

# Local Governance in Yemen: Challenges and Opportunities

The Importance of Local Governance in Strengthening  
and Supporting the Political Process in Yemen

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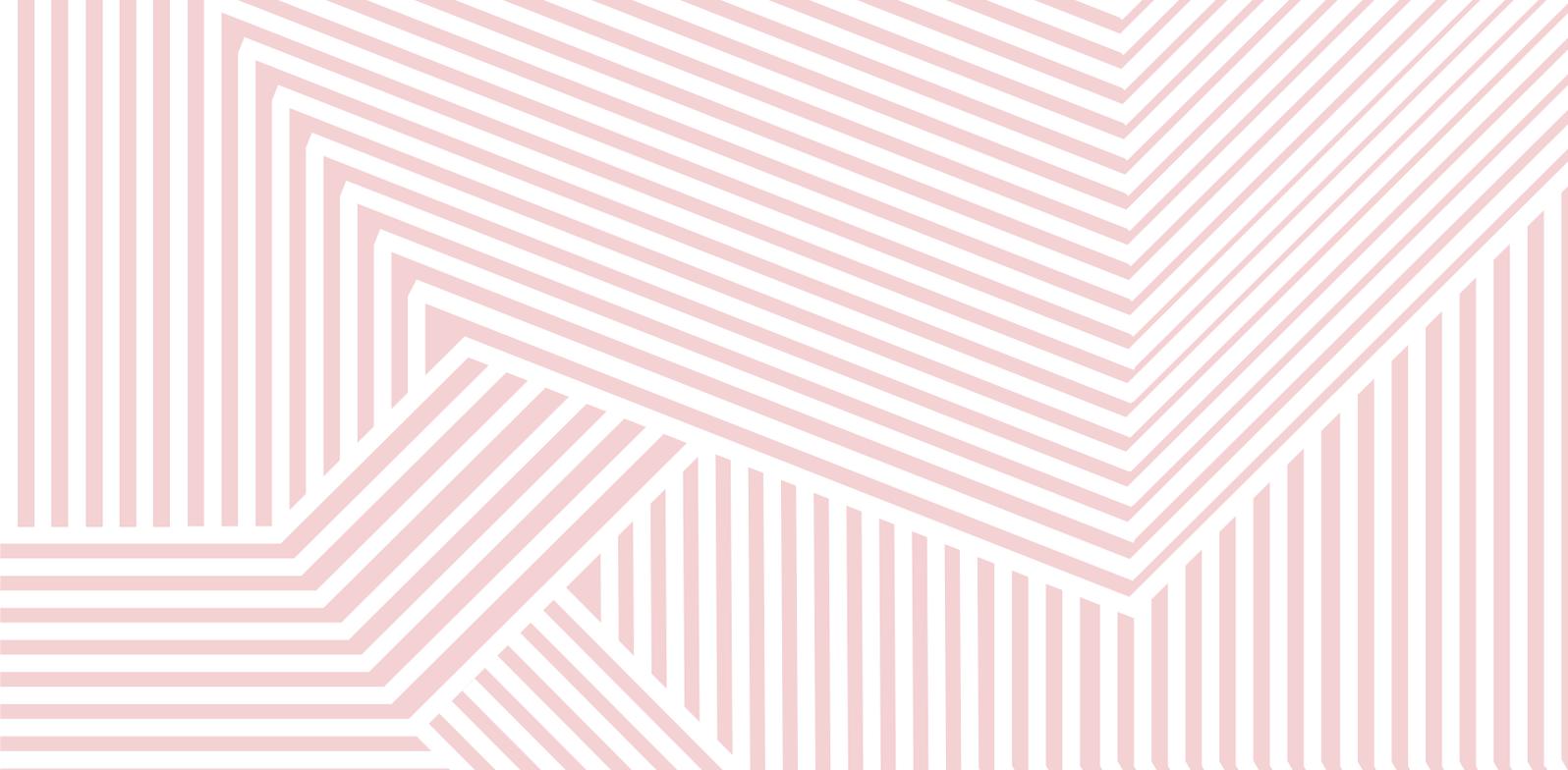
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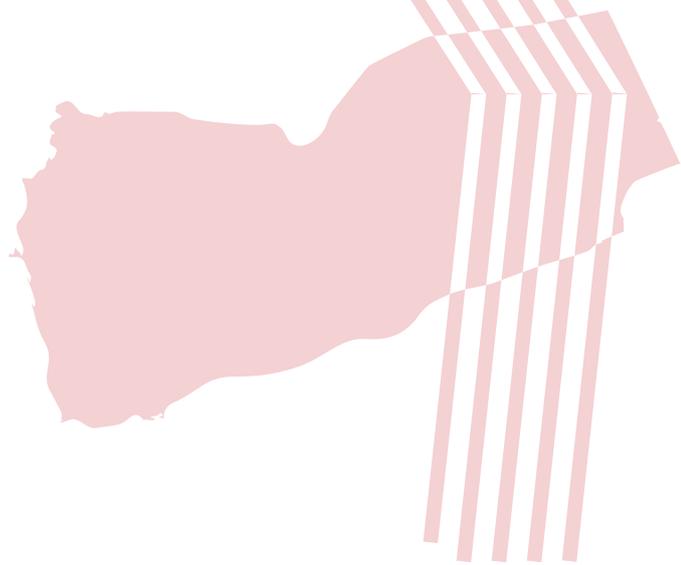
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# 1 Introduction



View of the town of Jibla in the Ibb Governorate, located in the southwestern part of the country.

Governance systems differ from one state to another depending on the politics in each state, its social, economic and cultural development, and other historical factors. Symmetry in the form and content of relations between local governance units, or between units and central authority, is rare. Local governance embodies decentralization, and is essentially a system that allows citizens to run their own local affairs. It should therefore be based on a set of principles and objectives as preconditions for applying decentralization and the goals for local governance set by the state and local communities. In this study, we will try to explain the following:

- The concept of local governance, its characteristics and conditions for success,
- The status of local governance in Yemen and its various functions,
- Main challenges to applying local governance in Yemen,
- Principles and frameworks for the local governance desired.

## 2 Characteristics and Objectives of the Local Governance System in Yemen



View of the mountainous region of Jabal Haraaz, located between the Tihamah coastal plain and the capital city of Sana'a.

Many studies point out that any sound local governance system should feature a number of common characteristics and objectives. They constitute important pillars that can be deduced from the many definitions of local governance, and can be summed up as a law that establishes local units, determines various resources for them, and distributes powers to them. Further, there is a need to implement, follow up and evaluate tasks in a geographically populated area, as well as an elected, appointed or mixed governing body responsible for executing public policies. There should also be an independent budget for exercising power and implementing policies. The local authority system aims to prompt sustainable local development, with the overarching goal of a comprehensive national development, increased accountability, transparency and an ending to corruption, as well as capacity-building for local communities.

The local authority consists of a head of the administrative unit (governor or district director) and an elected local council (governorate or district council) to monitor and oversee executive organs within the administrative unit (branches of national ministries and local organs), which in turn execute services and implement development projects.

Regulation through local authority increases the feeling of ownership, ensures the sustainability of local investments, improves the quality of local services, helps bridge the funding gap, contributes to rationalizing consumption, raises the level of efficiency in use and planning, increases effectiveness of local authorities and the size of their responsibilities, provides necessary flexibility, improves social-welfare and poverty-alleviation programs, and develops local units financially.

### 3 The Status of Local Governance in Yemen: Objectives and Competencies



A group of Yemeni men and women.

The Local Authority Law (LAL) No. 4 of 2000 was promulgated on February 10, 2000. The LAL is considered the legal basis for administrative and financial decentralization in Yemen.

According to it, all central bodies' powers and mandates should be devolved to the administrative units. Yemen is divided into 22 governorates and 333 districts. Each governorate and district should have a local council elected directly by the people. Governors are indirectly elected by the governorate's local council. Each district has a director general, appointed by the Council of Ministers. The director general is also head of the local council, and enjoys broad financial and administrative powers. The LAL's implementation is regulated by a number of administrative and financial bylaws. The LAL Executive Bylaw was issued by Republican Decree No. 29 of 2000, the Financial Bylaw was issued by Republican Decree No. 24 of 2001, and the Organizational Bylaw for governorate and district headquarters was issued by Republican Decree No. 265 of 2001. The Organizational Bylaw for the Ministry of Local Administration (MoLA) was issued by Republican Decree No. 23 of 2001. The Council of Ministers Resolution No. 283 of 2001 determines the values of various local and shared revenue sources at the governorate level.

### **3.1. Elements of the Local Authority System and Essential Components for Local Governance**

The LAL calls for grassroots participation in the decision-making process of managing local affairs, and the freely and directly elected local councils. Governorates and districts enjoy a juridical personal status, autonomous financial responsibility, financial resources, plans and budgets for each administrative unit and independent annual accounts. The central authority monitors the local authority's performance.

Within their jurisdiction, which is a specific geographical area distinguished by a homogenous population, local government units manage their own affairs. They enjoy adequate financial and human resources to implement their responsibilities efficiently, effectively and independently of any other unit as far as possible. Each has an elected governing body that represents the local community, manages local affairs, provides essential services in the citizens' interests and aspirations, and works towards local development. For this, local units shall enjoy an appropriate degree of autonomy that enables them to exercise their authority, draw plans, make decisions and execute them without interference from higher-tier structures.

### **3.2. Most Important Competencies/Mandates**

Local councils are responsible for adopting projects in the economic and social development plan, and tracking their own budgets and final accounts. To their executive organs they offer guidance, oversight and control, and they evaluate their performance in implementing plans and programs. The local council holds executive and administrative heads (governors or directors) accountable and withdraws confidence when they fail to perform. Within its territory, it monitors the implementation of all laws and regulations in force, and studies the financial situation and status of resource collection, developing them where needed with attention to public affairs concerning its citizens. Where necessary, it issues guidance and decisions. It further adopts urban planning proposals, discusses the security situation in the administrative unit, and issues guidance and recommendations on these regards.

### **3.3. Powers and Competencies of the Central Organs**

These are the resources the Ministry of Local Administration (MoLA) collects at a national level and under the oversight, management and control of the local council, local executive organs establish, equip and manage all development and services projects included in the annual plan and the budget that the administrative unit adopts. The LAL considers the local executive organs in each unit as local organs that represent the administrative, technical and executive apparatus of the elected local council. The LAL has outlined certain powers for central organs to implement national projects, formulate public policies through organizational bylaws, controls, qualification and training, and implement projects upon the request of the local authority.

### **3.4. Resources of the Local Units**

The LAL distributes resources to local units as follows: 27 different local resources are collected within the district in its favor; 28 different shared resources are collected in all districts in favor of the entire governorate; common public resources are overseen by the MoLA in the capital; and central support (subsidies) is awarded to the administrative units annually.

The LAL further determines that each unit within the governorate or district has a separate annual development plan and budget. These should be formulated by local organs and discussed at the district and governorate levels by their local councils. The annual operational budget for the local council covers any allocations necessary for the council to conduct its business, including fulfilling its supervisory role.

The local authority's financial resources amount to about 23% of the state's total public resources. Of this, 84% goes to current expenditures such as wages, salaries and operational budgets, while investment spending makes up the remaining 16%. Including current and investment budgets, the local authority's overall budget at governorate and district levels makes up about 19% of the state's total public budget.

## 4 Challenges to Applying the Local Authority Law in Yemen



Street in the capital city of Sana'a.

Most researchers agree on the importance of the LAL, and that its application would have achieved greater decentralization in Yemen, addressed many challenges and constraints to local development, and contributed to more stability and equity in Yemen's sustainable development. However, a number of challenges at the governorate and district levels have impeded its full application. These can be summarized in the successive governments' lack of political will after 2000 to amend about 70 laws and regulations in conflict with the LAL framework. This has led to confusion, as the local executive organs' mandates and competencies overlap. Moreover, new laws that contain provisions in conflict with LAL and principles of decentralization have been subsequently promulgated. Many central organs resisted the move towards decentralization in local development management and often suffered weaknesses that prevented them

from providing assistance and support to local authorities. The Ministry of Finance was one of the leading agencies in implementing the decentralization system in Yemen after its introduction in 2000. Its role, however, was a negative one, as it monopolized financial management through its local satellite offices. At the same time, it deliberately blamed local authorities for shortcomings, rousing frustration in the local leadership.

Due to insufficient funds, service delivery to local communities has diminished. This can also be attributed to weak monitoring and control mechanisms, as well as the little understanding of accounting, accountability and transparency methods. This in turn is due to citizens lacking awareness for the decentralization system's significance, the central control organizations and ministries lacking capacities, and the poor performance of the local authorities. Economic infrastructure and local databases are also insufficient, especially in rural areas. This has several reasons: There is no existing national strategy for local capacity-building, and coordination between training programs is minimal, as it is between involved parties, including donor agencies and civil-society organizations, who often implement similar and thus redundant training programs.

## 5 Principles and Frameworks for the Local Governance Desired in Yemen



Suq at Night, in Sana'a.

This heading warrants a separate, detailed and comprehensive comparative research study to clearly diagnose the problems and constraints local governance faces in Yemen. This study aims to describe the local governance Yemen needs to help ending the conflicts that have marred the country's development.

The outcomes of the National Dialogue Conference (NDC) constitute a very important foundation to this end, given the efforts the various social movements and entities made and the consensus they reached.

Based on this, we will attempt to briefly explain the most important principles and objectives that any local system should presumably rest on: A local government system should represent the local communities through local councils elected directly by the people and should enjoy decision-making powers in the management of local affairs. Local governance units should be considered juridical persons, and all local governance components should adhere to the political, social and ethical responsibilities that emanate from the principle of representation. In addition to annual governmental financial support, local governance should secure local financial resources proportionate to its responsibilities and activities. There should be clear boundaries between central government responsibilities and those of the local government units. Effective women participation should be established, especially in local councils and local affair management structures. Responsibilities devolved to local government units should come with certain autonomous decision-making powers to plan and manage various local affairs. To uphold accountability and ensure the best implementation of regulations and improved performance, local government units should be subject to local institutional and community performance controls.

## **5.1. Principles of Local Government Organs**

Local government units shall adhere to a set of regulatory principles that govern their work, the most important being: accountability, liability and community control across all local government levels and components. The principle of transparency should be enforced with sustainable forms and purpose-built structures in a manner that enables citizens to know and access information and have positive interactions with local communities. Strategic planning should inform development and service provision. Creativity and innovation should be encouraged and rewarded in all the areas local government units cover.

## **5.2. Local Government Objectives**

Local governments have a set of objectives, the most important of which are to expand and strengthen democracy by enabling local communities to manage and steer their own affairs, accelerate local development in urban and rural areas, reduce poverty, and continuously improve citizens' livelihoods and advance their quality of life. When implementing operations and development plans, they can contribute to sustainable and comprehensive development by bringing administration and services closer to the people, simplifying access to and improving the services provided, encouraging the spirit of constructive competition between units, curbing internal migration to realize population stability, and fostering social peace and harmony.

## **5.3. The NDC and the Groundwork for Federalism**

All studies on decentralization (federalism) agree that local governance – in all its definitions, from “decentralization” to the broader political sense of “federalism” – plays a pivotal role in laying the foundation for a civic, democratic and modern state built on the rule of law and equal constitutional rights and duties. It also lays the groundwork for genuine partnership in power and wealth, and immunizes societies against dictatorship. A federal state, as seen from other experiences and models around the world, is difficult for autocratic rulers to control, as powers and competencies are divided. It also places the federal president and head of government under the watchful eye of the federal parliament and holds them accountable to regional parliaments and governments.

These constitutional institutions, along with the Supreme Constitutional Court, will not let the president or federal head of government, or any other authority for that matter, overstep their constitutional mandate; they enforce the federal system's survival and all its various entities. The federal state can only accomplish its objectives and exercise its powers with respect for the constitution and rule of law, a culture of tolerance and public participation, the clear separation of powers between the federal state and various regional structures, and the development of central and local institutional structures. Along with strong partnerships between the regions and local communities, and financial resources being objectively and equitably shared between the center and regions, a Supreme Court, even in the oldest federal states in the world, is crucial to preserving a state's unity. In most federal systems, the Supreme Court ensures federal stability and prevents the central government from encroaching on the regions' powers and vice versa. Yemen's draft constitution states that the constitutional court shall not be utilized for the federal government to expand its powers, but remain an independent, neutral body. This is a crucial safeguard for applying the federal constitution and preserving the federal state's unity. Thus, court decisions are final and cannot be repealed.

## 5.4. Highlighting the NDC Outcomes: Determinants and Guarantees

The guarantees and determinants in the NDC report on local government and decentralization coincide with international standards for good governance. They are based on local government as a political and developmental choice, through which equitable partnership in power and wealth is possible.

The report contains integrated guidelines and guarantees to stabilize the state in the future, the determinants of which are illustrated below.

### 5.4.1. Levels of Government: According to the NDC Outcomes and Draft Constitution



### 5.4.2. The Regional Governmental Powers

The region's legislative authority, embodied in the regional parliament, is mandated to issue binding rules that govern the peoples' actions. Composed of no more than 80 members, they are elected by public

vote based on a proportional system to ensure equitable representation for all states (wilyas). Tenure is for four years and members are prohibited from taking office in any other federal, regional or district authorities during that time.

### **5.4.3. The Regional Parliamentary Powers**

The regional parliament shall adopt or amend the draft regional constitution with a two-thirds majority, provided it does not conflict with the federal constitution. It shall propose, debate and adopt bills within its mandate and shall further approve the region's public budget and take over accounts from the previous year(s). In addition, the regional parliament is also responsible for negotiating and ratifying cooperation and investment agreements for economic and social development, provided they do not infringe upon federal foreign policy, mandates or debt liquidation. It shall supervise the region's executive bodies (regional government) and confirm the appointment of senior officers to civilian, autonomous bodies and the regional police.

### **5.4.4. The Regional Executive Authority**

The regional executive authority consists of the region's governor and government. The head of the region is also head of the government and chief executive. They are elected with a two-thirds majority from members of the regional parliament. In turn, the chief executive presents a list of candidates for the regional government to the parliament and seeks its approval.

### **5.4.5. Regional Governor Powers**

Regional governors have the power to appoint civilian and police officers, make legal endorsements and ratify cooperation and investment agreements approved by the regional parliament.

### **5.4.6. Regional Executive Authority Powers**

The regional executive authority formulates and implements public policies for the region, proposes bills and bylaws, proposes social and economic plans to the parliament as well as the coming year's public budget and presents the final accounting for the previous year.

### **5.4.7. Vote of No Confidence**

Confidence may be withdrawn from one member of parliament or the entire government with a simple parliamentary majority. When this happens, the chief executive must form a new government and seek the parliament's approval. The regional parliament can also hold a vote of no confidence on the chief executive. If they reach a two-thirds majority, a new chief executive must be elected.

### **5.4.8. Regional Judicial Authority (Judicial Councils)**

The draft constitution stipulates that regional judicial councils be regulated by the Judicial Authority Law. This includes the appointment of judges and public prosecutors, and their delegations, secondments, disciplinary actions, retirement, resignations or any other matters related to their careers. Most prominently, these councils: manage the courts and public prosecution organs within the region, formulate public plans and policies to reform and improve the judiciary, establish its budget and oversee the district courts of first instance, the state courts of appeal and the regional constitutional courts. The rulings from the regional constitutional courts are final, unless the case falls within the mandate of the Supreme Constitutional Court.

## 6 Conclusion

In sum, one can argue that the federal state system based on decentralization (local governance) has become the most flexible model for managing states. It is founded on the division of powers and coordination between the federal government and lower governments.

The system's significance increases with its strong link to democracy. Thus, all components derive their powers from a constitution that cannot be amended unilaterally or randomly; their responsibilities draw legitimacy from elections. The federal system becomes even more important considering it does not proscribe one specific organizational system – with the aim of using it for state control – but allows states to choose their own federal government in a way that helps address their unique conflicts and strengthen national unity.

We therefore conclude that the most desirable form of local governance is the one agreed upon and confirmed in the NDC report.

To apply it, the following preconditions must still be met. First, a clear strategic vision for how to accomplish the NDC's recommendations and the new federal constitution is needed. Clear mandates must be spelled out for local organs providing public services and managing local affairs, and drafted into legislation. Budgets as well as autonomous development plans must be formulated to secure the specific financial resources for each local unit. Finally, any buildings, administrative complexes or other supplies needed must be made available.



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