

# Local Governance In Yemen: Challenges And Opportunities



Legal Assessment of the Local Authority System  
in Yemen and Proposals for Development

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## Graph

p. 04, Local Authority basic structure. Alia Eshaq, Berghof Foundation, simplified design for the local authority basic structure, May 2018.



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# 1 Introduction



Man walks down a street in the Old City, Sana'a.

Since its unification in 1990, the Republic of Yemen has adopted democracy as its approach to political life based on pluralism, partisanship and the peaceful transfer of power. This has led to the establishment of many political parties and a number of parliamentary and presidential elections.

In 2000, the Local Authority Law No. 4 (LAL) was enacted, regulating local administration in Yemen. Amongst other bylaws determining various aspects of local authority in Yemen, it was followed by the Executive Bylaw (EB) issued by Republican Decree of Law No. 299. This transformation contributed to the expansion of community participation in local affairs. In light of this, the first local elections were organized in 2001, and the second local elections were held in 2006<sup>1</sup>. The third elections, however, did not take place due to the turn of events in 2011, which have crippled political life.

Despite the significance of adopting a local authority system in Yemen – a large stride in the country's democratization process – this experience was marred by compounded problems and obstacles that obstructed the implementation of local authority legislation. This negatively impacted how local organs performed in various governorates and districts, thus warranting a study to identify the system's strengths and weakness, as well as steps necessary to bolster the exercise of local democracy.

<sup>1</sup> It should be noted that LAL Article 13 set the legal term of the local councils to four years. However, after the conditions produced by the first local councils, and at the request of council members, the term was extended to give councils members more time to learn the intricacies of their work and how to interact with governmental executive bodies. Moreover, the council elections coincided with a referendum on constitutional amendments to extend the terms for the House of Representatives (parliament) and the President of the Republic, which took place in the same period of the local councils elections. During the process, the term of the first iteration of the local councils was amended to add two additional years until the end of 2006. The 2008 LAL amendments, however, changed the term of the local councils to three years only.

In 2013 and 2014, Yemen organized a national dialogue inclusive of various political components. This resulted in the outcome document of the National Dialogue Conference (NDC), which called for radical reforms in the economic, political, social and administrative sphere, as well as the adoption of a federal system for local affairs. However, internal armed conflict between several constituents and the external war on Yemen by the Saudi-led coalition has disrupted any progress and threatens to cause the state to collapse completely.

The aim of this paper is to describe the reality of local authority legislation in Yemen, underline its strengths and weaknesses, identify the main obstacles to its implementation, and present suggestions for improving it. To attain these objectives, an integrated approach was followed based on the review and analysis of existing literature and official documents, as well as one-on-one interviews with a number of public administration leaders at central and local levels.

## 2 Local Authority in Yemen Under the Legislation in Force



A member of the armed houthi movement currently in control of the capital following a coup in Sept. 2014.

The local authority system was adopted in Yemen under the heading of “local authority” with the promulgation of Law No. 4 of 2000. Thereafter, the Executive Bylaw for the LAL was issued in addition to other bylaws that regulated local authority in Yemen. First local council elections were held in 2001. The second elections took place simultaneously with a referendum on constitutional amendments in 2006.

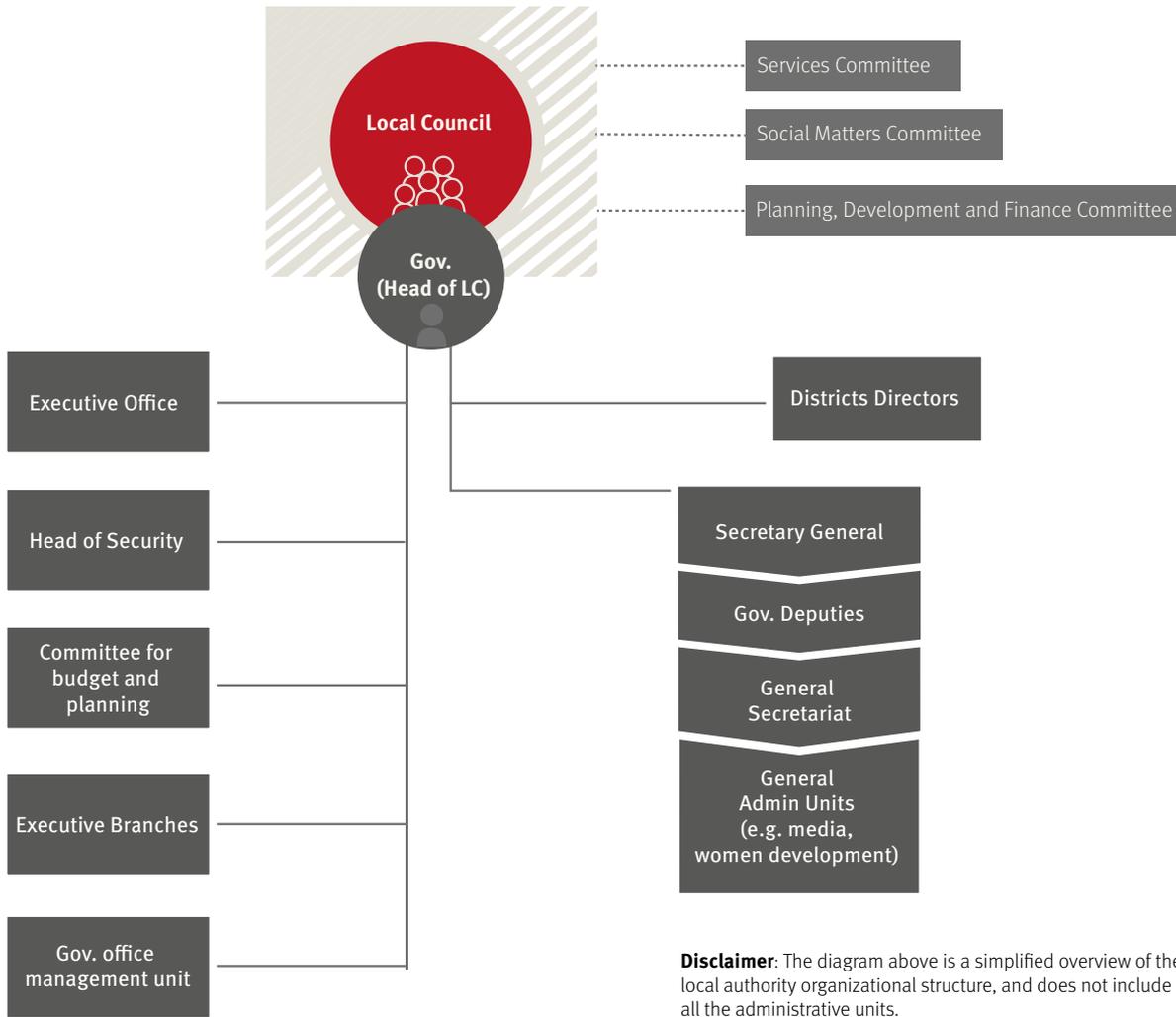
The most salient features of the local administration system in Yemen (local authority) will be highlighted as follows: administrative division, organizational structure, local mandates, relations to central authority and financing structure.

### 2.1. Administrative Division (Local Levels)

The LAL divided the territories of the Republic of Yemen into administrative units spread over two tiers: governorates, including the capital secretariat of Sana’a, and districts, including provincial capital cities (LAL, Article 2/6). The LAL granted the capital Sana’a special status: The city would have a separate law to handle its unique character under the general provisions of the LAL (Article 166). The current administrative division of Yemen consists of 22 governorates under the umbrella of the Ministry of Local Administration (MoLA). The governorates are further divided into 333 districts.

## 2.2. Organizational Structure of the Local Authority in Yemen

The local authority consists of the head of the administrative unit, the local council, and the executive organs within the unit, which constitute the administrative unit pursuant to the Constitution and the LAL. With respect to their controlling functions, the judicial authority’s organs, armed forces units, and branches of the Central Organization for Control and Auditing (COCA) are exceptions. Other exceptions are public utilities with a nation-wide character, which are defined separately by Republican Decree (LAL, Article 3).



### 2.2.1. Head of the Administrative Unit

According to the amended LAL of 2008, the head of the local council in the governorate (governor) is to be selected from secret ballots by an electoral college consisting of members of the governorate’s local council and of district local councils within the governorate. The appointment of the selected head is to be made by Republican Decree, which shall be issued following the public announcement of the election results. One term lasts four years, renewable for another term in the same governorate. All citizens have the right to run for the governorship office if they meet the qualification criteria set forth in LAL, Article 38.

The governor assumes the position of head of the local council in the governorate and is considered its highest official. The law considers the governor to represent the executive branch of power and report directly to the President of the Republic and the Council of Ministers, in turn bound by their decisions. The governor also reports to the local council of the governorate and the MoLA (LAL, Article 30, 40), and performs a number of functions as defined by LAL, Article 41.

The governor is assisted by the secretary-general of the governorate who sits in for the governor when absent. The secretary-general is selected from amongst the members of the local council of the governorate (LAL, Article 20, 22). The law mandates the secretary-general be at least 35 years old, a university graduate, and have at least five years experience (LAL, Article 21).

Each governor has at least one deputy. The deputy's position is at the level of a deputy minister and to be appointed by Republican Decree, which shall be issued following the approval of the Council of Ministers and based on nomination by the Minister of Local Administration. The deputy governor assumes the responsibility of managing one or more sectors in the governorate or overseeing general affairs in a specific geographical region, depending on the mandate set forth in the appointment decree (LAL, Article 49, 50).

At the district level, the head of the local council is the director general of the district, who is appointed by Prime Ministerial Decree based on a nomination from the Minister of Local Administration. The director general is the head of the local council in the district, and is chief executive officer (LAL, Article 82-82).

The director general, under the supervision and guidance of the governor, oversees the implementation of the law and the state's public policy within the district and steers the work of its executive organs. The director general assumes all gubernatorial functions at the district level (LAL, Article 84), and is the head of all civil servants in the district (LAL, Article 89).

The local council in the district has a secretary-general, who is elected from among the members of the council and works as the deputy for the director general of the district, assists them in managing the affairs of the district, and sits in for them when absent or in cases of a vacancy (LAL, Article 87).

### **2.2.2. The Local Council**

The local council is the local authority's decision-making body. It approves policies, plans and budgets at the local level. It is formed in direct elections in which all citizens registered in their respective governorate or district may vote. Each district is considered one electoral constituency and represented by one member in the governorate-level local council. The governorate local council should have no less than 15 members, including the head of the council (LAL, Article 16).

The districts are divided into local electoral constituencies, each represented by one member in the district's local council. Each local council ranges between 18-30 members, depending on the district's total population (LAL, Article 59, 60).

The LAL limits a member's tenure in the local council to three years, starting the first day the council meets (LAL, Article 13). The legislator grants the same people with the right to vote within an administrative unit the right to elect and run as members of the local council (EB, Article 19/b). It also sets forth the requirements candidates must meet to join the local council, including: citizenship, literacy, age (25 years or older), and residency in the administrative unit, (EB, Article 24/a).

Working on the local council is voluntary. However, members can receive compensation when travelling to attend the council meetings every three months. (LAL, Article 102). In contrast, the council's secretary-general

and committee heads work full time in all governorates and districts. They receive a lump monthly sum as compensation for devoting their full time (LAL, Article 103/a).

To organize work in a local council – whether at a governorate or district level – three specialized committees are set up at the first meeting: one for planning, development and finance, one for services, and one for social affairs. These committees study issues within their competence field and report back to the council with recommendations (LAL, Article 23, 65/a). The ordinary local council meetings at the governorate and district levels are held every three months, i.e. four times each year (EB, Article 147); extraordinary meetings can be called as needed (EB, Article 151).

### 2.2.3. Executive Organs

The executive organs in the governorates and districts are composed of the respective ministerial employees. According to LAL Article 14, these executive organs, within the administrative unit, become local government organs: They are considered the administrative and executive apparatus of the local council. These organs operate under the local council's oversight, management and control during the implementation of development and service projects at the local level – earmarked in the annual plan and budget of the administrative unit.

## 2.3. Local Mandates

The LAL clearly defines the local council mandates (LAL, Article 19, 61). From the study and approval of an economic and social development plan for the council's jurisdiction, to the implementation and evaluation of that plan, the councils are granted wide authority to achieve comprehensive local development. EB Article 7 describes the local councils' mandates at the governorate and district levels:

- ≡ Guide, oversee, and control executive organs, evaluate the implementation of plans and programs, hold executive heads accountable and withdraw confidence if they fail to perform their duties in legal accordance;
- ≡ Propose, study and approve the administrative unit's development projects, annual budget and draft final accounts, and complete the approval and ratification measures in legal accordance;
- ≡ Study data and carry out field surveys to identify development priorities and evaluate projects;
- ≡ Encourage the establishment of investment projects and take measures to ensure obstacles hindering investment are resolved;
- ≡ Study and discuss the council's financial position, collect joint local resources and act to further develop them, identify potential hindrances and issue guidance to ensure they are addressed;
- ≡ Study and discuss the collection of central revenue in the administrative unit and issue necessary recommendations;
- ≡ Study and approve proposed urban plans, submit approval procedures for completion and ratify them in legal accordance;

- ≡ Study and discuss public affairs of concern to the citizens and issue decisions and necessary guidance;
- ≡ Encourage the establishment of specialized cooperative associations in all forms, as well as social, professional and creative associations and provide them with the necessary facilities;
- ≡ Supervise cooperative activities and social associations, and harmonize their plans and programs to ensure integration with the administrative unit's development plan;
- ≡ Promote tourism, encourage tourism investment, and take the necessary steps to protect antiquities and sites, and prevent vandalism;
- ≡ Maintain services projects and facilities in various areas such as health, education, electricity, water, etc. to ensure integrity and continuous operation;
- ≡ Act to develop water resources and protect them from depletion and pollution within local legal provisions.

In addition to these duties and responsibilities, EB Article 8 points out 11 additional functions for local councils at the governorate level. The most notable are:

- ≡ Supervise and control works and activities of the district local councils;
- ≡ Investigate problems and obstacles facing district local councils and work to find appropriate solutions;
- ≡ Abolish or amend decisions by district local councils if found in contravention to legal provisions;
- ≡ When needed, invite district local councils for extraordinary meetings and prepare the agenda;
- ≡ Oversee the human resources recruitment process and related policies;
- ≡ Review and develop projects proposals from district local councils funded with citizen contributions.

### **2.3.1. Duties and Responsibilities of the Executive Organs**

EB Article 12 stipulates that executive organs shall – under the supervision, control, and management of the local council, and within the state's public policies, laws and regulations – act as the central authorities in implementing activities entrusted to them at the governorate level, and provide technical supervision over district executive organs. In Articles 12, 13, 16 and 17 the Executive Bylaw contains a list of specific tasks for executive organs.

## 2.4. Relations Between Local Units and the Central Government

Central authority organs exercise oversight and control processes over the local authority. Thus: LAL Article 144 stipulates that executive organs at the governorate and district levels are subject to central authorities in the performance of their functions.

The President of the Republic and Council of Ministers enjoy control over local authorities. Presidential Decrees and decrees by the Council of Ministers are binding for all local councils. The Council of Ministers has the prerogative to adjudicate contested decrees, and their decisions are final. The president also has the power to dissolve local councils.

Each minister, within their respective field, shall inform governors of state policy and new directions, coordinate with them at the governorate level on its requirements and need for trained technical and specialized cadre, and act to make them available. The minister responsible can challenge local council decisions, if justified. They must also ensure the training and qualification of members of the local council executive organs (LAL, Article 145).

The Minister of Local Administration oversees the implementation of LAL provisions, and shall periodically report to the Council of Ministers on the local authorities' performance. The minister shall present draft LAL bylaws to the Council of Ministers, and accept their decisions and instructions for implementation. The minister shall further propose administrative and operational expenditures for local council work in the fiscal years local elections take place, and nominate deputy governors and district general directors, among other oversight duties.

The COCA shall control and audit local executive organs and present its findings to the President of the Republic, the presidency of the Council of Ministers, the Minister of Local Administration and concerned ministries (LAL, Article 148).

Local council decisions cannot be implemented until ratified by central authority when related to the following topics (EB, Article 295):

- ≡ plans and annual budgets,
- ≡ creating or setting value for a local fee,
- ≡ public urban plans,
- ≡ disposition of local public proprieties via sale or creating a lien.

Upon issuance, the governor shall transmit the body's decisions and recommendations, as well as those received from the district level, to the MoLA and concerned central authority organs. Should the central authority oppose any decision presented by the head to the local council's administrative board, which shall suspend implementation until it is presented to the local council. In case the local councils insist on the decision, the issue shall be reported to the Minister of Local Administration and presented to the Council of Ministers who make the final decision. (EB, Article 297-302).

### 2.4.1. Oversight and Control Powers of the Local Council

Governorate- and district-level local councils have oversight, guidance and control authority over their executive organs, and the power to hold them and their staff accountable. They can request any information on a staff member regarding matters within their mandate, or provide the council any information pertinent to related issues (EB, Article 189).

Local councils can withdraw confidence from the governor or district director general with a two-third majority; LAL Article 118 and 119 define the procedure. They also have the right to dismiss the council's secretary-general and members of the administrative board; procedures for that are laid out in LAL Article 120. The council further has the authority to withdraw confidence from administrative heads in governorates and districts (LAL, Article 122).

### 2.4.2. Relationships Between Local Units

Relationships between the governors, district director generals and executives at both levels rest on the fact that, with exception of the governors, they are appointed by the central government. They are members of local bodies by virtue of their positions and therefore represent the government in their functions. Thus, they are considered the link between higher and lower state bodies, and the connection that maintains coherence in their work.

Legislation empowers local councils to hold members of local executive organs accountable by virtue of their positions (EB, Article 189). The governor exercises a supervisory and controlling role over all governorate employees, including the district director generals. Likewise, the district director general exercises a supervisory role over all district employees

The governorate-level local council's administrative board has authority to supervise the bodies' work at the district level (EB, Article 98). The governorate local council holds power to supervise and control the work and activities of the district local councils (LAL, Article 19), and can nullify or amend its decisions if in violation of the law (LAL, Article 147/b).

## 2.5. Financing Local Authority

LAL Article 123 defines four financial sources for local units:

FIRST	SECOND	THIRD	FOURTH
<b>Independent district revenue</b>	<b>Local common revenue</b>	<b>Common public revenue</b>	<b>Annual central support</b>
This is collected within the district in favor of the district itself and includes 27 sub-types, such as a share of "Zakat" (alms taxes), taxes and fees.	This consists of 28 sub-types including a share of Zakat, local taxes, fees and others district collections deposited in the governorate's joint common revenue fund. From there, it is distributed accordingly: 25% for the district carrying out the collection, 25% for the governorate, and 50% for all the other districts in the governorate in equal shares (EB, Article 239).	This is collected at the central government level on behalf of the local authority. It includes fees on travel tickets or oil derivatives consumption, and 30% of the revenues from the Adolescence and Youth Fund, the Agriculture and Fisheries Promotion Fund and the Highway Maintenance Fund.	This sums up all central government financial allocations that support local authorities. The funds are appropriated by the Council of Ministers decree based on proposals by the finance, local administration and the planning ministers (EB, Article 240).

The third and fourth types of revenue are distributed by Council of Ministers decree based on proposals by the local administration and planning ministers following these criteria: population density, abundance or scarcity of resources at the local unit, economic and social development, deprivation percentage, performance efficiency of the local authority, resource collection efficiency and sound spending practices, and any other factors determined by the Council of Ministers (EB, Article 241).

### 3 Major Obstacles to Implementing Local Authority Legislation in Yemen



Protestors gathered at Change Square, in the capital city of Sana'a.

There is no doubt that the Local Authority Law and its Executive Bylaw marked a positive development in fostering democratization and public participation in local affairs. However, numerous obstacles have marred the implementation process, such as:

- Although the LAL and EB were issued in 2000 and followed by the Local Authority's Financial Bylaw and regulations for governorate and district headquarters, many conflicting laws and bylaws remain in force, thus hindering its full implementation.
- Conflicting visions between council members and executive officers, and lacking understanding for each party's competency or the relationship between them greatly hamper local authorities in functioning effectively.

- ≡ Although many central organs devolved their powers to the local authority in legal accordance, many did not pass on the financial resources for these activities, which were allocated to the ministries' headquarters. Moreover, several central organs have not reviewed their organizational structure to align them with LAL provisions. In many cases, this has concentrated power at the provincial level and weakened the role of satellite offices at the district level – creating a negative impact on local performance.
- ≡ Some central executive organs exercise undue control over local councils, infringing upon their competencies and stirring conflicts over respective roles and responsibilities. They also interfere with the work of the local executive branches in a manner that appears they were overstepping their roles, and thus create friction between the local council and executive branches.
- ≡ Most new job openings allotted to the local authority are concentrated on health and education, and never suffice to cover actual needs. This lack of jobs for the remaining executive organs branches, especially in the districts, has weakened their performance and delayed the devolution of powers. Making matters worse is the lack of terms of reference or job descriptions for local employees, which has led to many breaches in the hiring and re-deployment process and other human resources policies.
- ≡ Low education and human resource capacities in many local authority organs, particularly at the district level, coupled with meager financial resources for training activities – for elected local council members and appointed executive organ employees alike – as well as weak coordination with donors, have lowered local authority performance in many administrative units.
- ≡ Low central governmental support for local authorities and small operational budgets has negatively affected local development efforts. In addition, some agencies refuse to pay the amounts it owes local authorities. For example, the Highway Maintenance Fund has refused to pay its share due to the local authority despite continued demands placed on different governmental agencies to pressure the fund otherwise. Moreover, central support transactions to local units have been suspended since 2007, virtually suspending all district-level development and projects.
- ≡ Many local units suffer from ineffective revenue collection for a number of reasons. Executive organs are absent in some districts, meaning the revenue streams from their service is lacking. In many units, collection employees demonstrate weak competence, agencies show weak collection follow-up, and there is a lack of incentives. Court order suspends the collection of fees for start-ups.
- ≡ Setting indicative ceilings for localities' current expenditures contravenes the principle of local independence. Each governorate receives a fixed sum, and redistributes this to its districts without taking into account their services facility sizes, population figures, staff numbers or other criteria. The same is true for local administrative and operational expenditures for the executive organs responsible to supervise, manage and operate local facilities. Parallel, the Ministry of Finance is almost always behind due dates, causing further delays in fund transfers to local units, and wasting their time with following up for the release of such funds.
- ≡ With weak partnerships with actors at the local level, especially civil-society organizations and the private sector, local authorities have missed opportunities to strengthen local development efforts.
- ≡ Especially educational curricula, official and private media broadcasts and civil society activities lack community awareness programs. This fails to mobilize citizens' support for local council activities or achieve active social participation.

- ≡ The government demands local councils work diligently and actively, but doesn't provide essential means for councils to function, such as office space. Some councils still work outdoors. Far from even considering requesting modern technology, many councils are still trying to procure just the most basic technical equipment necessary. Often, they also lack sufficient funds to meet operational expenses.
- ≡ There are no attempts to contain friction between political parties, causing deep divisions within the councils and weakening their overall performance.
- ≡ Most councils and executive organs lack accountability mechanisms. They demonstrate poor governance and lacking transparency, which is essential to reflect clarity, seriousness and interactivity between parties.
- ≡ Weak coordination between councils, executive organs and official bodies makes it difficult to plan and implement activities well.
- ≡ Lacking organized and broad-based public communication between council members and citizens fails to address emerging needs and inform the public on what has and has not been achieved, raising obstacles for better citizen engagement.
- ≡ Local units' performance evaluations focus on quantitative factors and usually ignore other important aspects such as effectiveness and efficiency: they favor output over impact. Amongst other things, this can be attributed to weak evaluation teams and scarce information on local units' performance.

## 4 Strengths and Weaknesses in Local Authority Legislation in Yemen



Shop in the capital city of Sana'a.

Analyzing the local authority's legislative system, it can be said that there are many points of strengths, as well as several weakness, as explained below.

### 4.1. Points of Strength

An analytical view of the legislative provisions of the local authority shows many points of strengths, most notably:

- ≡ The stipulation to base local authority on fiscal and administrative decentralization grants local units autonomous legal status, broadens public participation by managing local affairs in elected local councils, and places local authority under scrutiny (LAL, Article 4, 5). These provisions brought Yemeni legislation closer to best practices for local administration systems.
- ≡ The Yemeni state is divided into local units based on scientific studies considering population, economic, social, geographical and natural factors, strengthening national unity, economic growth and social peace and security (LAL, Article 6).

- ≡ Introducing elections to replace the appointment of governors and limiting their term to two non-renewable cycles in the same governorate (2008 LAL Amendments, Article 38) is considered an advanced step, regardless of some negative practices.
- ≡ The local council is formed through free, direct elections and secret balloting, which is a step forward regardless of undesirable outcomes.
- ≡ The LAL clearly separates the Central Organization for Control and Auditing, judicial institutions and armed forces from the local authority, which in practice strengthens these institutions' autonomy and neutrality (LAL, Article 3).
- ≡ Candidates for the position of Secretary-General must have acquired a bachelor's degree. This is advanced compared to requirements for a member of parliament, who must only know how to read and write. Candidates should also have at least five years of management experience for the governorate level, or four years for the district.
- ≡ The LAL stipulates (Article 105) that a local council member will not be held accountable for opinions expressed during council meetings and debates, indicating they enjoy immunity at work.
- ≡ Legislation grants local councils the power to withdraw confidence from the governor and district director general, as well as dismiss the secretary-general and heads of executive organs (LAL, Article 118-122). This is considered a positive development in Yemeni legislation.
- ≡ LAL Article 134 allows local councils to allocate no more than 20% of administrative-unit and common revenues to support self-help and cooperative initiatives for implementing development projects that benefit the public. This strengthens public engagement in local development efforts.
- ≡ The stipulation that local authority leaders shall convene annually facilitates the discussion of actual practices and obstructions facing local authority, and provides an opportunity to present recommendations for appropriate solutions and learn from best practices.

## 4.2. Points of Weakness

There are a number of points of weakness in the LAL, most notably:

- ≡ As mentioned above, there is conflict between the LAL and other legislation. In addition, there are conflicting provisions in the law created after the 2008 amendment, and between the EB and other bylaws, including the local council terms of office and the election of governors. This requires review to harmonize the law with its bylaws and other legislation.
- ≡ Republican Decree No. 68 of 2008 concerning the bylaw regulating governor elections states the electoral college shall consist of the head and members of the governorate local council, as well as those of the districts within. This raises the question whether governorate local council heads have the right to vote in these elections, considering they are also able to run for the position, while others are not.
- ≡ The law states that the governor is accountable and reports to the President of the Republic and the Council of Ministers. Their decisions are absolutely binding. Governors are also accountable for

their tasks and responsibilities to the local council and the Ministry of Local Administration (LAL, Article 40). This arguably weakens governors' autonomy, given they must implement decisions by the central government. Here, they appear subordinate. It also weakens the powers the local council has to control their governor.

- ≡ The law also prescribes that each district has a director general, appointed by Prime Ministerial Decree based on a presentation by the Minister of Local Administration. The governor and the local council play no role in selecting the district's director general. The law does not require the director general to be native to or a resident in the district concerned, but only mentions that the selection should be done from employees of the state's administration (LAL, Article 81, 83). It would be much preferred if the district's director general were an elected official, not an appointee, who was born, resides, or works in the district.
- ≡ Despite the LAL having inclusively defined local authority powers, unclearly delineated mandates stir confusion and misunderstandings between central and local organs over territorial responsibilities. This requires legislative review to distinctively outline all parties' mandates, roles and relationships.
- ≡ Despite legal stipulations to qualify and enable local administration units to carry out their development responsibilities at the local level, and to devolve powers from central organs, concerned agencies were not bound to a specific timeline, delaying much-needed infrastructure in many districts.
- ≡ The local authority's mandate is confined to administration and oversight, without the power of decision-making in important local issues. Mandates are generally not clear-cut and mostly advisory in nature, such as presenting proposals or approving projects in line with central authority plans.
- ≡ The Council of Ministers can delay the devolution of some powers to units lacking the capacity to utilize them (LAL, Article 159). However, there is no clear definition of the criteria to assess this, such as available administrative organs, employee capacity or service quality.
- ≡ Local council activities are concentrated at the administrative board (secretary-general and three committee heads); while other local council members remain idle, with no real use for their capacities or efforts. The law specifies that the full local council meet once every three months – a long interim period that makes it difficult for members to follow up on activities and seriously interact with each other. Additionally, financial compensation for attending local council meetings is YER 1000 (less than \$3), which, given the country's current situation, does not even cover travel costs.
- Central authorities should be required to endorse local council decisions within a certain timeframe, with the decision being revoked if the timeframe lapses. The local council should also be given recourse to the administrative judiciary if the central authority rejects its decisions.
- ≡ The central authority has the right to dissolve local councils when deemed in national interest (LAL, Article 149-152), but the appropriate situations for such a move are not defined. The law should clearly specify situations in which local councils can be dissolved, and grant local councils judicial recourse to contest the decision, to be expedited without delay. The law should further stipulate that, should it prove impossible to hold new elections within sixty days, the previous local council should resume work so matters are not left in suspension.
- ≡ The law stipulates that decisions by the President of the Republic and the Council of Ministers are binding for all local councils. It also grants ministers the right to object to local council decisions. If a

local council insists on its decision, the matter is to be presented to the Council of Ministers, and their decision is final (LAL, Article 147). This weakens the local council's authority vis-à-vis central powers. In such cases, local councils should have access to judicial recourse.

- ≡ Making local authority subject to different tiers of central control (LAL, Article 144-148) weakens its autonomy, especially with the stipulations that it forms part of the central executive authority and decisions by the President of the Republic and the Council of Ministers are binding. This requires review and amendment. The power of control should be given to the COCA as the competent institution. Public control should also be activated and encouraged.
- ≡ The law stipulates that the governorate and district executive organs shall conduct their tasks under the supervision, management and control of the local council (LAL, Article 14/c). This creates confusion and misunderstanding on the local council's role, which according to provisions is confined to supervising, controlling and adopting plans and budgets; the provision makes no mention of the local council having management responsibilities over executive organs.
- ≡ Local councils' resources in Yemen are known to be fixed and stagnant, with little flexibility, for a number of reasons. For example, local councils are subject to many administrative restrictions in their management and disposal of funds. Low staff capacities in local organs and weak incentives for collection staff also have a negative impact on revenue collection.
- ≡ Local authorities' budgets are linked to the state's public budget and considered an integral part thereof, thus subjecting them to the same provisions as the public budget (LAL, Article 136). This weakens local authorities' financial autonomy. Ongoing central government support, another important resource for local authority in Yemen, further weakens its autonomy.
- ≡ The current administrative division was not built on sound scientific foundations as prescribed. With limited changes, the same administrative divisions made during Yemen's unification in 1990 have been continued without account for considerations set out by the LAL. A new law for administrative division is needed, based on practical and precise criteria that consider local units' capacities to achieve the local development desired.
- ≡ The legal provisions did not specify a timeframe for setting up and opening offices and satellite branches for central services, organs, and utilities in governorates and districts. Nor did it prescribe deadlines to providing the financial and logistical resources necessary for local councils to function (LAL, Article 159). This has dragged the process out, with only about 50% of the districts having successfully completed it. This has led to a situation in which many governorates retain control over districts on the pretext they are not yet ready.
- ≡ The annual conferences are excellent practice. However, most attendees are executive directors, whereas only the Secretary-General and administrative board members are elected officials present. Moreover, the conference outcomes do not receive due attention from the central government, which fails to respond by working to overcome the challenges local authority face. Instead, legal provisions should stipulate that the annual conference outcomes be elaborated into an action plan with a specific timeline that includes developing a mechanism to verify implementation on-site. It would also be possible to hold the conference in two stages: first at the governorate level, then at the national level with gubernatorial representation.

- ≡ Limiting qualifications for local council membership to a person's ability to read and write is unacceptable. It reinforces illiteracy and should be revised.
- ≡ Due to the traditional nature of Yemeni society and low levels of education, there are very few women in local councils. No LAL provisions strengthen opportunities for women to participate in local councils. Setting mandatory female quotas to parties' candidate lists, or reserving a number of council seats for women should be considered.
- ≡ Republican Decree No. 65 of 2002 Article 1 provides that police are a national service not subject to LAL provisions. This conflicts with EB Article 326, which stipulates that security and public security force directors in an administrative unit should work under the supervision and guidance of that unit's head. This may weaken local authority and its ability to maintain public order within said unit.

## 5 Recommendations

In light of this, the following recommendations are presented:

1. Serious action must be taken to amend laws and regulations contradicting the LAL and its regulations and bylaws.
2. Governor elections by a college of local council members are a good start, but direct elections by the governorate residents would be better. This can grant the governor a powerful standing and more autonomy, and improve ties to the governorate. It can also strengthen residents' roles and foster active participation in local affairs.
3. The district director general's appointment process should be discontinued. As a matter of priority, the director should be elected directly by the public. Alternatively, the local council could select a head from its members, to exercise genuine control over executive organs.
4. The current administrative division was not built on sound scientific foundations as prescribed. With limited changes, the same divisions made during Yemen's unification were continued, without taking into account LAL considerations. A new law for administrative division is needed, based on practical and precise criteria that take into consideration the capacity of local units to achieve the desired level of local development.
5. It is of utmost important that controls are built into the system to prevent governors and director general from abusing powers and marginalizing the local council's role. To ensure past problems are not repeated, governors should be prevented from infringing upon district powers with precise provisions that clearly distinguish parties' roles and relationships. Provisions defining central and local organs' roles and responsibilities should also be more clearly revised.
6. A modern financial and accounting system for local authorities is needed, as well as training for central and local authorities to ensure the system is employed effectively. It is also important legislations grant local authorities sufficient flexibility to grow their local financial resources, while controlling them through specialized agencies. Compensation for council members attending council meetings requires review, and sufficient operational funds must be secured for councils and executive organs to effectively and efficiently carry out their duties. Local councils should be empowered to determine fees for providing public services, and suggest new or amend existing local revenue sources.
7. Based on substantive criteria, a share of state public revenue should be earmarked for local authorities to ensure their empowerment in carrying out local development. A clear mechanism with transparent and fair criteria should be developed to distribute this to the governorates and districts.
8. Common revenues at the governorate level should be abolished and redistributed to the governorates and districts in a way that avoided repeating past problems associated with this type of collection.

9. Disengage the intrinsic connection between the local authority budget and public state budget. The local budget should have its own structure, timeframe and sequencing for preparation and adoption.
10. Establishing an institution or bank to finance local authorities, mobilize and invest financial resources, provide loans to local authority units and help them develop local financial resources, should be considered.
11. A human resources system should be developed for local authority to prevent central and local units from “double dipping” and ensure enough flexibility to present local-level employees with incentives. This system should give hiring preference to local residents when applicants meet the same criteria.
12. Central authority has the right to dissolve local councils when in public interest. This provision should be amended to include clear and specific conditions for such actions. It should also give local councils judicial recourse to contest such decisions, to be expedited within a specific timeframe. An alternative solution would be to hand this right to the parliament, but not the head of state.
13. There should be a statutory time limit for central authority to endorse local council decisions. If the central authority does not act within the time limit, the decision should enter into force. The law should also give local councils recourse to the “administrative” judiciary if the central authority rejects their decisions.
14. Enhance all forms of control and accountability mechanisms over local authority performance, including monitoring by civil-society organizations, regulating necessary procedures, publishing periodic reports, and disseminating regulations to be followed in local administrative and financial decision-making, particularly procurements. A mechanism for customer satisfaction surveys should also be activated.
15. An administrative judiciary should be established and equipped with the finances and personnel necessary to be a legal recourse on all matters related to local authorities and their relations to central authority.
16. Power to establish electoral constituencies should rest with the parliament, i.e. the house of representatives of the people. This would constitute better legitimacy, since parliament member represent various parts of the country. This is a far superior solution to deferring it to the High Elections Commission for fear that its decisions could be influenced and constituencies constantly changed to serve ruling party interests.

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