory and can pass laws in areas of competence. These laws follow the same system as national legislation passed by the French parliament: draft laws must first be submitted for approval by the Council of State and, once voted by Congress, they can only be challenged before the Constitutional Court, like national legislation (and not before administrative tribunals as is the case for acts passed by local collectivities).

Clearly, the systems in use in French Polynesia and particularly in New Caledonia are close to federalism. However, the representative of the French state, a “High Commissioner” appointed by the central government, retains the final say on the legality of acts passed by the collectivities.
The Challenges and Opportunities of Decentralization

There is no system of territorial administration that is inherently ideal; it has to correspond to a country’s needs at a given time. The history of decentralization in France shows clearly that the decision of whether a more centralized or a less centralized administration is best suited to the political, economic and social situation depends on the circumstances of the day. Below is a typology of potential challenges and opportunities associated with decentralized systems that may contribute to thinking about what may work best for Syria.

National unity and decentralization

In France’s history, there has been a royal determination – and then a republican determination and then an imperial determination – to centralize power so as to constitute or preserve national unity. Opposition to more devolution has been based on the argument that it would mean the disintegration of national unity and a return to the inequalities of the Ancien Régime. This argument was specially developed for those parts of France where independence or autonomy movements were most manifest. However, this risk needs to be assessed, as its salience depends on the powers that have been devolved to local institutions. If the central government retains the competences that constitute the state – namely internal security, defence, justice and foreign affairs, as well as normative authority over the big economic and social issues – then the risk is limited. On the contrary, excessive centralization intended to stifle existing particularisms can lead to radicalization instead. Moreover, adapting local policies to particular situations guarantees the effective implementation of public policy.

State competences and decentralization

In decentralized systems, the central state retains “the power to determine its own jurisdiction”, meaning that it can define the powers that will be devolved to local authorities and has the right to increase or restrict them. This sets it apart from federalism. As a general rule, local competences do not include the powers traditionally preserved for the central state, and, where local competences exist, they do not encompass the entire subject area. For example, a local authority may have competences in education or health, but the state preserves the right to lay down the general rules, such as compulsory schooling or the right to healthcare, the conditions under which medical personnel may pursue their profession, or the obligations imposed on people (prohibiting certain behaviours, or compulsory vaccinations).
There are various degrees in these transfers of power. Security and justice provide good examples for gauging them. In external security matters, the army can only answer to a central government. Any armies at the disposal of local authorities would present a major risk to national unity, as was the case with private armies in feudal times. For internal security matters, the problem is more complex and the solutions are varied. In France, only the national police force and the gendarmerie—a national military force under the authority of the interior minister—carry arms. However, there are municipal police forces as well. Despite repeated calls for them to be armed and provided the powers of the judicial-police, they currently have neither. The situation is different in federal states where legislation provides for the coexistence of a federal public police force and various state public police forces, each with legally defined roles. It is different also for municipalities, some of which may have substantial arsenals.

The example of the justice system is also very instructive. In France—and in unitary states in general—justice is entirely the purview of the central state. The ground rules and procedures are drawn up by the state, and judges are appointed by the state—or rather, when the principle of an independent judiciary is adequately applied, they are appointed by national authorities that are independent of the state. In France, this task is carried out by the Supreme Judicial Council, whose role is different for presiding judges and for public prosecutors. In federal states, the set-up is different, with state justice systems and a federal justice system, as well as a federal court which ensures a unified jurisprudence. The laws that apply differ from state to state. Thus, the death penalty persists in some American states, whereas it was abolished in others.

**State “deconcentration” and decentralization**

In France, decentralization is the name given to the transfer of powers from the central state to local authorities. “Deconcentration”, on the other hand, is the transfer of powers from ministers to the central government’s appointed local representatives. Prefects are the primary beneficiaries of deconcentration. They exercise authority over other civil servants of the state in the departments and regions, with the traditional exception of the military (except the gendarmerie for public-order issues), judges, representatives of the Ministry of Education in matters of educational theory, and treasury accountants. They are appointed by the government, through cabinet meetings in the departments and regions. In France, it is believed that decentralization must go hand in hand with deconcentration. Having the state represented throughout the nation’s territory ensures that national policies are implemented coherently and subjects the actions of local authorities to harmonized oversight.
**Particularisms and decentralization: “tailor-made” statutes**

Decentralization can be non-uniform. It is possible to draw up specific statutes that are more decentralized, or decentralized differently, for those parts of the national territory whose particularisms warrant it. As already pointed out, this is the case for certain métropoles, for Corsica and for the overseas collectivities. Diversification can be more or less extensive without harming national unity.

**Development and decentralization**

In the French case, the state initially played a decisive role in economic development through planning and by directly or indirectly financing large parts of big infrastructure projects (roads, railways, power stations and electricity network). It also defined the nation’s economic growth objectives through a planning system which remained indicative and non-directive, but, nonetheless, provided the framework needed for the state and large companies to be able to plan and take decisions.

During the subsequent phase of regionalization, it became apparent that the central state could not play these roles alone, both for reasons of budget control and because sub-national authorities were closer to local financial realities. These authorities – primarily the communes and regions – went on to develop their own policies to support the economy by financing infrastructure projects, contracting with French Railways (SNCF) for local train services, or helping companies to settle or expand in the commune or region (via the creation of industrial zones, job-creation premiums, and company “incubators” providing general services).

There is a risk of such interventions being somewhat disorderly and of local authorities engaging in costly competition with each other during times of higher unemployment to attract companies that would have moved into the area even without financial assistance. But overall, the benefits of local authorities taking complementary action in the economic domain seem to outweigh the risks.

**Financing decentralization**

What are the financial resources of local authorities? Clearly, this question is crucial. It is pointless to give local authorities extensive powers if they do not have the means to exercise them. It is pointless, too, if central government, through its choice of financing, ends up taking back the powers to set local policies that it had originally delegated.
To answer the question, we may distinguish between internal and external resources. Internal resources are asset revenues, income from services rendered and taxation. Revenues from assets controlled by the local authority may be proportionately significant for a small commune which owns, for example, a large forest that it commercializes or land that it rents to farmers. Such revenues, however, can quickly become negligible for larger communes, though less than 3% for communes have more over 10,000 inhabitants.

Revenues from services rendered are also important, coming from the use of services or equipment for which it seems preferable to charge the user rather than the taxpayer. In some cases, compulsory fees for services are prescribed by law, such as the tax for household refuse removal. In other cases, the service may be optional, such as the provision of sports equipment.

Tax revenues represent over half of the resources of local authorities, but sub-national authorities cannot create new taxes. They can only set tax rates within limits fixed by law. Local and departmental councils used to pass laws to put “additional cents” onto local taxes whose revenues mainly went to the state, but today, local taxes are collected exclusively by the local authorities. These are: property tax on developed and undeveloped property, payable by owners of buildings for residential and professional use or of bare ground; council tax, payable by users (in other words, the tenants) of furnished premises used for residential purposes; and the so-called local economic contribution, payable on professional premises and based on both the business’s property-tax base and its financial results (value added). The rates for these taxes are set by the local authorities, but within fixed limits. Moreover, the corporate value-added contribution, which is part of the local economic contribution, is set by the state at 1.5% of professional property tax (the other part of the local economic contribution). Local authorities also collect indirect taxes (for instance, on registering certain documents).

The central state is also under the obligation to transfer the receipts of certain taxes to sub-national authorities. The central state pays the overall operating endowments and investment endowments for sub-national authorities, as well as specific grants for certain types of investment, such as in school equipment. In addition, external resources include subsidies paid mostly by the state and, for regions, also out of European funds.

Local authority financing is thus a very complex issue which will not be fully addressed here, but it is important to note that the degree of financial decentralization depends on:
- the level of resources available to local authorities for the powers they exercise;
- their level of autonomy in deciding the size and composition of their resources;
- the more or less comprehensive nature of state transfers.

*From decentralization to federalism: management responsibilities, definition of public policy and adoption of standards.*

This subject deserves to be developed in much more theoretical detail. At this stage, it should be pointed out that the first degree of decentralization is the devolution to sub-national authorities of management responsibilities (roads, schools, social centres). The second stage of decentralization is the ability to decide local policies within the framework of, and as a complement to, national policies (which may be more or less present). At the third stage, some sub-national authorities can decide their own regulatory or even legal standards, either as a complement to, or in place of, national standards. They may do so either of their own free choice or by authorisation from the central government. The frontier of federalism runs through the heart of this third stage.

With appropriate contextualisation, it is hoped that this short review of the challenges and issues related to decentralization in France may contribute to Syrian thinking about its own decentralisation priorities in the future.
Decentralization and the Future of the Syrian State

This policy report is based on an on-going discussion among a group of Syrians from different professional, geographical, ethnic and sectarian backgrounds. It argues that the discussion over the future shape of the Syrian state should take place now rather than later and is likely to provide answers to some of the most intractable questions. Three papers have resulted from those discussions.

ABOUT ARI

The Arab Reform Initiative is the leading independent Arab think tank working with expert partners in the Middle East and North Africa and beyond to articulate a home-grown agenda for democratic change. It conducts research and policy analysis and provides a platform for inspirational voices based on the principles of diversity, impartiality and social justice.

- We produce original research informed by local experiences and partner with institutions to achieve impact across the Arab world and globally
- We empower individuals and institutions to develop their own concept of policy solutions
- We mobilize stakeholders to build coalitions for positive change

Our aim is to see vibrant democratic societies emerge and grow in the region.

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