

Local Governance in Yemen

Theory, Practice, and Future Options

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Governorates in Yemen. Berghof Foundation, May 2018.

Abbreviations

GPC	General People's Congress
MoLA	Ministry of Local Administration
NDC	National Dialogue Conference
NGOs	Non-governmental organisations
PDF	Political Development Forum
PDRY	People's Democratic Republic of Yemen
UAE	United Arab Emirates
YAR	Yemen Arab Republic
YER	Yemeni Riyal
YSP	Yemen Socialist Party

Executive summary

After more than four years of war in Yemen, conflict has destroyed Yemenis' livelihoods and shaken the political, economic, and social foundations of the state. In this environment, local governance structures have taken on central importance for the political process and for the stability of Yemen. They are essential for providing services, mitigating the impact of conflict, and for helping to build conditions for peace in order to end the war. Whether or not the war continues, the well-being of Yemen's citizens depends to a large extent on the effectiveness, efficiency, and responsiveness of local governance structures.

Over the course of several years, the Berghof Foundation and the Political Development Forum (PDF) have focused on strengthening inclusive local governance in Yemen. This work focuses both at the local level in Hadhramawt and Dhamar and at the national level, to improve inclusivity, relaunch the local political process, and engage a broad range of stakeholders in discussions about the current challenges and potential future shape of local governance arrangements in Yemen. This work is funded by the German Federal Foreign Office.

This paper provides an extended introduction to the intricacies of local governance in Yemen, covering the existing legal framework for local governance, the current practice, and future options that enjoy widespread support among Yemeni parties on the ground.

Local governance in theory: The legal basis

The Local Authorities Law, Law 4 of 2000 and its amendment in Law 18 of 2008, remains the legal basis for local governance in Yemen, setting the roles, responsibilities, and authorities vested in the national government, the governor, the local council, the governorate administration, the director general, and district-level local council.

There is much in these laws that Yemeni stakeholders across the political spectrum continue to support. Because of this, they are an important reference point and will likely form the basis for future agreements. However, not only does current practice not conform closely to the law, but there are contradictions and ambiguities in the law itself. For instance, the law assigns wide-ranging responsibilities to the governors and local councils, but at the same time assigns ultimate authority over governorate personnel, budgets, and plans to central ministries or the Council of Ministers. Similarly, although the law devolves some powers and authorities, it does not concomitantly devolve authority over the financial resources needed to fund local decisions. In addition, the local authority law conflicts with other legal provisions. Attempts to build on the current legal framework will have to grapple with and resolve these contradictions.

Local governance in practice: From centralisation to fragmentation

Under President Ali Abdallah Saleh, the practice of local governance was far more centralised than envisioned in law, with key authorities remaining in the hands of the President. The current war has partially reversed this picture, but decentralisation has been ad-hoc, chaotic, and uneven, driven by local political and security dynamics. In areas under control of the internationally recognised government, central government influence has decreased and governors now face new pressures from regional actors and armed groups. In areas with contested control, there are now rival governors appointed by the conflict parties. In the areas under control of Ansar Allah, the local administration has come under the political influence of centrally appointed 'supervisors'. These new structures have further centralised some control, while leaving local authorities to fend for themselves in other areas. Everywhere, the already highly personalised and rent-based system of local governance has become more personalised and ad-hoc. Effective authority over local services and the power to collect revenue now resides with the actors who have the military means to enforce their claims.

Across Yemen, governorate and district budgets now rely largely on locally generated revenue and local authorities rely on external aid to provide key services. There has been a sharp decrease in local authorities' budgets and an ongoing shift towards locally generated revenue. Case studies of Marib, Hadhramawt, and Dhamar in the paper illustrate and inflect these general trends.

Future options

Over the course of intensive consultations with high-level Yemeni political actors, the Berghof Foundation has helped to develop local governance options for the post-agreement period. Overall, there is consensus that local authorities need more far-ranging powers and authorities but that they must also operate within an agreed framework that reserves key sovereign powers for the central government. More specifically, such future options could include the following possibilities.¹

To ensure local buy-in, a peace agreement should include a mechanism for review of governor appointments in consultation with local parties.

To reactivate Local Councils, the central government should grant them the authorities envisaged in Law 4/2000. New, more inclusive Local Councils could be formed – as a stopgap measure prior to elections – from local representatives from political parties, civil society, community leaders, former Local Council members, and representatives of the private sector. The central government should temporarily suspend central approval procedures for local decisions.

To restore central funding, the central government should restore central budget allocations to the governorates, including the payment of public servants' salaries via the governorate branches of the Central Bank.

In the longer term, successful local governance in Yemen depends on defining a clear and transparent mechanism for resource-sharing and redistribution of revenues between the central and the local level and across the different governorates. Moreover, Local Councils will need to be able to access and develop sustainable resources at the local level.

To create an enabling environment for local funding, investment, and reconstruction, the central government should allow locally collected fees and taxes to fund the governorate budget and grant additional revenue-raising powers to the local authorities. It should grant the local authorities the right to set priorities and sign contracts for local projects, and provide an enabling framework for local authorities to access assistance and grants from international donors. International donors and international non-government organisations (INGOs), under a general framework agreement with the central government, should involve Local Councils and the local administration in the determination of priorities and needs and enlist them as liaison points with local organisations and private sector actors.

To restore local security, the central government should delegate the supervision of local security institutions, especially the police and civil defence, to the local executive (Law 4/2000: Art. 3, 14, and 155) and resume paying the salaries of judges, police personnel, and all other public employees. In the longer term, there will need to be national-level support for local authorities to deal with the multiple armed groups that now exist at the local level.

To support local services, the governorate and district branches of institutions providing local services should fall under the local authority. Central government ministries should grant local authorities supervisory authority over publicly owned companies focused on the provision of local water, electricity, telecommunications, and other services.

1 Please refer to p. 21-23 for a full summary of options.

To enable the effective management of local personnel and administration, governors' legal authority to appoint, transfer, and mandate staff and to nominate directors of the local executive offices (Law 4/2000: Art. 43) should be respected in practice. Central government ministers should cease making personnel decisions in the governorates. In the longer term, district Local Councils should be given the ability to select the director general, monitor appointments, and hold the local administration to account.

Introduction

More than four years of war have shaken the political, economic, and social foundations of the state in Yemen and destroyed Yemenis' livelihoods. Governance and the political economy are increasingly fragmented and armed groups and political movements exert de-facto control over different parts of the country, enjoying protection and support from competing international patrons. Public service provision is under extreme stress or failing outright and local actors have gained substantial leverage and room for manoeuvre vis-à-vis Sana'a and Aden, to an extent unprecedented during the last four decades at least.

In this environment, local governance structures in Yemen remain central for the political process and for the stability of Yemen; indeed, they have taken on critical importance. The governorates are now the main level of government able and willing to provide services in much of the country, and the only level of government able to do so with a measure of responsiveness to citizen needs and civil society demands. Throughout much of Yemen, the governorates have become the de-facto site of political and sometimes military authority.

If the war continues, effective local governance will be one of the few mechanisms available to address the urgent needs of Yemen's inhabitants and to keep further fragmentation and security competition at bay. If the warring parties reach a ceasefire or peace agreement, effective

local governance will be central to effective implementation, for ensuring a measure of buy-in and legitimacy on the ground, and for physical reconstruction and statebuilding. Moreover, mediation efforts, de-escalation, and peace initiatives at the local level have the potential to create trust, open avenues for dialogue, and build consensus for a post-war order, thus improving the prospects for peace at the national level.

For these reasons, local governance structures provide preferred entry points for both mitigating the impact of conflict, should it continue, and for helping to build conditions for peace in order to end the conflict. In either case, the well-being of Yemen's citizens depends in important measure on the effectiveness, efficiency, and responsiveness of local governance in Yemen.

Origins of the paper

Over the course of several years, the Berghof Foundation and the Political Development Forum (PDF) have engaged a broad range of stakeholders in intensive discussions about the current challenges and potential future shape of local governance arrangements in Yemen. Workshops inside Yemen, study tours, and high-level dialogue meetings have involved academic experts, civil society figures, governors, government ministers, former ministers, and representatives from across the spectrum of political parties in Yemen. These activities have generated a wealth of information and recommendations on local governance in Yemen.

In addition, Berghof has commissioned four papers that present up to date and more detailed information on different aspects of local governance theory and practice in Yemen than available in English so far:

- ≡ Abdul-Raqib Fatih: The Importance of Local Governance in Strengthening and Supporting the Political Process in Yemen. 2018. Berlin: Berghof Foundation. <https://bit.ly/2CLB4GQ>.

≡ Academic and Political Activist in Sana'a: Local Revenue and Resource Allocation. 2018. Berlin: Berghof Foundation.

<https://bit.ly/2HRzLKq>.

≡ Ahmed Mohamed Al-Mawari: Legal Assessment of the Local Authority System in Yemen and Proposals for Development. 2018. Berlin: Berghof Foundation.

<https://bit.ly/2HZCFw9>.

≡ Badr Basalmah: Local Governance: Engine for Stability in Yemen. 2018. Berlin: Berghof Foundation. <https://bit.ly/2FJFEWx>.

This paper summarises information from the commissioned papers and the last several years of discussions and activities to make it easily accessible to a broader audience. It is organised in three parts, with a part on theory, on practice, and on future options. The theory section presents in summary form the key legal texts on local governance in Yemen since the early 2000s. In the subsequent practice section, the paper analyses the way these provisions were implemented prior to the current war and since 2015. This section also includes an exploration of local revenue generation and its implications for local governance, as well as case studies of Dhamar, Hadhramawt, and Marib, to capture some of the details and diversity of current practice. The paper closes with a summary of options with wide support across the political spectrum in Yemen, presenting Yemeni actors' current thinking on what is needed to sustain and improve local governance in Yemen.

Supporting inclusive local governance in Yemen

Since 2017, the Berghof Foundation and PDF have been working with the Gesellschaft für Internationale Zusammenarbeit (GIZ) on a project to support inclusive local governance in Yemen, funded by the German Federal Foreign Office.

The project directly supports inclusive local governance in Dhamar and Hadhramawt by supporting consultative committees, which work with the remains of the Local Councils, local administration, and civil society to tackle urgent challenges, prioritise services and development projects, and advise the governors. The committees complement the existing administrative set up to bridge the gap between the governorate executive, the remnants of the Local Councils, and other major local stakeholder groups who have grown in importance during the war but are not represented in the formal government hierarchy. The committees work closely together with health offices, rural authorities, chambers of commerce, and development associations and are mediating conflicts, allowing for the release of political prisoners and providing opportunities to negotiate an end to local-level conflicts. In close partnership with the committees, the project also supports local peace and development initiatives in the districts of both governorates.

Beyond this work at the governorate and district level, the project aims to build consensus around the key role of local authorities and their importance for service delivery, conflict mediation, and for responding to urgent needs within Yemen as a whole. This has involved a series of national and international meetings and workshops, alongside a number of research papers on local governance in Yemen. Insights from these efforts and the day-to-day work with governorate and district-level bodies inform the analysis and recommendations of this report.

1 Theory: Law 4/2000 and 18/2008

In the years after the 1994 war in Yemen, fought largely between the former armed forces of the People's Democratic Republic of Yemen (PDRY) and the Yemen Arab Republic (YAR), the government of the Republic of Yemen did not put into practice the promises for decentralisation it had made at unification.² Instead, it expanded centralisation in practice. Local governance relied on centrally appointed governors and heads of district as well as on the local branches of central ministries. Many of the governors appointed at this time came from the North of the country, with a preponderance of military and tribal allies of President Saleh. There were no governorate-level representative, let alone legislative, bodies.

Across the country, these measures sparked opposition and growing demands for local representation. In the former PDRY, these changes were seen as part of a broader northern power grab that placed the victors of the 1994 war firmly in charge of the South's economy and politics. Yet, northern areas had likewise enjoyed significantly more scope for local self-administration prior to unification (Gatter 2006) and opposition was not limited to the South – nor was it focused entirely on local governance issues. The formation of a consolidated opposition bloc, the Joint Meeting Parties, in 2002 highlighted the Saleh government's broader loss of political allies and support during this time.

In this general context, the Yemeni government passed Law 4/2000. Subsequent amendments granted further rights to elected Local Councils in Law 18/2008.

In theory, Law 4 of 2000, alongside the modifications and amendments introduced as Law 18 of 2008, form the basis for local government and administration in Yemen. In addition, a series of Republican Decrees (269/2000 – the Local Authority Executive Bylaw, 24/2001 – the Local Authority Financial Bylaw, 23/2000 – the Local Authority Organisational Bylaw, and 265/2001 – Regulations for the Municipalities and Departments of Municipalities) decisively shape the interpretation and practical application of these laws.³

Because these texts theoretically remain in force and are central reference points for Yemeni actors whenever discussion turns to local governance, they bear closer scrutiny. This is particularly true as there is wide consensus among political actors across parties and regions that, with some modifications, the existing Local Authority Law forms a workable basis for local governance in the current conflict and during an interim period after an initial peace agreement.

1.1 Basic structure and functions of local authorities by law

Taken together, the legal framework defines the following official actors and their respective roles, powers, and responsibilities for local governance in Yemen. An overview is available in Figure 1 (for a fuller treatment see: al-Mawari 2018).

2 Especially in the Republican Decree for Law 52/1991.

3 In addition, the following provides an indicative list of the laws and regulations that have a direct bearing on the provision of local governance in Yemen: the Council of Ministers Resolution 283/2001 on values and bases of local fees, the Constitution, Civil Service Law, State Budget Law, Election Law, Financial Law, Procurement and Stores Act, Public Money Collection Act, and the laws governing the administration and funding for the Sanitation Fund, Road and Bridges Fund, Agricultural Fund, and Youth Fund.

Governor

Law 4/2000 divides Yemen into 22 main administrative sections (21 governorates and the municipality of Sana'a), subdivided into 333 districts and municipal areas, each further subdivided into sub-districts, villages, and hamlets. Each governorate is headed by a governor who, in theory, is elected to no more than two consecutive terms by an electoral college consisting of all members of the governorate and district Local Councils (Law 18/2008: modification to Law 4/2000 Art. 38). By law, the governor heads the governorate executive and supervises all public employees in the governorate. According to the law, the governor reports to a range of authorities, including the President, the Council of Ministers, the Local Council, and the Ministry of Local Administration (MoLA) (Law 4/2000: Art. 49-50). This is an area of ambiguity in the law that creates overlapping lines of reporting and responsibility. By law, the governor is assisted by one or more deputies nominated by MoLA and approved by the Council of Ministers, meaning that, at least in theory, governors have no influence over who their deputies are and what portfolios they are charged with.

Local Council

By law, though not in practice, the Local Council, together with the district Local Councils, elects the governor. The law assigns the Local Council an active oversight role to hold the governorate executive to account. The Local Council can, in theory, withdraw confidence from the governor and from the district director generals with a two-thirds majority vote (Law 18/2008: modification to Law 4/2000 Art. 118-119). By law, the Local Council also oversees recruitment to the governorate administration (Executive Bylaw), approves the governorate budget and policies (Law 4/2000: Art. 19), and oversees the governorate administration, sets its budget, and the governorate development plan (Law 4/2000: Art. 61).

However, all Local Council decisions relating to development plans, annual budgets, local revenue collection, and the sale or lease of public property must be ratified by the central government. This is an area of ambiguity in the existing law, as it does not specify whether the central government must ratify decisions within a given time period and on what grounds it can refuse ratification. In practice, this provision has given central government wide-ranging control over all aspects of local governance.

Local Councils are to be elected by universal suffrage to four year terms (Law 4/2000: Art. 13). They are composed of 15-31 members. The inhabitants of each district elect one representative to the Local Council by a simple plurality of votes (first past the post system).⁴ Ordinary Council members do not receive salaries, but receive YER 1,000 (currently ca. € 1.80) every three months to cover travel to council meetings. The Council elects a Secretary General to lead the Council and elects committee heads for 1) a planning committee, 2) a services committee, and 3) a social affairs committee from among its members. These committee heads and the Secretary General receive regular salaries (Law 4/2000: Art. 102-103).

Governorate Administration

The public administration at the governorate level consists of the local branches, or 'executive offices', of central ministries as well as the office of the governor. By law, they are considered the administrative and executive organs of the Local Council (Law 4/2000: Art. 14) and the Council oversees their work and sets their budget and priorities. The administration at the governorate level is to be staffed by employees of central ministries according to local needs and priorities, an area of ambiguity as the law makes no provision for arbitration when central staffing plans and local needs and priorities collide.

⁴ The law stipulates (Law 4/2000: Art. 16b) that Local Councils must have a minimum of 15 members. Those governorates with less than 15 districts split their districts into smaller electoral units to arrive at 15 directly elected members.

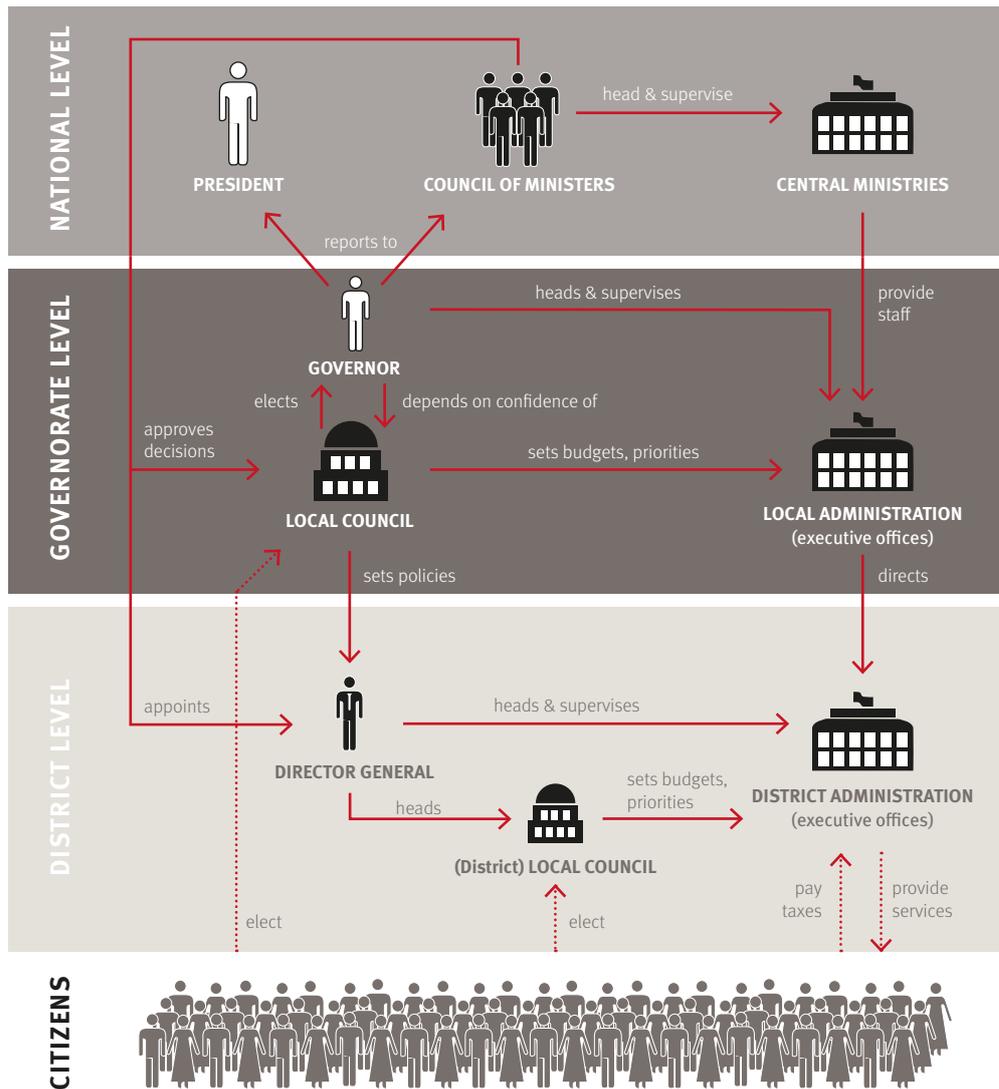


Figure 1: Local governance in Yemen according to Laws 4/2000 and 18/2008.

Director General (District)

The Director General is, by law, nominated by MoLA and approved by the Council of Ministers to head the district-level Local Council and to be the head of all civil servants and public employees in the district (Law 4/2000: Art. 89). The Director General is tasked with overseeing the implementation of governorate and national policy in each district. The fact that Director Generals are by law dependent on the continued confidence of Local Councils and are tasked with implementing their plans, while being centrally appointed and reporting to MoLA, creates competing lines of reporting and accountability and hence the potential for conflict.

District Local Council

Together with the Local Council, the district councils of a governorate make up the electoral college that in theory elects the governor. District Councils also elect a Secretary General who is to act as Deputy to the Director General (Law 4/2000: Art. 87). Each District Council consists of 18-30 members elected in a first past the post system in single member constituencies by universal suffrage. The number of members depends on the size of the district's population, with 18 members in districts of 35,000 inhabitants or less increasing in several steps up to 30 members in districts with 150,000 inhabitants or more. The district Local Councils supervise the district executive offices (Law 4/2000: Art. 61).

1.2 A challenging legal basis: Contradictions and incoherence

As the summary discussion highlights, though there is much in the legal text of Law 4/2000 and its amendments in 18/2008 that Yemeni stakeholders across the political spectrum support, there are also contradictions and ambiguities in the law itself. In addition, the local authority law conflicts with other legal provisions; in particular, a number of Republican Decrees have selectively subverted the law's stated intent. According to two recent analyses, as many as 70 to 80 laws and regulations conflict with the local authority law (Basalmah 2018: 5, Fatih 2018: 5, see also Moriani et al. 2013: 18).

Two major issues stand out. First of all, the Local Authority Law assigns wide-ranging responsibilities to the Local Council, but at the same time assigns authority over the organisations that are supposed to fulfil these responsibilities to other actors. For instance, while Local Councils are tasked with developing local plans and setting priorities, ultimate authority over governorate personnel, budgets, and plans belongs to central ministries or the Council of Ministers. Central control over governorate staffing, though enjoined to occur in line with local needs, means in practice that central priorities take precedence over local concerns. Central ministries continue de-facto to set priorities and give directives to local ministry offices. In much the same way, although the law assigns responsibility for security in the governorate to the governor, all branches of the military and the police are organised as a centralised national service not subject to local authority decisions (e.g. on the police: Republican Decree 65/2002). Moreover, the provision that governorate plans must be ratified by the Council of Ministers has meant that central government wields an effective veto over all local plans.

A second major shortcoming of the current law is that it does not address governorate revenues. Though it devolves some powers and authorities, it does not concomitantly devolve authority over financial resources. Laws governing the collection and allocation of resources remain highly centralised. As a result, the local authorities do not legally have the means to raise revenues in line with their responsibilities, remaining heavily dependent on allocations from the central government budget (al-Mawari 2018: 11, Basalmah 2018: 5). There is minimal local revenue collection and very limited legal scope for setting local fees and taxes. As we will see in the section on local governance in practice, central government support has been cut significantly since the current conflict began – a challenging situation for local authorities, many of which have begun tapping sources of revenue not foreseen in current legislation.

2 Practice: From central dominance to fragmentation

Since the outbreak of the current war, local governance in Yemen has gone from a highly centralised system, in which ultimate de-facto authority rested with the President, to a situation of growing fragmentation and divergence.

In the governorates under control of the internationally recognised government, the Local Councils elected in 2006 are now largely defunct. Everywhere in Yemen, members' terms officially ended in 2012⁵ and although legally members remain in post until new elections can be held, council members everywhere have passed away, fled the country, or been displaced by fighting. Moreover, in the areas under control of the internationally recognised government, the Councils have largely been suspended, although the situation differs from governorate to governorate. After pushing Ansar Allah out of a governorate, new governors were sufficiently concerned about the dominance of Saleh loyalists in Local Councils to dissolve many of them. There are now few legislative or advisory bodies operating at the governorate level in these areas. Where Local Councils have continued to operate in some form, as in Aden, they have struggled to contain infighting among competing armed groups and rival political agendas (al-Awlaqi and al-Madhaji 2018a: 3-4).

At the same time, as the political and security vacuum has widened across Yemen, local power brokers have come to operate with a greater degree of autonomy. In many places, such local actors include former Local Council members, whose election often depended on their local influence or ability to deliver a constituency of voters. Yet they now exist alongside a multiplying array of formal and informal institutions created by the war. As a result, coherence has suffered and the already highly personalised and rent-based system of local governance has become more personalised and ad hoc.

Saudi Arabia and the United Arab Emirates (UAE) have assisted in restoring some services to the areas under control of the internationally recognised government. However, they have backed multiple, sometimes competing, authorities in different sectors. The UAE in particular has directed funding to a number of paramilitary formations (the Security Belt and the Elite Forces) and to specific development projects, partially bypassing existing local governance structures. Though some governors have been able to come to effective agreements with the paramilitaries in their areas, essentially turning them into National Guard units (Basalmah 2018: 13), albeit ones with strong residual influence of their UAE funders, others have entered a far more precarious entente with these armed groups.⁶

5 According to Baron et al. (2016: 5), constitutional changes in 2006 extended members' terms to six years. Both Law 4/2000 and Law 18/2008 stipulate four-year terms.

6 For an assessment of the mixed effects of militias in general, see: Feda et al. 2018

Background: Local governance under President Saleh

Under President Saleh, the practice of local governance was far more centralised than envisioned in law, with key authorities remaining in the hands of the President.

For instance, the President appointed governors both before and after passage of the 2008 amendments to the Local Authorities Law and vetoed attempts to elect governors in line with the new regulations after their passage. In practice, the President also appointed Deputy Governors and district Directors General. Governors, Deputy Governors and district Directors General all reported to and were accountable to the President. Similarly, a provision of Law 4/2000 that allows the President to dissolve Local Councils “in the national interest” meant in practice that Saleh could and did dissolve Local Councils at will. Governors did not have authority to hire or fire staff and hence had limited opportunities to effectively manage the administration they theoretically headed.

The national government also used its powers of ratification to veto decisions and determine local plans and budgets. Central control of local ministry staffing meant that local priorities had little influence. Centralised directives, lines of reporting, and a reliance on central funds ensured that the central government continued to issue binding instructions to local ministry employees and set the parameters of local governance. The public administration at the local level functioned, to the extent that it did, according to the priorities and directives of the central government. As a result, the governorate offices of central ministries were chronically understaffed and often politically beholden to central actors.

Local Councils were elected in 2001 and 2006. In 2001, the General People’s Congress (GPC) won 59 per cent of the seats on the governorate councils, the Yemeni Congregation for Reform (Islah) gained 20 per cent, and the Yemen Socialist Party (YSP) won 4 per cent, with the remaining 17 per cent of seats going to independents or smaller parties. The picture at the district level was very similar. In the 2006 elections, the GPC extended its lead, co-opting many of the former independents. It won 85 per cent of governorate level seats and 76 per cent of district level seats. Islah won 7 per cent of seats at the governorate level and 12 per cent at the district level, and the YSP won 3 per cent of seats at both levels. Opposition parties initially rejected the results and blamed their reduced vote share on electoral manipulation. Observers documented a range of issues with the election campaign and the tabulation and publication of results. However, overall, they endorsed the results (e.g. National Democratic Institute 2006, European Union Election Observation Mission Yemen 2006: 3).

Local Councils never enjoyed the powers set out in the Local Authorities Law. For instance, although the law specifies that the Local Council must approve the budget, in practice this has meant it has rubber stamped the budget as a whole without opportunities to discuss details or options to amend individual items. Moreover, the governorate budget, once approved, is subject to ratification by the central government, a provision the central government used to effectively veto local decisions. As highlighted above, ordinary members of Local Councils were expected to do little more than attend quarterly council meetings and even the standing committees had no secretariat. Councils operated with little control over the local budget or administration and with severe restrictions on their ability to raise revenue. Despite this, the Local Councils played an important advisory and representative function, acting as a sounding board for policies and a conduit for citizens to raise issues and concerns with the local administration.

In contrast to the UAE, Saudi Arabia initially sought to work through the internationally recognised government but has grown frustrated with slow implementation and significant ‘leakage’ of aid on its way from central institutions to the localities. Rather than stepping up cooperation with existing local authorities directly, Saudi policy has increasingly shifted to the high-visibility and high-control modus operandi of its Gulf Cooperation Council neighbour and focused on individual projects and direct contracting, bypassing local governance structures. This has further contributed to the growing fragmentation of local authority and the proliferation of parallel systems.

In the areas under control of Ansar Allah, the local administration has come under the political influence of centrally appointed ‘supervisors’. These new structures have undermined the limited powers of local councils, and the Sana’a authorities have not hesitated to appoint new Council members and remove, imprison, or exile existing ones. Although the Councils continue to exist in theory in the areas under control of Ansar Allah, in practice their role has eroded to the point that their already limited influence on plans, budgets, and policies has evaporated. Moreover, the central government in Sana’a has sharply cut funding to local authorities and is encroaching on formerly independent local revenue sources, most notably zakat, to fund the central government and the war effort. (See the section on revenue and the Dhamar case study, below, for further details).

As at all levels of governance, the war has refashioned formal and informal power and authority at the local level. Effective authority over local services and the power to collect revenue resides with the actors who have the military means to enforce their claims. In areas of Yemen with strong tribal structures, Local Councils tended to institutionalise tribal hierarchies, and these,

generally district-level structures, have proven more resilient and resistant to change.⁷ Elsewhere, new armed actors have gained in prominence. Across the country, district administrations struggle with frequent changes in leadership at the governorate level and sharply contracted budgets — budgets dependent on UAE and Saudi funding in parts of the country and on humanitarian support everywhere. Local authorities have struggled to work with the humanitarian system, as funding for district-level service providers through the humanitarian system can be ad-hoc, short-term focused, and at times pits the local administration against local NGOs as competitors for funding (see also: al-Awlaqi and al-Madhaji 2018a: 4).

2.1 Finances: Local revenues

In all governorates, locally generated revenue has taken on a new centrality.

In theory, governorates rely on four independent sources of funding (Law 4/2000: Art. 123). The first is independent district revenue, specific taxes and fees collected in districts and wholly accruing to the districts. The second is local common revenue, local taxes and fees collected by the district and deposited with the governorate, from where theoretically 25 per cent is granted back to the district collecting the funds.⁸ The third is common public revenue, revenue collected by the governorate or the central administration at the governorate level, for example, fees on travel tickets or petroleum products levied from the inhabitants of a governorate. The fourth is allocations from the central government budget for the governorate.

7 However, as in previous wars, tribes and families split along political lines, and the fortunes of individual people and families within tribes can shift.

8 By law, 25 per cent is granted back to the district collecting the funds, 25 per cent goes to the governorate, and the remaining 50 per cent is shared equally between all other districts. rapidly and dramatically.

In practice, allocations from the central government dwarfed all other sources of income, accounting for more than 90 per cent of the local authority budgets until 2016 (Academic and Political Activist in Sana'a 2018: 6).⁹ The governorates and districts had limited capacity to collect funds locally, and many of the fees and taxes they were assigned by law had low yields.

However, since 2015, allocations from the central budget have fallen sharply across the country. For the areas under nominal control of the internationally recognised government, the January 2018 budget, which was renewed for 2019, limited the funds allocated to local authorities to paying salaries and covering 50 per cent of their operational expenditures. In the areas under control of Ansar Allah, the central allocation to the governorates is smaller still, limited to restricted funding for health and education services and minimal stipends for government employees.

In addition to reduced central allocations, local authorities have struggled with the deterioration of the Yemeni economy, which has reduced the already meagre income they previously collected from utility taxes, permit fees, and zakat (al-Awlaqi and al-Madhaji 2018a: 5). Zakat was generally the main local source of income prior to 2015, especially in the North. Fees connected to personal status, civil registry, and government services more broadly were also important across the board, but especially in the South. Since 2015, Ansar Allah, cut off from international sources of funding and oil revenue, have been encroaching on revenue sources previously reserved for governorates and districts, making zakat, in particular, one of their main domestic sources of income.

Resources from international aid have bucked the trend of a general decline in funding, but the flow of external aid into the governorates does not necessarily help existing local governance structures to function. Parts of the United Nations (UN) system and some bilateral donors prefer to work through parallel systems – the local offices of the Social Fund for Development, the Public Works Project, the Road Maintenance Fund, and NGOs; while the UAE and Saudi Arabia now tend to give funds directly to security forces or invest in specific projects.

2.2 Case studies

This general financial situation places governorates with natural resource wealth and the ability to attract trade and investment at a significant advantage. The most celebrated experiences of local governance in Yemen today are those of Marib and Hadhramawt, both of which are in areas under control of the internationally recognised government and can draw on important oil and gas resources. Both Marib and Hadhramawt have resumed paying civil service salaries, are ensuring a measure of security, and have succeeded in taxing regular trade flows through their territory, thus generating additional reliable local income. In the areas under control of Ansar Allah, Dhamar stands out as a governorate that has succeeded in taxing regular trade flows and achieved local stability and the resumption of a local political process. The case studies below provide further details of these three governorates and the positive and cautionary lessons they may hold for local governance in Yemen.

⁹ For instance, according to official Yemeni government figures for 2013, 31 billion YER (7%) of local government budgets were funded from local resources, as against a central allocation of 432 billion YER (93%) (Academic and Political Activist in Sana'a 2018: Annex 4).

Case study: Marib

Marib garnered attention for pioneering new revenue-sharing models between the local and central level. Marib's governor succeeded in reaching an agreement with President Abdrabbuh Mansur Hadi to share Marib's oil revenues between the governorate and the central government in line with proposals from Yemen's National Dialogue Conference. Twenty per cent of revenues from oil sales now accrue directly to Marib. This agreement has had an important demonstration effect, with oil revenues now shared according to the same formula in Hadhramawt and Shabwa. Oil revenue, alongside revenue from selling natural gas to Sana'a, allowed Marib to resume paying public employees in the governorate and to reorganise the security forces, bringing in more local leaders and troops and pushing for greater accountability (Baron 2018). The result has been decent public service provision and a locally accepted security force that has improved security in Marib City and many rural areas. In parallel, the governorate guaranteed judges' salaries and personal security, providing a measure of 'law' alongside the 'order' provided by governorate security forces. However, the Marib Central Bank now operates independently from that in Aden and there are persistent, though hitherto unsubstantiated, stories of private misappropriation of funds (UN Panel of Experts on Yemen 2019: 41).

Revenue from oil, support from Saudi Arabia, stable security, and public service provision have laid the foundations for an economic boom in Marib, further expanding governorate income from taxing trade and business. Many Yemeni businesses have relocated to Marib and the governorate has become an important entrepôt for goods moving from Saudi Arabia into Yemen, including through its de-facto control of al-Wadiya border crossing, nominally in Hadhramawt (Basalmah 2018: 14). It also sits astride trade routes from the port of Mukalla to areas under control of Ansar Allah, and for locally produced natural gas exported west to Sana'a and surroundings. The continued functioning of state structures have also allowed officials in Marib to locally coordinate external support, most notably from Saudi Arabia, more effectively than elsewhere, giving local officials a say in priority areas for outside investment (Baron 2018: 11). Long on the margins, with limited infrastructure and high rates of deprivation, Marib has now opened a new university, Sheba Region University, and is attracting Yemenis fleeing from the war and the economic collapse of other parts of the country. Greater local autonomy, local coordination of external support, and the ability to plan ahead with stable revenues has allowed officials to invest in local electricity, water, and transportation infrastructure, creating a virtuous cycle of local security, local service provision, local investment, and local revenue generation for local governance.

Despite these successes, Marib's good fortune relies on having reached a revenue-sharing agreement with the central government and on the disorder that surrounds it. The case highlights not only the virtuous cycle investment in local governance can bring but also the enduring interdependence of local and central government and the importance of potentially volatile external aid flows for Yemen's current islands of stability. The case also underscores that any peace deal will need to offer guarantees to political elites and the wider public in places like Marib. On the whole, the inhabitants of Marib are better off now than they were before the war. They will need assurances that peace does not spell a return to marginalisation.

Case study: Hadhramawt

Together with Marib, Hadhramawt is one of the resource-richest Yemeni governorates, and since 2018 receives some of the revenue from oil sold from the governorate's fields for local development projects.¹⁰ Moreover, oil production is an important indirect source of income. Due to an initiative of the governor, local authorities have curtailed payments to locals for oil field and facility security but are insisting producers take greater responsibility for development in the areas where they operate. However, oil production and sales have been slow and repeatedly stalled, as producers remain wary of the security situation or balk at the new investments expected of them. Though publicly owned Petro Masila and Canadian Calvalley have resumed production and there is currently an investment conference planned in Dubai, the governorate now derives much of its income from customs duty and port fees levied at Mukalla and al-Shaher port.

Both ports have become far more important since the outbreak of the current war, not least due to the decision to lower and streamline fees and duties on goods that enter Yemen through the governorate.¹¹ In addition, the local authorities increased revenue by stepping-up tax collection and charging fees for electricity and water. Like other governorates under control of the internationally recognised government, Hadhramawt is benefiting from monthly fuel shipments from Saudi Arabia, which have allowed local electricity generation to resume and freed up resources for other local services.

Mukalla and the coastal area of Hadhramawt were internationally notorious for a time for being governed by Al-Qaeda in the Arab Peninsula. Now, however, the security situation is stable, although assassinations and clashes continue in the valley. Locally recruited security forces supported by the UAE are credited with playing an important role in securing the coast (Badr 2018: 13), but hold little sway in the valley region, which falls militarily under the First Military Zone and administratively under the Deputy Governor for the Valley and Desert Directorates.

A steady stream of income and stable security in at least the coastal areas have allowed Hadhramawt to become a local governance 'success story'. Salaries for public officials are being paid and local authorities are paying for basic services from locally generated income. Hadhramawt has hired new teachers and drilled new wells as well as resuming health services. The governorate also offered incentives to promote private investment in real estate, health, and education and succeeded in attracting investment from the large Hadhrami diaspora, which has contributed to recovery in recent years (Basalmah 2018: 14).

Yet Hadhramawt also points to the challenges facing local governance in Yemen in the future. Difficulties in coordinating services and security between the coast and valley, for instance, in part result from rivalries between local political currents supported by different external backers. Saudi Arabia is supporting operations in Hadhramawt's First Military Zone in the valley, while the UAE pays the salaries of the Hadhrami Elite Forces in the coastal Second Military Zone, which gives it far-reaching influence over the area's security. Moreover, despite their important role in stabilising the security situation, the many security forces that now exist in Hadhramawt are almost certainly surplus to requirements in peace, highlighting the looming challenges of security sector reform and disarmament, demobilisation, and reintegration once active fighting stops.

¹⁰ However, according to some sources, slow disbursement of funds has led the central government to suspend payments for the time being.

¹¹ According to local sources, this decision was initially taken by Al-Qaeda in the Arab Peninsula and has been maintained since by the last two governors.

Case study: Dhamar

Due to the centralised nature of existing local governance practice in Yemen, much can hinge on the person and personality of the governor. As in other cases, this is evident in Dhamar, where the current governor was appointed in January 2018. In his 30s and hailing from a locally influential tribal family,¹² the new governor brought youthful energy, an interest in mediation, and an openness to dissenting voices to the governorship.

In Dhamar, he is well known for his daily inspection visits to out of the way local administration offices, which have helped to ensure that local authorities continue to function in Dhamar, despite very limited resources. The governor also signalled his openness to advice and different perspectives from his first days in office. Early on, he appointed advisors from across the political spectrum, from different political parties and civil society groups, to support his administration. Dhamar is also one of the few governorates in Yemen where the Local Councils elected in 2006 continue to function.

In a virtuous cycle similar to that in Marib and Hadhramawt, these signals, along with some distance from the conflict's front lines and a commitment by Dhamar's tribes to maintain security in the governorate, helped to ensure the continuing functioning of local government services, albeit at a much reduced level. This, in turn, has made Dhamar an attractive target for investment and a relative safe haven, allowing it to emerge for a time as the main crossroads of trade between the areas under control of Ansar Allah and the areas under control of the internationally recognised government. Increased trade has allowed the local administration to raise funds from customs duty and taxes from local merchants, further ensuring the basic functioning of security and justice providers and some services, although fears over an extension of hostilities to the governorate have, on occasion, brought local economic activity to a standstill.¹³

It is common to note that most local officials in Yemen have not received salaries since the beginning of the war. In Dhamar, this is technically true, as the internationally recognised government suspended regular salary payments in areas outside its control in August 2016. However, the de-facto authorities in Sana'a do supply a (much reduced) central budget allocation to the governorate, and the local tax and customs authorities in Dhamar have redoubled their efforts to raise funds locally, paying out much of their revenue as a basic stipend to local officials and governorate employees.

In terms of local government services, the governorate now relies for the vast majority of basic service provision on international support. Local sources estimate that international organisations, and particularly the UN system, pay for between 80 per cent and 90 per cent of the basic services currently supplied. Locally generated revenues and the philanthropy of local traders provide the remaining funding.

Like the other case studies, Dhamar highlights the virtuous cycle of effective local governance, but also suggests the intense challenges for the post-war period. It underscores the intense aid-dependence of those Yemeni governorates that do not have natural resources as well as the fact that as long as the war continues, the looming possibility of violence threatens to unravel the limited gains achieved and to imperil the limited services local authorities are able to supply.

¹² Like many, the family has been divided by the war, with some family members now serving in prominent positions in Marib's local authorities.

¹³ Recent movements of the conflict front line have placed Dhamar's income more fundamentally in question, as most trade from Aden port currently (March 2019) moves through Ibb, due to fighting along one of the main routes into Dhamar.

3 Future Options: Established and emerging consensus

In the wake of the 2011 uprisings in Yemen and in the context of strong sub-regional movements demanding greater local powers, the National Dialogue Conference (NDC) documented a growing consensus for ambitious decentralisation across the Yemeni political spectrum. Despite the war, discussions on local governance have continued. There is widespread agreement on the guiding principles for local governance in Yemen – and Yemeni experts, officials, and representatives of political parties and civil society have developed promising suggestions for future options.

3.1 Guiding principles and NDC plans for local governance

Much has been written about the NDC's plans for federalism and the political dynamite of its implementation (see e.g. Salisbury 2015). NDC outcomes on local governance arrangements at the level of governorates and districts have garnered far less attention, yet these provisions continue to enjoy widespread support among Yemeni political actors. The NDC outcomes envisage local authorities as autonomous in their areas of responsibility. Local governance would be constrained by national laws and the constitution but would not answer to the national government and not be dependent on ratification or approval from the national (federal) level. NDC outcomes also incorporate the principle that political decision making should occur as close to citizens as possible. As such, they assign all competencies not expressly reserved for the federal level to the regions, governorates, or districts. At the governorate level, local authorities would have exclusive jurisdiction over planning, urban development, economic development, promoting investment, basic services, infrastructure, electric power, and transportation within the governorate.

Law enforcement, public security, and judicial control would be the joint responsibility of the regional and governorate level – not the central level.

Within this system, governors are envisioned as regional prime ministers: they are to be elected by the Local Council, who would themselves be elected through a closed proportional list system by universal suffrage. Governors would be dependent on the continuing support of a majority of Council members to rule. According to the NDC plans, the governor would head the regional government and report to the Local Council. The Councils are assigned far-reaching authorities: they can issue binding decisions to the executive, pass laws and create development plans, set local taxes, and approve the budget chapter by chapter and propose amendments (that is, they are to have the power to set the budget, not just rubber stamp it).

Moreover, the NDC outcomes assign the Councils far-reaching oversight powers over the local administration, including overseeing recruitment to the local administration and the ability to withdraw confidence from any public official within its jurisdiction (see: Challand forthcoming).

These recommendations continue to enjoy widespread political support. The internationally recognised Minister of Local Administration, Abdul-Raqib Fatih, for instance, recently reiterated the following consensus principles for local governance (Fatih 2018: 7-8):

- Local authorities should represent local communities through directly elected Local Councils, should be ultimately accountable to local communities, and ensure effective women's participation.

- ≡ The responsibilities of local and central government should be clearly delineated with minimal overlap.
- ≡ Local responsibilities should, at a minimum, include primary responsibility for local development and services.
- ≡ Local authorities should have decision-making power in their areas of responsibility, including for the management of local affairs and autonomy for local planning.
- ≡ Local authorities should have financial resources in keeping with their responsibilities from central and local sources.
- ≡ Local authorities should ensure transparency and citizen access to information.

3.2 Evolution of consensus recommendations between parties

While the NDC vision remains an important reference point, Yemeni political actors have also developed more limited recommendations for an interim period, during which, ideally, peace would be consolidated and the crucial details of more systematic decentralisation or federalism would be worked out alongside other legal and constitutional changes. These recommendations crystallised over the course of a workshop series and meetings on local governance, the restoration of the state, and improving local ownership and support of the peace process. These workshops and dialogues each engaged with different groups of Yemeni local governance experts and stakeholders, including ministers, governors, former high-ranking officials, academic experts, and representatives of political parties.

They were held between mid-2017 and late 2018 in Sana'a, Mukalla, Cairo, Addis Ababa, and Berlin. The following overview summarises options developed in these settings with wide backing from across these groups.

The evolving consensus is to base local governance during an interim period on the provisions of Law 4/2000 and Law 18/2008, while seeking to remove the legal and practical barriers to their implementation. A legal team nominated by local authorities and central government could review legislation and suggest ways to bring all legislation in line with the spirit and letter of Law 4/2000.

Moreover, there is broad consensus to selectively expand local autonomy in specific priority areas beyond the existing provisions of the laws and agreement that local authorities are crucial for, and need to be the primary actors in charge of: local security, humanitarian relief and recovery, reconstruction and development, and the provision of basic services in the governorate. A clear commitment to the key elements of this consensus in a peace agreement would help to secure buy-in to an agreement from local power holders from across the political spectrum.

The following options for the future specify this overarching consensus for an interim period.¹⁴ They enjoy widespread support. They suggest steps to allow the effective implementation of the existing Local Authorities Law and suggest adjustments to the legal framework, or, in some cases, official sanction of currently effective de-facto practices during an interim period. While these options all suggest additional local powers and resources, there is widespread agreement that local governance also requires an effective central framework of oversight and legal adjudication and should respect the constitution and areas reserved for central government as sovereign powers.

¹⁴ This consensus envisages transitional arrangements for an interim period, during which the form of the state would be determined in a comprehensive political settlement. Once this is reached, local authorities at different levels should be ready to potentially hand back some of these powers in compliance with the new agreement.

Governors and Local Councils' composition and powers

- ≡ A peace agreement should include a mechanism for review of governor appointments in consultation with local parties.
- ≡ As a stopgap measure prior to elections, inclusive Local Councils should be created. They could be formed by appointment, based on consultation with local parties, to include representatives from political parties, civil society, community leaders, former Local Council members, and representatives of the private sector. The interim bodies would take on the authorities of the Local Councils envisaged in the Local Authorities Law.
- ≡ The central government should modify or temporarily suspend central approval procedures for local decisions. At a minimum, permission should be considered granted unless it is withheld. (Current practice, in line with Executive Bylaw Art. 295, is for Local Council decisions on annual budgets and plans, local fees, etc. not to go into effect until endorsed by central authorities.)

Funding

- ≡ The central government should allow locally collected fees and taxes to fund the governorate budget and accept current governorate fee levels, subject to governorates making fee schedules, especially those imposed on private individuals and businesses, transparent and public. In a future step, the central government should review and adjust the values of fees stipulated in Cabinet Decision 283/2001.

≡ The central government should provide an enabling framework for local authorities to access assistance and grants from international donors and restore central budget allocations to the governorates, including the payment of public servants' salaries via the governorate branches of the Central Bank.

≡ The central government should provide additional revenue-raising powers to the local authorities. However, there is currently no clear consensus on what these sources of funding should be and whether this could include a governorate income tax or fraction of customs duty.

≡ In the longer term, defining a clear and transparent mechanism for resource-sharing and redistribution of revenues between the central and the local level and across the different governorates will be central to effective and successful local governance in Yemen. Similarly, it will be necessary to authorise Local Councils to access and develop sustainable resources at the local level.

Investment and reconstruction

≡ The central government should grant local authorities the right, without the need for central approval, to set investment conditions and development priorities. Local authorities should have the authority to conduct studies, set terms, and sign contracts regarding local projects – excepting those reserved as 'sovereign powers' for the central government.¹⁵

≡ Local authorities should be involved in the determination of priorities and needs as well as the overall supervision and monitoring of relief and reconstruction efforts. International donors and INGOs should enlist Local Councils as liaison points with local organisations and private sector actors.

15 These could include agreements over strategic natural resources like oil, international trade, and other areas.

They should prioritise restoring basic water, sanitation, and health services and basic security and justice services, including the operability of police stations.

- ≡ Local authorities could seek to bundle private and public investment in infrastructure, identify blocked and abandoned development projects, and search for sources of funding to complete them. Significant numbers of projects have been blocked or abandoned due to relatively minor conflicts or funding shortfalls.

Local security

- ≡ The central government should delegate the supervision of local security institutions, especially the police and civil defence, to the local executive, as stated in the Local Authorities Law (Law 4/2000: Art. 3, 14, and 155). Existing practice and Republican Decree 65/2002, amongst others, currently contravene this stipulation.

- ≡ Local authorities should provide protection for judges, as well as resume paying the salaries of judges, police personnel, and all other public employees.

- ≡ In the longer term, central and local authorities should work together to train personnel for local security structures, especially newly appointed personnel, and there will need to be national-level support for local authorities to deal with the multiple armed groups that now exist at the local level.

Services

- ≡ Authority over governorate and district branches of institutions providing local services should be ceded to the local authorities. Central government ministries should likewise cede supervision of publicly owned companies focused on the provision of local water, electricity, telecommunications, and other services, to the local authorities.

Personnel and administration

- ≡ Governors' legal authority to appoint, transfer, and mandate staff and to nominate directors of the local executive offices (Law 4/2000: Art. 43) should be respected in practice, and central ministers should cease making personnel decisions in the governorates. In the longer term, Local Councils should be given the ability to select the district and governorate executive, monitor appointments, and hold the local administration to account.

- ≡ A decree should clearly delimit what 'public interest' concerns can be grounds for the central government to dissolve Local Councils.

- ≡ The central government, supported by international donors, should provide capacity development to local officials.

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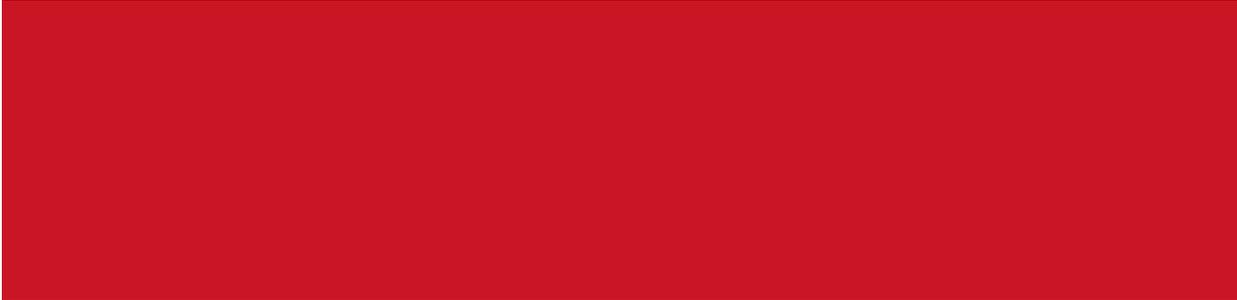
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