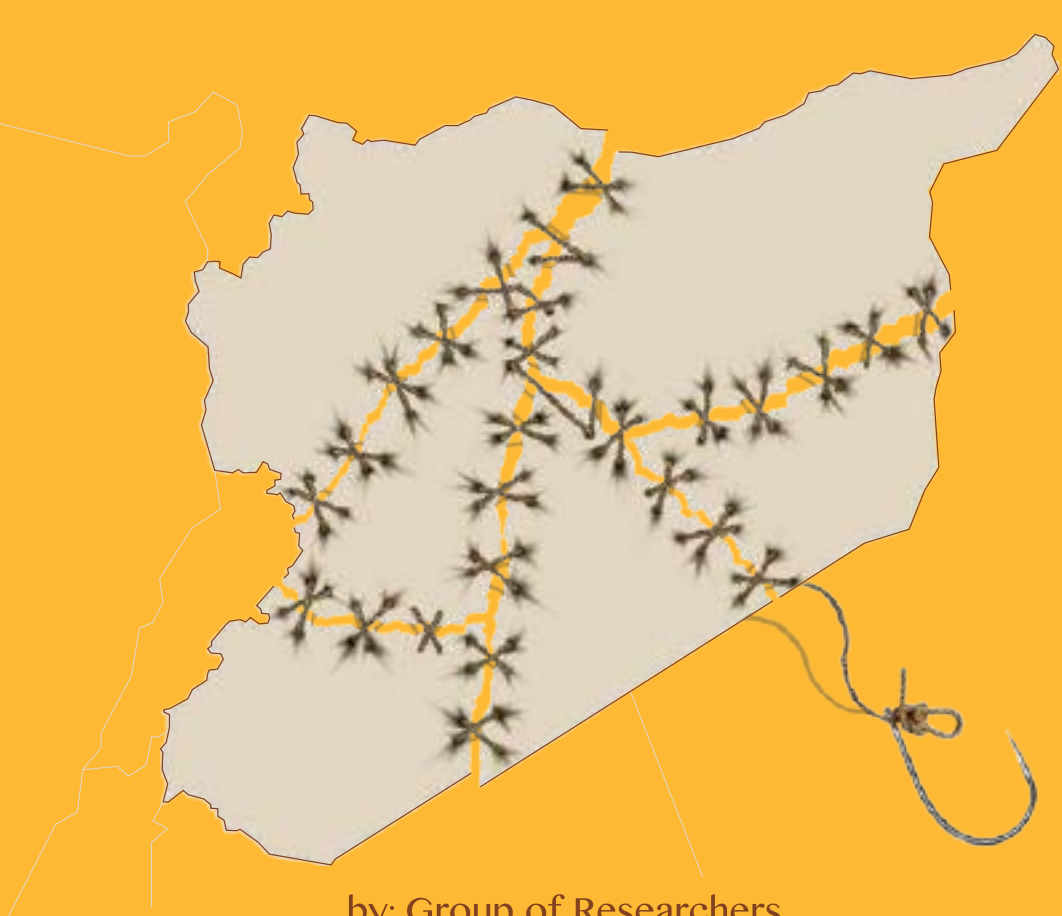




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OMRAN
FOR STRATEGIC
STUDIES

Centralization and Decentralization in Syria: The Concept and Practice



by: Group of Researchers

Fourth Annual Year Book 2018

**Centralization and Decentralization in Syria:
Concepts and Practices**

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Concepts and Practices**

**Fourth Annual Book
Omran Center for Strategic Studies**

Omran Center for Strategic Studies

An independent think tank and policy research center focusing on presenting an objective understanding of Syria and the region to become a reference for public policies impacting the region.

Omran began in November 2013 in Istanbul, Turkey. It publishes studies and policy briefs regarding Syrian and regional affairs in the areas of politics, economic development, and local administration. Omran also conducts round-table discussions, seminars, and workshops that promote a more systematic and methodical culture of decision making among future leaders of Syria.

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Introduction

After seven years of conflict between the people and the Assad regime, Syria is now going through a difficult phase. The nature of the conflict has transformed whereby the role and effectiveness of local actors has been greatly marginalized compared to an increasing role for international state and non-state actors. The role of armed opposition factions has diminished as international military, administrative, and political influence has grown. These armed opposition actors are also in a phase of turmoil as they struggle to survive or integrate under direct international custodianship, after having previously received support from the Northern or Southern Operations Rooms. This process follows the series of meetings in Astana and Sochi, and after the political bodies were domesticated into official negotiating bodies that support the interests of countries with direct influence over them. At the same time, direct Russian influence came to dominate the political, military, economic, and administrative spheres. As a result, the concept of the unified framework of the "regime platform" versus the "opposition platform" in accordance with the Geneva II concept was discarded through the creation of several negotiating platforms on the sides of the opposition, the regime, and the Syria Democratic Forces (SDF).

At the same time as these political changes were happening, the areas of influence and control on the ground were consolidated in 2018 into the north and northwestern portion under Turkish control, the northeast under the U.S. and SDF control, and southwestern Syria under the influence of the U.S. and Jordan, allowing Israel to strike any sites that it deems threatening. The areas of siege and opposition group control have been eliminated. International and regional influence has thus become more distinct, as efforts to control and integrate both armed opposition and pro-government groups continue.

This new phase is characterized by a complex series of partial deals that build on one another, and the arrangements among the state actors are developing in a "step by step" policy approach. The "counter-terrorism" framework that was used to justify the entry of these countries into Syria, is no longer a justification for their continued presence and influence: the U.S. is increasingly focused on the "Iranian threat;" Turkey is focused on "fighting the PKK" and security its borders; Israel justifies its interventions with the need to protect its borders against the "Iranian

threat" and to prevent the transfer of weapons and fighters toward its borders; and Jordan is now also interested in protecting itself against the "Shi'ite crescent".

In light of this new landscape, contributing writers to this book discuss several aspects of Syria's current form of governance and how experiences on the ground in the different areas of influence converge or diverge from the concepts of centralization and decentralization, both vertically and horizontally. Towards this end, the chapters of this book first clarify the concepts and forms of decentralization and the way they are applied in post-conflict countries. They highlight the important role that agreeing on the form of governance and power sharing is an important factor in maintaining territorial unity and in shepherding negotiations to a more relevant stage of the new post-conflict reality. Next, the authors delineate decentralization in terms of its political, security, financial, and developmental functions, and review the constitutional and legal foundations of administrative and political decentralization in Syria. Finally, the authors present the experiences and applications of governance since 2011 in the regime-controlled areas and opposition-controlled areas, as well as in the SDF-controlled in northeast areas of the Democratic Autonomous Administration. Woven throughout the book are comparative descriptions of the experiences from Iraq, Lebanon, and other countries emerging from conflict, to see what lessons can be learned from the ways that these countries have negotiated the distribution of powers between central and local administrative units.

This book aims to help lay out a path towards the restoration of the legitimacy lost by all parties in Syria through the organization of local governance tools based on the experience of local councils. Local councils have tended neither towards excessive forms of decentralization nor to authoritarian centralization, but have instead followed a path that strengthens local structures and sets limits to central state authorities by granting powers rather than delegating them. At this stage, it is essential to work in parallel on strengthening the central government while also safeguarding and reinforcing the gains of the local councils through constitutional guarantees and a new local governance law. This book also stems from recognition of the need to shift away from limited centralized negotiations among the two "sides of the conflict" through a constitutional process followed by general elections, towards a negotiation based on power-sharing arrangements. Local governing bodies and other local actors should be engaged in the process of deciding which functions and authorities are mandated to the central institution versus the local governing units.

The chapters of this book were contributed by several researchers who differ in their approaches, but they all agree on the need to develop a decentralized Syrian model that avoids the reductive binary approach of political decentralization / administrative decentralization or federalism, and one that is based on the sharing of powers and functions, thus transitioning Syria's system of governance from local administration to local governance. There is no doubt that further development and discussion of these ideas is required, but we present this effort as a starting place for a dialogue in the Syrian community on the most authentic or locally developed form of governance for Syria, which after years of adhoc decentralization, has become more localized than ever before.

Finally, it is important to note that most chapters were written in late 2017 and early 2018, which was before the change of control of Damascus suburb, northern Homs and the southern front. The arguments for a tailored and customized Syria-centric decentralization model put forth are still valid regardless of the controlling armed party.

Ammar Kahf, Ph.D
Executive Director

Executive Summary

Chapter one of the book focuses on the concept of decentralization and illustrates the differences among countries when it comes to choosing how they exercise administrative authority. Every country's approach to governance is influenced by its political and social conditions, as well as the maturity and depth of its democratic practices. The need to shift towards a decentralized system becomes apparent after examining factors related to a state's nature, size, and degree of political stability. Decentralization becomes a necessity for stability in some countries because of its core idea: the distribution of power and functions of state institutions between the central governments and local administrative units. This conceptualization reaffirms the fact that the transformation to fully decentralized system may be risky for many governments, despite the promise that decentralization holds as the solution for most conflicts in developing countries such as those in the Arab world. Chief among these problems is the need to expand the political and economic participation of citizens. Still, given the ethnic and sectarian diversity and complex nature of countries, decentralization can be a threat to state unity.

Chapter two describes political functions of the state in a decentralized system and how it is practiced in different versions of decentralization. Political functions of the state take many forms depending on the degree of decentralization and mode of local governance. The far end of a decentralized governance system continuum appears in the practice of full political decentralization (full federalism), where provinces and regions have their individual constitutions and laws, exercise special legislative, executive, and judicial powers, and influence federal government policy through a political oversight authority and through their representatives in the legislative branch councils. Local governments, meanwhile, exercise specific roles in these functions under the partial political decentralization within their constitutionally-vested authority. These roles are primarily related to domestic policy-making and the development of local rules and regulations that do not contradict federal legislations. In administrative decentralization modes of governance, the practice of political functions and duties is reduced to a great extent as it focusses exclusively on administrative and executive functions of local governing institutions. Local administrative units would then be fully subordinated and controlled by the central administration in the capital. In partial administrative decentralization modes of local governance, political functions completely disappear from local units.

According to chapter three of this book, the exercise of legislative and judicial functions within a decentralized system will require reforms in the Syrian judicial branch, such as: the restructuring of the Supreme Judicial Council to ban the executive branch from holding membership in it and stop its interference, and the repeal of laws that encroach on public rights and freedoms with judicial not executive branch oversight. Assessing the current form and content of the Syrian Constitution in terms of centralized or decentralized approaches highlights centralism as highly visible and grants authority to the presidency (which has broad constitutional powers) to override all other authorities and functions of the state. Instead, the principles of separation and distribution of powers should be applied to three independent bodies in order to create balance and cooperation between them. With regard to legislative duties in Syria, this paper shows that the Constitution has broadly granted legislative duties to the People's Council of Syria (Parliament) and the President of the Republic, transforming the mandate of the Parliament from drafting laws to ratification of presidential laws. Reforming this imbalanced structure requires redefining the scope and mandate of the Parliament, abolishing the broad powers granted to the President, and reducing the centrality of legislation process and parliament. There needs to be a shift toward some kind of decentralization that divides future legislative functions in a balanced approach between the exclusive jurisdiction of the legislative branch, and the jurisdiction of the executive branch for all that is not stated in text of the constitution.

The fourth chapter focuses on security functions in decentralized systems. In the context of conflict-ridden or post-conflict countries, it is critical and necessary to re-assess national security functions: their applications, mechanisms for implementation and governance, and how security roles are distributed at different levels of government. This paper emphasizes that the redistribution of security duties and authorities in decentralized countries (in accordance with the lessons from stable and unstable countries) may result in a more efficient and coherent security architecture depending on who and how such a process is executed and whether by means of national actors, cross boarder actors, or international actors. In the search for a governing framework of the Syrian security sector within a decentralized system, independent intelligence agencies should have a clear mandate of intelligence gathering only (except for police forces and anti terrorism units that can arrest citizens) and an identified geographical jurisdiction. Local governing bodies should be constitutionally mandated to provide local security services and conduct police functions and duties locally. The assessment and identification of security threats and risks and the counter strategy to such risks should be developed locally and shared with central agencies for coordination.

The fifth chapter highlights the dialectical relationship between decentralization and its role in local development in countries emerging from conflict. Local development is one of the most important determining factors in whether or not decentralization is adopted in these cases. While some of post-conflict countries have reached acceptable rates of economic and social development after moving to a decentralized system, others have not. This disparity may be due to factors linked to each country's particular local development process and adopted form of decentralization. This paper emphasizes that in the context of the Syrian situation, the country has suffered from the absence of a clear developmental model for decades. This has led to major developmental imbalances at the central state level, which are most evident in the developmental disparities between Syrian governorates. The adoption of a model of administrative decentralization in Syria will help to mitigate this disparity by empower local communities to participate in the local development process.

The sixth chapter, which deals with financial decentralization, emphasizes the fact that the successful implementation of decentralized systems of government in post-conflict countries depends largely on their ability to establish regulatory frameworks for financial decentralization and mechanisms for the collection, distribution, and disbursement of financial resources at various levels of government and administration. Successful implementation also requires substantial reforms in fiscal policy in general and in spending policies in particular. This paper finds that that the model for allocating financial resources to the local administrative units out of the state budget in Syria has many flaws. It is necessary to grant administrative units greater financial independence and to define metrics for successful financial decentralization to measure whether these units are meeting developmental requirements and making effective contributions to economic and social stability in their regions.

The seventh chapter examines the reality of local administration in regime-controlled areas. It illustrates the dominance of the central government in the local administration systems in regime-controlled areas, the growing influence of the Baath party, and the increasing influence of local Iran-backed forces in the operations of some local administrative units. This paper finds that the service sector crises in the areas of local administration units are indicative of their lack of funding, dysfunctional mechanisms, and insufficient personnel, forcing them to rely on the central government to conduct their affairs. It also argues that the regime is not interested in decentralization – which runs counter to its desire to retain centralized control – but it does use decentralization politically as a bargaining chip for negotiations with the international community, particularly the Europeans. The

regime also attempted to manipulate the boundaries of the electoral constituency of administrative units to change administrative districts and weaken opposition areas by preventing them from winning elections in their areas while rewarding loyalists.

The eighth chapter focuses on the reality of governance in Syrian opposition-controlled areas. It reaches several conclusions, the most important of which is that local councils have undergone changes in terms of structure, mechanisms of formation, and function, as their organizational structures have stabilized and they rely increasingly on the elections for their membership. They have also been able to consolidate their service roles, compared to their role in local security and politics. The financial file is one of the primary challenges facing local councils as they cope with growing financial deficits, due both to the nature of revenues and expenditures, and also their lack of financial systems or laws regulating their budgets. This chapter explains how the long duration of the conflict, the transformations in its nature, the push towards coexistence, and the survival of the regime have all stimulated competition between local actors, of which the local councils were one of the most prominent players due to their political value and local legitimacy. As a result of the way the local councils have dealt with these challenges and threats, they face one of three scenarios in the foreseeable future: vanishing entirely, forming regional or cross-regional self-administrations, or continuing the current independent local units structures.

The ninth chapter analyzes the reality of governance in the Democratic Autonomous Administration (DAA) areas. It shows that lack of transparency is a key feature of service delivery, financial administration, and the management of strategic resources within the Democratic Autonomous Administration (DAA) areas. The process of forming legislative councils (mandated to pass laws) in these areas was based on partisan consensus that relied primarily on the literature and system of the Democratic Union Party (PYD) and its Movement for a Democratic Society (TEV-DEM). Laws passed by these legislative councils, such as laws related to self-defense, changes to school curricula, and civil status laws, are problematic. A review of the structure of the DAA and its legislative and executive bodies, shows the presence of a partisan political project that is being forced on the local population through its security and military apparatuses. This paper concludes that the DAA, though able to impose a unique governance model, still suffers from problems of representation, legitimacy within its population, and a lack of competent personnel, and it has failed to eliminate the local and regional concerns arising from this project.

The tenth and final chapter of this book proposes a unique Syria-customized decentralized framework, one that takes into account the importance of achieving

stability. It highlights the importance of refocusing international negotiations on two parallel tracks: negotiations policies to strengthen central state institutions in order to create conditions for peace and stability, and empowering local governance models through local negotiations on power sharing of authorities and functions of the central state with local administrative units. They must also revisit the basic Geneva Communiqué according to the principle of power sharing agreements between the center and periphery and not only a central agreement where the opposition and regime share authority. This means prioritizing internationally-monitored elections over any other track, beginning with local administration elections.

In order to ensure the success of the elections, essential actions are required from the different parties with regards to the restoration of the functionality of police and local courts. It is therefore necessary to begin drafting a new law for local administration (decentralization) to allow locally-elected authorities to have full control over the work of the police and administration of local courts.

The opportunity exists for local councils to legitimize their structures and negotiate new authorities, guaranteeing a decentralized model that provides expanded authorities to the councils and governorates, based on the strength of their electoral legitimacy. This chapter emphasizes the need to empower the tools and foundations of local governance both constitutionally and legally, and to ensure that the countries with a presence on Syrian soil help push the negotiations to a peace-building stage and guarantee relative stability on the ground until an agreement on the various security arrangements is concluded.

Chapter 1

Defining and Conceptualizing Decentralization

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Chapter 1: Defining and Conceptualizing Decentralization

Governments today shoulder an ever-expanding burden of responsibility. As a result of scientific advances; rapid changes in various aspects of life brought about by global political, economic, and social developments; population growth; and the need to help their societies develop. The state's responsibilities are no longer limited to providing security and justice, it must also provide for the wellbeing of its society. This means influencing the lives of its citizens in the political, economic, and social spheres in order to achieve democracy and the provision of public services. These duties have forced central governments to delegate part of their administrative responsibilities to elected local bodies acting on their behalf and under their control and supervision.

Social justice cannot be achieved unless all citizens of a country are able to enjoy the services provided to them. This standard makes it difficult for central administrations to carry out public services effectively in all parts of the country. In light of this complex and dynamic reality, governments have set up local administrations to manage local facilities and ease the burden on the central administration, which is then able to focus on providing important national services. A growing awareness of the important role of local administrations emerged in the aftermath of several studies that demonstrated that the state's success or failure in achieving its development goals depends largely on the quality of local governance practiced in the country. Administrative decentralization has thus become indispensable, with local administrations playing as important of a role as the central authorities.

States differ in their choice of methods of exercising their administrative authority. The way in which the states govern is affected by their political and social circumstances and the strength of their democratic systems. The modern state, which replaced the feudal system, needed to strengthen its central authority to the maximum extent possible. As states stabilized and adopted democratic systems and the many associated duties, they found themselves obliged to allow individuals to participate in the provision of services in order to satisfy particular local needs.⁽¹⁾ States oscillate between two ways of exercising their administrative functions: the centralized system and the decentralized system. Each country exercises these modes of administration in proportions consistent with their particular social circumstances –

⁽¹⁾ Abdel Aziz Saleh bin Habtour, *Comparative Public Administration*, Amman: Dar Al-Maseera print house, 2009, p. 223.

blending them in order to achieve legal and political unity on one hand and democratic administration on the other.⁽²⁾

Decentralization is an important concept for the future of Syria. This chapter will present an overview of the concept, with the aim of clarifying ambiguous aspects of decentralization and expounding on its political and administrative applications.

First: Definitions and Concepts

The concepts of decentralization and local governance in developing countries remain vague and confusing to many people, who understand them differently based on the influences to which they are exposed. This ambiguity is a result of the interrelated dimensions of this topic and the existence of political and administrative overlap between some of the concepts related to decentralization and local administration. In order to disentangle and conceptualize the principle of decentralization, it is necessary to first explain the principle of centralization.

1. Centralization

Centralization generally refers to the concentration of power into one principle party, regardless of whether this party is an individual, committee, agency, or council. There are three forms of centralization: political centralization, economic centralization, and administrative centralization.⁽³⁾

Administrative centralization is defined as: "The concentration all the forms of administrative activity in one administrative authority, often referred to as the government. The government directly practices this authority from the capital or in partnership with its representatives in the regions."⁽⁴⁾ It is also defined as: "The concentration of state responsibilities in the hands of central government representatives (ministers) in the capital, without the participation of other agencies. It is based on unifying administrative authority and sourcing it to one party headquartered in the capital."⁽⁵⁾ The principle of centralization stems from the argument that the efficiency and effectiveness of an institution increases when decision-making is concentrated in one person or head coordinator, who is the final

⁽²⁾ Saeed El-Sayed Ali, *Basics and Foundations of Administrative Law*, Cairo, Dar Al-Kotob Al-Hadith, 2009, p. 86.

⁽³⁾ Abdel Karim Masoudy, *Enacting Financial Resources for Local Groups, Case Study of Adrar Municipality*, Published MA thesis, Abu Bakr Bel-Qaeid University, Algeria, 2012.

⁽⁴⁾ *Ibid.*

⁽⁵⁾ Saeed El-Sayed Ali, *Basics and Foundations of Administrative Law*, 2009, p. 88.

decision-maker for every issue and can delegate some decisions to subordinates but still retains ultimate veto power.⁽⁶⁾

The centralized system has two basic characteristics:⁽⁷⁾

1. Final decision-making authority is concentrated in the hands of government officials in the capital. Regional offices and representatives of the central authorities in the regions do not depart this centralized framework, as they do not have the right to act on their own without conferring with the central government.
2. All employees are part of the hierarchy, in which each administrative level reports to the highest authority.

Some intellectuals believe that there are many advantages to a centralized state institution⁽⁸⁾ it helps preserve the unity of the state and society, it protects against the narrow interests of subgroups, and central government control of national resources can ensure the fair distribution to different regions. Others point to the many negative aspects of centralization, notably:⁽⁹⁾

- It increases the burdens on central government agencies, resulting in delays in the provision of citizen services and increasing citizen discontent and dissatisfaction with public administration.
- It forced central government employees to spend time focused on secondary issues instead of developing public policies, strategies, and plans that should be the core of their work.
- It weakens regional entrepreneurial incentives, leading to the loss of much-needed energy that could contribute to developing the community.
- Regions have their own specific priorities that are only truly understood by their inhabitants. A centralized approach inevitably ignores many of these local needs and priorities, and offers solutions that are not appropriate for every context.

2. Decentralization

Administrative decentralization refers to the distribution of administrative functions between the central government in the capital and local or independent bodies in the regions. This is in direct contrast to the centralized system: the centralized system concentrates administrative functions, while the decentralized system distributes

⁽⁶⁾ I. Sharkansky, *Public Administration: Policy Making in Government Agencies*, U.S.A, Rand McNally & Company, 1975.

⁽⁷⁾ H. McCurdy, *Public Administration: A Synthesis*, U.S.A, Cummings Publishing Company, 1977

⁽⁸⁾ Mohamed Al-Taamna, *Government Administration in Jordan: Reality and Requirements for Change*, Cairo, Dynamic Print house, 2004, p. 151.

⁽⁹⁾ *Ibid*, pp. 151-152.

them.⁽¹⁰⁾ Administrative decentralization is “one of the methods for administrative organization, based on distributing the administrative function between the state’s central authority and the local administrative bodies in the regions, so that the latter exercises their jurisdiction under the control of the central authority.”⁽¹¹⁾

As the concept of decentralization evolves, development agencies and international donors have adopted broad definitions. According to the World Bank, decentralization is: “the transfer of authority and responsibility for public functions from the central government to intermediate and local governments or quasi-independent government organizations and/or the private sector.”⁽¹²⁾ In other words, the World Bank has defined decentralization as a “rearrangement of accountability between citizens, politicians, and service providers with priority given to some actors over others.” Thus, decentralization “involves restructuring relations among state, society, and the market, with important implications for both political structures, as well as civil society.”⁽¹³⁾

There are two main facets of a decentralized system: the legal aspect – represented by the fragmentation of previously concentrated public authority in the modern state; and the political aspect – represented by an expansion of the concept of democracy, since ultimate decision-making authority in many matters is transferred to elected local bodies,⁽¹⁴⁾ which reflect the contribution of citizens to the decision-making process.⁽¹⁵⁾

3. Reasons for Decentralization

The need for a shift towards a decentralized system becomes apparent after examining factors related to a state’s nature, size, and degree of political stability. Decentralization becomes a necessity for some countries in post-conflict times because of its core idea: the distribution of powers and the tools of governance between central governments and local administrative units, thus allowing members

⁽¹⁰⁾ Ammar Bu Diaf , Al-Wajeez fel Qanoon al-Edary, Jusour printshop,2007, p. 170.

⁽¹¹⁾ Abdel Aziz Saleh Bin Habtour , Comparative Public Administration,2009, p. 243.

⁽¹²⁾ <http://www1.worldbank.org/publicsector/decentralization/what.htm>

⁽¹³⁾ Institutional Development and Transition: Decentralization in the Course of Political Transformation , ESCWA,2013, p. https://www.unescwa.org/sites/www.unescwa.org/files/publications/files/e_escwa_ecri_13_3_e.pdf.

⁽¹⁴⁾ “Local governance encompasses local-level state institutions in addition to partnerships and informal networks linking local officials to non-state actors, non-governmental organizations (NGOs), and private-sector bodies, Ibid p. 6.

⁽¹⁵⁾ Abdel Karim Masoudy , Enacting Financial Resources for Local Groups, Case Study of Adrar Municipality, Published MA thesis, Abu Bakr Bel-Qaeid University, Algeria, 2012.

of local populations to take ownership in new post-conflict arrangements. The following are the most important factors for countries to decentralize:⁽¹⁶⁾

- Stable political and economic conditions tend to set the ground well for local governing or administrative units to be granted authorities and powers independently of the central authority. This stability reduces central governments and leaders' sense of threat that lower levels may revolt.
- Adopting a form of decentralized system of governance is deeply connected with the formation of compound states that take the form of a federal union whereby regions are large and the population is diverse. The federal compound state is based on dual and multiple sovereignties of the federal government and provincial governments with independent characteristics and autonomy.
- The move towards expanding realm of political democracy, adopting democratic practices in administration of public entities, and expanding political democratic participation of the people by guaranteeing its representatives in public offices both locally and nationally.
- The diversity of government functions and their growing role in society have led to the enlargement of the administrative state and the increasing complexity of its operations. Decentralization is a method for managing the large government agencies and bodies that perform these tasks.
- An increased public awareness and spread of objective democratic practices/values by individuals in the community trickles to change cultures of managers and employees in public sectors, in the face of decreased personalistic considerations for government work. This institutionalizing of new communal culture, trust and democratic experiences encourages new leaders within these institutions to delegate authorities and responsibilities to local units to increase efficiency in service delivery.
- When the circumstances facing lower level governing bodies vary from one field to another and from region to region, it encourages decentralization and the delegation of decision-making authority to lower levels. Central decision-making and fixed rules of conduct and regulations may be inappropriate for these different and diverse circumstances.

The transition to a fully decentralized system is still risky for many governments, despite the fact that this system largely addresses the problems of developing states, such as those in the Arab world. Foremost among these problems is the challenge of expanding political and economic participation.

⁽¹⁶⁾ Mohamed Nasr Mehanna , Modern Public Administration: Analyzing the experiences of a selected group of countries, Alexandria: Al-Maktab Al-Jamei Al-Hadith, 1998, p. 154.

Because of ethnic and sectarian diversity and the complex nature of states, full decentralization threatens state unity. Policymakers are often reluctant to delegate authority because of geostrategic turmoil and fears of state collapse. For this reason, most post-conflict countries resort to decentralization on a small scale – i.e., the delegation of the authority to implement policies, or the transfer of some decision-making powers while the central state retains authority over key policy issues. In this manner, the transfer of some authority becomes a tool to build the capacity of local structures in preparation for further decentralization in the long term.⁽¹⁷⁾

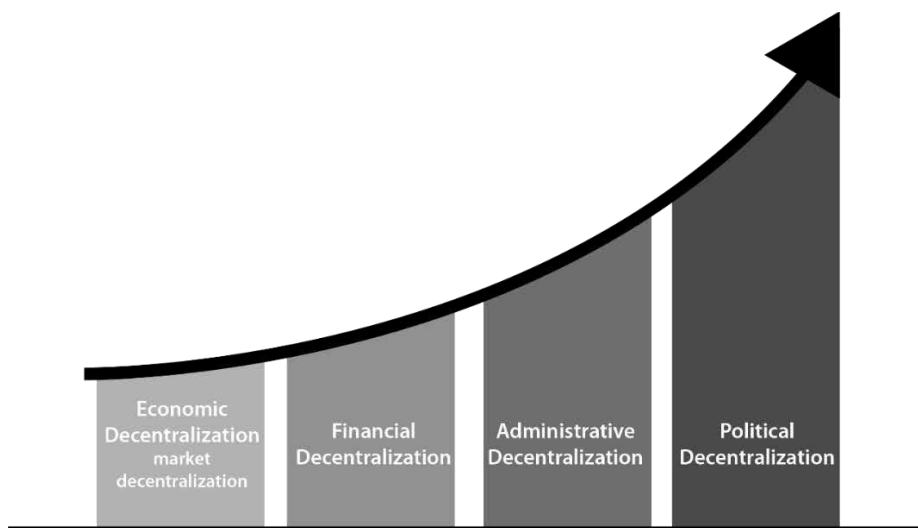
Second: Forms of Decentralization

Decentralization is essentially the transfer of a large part of the authorities, responsibilities, and functions of the central government to local organizations, whether they are government-affiliated, semi-autonomous, or private sector. The term "transfer" is used rather than "delegation" of authorities, because the mandate does not confer original authority. The central government can revoke the decision to delegate at any time,⁽¹⁸⁾ and can also simultaneously exercise the authorities that have been delegated.

Classifications have emerged for what some experts call forms, types, or patterns of decentralization based on the varying applications of the complex concept of decentralization to state functions. These can be grouped into four main forms in the following diagram and further detailed below.

⁽¹⁷⁾ Institutional Development and Transition: Decentralization in the Course of Political Transformation, 2013.

⁽¹⁸⁾ Samir Abdel Wahab, Decentralization and local governance (comparative theoretical and applied study), ch. 9, Cairo: Faculty of Economics and Political Science, 2012, p. 2.



1. Political Decentralization

The full implementation of political decentralization involves creating a constitution that distributes the different government functions (legislative, executive, and judicial) between the federal government in the capital and local governments in the provinces, cantons, or other subnational political units. This type of decentralization is usually found in compound federal states like the United States and Switzerland.⁽¹⁹⁾

Political decentralization grants citizens or their elected representatives more authority in public decision-making. It assumes that decisions made through broad participation will be better and more relevant to the diverse interests of society than those made by the central government alone. An electoral system gives citizens more information about their political representatives and allows elected representatives and their staff to better understand the needs and wishes of their constituencies. Many countries that previously appointed local councils, have today adopted elections as a means of forming local councils and selecting their members. According to the World Bank's "World Development Report 1999/2000," in "1980 national elections had taken place in 12 of the world's 48 largest countries, and local elections had been held in 10 of them. By 1998, 34 of these countries had held elections at both the national and local levels." In Africa, 25 of the 38 countries that held national elections in the 1990s also had local elections.⁽²⁰⁾

⁽¹⁹⁾ I. Sharkansky, *Public Administration: Policy Making in Government Agencies*, 1975.

⁽²⁰⁾ Samir Abdel Wahab, *Decentralization and local governance (comparative theoretical and applied study)*, op. cit., 2012, p.3. Original source: <https://goo.gl/XLbbtn>

The move towards political decentralization requires constitutional amendments and amendments to local administration and election laws. Although political decentralization is considered to be an advanced concept in the realm of political reforms, it is by itself an insufficient feature of reform and checks and balance. The formation of elected governments at the local level creates incentives for decision-makers to respond and be accountable to voters, but it also increases the prevalence of nepotism and weakens political parties, strengthening the influence of traditional authorities. These factors undermine democracy at the local level.⁽²¹⁾

2. Administrative Decentralization

Administrative decentralization means that the central government transfers its planning, management, and resource allocation authorities to local units in the regions. In other words, it is a method of distributing administrative functions between the central government and local bodies that may be elected, appointed, or a combination of both. In all cases, the central government reserves the right to control, review, and provide guidance to local bodies.⁽²²⁾ Reforms aimed at moving towards an administratively decentralized system focus on the "institutional infrastructure," i.e. systems, procedures, and structures that support the fulfillment of responsibilities by subnational (local) actors. Administrative decentralization is not limited solely to the transfer of responsibility for public functions from the national government to local bodies in the regions, but also includes the establishment of mechanisms procedures for the central government to work with local structures of authority.⁽²³⁾ Thus, administrative decentralization is different from political decentralization, as it is limited to the distribution of the administrative function, and is equally applicable in both compound and unitary states, while political decentralization is concerned with the distribution of the political function.⁽²⁴⁾

There are three main forms of administrative decentralization depending on the size of the authorities that are transferred from the central government to local government bodies:⁽²⁵⁾

A. Deconcentration: This is considered to be the weakest form of decentralization and is most often used in unitary states. Deconcentration redistributes decision-

⁽²¹⁾ Institutional Development and Transition: Decentralization in the Course of Political Transformation , 2013 , pp. 11-12.

⁽²²⁾ Mohamed Fathallah al-Khatib and others , Contemporary trends in local governance systems ,Cairo , 1981 , p.75.

⁽²³⁾ Institutional Development and Transition: Decentralization in the Course of Political Transformation, 2013, p.11.

⁽²⁴⁾ Mohamed Fathallah al-Khatib and others , Contemporary trends in local governance systems ,Cairo ,1981, p. 76.

⁽²⁵⁾ Samir Abdel Wahab, Decentralization and local governance (comparative theoretical and applied study), 2012, ch. 9, p. 3. Original citation: <https://goo.gl/wX4n2u>

making authority and financial and administrative responsibilities between different levels of the central government. It may be as simple as a transfer of responsibilities from central government employees in the capital to those working in the regions and territories.

- B. **Delegation:** A form of administrative decentralization where central governments transfer responsibility for decision-making and the management of public functions to quasi-independent bodies that are not entirely controlled by the central government, but are ultimately accountable for it. “Governments delegate responsibilities when they create public enterprises or corporations, housing authorities, transportation authorities, special service districts, semi-autonomous school districts, regional development corporations, or special project implementation units. Usually these organizations have considerable discretion in decision-making.”⁽²⁶⁾
- C. **Devolution:** “Devolution usually transfers responsibilities for services to municipalities that elect their own mayors and councils, raise their own revenues, and have independent authority to make investment decisions. In a devolved system, local governments have clear and legally recognized geographical boundaries over which they exercise authority and within which they perform public functions. It is this type of administrative decentralization that underlies most political decentralization.”⁽²⁷⁾

In many countries including Poland, South Africa, Uganda, Finland, and Australia, some powers and authorities have been transferred to local units. These countries have implemented reforms that increased the capacity of local councils to make them more accountable and responsive to local communities. Emphasis was placed on strengthening accountability systems, transparency, and developing strategic plans, so local councils would be more responsive to the wishes and needs of society.

Jurists believe there are two forms for administrative decentralization:⁽²⁸⁾

- A. **Regional decentralization:** Recognition of the general characteristics of a part of the territory of the state, such as the governorates, cities, or municipalities. Regional decentralization is manifested through the independence of part of the state’s territory in the conduct of its affairs and the satisfaction of its peoples’ needs. This type of administrative system is necessary when central authorities fail to do everything in all the parts of the country. The acknowledgement that

⁽²⁶⁾ <https://goo.gl/C8nm6>

⁽²⁷⁾ <https://goo.gl/fK9qeB>

⁽²⁸⁾ Zoheir al-Kayed , Governance: Issues and Applications, Arab Organization for Administrative Development, 2003, p. 128.

each region within the state has its own unique circumstances, historical trajectories, and social-demographic realities, entails recognizing the unique characteristics and features of local bodies. This type of decentralization is synonymous with the local administration system. It assumes the presence of elected local administrative units that are subject to the supervision and monitoring of the central government.

- B. Reciprocal decentralization:** When a national or local public utility is granted the ability to manage its activities in a manner independent of the central government, but under its supervision and control. This approach stems from the state's desire to manage public utilities commercially, separate from the complexities of government bureaucracy and procedures, in order to provide services to citizens effectively at the lowest possible cost.

3. Financial Decentralization

Financial decentralization grants local governments the right to collect additional taxes or set spending policies. Reforms in this area may enhance the central government's fiscal capacity to collect taxes and secure services that meet the needs of the local community.⁽²⁹⁾

Financial responsibility is a key element of decentralization. In order for local governments and private organizations to carry out decentralized functions effectively, they must have sufficient revenue – whether it is collected locally or from the central government – and the authority to make spending decisions. Financial decentralization can take many forms, such as self-financing or cost recovery (through recovering the costs of production and expenses), and co-financing or co-production arrangements, through which beneficiaries participate in the provision of basic services and infrastructure, expanding local revenues through ownership, sales taxes, costs, or indirect expenses, all of which feed into the sources of funding for local units. Financial decentralization also takes the form of transfers of tax revenue that was collected through the central government to local governments, and delegation of the right to borrow.⁽³⁰⁾ Many states have paid attention to the decentralization of financial authorities as elements of structural adjustment programs, as a result of pressure from international donors in the 1980s. These countries transferred some of the central government's spending and financing

⁽²⁹⁾ Institutional Development and Transition: Decentralization in the Course of Political Transformation , 2013, p.11.

⁽³⁰⁾ <https://goo.gl/VfBNth>.

responsibilities to local units and eased central control over these units, with the goal of more efficiently using of resources.⁽³¹⁾

4. Economic Decentralization or Market Decentralization

This refers to the withdrawal of the government from economic activities, in order to serve the interests of the private sector. This withdrawal may range from leaving the full supply of goods and services to the private sector and the free market, to public-private partnerships in which the government and the private sector cooperate to provide services and infrastructure. Privatization may include the following:⁽³²⁾

- Allowing private enterprises to perform functions that were previously reserved for the government.
- Contracting for the supply or management of public services or facilities.
- Financing public sector programs through the capital market and allowing private organizations to participate.
- Transferring responsibility for providing public services from the public sector to the private sector.

The United Nations Development Program (UNDP) literature further outlines types and modes of decentralization according to the degree of independence within a decentralization arrangement, as follows:⁽³³⁾

1. Autonomous lower-level units:

In this form, the central government relinquishes some of its powers to lower units such as the governorate, district, municipality, and other local authorities, and grants them legal status as separate decentralized units. This type of decentralization, also referred to as **devolution**, has the following features:

- Local units are autonomous and perceived as separate from the central government and not under its direct control.
- Local units have clear and distinct legal geographical boundaries, within which they exercise authority and perform their functions.
- Local units have an institutional legal status, and the authority to ensure that financial resources are available to carry out their functions.

⁽³¹⁾ Samir Abdel Wahab, *Decentralization and local governance (comparative theoretical and applied study)*, 2012, ch. 9, p.4.

⁽³²⁾ <https://goo.gl/A2ycoQ>

⁽³³⁾ UNDP, Bureau for Development Policy, Management Development and Governance Division, Management Development and Governance Division, “Decentralized governance programme: strengthening capacity for people-centred development”, Sept. 1997 <https://goo.gl/7GM9qS>, accessed 22 May, 2018.

- There is a reciprocal relationship between the central government and local units to exchange benefits and coordinate their relations.

2. Semi-autonomous lower-level units

In this type of decentralization, the local units enjoy partial independence where many of the authorities of the central government are delegated to local units through legislation or contracts. These authorities do not reach the extent of the concessions made in the first form.

Delegation here refers to the transfer of government decision-making and administrative authorities and responsibilities for defined tasks to institutions that are often under indirect or semi-independent government control. Examples include regional development institutions and urban projects owned by the state.

3. Subordinate lower-level units or sub-units

This model entails the subordination of the local units, which are usually delegated with specific policy, financial, and administrative powers, while relying on financial resources and inputs from the center. This model, also referred to as **deconcentration**, is the least decentralized in terms of the degree of independence granted to the lower units such as the branches of ministries in different regions and governorates.

4. Units external to the formal governmental structure

This form of decentralization refers to the transfer of certain public functions to units outside the formal government structure. However this form is generally not dealt as a form of decentralization, but rather as divestment. **Divestment** occurs when public planning and functions are transferred from the government to private or non-governmental organizations such as chambers of industry and commerce, trade unions, political parties, cooperatives, etc. These institutions are given the right to issue permits and licenses, organize, and supervise their members to carry out functions that the government used to handle. They may also refer disputes to the judicial branch instead of the central executive authority.

Third: Local Administration and Local Governance (Conceptual Confusion)

There have been many opinions and debates, especially in the Arab literature, on the distinction between the concepts of local administration and local governance. The main arguments in this regard can be summarized as follows:⁽³⁴⁾

- First argument: Its proponents argue that local governance is achieved in unitary states when some legislative powers are transferred to local councils so that these units have a role in local policy-making, while local administration refers to only local executive powers and not legislative or judicial duties. This trend concludes that local governance reflects an expansion in political decentralization, while local administration refers to administrative decentralization.
- Second argument: Calls for no distinction between the terms local administration and local governance and considers the two terms to have the same meaning. They refer to one method for administration, the application of which varies from country to country depending on political, economic, and social conditions.
- Third argument: Claims that local administration and local governance are two different concepts, although they both reflect one method of administrative organization. Proponents of this view see the difference between the two terms as not just a symbolic dispute over terms. Each term expresses a specific system that is distinguished from the other by a set of characteristics and features. However, both terms fall within the concept of administration organization, and despite their different methods both embody one approach to regional decentralization.

Flowing from these schools of thought, several criteria can be identified to help distinguish between the concepts of local administration and local governance. These criteria are as follows:⁽³⁵⁾

1. **Authority:** Regional decentralization is referred to as local governance if the local councils receive broad authorities, particularly with respect to local service provision. This is the case in countries with constitutions that give these councils the right to exercise all functions that are not explicitly prohibited in the text of the constitution. In contrast, regional decentralization is described as a local administration if the authorities of local councils are limited, such that they are

⁽³⁴⁾ Abdel Aziz Saleh bin Habtour, *Comparative Public Administration*, 2009, p254.

⁽³⁵⁾ Mohamed Al-Taamna, *Government administration in Jordan: Reality and Requirements for Change*, 2004, p156.

prohibited from exercising any new powers or before enacting laws that authorize such practices, without first referring back to the central government.

2. **State Form:** When regional decentralization is applied in unitary states, it is called local administration; while when it is applied in countries with federal systems it is called local governance.
3. **Elections:** Regional decentralization is local governance if all local council members are directly elected by the local population, and it is local administration if they are appointed by the central government or are a mix of elected and appointed members.
4. **Jurisdiction:** If local councils have inherent jurisdiction according to the law then the regional decentralization is considered local governance, but if these councils were delegated authority by the central authority, it is considered local administration.

Local governance may be defined as the distribution of legislative, executive, and judicial authority between central governing authorities in the capital and the regional governments,⁽³⁶⁾ thus taking on a political and constitutional nature. Local administration is the distribution of administrative functions between the central executive authority and local elected bodies that operate under the supervision and control of the central authority. Thus, there is a clear difference between the terms local administration and local governance.

From the above, it is clear that the assertion that local governance and local administration are synonymous is inaccurate. Although the local system in France is called local administration and in Britain it is called local governance and both systems reflect regional decentralization, this does not mean that the two terms are synonymous. The work of local councils in Britain is administrative in nature and does not include any legislative or judicial functions, thus they cannot be considered to be local governments. The viewpoint that distinguishes between local administration and local governance within the scope of organizational management styles is not an accurate logical approach but one based on semantics. The foundations of local administration is related to the organization of the state's administrative bureaucratic apparatus and the coordination of relationships between central authorities and local councils, and fall within the scope of administrative law. Local governance systems are based on the distribution of the administrative, legislative, and judicial functions, and is a feature of federal systems.⁽³⁷⁾ The criteria

⁽³⁶⁾ Ramadan Batekh, *Local Administration in Federal Systems*, Jeddah, Al-Ein Printshop, 1998, p60.

⁽³⁷⁾ *Ibid*, p61-62.

for distinguishing between local administration and local governance can be illustrated in the following table.⁽³⁸⁾

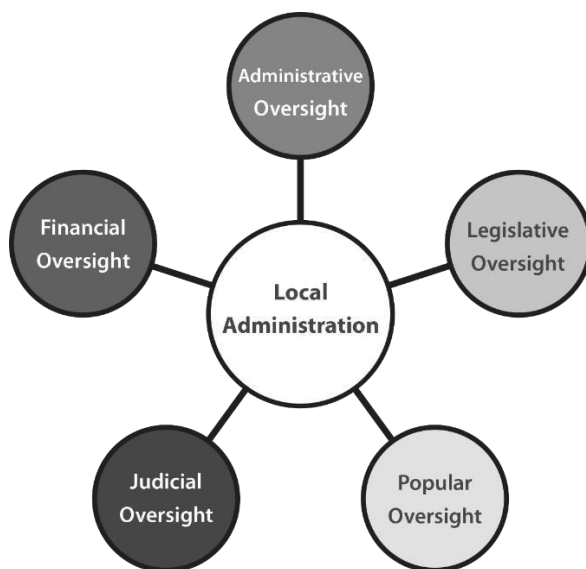
Criteria	Local Administration	Local Governance
Establishment	According to a passed law	According to the constitution
Reporting	Linked to the administrative system of the state, and is thus considered a means of administrative organization.	Linked to the form of the state, and is thus considered a means of political organization.
Function	Only part of the state's administrative function.	Executive, legislative and judicial function.
State Form	Unitary and compound states.	Compound states only.
Mandate and Jurisdiction	Jurisdiction may change, increase or decrease, defined by legislation and often executive branch's decrees.	Relatively fixed mandate per constitutional stipulation.
Monitoring	Subject to monitoring and supervision by the central authority.	Indirectly monitored by central authority.
Applied Laws	Subject to all valid national laws.	Subject to its own laws, issued by its own legislative authority.

Fourth: Central Control over Local Administration

The independence of local governing and administrative councils in varying degrees is a cornerstone of any local administrative system. Despite the importance of this pillar, this independence is considered relative not absolute, and remains within a framework defined by the national legislature. The goal is to ensure that independent entities do not break away from the state and also to guarantee the legitimacy of the work of local councils. Local councils differ in terms of their financial capacities and resources. This in turn impacts the efficiency and effectiveness of their staff and the level of services that they provide. Central authorities must therefore monitor and control the work of the local administration in order to reduce the gaps between local bodies.⁽³⁹⁾ The forms of oversight exercised over local administrations are as follows:

⁽³⁸⁾ Ayman Aouda , Local Administration, Amman: Wael Printshop, 1st Edition,2010, p44.

⁽³⁹⁾ Khaled Al-Zoabi, Relationship between Local Administration and Central Administration, Means for Integration, Paper presented to the First Arab Forum for Local Administration Systems in the Arab World, held in Oman, March 18, 2008.



1. Administrative Oversight

Administrative oversight is defined as: "the set of powers granted by the legislature to the central authority, to enable it to oversee the activity of local bodies in order to protect the public interest."⁽⁴⁰⁾ Local councils at different levels have the right to issue administrative decisions within certain limits without being subject to the directives from the central administration. However, in order to guarantee that they do their work well, efficiently, and effectively, and without exceeding the authorities vested in them, a special type of control – namely administrative control – is required. Administrative oversight can be divided into two parts:⁽⁴¹⁾

- A.** The formation and dissolution of local councils: Central authorities have the right to install and dissolve local councils.
- B.** The actions and work of the local councils: The law requires prior approval from central authorities for some of the actions of the local bodies, such as:
 - Decisions related to the establishment and implementation of projects that require large sums of money.
 - The sale of certain assets and disposition of movable funds which belong primarily to the local administration.
 - Borrowing from financial institutions.

⁽⁴⁰⁾ Ayman Aouda, Local Administration, 2010,p173.

⁽⁴¹⁾ Khaled Al-Zoabi, Relationship between Local Administration and Central Administration, Means for Integration.

2. Legislative Oversight

The legal foundation of local governing and administrative units stems out of the legislative branch of government. Therefore, any changes in the formation mechanisms, dissolution, or changes in its boundaries require the approval of the legislative authority. Furthermore, changes to the scope or range of authorities that local bodies may exercise is also based upon ratification by the legislative branch. The legislative authority also set governing rules for financial policies and distribution of resources. The role of the legislature extends to the ensuring oversight and accountability of the executive branch – represented by the minister or ministers concerned with local administration – on issues related to local administration, to ensure the proper application of the law and the prevention of deviations.⁽⁴²⁾

3. Public Oversight

Residents of a jurisdiction exercise supervisory control over local councils to ensure that members and staff perform their assigned duties efficiently and effectively. The forms of this control may vary according to the different local administration systems. Local residents may have the right to accept or reject some of the decisions of their local councils, as in France. Residents may have the right to dismiss members if they fail to perform well or are corrupt, as in the United States. Citizens may also exercise popular control by attending local council meetings, and ensuring that the agendas and results of these meetings are made public.⁽⁴³⁾ Additionally, residents may have the right to file complaints, criticisms, and suggestions with their local councils, and monitor media outlets through which people's views on important local issues can be presented, including television, radio, and newspapers.⁽⁴⁴⁾

4. Judicial Oversight

Local administrative units are a creation of the law. Local authorities must act in accordance with the law and refrain from abusing or exceeding their legal authority, otherwise their actions can be challenged in court. The judiciary serves as the referee between central and local authorities, and the latter has the right to seek the annulment of central decisions that it deems unjust and contrary to the law. The judiciary also considers cases where the central administration or individuals request

⁽⁴²⁾ Mohamed Qassem Jaafar, Democracy of Local Liberal and Socialist Administration, Algeria, Diwan Al-Matbouat Al-Jameia, p34.

⁽⁴³⁾ Khaled Al-Zoabi, Relationship between Local Administration and Central Administration, Means for Integration, Paper presented to the First Arab Forum for Local Administration Systems in the Arab World, held in Oman, 2008, March 18.

⁽⁴⁴⁾ Mohamed Qassem Jaafar, Democracy of Local Liberal and Socialist Administration, p35.

the annulment of decisions issued by the local administration, if they are in breach of law.

5. Financial Oversight

This is the most effective form of control, as it extends government oversight to the activities of all local bodies. The most important ways that this supervision is exercised are as follows:

- A. Financial inspection: The funds of local authorities are public funds and they are subject to oversight by the central government. The central government sends financial inspectors to audit the accounts of the local authorities, and files reports on the financial activities of local authorities to the proper authorities such as the Ministry of Finance. The modern practice of financial and administrative inspection is generally viewed as a means of providing advice, direction, and guidance, rather than discovering errors.
- B. Approving loans: The majority of local administration systems grant local authorities the power to borrow to finance their projects, but make this power conditional on central government approval of loans in order to ensure the safety of projects and verify the ability of local authorities to repay the loans and interests. The strength of this form of oversight is demonstrated by the fact that the decisions of the central government are final and cannot be appealed.
- C. Determining local taxes and fees: The decisions of local councils to impose or modify taxes and fees are subject to approval by the central government.

Conclusion

The pace of institutional transformation has accelerated over the past decades. The 1980s and 1990s witnessed extraordinary changes in governmental and economic systems. The democratic political movement – which calls for greater independence of legislatures, the consolidation of government responsibility, and faster responsiveness to the growing needs of citizens – has gained strength. There has also been a trend towards increased reliance on the free market to solve economic problems. This trend towards privatization has led governments to cede many of their traditional roles to the private sector. This has led to a growing interest among developing countries in decentralization, strengthening the capacities of local governance systems, and enhancing accountability, transparency, and popular participation.

The adoption of these concepts is an example of integration and adaptation to global trends, while the rejection of these concepts has become almost impossible in light of cultural and economic globalization. The desire of people in developing countries for greater freedoms, expression, and development has been fueled by the failure of dictatorial governments, which use strong centralization to maintain their hegemony over society. Their efforts have led to confrontations between these governments and their people, as happened in the Arab Spring in general and in Syria in particular. For over a quarter of a century, the Syrian state has been a model for highly centralized governance that is not inclusive – even on a limited scale – and does not allow for even minimal accountability. The first structural flaw in the governance model in Syria before the revolution was the adoption of a highly centralized formula where the state assumed all public roles, preventing citizens and community leaders from performing typical roles including oversight and civil society initiatives.⁽⁴⁵⁾

From its very beginning, the revolutionary movement in Syria produced an experiment in decentralization, starting with local coordination committees that led to the formation of elected local councils. The length of the conflict has led to the solidification and refinement of this experience. Local council representatives gained considerable experience in managing their regions, coping with the growing needs of the people as a result of the ongoing war, and strengthening relationships in the regional and international arenas through work with international organizations operating in liberated areas. **This has made it impossible to turn back the clock and return to a highly centralized system after the conflict.** Indeed, this experience represents a rare opportunity to change governing institutions in Syria.

Uprisings that overthrow long-standing regimes are usually critical turning points in the long-term development of governance institutions. These uprisings provide policy makers with rare historical opportunities to play a part in restructuring institutions at the macro level.⁽⁴⁶⁾ Policy makers must not lose sight of the fact that in Syria, post-conflict transition and reconstruction will be a process of state building. This process will be plagued by many challenges, especially the narrow separatist and localist tendencies that are common during periods of turmoil and weakness during the formation of the new state. **Therefore, any decentralization project must have clear answers to two important questions: What is the best model for achieving decentralization in Syria during the transitional period? And, which timeline best suits its implementation?**

⁽⁴⁵⁾ ESCWA, The Strategic Policy Alternatives Framework (SPAF): Syria Post-Conflict, National Agenda for the Future of Syria Programme, 2017, p. 20.

⁽⁴⁶⁾ Institutional Development and Transition: Decentralization in the Course of Political Transformation, 2013, p.1.

Chapter 2

Political Functions of the State in a Decentralized System

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Chapter 2: Political Functions of the State in a Decentralized System

Most political science theories agree on the basic functions of the state but disagree on their scope, which differ at every stage in history. Defining the nature and limits of state functions remains a point of controversy among political science researchers. Some disagreements are related to ambiguities between the state's use and exploitation of national resources. It is easy for the state to turn these resources from a tool for pursuing the goals of the nation into a tool of oppression, whether under the guise of ideology or reform.⁽¹⁾ However, there is an agreement in the literature that the current trajectory is heading towards an expansion of functions and responsibilities of states, which in turn requires greater powers and authorities that may eventually become overbearing.⁽²⁾ As the international order evolved in the post-Cold War era, the discourse on state functions underwent a revision as the content, scope, extent, and mechanisms for performing these functions changed.

The scope of state functions vary both vertically and horizontally: horizontally in the sense that they can be expanded outside of the territory of the state; and vertically in the sense that they extend from the top down to the smaller local units.⁽³⁾ The functions of the state also differ according to the state's mission and goals, examples include: the liberal state concept of minimal intervention in daily life, the welfare state which entails a wider scope of government interventions to ensure food and health security, and the concept of the socialist state which puts the state in control of the means of production and the distribution of wealth.⁽⁴⁾ This chapter will focus on the political functions of the state and their relationship to the concept of decentralization.

First: The Political Function of the State and its Borders

The political function of the state, in its broadest sense, is the ability of the state to impose its control and sovereignty on a society composed of different groups, each of which aims to control the institutions of government. The state must strike a balance between these elements such that state institutions are not subject to the

⁽¹⁾ Rana Abu Amra, *America and the Failed State*, Cairo, Merete Print Shop, First Edition 2014, p28.

⁽²⁾ Almustaqbal party, *The State in Lebanon, Principle and Project*, 2014.

⁽³⁾ Rana Abu Amra, *America and the Failed State*, Cairo, Merete Print Shop, First Edition 2014, p30.

⁽⁴⁾ Almustaqbal party, *The State in Lebanon, Principle and Project*, 2014.

control by one group and the exclusion of others.⁵⁵ Political function is also the ability of the state to control the behavior of these different groups and prevent them from imposing their opinions, policies, or platforms on the state and society and disregarding the platforms and policies of other groups; especially since the government is an area of conflict between political parties who want to gain power by exploiting state resources to serve their own interests.

The concept of political function is linked to the principles of authority, accountability, and control.⁶⁶ Political function is also linked to the presence of a framework and terms of reference for the relationship between the primary governing authorities, represented by the legislative, executive, and judicial institutions. These terms of reference are consolidated within the state's constitution and legal system. The method of governance is the framework through which the state conducts its political functions and interacts with both internal and external actors.

The modern concept of political functions – in addition to official state authorities – also includes the administration of authorities outside of traditional state institutions, thus representing and expansion of the authority of the state. The power of non-traditional social forces (civil society organizations) constitutes a fourth governing authority, which may be thought of as the community's authority over the government. This authority relies on the cooperation of individuals outside the framework of the official authorities, but still operating within the constitutional provisions of the state. Thus, political systems may be categorized as democratic or totalitarian, with the dividing line between being the existence of institutions that do not represent the positions of the the ruling elite.⁷⁷

Political functions also include the transmission of values at the national level in an authoritarian manner using the tools of material coercion when necessary.⁸⁸ These coercive instruments may take the form of laws and regulations to punish violators. In sum, the political function refers to the process of drafting general laws and

⁵⁵ Fayez Zoreiqat, Trends of Jordanian Umma Council Members, toward impacts of globalization on state functions, *Al-Manara Journal*, Jordan, Aal Al-Bayt University, Book 15, number 1,2009, p58.

⁶⁶ It is difficult to separate the idea of politics from authority, which is mostly defined as the ability to impact or impose the will of someone over the others. The politics is the competition over public authority, and the authority is the ability of the winner to impose his will. For more about the idea of connections between politics and authority, visit Patrick O'Neil, *Essentials of Comparative Politics*, translated by Bassel Jabeli, Damascus: Dar Al-Farqad print shop, first edition 2012, p. 13, 2012.

⁷⁷ Rana Abu Amra, *America and the Failed State*, Cairo, Merete Print Shop, First Edition 2014, p46.

⁸⁸ Coercion here is used to indicate that the state is the exclusive owner of the right to declare law and implement it, and force the people or oppress them to abide to the law. Max Weber has expressed that by saying the state has a monopoly on the legitimate use of violence within its territory.

regulations that address all members of society, i.e., the process of abstract public decision-making enforced through physical coercion when necessary.

The distribution of political functions of the state vary in different systems of government. For example:

- **Parliamentary political system:** The political functions of the state are distributed between executive and legislative authorities on the basis of cooperation and balance between them. Political functions are established legally through the execution of procedures associated with state regulation, the most important of which are: presidential nomination process, extension of presidential mandates, declaration of states of emergency, declaration of war, embargoes on other states, and other matters that impact the state and its policy.⁽⁹⁾
- **Oversight duties** are carried out according to constitutional procedures and tools guaranteed by law as a responsibility of elected members of parliament. These tools and procedures include written and oral questioning, investigations, interrogations, and putting motions to hold the government politically accountable for its actions.⁽¹⁰⁾
- **Presidential political system:** Executive authority plays an important role in political function, such as in the U.S. where the president is elected indirectly in a two-stage process. In this system, the president exercises broad powers with respect to political functions at the expense of the bicameral legislature, despite their cooperation on many matters. The president of the republic is the supreme commander of the armed forces and is in charge of foreign policy, in addition to exercising oversight duties, which is one of the most important political functions.
- **The hybrid Parliamentary-Presidential (Semi-presidential or Dual Executive) system:** Political functions are shared by the legislative and executive branches. The president holds some core political functions, as both the highest person in charge and the symbol of national sovereignty, while the prime minister

⁹⁾ Rashed Abdel Rahman, Ahmed Al-Esseiry, *Parliamentary Councils and its relation with Shura in Islam* (Comparative jurist and legal study), Beirut: Al-Halaby legal publications, 2012, p 184.

¹⁰⁾ Parliamentarians exercising of the political roles embody and express the rule of law, that is an important guarantee for the governments 'subordination to the law. This means that the executive branch is subject to the legislative oversight, which ensures that the executive may not take any action except in implementation of the law or according to the law, and supervises and guides its actions, and topples it if necessary. The political functions of legislative councils take many different forms, that may include mediation between citizens and executive authorities, and impacting public opinion through expressing the needs of the community in a political way.

Mohamed Kamel Leila, *Political Systems (State and Government)*, Beirut: Dar Al-Nahda Al-Araby print shop, p923.

Abdel Hamid Al-Awak ,legislative authority during the transitional period, Orient News, <https://goo.gl/UyXMFR>.

is responsible for the government's political and administrative functions and maintains relationships with the parliament, foreign interests, trade unions, and the public. The legislature exercises oversight authority and other powers related to political responsibility.⁽¹¹⁾

In sum, the more the political functions of the state re directed towards building and spreading democracy, the larger the circle of integrity, transparency, and reduced corruption under the rule of law. The more that political function is distributed vertically and horizontally, the more it expands the degree of democracy, which essentially distinguishes democratic governance systems from dictatorships and totalitarian regimes.

Second: Political Functions in Full Political Decentralization Systems

Political decentralization as a constitutional arrangement is based upon the distribution of governmental functions and powers in legislative, executive, and judicial branches between the central government and provincial political authorities or other local governing bodies.¹² Political functions that fall under the jurisdiction of the federal government versus those of the subnational governments vary depending on the constitution, which defines these respective roles. Federal constitutions often place sovereign functions under the exclusive authority of the federal authorities. Such sovereign roles include foreign affairs, defense, and citizenship. It is necessary to note here that the executive branches of subnational units in federal systems lack ministries of foreign affairs, national security, defense, and other sovereign institutions that exist in the central government.⁽¹³⁾ For further clarification, see the following examples:

¹¹(Mohamed Kamel Leila, p924.

¹² Subnational units may refer to provinces, regions, states (in the U.S.), districts, governorates, etc. The size of these units and terms used to describe them often differs by country.

¹³ This form of decentralization distributes the political function between the central government and governments of the provinces or region on a wide scale, where some of the authorities of the rule are transferred to the states or regions, such that they have a role in the making of public policies in the federal state, based on the principle of dual authorities. The legislative, executive and judicial authorities are distributed between the central (federal) government and the states or regions according to a federal constitution that ensures the distribution of these specializations according to the political trend and economic and social circumstances that surrounded the establishment of the federal state. In addition to the federal constitution, each state or region has its own constitution, which means there is a dual political system that practices internal sovereignty. The federal state authorities practice the sovereignty within its jurisdiction and which is assigned to it by the people of the federation in this state or region. This makes the political function of the state not focused in a certain authority or party, but rather distributed between several authorities and parties, each of which practices its own part pas per the federal constitution.

- The U.S. Constitution has designated the central government – not the subnational (state) governments – to handle foreign relations such as signing treaties, sending and receiving ambassadors, and naming ministers and diplomats. The U.S. president is responsible for the constitutionality of America’s relations with other countries, with the involvement of the upper chamber of the legislature (Senate) in some issues related to foreign affairs. Article 2, Section 2, of the U.S. Constitution stipulates that the U.S. president shall have the power to conclude treaties, with the advice and consent of the Senate and provided that two-thirds of the present Senators concur.¹⁴⁾ The president also nominates and, with the advice and consent of the Senate, appoints ambassadors, other ministers and consuls, judges for the Supreme Court, and all other officers of the United States. Article 1, Section 10, of the U.S. Constitution says that no state can conclude a treaty or enter into any alliance or union.¹⁵⁾
- The German Constitution (Basic Law) has also granted the central government jurisdiction over foreign affairs. Article 32, paragraph 1, reads: "(1) Relations with foreign states shall be conducted by the Federation. (2) Before the conclusion of a treaty affecting the special circumstances of a *Land*, that *Land* shall be consulted in timely fashion. (3) Insofar as the *Länder* have power to legislate, they may conclude treaties with foreign states with the consent of the Federal Government."¹⁶⁾
- Article 246 of the Indian Constitution assigns to the Union the issue foreign affairs and all matters pertaining to India’s relations with any foreign country, including diplomatic and consular representation; participation in international conferences, assemblies, and bodies, and the implementation of resolutions adopted therein; and the negotiation and implementation of agreements and treaties with foreign countries.¹⁷⁾
- The Malaysian Constitution has assigned the central government responsibility for the creation and implementation of foreign policy and for the maintenance of security.
- The 2005 Iraqi Constitution gave federal authorities the responsibility for foreign affairs and for representing Iraq in all external matters. According to Article 110 of the Constitution, the federal government’s exclusive authorities include formulating foreign policy and diplomatic representation, negotiating

¹⁴⁾ Articles of the U.S. Constitution <https://bit.ly/2z9JunO>.

¹⁵⁾ Articles of the U.S. Constitution.

¹⁶⁾ German Constitution, <https://goo.gl/phme2P> , Note: Land is the term for a German subnational unit equivalent to a U.S. state, and Länder is the plural version of the term.

¹⁷⁾ Constitution of India, seventh schedule, Article 246, <https://goo.gl/Py9AU5> .

international agreements and treaties, negotiating and ratifying debt policies, and formulating international economic and trade policy.¹⁸⁽

Regarding international treaties, some federal constitutions note the unity of foreign policy, and give the central government the absolute right to supervise foreign relations, including the conclusion of treaties. Other constitutions give the members of the union (subnational units) the authority to conclude some international treaties. Among this latter group is the German Basic Law, which in Article 32, paragraph 3, gives *Länder* the authority to conclude treaties with foreign countries, as long as these treaties deal with issues under the legislative jurisdiction of the *Länder* and are concluded with the consent of the federal government.⁽¹⁹⁾ Some federal constitutions allow the subnational units to establish relations and conclude treaties of a cultural nature, with the purpose of promoting their cultural heritage.⁽²⁰⁾ Article 121, paragraph 4 of the Iraqi Constitution stipulates the right of regions and governorates to establish offices at embassies and diplomatic missions to follow cultural, social, and development affairs.²¹⁽

Defense is one of the most important functions of federal authorities. Federal constitutions regulate the declaration of war, the conclusion of treaties, and the relationship of these actions with federal legislative oversight. One example is the U.S. Constitution, which gives the U.S. president, as commander in chief of the armed forces, the right to manage land, sea, and air forces in times of peace and war. The president has the right to declare war with congressional approval, where he/she is required to submit a request letter to Congress to declare war on a specific country. The German⁽²²⁾, Indian, Malaysian, and Iraqi constitutions also assign the task of defense to the federal authorities. The Iraqi prime minister is responsible for the management of defense affairs in his capacity as the commander-in-chief of the armed forces. The president is also granted the authority to develop and implement national security policy, including the establishment and management of the armed forces.⁽²³⁾

¹⁸⁽ Iraqi Constitution <https://goo.gl/s3icP8> or <https://goo.gl/oJiMCD> .

¹⁹⁽ Salah Al-Basisy, Authority of States and Regions to conclude international treaties, Karbala University Press, p. 157.

²⁰⁽ Falah Ismail Hajem, Legal perspective: political integration between components of the federal state, civil dialogue, January 2008, accessed Oct 15, 2018, <https://goo.gl/d7Bubo> .

²¹⁽ Iraqi constitution <https://goo.gl/aoZiRr> or <https://goo.gl/aH75fU> .

²²⁽ According to Article 115A of Ch. XA of the German Constitution, “Any determination that the federal territory is under attack by armed force or imminently threatened with such an attack (state of defense) shall be made by the Bundestag with the consent of the Bundesrat. Such determination shall be made on application of the Federal Government and shall require a two-thirds majority of the votes cast, which shall include at least a majority of the Members of the Bundestag.” <https://goo.gl/t82wdQ>.

²³⁽ Abdel Moneim Abu Tabekh , Distribution of specializations in the federal state, comparative study, p.58.

Federal authorities have many mechanisms for political and legal influence within the political functions of the state. Most federal constitutions allow the federal government to intervene in the internal administration of subnational or constituent regions to ensure democratic stability or in support of human rights, the rule of law, and basic standards of good governance. This principle of federal intervention is one of the most significant mechanisms guaranteed to the central government by federal constitutions.⁽²⁴⁾ For example:

- The U.S. Constitution grants the president the authority to issue orders for the military to intervene in any of the U.S. states to protect against internal violence, and against the abuse of federal laws by local authorities.⁽²⁵⁾
- Article 37 of the German Basic Law states that: “If a *Land* fails to comply with its obligations under this Basic Law or other federal laws, the Federal Government, with the consent of the Bundesrat, may take the necessary steps to compel the *Land* to comply with its duties.”⁽²⁶⁾
- The Indian Constitution states that it is the duty of the “Union” to protect every subnational unit (state) against foreign attacks and internal unrest, and to guarantee that the government of each state operates according to the rules of the Constitution. If a certain state fails in this responsibility, then the president has the right to issue a statement temporarily transferring the state’s legislative and executive authorities to the national parliament and the president respectively.⁽²⁷⁾
- The Iraqi Constitution does not have any references to federal intervention. Article 109 emphasizes the duty of the federal authorities to protect the unity, safety, independence, sovereignty, and federal democratic system of Iraq.⁽²⁸⁾

Another important political function exercised by federal authorities is that of political oversight, enforcing procedural laws, and utilizing other constitutional instruments, which vary in practice under different constitutions.

Three types of oversight can be thought of in the process of carrying out political functions by the government:

²⁴(Falah Ismail Hajem, legal perspective, the principle of federal intervention, civil dialogue, issue 2146, 31/December/2007, <https://bit.ly/2IRjod1>

²⁵(Michael Bahar, The Presidential Intervention Principle: The Domestic Use of the Military and the Power of the Several States, Harvard National Security Journal. 2014, Vol. 5 Issue 2, p537-636. 100p.

²⁶(Falah Ismail Hajem, Legal perspective: Political integration between federal state components. <https://goo.gl/w648pc> .

²⁷(<https://goo.gl/iFNcEZ> .

²⁸(Iraqi Constitution, <https://goo.gl/YFFkxF> .

1. The legislative authority has the power to exercise political control over the executive branch, and is responsible for monitoring its actions, operations, and decisions.
2. The executive authority has oversight over the legislative authority.
3. Communal oversight of the legislative authority is reflected in public opinion, and exercised through legislative elections.

In Germany, this is reflected in the role played by *Länder* in the exercise of power at the federal level through their participation in both the lower legislative chamber (Bundestag) and the upper legislative chamber (Bundesrat). Through their representatives in the Bundestag, the *Länder* can exercise their federal oversight and monitoring functions. *Land* deputies can question and directly investigate the federal chancellor and cabinet members for their political conduct.⁽²⁹⁾ The German federal system gives the Bundestag the right to withdraw confidence from the German federal chancellor with the approval of the majority of the members, and to elect a successor that is nominated by the federal president. This serves as a tool that the Bundestag can use to check the actions of the executive. On the other hand, there are certain conditions where the federal president may call for early elections of lower chamber of parliament.

Federal governments carry out their roles through their constitutional, executive, legislative, and judicial bodies. Each subnational unit carries out its executive authorities through its own agencies, although they do not have foreign affairs, national security, and defense ministries, as previously mentioned. Some of the directorates within subnational governments are actually branches or extensions of federal agencies, such that decisions of the central government are mandatory for these local branches. The vast majority of constitutions of subnational units are almost exact replicas of the federal constitutions, with minor changes that highlight local characteristics.⁽³⁰⁾

Each subnational political unit has its own legislature, most of which consist of two chambers (bicameral). In the United States, every state has a bicameral legislature consisting of a senate and a house of representatives (often-called State Assembly) except for Nebraska. Article 168 of the Indian Constitution says that each state has a legislature which either consists of two chambers – the legislative assembly and

²⁹⁾ Athmar Al-Rabei, German Federalism and the Proposed Federal Project in Iraq (comparative study), Baghdad: Center for Strategic and International Studies, International Studies Journal, issue 40, 2009, p137.

³⁰⁾ Falah Ismail Hajem, Legal Perspective: Political Integration Athmar Al-Rabei, German Federalism and the Proposed Federal Project in Iraq (comparative study), Baghdad: Center for Strategic and International Studies, International Studies Journal, issue 40, 2009, p137.between Federal State Components.

the legislative council – or one chamber called the legislative assembly.⁽³¹⁾ In Malaysia, state legislatures are composed of a single chamber called the legislative assembly that is organized like a house of representatives, where the citizens elect their members for five year terms. In Germany, legislative authority is more concentrated at the federal level with considerable margin for Lander legislators. The Iraqi constitution gives provincial governments the right to exercise legislative authority.

The legislature in the Kurdistan region of Iraq consists of a single council which is authorized by the federal Iraqi constitution per Article 121 with the right to amend the provincial application of national legislation with respect to matters that are not within the exclusive jurisdiction of Iraqi federal authorities.⁽³²⁾

A national legislative body that represents each of the subnational units (e.g. the U.S. Senate) is important in federal countries because it serves as a voice for subnational units at the federal level. Through this body, each subnational government can monitor trends and movements that may seek to consolidate power at the federal level. This body can also prevent violations of the constitutional rights of subnational authorities by the federal government, and one of its most important roles is to halt the passage of federal legislation that may be contrary to the interests and jurisdictions of subnational governments.⁽³³⁾

Amending the federal constitution is one of the most important political functions of the subnational legislative bodies. Since a federal constitution may impact the independence of subnational political units such as states and provinces, the approval of each subnational legislature or often the federal legislative chamber that represents subnational states/provinces the is necessary to make and enforce amendments. Most countries with federal systems require a special majority threshold in both legislative chambers to adopt a constitutional amendment and the federal legislature often shares this authority with subnational legislative bodies. The most powerful forms of participation by subnational governments are cases where the federal constitution grants them the right to initiate and approve constitutional amendments, either through their legislatures or by popular referendum. In Germany, the Basic Law can only be amended with the approval of an absolute two-thirds of the Bundestag and a simple two-thirds majority in the Bundesrat. Likewise, Article 368 of the Indian Constitution states that amendments can be made through the introduction of a bill in either of the two houses of parliament. This means that the

³¹(<https://goo.gl/xxjkMP>.

³²(Abdel Moneim Abu Tabekh, *Distributing Jurisdictions in the Federal State (Comparative Study)*, p31.

³³(*Ibid*, p96.

Indian Constitution give the states, through the upper house of the Indian Parliament (known as the Rajya Sabha, or Council of States), the right to participate and exercise their role in amending the Constitution. The Malaysian Constitution in Article 159, paragraph 3, also gives the parliament the right to propose an amendment with at least two-thirds of the members of either chamber. The Iraqi Constitution gives the right to propose a federal constitutional amendment to the federal executive authority or the Council of Representatives – Iraq’s legislature. The Constitution did not grant this right to the Federal Council, which was intended to be a legislative body to represent the regions and governorates, but the body had not yet been formed as of 2018.

It should be noted that many modern constitutions, such as the Sudanese Constitution of 2005, define the role of subnational units in constitutional amendment processes by federal legislative representatives elected by subnational legislative bodies. These constitutions have made both houses of their legislature equal in the constitutional amendment process, requiring the approval of a particular majority of the members of each house.⁽³⁴⁾ A government is not a federal system unless its subnational units have functions that they exercise independently of the federal government, and there is a distribution of political functions. This does not mean that there is an absolute separation, but rather a defined relationship between federal and subnational authorities. Although all federal constitutions contain provisions that deal with the distribution of powers between the levels of government, there is no single pattern for this distribution. The details of the distribution of political functions between levels of government may vary widely due to differences in political, economic, social, and cultural conditions between federal systems.

Comprehensive political decentralization can be said to be based on the participation of constituent subnational units in the formation and exercise of federal powers either through their representatives in the legislature, which drafts federal laws, or by participating in the process of amending the federal constitution or other tasks that the federal constitution distributes between the different levels of government.

Third: Political Functions in Partial Political Decentralization Systems (Local Governance)

In this form of decentralization, governing authorities are distributed on a partial basis. Some powers are delegated to local (subnational) administrative units, which

³⁴Ibid , p105.

therefore have roles in the making of local public policy.⁽³⁵⁾ Local governance is based on the principle of the constitutional distribution of authorities in countries using partial political decentralization in their administration of subnational affairs. Subnational governments exercise their authority by establishing and managing local facilities, which makes their power difficult to undermine. This is especially true because this type of local governance often exists in federal states that have strong constitutions that are difficult to amend.⁽³⁶⁾ Local governance is therefore linked to the existence of a primarily elected local political authority that exercises legislative and judicial functions and is politically accountable to its local electorate. Local governance relies on the principles of separation of powers and the non-intervention of the central government in local affairs. This is what differentiates local governance from local administration, where function is limited to administrative tasks and there is accountability to the central government. Two logical approaches tend to form the conceptual framework for local governance:

- The Anglo-Saxon approach is derived from a local partnership between citizens, the private sector, civil society organizations, and the government. This model aims to achieve three goals: freedom, equality, and efficiency. The local government in this model performs two roles that preserve independence: First, it is a tool of resistance against the growing authority of the central government. Second, it also serves to instill a sense of independence and diminishes the risk of citizens developing political apathy towards democracy.⁽³⁷⁾
- The European continental approach is derived from the realization that central governments are inherently incapable of establishing internal political stability alone, so local governments are also needed to share that responsibility. Additionally, local governance helps achieve local democracy that builds up to a national democratic system.⁽³⁸⁾

We can distinguish between three models of local governance for cities:

First: The administration is based on a mayor and a council. This is the form applied in federal and subnational governments, where the mayor is independently elected and is the head of the executive body.

³⁵Ismail Sabry Maqlad, *Public Administration Studies, with some comparative analysis*, Cairo, Dar Al-Maref, 1967, p251.

³⁶Sami Al-Hamdany, *Local Administration, Implementation, and Monitoring*, Cairo, National Center for Legal Publications, first edition 2014, p93.

³⁷Mohamed Mahmoud Al-Taamna, Samir Abdel Wahab, *Local Governance in the Arab World, Directions for Development* Cairo, Arab Organization for Administrative Development publications, p37.

³⁸Ahmed Khater, *Developing Local Communities, Participation Model within the framework of community culture* Egypt, Modern University Office, Firsts edition, 1999, p144.

Second: Administration is performed through a committee. Committee members each chair a city administration department.

Third: The city is administered by an appointed or elected city manager. This could be a separate position than the mayor or the duties may be carried out by one person.³⁹(This model is adopted by many municipal governments.)⁴⁰

Thus, we may say that one form of political function is reflected in local governance through competition for power. The term competition here refers to competition between political parties in order to support and satisfy the middle class. Political function is also reflected in local independence from the federal government, which means the freedom to exercise choice in the process of local policymaking, and thus the ability to influence the lives of residents, according to the local conditions. Subnational administration units shall have the authority to issue rules and legislations that govern operations within their jurisdictions. For instance:

- In the U.S., each state – as the major subnational administrative unit – has a degree of independence in the conduct of its internal affairs (each state has its own constitution, legislative branch, and governor).⁽⁴¹⁾
- In Germany, each *Land* establishes its own local laws. This has resulted in wide discrepancies between *Land* and federal laws, and variations from *Land* to *Land*. Four main types of local government structures can be identified in Germany. The first is the magistrate system, in which all roles not given to the magistrate (the head of the local executive authority) are given to the local council. The second system is one in which the mayor is the head of both the local council and administration. In the third, the North German system, power is shared between a mayor and the town clerk. In the fourth, known as the South German system,

³⁹(Abdel Wahab Thalqasteli , U.S. Federalism as a Model to Grant Wide Self-Governance, <https://goo.gl/rYx5qS> .

⁴⁰(In this field, Richard Goleh laid out three primary elements of local governance: government sector, private sector, and civil society organizations. The government sector works to prepare the legal environment and empower the weaker segments of the community to participate in decision-making. The private sector creates work opportunities and income for the community, in addition to relaying knowledge, and spreading technology, development, and information that contributes to achieve sustainable development and security. Civil society organizations work on shaping political and social interactions by encouraging people to actively participate in the political, economic, and social spheres. They impact public policy through mobilization, accountability, transparency, assisting the government in voluntary activities, and achieving the satisfaction of the citizens. They help strengthen the values of justice, equality, and civic participation, i.e. the values of citizenship. Rozeik Joweida , trends for developing local governance in the Arab region, MA Thesis, Faculty of Political Sciences, Supervised by Molouky Soliman , Algeria, Al-Maseela University, Faculty of Political Sciences, 2012-2013, p23.

⁽⁴¹⁾ Taha Mohamad Abdelmutaleb, Horizons for developing local administration systems, Ahran Democracy Magazine, <https://goo.gl/2ePKYS> .

the mayor heads the local government council, which is responsible for nearly all powers.⁴²⁾

- In South Africa, the Constitution defines three different spheres of government: national, provincial, and local. According to the Constitution, the local government is considered independent and has its own resources and systems. The Constitution outlines local government functions based on the municipal system.⁽⁴³⁾
- In Malaysia, Act 171 regulates the structure of three main types of local government: city councils in major cities, municipal councils in smaller cities, and district councils in smaller towns.⁽⁴⁴⁾
- With respect to local governance in Iraq, pursuant to Article 122, paragraph 4 of the Iraqi Constitution, the law on non-incorporated provinces was approved as law No. 21 (2008) in order to clarify the terms of oversight and powers of the provincial authorities. Within the framework of this law, the provinces were granted expanded powers,⁽⁴⁵⁾ and the local people's councils were given multiple functions.⁽⁴⁶⁾

⁴²⁾ The German Basic Law grants the cities, regions, and localities local independence, such that regional and local levels cooperate to perform the tasks of local units. The administrative functions are distributed between different levels of local governance. Some services appropriated to the Land level. Each local governing council is elected directly by the people, and are named according to their administrative level, such as the regional, city, and local councils. These councils carry out work of legislatures at the local level.

Maguid Reda Boutros, Impact of the State Political Environment on models for political governance and administration, comparative study, Management Research Journal, Number 24, issue 1, 2016.

⁴³⁾ Each South African municipality is divided into three categories according to the population census, and the extent to which the executive and legislative authorities participate in each category with other groups. These include the major municipalities, local municipalities, and central municipalities. Each municipal council is entrusted with legislative and executive power within the area under its jurisdiction according to regional and national legislation. Article 151, paragraph 4, of the Constitution stipulates that the national or regional government may not impair the rights of the municipality to exercise its powers or impede its ability to perform its functions. The municipality shall have the executive power in respect of local government affairs and other matters. The municipalities in South Africa play an important role in organizing local affairs as well as in development programs at the national and regional levels. Constitution of South Africa: <https://goo.gl/38eMC8>.

⁴⁴⁾ The law specifies that all councils are appointed by the state, and are headed by an executive head named mayor or president. The mayor heads the city while the president heads the municipality or district. The mayor, president, and members of the local councils are appointed for three years. State authorities make decisions in coordination with executive powers in the localities. Local councils may also appoint their own executive committees to oversee the implementation of laws and monitor the implementation of the plans that they have drawn.

Ali Qoq, Managing regions, experiences for Arabs: Malaysia Experience, p82.

⁴⁵⁾ The elected governor is considered to be the highest executive president authorized to carry out functions by the governorate council, which is not subject to the control or supervision of any central ministry or entity. The governorate council is also responsible for creating public policies for the governorate in coordination with the relevant ministries, monitoring all the activities of the executive local bodies with the exception of courts, military units, and institutes, and guaranteeing good performance in districts that do not fall under the jurisdiction of the federal government.

Ibid, p123.

⁴⁶⁾ The Iraqi governorates were granted the right to make local laws, and to make public policies on the local level, such that they do not violate the national legislation and applicable public policies within the geographic and administrative borders of the province. Accordingly, the Iraqi governorates participate with federal and regional authorities in the governance and administration process, through participation in public policy making, and in

Fourth: Political Functions in Full Administrative Decentralization Systems (Local Administration)

Administrative decentralization is concerned with the distribution of the administrative functions between the central government and independent subnational administrative entities that have legal status, but still act under the supervision of the central government. Administrative decentralization involves either the full (local administration) or partial (institutional decentralization) transfer of functions to subnational units. Independent subnational administrative bodies under a fully decentralized administrative system do not have significant powers in the political system of the country, instead, they have administrative-organizational jurisdiction only. Normal law regulates the formation of decentralized subnational entities and public institutions, and their powers and how they may be applied. These subnational administrative entities can only exercise the authorities delegated to them according to laws issued by the federal legislature.

Political functions in this form of decentralization are distributed horizontally at the central level between the three branches: legislative, executive, and judicial. There is no vertical distribution of political functions between subnational levels including localities, cities, and regions. This does not mean there is no politically motivated practices and actions witnessed among local administrative units in the form of passing local laws and procedures within its jurisdictions.

The method of organizing local administration differs from country to country according to the political, administrative, and environmental conditions of that country. However, there are some general features that most local administration systems around the world share in common, including:

- The heads of local administrative units may be appointed by a decree from the central government, as is the case in most developing countries, or may be directly elected by citizens in other countries.
- Local council members are selected through direct election by the local residents, and may be strengthened with qualified and experienced staff.
- Local administrative councils are responsible for issuing local decisions and regulations. They are also charged with oversight of executive administrative agencies and departments within its jurisdictions in the case of mismanagement or failure to implement local council decisions.

full coordination with the central federal authorities. The local governments are bound not to have its legislations and local policies that violate the constitution or federal laws in place.
Abdel Jabbar Ahmed, Federalism and Decentralization in Iraq, p11.

- Local councils may blame the executive bodies of the local government – an action similar to the withdrawal of confidence from a ministry at the federal level.
- The executive committee for each local council is composed of the president/head and other members responsible for overseeing different departments. Its primary responsibility is to implement the decisions and regulations of local councils, under the supervision of the entire committee or an authorized members of it.
- The president of the country or the cabinet of ministers may issue a decree to dissolve a local council following a proposal from the relevant minister, generally the minister of interior, local administration, or municipalities.

In general, the political role of local administration is limited to creating a local democratic practice through fair representation of all citizens of each community. It also encourages local residents to actively participate and contribute politically to the local democratic experience and to train new political leaders. Examples of this role can be highlighted as follows:

- **France:** The system of local administration is based on the division of administrative units into four parts: provinces, regions, departments, and communes. The provinces and communes are independent legal entities, but they do not enjoy broad rights or powers and they are subject to the supervision and control of the central government. Departments and regions are divisions for administrative purposes.⁽⁴⁷⁾ It follows that the local administration system in France operates in a manner that gives the central government great powers to control and shape the work of local entities.
- **Japan:** **The Japanese Constitution gives local authorities the ability to exercise political powers and does not consider them to be merely**

⁽⁴⁷⁾ Each province is headed by a governor who is appointed by presidential decree, according to a nomination from the minister of interior. Thus, the governor is considered to be an employee of the central government, and is fully accountable to the minister of interior. The responsibilities of the governors are divided into two parts: First are duties related to representing the central government in their provinces. The second is related to leading the executive body of the provinces. The governor supervises the services and facilities that are part of the jurisdiction of the province. The governor also informs the local units within the province such as communes, with instructions and directions that he receives from central authorities, with the assistance of deputies or assistants, and the chiefs of government provincial bodies such as finance, education, health and transportation. The governor does not have the right to appoint these senior leaders, because they are appointed by the central authorities in capital. Communes are one of the kinds of local governance units that have most control over local affairs. The communes are organized according to municipality laws, which define the administrative body of the commune, including the mayor and his assistants, and the local council. The mayor exercises his authorities in his capacity as head of the executive body of the commune. He appoints the administrative employees according to the instructions issued for this matter. He also supervises the work of the employees. Each commune has a local council, whose members are elected for six years. One third of the members of the commune council have their membership renewed every two years. The commune council monitors the local executive's affairs. The president of the republic has the right to dissolve the commune councils in some exceptional cases, when they violate their duties or do not perform their responsibilities.

administrative tools of the central government. The Japanese Constitution enshrines the principle of local autonomy as the basis for local governance by granting the local authorities (prefectures and municipalities) legislative powers as well as broad executive and administrative powers. The local administrations in Japan consists of two main branches: the legislative (prefecture assemblies and municipal council), which is formed via direct elections for a term of four years; and the executive, consisting of governors, mayors and committees.⁽⁴⁸⁾

- Lebanon: The Taif Agreement of 1989 was a defining moment in the development of local administration in Lebanon. It rearranged Lebanon's political and sectarian balances based on power sharing, allocating senior positions in the country's political order based on sectarian quotas. The Taif Agreement also sought to expand administrative decentralization to lower level administrative units by giving each an elected local council for each caza or district headed by an appointed officer, in order to ensure local participation. The Taif Agreement recognized the need to distinguish between the central political authority and local administration bodies. Although nearly 30 years have passed since the Taif Agreement that adopted an expanded form of administrative decentralization, the experience of local administration is still exercised only at the municipal level. Administrative decentralization has not been implemented and district councils have not been established.⁽⁴⁹⁾ As a result, it can be said that

⁽⁴⁸⁾ The locally elected councils have wide legislative authorities, most importantly: providing internal draft laws except for the local budget law; approving internal laws, or amending, or appealing them; monitoring the executive authority by inspecting its documents; receiving reports about the performance of the governors and mayors; monitoring the revenues and expenditures of the local executive authority; ratifying the local budget, and the election of the president of the council, his deputy, and members of election committee. The second body is the executive body formed of the head of the council and of relative executive committees. However, the actual authority sits with the governor, who has the right to supervise, and represent the local government in the capital of Tokyo. The governor is elected directly by the citizens for four years. The governor authorizes some of the central ministries' powers to implement procedures mentioned in the law, with deference to the right of the local council to withdraw confidence from the governor. The governor then has to announce that the council will be dissolved, within 10 days, after such a decision is made. If the governor does not take this step, he is ousted from his position. In certain cases, the local council authorizes the governor to perform some of its responsibilities, but that is rare. The governors and mayors also have wide responsibilities in their localities, that include exclusive management of the budget law, and participation, with the members of the elected councils, to present other internal laws and issue bylaws, and to implement everything related to the affairs of local authorities.

Maguid Reda Boutros, *Japan from Local Administration to Local Governance, Argumentation between Original and Contemporary*, Egypt, Helwan University, Faculty of Commerce and Business Administration, p14.

⁽⁴⁹⁾ The structure of the local administration in Lebanon at the time of preparation of this study consists of four levels: the central level, the governorates, the districts, and the municipalities. Legally only the municipalities are relatively independent. Lebanon is divided into eight governorates. Each governorate is headed by a governor, who is appointed by decree, and is divided into districts, each headed by a presiding officer who is also appointed by decree. The authority of the governor and or acting person in charge is subject to the authority of the minister of the interior. However, each municipality enjoys a legal character, financial and administrative independence, and a legal authorization related to its internal system and administrative procedures, according to the applicable laws in place in the country. The operations of the municipality are subject to a financial monitor called the general monitor, who is appointed by decree from the cabinet, according to a proposal from the minister of interior.

the province and district in Lebanon does represent a local authority as they are considered part of the hierarchy of the central authority. Therefore, municipalities alone can be looked upon as local administration and is thus subject to a multi-disciplinary regulatory system with an appointed district commissioner, governor, and minister of the interior, each of whom supervise various aspects of municipal work.

- Egypt: Egypt's local governance system is characterized by a dual institutional structure. It has elected local popular councils at all levels, as well as appointed executive governmental councils who are responsible for the management of local affairs and the provision of public services.⁵⁰⁰ There are various forms of control depending on the particular process, including central control, internal control, and popular control.⁵¹¹ The local councils in Egypt can only make recommendations and have no decision-making power, thus, the primary pillars of local administration systems are not available. Neither the local residents nor their elected representatives are able to manage their own affairs or make decisions related to development plans or local services. The opportunities for local residents to express their needs are diminished by the dominance of

Paul Salem, and Antoine Masara, *Administrative Decentralization Global, Trends and Principles for Analysis*, Beirut, Lebanese Center for Studies, p24.

⁵⁰⁰ The local administrative units in Egypt are divided into five levels: governorates, centers, cities, districts, and villages. A local popular council is elected every four years for each of the units of local administration at the five administrative levels, in order to monitor the public local activities, and work as a local parliament that does not have legislative functions. Executive councils are appointed for each of the local administration units, and are given wide, yet defined, executive powers. They are considered to be the technical executive cadres tasked with establishing and implementing local plans. Note here that Article 162 of the Egyptian Constitution stipulates that at least half the members of local popular councils must be workers and farmers. This violates the principle of equality in representation in the parliament as it allocates seats for a certain category of person. The local administration system in Egypt does not balance the authorities and responsibilities of the governors. The governor is considered to be at the top of the local executive authority, is a representative of the central government at the governorate, and supervises the implementation of the public state policy, production facilities, and services in the governorate. On the other hand, the governor does not have the required authorities to implement several primary functions, because there is no authority over public facilities or services, such as telecommunication, irrigation, main roads, agricultural lands, and licenses to construct hospitals and schools, because these functions are within the jurisdiction of central ministries. *ibid*, p91.

⁵¹¹ Central monitoring is divided into three subcategories: legislative monitoring exercised by the house of representatives, administrative monitoring exercised by the cabinet, and judicial monitoring exercised by the legal bodies that are defined as the state courts, administrative courts, and normal courts. The internal monitoring includes monitoring by some components of the local administration system, over other components. The popular councils have the right to supervise and monitor the performance of the lower councils through committees and reports. The local popular councils of the governorates have the right to ratify or disapprove the resolutions of the lower popular councils, and approve the internal bylaws of popular councils on the level of the governorate. Every member of the popular governorate council has the right to direct questions or request briefings from the chiefs of local units, their assistants, or chiefs of public facilities and bodies within their jurisdiction. The popular monitoring includes parliamentary monitoring represented in the popular local councils which are composed of members directly elected by the people to monitor the performance of local councils, and personal monitoring of the people over the performance and operations of the local bodies. Maguid Boutros, *Local Administration System in Egypt, Approach for Comprehensive Administrative Reform*, p13.

appointed local executive bodies. Local authorities receive delegated powers, not authentic powers derived from the Egyptian Constitution. The central government in Egypt can withhold all powers from local administrations by issuing decrees or by amending their authorities through legislation. This sort of central control is a prominent feature in most developing countries.

In conclusion, the political functions in different types of partial administrative decentralization (institutional decentralization), under administrative decentralization independent administrative local bodies have little roles in the political system of government, as public institutions have no jurisdiction within the realm of politics and are exclusively mandated with the provision of public services. Therefore, it can be said that in partial administrative decentralization types of governance there is no political function exercised as it is exclusively reserved for the central government.

Political decentralization is connected to the idea of constitutional order and the system of government. It is also connected to the federal state and the distribution of the political functions that represent its internal sovereignty. Administrative decentralization is linked to the method used to carry out the administrative functions in the state. Thus, the existence of administrative decentralization in the system of political decentralization is intuitive. Political functions vary between the four forms of decentralization. The highest degree of such practice of political functions takes place in cases of full political decentralization (federalism), where subnational units like provinces and states have their own constitutions through which they exercise legislative, executive, and judicial powers. **They also contribute directly to influencing federal policy through their representatives in the national legislatures, and through the exercise of political oversight over federal authorities. This is one of the most important tools and constitutional procedures, and may vary in practice between different constitutions.**

Legislative authority is not only exercised in the drafting of laws, but also through the implementation of laws by the executive authority, monitoring and oversight of the executive and the constitutionality of its work and decisions, and public officials accountable within central and regional administrations. Supreme judicial authorities exercise their duties independently to ensure the constitutionality of laws issued by the legislative branch, or of regulations, guidance, and decisions issued by the executive branch. The exercise of political functions by the judiciary are exercised less under partial political decentralization than under full political decentralization.

Chapter 3

Constitutional, Legislative and Judicial Functions According to Types of Decentralization

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Chapter 3: Constitutional, Legislative and Judicial Functions According to Types of Decentralization

The state – regardless of the form or distribution of its authorities – drafts the law and contributes to the establishment and application of legal rules and regulations. At the same time, the law sets limits on the activities of the state, regardless of its form. Hence there is the problem inherent in the state’s subordination to the law because the state itself is a form of authority and authority does not tolerate opposition. Even if there are individuals representing the state’s authority, these people know that they represent and embody power, so they act such a manner that it is difficult for them to submit to law.

It has taken ages for humanity to reach this stage, but it is impossible to claim that state authority has reached the endpoint of its development as long as the state’s subordination to the law continues to be conditional on the consent of rulers and state representatives. At present, the sum of the state’s activities are determined by law, but this determination is made with the consent of the state, based on its will and desire. It is an auto-limitation. There are two main schools of thought on this theory. Some jurists believe that the state binds itself to the law because it recognizes that this serves its interests and continuity, thus the auto-limitation is a subjective auto-limitation.⁽¹⁾ Contemporary jurisprudence argues that the state, in an effort to avoid its failures, establishes limits on its own independence in the form of legal rules that it must obey, even though the state is the source of these rules. This is objective auto-limitation.⁽²⁾

Regardless of the interpretation, states’ respect for legal norms clearly varies based on their political system, structure, and levels of economic and social development. The first step towards the subordination of the state to law is the separation of legislative, executive, and judicial powers, preventing their concentration within one entity. Some countries have not only adopted the principle of separation of powers, but also the principle of power sharing at multiple levels of government. While the separation of powers exists in all modern states, the sharing of power only exists in constituent states (federations). The way that the constitution, the drafting of laws

¹⁾ This interpretation of binding the state to law is dangerous, because it makes binding to law an issue that is up to the ruler’s desire, and their vision for state interest, and thus they may breach this law if they believed that this serves state interest.

²⁾ This interpretation provides permanent respect for legal constitutional bases by state authorities, without allowing any justifications for a breach.

(legislative authority), and the application of laws (judicial law) are managed varies from one country to another, according to the form of the state. This variation makes it important to study different country models.

A constitution, in its legal conception, is a document that contains provisions regulating the power of the state and its relationship with society. The constitution in its political sense defines the way that political life functions and that state institutions are run. That is to say, there are both static and dynamic concepts of constitutions. If we consider the constitution to be the supreme law in the hierarchy of legal rules in a state, then it is the set of legal rules governing both the powers of the state and the relationships between these powers, as well as the relationship between the individual and the state. Constitutions include two parts: the political structure, representing the rules that define how authority is formed and exercised (also called the political constitution); and the social structure, that summaries the rules that define the rights and freedoms of the individuals in relation to authority (also called the social constitution). We shall focus here on the constitution in its political sense – the rules that define how authority is formed and exercised. There is a reciprocal relationship between the constitution and the state; and a dialectical relationship between the impacts the text has on the political reality of the state and how political developments and requirements of reality force the text of the constitution to adapt.

The constitution defines the form and shape of the state, which has general outlines that cannot be violated, and sets limits on the activities of authorities. The state, as the foundation of institutions, gives the written text of the constitution life by applying it to reality. Like constitutions, states also have two primary dimensions: the political and the legal. From a political perspective state frameworks vary, they may be categorized as socialist, liberal, fascist, etc. The political form of the state defines the objectives and directions of the powers that are embodied in public institutions. The official ideology of the state also defines the form of the government. From a legal perspective – which is the focus of this study – countries are classified as either unitary states or compound states, depending on their internal structure of authority,⁽³⁾ which itself is determined by the constitution.

³⁾ If the political and government leverage power is vested in one legal entity, the state is unitary, while if the internal power centers within the states are many then the state is compound.

First: Constitutional Functions of States with Political and Administrative Decentralization

The federal constitution is the document that connects a group of entities to form the federal state. Thus, the constitution delineates the conduct of authorities and determines how powers are shared between federal and subnational authorities. Managing the distribution of functions between different levels of government is the most complex task that faces federations during their formation and in the exercise of their responsibilities. This is the most important and critical mission of a federal constitution. The distribution of powers between central and subnational governments varies from one country to another due in part to the different ways in which these countries were established. Countries that were established through dissolution generally seek to strengthen the power of central authorities at the expense of local authorities,⁽⁴⁾ while countries that were established through annexation tend to strengthen the power of local authorities at the expense of central authorities. Federal countries tend to have a central constitution that applies to all subnational entities, as well as separate constitutions for each first-level administrative unit, such as provinces or states.⁽⁵⁾

A federal constitution lays out the foundations and pillars for subnational governments within the union, as well as the authorities and jurisdictions of the central government. It also provides constitutional and legal legitimacy for each first-level administrative unit to issue its own laws or constitution in a manner that does not contradict the federal constitution. Federal constitutions are characterized by a number of special features, including:

1. **The federal constitution is a written constitution:** The federal union usually requires a method of organizing the division of powers between the federal (central) government and subnational (local) governments. Since this division requires precise and consistent definitions around which there can be no disagreement or confusion, a written constitution is necessary. In practice there is no federal state without a written constitution.

⁴(Disintegration: The federal state is established through the disintegration of a unitary state whose residents suffer some problems (social-political-economic). The state then transforms its shape from unitary to compound by dividing the country into states/provinces and adopting a federal system. Examples: India, Mexico, Brazil, Argentina, and Iraq.

⁵(Integration: Integration is a way to establish federal states, where two or more states concede some of their internal authorities, and external sovereignty, and re-unite to form a federal state according to the federal constitution. Examples: The United States of America, Switzerland, Germany, and the UAE.

2. **The federal constitution is supreme:** This means that the constitution is the highest law in the legal hierarchy. Neither a federal law nor a state/provincial constitution can violate the federal constitution; anything that does so is rendered void. According to the legal theorist Kenneth Wheare, the terms of the agreement that establishes the federal and subnational governments, and distributes authorities among them, must be binding for all. In order for the federal and subnational governments to maintain balance with one another, none of them should be in a position to override the provisions of the arrangement that determines the distribution of powers and status.⁽⁶⁾ A constitution may explicitly state the supremacy of the constitution, as does Article VI of the U.S. Constitution.⁽⁷⁾
3. **The federal constitution is rigid:** Amendment of the federal constitution requires complex procedures that are stipulated in the constitution itself, and requires the participation of the country's constituent units. Federal constitutions define the powers and jurisdictions that unite the components of the federation. Allowing amendments to the federal constitution according to normal methods used by unitary states would threaten the jurisdictions, powers, and independence of subnational units. The resulting instability could threaten the existence of the state. Thus, practically speaking, it is necessary for both federal and subnational governments to participate in any process to amend a federal constitution.⁽⁸⁾

Federal constitutions require complex procedures to be amended. Article V of the U.S. Constitution says that amendments to the Constitution may be proposed either by two-thirds of the members of congress (both the Senate and the House of Representatives), or through a convention called at the request of the legislatures of two-thirds of the states. In order to pass, an amendment then requires ratification by the legislatures of three-quarters of the states, or by state ratifying conventions in three-quarters of the states.

⁽⁶⁾ Kenneth C. Wheare, *Federal Government*, 4th ed., Oxford University Press, New York, 1964, p. 10.

⁽⁷⁾ Article VI of the U.S. Constitution states that "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

⁽⁸⁾ George G. Sill says in this regard: "No federal state exists if the constituents, through their representative groups, did not participate in the formation of federal entities and decision making. That is not based on the fact that they are a group of federal state citizens, but rather based on the fact that they are entities that are heard in the country." This participation is highlighted when amending the federal constitution, in the presence of the council of states, which is formed of equal representatives of these states, regardless of how small the state shall be or how small is its population. Participation is significant on the level of states and federal states. On the level of the states, the significance of participation lies in its independence, which cannot be retracted without at least the knowledge of the federal state. The federal states provide confidence in its laws and decisions.

The 2005 Iraqi Constitution gave the federal executive and legislative authorities the right to propose amendments to the federal constitution. Approval of an amendment requires the approval of two-thirds of the members of Council of Representatives, support from the public in a general referendum, and the ratification by the president. The Constitution did not give the Federation Council – which should represent the regions and the governorates that are not incorporated into regions – the right to participate in the amendment process. It would have been preferable and in accordance with the principle of equality in political participation for the Federation Council to have a role in amending the federal constitution, during both the proposal and amendment stages.

Article 126 of the Iraqi Constitution states that “Articles of the Constitution may not be amended if such amendment takes away from the powers of the regions that are not within the exclusive powers of the federal authorities, except by the approval of the legislative authority of the concerned region and the approval of the majority of its citizens in a general referendum.” This text attempts to create a guaranteed role for the regions, but in practice the constitutional amendment process is obstructed by economic, social, and political conditions, and it is impossible for a constitutional amendment to receive the approvals required. Indeed, the 2005 Iraqi Constitution has created new problems without solving old ones.⁽⁹⁾

The constitution of each of the constituent (subnational) units in a federation must be independent. This means that the each of the constituent units should have its own constitutional bodies independent from those of the central government, such that the central government cannot appoint, change, or direct them so long as they are exercising their powers in accordance with the constitutional rules. Accordingly,

⁹⁾ We may remember the means for amendments in several different federal constitutions. The Indian Constitution states in Article 36 that “Notwithstanding anything in this Constitution, Parliament may in exercise of its constituent power amend by way of addition, variation or repeal any provision of this Constitution in accordance with the procedure laid down in this article. An amendment of this Constitution may be initiated only by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting, it shall be presented to the President who shall give his assent to the Bill and thereupon the Constitution shall stand amended in accordance with the terms of the Bill.”

The German Basic Law may be amended only by a law expressly amending or supplementing its text. In the case of an international treaty regarding a peace settlement, the preparation of a peace settlement, the phasing out of an occupation regime, or the promotion of the defense of the Federal Republic, it shall be sufficient, for the purpose of making clear that the provisions of this Basic Law do not preclude the conclusion and entry into force of the treaty, to add language to the Basic Law that merely makes this clarification. Any such law shall be carried by two thirds of the Members of the Bundestag and two thirds of the votes of the Bundesrat.

In Switzerland the proposed constitutional amendment is presented by the federal legislative authority council, and in some cases by one of the local councils or by 50 thousand citizens. Regardless of the way the amendments are presented, they will not be implemented except through a general referendum in which the majority of the voters approve. Constitutional amendments in Australia are proposed by the federal legislative authority councils, or in certain cases by one of the two local councils with an ultimate majority. The amendments are subject to a popular referendum, in which they must receive the majority of voters in Australian states.

each constituent unit enjoys constitutional independence and self-regulation. The constitution of each constituent unit regulates the status of local authorities within its jurisdiction and defines their authorities and methods of appointment in a manner consistent with the federal constitution.

Different countries grant different rights to their subnational constituent units to issue their own constitutions. Federal constitutions also differ in the degree to which they allow subnational units to shape their own local governments, the purposes for which they may exercise political authority, and rights that they maintain. The U.S. requires that states draft their own constitutions. Article 120 of the Iraqi Constitution took the same approach stating, “Each region shall adopt a constitution of its own that defines the structure of powers of the region, its authorities, and the mechanisms for exercising such authorities, provided that it does not contradict this Constitution.”⁽¹⁰⁾ Some federal states like India and Nigeria do not allow their constituent units to have independent constitutions, instead the federal constitution and legislation manages all the affairs of the units. Other countries like South Africa allow constituent units to adopt the federal constitution as their own, and do not obligate them to create an independent constitution. In these cases, when the federal constitution is amended, authorities in the subnational units must amend their own constitutions to be in conformity with the new amendments at the federal level.⁽¹¹⁾

With regards to the constitutional functions in a unitary state with administrative decentralization, legislative, constitutional, and judicial powers are not shared. Only administrative powers are distributed between the central government and the subnational units. This means there is only one governmental body responsible for the legislative and judicial functions of the state. Unitary states that adopt decentralized administrative systems only permit one central constitution in the country. The constitution may be flexible or rigid, according to what its drafters saw as the best interests of the country. The constitution retains supremacy over all other legislation in the country, and a political or judicial body monitors new legislation to ensure that it is not in conflict with the constitution. No constitutions may be introduced at the local level, even if they do not contradict the provisions of the federal constitution.

The Constitution in Syria: an expression of authority or a safeguard for freedoms?

⁽¹⁰⁾ Iraqi Constitution, https://iraqmission.us/wp-content/uploads/2014/11/iraqi_constitution.pdf

⁽¹¹⁾ In Switzerland every canton freely drafts its own constitution according to the principles they want, on condition that they adhere to three rules: 1- Approval by the canton’s citizens of the regional constitution. 2- The Canton constitution does not violate the federal constitution. 3- Is binding to the republican governance.

Since the beginning of the 20th century, Syria experienced established its constitutional experience, starting with the foundation of the Syrian state upon the cessation of Ottoman rule in 1918. The first attempt to draft a constitution in Syria was during the short-lived existence of the Arab Kingdom of Syria, as a federal system that included the territories of modern day Syria, Jordan, Palestine, and Lebanon. After just 13 days, French colonial powers took control of Syria and effectively suspended the constitution. The founders of the Syrian state engaged in a battle with the French occupation authorities during the period of French rule. Article 116 was especially controversial during this period and national discussions surrounding it delayed the declaration of a new constitution.⁽¹²⁾ The struggle to develop a nationally acceptable constitution continued after the independence of 1946 and through the first coup by Hosni Al-Za'im, who attempted to create a new constitution during his rule. He formed a technical committee to draft the new constitution, but then disagreed with the committee over the form of the government. Al-Za'im wanted a presidential system, while the committee wanted a parliamentary system. This conflict delayed the adoption of a constitution. In 1950, an elected constitutional committee issued a new Syrian constitution, but it did not last for long because of a coup led by Adib al-Shishakly in 1951. A constitution with fewer articles that granted the president broad authorities was adopted as a result of the declaration of the United Arab Republic (the unity government between Egypt and Syria) from 1958 to 1961. The next constitution was adopted in 1974 during the Ba'ath era. After a subsequent series of constitutional declarations and a temporary constitution, the permanent Constitution of 1973 was adopted by the Ba'ath regime led by Hafez al-Assad. The 1973 Constitution provoked resentment among Syrians because of the clauses concerning restrictions on the religion of the president as well as the manner in which al-Assad pushed for its adoption with little input from different political groups. Despite this resentment and the unrest it provoked, the 1973 Constitution remained in place until 2012. In 2012, a new constitution was imposed by force in the face of a popular uprising.

This brief presentation of the history of the constitution in Syria is reflective of the conflict between the ruler and the ruled. Throughout every critical stage there was a group representing the central authority that wanted to impose its will on the people through the constitution. This ruling group was countered at each stage in Syria's history by representatives of the people who rejected the imposed rule and instead demanded a constitution that would guarantee their freedom. When people unified

⁽¹²⁾ This article awarded expanded rights and special provisions for French authorities in Syria. <https://goo.gl/XBt2kH>.

and realized that they were the source of the nation's strength, but all paths to political, economic, security, and social reform were closed, they demanded their freedom and dignity – and eventually the revolution began. In 2011, the regime understood that what was happening was different from what had taken place before, and realized that its previous façade – the 1973 Constitution – had worn thin and no longer served its purpose. Accordingly, the regime issued the 2012 Constitution and claimed that it met the demonstrators' demands.⁽¹³⁾ The 2012 Constitution was an attempt to contain these demands within a government-backed plan for the reform of authorities and institutions.

Through a quick review of the 2012 Constitution we find that its form was a result of the input of the ruling class, without the participation of other parties. The new constitution was distinctly authoritarian. Instead of calming the protests, the 2012 Constitution was a source of controversy, pressure, and division. It exacerbated the divisions in society between those who opposed it and those who supported it. The 2012 Constitution was exclusively written by people who supported the ruling regime and was tailored to meet their demands rather than the demands of the people. The referendum to adopt the constitution was held only in areas of the country that supported the regime, excluding all in the opposition, which amounted to more than half of the population. As a result, the formal procedures in the Constitution lost their credibility. This credibility is required, as it serves as the basis for a constitution's supremacy over all other laws. Thus, the 2012 Syrian Constitution was indefensible, even for those who believed in it and voted for it. Indeed, today you find the supporters of the Constitution defending the constitution-makers more than the text itself.

In terms of content, the 2012 Constitution was merely a continuation of previous constitutions: it was a civilized façade to conceal an autocratic system, without any binding legal value. It is the type of deceitful text that is used by dictatorships to establish exploitative autocratic regimes. They exploit the word “constitution,” which implies principles of democracy and freedom, and use it to hide the truth from the public. The 2012 Constitution was no different than the previous 1973 Constitution, particularly with respect to the presidency and its encroachment on other authorities, and its lack of commitment to the principle of separation of powers. Under the 2012 Constitution, the president of the republic has more legislative authorities than the legislature. The president is the leader of the Supreme Judicial

¹³⁾ Demonstrators demanded changing the 1973 Constitution, particularly Article VIII, and the creation of a new constitution that established political plurality, justice in social life, and economic welfare.

Council (the highest judicial authority in Syria) and appoints the Supreme Constitutional Court.¹⁴

Syria's ruling authorities drafted the new constitution, organized its rules, and tailored it according to its own needs, ignoring the peoples' demands for freedom and dignity. But the repeated departure by political authorities from the terms of the prior constitution was one of the sparks that led to the start of the Syrian revolution.¹⁵ The 2012 Constitution failed to be a bridging unifying factor between the people and the authorities, and it did not protect public rights and freedoms. Today, particularly after the popular uprising, there is an urgent need for a new constitution in Syria in order to usher in a new era, new thinking, and a new phase of social development. In order for a constitution to achieve these goals, prerequisites for a successful constitutional process must be established:

The next stages should be divided into a transitional phase and a permanent phase. Aspects that may be constitutionally appropriate for the transitional phase may not necessarily be adequate for the permanent phase, and vice-versa.

The transitional period should be governed by a "constitutional declaration" that regulates the conduct of the three authorities only, and does not address the foundations of the state. Principles for the new social and political contract should all be determined in the permanent phase.

The presidential council system should be used during the transitional phase, because it is the most appropriate and commonly used system for countries emerging from revolutions and crises.

The permanent phase should begin with the establishment of real stability in the security sector, in order to permit an institutional assembly to be elected in order to draft a permanent constitution. This assembly should be given sufficient time to achieve its mission. It should not rely on imported constitutions and texts, and should instead base constitutional provisions on the actual economic, social, political, and religious circumstances in Syria.

The process of drafting a permanent constitution should begin with a comprehensive social dialogue, in which civil society organizations and economic, political, and social actors all participate in developing the principles of the social contract.

¹⁴ Details of the general assessment of the 2012 Constitution will be published in an article called "higher studies on 2012 Syria constitution".

¹⁵ Issuing legislation in violation of the constitution, or practices that constitute a violation of rights and freedoms stipulated in the constitution.

The principle of the separation of powers must be applied in practice, and legislative, executive, and judicial authorities must be distributed between three independent branches. All constitutional provisions that allow the president to override other authorities must be eliminated.

A state of equilibrium and cooperation should be established between the three different branches, allowing them to perform their functions in an optimal manner.

There should be focus on empowering a constitutional judiciary within the judicial branch, with the objective of protecting public rights and freedoms.⁽¹⁶⁾

The Syrian Constitution shall remain a document without value so long as the people are not continuously committed to empowering it and protecting its gains on a daily basis.

Second: Legislative Functions According to the Form of Government

States exercise dual roles in the field of legislation: they hold a monopoly on punishment and also control the sources of legislation. The state has always sought to supervise the law, which is issued under its control in the form of legislation. Legislative bodies differ from one state to another in terms of whether legislative power is concentrated in one entity or shared among several different entities, all of which issue legal regulations according to their jurisdictions and objectives. The distribution of legislative powers is determined by the governing framework of the state. Here we shall examine legislative functions and their concentration in or distribution between authorities under the different state models.

1. Legislative Functions in Federal States (Political Decentralization)

The federal state is based on the principle of power sharing at two levels of government: central and subnational (local). The legislative authority is therefore based on federal and local legislative councils.

- a. **Federal (central) legislative authority:** The federal state has a central legislative authority that represents the entire union. The federal legislature has the exclusive jurisdiction to legislate for all the matters of interest to the whole country. It also interacts with the subnational legislative councils to regulate important issues such as the establishment of general rules that provincial legislatures must adhere to when drafting their own legislation. Any decisions issued by the federal

¹⁶⁾ We shall discuss this reform when we tackle the judicial functions in the state.

legislature must be binding on all local units and applicable to all the residents of the country. Most federal constitutions organize their legislative authorities on the basis of a bicameral system because it corresponds most closely to the legal and political composition of the federal state.⁽¹⁷⁾

- The Upper House: Generally represents first-level administrative units by giving them equal representation, preventing any area from imposing its rules on another. According to constitutional jurisprudence, the upper house expresses independence and is thus given the primary voice on issues pertaining to local authority. In Germany, this house is called the Bundesrat, and in the U.S. it is called the Senate.
- The Lower House: Is the second chamber of the legislature and is chosen through public elections. Its seats are distributed according to the population of each subnational unit and it represents everyone in the federal state. Thus, the number of members representing each unit varies based on population. In Germany this house is called Bundestag, and in the U.S. it is called the House of Representatives.⁽¹⁸⁾

The Supreme Council (the council representing states) in a federal state serves as an important secondary source of the balance within the legislature. Countries differ in the way that they distribute legislative authority between the two chambers. The 2005 Constitution of Iraq stipulated the formation of the Federation Council,⁽¹⁹⁾ but in practice it has not yet been established.⁽²⁰⁾ The U.S. distributes power equally between the House of Representatives and Senate, except for financial issues. In financial matters, the House of Representatives has primary jurisdiction, while the Senate maintains the right to amend or even re-draft entire bills. India is similar to the U.S. in this regard, where the jurisdictions of the two chambers are equal except for financial matters, where primary jurisdiction is reserved for the lower house. In India, disputes are resolved in joint sessions between the two chambers, but because

¹⁷(A few federations do not have bicameral systems, such as Serbia, Montenegro, Comoros Islands, and Micronesia.

¹⁸(Alex de Tocqueville refers to these councils in his book on the democracy in the United States, published in 1835 saying: "New York has these days 40 members in the congress, and two only in the Senate. That means the state of Delaware has in the Senate the quota of New York and the rest of the states, while the first has 40 times the influence at the congress, thus it is possible that a minority of the nation succeeds to control the senate, and completely paralyses the will of the majority represented at the other council"

¹⁹(Article 65 stated the following: "A legislative council is established called (federal council) and includes representatives from the regions, and irregular governorates in the region, and regulates its formation and conditions for membership in this council and its jurisdiction, and everything related to it with a law drafted by the majority of two-thirds of the house of representatives."

²⁰(More than 13 years have passed since the constitution was issued, yet no practical steps have been taken toward its formation.

the number of members in the lower house is usually greater, disputes are usually resolved in its favor.

The German Constitution (General Law) – although it allows both chambers to propose laws – it allows the proposal of the Bundesrat to be presented first to the federal government. Then, after a six to nine week comment period, proposals are referred to the Bundestag.

- b. **Subnational (local) legislative authority:** In addition to the federal legislature, every first-level administrative unit has its own legislature that deals with legislation specific to the locality, and whose jurisdiction is derived from the federal constitution. Thus, the subnational unit organizes its own legislative authorities, and its legislature passes laws to regulate its political, economic, and social life. Accordingly, laws differ from one subnational unit to another. Because some issues related to personal status and commercial activities may be regulated differently in different parts of a country, civilians may move between the local units to gain the maximum benefit from the different laws.

In the United States, each state has a legislature, most of which are composed of two chambers: a Senate and House of Representatives. Members of state legislatures are elected directly. It is worth noting that differences in legislation between subnational units does not indicate a weakness in the structure of the legal integrity of a given unit, so long as it derives its legitimacy and jurisdictional authority from the central government. It is worthy to also note, that in the 1949 Indian Constitution, Article 16, every province has a regional legislative authority composed of two councils: the legislative assembly and legislative council.

- c. **Joint jurisdictions between central and local legislatures:** Some constitutions establish joint legislative authority between central and local legislatures. In these cases, the jurisdictions must be clearly defined. In Article 74 of the German Basic Law, areas of shared legislative authority are laid out in 33 articles, including: civil law, criminal law, prison systems, judicial organization, judicial procedures, legal affairs, and social security. The U.S. grants states the right to impose taxes on imports and exports, subject to congressional approval, such that the net revenue goes to the U.S. treasury. The Indian Constitution specifies joint jurisdiction for criminal law and for criminal and civil procedures.

In conclusion, there are three methods of drafting laws in federal states. First: laws are drafted by the federal legislature and apply to all subnational units. Second: laws are drafted through local legislatures, and are applied to the subnational unit in which the legislative authority is valid. Third: laws are drafted jointly between the federal

and subnational legislatures, and they apply to all administrative units and their citizens.

2. Legislative Functions in Unitary States (Administrative Decentralization)

Unitary states follow one of two tracks for their administrative systems: administrative centralization, or administrative decentralization. Legislative functions are not impacted in either case because they are consolidated at a single level and there are no power sharing between the federal and subnational units. However, legislation mechanisms and bodies vary from one unitary state to another. Some countries follow a bicameral system, such as France (National Assembly / Senate), and Jordan (House of Representatives / Senate), and Morocco (House of Representatives / House of Councillors). The roles of the two chambers differ by country. In some countries, like Jordan, the two chambers are equal. In other countries, the second council is neglected and is considered a formality with no real role, like the former Shura Council in Egypt. Other countries including Syria, Lebanon, and Tunisia, use a unicameral system.

In terms of the legislative authority and the party that exercises it, three approaches can be identified in a unitary state:

1. Legislative authority is reserved exclusively for the central legislative body. The president of the republic has the right to issue resolutions and decrees that have the power of law (legislative decrees), but the legislature must either ratify them and allow them to remain in force, or invalidate and repeal them. Most unitary states adopt this option.
2. The authority of the legislative branch is restricted to a specific jurisdictional scope. This may be called the French approach, because it was first stipulated in Article 34 of the 1958 French Constitution, which outlined the jurisdictional restrictions of legislation versus constitutional articles and decrees. Accordingly, the French Parliament is limited in its authority to adopt laws within specified jurisdictional parameters and all matters are addressed by means of administrative decrees or declarations. The same approach was adopted by the post-revolution Constitution of Tunisia.
3. The third method comes from the Italian Constitution of 1947, in particular Article 5,²¹ which gives legislative authority on some issues to both local

²¹ “The Republic is one and indivisible. It recognises and promotes local autonomies, and implements the fullest measure of administrative decentralisation in those services which depend on the State. The Republic adapts the

councils and the central parliament. Thus providing a domain for local councils to initiate legislation.

In Syria, the 2012 Constitution outlined legislative authority in Title III, Chapter 1, Articles 55-82, which address the affairs of the People's Assembly (the central legislature). The Constitution stipulates that legislative power is vested in the People's Assembly and its members have the right to propose, debate, and vote on laws. The Constitution also gives the president of the republic legislative powers that surpass those of the People's Assembly, which is limited by legislative sessions. According to Article 113, the president of the republic can enact legislation throughout the year in all normal and exceptional circumstances.⁽²²⁾

The primacy of presidential powers over those of the People's Assembly has caused a decline in its significance, as its role has changed from lawmaking to the ratification of presidential decrees. This situation can only be fixed by a constitution that is drafted by an elected constitutional assembly, which restores the natural function of the legislature in the Syrian state. Legislative authority should never be held by the president alone, but rather it should be shared by the president and the cabinet of ministers and only in exceptional and well defined cases, such as when the People's Assembly is not in session and cannot be summoned to meet due to emergency circumstances such as war.

The centralization of legislative functions and the legislative body can be controlled per the French practice where an exclusive jurisdictional domain is well defined as part of the duties of the legislature, while leaving the remaining issues to the executive authority to resolve using regulatory decrees. Accordingly, legislative authority in Syria in the future should be shared between the legislature – with its exclusive areas of jurisdiction – and the executive, which holds ultimate jurisdiction on issues not specifically delineated in the constitution. This way, the legislative authorities can create laws that reflect the needs of citizens and more closely address their concerns.

Third: Judicial Functions in Centralized and Decentralized Systems

The function of the judiciary is to resolve disputes amongst citizens and between citizens and the state. Despite the fact that the independence of the judiciary is

principles and methods of its legislation to the requirements of autonomy and decentralisation.”
<https://goo.gl/NbmebU>.

²² Syrian constitution, Article 113. <https://goo.gl/KfxBq6>.

codified in modern states, many constitutions are still shy when addressing judicial functions, divisions, types, and independence. Constitutions have customarily delineated the specific separate functions of the legislative and executive branches. When it comes to the judiciary, many constitutions outline its duties in general, and some detail structures such as a supreme judicial court/council and a constitutional court.

The lack of detail provided in constitutions does not diminish the importance of judicial authority, which is one of the main requirements of state sovereignty. The sovereignty of the state is clearly manifested through the application of its laws to its territories through its courts. The judiciary is the pillar of national security. The judiciary punishes criminals, holds corrupt officials accountable, and defends the rights of the oppressed, thus providing security for all. Therefore, the independence of the judiciary is a necessary and critical social need, in addition to being a demand of judges as executors of the judicial authority.

While the independence of the judiciary branch and the tasks assigned to it vary from one country to another according to its constitution and laws, the form and function of the judiciary tends to converge in all similar states. This section will examine judicial functions in countries that pursue political decentralization and in unitary states that pursue administrative decentralization.

1. Judicial Functions in Federal States (Political Decentralization)

Federal states require two,⁽²³⁾ and sometimes three,⁽²⁴⁾ levels of government, resulting in the duplication of public authorities and conflict over the distribution of jurisdictions between the central and local governments. These conflicts have led to the emergence of new kinds of judicial systems, not seen in unitary states.

Constitutional provisions divide judicial jurisdictions between federal and subnational bodies with the aim of achieving cooperative and harmonious relationships between them. Inevitably, conflicts still occur between federal and subnational governments, among the subnational units themselves, and between individuals from different parts of the country. These legal and judicial matters require a national judicial body – a federal court – to enforce the boundaries between

²³⁾ The first level is for federal governance and the second level is for regions, cantons, and provinces.

²⁴⁾ The constitution in some countries recognizes the local governments within the federation as a third government layer. This is an independent and distinguished layer. The German Basic Law in 1949 was the first of constitutions to deal with this issue. The Spanish constitution of 1978 gave the right of local autonomy from other authorities, including the provincial legislative body. India in its 1992 Constitution, and for developmental considerations, gave local governments clear privileges, and South Africa went the same path in its 1996 Constitution, but for democratic and developmental considerations. Nigeria, in its 1999 Constitution considered local governance as one of the levels of governance.

judicial jurisdictions. This court should be an independent constitutional body that seeks to achieve and maintain balance between the different governing authorities, rather than one that serves as a tool to strengthen and expand the powers of the federal government. In order to better understand these roles, we will examine judicial authorities in the federal state system.

a. Federal and Subnational (Local) Judiciaries: The federal system is regarded as a natural and realistic structure that evolved to address actual developments, such as containing secessionist tendencies of constituent subnational units. The federal model remains dynamic in scope and institutional design and can be adapted to local circumstances. Because of this flexible nature, federal structures differ in terms of the forms of their judicial authorities. In most cases, the judiciary is not centralized, as is the case in Germany and Switzerland where each subnational unit has its own judiciary. By contrast, in Spain the judiciary remains centralized, and all judges, courts, and judicial affairs are administered directly by the central federal government.

Judiciaries may be dual systems. This is the case in the U.S., which has federal and state courts, in addition to the federal Supreme Court. There are 94 federal judicial districts, including at least one district in each state, the District of Columbia and Puerto Rico. The federal and state court systems hear different cases based on the subjects of their jurisdiction, and the U.S. Supreme Court is the final level of recourse in both systems. The Supreme Court reviews all matters pertaining to the exclusive powers of the federal authorities and conflicts between states and the federal government, and constitutes the last level of the court system and the appeals process. There are complex rules and procedures for the transfer of proceedings from state to federal courts, but within these procedures, a case may be referred to the Supreme Court if the subject matter involves a breach or a violation of the U.S. Constitution.

The dual justice system in the U.S. faces challenges, the most important of which are the distinction between the jurisdiction of state courts and federal courts,⁽²⁵⁾ the expenses required to establish federal courts, and the preparation of judicial personnel.

b. Constitutional Court: One of the most important guarantees in many federal states is the existence of a supreme judicial body (a constitutional court) that has

²⁵(Despite the presence of texts that define the jurisdiction of courts, the long practice and different interpretations made it difficult to distinguish between these jurisdictions. This resulted in what American lawyers call forum shopping, which is a group of consultations by lawyers to define which court is most suitable for their claim.

the jurisdiction to resolve disputes between federal and the subnational authorities according to the constitution. Regardless of how careful and precise the framers of a constitution were with their language, confusion regarding overlapping judicial authorities still occurs. The supreme judicial body is tasked with ensuring respect for the constitution, responding to violations of constitutional law, and interpreting the application of the constitution in different contexts. In the case of the United States, the Supreme Court carries the duties of a constitutional court. In other countries, it may be a separate body that focuses only on constitutional matters.

In many federal systems, the constitutional court carries out the important function of monitoring the constitutionality of federal and subnational unit laws. Since the constitutional court adjudicates disputes concerning powers that arise between the central and local governments or among local governments, the supreme constitutional court must be a neutral and independent body.

The U.S. Supreme Court: the Oldest and Most Active Model in Federal States

Members of the U.S. Supreme Court are appointed by the president after receiving approval from the Senate.²⁶⁾ The U.S. Supreme Court system is responsible for oversight of the union, which means ensuring that state and federal authorities exercise and share their powers appropriately and in line with their constitutional mandates. This means that the actions of the executive branch are subject to the control of the federal court system as they relate to the constitutionality of laws. There are three aspects of the functions of the Supreme Court: the oversight over federal and state courts over legal matters that fall under the jurisdiction of the state constitution, the oversight of state laws in relation to the federal constitution, and the oversight of federal laws to ensure compliance with the federal constitution. Accordingly, the Supreme Court system plays an important role in controlling the balance between central and state authorities.

The principle of judicial review was established in 1803 in the U.S. Supreme Court case of the *Marbury v. Madison*.²⁷⁾ The decision in this case established the authority

²⁶⁾ U.S. Constitution, provisions of article 2, para 2.

²⁷⁾ In summary: when the federalists were in power before the year 1800 and they appointed 42 judges, and the minister of interior (marshal) ignored sending orders for appointment, and when the republicans received authority after winning elections, the president of the republic Jefferson ordered the new minister of interior (Madison) to deliver the appointment orders for 25 judges only. Four judges who did not receive the appointment order, including Marbury, went to the federal supreme court, demanding their right from the government, against the person of minister of interior (Madison) and to deliver the appointment orders. The government decided for the litigants right for appointment, and to return the suspended request to issue orders for appointment, justifying this with the judicial organization law for the year 79, which authorized the executive authority to issue

of federal courts to review the constitutionality of laws. This ruling increased judicial oversight powers to such an extent that it expanded the definition of what constitutes a violation of the Constitution. Following the ruling, courts began to consider how appropriate or suitable a law was from social and political perspectives, essentially interpreting the rationale behind the adoption of a law when determining whether it violated the Constitution.⁽²⁸⁾ The U.S. Supreme Court has overturned several laws, including *Brown v. Board of Education* (1954), which ruled unconstitutional the use of "separate but equal" to segregate schools, and *US v. Nixon c* (1974).

2. Judicial Functions in Unitary States (Administrative Decentralization): the Example of Syria

In a unitary state, judicial authority is not impacted by the adoption of administrative decentralization. Three types of judicial systems can be identified in unitary states:

1. **Civil Judiciary:** It is chaired by a higher judicial council, which is the highest judicial authority in the country, and directly supervises both the civil and criminal work of the judiciary.
2. **Administrative Judiciary:** In cases where a country has a dual judicial system, the administrative judiciary reviews administrative disputes between ministries and its different public institutions, or between those bodies and citizens.
3. **Constitutional Judiciary:** A judicial or political authority that monitors and reviews disputes about the constitutionality of laws. It is often referred to as the constitutional court or constitutional council.

The following are the main judicial structures in Syria:

1. **Supreme Judicial Council:** The highest judicial body in the Syrian judiciary. It gives a basic assurance of the independence of the judiciary by exercising oversight over courts and judges. It includes:
 - a. Chairman: President of the Republic, and the Minister of Justice shall act in his absence.
 - b. Member: Chairman of the General Assembly of the Court of Cassation (Appeals).
 - c. Member: Two senior deputies of the President of the Court of Cassation.

appointment orders, and this is an unconstitutional law because the congress doesn't have the right to expand its predefined jurisdiction in the constitution.

²⁸(The federal court ruled the unconstitutionality of the reform laws for year 1933 which were presented by Roosevelt, justifying its decision to the violation of the traditional principles of the U.S. constitution, but in 1936 it regressed its decision, after Roosevelt won with an ultimate majority, and with the three of its judges absent.

- d. Member: Assistant Minister of Justice.
- e. Member: Attorney General.
- f. Member: Chief of the Judicial Inspection Department.

The Council is mandated with the authority to appoint, transfer, promote, penalize, isolate, and remove judges either by accepting their resignations or sending them into retirement. One of the Council's most important tasks is to oversee the independence of the judiciary and to propose draft laws pertaining to the immunity and benefits of judges.

2. **Ordinary Court system:** Has the general mandate for most disputes, with inclusive jurisdiction except for issues specifically identified in the constitutions as the jurisdiction of another party. No special legal text is required to define its jurisdiction because it has a comprehensive mandate that is divided into the areas of civil and criminal justice.²⁹
3. **Administrative Judiciary (Council of State):** This body directly reports to the Council of Ministers (cabinet) and has jurisdiction to rule in disputes between ministries themselves or with other public agencies. The administrative judiciary is composed of two divisions: judicial and advisory.
4. **Supreme Constitutional Court:** An independent judicial body based in Damascus that consists of at least seven members who serve for four years. The president of Syria appoints its members via presidential decree. According to Article 146 of the 2012 Constitution, the Supreme Constitutional Court oversees the constitutionality of laws, legislative decrees, bylaws, and regulations. When requested by the president, the court also weighs in on the constitutionality of draft legislation and legislative decrees, supervises presidential elections, reviews presidential election appeals, and oversees trials of the president for treason.³⁰ The Supreme Constitutional Court also serves as a form of political oversight because its members are not considered within the same class as other judges, although the president does appoint judges to the court. It exercises preemptive oversight before a law or legislative decree is issued and does not act after a law is passed.

²⁹ The Syrian civil judiciary is composed of courts that begin with civil reconciliation, first instance civil court, court of civil appeal, court of civil cassation. The Syrian penal judiciary is composed of the public prosecution led by the minister of justice, penal reconciliation court, first instance penal court, penal appeal court, and the judiciary specializing in criminal issues includes the investigative judge, referral judge, criminal court, and penal court of cassation.

³⁰ Syrian constitution of 2012, the mechanism for review of the constitutional court, article 147

This overview of the Syrian judiciary makes it clear that reform is needed. The following list is a set of recommendations for how the Syrian judicial system might be reformed for the future:

1. The Supreme Judicial Council should be restructured as an independent body, completely separate from the executive branch. Hence, its membership should not include members of the executive branch.⁽³¹⁾ The president of the General Assembly of the Court of Cassation should be appointed as president of the Supreme Judicial Council, with two vice presidents as deputies. The presidents of the courts of appeals in Damascus and Aleppo and the heads of judicial bodies should be members, provided that the decision to appoint them is not made by the minister of justice. The role of the minister of justice should be limited and the employees of the Ministry should have no relationship with Supreme Judicial Council judges.
2. The judiciary should have an independently allocated budget that is drafted and supervised by the Supreme Judicial Council.
3. Judges should be protected from retribution by means of transfer and removal with the formation of an independent body where judges can file complaints when they are targeted or harassed. The independence and neutrality of the judiciary must be protected and ensured, especially in the operation of the Council of State. Therefore, it should not have members from or report to the executive branch (Council of Ministers).
4. Judges from the Council of State of all ranks should not be permitted to serve as advisers to the prime minister, ministries, or public institutions, so that this does not cast doubt on their neutrality. The administrative judiciary should be empowered through the adoption of all theories of jurisprudence used in modern developed countries such as France. They should be distributed to administrative judges.
5. Because the Supreme Constitutional Court is the custodian of the constitutionality of the laws, all sweeping laws that infringe on public rights and freedoms should be abolished. Other measures that should be implemented include repealing

³¹⁾ (Similar to the Egyptian Judiciary Council which is formed only of judges, it is formed of:
President, chairman of the court of appeal
Membership, oldest two deputies to the chairman of the court of cassation.
Membership, chairman of the Cairo court of appeal .
Membership, chairman of the Alexandria court of appeal.
Membership, chairman of the Tanta court of appeal.
Membership, Egypt's Public Prosecutor.

“political oversight duties” and adopting a clearly defined judicial oversight mechanism, as existing procedures of “political oversight” were not useful, since the Constitutional Court never once overturned a law since its establishment.⁽³²⁾ It is also necessary to remove any linkages that the executive branch – particularly the president – has in the formation of the Supreme Constitutional Court, which has a mandate to put the president on trial and should maintain its independence. Instead, the task of forming the Court should be entrusted to a general assembly of constitutional judges. The constitution must emphasize the independence of the Supreme Constitutional Court from any other body.⁽³³⁾ The Court should also have expanded jurisdiction to review cases where legislation has violated public rights and freedoms, so that citizens who have been harmed by these laws may seek recourse, as in the German Federal Court of Justice. The Supreme Constitutional Court in Syria should have the right to review laws should be both before and after they are issued.

These reforms should be enshrined in the text of a new Syrian constitution. The penal code should criminalize any attempts to attack the independence and neutrality of the judiciary, and should mandate deterrence measures to prevent those who try to exploit their positions to undermine judiciary independence from doing so.

³²⁴ Political monitoring was established in France in 1799, with the French Constitution of the Eighth Year of the proclamation of the Republic. The task was entrusted to the Senate, which did not repeal any law. The experience of the Constitution of 1852 was repeated with greater powers of review, monitoring and independence. Yet it did nothing, and accepted to be used by Napoleon the third. Due to the failure of the previous constitutions, the French constitution did not state on that in its third version. The Constitution of France of 1946 formed a constitutional committee headed by the President of the Republic, the membership of the two chambers of Parliament, nine members elected by the National Assembly and three members elected by the Senate. The monitoring was only a means to reach an agreement and arbitration inside the French parliament. The last constitution witnessed the tasking of a constitutional council, composed of nine members. This council continued in place until 1971, when a decree was issued considering itself the protector of rights and freedoms, not the protector of the executive authority.

This review shows the ineffectiveness of political monitoring in a democratic country like France. Political monitoring waited for almost seventy-one years until it began its first step. Judicial supervision on the other hand was effective and distinct and had an impact on the course of legal life from the very first moment of its emergence. Monitoring defense: A solution created by the Supreme Court of the United States of America that any judge in charge of a dispute if he is charged with the unconstitutionality of the law applicable to the dispute shall be deemed to maintain the constitutionality of the law and refuse to apply it to the dispute if the law is unconstitutional. Such censorship is of a defensive nature and does not lead to the nullification of the law, but merely excludes the unconstitutional law from the dispute.

Chapter 4

Security Functions in Decentralized Systems

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Chapter 4: Security Functions in Decentralized Systems

In countries that have emerged from or are still enduring armed conflict, there is a need for both conceptual and practical reforms of state functions at all levels of government. This is especially true in countries that experienced changes in the nature of their political and administrative systems, or where the consequences of the conflict have made a return to pre-conflict governing formulas nearly impossible. This generally occurs when state administrative frameworks have eroded so far that they are unable to address post-conflict challenges in a legal and constitutional manner. Such erosion is reinforced by the fact that most of these countries have also experienced social and regional fragmentation and require new concrete measures designed to encourage "national coexistence," rather than just state rhetoric and propaganda. Rather than implementing partisan, ethnic, or regional quota systems, these reforms to state functions should instead seek to redistribute powers so that they are not concentrated in the hands of a central authority. They must take into account the particular context of the country as well as the political and social causes of its conflict.

The most important state functions are those related to national security, including its application, implementation mechanisms, oversight, and distribution across different levels of government. Adding to the complexity of discussions about post-conflict national security is the fact that state security institutions are often linked to the causes of conflict. An appropriate post-conflict security model must take into account the local, regional, and international security context and be geared towards establishing stability. In most transitional processes, these core principles of security are often ignored because policy makers are caught up in the "security vs. freedom" debate. This raises important questions about the nature of a country's future political system: Does the provision of security services mean the lack of threats? Is it the ability of states and communities to preserve their cohesive and independent frameworks? Or is it the ability of states to maintain an independent identity and a unified territory? What is constant and clear is that the general guidelines that policy makers must adopt in post-conflict states require national security to have the following features:

- **Relativity:** There is no absolute national security for any country. The feeling of absolute security is actually the foundation of threat.
- **Flexibility:** Achieving national security is a continuous process that depends on local, regional, and international circumstances.

- **Inclusivity:** National security is not only internal security and public order; it is also the security of the state with all of its geographic, demographic, and political components including its society, its culture, and its economy.
- **Clarity:** The national security strategy must be clear and comprehensible for all those responsible for national security in state agencies. National security cannot be the exclusive preserve of military and security services. This strategy must be compatible with the aspirations and demands of the people.
- **Stability:** The state's philosophy of national security should be developed with the goal of sustainable stability, not only as a mechanism for eliminating short-term chaos.

First: Security and Theories of International Relations

The concept of national security, and its application and implementation, plays an important role in any configuration or framework of state building. It is a complex concept that is intricately connected to local, regional, and international political contexts. The need to rebuild security institutions in countries undergoing democratic transitions is based on the recognition that these security institutions were the main causes of instability and the breakdown of political and moral order. This means that the process of building a national security system must be flexible and consider decentralized policies that distribute responsibility to different parties. It must balance the significant challenges and benefits, the different geographical security threats, and the objective motives for adopting such a system.

The theory of state security is related to basic theories of international relations, both on the theoretical level as a concept and on the practical level as a strategic framework, regardless of the shape of the state and the nature of its political system. There are many schools of thought that analyze the nature, dimensions, and indicators of national security. While there is no definitive classification system in national security literature, there are three basic theories or schools of thought about security issues in international relations, each in conflict with the others: realism, revolutionary theory, and liberal theory. These three theoretical frameworks dominate most security discussions in Syria, due to the fact that such a framework was lacking during the rule of Hafez al-Assad and Bashar al-Assad, both of whom based their security strategies on criteria for consolidating governance and local control.

According to the **theory of realism**, security refers to the security of the state, which includes its regional integration, social cohesion, and political stability. The most

important elements of national security within realism are related to the military power of the state and the concepts of deterrence and force. This view assumes that the threats that facing the state are essentially of a military nature and of external origin, and that the responsibility for providing security is vested in the army and intelligence services of the state. Hence, national security is “the set of kinetic rules that the state must follow, and that it imposes on other allies, in order to ensure for itself a sort of regional deterrent self-defense.”⁽¹⁾ This theory overemphasizes the concept of security, making it the highest priority and requiring that significant national resources be devoted to the purposes of defense. These resources represent a significant opportunity cost in terms of potential development, and may lead to a police state model. This dilemma is more serious and complicated in developing countries that do not enjoy a high degree of consensus, unity, and national integration, where the main challenges are social rather than military. In the theory of realism, the concept of security is limited to external dimensions – particularly military threats from rival countries – and neglects internal dimensions.

Proponents of the **revolutionary theory** seek to implement systemic change rather than just reform. This theory has resonated in the study of North-South relations and development in the Southern Hemisphere, due to the extreme poverty experienced by a majority of the world’s population. Revolutionary theory upholds the value of justice, views war as a result of economic exploitation of the South by the North, and sees changing these economic relations as key to solving the problem of war.⁽²⁾

Liberalism rejects the assumptions of realism and believes the state is not the only actor in international security relations. It also assumes that the state is composed of many institutions and groups whose interests may vary, and who enter into compromises on their interests to reach consensus. The concept of security in liberal theory is not limited to the military dimension, but rather extends to the importance of economic, cultural, and social dimensions. This theory focuses on the freedom of transactions and the mutual benefits that societies can derive from interdependence.⁽³⁾ The criticisms of realism that are inherent in liberal theory are based on studies of the concept of national security in the developing world, which have shown that most recent wars have originated from domestic rather than international sources. Even most “foreign” interventions are carried out not by foreign armies, but rather by militias, guerrilla organizations, separatist groups, or

⁽¹⁾ Marwan Mohamad Haj Mohamad, Security in International Relations, the Political Encyclopedia, accessed online on February 6, 2018, <https://bit.ly/2x5NITz>.

⁽²⁾ Mustafa Alawi, Comments on the Concept of Security, al-Nahda Journal, published by College of Economics and Political Science at Cairo University, Issue 2000, p. 125.

⁽³⁾ Ibid.

terrorist groups that previously took refuge in neighboring countries. Accordingly, proponents of liberal theory adopt a more comprehensive concept of security called "human security," in order to cope with the reality of diverse threats, including threats from environmental pollution, disease, malnutrition, etc. New definitions of national security have focused on providing a comprehensive, multidimensional vision of the concept by focusing on five key dimensions: military, political, social, economic, and environmental.⁽⁴⁾

The necessity of defining an expanded concept of national security dictates consideration of non-military dimensions and the roles they play in fueling conflicts. Examples of such dimensions include economic and administrative insecurity that threaten standards of living by causing shortages in basic needs such as food, health, and housing. This approach is also referred to as the societal school or the comprehensive holistic analysis. Emphasis should also be placed on non-military civilian solutions to security problems, including democratization, state-building, civil society development, economic growth, and interdependence. The responsibility for security, in this view, should not be the responsibility of the nation-state but rather international institutions and a system of collective security.

The central components of the expanded conceptualization of national security do not include traditional values focused on issues such as national independence, regional integration, sovereignty, and the sanctity of borders. These traditional values are replaced by human rights, basic needs, economic prosperity, and environmental protection.⁽⁵⁾ This expanded holistic framework of understanding security poses questions about the relationship between the central state and its constituent territories, and the need to distribute powers in order to create the groundwork for stability and peace. There are several challenges inherent in the process of designing and building a security framework in post-conflict countries, including political instability, cultural and ideological conflicts, and the state's inability to intervene and adapt appropriately. Political underdevelopment means that the institutions are unable to create the connections between the top and the bottom of the political community. If the linkages between the top and bottom are not controlled and strengthened, this may leave the country more vulnerable to external meddling and economic underdevelopment.

⁽⁴⁾ Benjamin Miller: The Concept of Security, Should it be Redefined?, *The Journal of Strategic Studies*, Vol: 24, No: 2, June 2001, pp. 19-21.

⁽⁵⁾ *Ibid.*

Second: Security Powers in Stable Compound States: the U.S. and German Models

The construction of security institutions and defining precise functions of the state's security apparatus is an iterative process of updates and corrections. The degree to which evolution continues in this process has a direct impact on the level of stability that a state can achieve. The process is linked first to the imperatives of achieving and maintaining public security, and second, to the effectiveness with which the equitable distribution of roles and functions between the government and civil society is achieved. To illustrate, we shall look at two stable models: the U.S. and Germany.

With regards to the distribution of roles and functions, **the U.S. Constitution** sets out expanded jurisdiction for the states at the expense of the federal government. The Tenth Amendment to the Constitution (1791) states that: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." According to the U.S. Constitution, the central government is unique in the range of its jurisdictions.⁽⁶⁾

U.S. intelligence agencies remain centralized as they are considered sovereign bodies, with separate and interdepartmental structures. The location of these agencies varies: some are in the capital while others are based in different states. An important feature to note is that the security services are integrated in terms of jurisdictions and there is confusion between security and intelligence roles. For more on U.S. intelligence agencies, see the figure below:⁽⁷⁾

⁶⁾ Such as finance, and establishing rules regulating citizenship, organizing internal and foreign trade, military and war specializations (declaring war and forming the army and establishing rules for managing ground and naval troops, and organizing them, etc.) and the judicial and penal jurisdiction (establishing the courts less than the Supreme Court, and amending the statute for federal courts), and the federal parliament has the jurisdiction to impose sanctions for forming money bills, bonds, and currencies in the United states, in addition to legislative authorities. The congress can exercise legislative authority directly in regions related to the federal capital, and foreign relations because one of the specialties of the federal union is the unity of international character, and elimination of the international character of the states of the union. This results in the inability to have foreign independent representation or concluding international treaties. The union has exclusive authority to deal with U.S. territories, and other possessions belonging to it, and issue all necessary rules and regulations to protect them. The federal state without states has international character, and the union is the official representative of the state, and has the right to act with state territories and properties.

⁷⁾ <https://goo.gl/hB8HqJ> .

#	Name of Intelligence Agency	Affiliation	Specialization and Location
1	The Central Intelligence Agency (CIA)	Independent	In charge of intelligence gathering outside the United States. / Virginia
2	National Security Agency (NSA)	Department of Defense	The country's cryptological organization. Protects information systems and produces foreign signals intelligence. / Maryland
3	Defense Intelligence Agency (DIA)	Department of Defense	Produces foreign military intelligence in support of military planning and operations as well as weapons system acquisition / Washington
4	National Geospatial Intelligence Agency (NGA)	Department of Defense	Gathers and analyzes geospatial intelligence and supports humanitarian efforts during natural disasters. / Virginia
5	National Reconnaissance Office (NRO)	Department of Defense	Designs, builds, and operates U.S. reconnaissance satellites. / Virginia
6	Marine Corps Intelligence Agency (MCIA)	Department of Defense	Responsible for policy, planning, management, and oversight for all intelligence activities of the U.S. Marine Corps. / Virginia
7	U.S. Air Force Intelligence, Surveillance, and Reconnaissance (USAF ISR)	Department of Defense	Provides intelligence from airborne, space, and cyberspace sources. / Texas
8	Office of Naval Intelligence (ONI)	Department of Defense	Provides maritime intelligence. / Maryland
9	Office of Intelligence and Counter Intelligence (OICI)	Department of Energy	Collects information regarding the energy sector and related affairs./ Washington, DC
10	Office of Intelligence and Analysis (I&A)	Department of Homeland Security	Focuses on matters relating to improving the performance and quality of service of the Department of Homeland Security. / Washington, DC

11	Coast Guard Intelligence (CGI)	Department of Homeland Security	Protects American economic and security interests in all waters including international waters.
12	Bureau of Intelligence and Research (INR)	Department of State	Provides intelligence analyses for the Secretary of State and serves as a focal point for intelligence-related policy issues.
13	Office of Terrorism and Financial Intelligence (TFI)	Department of Treasury	Combats terrorism financing and fights financial crimes.
14	Office of National Security Intelligence (ONSI)	Department of Justice	Part of the Drug Enforcement Agency, the ONSI handles intelligence related to illicit drug operations.
15	National Security Branch at the FBI (NSB)	Department of Justice	Counter terrorism and counter spying and foreign intelligence operations.
16	U.S. Army Intelligence (G-2)	Department of Defense	Responsible for policy, planning, management, and oversight for all intelligence activities of the U.S. Army.

With regards to police functions, there are police forces in the U.S. at different levels of government (federal, state, county, city), and that focus on limited jurisdictional specializations (school districts, drug enforcement, border control, transit, SWAT teams, etc.). At the federal level, there are law enforcement agencies and federal police agencies (such as the Federal Bureau of Investigation) that report to the federal government. At the state level, the state police force reports to the governor or to the state's legislature. On county or municipal levels, local police forces are responsible for their limited territorial jurisdictions and are headed by either an elected sheriff (county level), or an appointed police commissioner or chief of police (city or municipality level) who reports to the city council or mayor.⁸⁶

In Germany's federal system, the constitution (Basic Law) outlines the distribution of authorities in an inclusive manner. There are authorities that the federal government unilaterally exercises and authorities that require joint bilateral action between the federal government and the states (*Länder*). The Basic Law also grants both the federal government and the *Länder* the right to exercise one another's jurisdiction in certain cases. The federal government, for example, has the right to

⁸⁶ Constitutional Law Track , Qanon website, <https://goo.gl/AAL4FG> .

regulate certain matters within the jurisdiction of a *Land* when its legislature is incapable of effectively regulating a particular issue, when local legislation impacts the interests of others *Länder*, or when the economic or legal unity of the country may be threatened by the development of unequal living conditions between different *Länder*. On the other hand, *Länder* may exercise the legislative authority of the federal government when they are explicitly authorized to do so under federal law and within the limits permitted by law.⁽⁹⁾

With regard to federal security, Germany has several agencies including the Federal Intelligence Service (BND), the Federal Criminal Police Office (BKA), and a federal police force (BPOL). These agencies operate through the Ministry of the Interior and the Federal Chancellery. Their work is linked to more than one branch (executive, legislative, and judicial) in the federal government, thus placing constitutional restrictions upon them and preventing them from becoming unaccountable “deep state” entities. Alongside the BND there are two other national level intelligence services: the Federal Office for the Protection of the Constitution (BfV), which is responsible for domestic security and intelligence, and the Military Counterintelligence Service (MAD). Separation of powers is a key principle guiding the work of these organs, to help ensure balance within the system and to guarantee the rights of individuals and groups. The Head of the Chancellery serves the function of the Commissioner for the Federal Intelligence Services and is responsible for coordinating the work of the government’s intelligence services and their cooperation with other authorities and agencies.⁽¹⁰⁾

The BfV, which is Germany’s internal intelligence agency, is subject to the authority of the Federal Ministry of the Interior. Its function, according to the General Law, is to facilitate cooperation between the federal government and *Länder* with regards to the collection and analysis of intelligence to protect the constitution and internal security. The BfV works with its counterparts in the *Länder* to gather information about threats to the democratic order or the security of the Federal Republic of Germany. It is also responsible for counterintelligence, and contributes to counter-sabotage operations. Since its establishment in 1950, the agency committed to strict rules of operation that set limits on its gathering of information and intelligence. Unlike the police and the Public Prosecutor General, the BfV can open investigations for any reason, even in the absence of criminal suspicion. But the BfV has no policing authority and depends on the police and judiciary to take operational

⁹⁾ Athmar Kathem Al-Rabei: German Federation and the proposed federal project in Iraq, comparative study, International Studies Journal, issue 40, <https://goo.gl/2JPxBb>.

⁽¹⁰⁾ <https://goo.gl/d4wNaq>.

actions, such as the arrest or interrogation of suspects. The BvF coordinates its work with 16 independent counterparts on the level of the *Länder*.⁽¹¹⁾

The BKA, or Federal Criminal Police Office, has seen continuous change since it was established in 1951, including the geopolitical changes that took place in Germany before and after unification and the post September 11 events. The resulting new organization of the state security division of the BKA strengthened its investigative potential in the fight against international terrorism. With the creation of the "Joint Counter-Terrorism Centre" (GTAZ) at BKA's site in Berlin in December 2004, in which information on international terrorism is collected and analyzed by various agencies, the fight against terrorism has taken a major step forward. These measures are supplemented by the newly founded division "International Coordination" in January 2005, which should bring about a further improvement of the co-operation with its international partners. The BKA coordinates its work through GTAZ along with other member agencies.⁽¹²⁾ The BKA is charged with combatting criminal activity, international arms and drug trafficking, sabotage and terrorism, financial crimes and cybercrime. It is administered by the Ministry of the Interior, and maintains Germany's relations with INTERPOL. Like the BvF, the BKA can use informants to collect information.

Under the German Basic Law, the majority of policing duties are carried out at the *Land* level through *Landespolizei* police forces, which are responsible for enforcing the law and countering local crime. Germany has a federal police force in addition to the *Landespolizei* forces. The responsibilities of the federal police are similar in all 16 German *Land*, it protects Germany's borders, trains and train stations, airports and aircraft, and federal institutions and facilities. All 16 *Landespolizei* have similar but not identical duties and powers. Each *Landespolizei* is subordinate to the Ministry of Interior in their particular *Land*.⁽¹³⁾

In summary, Security services perform many different tasks such as intelligence gathering, making situational assessments, providing input to help inform the government's political and military decisions, providing security and protection against hostile foreign intelligence activities and hostile domestic movements and parties, and securing operations, persons, and intelligence. Different intelligence agencies were established in each country to carry out

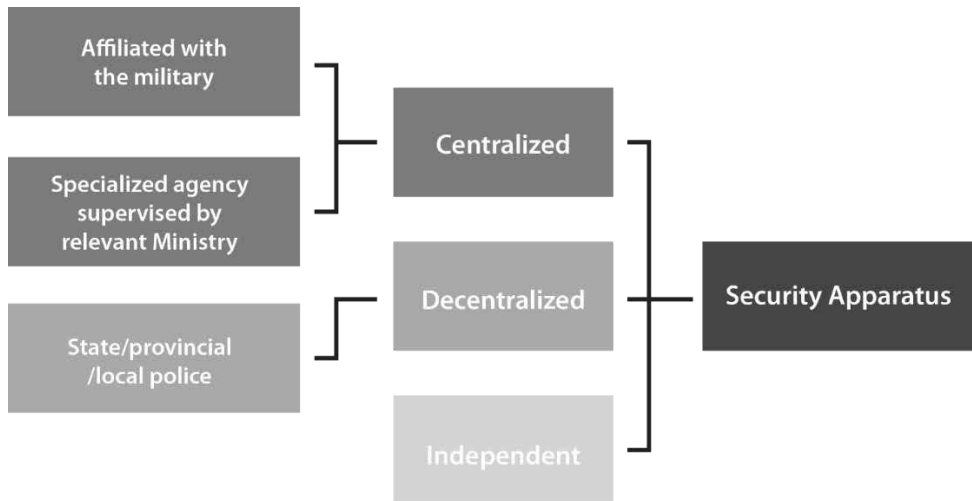
⁽¹¹⁾ Ibid.

⁽¹²⁾ <https://goo.gl/tZ4BHb>.

⁽¹³⁾ Constitutional Law Track.

these various functions, each with their own goals and divisions of labor according to the national context.

Some countries have an intelligence unit within the foreign ministry, while others have technical intelligence units that are independent of any ministry. The following main institutions are generally common across most countries' security services: central intelligence, military intelligence, and internal security. Generally speaking, and as evidenced by both the U.S. and German security sector architectures, the overall distribution of security authorities and functions in federal states can take at least three different shapes: they can be part of federal institutions, state institutions, or they can be independent. This is clarified in the following diagram:



Third: Distribution of Security Powers in the Federal State of Iraq

After the invasion of Iraq in 2003, the intelligence and security services in Iraq were dissolved by Paul Bremer, the U.S. diplomat who led the Coalition Provisional Authority, which was the transitional government created by the U.S. after it overthrew the government of Saddam Hussein. Bremer played a key role in shaping the new constitution that laid the foundation for a post-Saddam Iraq and contributed to reengineering and rebuilding the country's security framework.

Article 1 of the 2005 Iraqi Constitution declared that Iraq has a “republican, representative, parliamentary, and democratic” form of government. According to Article 9, the “Iraqi armed forces and security services will be composed of the components of the Iraqi people with due consideration given to their balance and representation without discrimination or exclusion They shall be subject to the control of the civilian authority, shall defend Iraq, shall not be used as an instrument to oppress the Iraqi people, shall not interfere in the political affairs, and shall have no role in the transfer of authority.” This article strictly prohibited the formation of militias outside the framework of the armed forces. It also defined the nature of the work of the Iraqi National Intelligence Service as limited to gathering information, assessing threats to national security, and advising the Iraqi government. The intelligence service is under civilian control, subject to legislative oversight, and operates in accordance with the law and under recognized human rights principles.⁽¹⁴⁾

Article 61 of the Iraqi Constitution stipulates that the Council of Representatives shall monitor the performance of the executive authority and approve the appointment of the Chief of Staff of the Army, his assistants, officers with the rank of division commander and above, and the head of the intelligence service, according to a nomination by the Council of Ministers. The National Intelligence Service is attached to the Council of Ministers and subject to oversight from the Council of Representatives in accordance with the provisions of Article 84.

Security and military powers in Iraq have been distributed according to the Constitution as follows:⁽¹⁵⁾

- According to Article 110, Iraqi federal authorities were granted central security and stability powers and are responsible for the development and implementation of national security policy, including the establishment and management of armed forces to secure and defend Iraq's borders.
- Under Article 121, regional authorities are responsible for all matters related the administration of the region, particularly, the establishment and organization of the internal security forces such as police, security forces, and regional guards.

Practically speaking, many security scholars say that the security services are beset by two main problems:⁽¹⁶⁾

⁽¹⁴⁾ Iraqi Constitution, <https://goo.gl/qAjEsH>.

⁽¹⁵⁾ Constitution of Iraq ,Iraqi Supreme Judiciary Council ·<https://goo.gl/5qfJmw> .

⁽¹⁶⁾ Translation of Sanaa El-Bedeiry, The Security Institution of Iraq – divisions and loyalties between the government and political blocks , Al-Sabah Al-Jadid, 29/aug/2015 ·<https://goo.gl/4yeYmG>.

1. There are imbalances between the different security services because the circumstances in the country and the degree of threats it faces lead to a large mobilization of energies and resources towards one or another apparatus.
2. There is a lack of coordination and lack of clarity regarding their areas of responsibility and powers.

These problems are due to the lack of institutionalization of the relationship between the security services and government leadership. Mutual recognition of the requirements and constraints are what create the special relationships and cooperation required to provide effective security.

The role of parliamentary oversight of security services is also a problem. The Iraqi Council of Representatives' Security and Defense Committee monitors the work of the security services. It holds hearings and summons the heads of the security agencies to describe their work and developments within their agencies. The Security and Defense Committee's ability to oversee authorities granted to special forces, or the recruitment of agents or spies without a law regulating the access to sensitive information, makes this function close to a protocol. The broadest authorities in this field remain with the prime minister.⁽¹⁷⁾

These security apparatuses are still linked to functional specializations as the primary analysis centers for economic, social, political, military, and security issues. They create training platforms for specialists to handle the development of security assessments, and they provide contingency plans based on requirements presented to them by the prime minister or cabinet of ministers.

As for the security roles in the Kurdistan region of Iraq, the president of the region plays a very important role in security related decision-making. The president of Iraqi Kurdistan has great influence over the design of security policy through the powers granted to him by law as a result of the distinctive place this office occupies among government institutions. These presidential jurisdictions and authorities include:⁽¹⁸⁾

1. The power to issue decisions that have the force of law when the territory, its political system, or its public security are facing imminent threats, i.e., the role of assessing potential security risks to the territory belong to its president.

¹⁷(Ali Mohamed Al-Shalal, Tasks and Dilemmas of Security Agencies, Al-Haqiqa newspaper website 4/3/2015 <https://goo.gl/mZxJpp> .

¹⁸(Abdallah Jaafar Kofli, Role of the president of Kurdistan Iraq region in the making of security decision, Gulan website, 1/Jan/2015 <https://goo.gl/5WdJGX> .

2. The power to issue decrees to allow the entry of Iraqi armed forces into the territory if it is subject to internal or external threats that regional security cannot adequately counter, with the approval of the Kurdistan Parliament.
3. The power to issue decrees to deploy the regional armed forces (Peshmerga) outside of the region, with the approval of the Kurdistan Parliament.
4. The power to declare a state of emergency in the region, with approval of the parliament and prime minister, if circumstances so require.

The Kurdistan Regional Security Council (KRSC) was established by Law No. 4 (2011) issued by the Parliament of Kurdistan, and is under the authority of the president of the region. The KRSC consists of the region's Directorate General of Asayish, Directorate General of Military Intelligence, Technical and Analysis Department, Parastin and Zanyari intelligence organizations, and The Counter Terrorism Department (CTD). The KRSC is tasked with drafting the security strategy to address both internal and external threats, establishing the necessary mechanisms and procedures to prevent threats, and providing security to the citizens of the region.

The Kurdistan Ministry of the Interior has several objectives, most importantly: implementing the general policy of the regional government, maintaining the region's unity and protecting its internal security, and working to prevent crime and violence against women. Its purpose is to achieve security, stability, and public safety in cooperation and coordination with the relevant regional ministries and public facilities on issues related to protection of security and the maintenance of general order. It also coordinates with the federal Ministry of the Interior and other Iraqi and international organizations as needed to pursue its responsibilities. The Ministry is also tasked with spreading cultural and security awareness, and caring for displaced people, migrants, deportees, and refugees. It works to improve their situations and provide them with solutions and services, and coordinates with other relevant authorities toward this end.

The following is an explanation of the most important security structures in the Ministry of Interior of the Kurdistan region of Iraq:⁽¹⁹⁾

- **General Directorate of the Interior Ministry:** the following are its sub-directorates: Directorate of Associations, Organizations, and Political Parties, Directorate of Classified Materials and Private Communications, and the

¹⁹⁾ Law (6) for the year 2009, law of the ministry of interior of the Kurdistan region of Iraq. <https://goo.gl/Gd9vJD>

Directorate of Monitoring Organized Crime. The Bureau of Internal Security Forces' Affairs coordinates between general directorates of internal security forces and subsidiary bureaus.

- **General Directorate of Police:** Maintains public order, ensures the rule of law, and is responsible for everything related to police affairs. It is affiliated with several directorates, most importantly: the Directorate of Crime and Movements, Directorate of Planning and Follow-up, Directorate of Provincial Police, Directorate of Provincial Civil Defense, Directorate of Regional Electricity Police, Directorate of Regional Forest and Environment Police, Directorate of Oil Facilities Police, Directorate of Provincial Investigation of Criminal Evidence, Directorate of Police Intelligence, Directorate of Civil Defense in Airports, Directorate of Provincial Civil Activities, and the Directorate of Travel and Citizenship.
- **General Directorate of Traffic:** It enforces traffic laws, regulations, and instructions. It consists of several directorates, the most important of which are: the Directorate of Technical Affairs, the Directorate of Traffic Engineering, Directorate of Administration, Directorate of Al-Mayrah, Machinery, and Intelligence, and the Directorate of Traffic in Governorates.
- **The Internal Security Forces Inspection Unit:** It is responsible for inspecting the general directorates of the Internal Security Forces and other military departments associated with the Ministry.

In 2014 when ISIS took control of Mosul, it was a pivotal moment that tested the cohesion of the security structures in Iraq and the effectiveness of their tools. The security setbacks they experienced cast a shadow over the outcomes of the activities of these apparatuses and their work in the field of internal security. A review of the structure, organization, style, and performance of the Iraqi national intelligence agencies shows how the security pressure of the events of 2014 impacted their management. This review indicates an urgent need for the creation of a more effective role for these bodies in line with the magnitude of the intelligence and security threats that afflict the Iraqi interior, which has been clear from the wide range of terrorist attacks. The limited scope of work of these bodies had a negative impact on the actual national security environment.

Political and sectarian quotas have been perhaps the single most influential factor impacting the construction and formation of security services in Iraq.⁽²⁰⁾ These quotas have been in place since May 2003 when the interim Iraqi Governing Council (IGC) was formed under the chairmanship of the American administrator Paul Bremer. When it was formed, the IGC was composed of 25 members representing different political entities, taking into account the size of the population of each sect and nationality in Iraq. It included 13 Arab Shi'a members, five Sunni Arab members, and five Kurdish members, as well as two members each from the Christian and Turkmen minorities. Although the Constitution did not refer to or legislate these procedures, they have become a binding norm in the formation of all successive Iraqi governments. This development is in conflict with the Iraqi Constitution, which indicates power in the Iraqi government is held by the political majority with the largest number of seats in parliament, and that this majority forms the government and elects the president, regardless of whether the majority is a party or a coalition of parties. Instead, what has been adopted is a system of rule where positions and roles are distributed based on political and sectarian quotas. In this system, the president is Kurdish, the prime minister is a Shi'a Arab, and the speaker of the council of representatives is a Sunni Arab. The rest of the ministries and positions are also distributed based on political and sectarian quotas. Rather than adopting the principles of political participation for all and respect for rights and freedoms to overcome the problems of sectarian and class divides in Iraqi society, this quota-based political system has failed to change the general conviction that there is no form of rule that avoids the problems of sectarianism. As a result, Iraq's cultural diversity has become a real problem with a negative impact on national unity.

Iraq's sectarian and political quotas have restricted the ability of the political system to act effectively and to formulate strategic plans related to the development and stability of the country. This has had a negative impact on national unity and national security. Over the past eight years, political processes have been dominated by high-level competition among its parties wielding the instruments of political authority as tools for the redistribution of socio-economic resources. It is clear that the government's political conflict has reflected contrasting and conflicting approaches: there have been no efforts to eliminate injustice and restore privileges and rights, but there have been efforts to restore power and influence. As a result of these internal

²⁰⁰ Ethnic and political quotas and its impact on stability, Al-Zaman website, 7/june/2014, <https://goo.gl/BUKaMC>

power struggles, several of the sovereign security positions in the government remain unfilled.⁽²¹⁾

Fourth: The Distribution of Security Authority in Syria: Local and National Dimensions

Security services in Syria before the revolution were centralized, meaning that all security branches and departments operated under the supervision of the president. All branches and divisions were administratively, financially, and institutionally affiliated with the main security directorates in Damascus, all of which are today coordinated through the National Security Bureau. The security and intelligence services in Syria consist of four general administrations whose headquarter are all located in the capital. Each agency has branches in all of the country's governorates and those branches operate with a set of powers similar to those of the headquarters, i.e. the branch is a microcosm of the public administration, as illustrated in the figure below.⁽²²⁾



Over the years, abuses committed by these security elements, agencies, and institutions have accumulated at all social, economic, and political levels such that they have become a general pattern and a familiar trend. On top of these abuses, the efforts of the security agencies were not guided by a plan. Beyond the goal of

²¹(Conflict dynamics in Iraq, Strategic Assessment, Strategic Studies Institute, Baghdad-Erbil, 2007 p8.

²²(Maan Talaa and others, Syrian Security Agencies and the need for functional and structural change, Omran Center for Strategic Studies, 14/july/2016 <https://goo.gl/jfZsYN> .

consolidating state power, no well-thought-out strategy ever appeared to guide the actions and tasks of Syria's security agencies. They lacked major strategic goals such as the maintenance of national identity, civil work, dialogue with civil sectors, economic security, the development of security work, and building a coherent security sector.

There are no accurate assessments used to determine the best size for Syria's security services, but rather only an augmented representation of the duties and responsibilities of these institutions. There are also no objective studies of what each department needs to meet its goals and responsibilities. Instead, security sector decisions have been made with the aim of militarizing society and converting it into another security tool. This led to the transformation of these agencies into reservoirs of masked unemployment.

Given the absence of clear supervisory and oversight authority, it is not possible to identify elements of the security budget, how they are structured, their consistency with the state of the national economy, or their means of disbursement. This enhances the importance of establishing criteria to assess these agencies, particularly with regards to transparency, oversight, and monitoring.⁽²³⁾

Seven years after the outbreak of the Syrian revolution, the security structures operating in regime-controlled areas cannot be considered coherent or under the control of a single central security force. This notion became outdated with the first influx of foreign militias allied to the Syrian regime and the decision to form local militias supervised by senior regime officials. The accumulation of security failures by official agencies, which were unable to counter the expansion of the revolutionary movement, has contributed to pushing the regime to take measures that have eroded its central security authority through the formation of local loyalist militias. Thus, the regime has traded the real authority of the military and security establishments for militias filled with local mercenaries. These steps have also entailed the allocation of some security forces to local militias to help them control the local communities in which they operate. This has resulted in the evolution of security and military apparatuses to where most have become central militias with wings and branches in all administrative units in Syria.⁽²⁴⁾

The general overview of security structures that has emerged in Syria indicates a set of constants that will affect the nature of the final shape of the future public security

²³(Ibid.

²⁴(Maan Talaa, Security Reality and Means to Govern It, Omran Center for Strategic Studies, 27/January/2017 · <https://goo.gl/PkcGGV> .

authority in the country. The most important of these constants is the inability of any central government to control this scenario using the centralized tools imposed by realism. In this context, emphasis must instead be placed on the distribution of the security forces over geographical areas outside of the control of the regime. The concept of local empowerment from the security perspective must be reinforced and promoted through the implementation of a regional security plan and tasks with supervision by the people of the subnational unit, taking into account the local identity of the area. A general law should be passed to regulate these local security actors and objectives and to define their relationship with the central authorities. It should bind security actors to a set of policies that guarantees the independence and integrity of Syria's policymaking and prevents fragmentation and partitioning of Syria. It should also include financial, supervisory, and administrative policies that are consistent with the concepts of administrative decentralization.)²⁵

Designing a model for security-related power sharing in decentralized countries, while learning from experiences of post-conflict stable and unstable countries, is more coherent and efficient in terms of enhancing local civil and governmental efforts, but has several requirements. Focusing on the national dimension is the first of these requirements, because national security is a key condition for building a coherent model. It must also be linked to the geographical distribution of post-conflict national threats, which require integrated central efforts to overcome.

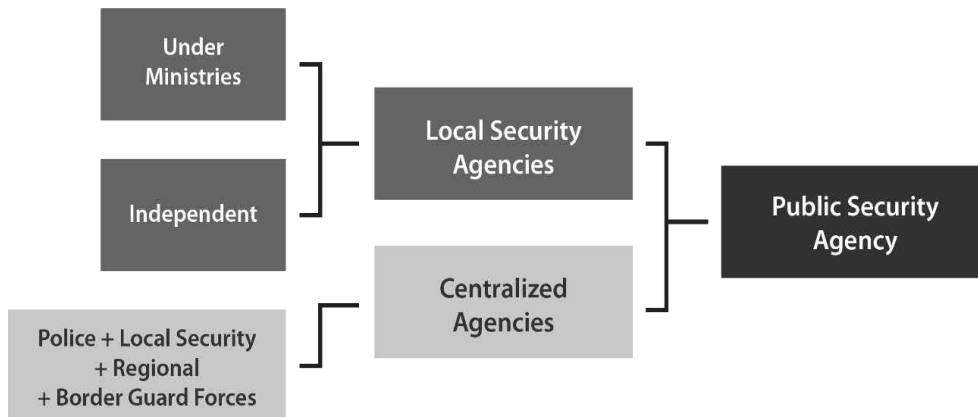
On the other hand, given the lack of trust between parties to the conflict, the process of discussing the forms of controlled decentralization itself helps to promote local stability. Security functions exercised by the central authority are often the top priority, since they can be used to lesson local factors and provide a set of determinants that override issues pertaining to local security development. The regulatory frameworks for the most successful and applicable model are as follows:

- The functions of intelligence gathering and analysis should be excluded from political rivalries and the concept of quotas.
- Independent bodies (especially anti-terrorism and regional security bodies) should be under the executive authority of the president.
- The functional and spatial specialization of the security apparatus should be defined and clarified.

²⁵ Ibid.

- A general security apparatus for coordination and integration should be formed to ensure that security functions are not duplicated.
- The authority of the legislature should be narrowed by expanding the constitutional base and ensuring the rule of law through strict constitutional standards.
- All security services shall be informational agencies only, with the exception of police forces and the counterterrorism apparatus.
- The different parties involved in national security should be given authorities related to policing and local security.
- The civil-security relationship should be defined with clear laws that cover everything from information access mechanisms to the foundations for monitoring and oversight.
- Local bodies should be established to help better understand local security threats and inform public security.

This model can be understood as follows:



The theoretical foundation plays an important role in this security sector formation process. Having a clear security theory and local consensus in that theory is necessary to ensure that the design is not fundamentally flawed. Indicators show that the most important determinants for this post-conflict process are strong defensive strategies, given the general security and intelligence breaches that the infrastructure will suffer. These strategies aim to break the defenses of organizations and agencies

that support terrorist activities and foreign intelligence cells in the interior of the nation. The principle of defense in-depth is a strategy that improves the performance of national intelligence institutions by empowering their activities and reducing their vulnerabilities. Any failure in the work of these agencies reflects negatively on the sustainability of the security environment. The role of Syrian intelligence agencies in the coming stage is highlighted by two strategic approaches that focus internally and externally:

1. **The Internal Strategic Approach (Internal Environment):** In this approach, the decision maker has an informed vision of how to effectively reformulate strategic security decisions on the political level. This approach aims to break the intelligence stalemate by narrowing the gap between intelligence elements and security environment (both internal and external). This narrowing gap is reflected in improved intelligence performance and the intensification of intelligence efforts in parts of the country far from populated areas. Rural areas are weak spots in the national security environment, and securing them is an important component of the national security strategy. Perhaps the most important point here is the formation of an early warning agency, which will focus on collecting information on future threats from research and investigation departments (think tanks). This body shall be directly connected to the higher structures of national intelligence services to provide them with perspectives on developments in the internal and regional security environments.
2. **The External Strategic Approach (Regional-International Environment):** This approach requires increased coordination of local intelligence efforts with regional intelligence agencies by strengthening the linkages, influence, and control mechanisms of security cooperation and institutional coordination. This coordination should not impact the domestic work of intelligence agencies. It is also necessary to enhance of the work of national intelligence agencies by creating interdependence and increased cooperation between them and international intelligence agencies. This will benefit national intelligence agencies by enhancing modern intelligence gathering capabilities. Increasing information sharing will have a positive impact the national security environment. This cannot happen without creating a climate of societal consensus in support of the principle of maintaining public security.

Chapter 5

Decentralization and Local Development in Syria: Theoretical-Applied Approach

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Chapter 5: Decentralization and Local Development in Syria: Theoretical-Applied Approach

While many developing countries have adopted administrative centralization as a method for managing the country's affairs and achieving economic development for their societies after gaining independence, most have not succeeded in meeting their development goals. These failures have led some in developing countries to abandon this approach and instead champion decentralization. By demanding a decentralized model many communities have sought to play a meaningful role in local development, to identify their own needs to those creating development programs, to enhance their abilities to demand that local governments improve public service provision, and to empower themselves to put forth their own development initiatives. Local development initiatives are tools for engendering a balance of power between local populations, government officials, and groups involved in development work, and a means for increasing social cohesion within the state. The developmental disparities between subnational units, the general decline of rural areas, and the poverty and deprivation of the populations in most developing nations echo the stereotype of excessive administrative centralization in these countries.

Many governments of developing countries have not responded to the demands of their communities for greater participation in local development processes, resulting in unrest and conflict, which has in turn produced economic and social repercussions that make decentralization even more challenging to accomplish. Some of these countries succeeded in moving forward with decentralization, while others failed to do so due to political, economic and social circumstances specific to each of these countries.

This chapter introduces the concept of local development as it relates to decentralization, and its implementation in countries emerging from conflicts. This section also discusses the determinants for success of decentralization in Syria, a country experiencing localized conflict, one of its causes being disparities in levels of development between its governorates, in part due to excessively centralized administration over the past decades.

First: The Concept of Local Development

The concept of local development remained poorly defined until the past few decades when the United Nations (UN) and its specialized agencies began to focus on the concept of community development in developing countries as a way to increase their standard of living and social prosperity. The UN's efforts helped foster positive societal participation and promote development initiatives spearheaded by local communities; these efforts also supported government efforts in this regard. Since its inception, the concept of local development overlapped with the concept of rural development, which focused on economic issues and increased agricultural production, without paying heed to inadequate infrastructure. Infrastructure is crucial for trade, transportation, and communication with urban areas, and can facilitate the provision of social services often denied to residents of rural areas due to the poor outcomes of rural development programs in developing countries.)¹¹

The concept of **integrated rural development** has emerged as a process that aims to develop the economic and social life of the rural poor by increasing agricultural production, establishing rural industries that provide new jobs, and improving health, education, housing, and other services. Since this concept focuses on rural areas alone without linking them to urban development, it has lost its prominence, and the concept of local development began to gain traction by encompassing all local administrative units, whether rural or urban.

Local development may be defined as: "The intended and desired process of change carried out within the context of local public policy that reflects the needs of the local unit through local leaders who are capable of utilizing the local resources available within their regions and of persuading the local population to participate in this process. Those involved in the process benefit from material governmental support and encouragement, resulting in economic and social stability."¹²

Local development is one of the most important means of national development, which can only be achieved by focusing on the most underdeveloped parts of the country. Local development is the cornerstone for achieving comprehensive development in the country and is aimed at continuously improving the standard of living for citizens and promoting positive local participation in crafting and implementing local development policies.

¹¹ Salam Al-Ebeidy, role of rural development in improving the situation of the poor in rural areas, with special reference to Iraq, Tikrit journal for administrative and economic sciences, journal 8, issue 25, 2012.

¹² Samir Abdel Wahab, local governance and local development, symposium on rural development as a means for governments to achieve comprehensive development, Arab Organization for Administrative Development, Cairo, May 2007.

In this context, local development is highly critical for developing countries because development projects require local (subnational) governments to allocate a great deal of resources and means that they must have the capacity to accurately diagnose conditions on the ground across the country using development metrics. Effective regional development policies can decrease spatial disparities between regions by reducing the unemployment rate, stopping unplanned migration, and optimizing the use of available resources in the region.⁽³⁾

Local development in this context is crucial for community development. There are two main components of community development: the first is raising the economic, health, and educational levels of societies. The second is related to non-material or moral aspects, i.e. developing the competence of communities to rely on local capacities to solve their problems democratically. The latter component is inherently connected to the form of political governance characterizing developing countries, which are in most cases are controlled by strong centralized regimes with bureaucracies that for decades have hindered a progress towards giving local units more power to implement local development programs. In many cases, the adherence to extreme centralization has led to civil strife and conflicts that have in turn undermined the development process and augmented the disparities in development levels between different regions and between rural and urban areas.

The conflict in developing countries between the central authorities, which control the functions of local administration (particularly the matter of development), and local units, which demand the right to assume a greater role in crafting their own development decisions, must be resolved. We need an appropriate formula to ensure the desired balance between centralization and administrative decentralization. This is especially true since all countries in the current political order maintain some form of localized administration, and since this administration is one of the possible means of achieving local development.

Second: Rationales for Adopting a Decentralized Development Framework

Recent decades saw a steady increase in the breadth of responsibilities of central governments in developing countries in the realm of basic service provision to their populations. This process resulted in further concentration of decision-making authority in the hands of central governments, creating numerous problems and

³⁾ Mohamed Shaba, Regional Development ,Concept, Purposes, Strategy, Basic Education Faculty, 2nd edition, Babylon University, Iraq, March 2010.

disparities in levels of development. Oftentimes, this centralization led to dissatisfaction among the population since most of decisions adopted by their central government failed to address their particular local needs and problems. To avoid these problems, many countries adopted forms of decentralized governance. While the impetuses for adopting this form of government may differ from one country to another, there are some commonly recurring rationales:

1. Economic Rationale

The ability of local communities to utilize their resources to address their needs is one of the keys to the success of local development processes. By studying their own economic potential, communities can identify the opportunities and constraints for local growth and investment. They can expand their economic base and increase employment opportunities by devising and implementing strategic programs and development projects that remove obstacles to investment in their regions. The role of local (subnational) administrative units has expanded beyond the provision of services as their countries adopt policies of privatization. These local governance structures become responsible for creating the right environment to attract investment, and for contracting with the private sector. These moves aimed at promoting cooperation with the private sector entail introducing local bylaws that provide investors with a legal basis for investing in localities, and establishing and developing the infrastructure projects necessary for local and foreign investment.⁴⁶

Local governance helps promote economic activities adapted for each region by taking into account the characteristics of the area, thus helping reduce the disparities in levels of development between different regions.⁴⁵ Reliance on local instead of central governmental structures has many other economic advantages, as it encourages local governing units to seek out new sources of local funding, to work on decentralizing industry, and to revive and encourage native industries. Rapid urbanization in many developing countries has placed an increasing burden on the financial capacities of central governments, many of which are unable to invest in infrastructure and provide public services to the population. Decentralization was therefore a means to meet the growing demands of the public and ease the financial pressures on central governments. Local governance may also help achieve a fairer distribution of the tax burden, because every local governing structure is accountable

⁴⁶ Samir Abdel Wahab, Decentralization in governance and development: philosophy and goals, symposium on rural development as a means for governments to achieve sustainable development, Arab Organization for Administrative Development, Cairo, May 2007.

⁴⁵ Ghalem Abdallah and Walid Bebe, effectiveness of development planning and civil society in achieving independent local development, alternative model in Algeria to establish local governance rules, Development studies and research journal, 3rd edition, December 2015.

for revenues generated from within its territory. Administrative decentralization may also increase national economic stability by supporting the ability of central governments to cope with crises, whether political, economic, security, or other in nature.⁽⁶⁾ Since decentralization empowers lower-level governing units that have greater familiarity with local preferences and needs, it has the potential to more efficiently deliver the same services at lower cost, leading to increased economic growth and productivity.⁽⁷⁾

2. Social Rationale

Since the early 1980s, local development in developing countries tended to be internal, self-sustaining, and involve the participation of all segments of local communities. Local development policies respond more directly to the needs of populations compared to sporadic and disorganized national efforts. In order for this to work, there is a need to form local units that make optimal use of local natural and human resources. Decentralization aims to enable local governing units to participate in public policy making alongside the central government. This entails setting development priorities based on the various needs of local communities, as local governments are closer to their communities and more familiar with their particular challenges.

Thus, administrative decentralization limits the ability of the central government to control local governing units and allows for more effective participation of residents in development policies in their own areas. This may involve altering policies due to changes in the local conditions, to ensure that policies stay in line with shifting local priorities. One of the positive aspects of increasing the participation of communities in their own affairs is raising local awareness of their environment and particular needs. Decentralization also expands grassroots participation in the setting of social and economic objectives, and the follow-up on decisions adopted as part of these efforts. This local participation is engendered in a voluntary manner, far-removed from the typically coercive nature of projects and policies handed down by central government bodies.

Participation in local development fosters cooperation between various actors, and therefore it increases the sense of belonging among residents. Local buy-in and

⁽⁶⁾ Alaa al-Anzy and Amer al-Shamry, impacts of regional administrative decentralization on promoting democracy and human rights, Babel center for humanitarian studies journal, 2nd edition, topic 5, 2015.

⁽⁷⁾ J. A. Okidi, and M.Guloba, Decentralization and Development , Emerging Issues from Uganda's Experience, EPRC Occasional Paper, No. 31, Economic Policy Research Centre, Kampala , 2007.

participation in development efforts is crucial for the success of development plans, programs, and policies, and helps assure their continuity.⁽⁸⁾

Local government units empowered through decentralization are in a better position to respond to the needs of the poor. One aspect of the local government's role in development is to empower and mobilize the poor to be part of the development process,⁽⁹⁾ which by definition entails poverty reduction policies and efforts to foster equitable distribution of wages and economic prosperity.⁽¹⁰⁾ Local governments can do this by enhancing the ability of the poor to access labor, markets, financial services, social infrastructure, and social services (education, health care, water, etc.).⁽¹¹⁾

3. Organizational and Administrative Rationales

Many central governments in developing countries have failed to deliver public services efficiently and effectively, making it necessary to adopt a decentralized approach to the local development process. Central governments' lack of familiarity with local needs and demands resulted in failures to plan appropriate local development projects, which in turn led to budget deficits due to the enormous investments in infrastructure and high social security expenditures. The push for decentralization did not arise only due to failures of central governments across the developing world, but also from structural reform programs introduced by international financial institutions. These programs conditioned financial support on reforms that included decentralization,⁽¹²⁾ forcing central governments in developing countries to transfer their responsibilities for provision of social services to governing units at the more local level.

These new structural reforms entail a series of organizational and administrative measures, which can be summarized as follows:

- a. Setting effective administrative policies that invest in training employees and preparing them to address local development needs effectively and perform their management duties at a high level.

⁸(Mohamed Khashmoun, Local democracy and development, the model of local councils in Algeria, *Al-Ihya Journal*, 1st edition, topic 4, p409-420 , 1999.

⁹(Israel Jacob Massuanganhe, Framework for Decentralized Policies and Local Development Strategies, Working paper 3, UNDP/ UNCDF Mozambique, July 2005.

¹⁰(Asmaa Salamy, role of local groups in achieving sustainable local development in Algeria, *Al-Sharia Wal Iktisad Journal*, 10th edition, topic 5, 2016.

¹¹(Alene Agegnehu & Worku Dibu, Does decentralization have a role in poverty reduction? The Ethiopian experience, *Journal of African Studies and Development*, Vol. 9 (1), pp. 1-6, February 2017.

¹²(Aicha Boucheki, Decentralization Success Factors, *Algerian Journal for Public Finance*, 3rd edition, December, 2013.

- b. Qualifying and training local administration leaders to foster the process of community participation in development efforts.
- c. Providing room for local governing units to initiate programs and solutions pertinent to their particular local needs, without being restricted to the administrative methods of the central government.⁽¹³⁾
- d. Local governance units are tasked with engendering horizontal and vertical coordination, thus saving effort, time, and money and reducing conflicts and overlap, in contrast to central government institutions that may only coordinate work vertically.
- e. Local governments provide basic information to the central government and assist the capital with national, regional, and local development planning.
- f. Creating a sense of competition between subnational (regional and local) governing units, which helps improve their performance and ultimately increases the global competitiveness of the national economy.⁽¹⁴⁾
- g. Combating the negative aspects traditionally associated with central administration such as bribery and tax evasion. This positively impacts growth of the national economy.⁽¹⁵⁾
- h. The transition from national development to local development leads to accommodation between the central authority's interventions and local government proposals, predicated on the participation of local communities in the process of preparing and implementing socioeconomic and environmental projects.⁽¹⁶⁾
- i. Reducing the administrative and developmental burden on the institutions of the central government, eliminating many of its tasks and reassigning them to regional and local bodies. This gives central authorities the bandwidth to supervise ongoing development plans.
- j. Creating direct and continuous contact between development-planning agencies and citizens. This allows planners to obtain more accurate data about the situation

¹³(Samir Abdel Wahab, Decentralization in governance and development, philosophy and purposes.

¹⁴(Yongmei Zhou, Decentralization, Democracy and Development, Recent Experience from Sierra Leone, The World Bank, June 2009, p. xv.

¹⁵(Zoë Scott, Decentralization, local development and social cohesion, an analytical review, Governance and social development resource center, May 2009.

¹⁶(Soliman Ould Harma, Administrative Decentralization and its contribution to local development, Sabha University Journal, Humanitarian Sciences, 2nd Edition, topic 5, 2006.

in different communities, which helps them prepare and implement more realistic, effective, and impactful development plans.

- k. Subjecting local bodies to oversight and monitoring by legislative and judicial authorities and civil society organizations to increase efficiency in the allocation of resources, and reduce corruption. This in turn frees up more resources to raise the standard of living of individuals and achieve the welfare of society.
- l. Greater efficiency of local administrative units, each allocated with its own budget that it distributes in accordance with local needs, results in faster completion of development programs and projects. This in turn strengthens the political and economic structures of the state.⁽¹⁷⁾
- m. Simplifying administrative procedures by reducing the time local government units spend communicating with the central government and filing requests for authorization, resulting in faster solutions for local challenges.
- n. Relative easiness of carrying out local administrative reforms because there is a small number of local administrative units that allows for testing administrative reforms.
- o. Decentralization allows the diversification of management methods in accordance with local conditions and geographical environments, granting local governments the flexibility to adopt methods most suitable to their circumstances.

In general, centralization and decentralization are both options that may be applied in administrative and political systems, and each has its own rationales and justifications derived from theoretical backgrounds and practice. Therefore, it is not appropriate to determine that one system is superior to the other. Each country's unique geographical, political, economic, and sociocultural conditions should be examined when determining the appropriate administrative style for a country. A change in these conditions may lead to a shift in the type of system of administration applied in the country. The objective is to achieve equitable and balanced development with the resources available.

¹⁷⁾ Qassem al-Zebeidy and Eissa Al-Jabouri, decentralization and local governance, Tikrit University for Sciences Journal, 12th edition, topic 20, December, 2013.

Third: Determinants for the Success of Decentralization in Achieving Local Development

Most developing countries face significant challenges in their development efforts. These problems may be related to poorly planned or executed development projects and processes in various sectors, or to the significant human and material requirements necessary for accomplishing development projects. Local development requires an environment enabling and encouraging the improvement of living conditions. However, in many developing countries, these conditions are missing, and they lack sufficient funds and capabilities to address development needs. As a result, a significant proportion of their populations live in poverty without basic services. These countries also lack the human capital needed to plan and implement successful development initiatives.

While many developing countries adopted decentralization to address the shortfalls of top-down development policies, the rates of success in the process of decentralization vary. The failure or success of local development in a specific context should not be used to judge the utility of the decentralization approach. Rates of success are determined by the feasibility of decentralization plans, the degree of cohesion of government mechanisms, and the circumstances surrounding the plan's implementation. The failure of decentralization in a region is primarily a failure of implementation, whether due to weakness of administrative mechanisms, fragility of governing rules, or a lack of local competencies to replace central authorities, design development policies, and make effective decisions. Many of these developing countries lack the capacity to choose the appropriate degree of decentralization, which is related to the degree of economic development and the strength of democratic institutions in each country.⁽¹⁸⁾

The following measures should be implemented to ensure successful decentralized local development:

1. Effective Development Planning

Proper planning is the starting point for achieving any development goals. This step requires local governing units to survey conditions on the ground, gain knowledge of the current state of human resources and capabilities, and identify the organizational resources required for the planning and implementation stages.

⁽¹⁸⁾ John. A. Okidi and Madina Guloba.

The roles of those supervising the implementation of the development programs and the expected timeframe required to reach a goal need to be clearly defined at this stage. This should be based on the information gathered on local conditions and capabilities, including precise statistics. The planning process entails multiple participants and therefore, efforts must be properly coordinated at all stages: planning, implementation, and monitoring of outcomes.

A successful planning process for development initiatives requires the following steps:

1. Assessment of local community resources, both human and material, and a realistic definition of local needs.
2. Prioritization of local needs based on their relative degrees of importance.
3. Identification of the mechanisms and actors involved in the implementation of development projects.

2. Effective Organization and Monitoring of the Development Process

The configuration of organizational resources is necessary to effectively achieve the strategic goals of local administration. This process is one of the most important administrative activities. It saves resources through the efficient use of human capital and material resources, and is intended to prevent the emergence of disparate and dispersed efforts. Local units must analyze ongoing administrative activities and halt all actions that are not useful before assigning these tasks and the various responsibilities.

The focus of this stage should be on determining the extent to which the various organizational units of local administration are capable of achieving development goals. Organizational structures are a means to an end, and therefore changing ends, i.e., setting different development goals, necessarily requires changing the means. Administrative corruption is customarily found in local units. As many studies have shown, this stems from poor organization and overlapping organizational structures.⁽¹⁹⁾

Monitoring ensures that the independence of local units is coherent does not lead to chaos or the disintegration of the state. The function of control and oversight is often perceived as a reflection of the debate between centralization and decentralization of

⁽¹⁹⁾ Adel Zayed, developing the future of Arab local administration, lessons from the Egyptian experience, Arab Organization for Administrative Development, Cairo, 2014, p.28.

local administration, and the conflict between the independence of local units and the maintenance of state unity.

Due to the inability of local governance units to bear the costs of implementing local development plans alone, and their reliance on the financial support of the central government, the financial resources of the local units are subject to significant central control. The dependence of these subnational units on grants and assistance from the central government can weaken and constrain their performance. The situation becomes more complicated due to the involvement of multiple central government oversight bodies, which often hinder the work of local units by creating bureaucracies that are unable to meet the needs of local development processes.

3. Sustainable Funding for Development

The success of local development in a decentralized governance system depends primarily on the availability of the sustainable funding required to implement these programs. Without sufficient financial resources, decentralization of authority will only lead to the failure of the local governance units.⁽²⁰⁾

Local financial resources should be identified, invested, and increased. Local governing units should primarily rely on these local resources for funding local development initiatives, because they have the ability to marshal as many resources as possible and optimally utilize them. Reliance on local resources enables local governing units to control the management of their resources and allows them to work independently.

Financing is one of the most significant obstacles facing local development within decentralized systems of governance. This matter requires that local governance units shoulder the additional burden of identifying the financial resources needed for development projects, and propose appropriate measures to develop financial resources. Despite these challenges, these local financing strategies are crucial due of the decrease in financial resources provided by the central government.

International agencies have provided financial and technical support to community-led development efforts in order to promote decentralization.⁽²¹⁾ Many developing countries have received international assistance to support administrative decentralization of the state and the adoption of participatory development models

⁽²⁰⁾ Roy Bahl, Implementation Rules for Fiscal Decentralization, Paper presented at the International Seminar on Land Policy and Economic Development, Land Reform Training Institute, Taiwan, 17 November 1998.

⁽²¹⁾ Stuti Khemani, Political Capture of Decentralization, Vote-Buying through Grants-Financed Local Jurisdictions, Development Research Group, The World Bank, 2010.

that focus on building local partnerships between civil society and the state.⁽²²⁾ In order to improve the impact of administrative decentralization, some countries like Estonia, Latvia, and Lithuania have adopted policies of greater financial decentralization by allocating some central financial resources to local units. These policies include granting local units with a percentage of locally-collected revenues such as real estate taxes, value added taxes, and public facility fees, that then go into local unit budgets to improve the public services they provide to residents.

If local governing units are able to invest their resources effectively and use them efficiently, it will eventually reduce their dependence on funding from central governments and international donors. It will also enable them to provide stable and alternative resources for sustainable economic development and poverty alleviation efforts.

Considering the insufficient financial resources of local governing units in developing countries and the difficulty of sustaining financing, these units must be efficient and effective in the management and mobilization of their resources. They can do this by introducing relevant rules, increasing their resources to the greatest extent possible, and using them productively and efficiently.⁽²³⁾

4. Degree of Local Community Participation in Development

International organizations working in the field of local community development emphasize the need to engender community participation in local development efforts by mobilizing locally available resources and energies, and the importance of capacity building for individuals and local institutions so that they may become self-reliant. Community empowerment is often measured by the degree of popular participation in making decisions related to development efforts, and the impact of development activities on the community, and improvements in the performance of local institutions.

In reality, however, decentralization in developing countries is often used to support the central government, instead of allowing for the genuine sharing of authority and the involvement of communities in political decisions pertaining to their local development. This is why decentralization has largely failed to enable citizens to

²²(Asia al-Mehy, Institutional Development and Transition, Decentralization in the Course of Political Transformation, ESCWA, October, 2013, New York.

²³(Mohamed Al-Abdallah, local economic development as a need for social stability in Syria, in national tests to counter the fluidity of the Syrian scene, Omran Center for Strategic Studies, 2016.

engage in decision-making processes to ensure that development policies are citizen-centric, responsive, and sustainable.)²⁴

5. Local Community Culture of Decentralization

Many developing countries that have adopted decentralization as a means to promote community participation and transparency in local development decision-making processes have not achieved their desired outcomes. These failures may stem from cultural factors related to the adoption of democracy in these countries, whether on part of the central governments or local population. To ensure that these failures do not prevent the achievement of development goals, it is necessary to adopt a societal culture that promotes democratic practice and participation in a manner that is appropriate for life under decentralized governance.

In addition to mobilizing and using the energy and participation of the community, local institutions must be empowered with real decision-making authority so they can establish local development policies that address the real needs and aspirations of the people.⁽²⁵⁾

Energy must be put into combatting poverty, exclusion, marginalization, social disparities, and into supporting vulnerable and marginalized groups. These groups can be supported through greater integration into society, assurance of a fair distribution of development gains, and improvements to service provision throughout the country by giving all units access to resources and investments. These steps will help reduce regional, economic, and social disparities.

Fourth: Decentralization and Local Development in Post-Conflict Countries

There is no clear causal relationship between achieving sufficient development levels and the adoption of decentralization in post-conflict countries: decentralization does not seem to be a direct cause for local development in these countries, nor is it an inevitable consequence. Most studies concerning the relationship between local development and decentralization tend to affirm their correlation without establishing a causal link.

⁽²⁴⁾ Yasin Olum, Decentralization in developing countries, preconditions for successful implementation, Commonwealth Journal of Local Governance, Issue 15 June 2014.

⁽²⁵⁾ Nassif El-Abadi and Ahmed Al-Matoury, Rolf of Decentralization and Good Governance in Iraqi Economy, Economic Sciences Journal, Edition 36, July, 2014.

Several countries that adopted a decentralized governance system after emerging from conflict failed to achieve acceptable rates of economic and social development, while other similar countries achieved significant development gains after adopting decentralized governance systems. Therefore, the decision on whether to adopt a decentralized system in a specific case is a relative one and should be evaluated based on the particular national and local circumstances.

International development agencies increasingly promote decentralization in post-conflict countries as a means of stopping conflict. Decentralization may help defuse conflict by empowering local governments, which have greater familiarity with the local causes of conflict and can often play a more beneficial role in:⁽²⁶⁾

- Improving public services,
- Facilitating the participation of minorities in decision-making processes, and Enabling a bottom-up process of state reconstruction.

Thus, the responsibilities of local governance units in post-conflict settings should not be limited to public service provision. Rather, they should foster public participation in the reconstruction of the economic, political, and social mosaic in the country.

Fifth: Challenges Facing Decentralization in Post-Conflict Countries

The consolidation and monopolization of authority by central governments is a source of conflict in many developing countries. To address the resulting tensions, many post-conflict countries adopt decentralization to ensure equitable access to services and the involvement of locals in the development and reconstruction processes. However, decentralization does not automatically prepare a country for peace, democracy, or development. If decentralization is poorly implemented without proper governance mechanisms, it may produce administrative and service provision infrastructure that is conducive to renewed conflict and instability.⁽²⁷⁾

Due to the diversity of post-conflict scenarios, it is difficult to develop a comprehensive list of challenges that might arise from decentralization. The challenges of development in post-conflict countries are linked to a range of interrelated security, political, economic, and social issues. However, a number of

⁽²⁶⁾ Decentralization and Conflicts, A Guideline, Division Governance and Democracy, GTZ, 2006, Germany.

⁽²⁷⁾ Reconstructing Public Administration after Conflict, Challenges, Practices and Lessons Learned, World Public Sector Report, United Nations, New York, 2010, p. 87.

key challenges, elaborated below, can be identified as impediments to the successful implementation of local development in post-conflict countries:

1. Adequate Size and Form of Decentralization

One of the most difficult challenges in post-conflict countries is building an effective public sector. In the absence of an effective central government, local decentralized governments can play a significant role in improving governance, ensuring the delivery of public services, and enhancing the credibility of the newly emerging states.

An examination of the experiences of several countries in this regard shows that the extent and manner in which local governments contribute to post-conflict recovery varies widely. In some cases, such as Macedonia, instituting a highly decentralized state structure was critical in reaching a political solution for the conflict. In other countries like Cambodia, decentralization was used as a tactical tool to strengthen infrastructure or provide public services in the initial post-conflict phase. On the other hands, in a third set of countries including Afghanistan and Iraq, centralization efforts dominated the political post-conflict configurations. This diversity of international experiences makes it difficult to reach a definitive conclusion on the role of local governance in the revival and development of post-conflict countries.⁽²⁸⁾

2. Local Community Ability to Shoulder Responsibility of Authority

One of the challenges facing states that pursue decentralization is ensuring that communities have the will and the capacity to responsibly deal with the authority vested in them by the central government. Experience shows that communities, especially those affected by conflict, do not always accept decentralization policies automatically. In countries that are used to being highly centralized, people are used to receiving services from the central government, and hence they may view decentralization as a step by the state to abandon its role in public service provision.

Governments must therefore clarify the objectives and benefits of decentralization and undertake local capacity development. The human capital in local public administrations in many of these countries often lacks adequate qualifications and expertise, since hiring decisions were based on nepotism rather than merit, rendering

⁽²⁸⁾ Jamie Boex and others, Decentralized local governments as a modality for post-conflict recovery and development, An emerging natural experiment in Northern Uganda, Urban Institute Center on International Development and Government, Washington, DC, Working Paper No. 2010-01, 2010.

public officials unable to achieve the desired goals in implementing decentralization measures.⁽²⁹⁾

Decentralization is advisable when the area of the country is large and has a strong economy, and inadvisable in smaller countries or in cases where it would entail granting autonomy to weak regions that would struggle with self-management.⁽³⁰⁾

3. Abuse of Power

One of the most significant challenges to successful decentralization, local development, and reconstruction in post-conflict countries is the misappropriation of resources due to the corruption of local elites.⁽³¹⁾

4. Inability to Bear Costs of Establishing Local Governance Units

The costs associated with establishing additional layers of governance are significant for many post-conflict countries that have few material resources at the outset of the process. This creates a real difficulty in establishing the pillars of local governance and implementing local development programs. This may also cause the community perceiving local governing units as useless and ineffective administrative bodies.⁽³²⁾

5. Lack of Trust between Central and Local Governing Entities

Security concerns and lack of trust between the central government and local actors in post-conflict countries limits the effectiveness and degree of citizen participation in local governance structures. This in turn impedes social reconciliation, local development, and reconstruction efforts.⁽³³⁾

6. Lack of Sustainability of Decentralization in Post-Conflict Countries

Some believe decentralization in post-conflict countries is unsustainable, because it is often instituted as a result of pressure from influential external actors involved in the conflict's settlement. Accordingly, some countries prefer political pluralism and popular participation, as is the case in Cambodia, which committed to decentralization on paper but did not transfer significant authority or financial

⁽²⁹⁾ Yasin Olum, Decentralization in developing countries, preconditions for successful implementation.

⁽³⁰⁾ Rahim Hussein, Decentralization of the budget and local development, Which connection with which economy, Derasaat Jebaeya, 3rd edition, 2013.

⁽³¹⁾ Paul Jackson and Zoe Scott, Local Government in Post-Conflict Environments, Workshop on Local Government in Post-Conflict Situations, Challenges for Improving Local Decision Making and Service Delivery Capacities, United Nations Development Programme (UNDP), 28-29 November 2007.

⁽³²⁾ Ibid

⁽³³⁾ The Role of Decentralization/Devolution in Improving Development Outcomes at the Local Level: Review of the Literature and Selected Cases, UK Department for International Development, November 2013

resources to local government.⁽³⁴⁾ Likewise, a supreme inter-governorate coordination authority was formed in Iraq to facilitate the transfer of authority, but its role was not defined clearly, and legislation was not issues to clearly define the guidelines and mechanisms for the transfer of power.⁽³⁵⁾ Without a political commitment, there is no clear strategy for the implementation of decentralization.⁽³⁶⁾ Decentralization requires a supportive and capable central authority that abides by the process.⁽³⁷⁾

7. Severe Shortages of Human Capital

Most post-conflict countries suffer from a shortage of proficient personnel. Usually, local governments struggle to compete with the central government, private sector institutions and non-governmental organizations in attracting qualified employees. Therefore, even if the central government decided to delegate tasks and funds to local governments, the latter may not have the competent employees needed to perform these tasks.

Consequently, the appropriate design of post-conflict policies in developing countries – i.e. policies to achieve development and reconstruction, promote sustainable recovery, and reduce the likelihood of conflict recurrence – must take into account the particular circumstances of each country, including their economic situations, capabilities, political systems, bureaucratic obstacles, and internal security situations.⁽³⁸⁾

National and regional contexts directly impact how the implementation of decentralization affects conflicts. Under certain circumstances, decentralization may undermine the desired goals and escalate the conflict instead. Thus, the tendency of international development agencies to support decentralization in countries with different circumstances may inadvertently exacerbate some conflicts.⁽³⁹⁾ Accordingly, decentralization strategies must be adapted to the specific circumstances of each country, particularly in the case of countries recovering from devastating conflict.

⁽³⁴⁾ Peter Blunt & Mark Turner, *Decentralization, Democracy and Development in a Post-Conflict Society*, Commune Councils in Cambodia, Public Administration and Development, 2005, Vol 25, Issue 1, pages 75–87.

⁽³⁵⁾ *Decentralization in Iraq – another perspective*, ESCWA, May 2017, Beirut.

⁽³⁶⁾ Yasin Olum, *Decentralization in developing countries, preconditions for successful implementation*.

⁽³⁷⁾ Joseph Siegle & O'Mahony, Patrick, *Assessing the Merits of Decentralization as a Conflict Mitigation Strategy*, Office of Democracy and Governance, USAID, Washington, D.C., 2006.

⁽³⁸⁾ Graham Brown & others, *A Typology of Post-Conflict Environments*, Centre for Research on Peace and Development (CRPD), Working P.1, September 2011, Belgium.

⁽³⁹⁾ *Decentralization and Conflicts, A Guideline*.

Sixth: Local Development in Syria, Between Centralization and Decentralization

During the decades leading to the popular uprising – which turned into a multi-party conflict – Syria suffered from significant challenges pertaining to local development programs. Many of these programs failed due to the absence of a political framework and technical planning for the development process, and widespread financial and administrative corruption. The policies adopted by successive governments to limit development disparities between Syrian governorates also failed, resulting in an accumulation of development challenges.

One of the most obvious signs of the Syria's flawed development was the disparity between population growth and geography, whereby 60% of the population was concentrated in just 13% of the country's territory. This increasing population concentration involved the reduction of cultivated agricultural lands and migration from rural areas to cities. Both of these phenomena stemmed in part from absence of adequate public services in rural areas, poor infrastructure, and little to no rural investment.

Most of the new investments and economic activities in Syria were concentrated in major cities such as Damascus and Aleppo. This disparity created huge pressure on these cities, which were neither ready nor qualified to accommodate large numbers of migrants. Rapid urbanization led to the growth of densely populated informal housing areas on city outskirts, the inhabitants of which amounted to about 20% of the country's population. The expansion of urban areas in turn led to the deterioration of public service provision, transportation, and infrastructure in cities.

The uneven distribution of investments across governorates played a major role in creating large development disparities. This unequal distribution was more evident in private investments than in government investments.⁽⁴⁰⁾ One of the results of this sort of investment was the rise in poverty rates and growing disparity in poverty levels between the rural and urban areas.

If we take the distribution of projects under the investments laws in Syrian governorates during the period of 2006-2010 as an example, we find that most of these projects were concentrated in the governorates of Damascus, Rural Damascus, Aleppo, Homs, and Hama. The projects implemented in these governorates amounted to 59.4% out of a total of 1,421 projects.⁽⁴¹⁾ This uneven investment

⁴⁰(Raslan Khodour, Flaws in Regional Development in Syria, 23rd Tuesday Economic Symposium on Syrian Economy...Future Horizons, Syrian Economic Sciences Association, May 01-25, 2010, Damascus.

⁴¹(5th Annual Report for Public Investment, Syrian Investment Authority, 2010.

distribution resulted in the concentration of the highest rates of poverty and unemployment in urban and rural areas in northeastern and southern Syria. Poor living conditions prompted mass internal migration from these governorates to urban slums. The disparities in local development levels in Syria can be attributed to the following:

1. Lack of vision from policymakers and lack of clear governmental policies concerning local development.
2. Lack of seriousness and effectiveness of planning for local development by relevant central government bodies.
3. Concentration of the decision-making regarding development efforts in central government, excluding local administrative units from the process.
4. Absence of a clear mechanism in the federal budget for distributing investment appropriations between governorates, leading to uneven investment allocation.
5. Measuring the success of development policies based on provision of basic needs, rather than achieving specific results and expanding community participation in the development process and its benefits.⁴²⁽
6. Denying communities the opportunity to participate in the development of their regions, or sometimes the failure of communities to take the initiative to participate.
7. Lack of policies to fairly distribute development revenues between governorates and their lift large segments of the population out of poverty.
8. Differences in the quality of basic services between governorates, as a result of the uneven governmental and private sector investments in infrastructure.
9. Local development requires stability in economic and developmental policies over a sufficient period of time to achieve the desired changes. This has not been achieved in Syria, which since its independence has been subject to relatively rapid policy shifts.⁴³⁽

⁴²⁽ The National Agenda for the Future of Syria, Strategic Framework for Alternative Policies, Post-Conflict Syria, ESCWA.

⁴³⁽ Nabil Marzouk, Obstructions of Development in Syria, 24th Tuesday Economic Symposium on “Economic and Social Development in Syria, Syrian Economic Sciences Association, January 25-June 28 2011, Damascus

10. The weakness of the overall economic growth rate in the medium- and long-terms, and a failure to broaden popular participation in support of local development objectives.

Syria's political institutions have failed to facilitate inclusive participatory development processes. They have also failed to establish rigorous accountability and coordination systems that can effectively address poverty and social disparities.⁽⁴⁴⁾ **These failures have manifested in the poor state of public services, and absence of effective oversight of administrative performance.**⁽⁴⁵⁾ The weakness of decentralization at the local and governorate levels in Syria reduced the ability of individuals to participate in the development process.⁽⁴⁶⁾

The partial reforms of Syria's central government have not addressed the heart of the country's development challenges, and have accordingly lowered the expectations of individuals and communities. The increased sense of injustice and exclusion has been exacerbated by the non-democratic nature of the country's political institutions, which do not provide opportunities for participation through institutional channels. This undemocratic system has also prevented the emergence of civil society institutions capable of expressing the public's interests and pressuring decision-makers to adhere to them.⁽⁴⁷⁾

Traditionally, the government's development planning focused on increasing access to social services, and lacked specific measurable objectives. At the same time, the government adopted particular development plans for the sectors of education, health, and livelihoods, measured against quantitative indicators. This led to a significant decline in quality of services because these plans were formulated independently, outside of an integrated development model.

Developing planning also lacked clear and measurable goals to be achieved in a predetermined time frame. Development planning in Syria also did not properly prioritize poverty alleviation. While the national development plan included multiple programs and projects to tackle poverty, most of them have not been implemented or have failed to achieve notable success.⁽⁴⁸⁾ Moreover, social policies have been

⁽⁴⁴⁾ Rabie Nasser, Zaki Mehcy & Khalid Abu Ismail, Socioeconomic Roots and Impacts of the Syrian Crisis, The Syrian Center for Policy Research, January 2013.

⁽⁴⁵⁾ The 2010 national report on competition showed that Syria suffers several points of weakness in public administration and good governance, including loss of public funds, and complicated judicial and legislative procedures, and weak government accountability and managing of public resources, and lack of public and transparent policies.

⁽⁴⁶⁾ Rabei Nasr and Zaky Mahshy, role of economic factors in political efforts, economic development and policies journal, special edition, Arab Spring Economies, book 15, 1st edition, January 2013.

⁽⁴⁷⁾ Ibid .

⁽⁴⁸⁾ Ibid.

formulated without taking into account their interconnectedness with economic policies.⁽⁴⁹⁾

Past policies in Syria maintained a minimum level of development, accompanied by inefficient institutions whose work was hindered by multiple bottlenecks. This minimum level of development was broken as a result of two historical processes. First, the economic liberalization policies of the two decades prior to the Syrian conflict decreased the state's involvement in public service provision, development investments, and employment, all without creating adequate alternatives. Second, was the growing expectations of the population, particularly the educated younger generation, of higher standards for their futures and greater awareness of their rights. These expectations stood in stark contrast with the relatively regressive level of development in Syria compared to more successful developing countries.

One of the core causes of the current crisis is the problem of marginalization of large segments of Syrian society, and the denial of opportunities to actively participate in political, economic, and social development. Economic and social policies alone cannot offer successful holistic solutions to the above-mentioned challenges.⁽⁵⁰⁾

Conclusion: Which Decentralization Form Suits Syria's Development Framework?

Despite the debate among supporters and skeptics of decentralization in post-conflict countries, the decision of whether or not decentralization is adopted depends on a range of political, economic, and social factors in each country. These factors may encourage decentralization, or require a delay in the implementation of decentralization plans for fear that they may weaken community cohesion and due to their inability to shoulder the responsibilities of local governance.

Based on the above examination of development efforts over the past decades in Syria, it seems wise to adopt administrative decentralization in the future by granting local governance units a larger role in planning for their areas to limit developmental disparities between different regions in the country. Undoubtedly, these disparities were one of the reasons for the Syrian crisis. Measures should be put in place to ensure accountability and absence of corruption in local governance units and they should be endorsed and widely used throughout the reconstruction phase. It is also

⁽⁴⁹⁾ The National Agenda for the Future of Syria, Strategic Framework for Alternative Policies, Post Conflict Syria.

⁽⁵⁰⁾ Rabie Nasser, Zaki Mehcy & Khalid Abu Ismail.

important to integrate local governing units into the process of decision-making through their active participation in the reconstruction process.

The central government in Syria may struggle to adopt an appropriate level of administrative decentralization in line with the degree of economic and democratic development in its regions. This difficulty is exacerbated by the weak local government formations that were established after the start of the conflict, many of which lack sufficient financial resources and capable personnel to develop local development plans.

Syria's leadership can benefit from the experiences of other post-conflict countries in the Middle East and countries with similar economic, societal, and political circumstances in its process of designing a model for administrative decentralization that will accompany post-war reconstruction. At the same time, it is important that the government avoids taking ready-made solutions for administrative decentralization derived from the experiences of other post-conflict countries and applying them without the appropriate adaptation to Syrian circumstances.

Therefore, we need to crystallize a clear strategy for local development in post-war Syria that can be translated to a program of resuming economic activity, and allowing displaced residents to return home, in accordance with the available natural resources, economic abilities, and absorption capacity of each governorate. This strategy should entail:

- Formulating a clear relationship between the central government and local governing units, one that clearly outlines their roles, powers, and responsibilities with regards to national development plans.
- Allocating appropriate resources for the local administrative units and putting in place stringent regulatory oversight systems involving civil society organizations.
- Ensuring cooperation and integration between central and local planning bodies. Local planning is not a substitute for or parallel to the national development plan, but rather an essential component of it, according to which the central plan is formulated.
- Investing in social and economic infrastructure, while addressing the developmental disparities that have emerged across Syria's governorates prior to the conflict.
- Identifying governorates that have untapped potential and the economic activities that can be established in certain locations to take advantage of their comparative

advantages and capacities. These economic endeavors can serve as forces of growth and can support demographic stability after the conflict ends.

The success of the strategy elaborated above will largely depend on ensuring the appropriate level of administrative decentralization in planning and implementation for each governorate, and by providing local administrations with sufficient authority.

While the connection between decentralization and development is not clearly causal, they are positively correlated in that the implementation of decentralization supports local development. However, the success and effectiveness of decentralization depends on the nature of the decentralization effort, and the degree of development and capacities in a given country. The failure of local bodies to achieve local development may occur even under a comprehensive decentralization plan. Therefore, the study of the correlation between these two variables must take into account indicators of local capacity and decentralization.

Experience derived from other post-conflict countries affirms the need to adopt administrative decentralization. The transformation from a centralized to decentralized administration should be carried out through a gradual process of assigning greater responsibilities to local governing authorities, so as not to affect national unity. The projects and plans for local development should be coherent with the national plans for the reconstruction period.

Applying administrative decentralization in Syria will speed up the reconstruction process by engendering active and real participation of local communities in this process. This will motivate communities to exert greater efforts and use all of their potential to improve their areas and overcome the consequences of the conflict in pursuit of economic restoration, thus laying the grounds for future economic and social stability.

Chapter 6

Financial Decentralization and the Determinants of Success in Syria

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Chapter 6: Financial Decentralization and the Determinants of Success in Syria

Financial decentralization is a subcategory of decentralization. It requires the allocation of appropriate budgets to the constituent (subnational/local) units of the decentralized country to allow local administrations to carry out their duties set forth in the constitution and law. Notably, the vast majority of the writings on decentralization by jurists gave no consideration to financial decentralization. None of the political or economic forms of decentralization can be successfully instituted without implementing financial decentralization as well. The most recent classification system published by the World Bank recognized fiscal, political, administrative, and market decentralization as forms of decentralization.⁽¹⁾ Accordingly, there has been increasing interest in fiscal, or financial decentralization, and the regulation of mechanisms for the collection, distribution and disbursement of financial resources at all levels of government and administration in the state.

This chapter will expound on the definition and various aspects of financial and fiscal decentralization that make it different from all other types of decentralization. This chapter will also tackle legislative regulation related to the allocation and transfer of fiscal revenues and the appropriate authority to spend them. What follows is a study of several examples, and a discussion of Iraq's experience with financial decentralization as part of its post-conflict shift to decentralized governance. In addition, this paper will attempt to survey the specifics of financial decentralization in Syria by examining the most important features of decentralization in the local administration law prior to 2011. This chapter will conclude with a presentation of the factors required for achieving successful fiscal and financial decentralization in Syria's future.

First: Financial Decentralization: Concepts and Definitions

Financial decentralization conventionally refers to granting local governance units greater authority to collect revenue at the subnational level within the context of a

⁽¹⁾ World Bank, <http://www1.worldbank.org/publicsector/decentralization/what.htm>

federal union.⁽²⁾ Financial decentralization also means "sharing public revenues across all levels of government and creating self-financing mechanisms for sub-national governments".⁽³⁾ Additionally, financial decentralization is also characterized by the financial independence of the state, regional and local governments,⁽⁴⁾ and entails authorization for local units to increase public revenues and allocate expenditures. Financial decentralization is also a "kind of transfer of power and decisions related to these matters to local units, putting into consideration that collection and expenditure of revenues are central to governance."⁽⁵⁾

Financial decentralization pertains to economic decision making within the framework of administrative decentralization, in which public sector decisions are made at different levels of government. Decentralized countries differ in their choices with respect to the nature of financial decentralization, especially as to how to divide financial authority between different administrative levels and bodies, and the associated financial arrangements. The financial arrangements stemming from financial decentralization are often subject to periodic reviews to adapt to changing circumstances both inside and outside the country, as in Canada, and to help standardize different interpretations at the various levels of governments.⁽⁶⁾ The sum total of government expenses and distributions are an important measure for the degree of financial decentralization.⁽⁷⁾ The financial independence of a decentralized state's constituent units is relative not absolute. This is a result of the many restrictions and constraints that subnational governments may face, that including:⁽⁸⁾

- When preparing their fiscal budgets, constituent units of a decentralized state are bound by the constitutional rules, regulations, and legislation of the central government, since these subnational units are only self-regulatory within the legal, economic, and political boundaries of the state.

⁽²⁾ Raoul Blindenbacher and Abigail O. Karos, A Global Dialogue on Federalism, Dialogues on the Practice of Fiscal Federalism, Comparative Perspectives, Part IV, Forum of Federations, The International Association of Centers for Federal Studies (IACFS), Canada, 2007, p 60.

⁽³⁾ Shabir Shima, Principles of Effective Urban Governance of Decentralization: Issues and New Directions, research presented to the international conference on decentralization, Exchange of experiences and achieving sustainable progress in urban areas of Iraq, 8-10 May, 2011, Amman, P10.

⁽⁴⁾ Ibid, p13.

⁽⁵⁾ Mohamed Ahmed Ali Adawi, Decentralization and Supporting Democratic Political Participation, Ahram, Ahram Digital, 2010, p1 <https://goo.gl/tnPPja>

⁽⁶⁾ Anwar Shah, Comparative thoughts about new challenges for financial federalism, A Global Dialogue on Federalism, Dialogues on the Practice of Fiscal Federalism, Comparative Perspectives, part IV, Forum of Federations, The International Association of Centers for Federal Studies (IACFS), Canada, 2007, p51.

⁽⁷⁾ Ronald L. Watts, Regimes, Ghali Barhouma, Maha Bastami, Maha Takla, Forum of Federations, Canada, 2006, p96.

⁽⁸⁾ Ibid

- The constituent units of a decentralized state can impose customs duties on entry and exit of goods into their territories only if it is permitted under the constitution and law.
- The constituent units of a decentralized state can only impose taxes in compliance with the constitution and law, which may allow local governments to participate in managing and collecting taxes, or grant them the authority to impose fees and regional taxes, or grant additional waivers, in addition to the authority to issue the necessary legislation and regulations to collect public funds within the territory of these units.

The size and nature of financial transfers from one level of government to another, whether they are conditional, unconditional, or tax-deductible, provides an indication of the degree of financial independence of the various administrative units. The availability of public borrowing for constituent units is another indicator of their degree of financial independence. In some decentralized countries such as Austria, India, and Malaysia, the constitutions have defined the federal government as the sole party with foreign borrowing authority. In Canada, the state's constituent units enjoy unhindered access to both domestic and foreign borrowing. The financial affairs of states and their subnational constituent units have two main components: the first is the collection of resources and revenues, and the second is spending.⁽⁹⁾ Under a decentralized system, both the federal and subnational authorities have the power to make decisions regarding revenues and expenditures, and all levels are held accountable for their decisions.⁽¹⁰⁾ In order to entrust subnational units with governing authority, they must have sufficient financial allocations to perform their functions. Thus, legislators may grant subnational authorities the power to create certain new financial revenue streams or generate financial returns.

The pursuit of fiscal decentralization requires fundamental reforms in fiscal policy in general, and spending in particular, as well as tax and loan policy reforms and incentives for investments, as was done in Brazil, Argentina, and other South American countries.⁽¹¹⁾ This process also requires the development of capacity-building measures, the adoption of budgetary and information systems, and transparency in political, administrative, economic, and financial affairs. These measures are required not only for the successful implementation of financial

⁹⁾ Mohamed Ahmed Ali Adawi, p34.

⁽¹⁰⁾ Ingram, Gregory K. & Yu-Hung Hong, Fiscal Decentralization and Land policies, May 2008. P2. www.LincolnInstituteofLandPolicy.org.

⁽¹¹⁾ Ingram, Gregory K. & Yu-Hung Hong, Fiscal Decentralization and Land policies, May, 2008. P2. www.LincolnInstituteofLandPolicy.org.

decentralization, but also for the successful implementation of and projects funded through the assistance offered by the international community to subnational authorities.⁽¹²⁾ Fiscal decentralization and political decentralization are sometimes linked. High-income countries are the most capable of adopting both, while countries with lower gross national products (GNP) face more challenges when transferring financial responsibilities to subnational governing units.⁽¹³⁾

The track record of countries that have implemented financial decentralization is illustrative. The Russian Federation, for example, has struggled to reconcile the realities of political and financial decentralization. Russia's return to a centralized state has become impossible, and further financial decentralization will likely help advance political decentralization. Russia's subnational regions enjoy greater financial authority by receiving revenue allocations from the central government based on a formula that ensures equitable transfers, and as a result of the multiple federal funds have been created to allocate transfers to regional governing bodies. Fiscal decentralization and self-government cannot exist without independent revenue streams, or with a very powerful central authority that precludes subnational governments from exercising any real authority of their own.⁽¹⁴⁾ Another example is the 1978 Constitution of Spain, which adopted political and financial decentralization. Three levels of government were formed and, under pressure from major regions such as the Basque region and Catalonia, 17 autonomous communities were established. These communities enjoyed self-rule with autonomous legislative and executive authorities from 1978 to 1983. Spain gradually applied decentralization starting in 1978. The process was successful in the realms of expenditure and revenue collection, but reforms in the spheres of financial accountability, equality, and financial relations between the different levels of government were not completed.⁽¹⁵⁾

Second: Features of Financial Decentralization

This section presents a unified framework for financial decentralization, keeping in mind its diverse applications around the world. The application of financial

⁽¹²⁾ Ingram, Gregory K. & Yu-Hung Hong, Fiscal Decentralization and Land policies, May, 2008. P2. www.Lincoln Institute of Land Policy.

⁽¹³⁾ The Second International Conference on Decentralization, Overview of Decentralization Worldwide, July 25-26, 2002, Philippines. P1.

Alexander Eugene and Galena Indiskaya, Russian Federation at Crossroads, Dialogues on Financial Federation Practice, Comparative Viewpoints, Part IV, Federal Unions Forum, The International Association of Centers for Federal Studies (IACFS), Canada 2007, p33.

⁽¹⁵⁾ Yowakem Sully Felanova, Spain, Re-defining financial equality and relations, Dialogues on Financial Federation Practice, Comparative View Points, Part IV, Federal Unions Forum, The International Association of Centers for Federal Studies (IACFS), 2007, p34

decentralization aims to address the material interests of various governmental and administrative units and therefore has an impact on the preparation and implementation of development policies. It entails defining the revenue streams of the subnational units, mechanisms for transferring funds collected locally to the federal authority, and the methods of financial oversight and control, in accordance with the constitution and law.

In general, financial decentralization can be characterized as follows:

1. Financial decentralization aims to address the material interests of the various governmental and administrative units at different levels

Technical and technological development and the spread of market economies created socioeconomic conditions that support the implementation of political and administrative decentralization. These conditions include greater emphasis on contractual relations, recognition of the decentralized nature of market economies and the flourishing of markets on the basis of pluralism, and increased competition and cooperation rather than homogenization. These developments fostered the realization that the purpose of the state is to serve its citizens and not just the maintenance of good relations between states and other components for mutual benefit.)¹⁶⁽

2. Financial decentralization impacts the planning and implementation of development policies

Financial decentralization positively affects the planning and implementation of development policies in the constituent units of the state, especially when these units are granted the authority to levy and collect local taxes, and powers to make domestic expenditures. It is therefore important to provide financial and legal support to subnational authorities to allow them to collect certain fees.⁽¹⁷⁾

3. Financial decentralization entails defining and allocating revenues to local governing units

Some of the most important steps to consider when applying financial decentralization are:⁾¹⁸⁽

- Determining the internal sources of revenue for subnational units after examining the types of fees and taxes they can collect. The share of spending and types of

¹⁶⁽ Ronald L. Watts, *Federal Systems*, p7.

¹⁷⁽ Ellie Maalouf, *Independent Municipality Fund, Financial Solution for Administrative Decentralization*, p83, 169.

¹⁸⁽ *Ibid*, p174-175

fees and taxes allocated both to the state and each constituent unit are determined according to the authorities of the federal state and its subnational governments.

- Transferring funds from the federal authority to the constituent units of the state to pay for services and operational expenses.
- The system for collecting local fees and taxes should be simple to facilitate their consistent collection.
- Electronic administration tools should be established to facilitate the sharing of information.
- The mechanisms of financial control imposed by the federal government on its constituent units should not hinder the implementation of local development and investment projects.

Financial decentralization entails subjecting constituent units of a state to financial monitoring to ensure the proper use of public funds. The objective is to achieve accountability and adherence to the policies and the relevant legislation when collecting and disbursing public funds.⁽¹⁹⁾

The political, financial, and administrative reasons of financial monitoring are as follows:⁽²⁰⁾

- **Political:** Ensuring implementation of policies in accordance with legislation, regulations, and bylaws pertaining to the budget.
- **Financial:** Ensuring correct financial procedures and transactions, the disclosure of financial errors, embezzlement, and deviations, as well as monitoring the financial performance of governing units to ensure that they are advancing the predetermined objectives.
- **Administrative:** Ensuring that the administrative mechanisms produce optimal benefits at the lowest cost, and allowing for the corrections of administrative decisions at the planning, implementation, and follow-up stages.

Administrative decentralization is the distribution of the administrative power in the state, and thus the actions and steps of its agencies. Hence, the monitoring and accountability body should be administrative in nature, or within the jurisdiction of

¹⁹⁾ Hamdy Al-Qebeilat, Administrative Financial Monitoring over government bodies, analytical and application study, Dar Al-Thaqafa Distribution, Amman, 2010, p14-15.

²⁰⁾ Ibid, p129-130

the administrative judiciary. Political decentralization is the distribution of governance functions between national, regional, and local units of governments. Accordingly, there should be one party that has oversight duties of political and judicial nature which is the constitutional court. Financial decentralization is the distribution of public revenues and expenditures between different levels of administration. Therefore, monitoring and accountability should be under the jurisdiction of the administrative judiciary. The actions and steps of its bodies should be of a legislative and executive nature if implemented under political decentralization. Hence the monitoring and accountability agency should be administrative, judicial, or constitutional in nature.

Administrative decentralization can be implemented within the framework of all forms of unified and federal states, while political decentralization can be implemented only within the framework of the federal state. The implementation of financial decentralization can take place under administrative and political decentralization and within the framework of both unified and federal states.

Third: Legislative Regulation of Financial Revenues and Spending Authority

Below is a comparative overview of foreign legislation concerning the regulation of financial decentralization. It looks at financial revenues collected by both the federal and subnational governments of a decentralized state through the imposition of taxes and fees, borrowing money, and investing in natural resources. This comparative study will also tackle the means of distribution and spending of these financial resources across the various governmental and administrative levels.

The allocation of financial resources in decentralized systems is worthy of attention for the following reasons:⁽²¹⁾

- Financial resources allow central governments and local administrations to perform their constitutional and legal tasks.
- The authority to tax and spend is one of the important tools for controlling and influencing the economy. The constitutions of most countries with decentralized governance spell out the authorities to collect and spend revenues by federal, regional, and local governing units due to its economic and political significance.

²¹(Ronald L. Watts, Federal Systems, p55.

1. Taxes and Fees

Sharing authority under decentralized financial systems entails determining the taxes and fees to be collected, identifying the parties responsible for collecting and spending them, and creating mechanisms for how they are spent. In most cases, central governments use their significant financial authority to influence and prevail over the administrations of constituent units.²²(

The collecting of taxes and spending of tax revenues influence the efficiency and performance of the economy. Taxes can be used by subnational units to try to attract companies, tradesmen, and capital investments within their territories. Although some competition in the realm of taxation and expenditure can be positive, it may also cause harm by attracting economic activities to suboptimal locations, leading to a loss of revenue or inappropriate spending.⁽²³⁾

Customs fees, public facility fees, corporate taxes, household income taxes, and sales taxes are the primary sources of federal tax revenues. In most decentralized countries, customs fees and public facility fees are collected by the central government, which incentivizes it to impose effective customs to foster greater economic unity in the country. On the other hand, household income taxes, and sometimes sales tax, can be linked to a specific location and thus may fall under the joint jurisdiction of central and subnational authorities in decentralized states. In some countries, such as India and Austria, income taxes fall under the jurisdiction of the central government.²⁴(

The experience of South Africa is worth examining. The South African Constitution approved the establishment of a national revenues fund where all collected revenues to the national government is deposited in, except for funds that receive a parliamentary waiver. The fair share for a subnational unit (province) from revenue collected at the national level is calculated as entitlements from this national fund. The Constitution also approved the establishment of a Provincial Revenue Fund for revenues collected in each region, in which all funds going to the provincial government shall be deposited, except for those waived by law. Funds may be withdrawn from a Provincial Revenue Fund as appropriations under provincial law, or as direct expenses permitted by the Constitution or a regional law. The revenues

²²(George Anderson, Introduction on Federalism, What is Federalism? How it succeeds around the world? Federal Unions Forum, The International Association of Centers for Federal Studies (IACFS) , Canadian Development Agency, Canada, 2007, pp27.

²³(Ibid, p27.

²⁴(Ronald L. Watts, Federal Systems, p55-56.

allocated from the Provincial Revenue Fund to any local government in the region are considered direct expenses of the fund.

The South African Constitution permits national legislation to set a framework for withdrawal of money as direct expenses to be paid out by regional revenue funds. The South African Constitution established an independent Financial and Fiscal Commission to receive recommendations for financial and tax allocations.⁽²⁵⁾ The Constitution authorized provincial legislatures to impose taxes and fees other than income taxes, value-added taxes, general sales taxes, and rates on property or customs duties. It also authorized provincial legislatures to impose an additional flat surcharge on any tax or fee imposed under national legislation other than corporate income taxes, value-added taxes, and rates on property or customs duties. The Constitution restricted these provincial taxation powers by prohibiting them from being exercised in a manner that may harm national economic policies or economic activities across provincial borders, or that may negatively impact the national movement of goods, services, capital, and labor. The South African Constitution also delegates fiscal powers to the municipal authorities, below the level of the province. Municipalities can impose fees on property and surcharges for services offered by or on behalf of the municipality, and taxes and other fees for local governance if they were specifically authorized under national legislation.

As a country that underwent significant post-war reconstruction, the experience of Germany is also worth considering. In Germany, the federal government and states (*Länder*) jointly administer the most important taxes in this country. The *Länder* do not have the right to establish tax rates or rules.⁽²⁶⁾ The Constitution (Basic Law) of Germany issued on May 23, 1949 gives the federal government the exclusive authority to legislate on matters of customs and fiscal monopolies. The Basic Law also granted the *Länder* the authority to draft laws on taxation related to local consumption and expenditure, as long as these taxes are not already regulated by federal laws. The Basic Law regulates the distribution of tax revenues, stating that the following revenues accrue to the federal government: customs duties, taxes on consumption, taxes on transportation, taxes on the capital translations, one-time taxes on property, income and corporate surtaxes, and taxes levied within the framework of the European Community.⁽²⁷⁾

²⁵(Par. A, article 220, South Africa Constitution, 1996.

²⁶(Lars B. Feld, Eugene Von Hagen, Means to Reform German Financial Federalism, Dialogues on Practicing Financial Federalism, Comparative Viewpoints, part IV Federal Unions Forum, The International Association of Centers for Federal Studies (IACFS), Canada, 2007, p16.

²⁷(Para 1, article 106, German Basic Law, 1949.

The Basic Law also defines the tax revenues that accrue to the *Länder*, including those from property tax, inheritance tax, and transportation tax, etc.²⁸ The revenues from income taxes, corporate taxes, and turnover taxes accrue jointly to both the federation and the *Länder*, with the exception of some revenues that are transferred to municipalities. The revenues from income and corporate taxes are divided equally between the federation and the *Länder*. The share of revenue allocated to the federation and each of the *Länder* from turnover taxes is established by a federal law that requires the approval of the Bundesrat (the upper chamber of the national legislature).²⁹

The German Basic Law granted municipalities (an administrative unit below the *Länder*) to regulate all local affairs on their own, within the limits defined by law. Thus, municipalities have the right of self-administration in accordance with the scope of their legal authority, including the right to financial autonomy through the establishment of independent sources of tax revenue.³⁰ While the German federation is said to be cooperative, practically speaking, the cooperation between the federal government and the *Länder* suffers several challenges, the most important of which stems from federally imposed restrictions on the power of the 16 German *Länder* to spend tax revenue. The *Länder*, in turn, have veto power in the Bundesrat, allowing them to restrict the ability of the federal government to pursue its policies in general, and reformist policies in particular.³¹

2. Public Debt, Borrowing, and Natural Resources

a. Public Debt

Beyond taxation, there are other sources of revenue for central and subnational authorities in most decentralized countries, i.e. public debt. While the foreign debt in some countries such as Austria, India, and Malaysia is entirely under the authority of the federal government, in other countries such as Australia, the public debt is distributed on the federal and regional levels through the Loan Council.

The work of public companies and projects that generate profits are considered an important source of income for both federal and subnational administrations. The constitution in South Africa does not allow the central government or any provincial or municipal to guarantee a loan unless the guarantee adheres to all the conditions

²⁸ Para 2, article 106, German Basic Law, 1949.

²⁹ Para 3, article 106, German Basic Law, 1949.

³⁰ Para 2, article 28, German Basic Law, 1949.

³¹ Lars B. Feld, Eugene Von Hagen, Means to German Financial Federation Reform, p15.

set by the national legislature. It also mandates every government to publish an annual report about the loan guarantees it has provided.

b. Borrowing

The financial liquidity and exchange of goods and services between the state's constituent units are an indicator of their degree of relative financial independence. When districts, provinces, and other subnational administrative units are able to cover their needs through borrowing, their independence is enhanced. This borrowing is internal within the borders of the country. Countries may differ in the regulation of movement of funds between their constituent units.

Foreign borrowing, meaning borrowing from other countries, is a sovereign function usually under the sole jurisdiction of the central government. This is made explicit in the constitutions of some decentralized countries such as Austria, India, and Malaysia. In Australia, the Constitution established the Loan Council, which is a body that coordinates public sector borrowing, and has binding authority over all levels of government. Canada is different in this regard, as its laws allow provinces and districts to obtain direct international loans.⁽³²⁾ The Russian Federation voluntarily disburses state loans according to the procedures set by federal law.⁽³³⁾ State and territories in India can borrow from the central government and the private market, but the central government must approve additional borrowing if a state is already indebted to it.⁽³⁴⁾

The German Basic Law limits borrowing that may result in expenses over the next fiscal years by requiring an authorization under federal law for the specific expenses. The revenues from loans cannot exceed the expenditures allocated to investments in the budget plan.⁽³⁵⁾ The state and federal territories of Malaysia depend a great deal on federal grants and loans. These subnational governments are not concerned with potential financial deficits because the federal government always provides loans to cover them.⁽³⁶⁾ The Malaysian Constitution imposes several restrictions on the subnational governments its constituent units with respect to loans for implementing projects. However, the Constitution does not prevent enterprises owned by the subnational government from raising funds through bank loans or debt securities. These enterprises are generally involved in projects in the fields of health care,

⁽³²⁾ Paul Booth, *Fiscal Relations in Federal Countries*, Forum of Federations, Ottawa, Canada, PP. 11-12.

⁽³³⁾ Para 4, article 75, Federal Russian Constitution 1993.

⁽³⁴⁾ M. Govenda Rao, *Financial Federation in India*, New Challenges, Federal Unions Forum, part IV, The International Association of Centers for Federal Studies (IACFS), Canada, 2007, p20

⁽³⁵⁾ Article 115, German Basic Law, 1949.

⁽³⁶⁾ Seif Al-Azhar Rosli, *Financial Federation in Malaysia*, Challenges and Expectations, Federal Unions Forum, The International Association of Centers for Federal Studies (IACFS), Canada, 2007, 23-24.

automotive product manufacturing, industry, transportation, real estate, construction, finance, technology, energy, media, and communications.⁽³⁷⁾ The Malaysian Constitution bans the federal government from borrowing without authorization under the federal law. The law of Malaysian states authorizes borrowing solely from the federal government, or for a period of no more than five years, from banks or any other financial institutions approved by the federal government, and subject to conditions set by the federal government. State loan guarantees also must adhere to state law. These guarantees are only granted per the federal government's approval, and in accordance with conditions set by it.⁽³⁸⁾ The Malaysia Constitution obligates consultation with the National Finance Council on issues related to allocating some or all of the collected federal taxes and fees to the states. The Malaysian Constitution also stipulates the federal annual loan requirements for both federal and state governments, and the granting of loans to the states.⁽³⁹⁾

c. Natural Resources

The concentration of natural resources in certain parts of decentralized countries has resulted in disagreements between federal government and subnational authorities regarding which party that has the jurisdiction to impose taxes and revenues from the exploitation of these resources. Disputes of this nature arise in Canada, Nigeria, Brazil, and Iraq. Geographically concentrated natural resources contribute to large disparities in the wealth of constituent units of the federal state.⁽⁴⁰⁾ The Constitution of the Russian Federation emphasizes that jurisdiction over the management natural resources is shared jointly by the federal government and its constituent units.⁽⁴¹⁾ In Canada, on the other hand, provinces own the natural resources within their borders and have the right to impose taxes on the use of these natural resources. At the same time, the the law requires the federal government to make equal transfers to all provinces, to ensure that every district has sufficient revenues to provide equal levels of public services at similar levels of taxation.⁽⁴²⁾

In Nigeria, the central government controls the natural resources in the provinces, including oil fields. Under the Constitution, revenues are divided between the various subnational governments in a manner that ensures that larger sums reach the

³⁷(Seif Al-Azhar Rosli, *Financial Federation in Malaysia, Challenges and Expectations*, p24-25.

³⁸(Article 111, *Constitution of Malaysia*, 1963.

³⁹(Article 108, *Constitution of Malaysia*, 1963.

⁴⁰(Ronald L. Watts, *Federal Systems*, p56.

⁴¹(Article 72, *Federation Russia Constitution*, 1993.

⁴²(Robin Bodway, *Canada, New Issues with Decentralized Federations*, *Federal Unions Forum*, part IV, *Comparative Viewpoints*, *The International Association of Centers for Federal Studies (IACFS)*, Canada, 2007, p10.

states that producing larger shares of natural resource revenue. The federal government provides at least 13% of the revenue from a natural resource to the state from which it is derived.

As for the percentage of revenues collected by the central government from the total revenues of the central government, they amount to 45% of total revenues in Canada and Switzerland, while in Austria, Australia, Belgium, Brazil, India, Germany and Spain they amount to between 60-75%. The percentage allocated to the central government is higher than 80% of the total revenue collected in Argentina, Malaysia, Mexico, South Africa, and Russia, while it amounts to around 98% in Venezuela.

3. Authority to Spend Revenue in Decentralized Systems

a. The Legal Foundation for the Authority to Spend Revenue:

The legal foundation for the authority to spend financial resources is found in countries' constitutions and laws. It is worth noting the following:⁽⁴³⁾

- Some constitutions of decentralized countries give the subnational governments of constituent units the authority to spend revenues, such as in Switzerland, Austria, Germany, India, and Malaysia.
- There is a significant variance in spending needs between various sectors, with spending on health, education, and social services being higher than other services.
- In practice, in most decentralized countries the public spending authority was not always strictly within defined legal and administrative powers but is often perceived to have broad public spending authorities.

b. Authority to Spend Revenue and Relevant Service Sectors

Canada's Constitution grants the provinces exclusive legislative authority in the sectors of health, education, and social services. Nevertheless, the federal government participates in providing social services and promoting equal opportunity for all Canadians. Thus, the federal government is able to provide and allocate funds to spend in specific areas within the jurisdiction of the provinces.⁽⁴⁴⁾ Canadian courts have ruled that federal spending is not limited to the legislative reform fields mandated by the Constitution, allowing the federal government to use

⁴³(Ronald L. Watts, *Federal Systems*, p57.

⁴⁴(Robin Bodway, *Canada, New Issues in Decentralized Federalism*, p12.

its spending powers to provide grants in support of provincial programs to encourage them to follow federal priorities. The provincial governments have complained that such unilateral use of revenue disbursement threatens their self-governance and legal authorities in the area of service provision.

The authority of the federal government to disburse public funds exists in the United States and Australia as well, and their constitutions do not explicitly define a specific public spending authority. The constitutions of India and Malaysia confer the federal government with powers to offer grants to state governments for any purpose.⁽⁴⁵⁾ The federal government in Germany contributes to its common public tasks with the German *Länder* in building and expanding higher education institutions, including university hospitals, and improving regional economic infrastructures. The federal government shoulders half of the costs in these sectors. The federal government also contributes to the improvement of agricultural infrastructure and protection of coastal areas, and shoulders at least half of the costs associated with these endeavors.⁽⁴⁶⁾ The German federal government and the *Länder* can agree to work jointly in the fields of educational planning, scientific research institutions, and projects of an extraterritorial nature. The two parties jointly define the distribution of contributions to cover the costs.⁽⁴⁷⁾ The Basic Law of Germany distributes the expenses incurred by the central government and the provinces as follows:⁽⁴⁸⁾

- The central government and the *Länder* are separately responsible for the costs incurred in the process of exercising their functions.
- If the *Länder* act on a mandate from the central government, the latter will incur the related expenses.
- Federal laws can state that such payments to *Länder* are partly or entirely the responsibility of the central government. The law stipulates that if the federal union shoulders half or more of the costs associated with a government-funded program, the costs of administration should be borne by the federal government as well. A law stipulating that the *Länder* shoulder a quarter of the costs or more of a certain program requires the approval of the legislature.
- The federal and the *Land* governments shall bear the expenses incurred by their own departments' administrative functions.

⁴⁵(Ronald L. Watts, *Federal Systems*, p58.

⁴⁶(*Ibid.*

⁴⁷(Para (b), Article 91, German Basic Law, 1949.

⁴⁸(Para (a), Article 104, German Basic Law, 1949.

Nigeria's Fiscal Responsibility Act regulates the distribution of taxation and spending between subnational governing units to avoid the negative consequences of fiscal deficits. The law allows the central government to monitor deficits of more subnational units of government. The law also requires all levels of government to adopt an effective, disciplined, and coordinated budget planning, execution, and reporting process.⁽⁴⁹⁾ The South African Constitution establishes the equal distribution of revenues collected at the national level between national, provincial, and local governments. This revenue distribution takes into account national interests and the objective needs of the national government, while also safeguarding the ability of the provincial and local administrative units to offer basic services and perform their tasks. The Constitution also sets out to promote the ability and efficacy of tax collection by provincial governments and municipalities.⁽⁵⁰⁾ The reality in South Africa is that spending on social services accounts for about 89% of total regional spending, but these services offer little revenue. In light of the inability of the provinces to collect sufficient revenues from their own tax base, they have become heavily dependent on government grants or transfers, which constitute about 95% of their total revenue.⁽⁵¹⁾

Comparing the share of direct spending by the central government out of the total government spending across countries offers the following findings: direct spending amounts to 30-40% of total government expenditure in Switzerland, Canada, Belgium, and Germany. This is a relatively small percentage that shows the significant responsibilities of the constituent subnational units of Switzerland, Canada, and Belgium, and shows the obligation of *Länder* in Germany to offer programs selected by the federal government. The percentage of direct central government spending ranges from 45-60% in Argentina, Spain, Australia, Austria, Brazil, India, Mexico, Nigeria, Russia, South Africa, and the United States. It reaches about 78% in Venezuela, and 84% in Malaysia.⁽⁵²⁾

4. Legislative Regulation to Balance and Transfer Financial Resources

A vertical imbalance in financial resources occurs between the various levels of government and administration when the federal government is incapable of meeting revenues with expenditures. A horizontal fiscal imbalance takes place between units at the same level of government when the constituent units of the decentralized state are unable to provide services to their citizens and to implement their public projects

⁴⁹(Akban H. Ikbo, Financial Federalism in Nigeria, Unsettled Issues, Federal Unions Forum, part IV, Comparative Viewpoints, The International Association of Centers for Federal Studies (IACFS), Canada, 2007, p29.

⁵⁰(Rino C. Mokati, South Africa, Financial Federalism in Transitional Periods, p36.

⁵¹(See: Article 214, South Africa constitution, 1996.

⁵²(George Anderson, Introduction on Federalism, p31.

with the financial resources at their disposal. This forces local governing units to apply for assistance and loans from the federal government, thereby jeopardizing their financial independence.

a. Vertical Imbalance of Fiscal Resources

Vertical financial imbalances occur when the federal authority is unable to meet its constitutionally defined spending responsibilities. Past experience shows that it is best to assign the primary tax authority to federal governments because they are responsible for the development of customs unions and economic unity. On the other hand, some of the most expensive public services such as education, health, and social services are usually the responsibility of subnational authorities due to their ability to better take into consideration the particular regional circumstances and priorities. The relative importance of various sources of taxation and spending priorities will change over time and therefore it is necessary to occasionally adjust this balance.⁵³⁾

b. Horizontal Imbalance of Fiscal Resources

Horizontal imbalances occur when the revenue capacities of the constituent units of a decentralized state vary, making them unable to provide services to their residents at the same level while maintaining comparable taxation levels. The horizontal imbalance also occurs with spending due to the differing expenditure needs of constituent units of a decentralized state as a result of differences in the social and demographic characteristics of their populations population, such as population distribution, the phenomenon of relocation to urban areas, the age structure of the population, and the cost of providing services.⁵⁴⁾

c. Financial Transfers and Independence of Constituent Units in Decentralized Countries

Financial transfers from the capital to the subnational units may be conditional or unconditional, but in all cases they ensure central government influence on the constituent units and their independence. The wealth and financial resources of the constituent units of the state varies and this impacts their ability to collect revenues. Most decentralized countries make specific arrangements to deal with such disparities through larger financial transfers to the poorer subnational units.⁵⁵⁾

⁵³⁾ Ronald L. Watts, *Federal Systems*, p59.

⁵⁴⁾ *Ibid*, p59-61.

⁵⁵⁾ George Anderson, *Introduction on Federalism*, p32-33.

The budget of constituent units of decentralized states may not be sufficient to cover their needs and implement public projects. This may force local administrations to request assistance and loans from the central government. The government may routinely offer such grants, loans, or financial assistance to its constituent units in order to interfere in their internal affairs, practically reduce the scope of local authority and independence.⁽⁵⁶⁾

Central governments may utilize financial transfers to limit the jurisdiction of its constituent units through granting conditional assistance, or assistance to fund specific local projects, or to cover treasury deficits in constituent units.⁽⁵⁷⁾ Most decentralized countries regulate the mechanisms for financial transfers between the different levels of government. Since federal governments control the main sources of taxation, financial transfers usually originate from the central authorities and are provided to subnational authorities in the form of a share of tax revenue, large unconditional grants, or conditional grants dedicated to certain purposes.

Fourth: Regulating Financial Decentralization in Post-Conflict Countries: Iraq's State Administration Law of 2004

Drafters of the Iraqi constitution paid heed to the need to regulate the country's political and administrative decentralization. The first transitional and interim constitution in Iraq after the change in Iraq's political order was the Law of Administration for the State of Iraq for the Transitional Period (the Transitional Administration Law, or TAL), enacted in 2004. This law regulated the country's political and administrative decentralization, beginning with the transformation of the state into a federal union. The TAL included the transitional steps for transforming the nature of the government in Iraq from totalitarian to democratic, while adopting capitalist and liberal principles. It also bolstered the role of the local governance units and recognized the autonomous Kurdistan region. The Iraqi Constitution of 2005, passed by referendum, continued on the same track of promoting political, financial, and administrative decentralization. The following is an examination of how Iraq regulated financial decentralization during the transitional period.

⁵⁶ Mohamed Hamawendy, *Federalism and self-rule and regional decentralization, comparative theoretical study*, p.133.

⁵⁷ *Ibid*, p.210.

Iraq's Transitional Administration Law established a new political order aimed at preventing the concentration of authority in the federal government,⁵⁸ and encouraging local officials in each region and governorate to exercise local authority.⁵⁹ To realize these purposes, the TAL distributed authorities and responsibilities between the federal government and the regional governments, provinces, municipalities, and local administrations.⁶⁰ In addition, where practicable, the federal government was to take measures to “devolve additional functions to local, governorate, and regional administrations, in a methodical way”.⁶¹ Financial authorities were part of the governmental authorities being shared across levels of administration in Iraq.

The following is an examination of the regulation of financial decentralization in Iraq's Transitional Administration Law that highlights the authority of various levels of Iraq's administration to distribute and spend financial revenues, the issue of vertical and horizontal fiscal imbalances, and the role of financial transfers in adjusting these imbalances.

1. Financial Revenues and Spending Authority

The sources of revenue for the federal and subnational governments of Iraq under the 2004 Transitional Administration Law (TAL), revenue distribution, and spending authority are elaborated below:

- a. Imposing Taxes and Fees:** The TAL determined that there could be no taxation or fees except by law.⁶² It granted the Kurdistan Regional Government (KRG) the right to impose taxes and fees within its own geographic region.⁶³ The TAL also granted the Governorate Councils the same authority within their borders to allow them to increase their own revenues.⁶⁴ Under the TAL, the transitional federal government was responsible for setting the taxes or fees that may be imposed on the national level through federal legislation.⁶⁵ The same applied to

⁵⁸(See Article 2 of the Law of Administration for the State of Iraq for the Transitional Period . Published in the Iraqi Gazette, Issue 3981, date 31 December 200. Page 96. Laws and regulations of 2004. Also available at the International Institute for Human Rights Law, School of Law, De Paul University. Arab constitutions in the eye of international constitutional rights. First edition, 2005, page 30`-327. <https://goo.gl/mozFkM> .

⁵⁹(See Article 52 of the Law of Administration for the State of Iraq for the Transitional Period.

⁶⁰(See Article 4 of the Law of Administration for the State of Iraq for the Transitional Period. Ibid.

⁶¹(Para (c), article 56, The law of administration for the state of Iraq for the transitional period, 2004.

⁶²(Article 18 The law of administration for the state of Iraq for the transitional period.

⁶³(Para (a) of article 54 of the law of administration for the state of Iraq for the transitional period.

⁶⁴(Para (a) of article 56 of the law of administration for the state of Iraq for the transitional period.

⁶⁵(The Federal government is formed of: the general assembly, presidential council, cabinet, including the prime minister and judicial authority. See paragraph (a), article 24 of the 2004 cancelled The law of administration for the state of Iraq for the transitional period.

the Kurdistan region and Governorate councils, where local legislation was required regulate the imposition of local taxes.

- b. Borrowing:** The Iraqi Transitional Administration Law gave the transitional federal government the exclusive authority to formulate policies concerning sovereign borrowing.⁽⁶⁶⁾ The KRG and Governorate Councils were given no authority to borrow money.
- c. Debts:** The addendum to the Iraqi Transitional Administration Law stated that the Iraqi transitional government represents the state on matters related to foreign loans, assistance, and sovereign debts, and that its operations must be ratified by the presidency of the state in the elected transitional government within nine days of coming to power, and with consensus.⁽⁶⁷⁾
- d. Natural Resources:** The Iraqi Transitional Administration Law granted the transitional federal government the exclusive jurisdiction over the management the natural resources of Iraq, in consultation with regional governments and provincial administrations.⁽⁶⁸⁾
- e. Budget:** Article 33 of the Iraqi Transitional Administration Law defined the National Assembly as the party that reviews the draft laws presented by the Council of Ministers (cabinet), including the bills on budget. It granted the National Assembly the authority to reallocate money between different budget items, and to reduce the total sums in the general budget, or to propose an increase in total expenditure if necessary. The TAL gave the transitional federal government the exclusive jurisdiction for formulating fiscal and monetary policies, issuing currently, regulating trans-regional commerce , creating the national budget, establishing a central bank, formulating foreign economic and trade policy, sovereign debt policies.⁽⁶⁹⁾ The revenues from Iraq's natural resources and investments of these natural resources were distributed through the general national budget regulated by the federal government according to criteria that include implementation of principles of justice, equity, relative population distribution, and compensating areas that were deprived of this wealth under the

⁶⁶(Para (a) of article 25 of the law of administration for the state of Iraq for the transitional period.

⁶⁷(Section two of the addendum to the 2004 The law of administration for the state of Iraq for the transitional period, titled: (interim Iraqi government institutions and their authorities), approved by the governance council in its session on May 31, 2004, published in the Iraqi Gazette, number 3986, date: September 1, 2004, part 1, Set of laws and regulations of 2004.

⁶⁸(Para (e) of article 25 of the law of administration for the state of Iraq for the transitional period.

⁶⁹(Para (a), (c) of article 25 of the law of administration for the state of Iraq for the transitional period.

former regime, solving development challenges, and addressing disparities in levels of development across the different regions.⁽⁷⁰⁾

f. Federal Authority for Spending Financial Revenue: Iraq's 2004 Transitional Administration Law assigned the responsibility for spending financial resources to all government and administrative levels, and determined the sectors for this spending. Article 14 of the law states that the "individual has the right to security, education, health care, and social security. The Iraqi State and its governmental units, including the federal government, the regions, governorates, municipalities, and local administrations, within the limits of their resources and with due regard to other vital needs, shall strive to provide prosperity and employment opportunities to the people." The text of this Article makes it clear that:

- The governmental and administrative parties responsible for spending financial resources in the state are: the federal government, regions, governorates, municipalities, and local administrations.
- Spending limits for these governmental and administrative units are set according to the available resources, i.e. they cannot spend more than the funds they possess.
- Financial resources should be spent on security, education, health care, and social security, and these are the services that require the most significant financial resources.
- The law prioritizes spending on vital sectors that serve the social welfare and provide employment opportunities. The law also states that "Public property is sacrosanct, and its protection is the duty of every citizen".⁽⁷¹⁾

2. Imbalances, Financial Transfers, and Financial Independence

The following is an examination of the vertical and horizontal imbalances in financial resources and revenues in the Iraqi federal state, financial transfers, and the financial independence of Iraq's constituent units.

a. Vertical and Horizontal Financial Imbalances: Iraq's 2004 Transitional Administration Law obligated the Governorate Councils to help the federal government coordinate the implementation of federal ministry operations in the

⁷⁰(Para (e) of article 25 of the law of administration for the state of Iraq for the transitional period.

⁷¹(Maher Saleh Alawi Al-Jabouri, Intermediate in Administrative Law, Ibn Athir Prints, Al-Mosul University, 2009, p279-20, <https://goo.gl/BhZnqj>

governorates. This included reviewing annual federal ministry plans and budgets for activities in the relevant governorates.⁽⁷²⁾ The remaining authorities not exclusive to the Iraqi Transitional Government could be exercised by the regional governments and governorates. In practice, the vertical imbalance of financial resources and revenues between the federal government and subnational governments was obvious,⁽⁷³⁾ as Baghdad funded the subnational authorities to a level usually exceeding 99% of their expenditures. Additionally, there were disparities between governorates that with significant oil reserves and those without, whereby oil-rich areas receive a larger share of the state budget than the others.

- b. Financial Transfers and the Independence of the State's Constituent Units:** According to the Transitional Administration Law, funding for the functions of the Kurdistan Regional Government and the Governorate Councils came from the general budget of the state.⁽⁷⁴⁾ The Governorate Councils had the authority to increase their revenues independently by imposing taxes and fees, to regulate Governorate administration, and to initiate and implement projects alone or in coordination with international and non-governmental organizations.⁽⁷⁵⁾ Undoubtedly, the transitional central government's funding of the KRG and Governorate Councils gave Baghdad the ability to control the performance of their governmental and administrative tasks, service projects, and investments, thus limiting the independence of subnational units.

Fifth: Measures for Adopting Financial Decentralization in Syria

1. Financial Administration in Syria Pre-2011

Financial administration in Syria is subject to several legislative texts, most importantly, the financial law (1) of 1994 that was amended with law 18 of 2007, and law 35 pertaining to annual governorate budgets, and the Local Administrative Law (107) issued in 2011, and the primary financial law.

The Financial Law for Administrative Units (1) of 1994, which was in place until its amendment in 2007, was the primary source of legislation concerning the funding of administrative units. However, this law was no longer able to meet the increasing

⁷²(Para (a) of article 56 of The law of administration for the state of Iraq for the transitional period.

⁷³(Para (a) of article 57 of the law of administration for the state of Iraq for the transitional period.

⁷⁴(Para (a) of article 54 of the law of administration for the state of Iraq for the transitional period.

⁷⁵(Para (a) of article 56 of the law of administration for the state of Iraq for the transitional period and Para (b) of article 56 of the law of administration for the state of Iraq for the transitional period.

needs of the administrative units because the fees listed in this law were too low, and its total revenue was insufficient to ensure the provision of social services, whose costs rose considerably as a result of the rising costs of materials and labor. After multiple attempts to pass a new financial law for administrative units, law (18) was finally issued in 2007. Law 18 included important amendments to the previous law, and was a step toward financial independence of local administrative units in Syria, allowing them to secure the own financing to make them less dependent on central government. The law also aimed to empower local administrative units to implement their own plans, projects, service provision efforts, and investments. A number of experts expected this law to provide local administrative units with greater freedom to meet the specific needs of their residents. These amendments in the updated law aimed to accomplish the following:

- Just and proportionate distribution of the tax burden in accordance with the capacity of residents.
- Linking the costs of services to their provision, to promote citizens' sense of benefitting from government services they financed through taxes.
- Amending and cancelling municipal expenditures that were no longer appropriate or necessary.
- Adding new administrative expenditures necessary for operating the local administration and imposing a service fee to finance it.

2. Requirements of Financial Decentralization in Syria

Those tasked with operating the administrative apparatus of states have shown greater interest in increasing state effectiveness and efficiency. As the burden on governments increases, a centralized approach to governance – which concentrates governmental authorities in the hands of one political authority – is unable to meet the urgent needs of communities. This reality has pushed many countries to adopt decentralized governance, which entails delegating some of the authorities and powers of the capital to elected entities at each subnational administrative unit. The practice of local governance transforms democracy from a distant theory to a daily practice. Decentralized administration is one of the most significant ways to implement democracy in a community, as it permits the community to manage its own administration through local elected bodies. Decentralized administrative units are recognized as financially independent, allowing them to obtain their own financial resources to perform their duties and meet the needs of their residents. Their financial autonomy means that subnational units have the right to possess their

own public and private funds, and prevents the central authorities or any other party from using their funds without permission.

The administrative independence of decentralized governance must be accompanied by a sense of financial responsibility among citizens, ensuring their contribution to the budget of their administrations to provide them with sufficient funds to for the services they offer. Decentralized funding is thus one of the pillars for decentralized administration. It is also a valid indicator for the extent of development within modern communities, and a factor that can be used to judge the success of reforms in a decentralized system. Decentralized funding is a tool to implement social and economic public policies, and to fund services and development projects. The elected subnational councils can use decentralized funding to implement their political platforms.

Syria's Local Administration Law (107) issued in 2011 – which may be further developed later on to become the basis for financial decentralization under a decentralized system in Syria –defined the revenues, expenses, and rules for preparing the budget of local councils as follows:

- a. **Sources of Funding:** Local Budgets have two sources for funding. First: self-financing that includes local taxes and fees, and special revenues from operations and investments of different local facilities. Second: external resources in the form of federal financial budget assistance, in addition to the loans, grants, and inheritances.
- b. **Expenditures:**
 - Investment expenditures to achieve an increase in fixed resources of local councils.
 - Salaries, wages, compensation, and administrative expenses.
 - Expenses for local services and projects.
 - Installments for loans, credit facilitations, and cumulative interest.
 - Deficits of local councils institutions and companies, and projects that have independent budget accounts.
 - Other expenses incurred in accordance with the applicable laws and regulations.

As for budget regulations, legislative proclamation no. 54 in 2006, which contains the Primary Financial Law, stated that the state's public budget is the annual basic financial plan for implementing the country's economic plan.⁽⁷⁶⁾ Article 144 of 2011 Local Administration Law (107) stated that "each administrative unit is allocated a budget that includes revenues and expenses of the unit according to the principles applied in the development of the general budget stipulated in the Primary Financial Law."

Article 2 of the governorate budget law specifies that each governorate has an annual budget for its local projects, independent from its budget stipulated in the general state budget law. The preparation of the budgets of subnational administrative units is carried out in accordance with technical rules regarding the assessment of revenues and expenses. Proposals related to the budget are prepared according to the general fiscal plan and principles and instructions mentioned in the rules for preparing the general budget. The preparation of draft budgets for towns and municipalities requires indicators provided by the executive office of each governorate's council. According to article 145 of the governorate budget law, each governorate's budgeting process includes budgets for all of the administrative units under the governorate geographical territory except for cities. Budgets are prepared for each administrative unit by the executive office of the governorate council in coordination with the budget committee. Budgets are then approved by the council, and are ratified as follows:

- Budgets for governorates and cities included in the general national plan are ratified by the minister of finance. The State Planning Commission is also notified of these local budgets.
- Budgets for cities outside of the general national plan are also ratified by the minister of finance.
- Budgets of other local units are ratified by the executive office of the governorate council. The council may permit its executive office to reallocate budget appropriations for specific purposes elaborated in the designation decision. The decision to carry out the reallocation is subject to the minister's approval.

⁽⁷⁶⁾ <https://goo.gl/GB9w8s>

3. Requirements for Successful Financial Decentralization in Syria

- a. Local units should be granted the freedom to secure certain local financing to carry out their duties. Increased self-financing can only be achieved by relying on productive sectors and enterprises within these local units.
- b. Productive economic enterprises should be fairly distributed among subnational administrative units at all levels. Unfortunately, few local units have the potential to attract significant investments from private economic enterprises, governmental institutions, and state-owned companies. As a result, these local units have insufficient local resources to support their work. The process of urbanization and growth of large cities in Syria further increases the disparities in growth between the country's administrative units. A solution to this problem requires the creation of a modus operandi among local units to achieve balance in development in all areas.
- c. Subnational administrative units in Syria overwhelmingly rely on transfers from the central government. The capital has the right to monitor the spending of this assistance, which in turn denies local units their independence. Data confirm that local units are not administratively independent because they lack financial independence due to strict central control of the assistance originating from the capital, which amounts to about 60% of the total revenue of local units.

Chapter 7

Local Administration in Regime-Controlled Areas

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Chapter 7: Local Administration in Regime-Controlled Areas

The Assad regime and its allies are marketing a solution to the crisis that entails the military victory of the regime, followed by a political transformation adapted to the local Syrian context. This transformation will be the grounds for reform, national reconciliation, and reconstruction. This solution assumes the ability and capacity of the regime, through its reliance on its Russian and Iranian allies to consolidate and increase its territorial control at the expense of its opponents. The indifference of the U.S. administration, and passivity of the Europeans, and Russia's willingness to intervene have allowed the regime and its allies to promote their own military truce efforts through the Astana process and local reconciliation, at the expense of the Geneva negotiations track which offered a solution with transitional governance. The regime also continues efforts to rehabilitate the tarnished image of the Syrian government both domestically and abroad.

The Assad regime's proposal ignores the ongoing state of regional and international fluidity of the Syrian conflict, and the continued risk of direct confrontations between the foreign powers involved in the Syrian conflict. The regime's solution also ignores the fragmentation of local authorities, the weakening of power centers within the regime itself, and transformations in governance and control at both the central and local levels since 2011. These transformations in governance have impacted the functions, relations, abilities, and supremacy of the central government. The Syrian government's authority has been greatly altered by the interventions and influence of non-state allies and local militias.

In light of these two proposals for a solution to the conflict – one of which offers the reestablishment of stability and the other the illusion of stability – it is important to examine the transformations in the regime's structure and institutions over the course of the war, and assess the trends of these transformations, by shedding light on the reality of local administration in regime-controlled areas.

First: Local Administration in Syria and its Transformations: Decentralization in Name, Centralization in Practice

The current system of local administration in Syria evolved out of the development of a series of administrative systems, beginning with the Ottoman *Tanzimat* period

and use of local councils as tools to implement reforms in the governorates, as ordered by the central authorities.⁽¹⁾ Ottoman rule was replaced by the French occupation, which established smaller statelets based on ethnicity,⁽²⁾ and in 1936 formed administrative departments such as provinces and districts. Following independence, the Administrative Organization Law no. 496 was passed in December of 1957, which regulated the municipalities and local councils in governorates, towns, and villages. All these stages in Syria's administrative rule were characterized by centralized administration, although they claimed to be enacting different types of decentralization.

Following the March 8, 1963 coup, the new regime introduced serious amendments to the local administration system. The most significant change was the issuance of Law no. 15 of 1971 that redefined administrative district divisions in Syria to be: governorate, city, town, village, and rural unit. Law no. 15 was further upgraded and institutionalized with the formation the Ministry of Local Administration per Legislative Decree no. 27, issued in August 1971, and the executive and implementing regulations of Law no. 15 issued in September 1971 under ministerial Decree no. 2297 .

By reviewing Law no. 15 and its amendments, the following can be highlighted:

1. The full dominance of the Ba'ath party over local administration as a "leader of state and society". This can be seen in the following examples:
 - a. Law no. 15 allocated local council memberships to certain categories of people,⁽³⁾ resulting in Ba'ath representatives controlling local council units and the majority of their executive seats.
 - b. Secretaries of Ba'ath branches enjoyed greater authority during official meetings relative to governors and elected members because the Ba'ath

⁽¹⁾ Local councils included religious and secular elders and were granted the authority to impose taxes, register lands, appoint junior staff, supervise the recruitment of police, and issue verdicts in civilian cases.

Nashwan Al-Atassi, Development of the Syrian Community, Atlas, Beirut, First Edition 2015, p. 26.

⁽²⁾ General Gouraud formed four states in Syria, Aleppo on 8-9-1920, Alawites 23-9-1920, and Druze Mountain 20-4-1921, and Damascus. Al-Jazeera was granted independent governance. The Sanjak of Alexandretta maintained its financial and administrative independence until it joined Turkey in 1939.

Syrian experience in decentralization from ethnic states to local councils. Al-Nahda, 30-8-2014, page 3. <https://goo.gl/Zaymr>

⁽³⁾ Article 10 states that the local councils are to be represented by the following categories: farmers, workers, craftsmen, small businessmen, teachers, students, youth, women, and free workers which include: doctors, pharmacists, engineers, agricultural engineers, lawyers, dentists, writers, artists, and journalists, in addition to other categories of people such as: state employees, all public agencies, workers in community and economic fields, other categories defined in the bylaws. It emphasized that the percentage of farmers, workers, artisans, and low-income individuals in local councils should not be less than 60%. The party dominated all unions, syndicates, and popular organizations in the country. Thus, the results of elections were known beforehand. The text of law 15 can be viewed at: <https://goo.gl/nvzZQQ>

- secretaries were in charge of security coordination with state security agencies within their administrative units.
- c. The law granted the Ba'ath party (through its populist organizations such as unions, chambers of commerce, student organizations, women and youth organizations, etc.) to monitor the work of local administrative units.⁽⁴⁾
2. Reinforcing centralization while officially expressing support for the principle of local “popular democracy.” This can be seen in the following ways:
- a. **Expanded central role of the governorate relative to lower level administrative units.**⁽⁵⁾ The governorate tops the administrative hierarchy, while local councils of all subsidiary local units are subordinated to it as a result of a relationship structure that linked the cities and smaller districts to the governorate, linked the localities to districts, towns to the districts, villages to the towns, and the farms and rural units to the villages.⁽⁶⁾
 - b. **Authorities of the center:** Under Law no. 15, the governor heads the governorate council and is appointed by the president of the republic. According to this law, presidents of local councils for cities are also appointed per a presidential decree based on the recommendation of the minister of local administration. Other presidents of lower-level local councils are appointed with a decision by the minister of local administration.⁽⁷⁾ The central government thus has full control of local councils.⁽⁸⁾ Appointed governors and presidents of city local councils cannot be removed by a popular vote, and elected members of councils can only submit recommendations to their superiors in the central government with a majority vote asking the minister or president to hold governors or presidents of local councils accountable for their actions.⁽⁹⁾ The governorate’s local council is comprised of the governor and members of the executive office who are appointed by the minister and constitute one-third of the council’s members, while other members are

⁽⁴⁾ This right was granted only to the heads of these populist organizations according to Article 76.

⁽⁵⁾ Article 22 of Law 15 states that the duties of the governorate council include “commanding and directing the activities of the lower local councils, and helping them perform their duties.” Article 12 notes that the mission of the executive governorate council includes: “commanding and directing the activities of the lower executive offices of lower councils.”

⁽⁶⁾ Article 96 states that the budget of the governorate includes the budgets of the cities, towns, villages, and rural units except for primary cities of the governorates. One of the paragraphs of the next article state that approving the budget of the administrative unit is the responsibility of its local council, but it has to be ratified by the local administration minister with the approval of the minister of local administration in cases of governorates and cities, and by the governorate executive council in cases of other local units.

⁽⁷⁾ Ibid, article 15.

⁽⁸⁾ Ibid, article 62.

⁽⁹⁾ Ibid, article 70.

elected through a nomination process controlled by the Ba'ath Party. The decision of the local council to withdraw confidence from the executive office or any of its members in the governorates and cities must be ratified by the prime minister. Withdrawal of confidence decisions in the rest of the administrative units must be ratified by the minister of local administration.⁽¹⁰⁾ The issue of holding these officials accountable or withdrawing confidence becomes impossible because no quorum can be reached and the center controls the mechanisms for accountability.

When Bashar al-Assad first came to power, he claimed to work on reducing the Ba'ath party's control over the state and its role in society by shifting power to bureaucratic and business elites. Assad also worked to upgrade public administration and government operations as part of his platform for reform and development. He wanted to give the impression that he was severing relations with his father's regime. The regional and international pressures on the regime from the U.S. invasion of Iraq until the year 2008 prompted Assad to adopt several internal procedures to contain the external pressures and maintain popular support. The regime held the 10th regional Ba'ath party conference in 2005 at which it decided to review legislation concerning elections and emergency laws, and worked to issue new laws on parties and fighting corruption.⁽¹¹⁾

In the same context, a committee from the cabinet, the Ministry of Local Administration, and the State Planning Commission was formed to review the Local Administration Law. The committee reviewed the local administration experiences of several countries, including Turkey.⁽¹²⁾ The committee also cooperated with the EU delegation to Syria as part of the Municipal Administration Modernization (MAM) program to prepare a draft law for decentralized local administration in 2008, and presented it to the central government.⁽¹³⁾ The government amended the draft to ensure the central government retained authority over the new proposed administrative structure.⁽¹⁴⁾ Damascus was slow to issue the amended law, saying it

⁽¹⁰⁾ Ibid, article 71.

⁽¹¹⁾ The 10th regional conference and its results, national leadership of Arab Socialist Baath Party, 1-12-2011 <https://goo.gl/8X1bmR>

⁽¹²⁾ Joint cooperation between local authorities in Turkey and Syria in their first conference, the Syrian Ministry of Local Administration and Environment, 2006, <https://goo.gl/tfu5Vn>

⁽¹³⁾ The project began in 2005, with joint funding, mostly from the EU and with a small contribution from the Syrian government, with the purpose of helping the six major cities and Syrian government to manage, plan, fund, and present services by the municipalities, and offer advice on delegation. The project was composed of 17 bundles. For more information:

- The Syrian experience with decentralization from ethnic states to local councils, p7.

- MAM in its 2nd stage, implementing joint projects between the Syrian local authorities and the Europeans, the Syrian Ministry of Local Administration and Environment, 2009 <https://goo.gl/dWMAEz>

⁽¹⁴⁾ One of the lawmakers involved in writing this law told the researcher that security agencies introduced the amendments on the final proclamation. Interview with the researcher in Beirut, 15-2-2017.

was unnecessary to offer internal concessions without receiving something in return, particularly since regional and international pressures on the regime subsided in 2008.

The internal conditions changed since the 2011 uprising. In an attempt to contain the protest movement, the regime issued the Local Administration Law, known as Law 107, in August 2011⁽¹⁵⁾. The new law was different from Law no. 15 in terms of its stated objectives, authorities granted to different administrative units and a new division of administrative districts to become: governorates, cities, towns, and municipalities. It also emphasized on the decentralization of authorities and responsibilities.

The following could be said about this law:

1. The new law created new administrative structures and positions, such as:

- a. Established the High Council for Local Administration tasked with issuing resolutions to clarify the mechanisms of work for local administrative units, and to approve their executive bylaws and annual amendments regarding fees, compensation, and resources. It also issues a decentralized national plan. The drafters of Law 107 hoped that the service ministries would delegate all their services to local units, and that the ministries themselves would only supervise and support the work of local authorities, but this did not come to pass.⁽¹⁶⁾
- b. Created new positions such as the chief of governorate councils, governorate secretary general, city chief, and municipality chief.
- c. Established offices for coordination, and citizen service centers for cities and towns. The law also enabled the creation of a temporary joint administration between two neighboring governorates or between cities and towns within the same governorate based on a decision of the local administration minister and upon recommendation from the governors.

2. The law maintained key aspects of centralization for the local administration system, as the following clauses demonstrate:

⁽¹⁵⁾ Full text of the proclamation 107 on the local administration law, Syrian Peoples Assembly, 23-8-2011, <https://goo.gl/TSFeky>

⁽¹⁶⁾ Interview with one of the lawmakers of the local administration law 107, Beirut, 15-12-2017.

- a. Most members of the High Council for Local Administration were appointed members (appointed governors, prime minister, and ministers in the cabinet) except for elected presidents of provincial local councils.
- b. The law consolidated a centralized local administration system controlled by the president, prime minister, ministries of local administration and the interior. These central government actors use their powers over appointed local actors such as governors, secretary generals of governorates, and heads of districts, regions, cities, or municipalities to impose control from Damascus.⁽¹⁷⁾
- c. The law expanded the power of the central government, the governor (who is appointed by the president), and the central government agencies, such that the elected local councils cannot manage their own affairs, even on issues under their jurisdiction, without receiving permission from the Ministry of Local Administration and its directorates. The technical affairs directorate studies all contracts made by subnational administrative units. The central government can also dissolve local administrative units under a certain legal mechanisms.⁽¹⁸⁾
- d. Item (1) of Article 55 of Law 107, allows the appointment of a police commander in the governorate as a representative of the central executive authority if the governor's position is vacant. The vice president of the executive office¹⁹ exercises the authorities of the governor on all matters related to the executive office.⁽²⁰⁾

⁽¹⁷⁾ The constitution in 2012 was vague regarding the authorities of the president of the republic. Article 106 stated his right to appoint civilian and military employees, and excluding them from service using a law. The full text of the constitution: <https://goo.gl/ZTNp4b>. The local administration proclamation 10 was clearer on the appointment and removal of governors, which has to be done via proclamation Article (39). They swear the oath in front of the president before assuming their work Article (40), and are considered members of the executive authority, and represent the central authority in the governorate, and work with all ministries Article (41). According to Law 107, the council of ministers appoints the general secretaries of the governorates, upon a recommendation from the minister of local administration and environment, who also issues decisions to appoint the directors of regions, and districts, cities, and municipalities. The directors of districts are related to the governorate and the minister of interior who is in charge of "appoint and transferring them and their own and behavioral affairs."

⁽¹⁸⁾ Decree 74 in 2017, to replace the council of Tartous city in Tartous governorate, cabinet website, 15-3-2017 <https://goo.gl/UZpv6H>.

⁽¹⁹⁾ The governor is considered as the head of the executive office even with the presence of an elected president of the governorate executive office. There is an inherent vagueness and duplicity of roles made on purpose to create vacuums filled by the central government and the local branch of the Bath Party.

⁽²⁰⁾ Law 11 of 2015, that includes amendments to Legislative Decree 107 of 2011. Prime Ministry website, 22-7-2015, <https://goo.gl/1eWLw1>. It is also noted the government's approach to interfere in the work of local units through the preparation of a draft law to amend Article 116, such that the prime ministry can empower the head of the high council for local administration to remove the chief of the local administrative (council city-town-municipality), or the member of the executive council (governorate-city-town-municipality). For more

3. **The local administration system remains subordinate to the Ba’ath party, even after the removal of Article 8 from the 2012 constitution.** This exceptional status of the Ba’ath party as the commander of the state and society, continues to play a central role in local administration.
 - a. The party plays a clear role in directing the work of local administration by delineating the tasks of the directorates underneath the Ministry of Local Administration and Environment.⁽²¹⁾
 - b. Ba’ath party leaders are tasked with supervising and following up on the work of local administrative units. In addition, most governors are affiliated with the Ba’ath party.⁽²²⁾

Although seven years have passed since Legislative Decree 107 came into force along with its amendments, there is evidence that the text of the law was applied selectively and on a limited basis, and in fact Law 15 continues to be implemented in reality.⁽²³⁾ This possibly stems from the following:

1. The regime changed its priorities from reform to security when dealing with the protests. Because of this, the regime used the local administrative units to contain and crush the protests, not for reform or to meet the local demands of protesters.
2. The issue of local administration and Law 107 became a point of leverage in negotiations with the international community, particularly during the phase of post-war reconstruction. This situation is similar to the conduct of the regime vis-a-vis the international community when it faced international and regional pressures between 2003 and 2008.⁽²⁴⁾

information, review: Resolving the flaws and violations, the government approves draft law that allows the prime minister to remove chiefs of councils of administrative units, and executive members, Al-Watan newspaper, 26-10-2016 <https://goo.gl/Pu8va5>.

⁽²¹⁾ Website of the Ministry of Local Administration and Environment <https://goo.gl/Xo5DxS>.

⁽²²⁾ The regional leadership and cabinet reviewed the services and living situation in Al-Hasakah, cabinet website. <https://goo.gl/amQrhA>. Meeting to discuss the situation with services in Al-Tal city with the participation of the party secretary, the official page of the socialist Arab Baath party, Damascus outskirts branch, al-Tal department, the website of the party on social media, 6-2-3018, <https://goo.gl/YBL9qS>.

⁽²³⁾ The author noticed when assessing several cities, towns and municipalities their reliance on Law 15, despite the fact that Law 107 was issued.

⁽²⁴⁾ In 2009, after the external pressures on the regime were reduced and the Europeans were more open to the regime, Bashar Assad decided to slow the issuance of laws that were ready to be issued, including the local administration law 107, and to keep them on hold. “The people don’t deserve”. A discussion the researcher heard from one of the directors of the centers of research belonging to general intelligence.

3. Weakness of the necessary foundations to implement the new law, including human resources, legislation, and funding.⁽²⁵⁾

Second: The Regime's Local Administration System: Structures and Mechanisms of Formation

The High Council for Local Administration heads the local administration structure. The Ministry of Local Administration and Environment, which was formed after merging the two ministries in 2016, is at the heart of the system.⁽²⁶⁾ Syria has 14 governorates that are the basic subnational administrative units of the system, and 1,337 legally-recognized local administrative units.

Under Law 107, the High Council for Local Administration is headed by the prime minister, and the minister of local administration serves as its deputy chairman. Other members include: the appointed governors and governorate council presidents, the president of the Planning and International Cooperation Commission, the president of the Regional Planning Commission, and the deputy minister for local administration serves as rapporteur.

The Ministry of Local Administration and Environment consists of the office of the minister and the office of the deputy minister, 4 bureaus, and 28 directorates. The four industrial cities (Adra, Hasya, Al-Sheikh Najjar, Deir al-Zour) are affiliated with the ministry. The ministry also supervises real estate records through the directorate of real estate services. In 2012, the prime minister established the High Committee for Relief and the Reconstruction Committee, both of which are headed by the minister of local administration and environment.

The administrative units that were given recognized legal status according to Law 107 were: 14 governorates, 154 cities, 502 towns, and 681 municipalities. The regime does not control all of these units. The number of members and the structure of the governments of these administrative units vary by area. The Damascus governorate includes 19 directorates,⁽²⁷⁾ while Homs has 12.⁽²⁸⁾ The governorates and

⁽²⁵⁾ Said Naheili, Local Administration in Syria, Its Reality and Horizon, Damascus Center for Research and Studies (Medad), 5/7/2017, <https://goo.gl/E5pNVC>.

⁽²⁶⁾ Assad issues a law to initiate the Ministry of Local Administration and Environment, SANA, 31-7-2016, <https://goo.gl/UhdHJm>.

⁽²⁷⁾ Directorates of Damascus Governorate, official website of the Damascus governorate council, Damascus, <https://goo.gl/BKUGgc>

⁽²⁸⁾ The organizational structure of the Homs Governorate Council, <https://goo.gl/hNJfFD>

local unit councils also created new offices such as the office for “Affairs of the Martyrs and Wounded.”⁽²⁹⁾

Law 107 declared that the number of members of the governorate councils should be no less than 50 or more than 100, and that there should be a representative for every 10,000 citizens. The members of the governorate council are elected. There is one executive office member for every ten governorate council members, so that there are between eight to ten executive members, including the vice president. The executive office of each council has a secretary and two observers. The governor chairs the executive office, and has broad powers granted to him by the president as well as serving as the head of the local branches for the High Committee for Relief and the Reconstruction Committee, and the head of the local security committee. The governor is also the person in charge of expenses, settling accounts, and disbursement of the governorate budget. The governor is the main decision maker in the governorate, in his capacity as the representative of the central executive authority.⁽³⁰⁾

The positions created by Law 107 includes: Secretary General of the governorate, is appointed from among administrative rank 1, and should be resident of the governorate, by a decree of the prime minister and upon a recommendation of the minister of local administration and environment. The position of governorate council chief, who is elected by the council members in a simple majority vote, was created after the 2011 local administrative elections. Despite being a representative of an elected body, the role is more of an honorary position and entails supervising and coordinating the governorate council’s work. The real authority lies with the executive office headed by the governor, who is a presidential appointee.

Despite losing territory, the regime was committed to maintain the symbolic operation of the governorate councils operating in parts of the country outside of its control: it moved the governorate council of Idlib -for example- and its lower level local councils to Hama. It also announced its intention to move the institutions of the Raqqa governorate administration from Raqqa city to regime-controlled areas

⁽²⁹⁾ Al-Quneitra Governorate Council, Initiating an office for the affairs of the wounded, Ministry of Local Administration and Environment, 13-03-2017, <https://goo.gl/yXzGFL>

⁽³⁰⁾ The members of the executive council of Damascus governorate expressed this when they said they were “rabbits” in front of the Damascus governor Beshr Al-Sabban, according to Al-Watan newspaper on its website, which is close to the regime. Mohamed Manar Hamejo, hearing session at the people assembly to assess his performance and the accusations of corruption against the governorate of Damascus. Al-Kosh to Al-Watan, the members of the executive office are rabbits in front of the governor, Al-Watan newspaper, 27-07-2015, <https://goo.gl/6jd48W>

in the governorate (Al-Sabkha, Al-Saby, and Maadan).⁽³¹⁾ The regime also maintained the work of the governorate councils of Al-Hasakah and Deir al-Zour despite the presence of the Syrian Democratic Forces (SDF) and previously of ISIS in the majority of the two governorates.

Regarding city councils, Law 107 stipulated that their membership should be between 25 to 50 people, with one representative for every 4,000 citizens. The members of city councils (general assembly) elect 8 executive council members including the vice-president in every governorate central city (capital of the governorate) and in cities with populations exceeding 100,000. For cities with less than 100,000 residents, six members are elected including the vice-president. Town council members are elected with one representative for every 2,000 residents. Each town council has between ten and 25 members, who in turn elect the ten-member executive office of the town. The local councils of municipalities are composed of ten members each. Law 107 eliminated regional committees, and significantly expanded the role of elders and district committees, compared to the previous local administration Law 15. The regime also created the position of city/town chief, who is appointed by the minister of local administration and plays a prominent role in local units through the powers and tasks vested by law in this position.⁽³²⁾

The 2011 Local Administration Law established elections as the means for choosing local councils for subnational administrative units. The regime issued several legislative proclamations to regulate elections, the most recent of which was the General Elections Act, Law no. 5 issued in 2014.⁽³³⁾ The legislature used Article 24 of the General Elections Act to create two classifications for membership in local councils: Workers and farmers, and rest of the population, with the requirement that at least 50% of councilmembers must be from the workers/farmers category. The legislature set the term of local councils to four years, extendable only with a proclamation.

Elections for choosing local council members were only held once over the past seven years, in 2011, with another local election scheduled for September 2018. The regime insisted on holding 2011 local elections to form a new network of supporters, to contain the local opposition, and to demonstrate its popular legitimacy. The results showed the lackluster support for the regime in the pro-opposition governorates such

⁽³¹⁾ Mohamed Manar Hamejo, attorney general in Al-Raqqa to Al-Watan, I don't recognize any local council formed in the city, and many of its residents have immigrated from the governorates, Al-Watan, 23-10-2017, <https://goo.gl/bGswbW>

⁽³²⁾ article 71

⁽³³⁾ The general elections law number 5, in 2014, official website of the Syrian people assembly, <https://goo.gl/qz6pYQ>

as Rural Damascus, Idlib, Hama, and Homs. The results of the elections in Rural Damascus were not published, possibly due to the widespread national boycott of the elections, which had high levels of participation in Rural Damascus governorate. In the cities of Hama and Idlib, the regime preferred to appoint local council members instead of holding elections.⁽³⁴⁾ Local elections were supposed to be held in 2016 as their legal terms of office expired, but they were not. Instead, the regime issued a proclamation to extend their terms indefinitely.⁽³⁵⁾ The regime justified this decision by stating that the situation on the ground made it impossible to hold comprehensive local elections.⁽³⁶⁾ This cancellation caused dissatisfaction among the population and local council members. The regime continued to issue proclamations to dissolve and reform city and other lower-level councils,⁽³⁷⁾ making changes that were then applied also to governorate councils and their executive offices.⁽³⁸⁾

Third: Local Council Functions and Funding: Marginalizing Local Councils Serves the Center

Articles 30 and 31 of the 2011 Local Administration Law 107 defined the duties and authorities of local councils. Articles 32, 33, and 38 detailed the roles and authorities of governorate councils and their executive offices. Articles 62 and 60 delineated the functions and authorities of the city, town, and municipality councils and their executive offices. Articles 129 and 130 addressed the relationship between local councils and government agencies whose organs would be transferred to the local councils or remain subordinate to central government ministries, and the relationship between local councils and the police.

In practice, the governorate council offices are becoming the core of Syria's administrative system, and their roles have only grown more important over the years of conflict. This is evidenced by the expansion of the tasks they handle directly

⁽³⁴⁾ De Presse website, results of local administration councils in the outskirts of Damascus, Hama, Idlib and Al-Hasakah, 16-12-2011, <https://goo.gl/YS8T3R>

⁽³⁵⁾ Bashar Assad issued proclamation 2, in 2016, to continue the operations of the local councils and their executive offices in the governorates until new councils are formed in this regard, during the upcoming period, and this opened the door to appointing local councils without elections.

Proclamation 2, in 2016, for current local councils to continue exercising their work, official website of the Syrian people assembly, <https://goo.gl/NCBfWW>

⁽³⁶⁾ Lena Shalhoub, continuing the activities of the local councils for an additional period, local administration, suspending the elections in response to the demands of the current stage, Al-Thawra newspaper, 14-02-2017, <https://goo.gl/ZCvYUL>

⁽³⁷⁾ Proclamation to dissolve the Beni Yas city council, Al-Watan newspaper, 16-1-2017 <https://goo.gl/7om7Sa>

⁽³⁸⁾ With the beginning of the 6th session of governorate councils, ten new members swear the oath, official website of the Ministry of Local Administration and Environment. <https://goo.gl/M8b4Jy> maintaining the executive office of the Hama governorate, Ministry of Local Administration and Environment. 23-01-2017. <https://goo.gl/6TV31S>

through their own agencies, such as the distribution of staples like fuel and bread to cities, towns, and municipalities within the borders of the governorate.⁽³⁹⁾ The governors' control of the governorate subcommittee of the High Committee for Relief allows them to use distributions as a way to reward loyalists,⁽⁴⁰⁾ and to direct the work of UN agencies operating in their jurisdictions. The governorate councils also play a pivotal role in reconstruction through the subcommittees for reconstruction that operate as part of the councils, headed by the governors.⁽⁴¹⁾

Governors also play a significant role in the realm of security. For example, the governor of Homs Talal Al-Barazi played a key role in negotiating several agreements with local opposition forces.⁽⁴²⁾ Likewise, the governor of Rural Damascus Alaa Ibrahim played a role in reaching several “reconciliation” surrender deals.⁽⁴³⁾

Some of the administrative offices of governorates perform **economic roles**. The Damascus governorate office plays an outsized economic role compared to other governorates, as it established a private company called “Damascus al-Cham Holding” to manage its properties, with estimated start-up capital of more than 60 billion Syrian pounds.⁽⁴⁴⁾ The company has signed several investment and partnership contracts with businessmen who are tied to the regime.⁽⁴⁵⁾

On the other hand, **the roles of city, town, and municipality councils in regime-controlled areas is limited to ensuring the provision of public services and the distribution of basic goods**, like bread and fuel, in addition to their original tasks of issuing construction permits, providing sanitation services,⁽⁴⁶⁾ regulating traffic, and issuing fines on business violations concerning spoiled supplies and illegal

⁽³⁹⁾ Deir Al-Zour, distributing 3,000 packs of bread daily this week, and 15 thousand next week, Al-Baath party, 5-11-2016 <https://goo.gl/zAsGHj>.

⁽⁴⁰⁾ Decision of the subcommittee for relief in Daraa, grants relief to wounded people from the Syrian army and parallel forces and the internal security, official website of Daraa governorate council, 10-11-2017, <https://goo.gl/Nzb4aN>.

⁽⁴¹⁾ Reconstruction Committee in Aleppo, Qualifying schools and damaged buildings, and removing the debris, SANA, 26-8-2017, <https://goo.gl/Ha5umZ>.

⁽⁴²⁾ Meeting at the palace of Homs governor, This is the truth about truce in Al-Waer district, orient, 15-1-2015 <https://goo.gl/8XaZz6>.

⁽⁴³⁾ Governor of Damascus outskirts denies cutting the roads to Kanaker, reconciliation agreement fully implemented, al-Watan newspaper, 20-9-2017 <https://goo.gl/o3mqrB>.

⁽⁴⁴⁾ Bashar Assad issued proclamation 19 in 2015, forming the legal framework for these companies and opening the door for administrative units to establish similar companies. These companies operate according to the companies, law that was issued by proclamation 29 in 2011. <https://goo.gl/DhH97s>
Damascus Al-Sham Holding Company <http://damacham.sy/>

⁽⁴⁵⁾ Al Fouz, and Anas Tals, senior businessmen share the project of Khalaf Al-Razy, economy website, 14-1-2018, <https://goo.gl/yXm9HX>.

⁽⁴⁶⁾ A campaign for maintaining and cleaning, under the auspices of Al-Nour relief and development association, and Ashrafeya municipality, Sahnaya, official website of the Ashrafeya municipality, 01-03-2018 <https://goo.gl/u64rbA>.

construction.⁽⁴⁷⁾ Unlike governors, the heads of city and town councils have not been given increased roles in local security affairs. The security-related authority in cities and towns is given to heads of Bath party branches and local directors of districts and localities that are not elected offices. They execute requests by central security agencies and assist them in data collection and background checks for local citizens.

The regime controls the funding and budgets of local councils. The minister of local administration and the environment has to ratify each governorates' budget after it is approved by the minister of finance. The minister of local administration also has to approve the budget of cities that are not included in the federal budget. Budgets for other local councils are approved by their governorate's executive office.

In practice, local administrative units depend on the independent budget of governorates to fund their projects and services,⁽⁴⁸⁾ and these budgets are controlled by the governors.⁽⁴⁹⁾ The local administrative units' reliance on the budget administered by the governor has increased as a result of declines in local revenues streams caused by the Syria crisis, economic deterioration, lack of local investments, and inability to collect local taxes and fees. At the same time, cuts to the independent governorate budgets has made governorates more dependent on the Ministry of Local Administration and Environment to be able to fund their services and investment projects.⁽⁵⁰⁾ There are no comprehensive statistics regarding the share of the general state budget that is provided to the Ministry of Local Administration and Environment. The budgeting committee of the People's Assembly (the national legislature) has provided no information related to the current budget of the Ministry of Local Administration and Environment, although it has published figures related to the investment budget, giving the impression that additional investments are flowing to local administrative units. The few numbers available do not support claims of an increase in the flow of investments: the investment budget of the

⁽⁴⁷⁾ Meeting record of Bani Yas city council, official website of the Bani Yas city council, 5-3-2018, <https://goo.gl/Sbx7K9>.

⁽⁴⁸⁾ Demanding that councils of cities and towns receive financial support in Daraa, Tishreen newspaper, 9-5-2017; <https://goo.gl/VEvtxf>.

⁽⁴⁹⁾ According to article 145, the budget of the governorate includes budgets for all local administrative units except for the main cities of the governorate. An expert practitioner in local administration in Syria and close to the government (who wishes to remain unnamed for security reasons) estimates that the size of independent budgets for the 14 governorates exceeded USD 2 billion prior to 2011, and today are less than USD 500 million. In-person interview with the expert by the author of this paper in Beirut 14-12-2017.

Tartous governorate granted some of the councils of cities and towns in the governorate about 370 million Liras in assistance from the independent budget in 2017, one billion to implement service projects in Tartous, Tishreen Newspaper, 08-07-2017; <https://goo.gl/gipz6x>.

⁽⁵⁰⁾ For example, the independent budget for Homs governorate council reached 3588 billion Syrian Liras, (71.760 USD), while in 2017 reached 4.988.372 billion Syrian Liras (USD 9.967). Assistance and financial contributions for a number of governorates to resume implementing their service and development projects, website of the Ministry of Local Administration and Environment, 25-2-2018, <https://goo.gl/jwsM5A>

Ministry of Local Administration and Environment increased in Syrians pounds, but decreased in dollars due to the collapse of the Syrian currency: it went from SYP 19.6 billion (USD 123 million) in 2015 to SYP 37.2 billion (USD 75 million) in 2018.⁽⁵¹⁾

The Ministry of Local Administration and Environment controls the disbursement and distribution of financial appropriations to the local administrative units through the High Committee for Relief and the Reconstruction Committee, which have affiliated subcommittees in the governorate councils. The High Committee for Relief receives a great deal of attention due to Syria's economic deterioration and increased dependence on programs financed by international donors and humanitarian organizations. The Committee coordinates humanitarian response programs at the governmental level (center-center across ministries and center-local with local branches headed by governors), and coordinates between the government and non-governmental organizations and international actors. It also defines the roles of organizational humanitarian and relief partners and supervises their work. Some experts estimate that around one-third of the funding provided by the UN humanitarian response plans over all the years of the conflict flowed through the High Committee for Relief's subcommittees in the governorates.⁽⁵²⁾

The Ministry of Local Administration and Environment also plays a central role in the reconstruction process through the Reconstruction Committee, which deals with compensation demands from civilians harmed by the war. It also approves projects related to infrastructure maintenance and reconstruction efforts in areas recaptured by the regime, and makes special financial allocations for these purposes.⁽⁵³⁾

⁽⁵¹⁾ Discussion of the investment budgets for the ministries of local administration, and the ministries of education and finance at the people assembly, 21-11-2017, <https://goo.gl/sqxRro>

⁽⁵²⁾ According to the assessments of the local administration expert in Syria, interview with the expert in Beirut, 14-12-2017.

⁽⁵³⁾ For example, 100 billion Syrian pounds were approved for reconstruction of some of areas in Darayya on the outskirts of Damascus, More than 1,500 families returned to Al-Zabadani, 113 million liras to reconstruct the government complex in the city, SANA, 6-1-2018 <https://goo.gl/GmpmkV>

Fourth: Transformations of the Regime's Local Administration System and Future Directions: Deferred Decentralization

The Syrian regime's local administration system witnessed transformations in both its nature and direction since the start of the conflict in 2011. The hegemony of the regime over local administration units (1,337 in 2011) has ended and new governance models have emerged that differ in shape, performance, and affiliated parties. As of April 1, 2018, the regime controlled only 56% of the total administrative units with legal status in Syria. Of the rest, 24% are under the control of the opposition, including those under the control of the Salvation Government of Hay'at Tahrir al-Sham, 19% are under the democratic self-administration, and 1% are controlled by ISIS.⁽⁵⁴⁾ These percentages will likely change with the continuation of regime military operations in “de-escalation zones,” with the support of its allies Iran and Russia. Military operations by Turkey-supported opposition factions may also expand after the battles for Afrin and Manbij.

There are clear indications that the central government maintains control over the local administration system in regime-controlled areas. This is demonstrated by the outsized powers given to central authorities in the laws and decrees that regulate the work of local administrative units. The authority of the governorate councils – which are led by government appointees – was expanded to include direct services, security, and economic roles, and the central government controls the funding of subsidiary local administration units. The regime's insistence on maintaining centralization as a way to manage local administration can be outlined as follows:

1. Control and contain any local trends that diverge from the central authorities, like what happened in 2011.
2. Control local financial and economic resources by maintaining control of the spending channels, and the implementation of humanitarian relief and reconstruction projects. This prevents any influential opposition centers from forming, and allows the regime to deploy these resources to support and expand its clientele network of influence.

The influence of the Ba'ath party on Syria's local administration system has grown significantly. The party has regained the exceptional status that it previously enjoyed under the former constitution, as the leader of state and society. The authorities and

⁽⁵⁴⁾ Percentage of military control in Syria is calculated by Omran Information Unit by cross referencing open source with private sources on the ground and using ARCGIS software. Calculation made 1 April 2018.

powers granted to Ba'ath party members and leaders to direct and monitor the work of local administration units are evidence of their pivotal role, as is the Ba'ath party's control over the membership of the local councils. The growing role of the Ba'ath party in the local administration system can be explained as follows:

1. The party's leadership is keen on restructuring its organizational structure in order to bolster its service delivery capacity, increase its societal activities, and expand its political networks and relations to be responsive to all scenarios for political transition in Syria.
2. The regime's desire to benefit from the bureaucratic framework of the Ba'ath party to support the work of local administration units.
3. Reestablishing the Ba'ath party's traditional role as a mechanism to control and contain local communities, by restructuring the party's patronage networks on the one hand, and empowering its security role on the other.

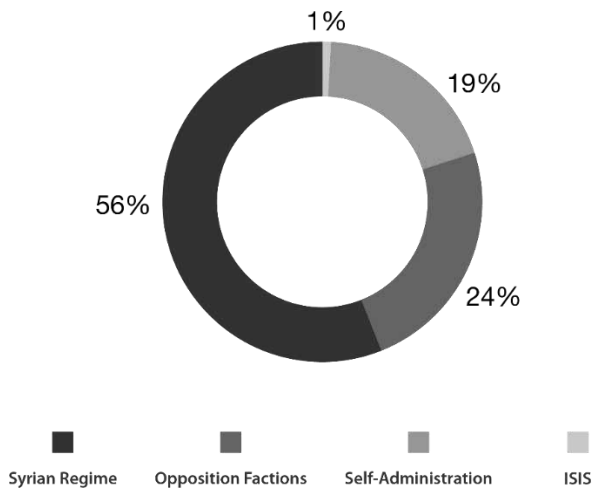


Figure 1: Estimated distribution of control over local administration units with legal status as of April 1, 2018⁽⁵⁵⁾

Syria's local administration units need legal authority, financial resources, and independence to effectively provide services and perform their other roles. In practice, the central government monopolizes legal authority in a manner that hinders the work of subsidiary local units.⁽⁵⁶⁾ The councils of subnational

⁽⁵⁵⁾ A survey the researcher Ayman Al-Dessouki has reached after comparing several sources of information on April 1, 2018.

⁽⁵⁶⁾ Tartous governorate council president Yasser Al-Deeb noted that he is waiting for the approval of the High Council for Local Administration on the proposal of the governorate to create 22 municipalities,

administration units suffer a sizeable deficit in financial resources,⁽⁵⁷⁾ forcing them to depend on selective funding disbursed by the central government, which primarily comes from public debt funds (deficits that are funded by the government borrowing from the central bank).⁽⁵⁸⁾ Since 2011, this borrowing has resulted in the rise in Syria's cumulative public debt by 3,720 billion Syrian pounds.⁽⁵⁹⁾ Local administration units also depend on support from the 11 UN agencies operating in Syria, and 1,500 civil society organizations.⁽⁶⁰⁾ The central government controls the mechanisms for distributing support from donors to local administration units.⁽⁶¹⁾

The councils of local administration units lack independence and are subject to interference of several different agencies and actors, and they suffer as a result of this lack of independence in managing their own affairs. Local council members must constantly appeal to the central government and satisfy its demands, regardless of the aspirations of local residents. The extension of the term length of these local councils has had a negative impact on their legitimacy in the eyes of their constituents, and further limited their ability to maintain aspects of independence from the central government. As noted earlier, the councils of local units are subject to monitoring and influence by the Ba'ath party. Pro-regime militias and official regime military forces also intervene in the work of these local units, forcing them to serve their military and political interests. These militias often abuse the resources of local councils, rewarding their own members through priority local service provision, at the expense of the rest of the citizens.⁽⁶²⁾

One and a half years since the proposal to create 22 municipalities in Tartous, no developments. Al-Watan newspaper, 14-12-2017, <https://goo.gl/KmDHED>.

⁽⁵⁷⁾ 1.7 billion needed to complete implementation, lack of funding behind delaying a project for 7 years, Al-Watan newspaper, 17-7-2017, <https://goo.gl/wxihOR>.

Abir Saymoa, lack of funding and delay in approvals obstruct the work of technical services in Al-Soweida, 16-1-2017, <https://goo.gl/1UEZtY>.

⁽⁵⁸⁾ Rafah Neyof, demanding fair distribution of the budget, heated sessions at the Tartous governorate council, Tishreen, 27-2-2018, <https://goo.gl/GBxiNz>.

⁽⁵⁹⁾ According to Medad Center, the public debt of Syria reached about 3400 billion Syrian pounds in 2015, while a report in Suwar magazine said the public debt reached 3,720 billion Syrian pound during the war. To compare numbers,

Impacts of crisis on the Syrian economy, Damascus Center for Studies and Research, 3-11-2016, <https://goo.gl/ZPe1Dg>.

Nedal Youssef, Syria sinking in blood and debt, Suwar magazine, 27-5-2017, <https://goo.gl/g9SN6B>

⁽⁶⁰⁾ Mohamed Manar Hamejo, 1,500 civil associations and 11 UN agencies in Syria, Al-Watan newspaper, 1-2-2018, <https://goo.gl/YqWT4E>

⁽⁶¹⁾ Ministries such as the Ministry of Foreign Affairs, the Ministry of Social Affairs and Labor, and the Ministry of Local Administration and the Environment have controlled the operations of the UN agencies and civil associations. Today, the issue of organizations is the responsibility of Gen. Ali Mamlouk the chief of national security bureau.

⁽⁶²⁾ We haven't got any money, manage on your own, National Defense militias seize the Homs municipality treasury, Zaman Al-Wasl, 7-2-2015, <https://goo.gl/5NiUHX>

Beyond Syrian regime military forces and militias, there is also increasing intervention in the work of the local administration units by Iran and its militias, particularly in Shi'ite-majority areas (Sayeda Roqaya in Damascus, Sayeda Zeinab on the outskirts of Damascus, Nubul and al-Zahra in Aleppo, and previously, Kefraya and al-Foua in Idlib), and some of the areas in which Iranian militias are deployed for strategic reasons such as al-Qusair, Homs and a number of neighborhoods on the outskirts of Damascus. This Iranian intervention takes many forms, for example: Lebanese Hezbollah plays a public role in providing security and protection for Al-Sayeda Roqaya and Al-Sayeda Zeinab shrines, in coordination with the relevant security agencies and the A'nbar office (which contains the center for citizen services of Damascus governorate). Lebanese Hezbollah also conducts joint activities with certain local administration units and provides them with support.⁽⁶³⁾ It maintains direct communication with officials of a number of local administration units such as Assal al-Ward municipality in Rural Damascus and Athreya city in Aleppo governorate.

Syria's local administration units have suffered from a lack of equipment and personnel during the conflict, as their employees have been pulled into mandatory military service.⁽⁶⁴⁾ They also suffer from the spread of internal corruption,⁽⁶⁵⁾ which has had a particularly noticeable negative impact on local administration units in areas that host large numbers of displaced people, like Jaramana,⁽⁶⁶⁾ Al-Tal, Hama, Tartous, Latakia, and Al-Suweida. These jurisdictions have experienced several public health crises and the collapse of other public services.⁽⁶⁷⁾ The deterioration of services exacerbates social tensions between host communities and the displaced.

The regime's actions make it clear that it has little interest in revitalizing the local administration system or promoting decentralization:

1. Since the High Council for Local Administration was formed in 2011, it has held only two meetings: one in 2012 and another in 2016.

⁽⁶³⁾ Thank you card from Al-Quseir city council to the Al-Thaqalen charity center and Imam Mahdi Scouts, for the province of Hezbollah, for supporting school students, official website of Al-Quseir city council, 23-10-2017, <https://goo.gl/qLtvQb>

⁽⁶⁴⁾ Multiple problems with services need solutions, the unified Syrian communist party, 15-5-2017, <https://goo.gl/SzvgiD>.

⁽⁶⁵⁾ Abdel Hady Shabat, report of the planning and programs committee in Hama, removing three city councils for corruption, new banks to be established, Al-Watan newspaper, 12-9-2017 <https://goo.gl/zhHn5Q>.

⁽⁶⁶⁾ Jaramana population is one million, and on the record, 165 thousand, new expansion for Jaramana organizational plan in 2020, Al-Watan newspaper, 31-10-2017 <https://goo.gl/Q9ooiZ>.

⁽⁶⁷⁾ Mohamed Ahmed Khabazy, 40 new Leishmania cases every month in Salmiya, Al-Watan newspaper, 12-10-2017, <https://goo.gl/UEZ4E4>.

2. The central government has prioritized the implementation of the administrative reform project at the expense of the national plan for decentralization.⁽⁶⁸⁾
3. The government has prioritized the preparation of the regulatory, organizational, and economic environment for reconstruction.
4. The government used the issue of decentralization into a negotiating card with the international community, particularly the Europeans.

At the same time, it is clear that the regime has reviewed the matter of administrative divisions: it has drafted proposals to create new administrative units and integrate existing ones, and has sped up the pace of issuing local organizational plans. Instead of making these changes in order to implement positive administrative reform, the regime is using these procedures to try and divide areas with opposition supporters in governorates that witnessed large-scale protests against the regime. In this manner, the regime hopes to prevent the opposition from electing sympathetic local representatives,⁽⁶⁹⁾ initiating any projects that are not desired by the central government, or objecting to projects that the regime may wish to implement.

⁽⁶⁸⁾ Assad launches the national project for administrative reform, ministry of administrative development. <https://goo.gl/Nrf5Fz>.

⁽⁶⁹⁾ Assad launches the national project for administrative reform, ministry of administrative development <https://goo.gl/Nrf5Fz>

Chapter 8

Governance in Opposition- Controlled Areas

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Chapter 8: Governance in Opposition-Controlled Areas

In 2017, local councils in opposition-controlled areas of Syria underwent significant transformations that may engender new opportunities in the future, but also new dangers. The way that local councils approached these challenges will define their future – whether they will continue to operate in their current form, a different form, or cease to exist altogether. These local councils achieved varying degrees of success. They managed services and fostered local legitimacy by increasingly relying on elections as to select their members. They also developed their organizational capabilities and enhanced their administrative stability compared to the years after their initial formation.

These local councils in opposition-controlled areas have been subjected to serious pressures and challenges since their inceptions in 2012. They face threats that include local competition, changes in the armed factions ruling their areas, and increasing internal turmoil during periods of military de-escalation with the regime. The political approaches of key international stakeholders involved in the conflict have also posed challenges. Currently, the biggest threat comes from the Russian solution, which seeks to append opposition-controlled area local councils to the eroded Syrian state. The regime actively strives to hinder the work of these local councils by employing tactics such as sieges, forced displacement, demographic change, and other security and economic pressures. Additionally, these local councils experience chronic financial deficits.

Despite the myriad threats and challenges facing local councils in opposition-controlled areas, they have still been able to accomplish some functions for their communities. At the juncture, that includes both de-escalation with the regime and a post-ISIS era, it is important to examine the transformation of local councils in 2017 and expected developments in 2018 in order to highlight their role, which should be bolstered as part of a decentralized vision for Syria's future that enjoys national consensus. Such a vision for Syrian state building that has its foundations firmly anchored in the country's local administrative units has the potential to guarantee both social and regional stability.

First: Local Councils: From Establishment to the Current Day

Local councils in opposition-controlled areas began operating as local administration structures in early 2012. At that time, they were considered to be extensions of the

protest movements, either as local coordination committees or as coalitional structures that were formed by the merger of several local revolutionary bodies. They may be understood as local institutional formations of community forces that sought to redefine themselves and their roles in the social and political transformations that began in 2011. The writings of Syrian economist Omar Aziz provided some of the theoretical foundations for the creation of local councils, and directly influenced the development of many local councils, particularly in Damascus and its surroundings.⁽¹⁾ There were also external influences on the formation of local councils, and attempts to use them as tools for political gain.

At the time of inception of many local councils in 2012, there were several different initiatives for organizing the local administration in areas that were no longer under the control of the regime, most importantly were:

- The project for revolutionary civilian councils, marketed by France in 2012.⁽²⁾
- The project for civilian administration councils sponsored by figures affiliated to the Syrian National Council and some to the Syrian Muslim Brotherhood.⁽³⁾
- The project for local councils sponsored by the Syrian Business Forum.⁽⁴⁾ Most of these councils received international recognition as independent parties.

The local council established in Zabadani in the Rural Damascus governorate on March 6, 2012, was the first documented instance of local council formation in Syria. This experiment was then replicated across the country including in regime-

⁽¹⁾ Omar Aziz. A Discussion Paper on Local Councils in Syria. The Anarchist library. 2013. <https://goo.gl/WHSBKk>. The councils located in the northern Rif Homs, eastern Qalamun, eastern Al-Ghouta, southern Damascus and in Damascus were dissolved, as well as a considerable part of the councils in the southern area due to the military operations of the regime supported by Russia against these areas.

⁽²⁾ France announced its project to support the revolutionary civilian councils, sponsored by French President Francois Hollande. He was inspired by the French ambassador in Syria in August 2012 Eric Chevallier as part of France's plan to support liberated areas. This project became clearer during the Paris conference to support civilian revolutionary councils on 18 October 2012, to which council representatives were invited from Homs, Maarrat Al-Nu'man, Al-Zawya, Tal Refaat, and Al-Atareb. Representatives from 22 Arab regional and international countries attended as well as non-governmental organizations.

⁽³⁾ Opposition inside Syria, in cooperation and coordination with opposition structures outside including the Syrian National Council (SNC), announced the launch of a project for civilian councils to manage liberated areas. The support of members within the SNC and not the institution itself came as part of an effort to respond to pressures on the SNC to expand its representation of local actors and groups. The work of this project began in mid-2012 and was crystallized at the Ankara conference for Civilian Administration Councils on December 9, 2012, which approved the internal regulations and bylaws of civil councils. This project later died out for many reasons, including but not least the recognition of the newly established Syrian Coalition (SOC) of other local councils.

⁽⁴⁾ The local councils project was adopted by influential parties in the Syrian opposition (Syrian Business Forum) which endorsed the idea of supporting the newly formed councils, and which initiated a series of consultative and experts meetings with representatives of Syrian governorates during January-July 2012. The meetings extended to December 2012. The conference resulted in the formation of governorate councils, approval of council representatives within the newly-established Syrian Coalition of Opposition and Revolutionary Forces (SOC), and approval of the organizational structure of the councils.

controlled areas, PYD-controlled areas, and even early on in ISIS-controlled areas when ISIS first began to spread in Syria. The councils in these areas had a more marginal role, usually just coordination, as compared to the organizational roles of local councils in areas controlled by opposition factions.

The number of local councils declined steeply from 950 in 2015, to 418 in 2017. As of early January 2018, the number of local councils with legal status stood at 317 according to the Ministry of Local Administration in the opposition Syrian Interim Government (SIG).⁽⁵⁾ These councils were distributed as follows:

Number of Councils	Population	Geographic Area
27	350,000	Northern Euphrates Shield Region
190	2,100,000	Central Region – includes opposition-controlled areas in Idlib, Hama, and Aleppo governorates
15	300,000	Northern Homs governorate
4	320,000	Eastern Qalamoun
16	350,000	Eastern Ghouta
3	100,000	South Damascus
2	20,000	Damascus
60	1,000,000	Southern Region

Table 1: Distribution of local councils according to geographic region in January 2018

There are several local councils in villages and rural agricultural areas that do not enjoy legal recognition according to the applicable regulations and bylaws of the SIG's Ministry of Local Administration, and which were formed as a result of individual initiatives led by local elders, or under the direction and support of armed factions seeking to promote their local legitimacy. There are also several councils for cities and towns from which people have been entirely displaced that operate either in exile in the areas that received their displaced residents using their original names,⁽⁶⁾ or as relief or organizational committees in charge of managing the affairs of the displaced.⁽⁷⁾ There are no official statistics for these units.

⁽⁵⁾ An unpublished statistic the researcher received from the Ministry of Local Administration of the Syrian Interim Government (SIG), including all current councils in Idlib operating under the Hay'at Tahrir al-Sham-affiliated Salvation Government, and regarding which there are accurate statistics.

⁽⁶⁾ Mahmoud Aboul Magd, local council for the displaced from Palmyra in Idlib, Horrya Press, 14-11-2017, <https://goo.gl/ZP6jRS>

⁽⁷⁾ The number of exceptional councils formed in Daraa to receive assistance is 20. They Daraa governorate administratively calls them "organized relief committees".

Second: Local Council Transformations: Varying Experiences in Different Contexts

Local councils operating in opposition-controlled Syria have undergone transformations in terms of both their structures and functions. The degree and type of change varies from one council to another, and depend on several factors related to each council's structure, its environment, and its relationships with other actors. In this section, we shall present the most important indicators of transformation in these local councils' structures, roles, resources, and relations.

1. Local Council Structures, Formation Mechanisms, and Operational Frameworks

In general, the local council in opposition-controlled areas consist of an executive office whose members includes the council president, deputy, and heads of its service offices. The number of heads of service departments (often referred to as offices) may vary from one council to another. For example: the local council for the Damascus neighborhood of Jobar included 16 service offices, the Kafr Nabl and Termanin councils in Idlib have ten service offices, while the Zamalka local council had six main departments from which several subsidiary sections emerged.

The mechanisms for forming councils vary. Local councils are formed either through elections or as a result of agreements between local stakeholders.⁽⁸⁾ Elections may be direct, as in the Idlib city council,⁽⁹⁾ al-Houla in the northern Homs countryside,⁽¹⁰⁾ and several of the councils in Eastern Ghouta,⁽¹¹⁾ and Talaf in Hama.⁽¹²⁾ Other councils rely on indirect elections by a committee made up of local residents, as is/was the case in Douma,⁽¹³⁾ Ram Hamdan,⁽¹⁴⁾ and Al-Dumayr.⁽¹⁵⁾ Some councils employ multiple methods to select their members, or only hold elections to choose

local councils in Syria. Cornerstone for building, democratic Syria, Souriatna press, 15-8-2016, <https://goo.gl/nHrq2b>

⁽⁸⁾ Revolutionary and social parties agree to form the local council of Mlaih el Sharqiah town in Daraa, official page of the local council of Mlaih el Sharqiah, 9-10-2017, <https://goo.gl/qyUzuz>

⁽⁹⁾ Ahmed Naguib, forming Idlib city council using real elections, Zaiton magazine, 17-1-2017, <https://goo.gl/zHbZLK>

⁽¹⁰⁾ A discussion for the researcher with lawyer Shaalan Al-Daly, member of the executive office of Homs governorate, president of local councils' affairs, 17-1-2018

⁽¹¹⁾ For more on forming the local council of Harasta, administrative development center, report of the administrative development center on the local council elections of Harasta, 10-9-2017, <https://goo.gl/HqfeMG>.

⁽¹²⁾ Elections of the local council of Talaf, Upper Mesopotamia, 22-10-2017, <https://goo.gl/HVajrs>.

⁽¹³⁾ For more on the formation of Duma local city council, administrative development center, report on the center's monitoring of Duma city council elections, 2017/2018, 23-11-2017, <https://goo.gl/Vrz2zx>.

⁽¹⁴⁾ Record of the meeting on local council elections of Ram Hamdan, official page of the Ram Hamdan local council, 24-9-2017, <https://goo.gl/2QP6Mh>.

⁽¹⁵⁾ Choosing the general agency of the local council in Al-Dumayr, official page of the Al-Dumayr local council, 7-2-2017, <https://goo.gl/8RjxYS>.

the president of the council and heads of service offices, or limited elections to the council president such that he forms the council and presents it to the communal committee for their approval.

The eligibility criteria for candidates and voters in the local councils may also vary. Some councils do not require permanent residency in the local unit to vote, while others restrict the voting to the original residents of the administrative unit and exclude the people displaced from other areas, as was done in the former Jisreen council.⁽¹⁶⁾ Some councils only give men the right to vote and exclude women from the process, and some limit voter eligibility based on age, as was done in Idlib city.⁽¹⁷⁾ In Saraqeb, women and youth above 18 are allowed to vote.⁽¹⁸⁾

In terms of candidates, some local councils have the same criteria for candidates whether they are running to become local council members or its president, as in Inkhil, Aqrab, and Ram Hamdan. These councils allow anyone from the city who is over the age of 25 and completed their secondary education to run. Others set different eligibility criteria for those running for general council membership and those running for the presidency of the council, as was done in as Ma'asaran and Al-Maleiha. The councils were formed before the Syrian Opposition Coalition (SOC or Etilaf) and its SIG were formed. For this reason, they depended on their own internal bylaws to manage their affairs.⁽¹⁹⁾ Later on, many local councils followed bylaws issued by the governorate councils. Local council bylaws became clearer and more detailed with the formation of the SIG as councils became affiliated with its governmental structure. The SIG adopted an amended version of the regime's Local Administration Law (Law 107), and complementary bylaws that set out the legal and administrative framework for local council operations.⁽²⁰⁾ In practice, local councils today use bylaws that originate from different sources. A 2017 Omran Center survey concerning the financial administration of local councils found that 44% of the councils surveyed adhered to their own administrative bylaws,⁽²¹⁾ while 37% followed bylaws issued by the SIG. 17% of the councils surveyed did not use any

⁽¹⁶⁾ Iman Hassan, electing new local council in Jisreen, Rif Damascus, Smart news, 8-11-2017, <https://goo.gl/EVQTPb>.

⁽¹⁷⁾ Ayman Al-Dassouky, electing Idlib civilian council, difficult birth, Omran Center for Strategic Studies, 25-1-2017, <https://goo.gl/E2INzz>.

⁽¹⁸⁾ Manhal Barish, local elections in Saraqeb shows how democracy may be spread in Syria, Chatham House, August 2017, <https://goo.gl/zujkKY>.

⁽¹⁹⁾ Local council in Darayya begins 4th elections, Ennab Baladi, 18-11-2017, <https://goo.gl/hvz1iB>.

⁽²⁰⁾ Governance Principles: Local councils experience in opposition controlled areas, a group of researchers, Swiss Peace in cooperation with local councils' unit, 2017, p15, <https://goo.gl/8hVFeB>

⁽²¹⁾ Internal order of the local council of Kafr Nabudah, the official page of the local council of Kafr Nabudah, 27-10-2016, <https://goo.gl/GSW8tH>

administrative bylaws to guide their work, and 2% followed different administrative bylaws from unknown sources.⁽²²⁾

2. Variations in Local Council Roles

The roles of local councils in opposition-controlled areas have changed in nature and scope. Individuals in charge of councils increasingly describe their roles as going beyond just service provision to include political and development work. This is demonstrated by the results of two field studies carried out by Omran Center, titled “Surveying the reality and challenges of financial administration of councils,” and “A reading in the political role of local councils.” Below is a presentation of the most prominent roles of councils:

- a. **Service Provision Role:** This role is related to managing the affairs of local residents, and providing a diverse set of basic services such as health, infrastructure maintenance, utilities (water, electricity, sewage), maintaining civil and real estate records, education, relief, etc. Councils work to provide their services based on a hierarchy of priorities that is in line with the needs of the local community. Councils exercise their functions either individually through their services offices, in implicit cooperation with civilian and military actors,⁽²³⁾ or through memoranda of understanding or partnership agreements with them. Local councils may face competition or marginalization from other parties involved in providing services.⁽²⁴⁾ The results of “Surveying the reality and challenges of financial administration of councils,” shows that 69% of respondents said that local councils were the main service provider, compared to 50% in Omran’s study on “the administrative and services role of local councils during current and transitional periods.” Local councils underwent a qualitative transformation in service provision, from initially focusing solely on relief and humanitarian work, to providing services aimed at community stabilization, particularly in the realm of infrastructure. Local councils also offer comprehensive services in the administrative sector for all inhabitants, whether they are original residents or displaced people. Some of these councils also serve areas outside their

⁽²²⁾ Ayman Al-Dassouky an analytical reading of the survey on the reality and challenges of the financial administration of local councils, Omran Center for Strategic Studies, 8-12-2017, <https://goo.gl/a9kTWF>

⁽²³⁾ Signing of an MoU between the local council in Al-Hirak and the Syria project for basic services to conduct a group of service projects inside the city, official page of the revolutionary local council in Al-Hirak city, 01-10-2017, <https://goo.gl/ysXrVZ>.
Sanitation campaign in Kafr Nabl in cooperation with civilian defense and the services office in Idlib free army, 22-6-2017, <https://goo.gl/8vuZRa>

⁽²⁴⁾ Statement of the local council in Saraqeb regarding the directorates that are still belonging to the council and those that are not, official page of the Saraqeb local city council, 6-10-2017, <https://goo.gl/NbH2qs>

geographical scope.⁽²⁵⁾ Despite their best efforts, the quality and consistency of most local council services remains below expectations as a result of the many challenges that hinder their efforts. The results of the survey on the financial administration of the local councils arranged these challenges by importance as follows:

1. Lack of necessary financial resources to provide services and salaries to council members. The councils of Kafr Takharim, Zamalka, Ma'arat al-Nu'man, and Darrat Izza mentioned the limited educational services they were able to provide due to the lack of financial resources required for salaries, books, and maintenance of educational facilities.⁽²⁶⁾
 2. Lack of council personnel due insufficient and unstable salaries,⁽²⁷⁾ and the displacement of personnel who went to work in civil society organizations that offered higher salaries.
 3. Security challenges related to the unsafe environment in which the councils operate – most often the targeting by regime forces – which obstructs their work.⁽²⁸⁾
 4. Intervention and attempts to dominate local councils by armed factions.⁽²⁹⁾
 5. Administrative problems related to the weak institutional structure of some councils, including “weakness, slow performance, lack of experience, and absence of strategy that guides the work of the councils, in addition to the unclear relations between the offices within the council.”⁽³⁰⁾
- b. **Political Role:** This local council role involves representing the local community politically by issuing political statements, attending and organizing political events, supporting societal reconciliation efforts, and conducting local negotiations with the regime and its affiliated forces. This role is often a source of disagreement between council members, who can be divided into two groups:⁽³¹⁾

⁽²⁵⁾ 20 councils out of 170 included in the survey on the reality and challenges facing financial administration of local councils in areas controlled by opposition factions said their councils serve their administrative units as well as other outside areas.

⁽²⁶⁾ Governance Principles, Experience of local councils in opposition controlled areas in Syria, p20

⁽²⁷⁾ Hoda Yahya, local councils in Idlib, Democracy of ruling families, Syria Untold, 31-8-2017, <https://goo.gl/pttOr7>

⁽²⁸⁾ Ayman Al-Dassouky, local councils and local security, a required role for a problematic issue, Omran Center for Strategic Studies, 20-1-2017, p6, <https://goo.gl/K9RzKM>

⁽²⁹⁾ Mais Nour Eddin, Babbila local council south of Damascus accuses factions of trying to control the resources of the town, Smart news, 23-1-2018, <https://goo.gl/AnCB7T>

⁽³⁰⁾ Governance Principles, Experience of local councils in opposition controlled areas in Syria, p20.

⁽³¹⁾ Regarding this division, Karawan Aram, local councils between service roles and political polarizations, Suwar, 11-1-2013, <https://goo.gl/U4ypNv>, local councils in Syria, cornerstone to build democratic Syria.

The first group considers the political role to be a core function of local councils. They justify this position by arguing that the councils depend on the representational legitimacy granted by the people, in addition to providing them with services. They say that the conditions of the conflict, the dominance of armed factions, and the official opposition' monopoly (Etilaf, SIG, Syrian Negotiation Commission-SNC) over political representation prevents local councils from exercising their rightful political functions. In contrast, the second group believes that in times of peace the local councils should not have a political role and should be in charge of service provision and development projects only, but the current emergency situation has created a political vacuum that local councils have filled. The supporters of the second approach say that the political role of local councils negatively impacts their stability and performance, and transforms them into an arena for political disputes. Regardless of the justifications or wisdom of the two groups, local councils have become involved in political arrangements and proposals on the local level, as with the de-escalation agreements,⁽³²⁾ and on the national level, as reported in some international donor proposals.⁽³³⁾

Since local councils were first formed, multiple actors have attempted to turn them into part of the political programs described above. They have also been represented in the official opposition bodies such as the SOC, in what is known as the “councils’ bloc.” The political role of local councils has witnessed several transformations. The councils have formed political entities that span different regions, such as the “Higher Council for Governorate Councils.”⁽³⁴⁾ They have also played central roles in crystalizing local political initiatives, such as the Political Committee of Revolutionary Forces in Aleppo Governorate,⁽³⁵⁾ and the Political Committee for Golan Residents.⁽³⁶⁾ Some of the councils also formed special political offices, such as the local council of Inkhil.⁽³⁷⁾ Local councils have tended to express their political aspirations and positions by issuing public statements in which they voice their

⁽³²⁾ Ayman Al-Dassouki, protecting local councils in truce agreements, Omran Center for Strategic Studies, 2-8-2017, <https://goo.gl/XEQMkV>

⁽³³⁾ Jim Dobbins, et al, A Peace Plan for Syria IV: A Bottom-Up Approach, Linking Reconstruction Assistance to Local Government Formation, RAND Corporation, 2017. <https://goo.gl/ss3XEL>

⁽³⁴⁾ The supreme council for Syrian governorate councils, promising role and many challenges, Omran Center for Strategic Studies, 12-1-2016, <https://goo.gl/gb2xNJ>

⁽³⁵⁾ The political agency in Aleppo is formed of representatives from: 1) syndicates, agencies and unions, 2) administrative units according to the structure of the free Aleppo governorate council, 3) Independents.

⁽³⁶⁾ Quneitra governorate council forms the political agency for sons of Golan, official page of al-Quneitra, 9-8-2017, <https://goo.gl/zTPxJh>

⁽³⁷⁾ Record of the regular meeting of the general agency of the local council of Inkhil and the decisions, forming a political bureau to represent the council abroad and follow up on political issues, official page of the Inkhil local city council, 29-11-2017, <https://goo.gl/osfQWp>

positions regarding local,⁽³⁸⁾ or national issues.⁽³⁹⁾ They also attend and organize local political activities such as meetings,⁽⁴⁰⁾ dialogues, and protests.⁽⁴¹⁾ Local councils also organize political training sessions for their staff and local residents.⁽⁴²⁾ Over time, the participation of armed factions in local negotiations has increased, at the expense of local councils.⁽⁴³⁾ Similarly, the official opposition bodies have marginalized local councils in political negotiations.

Local councils have limited roles on matters related to security and local development. Some councils are involved in the security sector, while others limit themselves to social affairs alone.⁽⁴⁴⁾ Most local councils adopt the second approach and depend on other actors such as the Free Police, armed opposition factions, and the local judiciary to provide security and rule of law. In the sphere of development, local councils tend to supervise and coordinate the early recovery and livelihood creation projects implemented by donors.⁽⁴⁵⁾ This limited role is generally due to the local councils' lack of financial resources and skilled trained personnel, in addition to their prioritization on service provision.

3. Local Council Finances and Trends in Local Expenditures

Local councils have come to recognize the issue of financing as a priority as a result of budget shortfalls that threaten their functions, continuity, and independence. This section addresses the most significant aspects of the finances of local councils by studying the preparation of their budgets, their sources of revenues, and their expenditures.

The results of the Omran survey on the “Realities and Challenges of Financial Administration by Local Councils”, shows that local councils often lack a unified financial system, and appropriate legislation and bylaws to regulate the process for

⁽³⁸⁾ Statement of the local councils in eastern al-Ghouta regarding the fighting between Jaysh Al-Islam and Failaq Al-Rahman, official page of the revolutionary local council of Ein Tarma, 15-5-2017, <https://goo.gl/oCFVzM>

⁽³⁹⁾ Free al-Quneitra governorate warns against dealing with Israel, Ennab Baladi, 24-8-2017, <https://goo.gl/rJ8Zkr>
Beshr Ahmed, unified statement by southern councils defining the position regarding Sochi conference, Orient, 25-1-2018, <https://goo.gl/Xr2ARo>

⁽⁴⁰⁾ Meeting of the negotiations delegation with the local councils south of Syria, 28-12-2017, <https://goo.gl/w2o5C5>

⁽⁴¹⁾ Protest in Kafr Nabl in Idlib in rejection of Sochi conference, Smart news, 26-1-2018, <https://goo.gl/YUqB1K>

⁽⁴²⁾ Women's office at the local council of Hass organized a lecture titled “women participation in political work”, official page of the local council, women empowerment office in Hass, 17-10-2017, <https://goo.gl/8fqaa9>

⁽⁴³⁾ Lawyer Shaalan al-Daly, member of the executive office of Homs governorate council said “the local councils abstain from negotiations for the committee formed by revolutionaries to follow on the negotiations with the Russians”, discussion between the researcher and Shaalan al-Daly, president of local councils affairs, 17-1-2018 Local council in Qadam details the migration agreement in the municipality, RevoSpring, 22-9-2017, <https://goo.gl/PSfGEJ>

⁽⁴⁴⁾ Ayman Al-Dassouky, local councils and local security, a required role for a problematic issue, Omran Center for Strategic Studies, 20-1-2017, p7, <https://goo.gl/K9RzKM>

⁽⁴⁵⁾ Announcing the project for wheat cultivation for the agricultural season of 2017/2018 in Daraa, official page of the local council in Da'el, 6-11-2017, <https://goo.gl/6zT9zJ>

preparing and approving their budget. The results also show the diversity of local council experiences in preparing their budgets, and their realism when drafting financial policies based on the available financial resources. The absence of a unified financial system for local councils may result in the duplication of roles and conflicting authorities in the budget preparation process. It may also negatively impact the financial transparency of the councils, and their relationships with both international donor and local residents.

In theory, the sources of funding for any local council can be divided into two types:⁽⁴⁶⁾

1. **Local Resources:** These are dependent on factors such as the location of the administrative unit, the nature of the local economic activity, and the population size. These resources include local taxes, fees, and revenues from public properties.
2. **External Resources:** These are granted to the local council units from a central government or donors. They include: government assistance, loans, donations, and grants.

The results of Omran's survey on the reality of the financial administration of local councils revealed the diversity of councils' sources of revenue, which were ranked by the survey respondents based on their relatively availability as follows:

- **Taxes, and Local Fees:** Some of the councils, particularly in Aleppo and Idlib, started collecting local fees toward the end of 2014 to cover their financial deficits. There is an ongoing debate about whether these councils are entitled to impose fees and their ability to execute fee collection. Eventually, this experience was replicated in the rest of opposition-controlled Syria due to a decline in the financial support offered by external donors. The regulation of these fees, the results of efforts to collect the fees, and the responses of local residents have varied. Local councils employed several different mechanisms to collect fees, including the appointment of local collectors,⁽⁴⁷⁾ the imposition of direct fees and taxes on services,⁽⁴⁸⁾ and the delegation of this mission to third parties.⁽⁴⁹⁾ Some councils developed sophisticated systems of regulation and established bylaws

⁽⁴⁶⁾ Ayman Al-Dassouki, Realities and Challenges of Local Tax Collection in Local Councils, Omran Center for Strategic Studies, 27-10-2015, <https://goo.gl/kV38Mc>

⁽⁴⁷⁾ Dabiq local council appoints a local collector, official page of the Dabiq local council, 24-9-2017, <https://goo.gl/4Wrvfg>.

⁽⁴⁸⁾ Local council in Jisreen ties water fees to the distribution of relief baskets, official page of the revolutionary council in Jisreen, 27-9-2017, <https://goo.gl/GFkmCS>

⁽⁴⁹⁾ <https://goo.gl/bBjhiC>.

guiding the collection of revenue.⁽⁵⁰⁾ Predictably, the success of levying taxes has varied from one local unit to another. For example, in November 2017, only 15% of Kafr Nabl residents paid taxes,⁽⁵¹⁾ and only 12% paid taxes in Ma'arat al-Nu'man.⁽⁵²⁾ By contrast, in the Euphrates Shield area, more than 70% of residents paid taxes.⁽⁵³⁾ Financial reports from some of the local councils show that the collection of tax revenue helped provide funding for some of their services,⁽⁵⁴⁾ while many others did not succeed, and instead halted collection efforts.⁽⁵⁵⁾

- **External Support:** Local councils receive support from external donors that are responsible for partially or entirely funding of the councils' activities and services. These donors include governmental and non-governmental organizations, international and local relief agencies, and private institutions. The following table shows the number of donors for various councils:

General Area of Support for Councils	Donors	Geographical Area
Livelihoods and early recovery/infrastructure	135	Northern Euphrates Shield Region
Livelihoods and early recovery/infrastructure	160	Central Region, including opposition controlled areas in Idlib, Hama, and Aleppo
Livelihoods and early recovery	40	Northern Homs governorate
Livelihoods and early recovery	20	Eastern Qalamun
Livelihoods and early recovery	95	Eastern Ghouta
Livelihoods and early recovery	10	South of Damascus
Livelihoods and early recovery	15	Damascus
Livelihoods and early recovery/infrastructure	156	Southern Region

Table 2: Donors to local councils in 2017⁽⁵⁶⁾

⁽⁵⁰⁾ The approved layers for the water fees collection in Saraqeb, official page of the local council in Saraqeb, 7-9-2017, <https://goo.gl/xrFg3Y>. The approved collection plan by the Atareb local city council, official website of Atareb city local council, 2-12-2017, <https://goo.gl/o1H1E2>, <https://goo.gl/eUEdLp>.

⁽⁵¹⁾ Kafr Nabl water, pumping stopped and the reason is end of tensions and failure of collection, Zayton, 27-11-2017, <https://goo.gl/WgxGNg>

⁽⁵²⁾ 18 million is the cost of pumping in Al-Maarra and money collected is 2 million, Zayton, 10-10-2017, <https://goo.gl/9RWVYv>

⁽⁵³⁾ The re-stabilization committee report on empowering the fees collection system in the north and east of Rif Aleppo, official website of the re-stabilization committee, 9-1-2018, <https://goo.gl/kDg9xG>

⁽⁵⁴⁾ Financial reports for collection in Maasaran town show that it covers water pumping fees, the official page of the Maasaran local council, 1-12-2017, <https://goo.gl/ZR9LzL>.

⁽⁵⁵⁾ The local council in Saraqeb decided to stop collecting fees for water, official page of the Saraqeb local council, 27-9-2017, <https://goo.gl/CA4aVg>

⁽⁵⁶⁾ Statistics prepared by the researcher during his observation of the social media pages of local councils announcing the receipt of funds or signing partnership agreements. The statistics do not include donor parties that presented support to councils, and which was not documented through social media pages.

- **Financial Revenues from Public Property investments:** Local councils are considered to be the authorities in charge of managing public properties and institutions within their district borders, in the absence of competition from military or civilian. Usually the councils offer its properties for investment in a public call for proposals for the best bidder.⁽⁵⁷⁾
- **Financial Revenues from Development Projects:** Many local councils have established revenue-generating development projects with the support of donors. Although many of these projects have ceased as a result of economic unsustainability or after being destroyed or seized by armed factions,⁽⁵⁸⁾ some of them are still standing and continue to generate revenue. These projects have included things like regulating cardamom markets,⁽⁵⁹⁾ investing in bakeries,⁽⁶⁰⁾ and clothing workshops.⁽⁶¹⁾
- **Financial Revenues from Individual Donations:** Some of the residents of local units, businessmen or expatriates offer direct support for local councils, either through donating sums of money or in-kind sponsorship of specific service activities.⁽⁶²⁾
- **Support from Official Opposition Institutions:** The support from opposition institutions has declined since 2015 and today is almost non-existent. This was confirmed by the deputy prime minister of the SIG Akram Touma who stated: “The SIG is funding development projects on a small scale, through cooperation with the Assistance Coordination Unit (ACU) and the Qatari Red Crescent”.⁽⁶³⁾”

⁽⁵⁷⁾ Declaration of the local council in Aqrab for those who want a land assurance in an auction, official page of Aqrab local council, southern Rif Hama, 20-10-2017, <https://goo.gl/ZdpYyK>

Duma local council offered facilities for investment, official page of Duma local council, 26-9-2017, <https://goo.gl/gkPgHX>

⁽⁵⁸⁾ Mahmoud Al-Darwish, Tahrir Al-Sham seizes Saraqeb city market in Idlib, Smart, 19-11-2017, <https://goo.gl/zTo5kD>

⁽⁵⁹⁾ New cardamom market in Mare' north of Aleppo, Ennab Baladi, 27-8-2017, <https://goo.gl/cgBSrB>, <https://goo.gl/schgTY>

The local revolutionary council of Tafas supervises the cardamom market, official page of the local revolutionary council in Tafas, 28-12-2017, <https://goo.gl/Vkyz8z>

⁽⁶⁰⁾ Financial report for the local council in Al-Atarib for February 2017, shows the financial revenues collected from investing in the bakery, official page of the Atarib local council, 8-2-2017, <https://goo.gl/8bAsZT>

⁽⁶¹⁾ Investment of the local council in villages of Madaya, Rakaya Sijneh, and Al-Nakir, in a tailor project, official page of the local council in the villages of Madaya, Rakaya Sijneh and Al-Nakir, 9-8-2017, <https://goo.gl/NnphsY>

⁽⁶²⁾ Installing the electricity board for the eastern district well by one of the Al-Harak city expats, official page of al-Harak revolutionary city council, 17-5-2017, <https://goo.gl/ewxVWZ>

Thank you card from the local council in Tell Dahab for the expats of the town for sponsoring a drinking water project and their support for educational and services project for the town, the official page of the local council in Tell Dahab, 11-8-2017, <https://goo.gl/j2eebd>

⁽⁶³⁾ Vice president of the interim Syrian government in a comprehensive interview, Zaman Al-Wasl, 12-2-2017, <https://goo.gl/Ys5tVM>

- **Support from Armed Factions to Councils in their Regions:** Support from armed factions may take different forms, such as offering financial donations to these local councils, or supporting the activity of their service committees.⁽⁶⁴⁾

Local councils spend their financial resources on funding their activities, meeting their administrative needs, and implementing their policies. The results of the survey on the financial administration of local councils sheds light on the spending of local councils, ranked as follows:

- A. Supporting vital sectors, including spending on infrastructure projects such as water, electricity, and sewage.
- B. Spending on transportation, the purchase of fuel for machinery, operating electricity generators, and water pumping networks.
- C. Expenses related to maintenance of machinery and equipment, in addition to salaries and wages for council workers.
- D. Administrative expenses such as rent, communication bills, water, and electricity for the councils and their offices.
- E. Expenses for buying service machinery, and tools, and office equipment.
- F. Expenses for establishing development projects.

4. Relationships with Actors: Complex Relations with Diverse Groups

Local councils interact with various civilian and military powers, both local and external. Some of these relationships are cooperative in nature, while others are antagonistic. The relations may be direct or may operate through intermediaries. The relationships between local councils and other actors is one of the factors that impacts whether councils succeed or fail. The multiplicity of actors and their varying interests can create both cooperative and adversarial relationships. The ability of local councils to maintain cordial relations based on mutual interests with other actors helps empower the councils to expanding the roles, increase their efficiency, and ensure the continuity of their work. The most important relationships for local councils are those with non-state actors that play a role in the conflict, whether they are local or external, civilian or military; this includes donors, local civil society groups, local military groups, and political opposition institutions.

⁽⁶⁴⁾ The local council of the municipality of al-Salama in cooperation of the services office of the Sham paved the road to al-Salama hospital and prepared the road for 500meters, official page of the local municipality council of Al-Salama – Seju, 26-3-2017, <https://goo.gl/CgdMFE>

Donors support local council activities and projects, providing some of all of their budgets. Data collected by Omran shows the existence of more than 600 donors,⁽⁶⁵⁾ most of which tend to work directly with lower level councils and not through the provincial or city councils in the fields of livelihoods and early recovery, capacity-building, or basic services.⁽⁶⁶⁾

The opinion of those in charge of local councils may differ regarding the relations they maintain with donors, and the outcomes of such relations. Some local council leaders emphasize the important role that these relationships play in empowering the councils to offer basic services in the field of infrastructure. They also link the availability of donor support to the improved performance of the councils in their administrative and service provision roles. This is particularly true for the local councils in the areas of “Euphrates Shield,” southern Syria, and central Syria. On the other hand, some local council members voice concerns about the negative impact that donors can have on determining the priorities of their councils, which are not necessarily in line with the priorities of the local communities.⁽⁶⁷⁾ They also note that some donor parties are too selective in their support, they impose onerous conditions, and do not take into account the local context and the situation on the ground in which the local councils operate. They also express their fears about the efforts of some donors to politicize their support and to impose their own agendas on the councils.⁽⁶⁸⁾

Relations between the local councils and local civilian powers such as revolutionary activists, tribal elders, religious leaders, tradesmen, and others, are complex and multifaceted. Councils strive to win the support and approval of these local authority figures to promote their legitimacy. To achieve this, local councils have adopted different ways to include these local actors in their decision-making processes, including holding meetings with local civilian representatives,⁽⁶⁹⁾ and creating a framework for community relations through consultative Shura councils that serve to monitor the work of the councils or to provide advice.⁽⁷⁰⁾ Local councils have also

⁽⁶⁵⁾ OCHA report in 2017 said there are 197 local organizations registered as civil society organizations. This statistic doesn't include the foreign donor parties and unlicensed organizations.

⁽⁶⁶⁾ Vice president of the interim government Akram Touma noted the preference of some of the donor parties to offer direct support to administrative entities inside Syria, without passing through the interim Syrian government, vice president of the interim Syrian government in a comprehensive interview with “economy”

⁽⁶⁷⁾ Jalal Siris, Al-Houla local council accuses relief organizations of ignoring support for basic services, Smart, 26-10-2017, <https://goo.gl/iVvrZY>

⁽⁶⁸⁾ Governance principles, experience of local councils in opposition controlled areas in Syria, p26-27

⁽⁶⁹⁾ Meeting of all members of the local council with the local actors in Kharab Al-Shahm village, official page of the local council in Kharab al-Shahm village, 5-11-2017, ‘ <https://goo.gl/QxRDhT>

⁽⁷⁰⁾ Anadan Shura council structure for the local council, the official page of the local council in Anadan city, 16-10-2017, <https://goo.gl/fAo53o>

sought to include these local authority figures as council members.⁽⁷¹⁾ Civilian representatives frequently compete for control of local councils a way to increase and legitimize their own influence.⁽⁷²⁾

Local councils operate in areas controlled by armed factions that differ in their nature and goals. The relations between the councils and armed groups differ from one area to another, and have changed over time. Some relations may be cooperative in nature, because the local councils depend on the armed factions to implement their decisions and to provide local security.⁽⁷³⁾ Some armed factions may also provide support for activities and services of the councils.⁽⁷⁴⁾ The relationships between local councils and armed actors may also be competitive in nature and lead to clashes.⁽⁷⁵⁾ This is common in the relations with jihadist factions such as Hay'at Tahrir al-Sham.⁽⁷⁶⁾

Theoretically, local councils are part of the opposition's administrative system. But a considerable number of local councils look at the SOC as an entity that has lost its legitimacy because it ceased to support the councils and rarely communicates with them. On the other hand, the decision of the opposition's SIG to work from inside Syria has transformed how it is perceived by many local councils. However, the SIG's lack of ability to provide financial support to local councils, competition from parallel executive entities, the councils' focus on local activities, and the influences of external donors all limit the possibility for further development in the relationship between councils and the SIG.

Third: Challenges Facing Local Councils

Local councils today are subjected to significant pressures and challenges, possibly the worst they have experiences since their establishment in early 2012.

⁽⁷¹⁾ Meeting of the representatives of the families of al-Tawama town to choose a local council, official page of al-Tawama municipality council, 18-9-2017, <https://goo.gl/rHtn3h>

⁽⁷²⁾ Ayman al-Dassouky, conflicts and their impact in governance of local councils, North Syria model.

⁽⁷³⁾ Thank you card from the local council of Al-Rastan to the directorate of al-Rastan for its role in supporting and implementing the council decisions, the official page of the local council Al-Rastan city, 2-2-2018, <https://goo.gl/bBxJXH>

⁽⁷⁴⁾ Al-Dumayr local council completes the street lighting project with support from Abdo forces, 5-5-2017, <https://goo.gl/v7Cnnz>

⁽⁷⁵⁾ Statement by the revolutionary local councils of eastern al-Ghouta on the last attack by Jaysh al-Islam on the towns of eastern al-Ghouta, official page of the local council of Arbin, 19-8-2017, <https://goo.gl/UePyJD>

⁽⁷⁶⁾ Ayman al-Dassouky, Salvation government doesn't replace Ariha council, and Idlib councils are scared, al-Modon, 7-12-2017, <https://goo.gl/zz8xXH>

1. Local Competition with and over Local Councils

Opposition to the Assad regime has been the unifying motive that mobilized the various forces in Syrian society to revolt. The dynamics of the conflict and foreign intervention driven by divergent interests has contributed to growing disagreements between local Syrian opposition forces. The prolongation of the conflict and its transformation from a struggle to topple the regime to the possibility of coexisting with it, and formation of de-escalation or safe cease fire zones,⁽⁷⁷⁾ has led many actors to take new positions, and has increased contestation over the management of local resources and the polarization of public opinion. There has been an increased competition by other local armed and non-armed groups with local councils on services delivery and over local councils' offices in an effort to dominate and take control of them. Many local groups now understand the political value of local councils and the local legitimacy they enjoy because of their services provision.

The competitions among local powers over control of local councils takes different forms, which vary based on the local dynamics and the nature of the powers involved, as well as the councils' size, roles, resources, and relations. This competition is not limited to internal competition among forces opposed to the Assad regime, but also includes powers affiliated with the regime who seek to regain their influence in society by making use of the councils. The local competing forces cannot be described as coherent blocs facing off against each other as they compete with and over the local councils.⁽⁷⁸⁾ These actors try to form alliances and use various other tools to settle the competition over local councils in a manner that is closely aligned with their interests. The local council elections in Saraqeb in July 2017,⁽⁷⁹⁾ and the disagreement over reforming the council of Atmeh⁽⁸⁰⁾ provide two examples of such intense competition over election processes.

Military factions compete for influence over and control of local councils. This is clearest when armed factions propose local organizational structures to unite the civilian powers and local and military councils in the areas under their control. For example, the previous revolutionary command in Damascus and Rif Damascus was

⁽⁷⁷⁾ Orwa Khalifah, warlords in Syria, transformations in power relations in de-escalation zones, The World Institute, 11-9-2017, <https://goo.gl/zPCuJ9>

⁽⁷⁸⁾ Ayman Javad al-Tamimi, Reconciliations, Case study on the two idols north of Daraa, 27-4-2017, <https://goo.gl/SqgNVK>

Syrian journalist and researcher Manhal Barish confirms these remarks when he says some of the Barish family did not vote for the candidate Ibrahim Barish, despite being a relative, but rather voted for the competing candidate Mathna al-Mohamed in the local council elections in Saraqeb. Interview by the researcher with Manhal Barish, 21-9-2017.

⁽⁷⁹⁾ Ayman al-Dassouky, Conflicts and their impact on governing local councils, northern Syria as a model

⁽⁸⁰⁾ Atme local council searched for the best way to form the council in a distinguished attempt that was not successful, Zayton, 4-4-2017, <https://goo.gl/9v4JBj>

established with the support of Failaq Al-Rahman and included the local councils of the central sector, southern sector, and Al-Marj area in Eastern Ghouta.⁽⁸¹⁾ The general civilian administration in the western Aleppo governorate was formed with the support of al-Zenki,⁽⁸²⁾ and previously benefited from the administration of services of Ahrar al-Sham. Similarly, Hay'at Tahrir al-Sham has made efforts to control local councils, whether through cooperation when their interests coincide, containing them, infiltrating or marginalizing them. Its two wings, the “civilian administration for services” and the Salvation Government,⁽⁸³⁾ assist the armed group in these efforts.

2. Approaches of Conflicting Forces Regarding the Councils

The way that countries involved in the conflict approach local councils varies considerably according to their objectives and future interests in Syria. Donor countries rely on the local councils as a central element in their strategy for dealing with the Syrian state during the transitional period. One such approach proposes funding to the regime for reconstruction projects in exchange for political reforms that include decentralization. This was the position adopted by the Friends of Syria group during a UN meeting on 18-9-2017 in New York. A second approach entails directly supporting local communities through local councils without going through Damascus, with the goal of establishing a decentralized administrative system in the country. The Russian approach however, which employs the terminology of “reconciliation” with the Syrian state, uses military pressure and local negotiations to contain local actors in opposition-held Syria – including local councils – and uses them to build a governance system that guarantees a role for Moscow that will allow it to control the political and social power balance in Syria now and in the future.⁽⁸⁴⁾

3. Excessive Local Focus and Financial Deficits of Councils

Local councils tend to promote their local governing frameworks at the expense of the larger organizations with which they are officially affiliated on the regional or national level, such as the SIG and governorate councils. This may be a result of the following factors:

⁽⁸¹⁾ Obaida al-Nabwani, the revolutionary command in Damascus and its Rif Damascus forms a department for eastern al-Ghouta, Smart, 15-9-2017, <https://goo.gl/AjkAYj>

⁽⁸²⁾ General administration of western Rif Aleppo, YouTube, 7-11-2015, <https://goo.gl/EHrqoh>

⁽⁸³⁾ Ayman al-Dassouky, local governance of Tahrir al-Sham and their perspective for local councils, Omran Center for Strategic Studies, 23-6-2017, <https://goo.gl/PNQPfw>

⁽⁸⁴⁾ Sinan Hatahet, Future of political transformation in Syria, Al-Jazeera Center for Studies, 18-1-2018, <https://goo.gl/S9UDnf>

1. Weakness of the structures of the official opposition with which the local councils are affiliated with respect to their abilities to fund, communicate, and implement decisions.
2. The practice of donors of interacting directly with local councils without passing through official opposition structures.
3. The distribution of local councils over different geographic areas and lack of communication between them.
4. The dominance of local considerations and demands in the agenda of the councils.
5. A strong sense of local identity in Syria's communities on the military, political, and social levels.

Disagreements over the distribution of authorities between local councils, governorate councils, and the SIG as well as the local council's rejection of certain decisions made by larger opposition structures,⁽⁸⁵⁾ are all signs that the councils are locally focused and operate as independent local governance units. The strong identification of local councils with their constituent communities and representation of local political and economic preferences is a positive phenomenon when there is a functioning central state in times of peace. However, this excessive local focus weakens the ability of the councils to counter external efforts to influence, dominate, and dismantle them. This can be seen in the negotiations in which local councils engaged with Russia and the regime, which resulted in surrender and displacement of local inhabitants and the dismantling of governing structures. Local councils face financial deficits that limit their abilities to manage the affairs of their own communities and provide them with basic services,⁽⁸⁶⁾ to continue to exist as institutional entities,⁽⁸⁷⁾ and to maintain their independence from the agendas of donors.

Fourth: Transformations of Local Councils in 2017, Consequences in 2018

In 2017, the local councils in opposition-held areas went through transformations of various types and directions. They have been subjected to complex challenges as a

⁽⁸⁵⁾ Mohamed Omar, the local council in Daraa withdraws from free Daraa governorate due to violations, 7a1, 1-4-2017, <https://goo.gl/ZtjaAW>

⁽⁸⁶⁾ Mahmoud Aboul Magd and Taha Soliman, Bread crisis storms Rif Homs, Gharnatah local council requests help, Horrya, 19-12-2017, <https://goo.gl/MKwiKL>

⁽⁸⁷⁾ Al-Rastan local council group resignation despite arrival of UN assistance, Soriatna, 17-5-2017, <https://goo.gl/L5usds>

result to the conflict's evolving dynamics and the different approaches of the powers involved in the conflict toward the local councils.

The number of councils declined rapidly from 950 early 2015 to just 317 in early 2018, just 33% of the total number of councils three year earlier. There are several reasons for this decline, the most important of which are:

1. ISIS and the Kurdish self-administration, which eliminated the opposition local councils in areas under their control, particularly in the east.⁽⁸⁸⁾
2. A reduction in the geographic areas where councils could operate as a result to the Russian military intervention and displacement and demographic change policies implemented by the regime and Iran.⁽⁸⁹⁾
3. Some of the councils stopped operating as a result of the decline or end of financial support, in addition to increasing competition and takeovers of councils, or their marginalization by local civilian or military powers, particularly jihadist actors in Idlib.
4. The SIG's Ministry of Local Administration stopped recognizing the legal status of some of the local councils per SIG's laws and applicable bylaws.

Despite the decline in number, the remaining councils were able to achieve different levels of transformation in their structure and functions. The stability and consistency of the organizational structures of local councils is notable, particularly because they adopted different bylaws from a variety of sources. The councils had different numbers of officers, ranging between six and 11, and several committees and sub-departments. There was also a notable tendency of local councils to create offices to handle women's affairs. Also, local councils within certain geographic regions tended to adopt similar organizational structures.

Local councils depended on two mechanisms for their formation: locally brokered agreements and consensus among local civil society groups and community leaders or elections. Comparing the results of two studies conducted by the Omran Center titled "an analytical reading to survey the reality and challenges of financial administration of local councils," and "a reading in the political role of local councils," we can see an increase in the reliance on elections as method of forming

⁽⁸⁸⁾ The Islamic State and People's Protection Units sharing control over the eastern region resulted in stopping the work of 178 local councils distributed as follows: 142 in Deir Al-Zour, 17 in Raqqa, 19 in Al-Hasakah, Data can be found in the study: the local administration in areas under the control of the Islamic State: Illusion of a state, Omran Center for Strategic Studies, 15-5-2015, <https://goo.gl/zH6k3F>

⁽⁸⁹⁾ Demographic change in Syria, Nusuh blog, <https://goo.gl/1VMDbL>

local councils over time from 38% in 2016, to 44% in 2017. This may be interpreted as follows:

1. Local councils want to promote their local legitimacy in light of the challenges facing their roles and continuity.
2. There was an increase in the number of actors involved in the formation of the councils, and they struggled to reach internal agreements on the organization of local council membership to ensure fair representation.⁽⁹⁰⁾
3. The accumulation of organizational experience in the field of elections as a result of the governance courses attended by local members.

Organizational experiences with local council elections and the bylaws regulating voter and candidate eligibility vary significantly between councils. The following assessment can be highlighted:

1. The role of civil society organizations (CSOs) in local elections of councils has increased, as they have worked to raise awareness about the importance of elections and about people's rights to run and vote. CSOs have mobilized people to participate in elections, and have monitored the election processes to confirm their results. CSOs have also helped bolster the councils' organizational capabilities to successfully prepare and hold elections.
2. There has been a near total lack of female participation in the formation of local councils as both voters and candidate, with a few exceptions in some of areas. This may stem from the social environment, the security situation, and the ways in which influential social actors view female participation.
3. There has been an increasing influence of the lower and middle classes on local council elections as people in these segments of society gain a better understanding of their options. They tend to vote more for technocrats rather than revolutionaries.⁽⁹¹⁾

Local councils have tended to redefine their roles based on the context of the conflict, the available resources, and their local legitimacy. The services delivery roles of local councils has witnessed increased visibility and stability as a result of several factors, including the following:

⁽⁹⁰⁾ Ayman al-Dassouky, conflicts and its impact on local councils governance, northern Syria as a model, Harmoon Center for Contemporary Studies, 22-11-2017, <https://goo.gl/bE8x1c>

⁽⁹¹⁾ Manhal Barish, Local elections in Saraqeb shows how democracy can be spread in Syria.

1. The stability of the organizational structures of the councils and the development of its specialized and experienced service offices
2. Their accumulation of experiences in managing services and in attracting experts to carry them out, where there is sustainable support for salaries.
3. The tendency of donors to support the capacity development of councils in the service sectors.

Local councils vary in the level of infrastructure services they offer. These roles are more clearly established in the “Euphrates Shield” area, and previously in opposition-held areas in Daraa and Quneitra governorates, where local councils have benefitted from the availability of external support and relative situational stability in comparison to other geographic regions in which councils operate.

Local councils offer comprehensive administrative services to both original local residents and the displaced. It is worthy to note that there is a strong correlation between a local councils’ ability to provide stable and high-quality services and its popular legitimacy among constituents. Some of local councils also serve areas outside of their administrative borders for the following reasons:

1. These councils have adjusted their administrative borders to account for changes in the forces controlling the areas around them.
2. They have institutional structures with sufficient resources that they are able to serve nearby areas.
3. There is an absence of local councils in adjacent communities, forcing residents to depend on their neighboring local councils for services.

Politically, local council possess political capital that has not been instrumentalized on both local and national levels for several reasons that include the following:

1. Divisions between council members regarding their councils’ political role.
2. Armed factions have monopolized the role of local political representation, while the official political opposition has monopolized the political representation of Syrians in the international arena.
3. The absence of a stable political process with clear mechanisms that give the councils a voice.
4. The prioritization of service provision over political activity due to pressure of local demands.

5. The failures of political arrangements that were cross-regional among local councils under high localist pressures. This did not allow councils across regions to establish unions or collaborative political work.
6. Growing political competition over control of local councils on both the local and national levels.

In order for the councils to perform their duties, they need financial resources and an efficient way to administer them. Local councils have struggled to perform well financially since they lack unified financial regulations and bylaws, and lack relevant experience in the field of financial management. We may conclude the following about local councils' financial resources and spending:

1. Local councils in the Euphrates Shield area and (formerly) in the southern and central regions enjoy(ed) financial stability compared to those in other opposition-held areas, due to the steady assistance they receive(d) from donors and their increased dependency on local taxation.
2. The organizational abilities of local councils to impose and collect taxes have improved, but are still ineffective due to the growing impoverishment of their constituents and the lack of an enforcement force or mechanism.
3. Local councils still do not invest enough in public properties and institutions due to the control of armed factions and their competition over local resources, as well as the effects of instability, insecurity, and a lack of highly trained personnel among council employees, all of which make investments challenging.
4. Donors decisions to interact directly with the local councils without going through central agencies may persist into the post-war reconstruction phase.
5. The expenditure choices made by local councils are one cause for their financial deficits. They tend to focus on supporting vital sectors and reviving infrastructure over long-term investment, depleting their limited resources without refilling them.

In conclusion, **local councils today face serious challenges, and difficult choices.** The councils face local competition from political and military actors at a time of increasing tension and clashes between armed opposition factions. These challenges will likely increase during the period of de-escalation with the regime. Local councils are also subject to pressures from outside actors with different agendas. Other challenges stem from local councils' excessively localized focus and their financial hardships. How the remaining local councils face these challenges and seize

opportunities will impact their configurations and functions in the near future. The three potential prospects for the future of local councils are: dissolution, maintaining some level of autonomy or local governance through a negotiated power sharing arrangement, or continuation of the status quo as independent local units.

Chapter 9

The Reality of Governance in Democratic Autonomous Administration Areas

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Chapter 9: The Reality of Governance in Democratic Autonomous Administration Areas

First: Formation and Legal Framework

The Democratic Union Party (PYD) presented its ideas on self-administration and federalism when it was first established. In its second conference, held on February 20, 2005, the PYD urged the Syrian state to “take the path of change and transformation in context of democratic confederation.”⁽¹⁾

The PYD gradually implemented this vision starting with the early days of the revolution, as regime forces withdrew from northern border areas and handed them over to the PYD. The PYD announced the establishment of the People's Council of West Kurdistan (MGRK) on December 16, 2011, and declared in its first statement its intention to establish a self-administration gradually. Cities and towns in northern Syria began to fall under the control of the PYD and its MGRK.

In the face of a fragmented Kurdish reality, and in an attempt to form a unified leadership, Hawler/Erbil witnessed the Kurdish Supreme Committee (DBK) agreement on June 11, 2012. The agreement established committees comprised of members of both parties (PYD and Kurdish National Council-ENKS). A month later without any implementation of the agreement, a new agreement was signed named “Hawler 1” on July 11, 2012 stating that the DBK is to be formed by a 50/50 membership from both parties. Although some special committees were formed by DBK, none was activated as a result of continued disagreements between both parties on the membership of these committees. The MGRK continued to advocate and build the momentum for its self-administration project using the name of DBK, as well as its military institutions People’s Protection Units (YPG) and Asayesh. It also detained and arrested numerous ENKS members.

In an attempt to overcome their disputes, the ENKS and MGRK tried to reach a new agreement on September 8, 2013 to form an “Interim Joint Democratic Administration,”⁽²⁾ but most of ENKS members withdrew before the conference. The

⁽¹⁾ The 2nd emergency conference for our party the PYD, Ahewar, 13-3-2005, <https://goo.gl/E6tBqx>.

⁽²⁾ The agreement between the ENKS and the MGRK Hawler 1: 1. Every party or agency presented several of its representative members to the “interim agency” that will be formed of all constituents and will manage the elections process. 2. This interim agency will form the joint temporary democratic administration after accomplishing an interim constitution. 3. The temporary agency is authorized to prepare the democratic election law. 4. The temporary administration is considered to be an executive reference that builds its institutions to

MGRK then decided to independently establish a “Democratic Autonomous Administration-DAA” and conducted a general assembly for establishing a transitional administration on December 12, 2013.⁽³⁾

The president of Iraqi Kurdistan Regional Government (KRG) intervened again and a new agreement was concluded named “Hawler 2” on December 25, 2013. The agreement focused on activating and executing the stipulations in the DBK agreement, including ENKS members to the DAA, and forming a unified Kurdish delegation to the Geneva talks.⁽⁴⁾

In the meantime, the MGRK continued to develop and reinforce its administration by executing decisions of the establishing general assembly in declaring the three cantons/province in northern Syria: al-Jazira, Afrin, and Kobani. The three executive councils were also established in Jazira on January 12, 2014, followed by Kobani on January 27, 2014 and Afrin on January 29, 2014. The DAA was officially and unilaterally declared as a representative of MGRK on January 21, 2014. A higher joint coordination body was established to coordinate the work of the three executive councils on March 27, 2014.

It is worthy to note that all agreements between ENKS and MGRK lacked enforcement and implementation mechanisms and relied heavily on membership quotas. The negotiation process and time between both councils took place simultaneously while the MGRK and PYD was using the time to establish new realities on the ground in its favor. It utilized the intra-Kurdish negotiations as a

facilitate its work in administrative, political, economic, social, cultural, security and protection fields. 5. The security and protection forces are responsible for the security and stability in the Kurdish and joint areas. It is a national institution that binds to all international laws and agreements and stands accountable before the transitional temporary administration. 6. Holding transparent democratic elections, open for international and regional observers, human rights organizations and civil society, within six months of forming the interim transitional administration. 7. The general assembly that elects the transitional administration is considered to be the legislative authority for all Kurdish and joint areas. 8. The general assembly is authorized to prepare a constitution that respects human rights and is coherent with international laws and customs.

The two councils sign the project for the transitional temporary administration for Kurdish areas in Qamishli, 8-9-2013, <https://goo.gl/aqWJze>.

⁽³⁾ One year after the institution, the democratic self-administration is the best system for administration, Hawar, 21-1-2015, <https://goo.gl/mEZ3pv>.

On December 2, 2013, upon invitation from the committee preparing the temporary administration project, the follow-up agency held its 2nd meeting in Qamishli with the participation of the majority of the council to discuss the accomplishments of the committee, and to resume the works of the administration, as part of a time-line to accomplish the entire self-administration project. The meeting concluded to the following: 1- Each of the three cantons (Jazira, Kobani, Afrin) independently form their self-administration without having one joint committee for the three cantons. 2- merge the two councils/institutional general assembly/and follow up agency under the name “transitional legislative council. 3- consider the small committee emerging from the agency to be an agency for preparing the self-administration project. 4- Name the administration of the three cantons as: a. Democratic Self-Administration of Al-Jazira. b. Democratic Self-Administration of Kobani. c. Democratic Self-Administration of Afrin.

⁽⁴⁾ The items of the paper signed by the two Kurdish councils at the conclusion of the Hawler meetings, Kobani Kurd, 25-12-2013, <https://goo.gl/TF8pQw>.

cover to facilitate humanitarian assistance and transport personnel from KRG and other areas into the region while building its legitimacy and position socially.

The “Hawler 2” agreement was in reality an attempt to implement the first agreement and form a unified delegation from both parties for the Geneva negotiations. The PYD manipulated the situation to its benefit by agreeing in the meeting with the other party, and using the time to transport personnel, equipment and resources through Samalka bridge, which connects Iraqi Kurdistan the areas under control of the PYD in Syria.

When the Kurds failed to attend the Geneva conference in January 2014 as a unified delegation, the PYD suspended its commitment to implement the agreement. The same result was seen after the Dahouk agreement on October 14-22, 2014 that aimed at establishing the DAA jointly. The peak of the dispute reached an irreversible state after the ENKS joined the Syrian Opposition Coalition (SOC / Etilaf).⁽⁵⁾ The PYD had members represented in the other opposition group operating in Damascus, called the National Coordination Committee (NCC).

The PYD’s DAA continued to lack popular support or consensus among the population under its control and failed to establish a solid legal foundation. Its establishment was based on self-declared documents that grants legitimacy to itself, such as the bylaws, political program for the PYD (2003 and its amendments), and its supreme organizational structure document: the Movement for a Democratic Society- TEV-DEM (2011-2012), the charter of MGRK (2011-2012), the DAA’s social contract (2013-2014), and finally the Democratic Federation of Northern Syria- DFNS’s Social Contract (2015-2016).

Second: Administrative and Organizational Structures

The DAA is structured according to its social contract as follows: executive council, legislative council, judicial council, high elections committee, supreme constitutional court, and local councils. It offers three levels of services:

Level One: Executive Council Agencies

Initially, there were 22 executive council agencies, but was later reduced to 16. The executive council agencies function as service ministries that cover the various aspects of daily life. The executive council president is appointed by the head of each

⁽⁵⁾ The National Kurdish joins the coalition. Deferred disagreement over the centrality of the state, Zaman Al-Wasl, 8-8-2013, <https://goo.gl/yiNjhr>

canton/province, who directs the party or majority bloc in the legislative council to form an executive council on condition that it receives the approval of no less than 50+1 members of the legislative council. The legislative council holds the executive council to account. The reduction in the number of agencies from 22 to 16 took place during an exceptional session of the legislative council on March 1, 2016. During this session, the religious affairs and human rights agencies were transformed into offices and linked directly to the presidency of the executive council; the economy and agriculture agencies were merged; and the environment and municipalities agencies were similarly merged; the responsibilities of the transportation agency were transferred to the municipalities and interior agencies; and the agencies for supplies and municipalities were merged. The DAA decided to merge and redistribute the authorities of these agencies due to the overlap of their tasks. The presidency of the newly merged agencies became jointly headed (by one man and one woman), along with three deputies. The position of the president of the executive council was excluded from these structural changes.

The DAA included three cantons when it was first established: Kobani, Afrin, and Al-Jazira. They were later changed under the Administrative divisions’ law for the DFNS, which was approved during the general assembly of the Democratic Federation, held on July 27-28, 2017. The new administrative divisions for the federation were as follows: there are three primary regions known as: al-Jazira, Euphrates, and Afrin. Each region is composed of two or more cantons/provinces that include several constituent districts. Table 1 (below) clarifies the new administrative divisions announced by DFNS in 2017.

Region	Cantons / Provinces	District
It is the primary unit of the entire DAA jurisdiction. It consists of one or more cantons or districts that have unique similar history, demography, economics, and culture. It is geographically integrated and connected.	The combined area of cities with its surrounding rural areas. It is a subsector of a region and is composed of one or more districts. The center of each canton has to be a city.	A subsector of a region or canton that has at least 50,000 residents. Its center can be a town or a city and tt can include more than one city or village

Table (1): Administrative Structure of DAA

The cantons work as part of the DAA regions through their specialized agencies. Following the passage of reorganization enacted upon the declaration of the DFNS. In this process, previous cantons were changed to regions, and new cantons were to be created. The new cantons are expected to form executive agencies, but this had

not yet been carried out as of the writing of this report. Only the regions and their affiliated cantons are mentioned below, along with their executive agencies as approved by the DAA declaration:

The DAA's executive agencies, and later under the DFNS		
Euphrates region is composed of: 1. Kobani/Ain al-Arab canton 2. Tall Abyad canton Both include: 2 districts and 5 sub-districts.	Afrin region is composed of: 1. Afrin canton 2. Al-Shahbaa canton Both include: 1 district area and 7 sub-districts.	Al-Jazira region is composed of: 1. Al-Hasakah canton 2. Al-Qamishli canton Both include: 6 districts and about 12 sub-districts.
Executive Agencies of the cantons, their offices, and tasks		
Foreign Relations Agency	First: Office of Diplomatic Affairs: composed of the following geographic and specialized units: 1. Middle East office. 2. Asia and Australia office. 3. Africa office. 4. Europe office. 5. Americas office. Second: Office of Administrative Affairs I: composed of the following units: 1. Foreign Relations Presidency. 2. Legal affairs and treaties. 3. Protocol. 4. Planning, research and information. 5. Consular and expatriate affairs. Third: Office of Administrative Affairs II: ⁽⁶⁾ 1. International organizations and conferences. 2. Media. 3. Cultural affairs. 4. Financial affairs and employment.	
Environment and Municipalities Agency	Composed of the following Departments: water, women, environment, transportation, municipality organization, and the technical department.	
Education Agency	Composed of the following committees: ⁽⁷⁾ 1. Guidance. 2. Finance.	

⁽⁶⁾ Introduction about the foreign affairs agency at the Democratic Self-Administration in Al-Jazira, labor agency, 2-8-2017, <https://goo.gl/tGmBFn>. About agencies and municipalities of the self-administration, the official municipalities website. <https://goo.gl/8JGeuE>

⁽⁷⁾ Introduction about the foreign affairs agency at the Democratic Self-Administration in Al-Jazira, labor agency, 2-8-2017, <https://goo.gl/TS2pKX>. About agencies and municipalities of the self-administration, the official municipalities website. <https://goo.gl/8JGeuE>

	<ol style="list-style-type: none"> 3. Registrar, records, archive, and human resources records. 4. Private education. 5. Facilities management and storage. 6. Legal and oversight affairs. 7. Public relations and media. 8. Curricula and development. 9. Examinations. 10. Planning and statistics.
Finance Agency	Composed of the following: General Directorate for banks (includes all types of banks), and the General Directorate for Customs.
Women's Agency	Composed of the following committees: ⁽⁸⁾ <ol style="list-style-type: none"> 1. Women's awareness and childhood. 2. Development of women economy. 3. Finance. 4. Media and relations. 5. Legal committee. 6. Cabinet, archive, offices for sponsoring the elderly, offices for psychiatric care.
Energy Agency	Composed of the following directorates: General Directorate of Electricity, General Directorate of oil, gas and minerals, General Directorate of telecommunications.
Economy Agency	Composed of the following directorates: <ol style="list-style-type: none"> 1. Agricultural production. 2. Animal production. 3. Irrigation and water resources. 4. Fodder. 5. Developing Al-Jazira desert. 6. Seed production. 7. Industry and trade. 8. Economy (foreign trade).
Martyrs' Affairs Agency	Composed of the following committees: ⁽⁹⁾ <ol style="list-style-type: none"> 1. Reconciliation. 2. Supervision of morgues. 3. Health (care for affairs of children and wives of martyrs). 4. Archives - in charge of gathering information about martyrs and adding their pictures to the archival records. The agency arranges the protocols for reception, organization, identifying, and burying members of armed forces affiliated with the DAA, supervises services for

⁽⁸⁾ A brief about the women agency in Al-Jazira, Al-Masdar, Foreign Affairs Agency, 31-5-2017, <https://goo.gl/U5v8kT>

⁽⁹⁾ Martyrs' Families Institution operations during the year, Kobani, 19-1-2017, <https://goo.gl/2wHFHt>

	<p>their families, and offers moral and financial support. The agency coordinates with the other administration organizations to encourage the families to participate in the funerals. It also focuses on spreading the ideas of the PKK and its commander Abdullah Öcalan in the communities under the control of this administration.</p>
Defense and Self-Protection Agency	<p>Composed of the following offices⁽¹⁰⁾:</p> <ol style="list-style-type: none"> 1. Office of the Director General. 2. Registrar and Archives. 3. Records and documents. 4. Financial and administrative affairs. 5. Information. 6. Field offices to assist service beneficiaries: brothers of fighters, brothers and sons of martyrs, and those excused from service for health reasons.
Youth Agency	<p>Structured as follows:⁽¹¹⁾</p> <ol style="list-style-type: none"> 1. Agency director. 2. Agency council. 3. Youth affairs office. 4. Sports affairs office. 5. Legal and administrative committee. 6. Studies and planning committee. 7. Media and relations. 8. Finance and investment. 9. Archive and cabinet. 10. Follow-up committee. <p>The agency also has sub-committees for villages and towns. All youth organizations and sports unions in the cantons report to the Youth Agency.</p>
Labor and Social Affairs Agency	<p>Composed of the following offices:⁽¹²⁾</p> <ol style="list-style-type: none"> 1. Employment services. 2. Licensing organizations. 3. Handicapped. 4. Employee records. 5. Projects.
Interior Agency	<p>Composed of the following committees:</p> <ol style="list-style-type: none"> 1. Legal committee. 2. Monitoring and inspection committee.

⁽¹⁰⁾ Full text of the executive instructions and clarifications of the law for self-defense issued by the defense agency in Afrin, Afrin, 25-5-2015, <https://goo.gl/dnEXBC>.

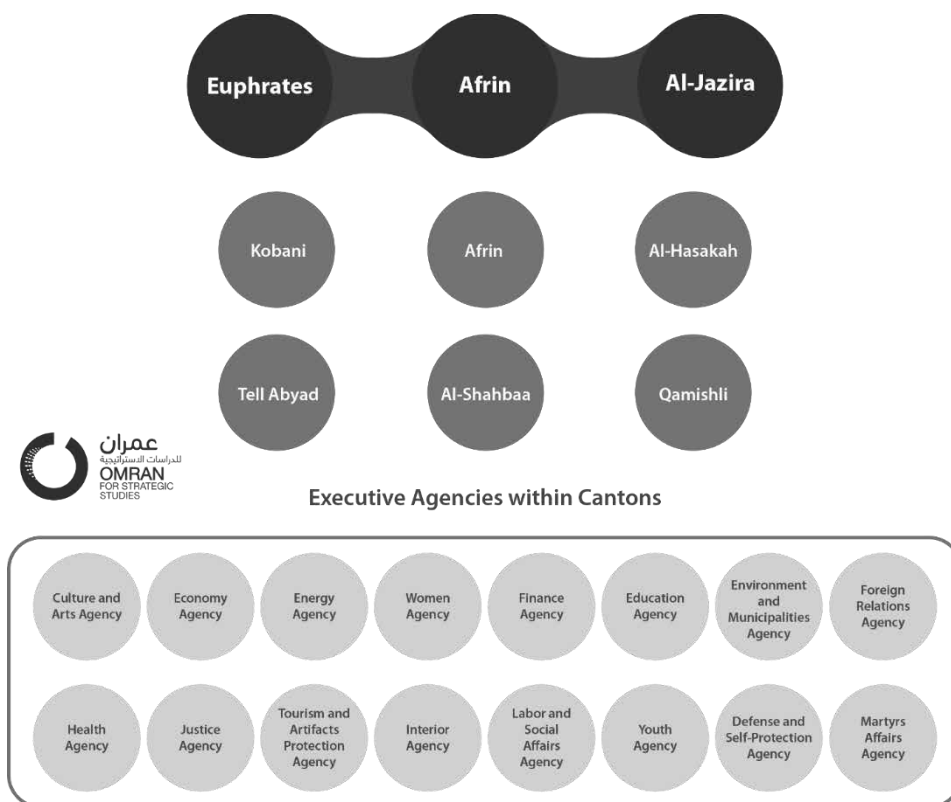
⁽¹¹⁾ Draft of bylaws of the youth and sports agency, Afrin, <https://goo.gl/dZSZmh>.

⁽¹²⁾ Social affairs and labor agency in Al-Jazira, between initiative and activity, PYD, 31-1-2018, <https://goo.gl/JR5Njd>.

	<ol style="list-style-type: none"> 3. Media and relations committee. 4. Finance committee. 5. Parties and political studies committee. 6. Cabinet registrar and archive committee.
Tourism and Protection of Artifacts Agency	<p>Composed of the following committees:</p> <ol style="list-style-type: none"> 1. Media and relations committee. 2. Finance committee. 3. Legal committee. 4. Studies and planning committee. 5. Monitoring and supervision committee. 6. Security committee. 7. Environment committee. 8. Tourism committee. 9. Artifacts committee.
Justice Agency	<p>Composed of the following committees:</p> <ol style="list-style-type: none"> 1. Judicial inspection committee. 2. Legal studies committee. 3. Financial committee. 4. Media committee.
Health Agency	<p>Composed of the following committees:</p> <ol style="list-style-type: none"> 1. Administrative committee. 2. Scientific committee. 3. Finance committee. 4. Public relations and media committee. 5. Monitoring and inspection committee. 6. Emergency and ambulance committee. 7. Employee testing committee.
Culture and Art Agency	<p>Composed of the following committees:⁽¹³⁾</p> <ol style="list-style-type: none"> 1. Expanded consultation committee. 2. Media and relations committee. 3. Finance committee. 4. Cabinet registrar and archive committee. 5. Research and heritage protection committee.
<p>Note: Despite the decision of the legislative council to integrate the agencies, which was executed largely in Al-Jazira, the DAA cantons still maintain some independent agencies. This was particularly true in Afrin in the past (telecommunications, transportation, and religious authority). Kobani has at least four agencies less than Al-Jazira, which operates 16 agencies.⁽¹⁴⁾</p>	

⁽¹³⁾ The temporary legislative council in Afrin – Syria issues: Law 1, Afrin, 27-1-2014, <https://goo.gl/Tvug6e>

⁽¹⁴⁾ The self-administration, core for democratic federation, Hawar, 21-1-2017, <https://goo.gl/ZoXGwv>



Info Graphic (1): Public agencies announced by the DFNS, which has not been implemented fully in reality. DAA agencies continue to operate under the old system announced before the DFNS.

Level Two: People’s Municipalities

Estimated 86, distributed as follows: 45 in Al-Jazira, 31 in Afrin, and 10 in Euphrates. The departments within municipalities and their number of employees vary from one area to another. For example, the municipality in Tel Tamer is comprises of ten departments managed by 34 employees, while Al-Hasakah has 15 departments with 274 workers. The disparities in the staff size and number of administrative sub-units in each municipality stems from differences in the sizes of the territory, the number of inhabitants, and the resources as their disposal. Municipalities are managed by elected local councils. The municipalities, neighborhood councils, and communes⁽¹⁵⁾ coordinate to develop solutions for

⁽¹⁵⁾ The commune is the most basic unit of political organization and governance, primarily implemented in the core SDF areas of northeast Syria. The communes exist at the level of hamlets, villages and town neighborhoods.

challenges that arise, and to provide services to local residents. This coordination takes place through the communes' committees such as the committees for service, environment, and health, and between municipality departments.⁽¹⁶⁾

Al-Jazira canton held elections on March 13, 2015,⁽¹⁷⁾ in 12 of its municipalities. Although the areas under the DAA's administration doubled since the first elections of 2015, and the number municipalities in al-Jazira rose to about 30 by 2018, the DAA had not held new municipal elections as of the writing of the report. At the same time, by the end of 2017, areas under the DAA's control witnessed limited elections below the municipality level of communes and local councils' representatives, in a process that was not concluded fully according to the administrative structures announced by DFNS. If such elections were concluded fully, it would have implemented the newly announced structures of the DFNS whereby local councils will replace People's municipalities. Additionally, it is worthy to note that the inconclusive elections of 2017 excluded Raqqa and Deir al-Zour countryside.

Aymenn Jawad Al-Tamimi, The Internal System of the Communes in Rojava, Apr 17, 2018, <https://goo.gl/kZwNSY>

⁽¹⁶⁾ Peoples' municipalities in Rojava, Hawar, 1-3-2015, <https://goo.gl/L2ZaoV>

⁽¹⁷⁾ Al-Jazira residents will elect 285 members for 13 municipality councils, 11-2-2015, <https://goo.gl/CXpsJq>

Municipality Departments



Info graphic (2): Departments of the municipalities under the DAA and the tasks of each department, which differs from one municipality to another without a declared criteria.

Level Three: Communes

Communes are formed at the level of villages and neighborhoods and cooperate with the People’s Municipalities to manage public services. The communes are defined by the social contract of the constitution of the “Democratic Federation of Northern Syria” as “a form of grass-roots organization for direct democracy: a decision-making and management mechanism within a particular administrative and organizational context. The commune operates as a council in its own right at all

stages of the decision-making process.”⁽¹⁸⁾ Communes act as independent councils throughout the decision-making process, and are similar to the counterpart known in Syria as “neighborhood councils.”⁽¹⁹⁾

The DAA has different administrative names and administrative responsibilities at its higher levels in comparison to equivalent Syrian administrative divisions defined in the local administration Law 107. For example, a canton is equivalent to a governorate in terms of population size, but has different roles because the canton has an executive agency with different roles than the governorate council, particularly with respect to defense, external affairs, and energy, as well as other agencies that are similar in function to the ministries of the federal government. The newest classification is the region, which is the highest administrative unit of the DFNS and has no equivalent in the regime’s administrative structure. The three regions each contain two cantons thus far. The region is an administrative division that unites several cantons or districts with similar historic, demographic, economic, and cultural features. On the other hand, the divisions of the DAA and DFNS correspond with those described by Law 107 concerning cities, towns, districts, municipalities, villages, and farms.

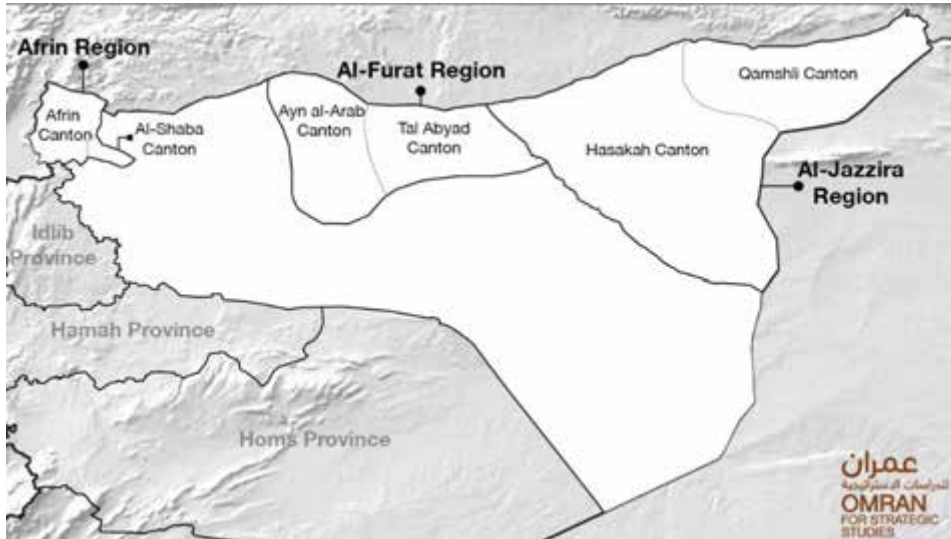
If we compare the DAA-run administration with the system of governance in opposition-controlled areas, we can see that the governance system in opposition-held Syria developed organically as a result of the natural course of events. Local councils emerged from the coordination committees, and became part of the governorate councils. Later, the Ministry of Local Administration emerged from the Syrian Interim Government (SIG). By contrast, the DAA’s was built from the top down. At first, the PYD formed the MGRK, which was later adopted the DAA accompanied with military takeover of cities. Later, communes (neighborhood councils) and municipalities were created in a coordinated manner.

The first and second maps below will clarify the differences between administrative divisions imposed by the DFNS compared to Syrian state administrative divisions per Law 107.

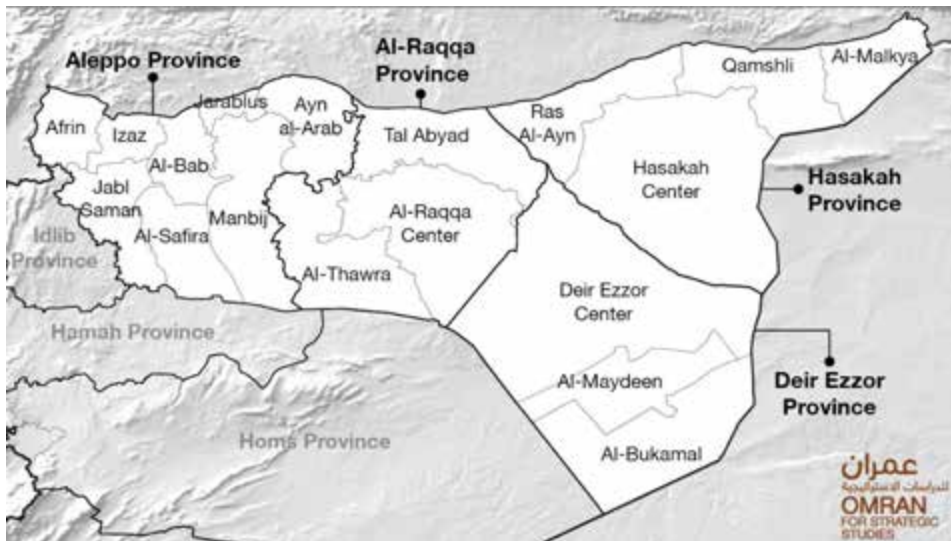
⁽¹⁸⁾ Social Contract of the Democratic Federation of Northern Syria, Article 48, <http://frankfurt-kobane.com/wp-content/uploads/2018/08/Social-Contract-of-the-Democratic-Federation-of-Northern-Syria.pdf>

⁽¹⁹⁾ In Arabic dictionaries, it means “a small economic and social formation”. The first communes were formed in Paris after electing 90 representatives for them on 18 March 1871, and the last of its fighters fell on May 28, in the battles against the French emperor Charles-Louis Napoleon Bonaparte III.

A reading in the social contract of the northern federation, 16-8-2016, Omran Center, <https://goo.gl/1xrYVp>



Map (1) shows regions and cantons of DFNS



Map (2) Shows primary administrative divisions for north east Syria per Law 107

Third: Management of Resources: Lack of Transparency and Poor Rationalization

The DAA has not instituted transparency mechanisms for its resources management and institutional expenditures. The revenues of the DAA were as follows:

1. Revenues from public properties including oil and gas from the eastern area in Al-Hasakah and wheat stores.
2. Revenues from local taxes and custom fees at border crossings.
3. Revenues from affiliated service institutions.
4. Remittances from expatriates in the Kurdish areas of Iraq and Turkey.
5. Local donations.

According to article 53 item 8 of the DAA's social contract, the legislative council is in charge of the budget of the administration.⁽²⁰⁾ Since mid-2012, when the YPG took control of Kurdish-majority cities, followed by the unilateral declaration of the DAA in 2014 until the beginning of 2018, the DAA disclosed its budget only once, covering a period of two years. The disclosure was for expenditures for the fiscal year of 2014 and predicted expenditures for 2015, and it was made during legislative and executive council discussions on March 17, 2015. It is impossible to verify the numbers provided. The two financial reports were criticized by council members for being verbose and rich in narrative, without much quantitative detail on revenues and expenditures, because they included only general figures.

Operating Expenses (salaries and one-time expenses)	Expense for projects implemented by executive council agencies	Total Expenses (operation, one-time initial costs, investment projects, and services)	2014 Revenues (SYP)	Number of Employees
244,710,000	46,000,000	2,713,000,000	2,953,000,000	2,330
			Surplus carried over to 2015 240,000,000	
Distribution of Expenses				
50% for Defense and Self-Protection	15% for Interior Agency	8.5% for Afrin	8.5% for Kobani	18% for Al-Jazira

Table (3) below illustrates the DAA revenues expenditures in SYP for 2014 as disclosed:⁽²¹⁾

⁽²⁰⁾ The social contract for al-Jazira self-administration, Syria, was approved at the 1st session on 6-1-2014, legislative council, <https://goo.gl/uPLXXk>

⁽²¹⁾ The legislative and executive councils, discuss the general budget assessment for 2015, and expenses of 2014, Buyer press, <https://goo.gl/QLvB7e>

Fourth: Administrative Functions and Legislative Approaches

TEV-DEM was established as a civil society and political platform for PYD and other friendly organizations before the formation of the DAA. During the past six years, the DAA issued legislations concerning all administrative aspects. It started from the top of the governance hierarchy by creating executive, legislative and judicial institutions. The leadership of the three institutions also issued its own decisions to its committees and offices to form branches within the overall objectives of the political project. It established municipalities and other institutions for tax collection and to contain and control the population.

During the years of DAA's governance, the steps to establish and empower governance institutions administratively were made at a significantly slower pace than the political activity and developments of the DAA. Political objectives (such as the form of government, the political divisions of the federalist project, and other topics) preceded the planning and implementation of development projects and reconstruction, even though internal and external factors facilitated the growth of the development sector more than the political track of recognition. This was due to opposition to the project regionally and internationally such as the Syrian regime, Russia, Turkey and Iran.

The DAA's institutions perform functions similar to those of a consolidated governance system. These functions will be discussed alongside the institutions executing them. One of the most important governance institutions is the legislative council (parliament). The DAA relied on MGRK to establish the current legislative council that was convened in Amouda on December 28-29, 2012. The meeting was called "The third meeting for the permanent council of MGRK", during which the legislative council members were elected. Sinem Mohamed and Abdul Salam Ahmad were elected in the meeting to serve as co-presidents of the council, and the rest of its members were elected from among the representatives of the PYD, Communist Party of Kurdistan, and Liberal Party of Kurdistan. The initial number of delegates, 81, was later increased to 101, representing towns from all across the region, with 40% of the seats reserved for women.⁽²²⁾ This conference achieved the following:

⁽²²⁾ The legal quorum is reached at the legislative council, Euphrates agency, 17-9-2014, <https://goo.gl/T8bv9d>

- Attendees swore the oath to work in the DAA.
- Elected a joint presidency for the Rojava People’s Council – Al-Jazira canton.
- Elected two joint presidents for the executive agency (government).
- Presented a list of 36 members from which to elect 19 agency chairs.
- Ratified the names of the ten members of the Justice Cabinet (judiciary).

The DAA system was practically formed in this process during the conference, with its three branches of government: legislative, executive, and judicial.⁽²³⁾ A year later, on January 21, 2014, the official DAA was announced. The bylaws for the democratic legislative council of the DAA of Al-Jazira canton were approved during the 2nd session on March 31, 2014, according to the provisions of article 53 of the Social Contract of the DAA, which included 15 chapters and 49 articles.

Table (4) below includes several of the provisions of the legislative council’s bylaws regarding its tasks and general budget.

Most important provisions of the legislative council bylaws
<p>Article 1, Council Name: Legislative Council for Democratic Self-Administration in Al-Jazira canton.</p> <p>Article 2, Definition: the highest legislative and monitoring agency in the canton. Its members are elected by the people through free and democratic elections, it formulates public policy according to self-administration of democracy, allocates one seat for every 15,000 people in the areas of DAA, while reserving 40% of representation for the two sexes, and adopting a policy of affirmative action concerning the Syriac and youth in the council.</p>
<p>Article 4, Purposes: Build the democratic nation and DAA in al-Jazira, in line with the social contract and its articles that were approved by the interim legislative council.</p> <p>Article 5, Tasks:</p> <ol style="list-style-type: none"> 1. Draft and legislate laws. 2. Monitor the operations of the executive council. 3. Follow up on the implementation of the executive council’s plans. 4. Hold accountable the executive council any of its members.

⁽²³⁾ Discussion of draft laws to establish the basic principles for the administration west of Kurdistan, Euphrates agency, 30-12-2012, <https://goo.gl/rYxtfR>.
Legislative council meeting, Rojava people assembly held its 2nd session and forms Al-Jazira council, 29-12-2012, <https://goo.gl/MkdkvM>.

5. **Ratify agreements and international treaties.**
6. **Grant or withdraw confidence from the executive council and its members.**
7. **Ratify the appointment of the members of the constitutional court.**
8. **Approve the general budget, public policies and development plans.**
9. **Ratify the legislative proclamations issued by the ruler.**
10. **Approve the statement of the executive council.**
11. **Formulate legislation concerning the areas of DAA and relation between them and the center.**
12. **Grant amnesty.**
13. **Declare peace and war.**

Article 19: General Budget Draft Law

1. **The presidency of the executive agency (in agreement with the presidency of the executive agencies of cantons of the DAA) presents the general budget law to the legislative council two months prior to the start of the fiscal year.**
2. **The presidency of the legislative council refers the budget law to the committees of finance, trade, and economy for detailed study and opinion, and then presents its recommendations to the council.**
3. **The council holds a special session to discuss the general budget draft law in light of the report of the relevant committee, and its recommendations. The council either approves the draft with the amendments prior to the beginning of the fiscal year, or returns it to the presidency of the executive agency within one month of receiving it, accompanied with council remarks detailing the necessary amendments. The draft is returned to the council within a maximum period of two weeks from the return date for approval.**
4. **The general budget draft law is voted on, item by item.**
5. **It is not permitted to transfer items of the draft general budget law except upon agreement between the legislative council and executive agency.**
6. **If the draft general budget law was not approved prior to the start of the new fiscal year, spending continues with monthly appropriations that are equivalent to one month [1/12] of the budget of the previous year, for a maximum duration of three months.⁽²⁴⁾**

⁽²⁴⁾ Council structure, Article 11: council presidency: joint presidency system, Presidency cabinet, composed of three members elected by the legislative council, has 8 organizational tasks, handles the presidency of the council in the absence of the joint presidency, Chapter 10: Legislative council committees.

Article 34: committee tasks: propose draft laws and follow up on progress of its agencies, these committees are,

Article 35: foreign affairs committee: follows the work of the foreign relations agency, and builds relations.

Article 36: women committee: follows the work of the women agency.

Article 37: self-protection committee: follows the work of the defense agency, Article 3: legal affairs and human rights committee: follow the work of the agencies (justice-interior-human rights).

Article 39: local administration and municipalities committee: follows on the work of local administration and municipalities agency.

Article 40: committee of financial and economic affairs: follows on the work of the agencies (finance-trade-economy-supplies).

Article 41: social affairs committee: follows the work of the agencies (martyrs' families-social and labor affairs)

Article 42: religious affairs committee: follows the work of the religious agency.

Fifth: Controversial Laws Issued by the Legislative Council

Over the years, the legislative council of the DAA has issued decisions that touch on most social, economic, and political aspects of life. Many of these laws were drafted and enforced without reasonable consultations or a public vote and lacked due process. Among the decisions and laws passed that caused controversy among the inhabitants of the region and in some cases fierce opposition are the following:

1. Law on Mandatory Self-Defense Duty (Conscription)

Mandatory conscription of youth, particularly Kurdish youth, resulted in waves of migrations abroad from the DAA areas in which the law was enforced. This created a generational gap in the region's inhabitants, as young people fled, children and the elderly came to make up a larger share of the population. Several Kurdish parties accused the DAA of pushing residents to emigrate as a result to this law. The law was also met with opposition from parents who feared losing their children in battles they did not believe they should be fighting in. This dynamic was particularly evident when the DAA expanded its control to Arab as opposed to Kurdish majority areas, such as Manbij, Raqqa, and the Deir al-Zour countryside. Clashes occurred in some villages when DAA authorities entered them searching for youth to conscript.⁽²⁵⁾ The search for recruits caused continuous concerns, and prevented many people from moving from the countryside to the cities where they were more likely to be caught and forced into service. The situation was further complicated because the Assad regime does not recognize service with the DAA, and people who complete it may still be drafted to serve in the regime's armed forces if they enter the territories under its control.⁽²⁶⁾

2. Educational Curriculum Changes

Education has been a hotly contested issue in the areas of the DAA. The Syrian regime neglected the matter of education in many of these areas before the revolution. One of the institutions that suffered this neglect was the Euphrates University in al-Hasakah. Prior to the uprising, despite the large number of students

Article 43: culture and environment committee follow the work of the agency (culture-environment and tourism and artifacts).

Article 44: Education and youth committee: follows the agency (education-youth and sports).

Article 45: Energy committee: follows the work of the energy agency.

Article 46: public services committee: follows the committee of agencies (agriculture-health-transportation-telecommunications).

Article 47: reconciliation and civil peace committee. The social contract, Afrin, <https://goo.gl/uN78y1>

⁽²⁵⁾ PYD Asayish fires at a Kurdish young man when arresting youth according to the forced conscription law, yekiti-media, 13-10-2015, <https://goo.gl/Vx6SMa>

⁽²⁶⁾ Decision to dismantle military police of the self-administration north of Syria and handing over tasks to another institution, vedeng, 12-10-2017, <https://goo.gl/1znqPh>

the university had a shortage of teaching staff and small classroom sizes. After the uprising, the challenges facing students were exacerbated by the administrative chaos afflicting the university, changes in the security and military conditions in the city of al-Hasakah, and the presence of conflicting powers in the region.

Students in the DAA face multiple hurdles in finishing their educations because of the military conflict, the prioritization of political interests at the expense of the educational process, technical and administrative difficulties, the shortage of educational staff, and the prevalence of corruption manifested in actions such as selling exam questions to students before they sit for exams.

As the DAA undertook changes in school curricula, it faced harsh criticism from teachers. Residents of al-Hasakah expressed greater dissatisfaction than residents of Afrin (prior to the Turkish “Olive Branch” military operation in Afrin) and Kobani. Greater conflict emerged in al-Hasakah due to the presence of Syrian regime agencies, which provided educational and other services. As a result, a conflict occurred between the regime and the DAA over who had the right to manage the city’s educational institutions. The DAA’s move to educate children in the Kurdish language was rejected by the ENKS and its supporters as well as Assyrian groups, who organized demonstrations against the new curricula and considered it as another step (in addition to the institution of the military draft) towards emptying the Kurdish regions of their remaining inhabitants.

The process of altering school curricula and taking control of the educational directorate institutions faced several challenges:

- Attempts to divide control over the educational process between the regime and the DAA, with Ba’th ideology in curricula threatened by the “democratic nation” ideology of the PKK leader as it is introduced in DAA curricula.
- Increased administrative instability in the educational process risk the future of students. The fate of teachers employed by the DAA also remains unclear. It is also unclear whether the results of the exams instituted by the DAA will be recognized elsewhere.
- The demographic diversity of the region and the conditions of war during the past seven years set up a sensitive and tense atmosphere for the educational process in the Jazira canton specifically but all other cantons of the DAA. The Kobani canton also suffered a complete destruction of the educational infrastructure. This

led to many students being suspended from their universities and hence unable to complete their studies.⁽²⁷⁾

3. Civil Status Law

The legislative decree containing laws pertaining to women rights was issued at the DAA's 27th legislative council session of 2014. It included "basic principles and general rulings regarding women" through 30 articles related to the rights of women to be equal to men in the labor market, and marriage. Article 9 of the legislative proclamation refers to "equality in legal value between the testimonies of men and women." Article 11 cancels dowries, considering them an exchange of money for taking possession of a woman. Article 12 regulates civil marriage documents. Article 13 bans polygamy. Article 14 states that both partners in a marriage have the right to file for separation and that divorce is not permissible if based on a unilateral decision. Article 15 equates men and women in matters of inheritance. Article 24 prohibits marriage under the age of 18.

The DAA thus promulgated provisions that seem to be in conflict with Sharia law, as interpreted by the religious establishment in the region, and local customs of the majority of Kurds and Arabs in Syria. This led to conflicts with some residents who travel into regime areas within the Hasaka province, or to other regions within Syria, or travel abroad without the ability to certify their documents or get recognition of marriages or divorces performed within the DAA jurisdiction. The fact that these laws were introduced without any public consultation or a democratic process involving the various communities in question, resulted in discontent with regards to several of these articles, particularly the elimination of the dowry and the institutions of civil marriage. The banning of polygamy, although viewed positively by many locals, led to legal complications for internally displaced as well as residents who travel across regions as they now face imprisonment, hefty fines, and forced divorce even with the existence of children, such cases have not been addressed by the lawmakers.⁽²⁸⁾ These amendments are perceived to have imported text largely based on Abdullah Öcalan's vision for the role of women in society⁽²⁹⁾ and superimpose it on a context that is historically, religiously and socially diverse.⁽³⁰⁾

⁽²⁷⁾ Educational reality in self-administration areas.

⁽²⁸⁾ In Al-Jazira, Sharia lost in civil status laws, Al-Arabi Al-Jadid, economy, 9-11-2014, <https://goo.gl/d96r4B>
Hamza Hamki, Imprisonment for a man for marriage in Qamishli, <https://goo.gl/94smvt>

⁽²⁹⁾ Kurds begin implementing the special law for women coherent with Abdullah Öcalan vision, Asharq Al-Awsat, 21-11-2014, <https://goo.gl/kgmMCT>

⁽³⁰⁾ Soleen Ahmed, polygamy law in self-administration Syria, vedeng, 16-7-2017, <https://goo.gl/LTQchC>

4. Law for Managing Expatriates' Property (Property Expropriation)

The DAA's legislative council issued the law for managing the property of expatriates on September 15, 2015. The law faced fierce opposition among many residents of the areas under the control of the DAA. The DAA claimed that the law aims to protect the rights of the people who emigrated, and supervise the property via a committee, after receiving permission from one of the relatives of the expatriate. The DAA also argued that this was a necessity given the administrative and security vacuum in Syria, and claimed that the law is intended to prevent money laundering. According to the council, the properties of the other religious and ethnic minority groups will be managed by their own religious organizations.⁽³¹⁾ These laws passed by the legislative council lack local legitimacy because they were issued by a self-appointed authority and through a consensus or electoral process. In the case of the law for managing the property of the expatriates, it increased the existing dissatisfaction among citizens toward the DAA authorities, and tension between the DAA and the central Syrian government. It also raised questions about the purposes of this law, particularly because most of the people who emigrated from DAA areas have close relatives who remained to manage their properties.⁽³²⁾

5. Statistics Law

The census carried out by the DAA ahead of the declaration of the establishment of the “North Syria Rojava Federation”, is considered to be one of the most important administrative decisions undertaken by the DAA, in light of the absence of any kind of recognition of the federation by a national or international entity. The DAA seeks to gain “populace legitimacy” through its dominance over vital societal sectors. The DAA’s “census committee” declared in a statement issued on September 19, 2016,⁽³³⁾ that the census took place “due to the urgent need resulting from the political and societal changes and developments. It also comes within the spirit of developing the DAA model towards the Rojava DFNS in order to further reinforce the foundations for federalism to gain its powers from the society based on elections that will take place soon.” The census included the following categories and fields: “total population, eligible voter population, social and family status, educational achievement, unemployment status, disability status, displacement/original inhabitant status, and emigration from Rojava.” The census was locally criticized because its results were considered inaccurate due to emigration and displacement

⁽³¹⁾ Hakam Khelo: The law aims at protecting the properties of the migrants, Euphrates agency, 16-11-2015 <https://goo.gl/ZErZhf>

⁽³²⁾ Lawyer Hussein Naaso, legal remarks on the administration draft law and protection of properties of the absent and migrated proposed for Afrin, Yek-DEM, 14-1-2016, <https://goo.gl/UM5Twx>

⁽³³⁾ Statement of the census committee at self-administration, Buyer press, 19-9-2016, <https://goo.gl/pdzZAC>

from the region, and because it was carried out quickly and in a secretive manner without any transparency.

It is important to pay heed to the laws passed by the DAA's legislative council, as they have addressed all aspects of life. The legislative council of the DAA does not enjoy the legal recognition of the central Syrian government or any other Syrian or foreign party. The DAA was formed by a political party with a military wing that prevents the emergence or existence of other communal groups and parties in areas under its control. The conflict between the PYD's DAA and the ENKS, which represents a large portion of the Kurds, has not yet been resolved. Although some Arab-majority areas that fell under the control of the DAA after being controlled by ISIS, such as Raqqa, did not witness major tensions, other areas such as Manbij witnessed at least two public protests against the DAA's presence in the city. Tensions were obvious within the SDF military alliance, where there were structural disagreements between the primary forces under the SDF umbrella and the YPG, the armed wing of the PYD. Some of the tensions originated in the period preceding the formation of the SDF, particularly the tensions between the YPG and Al-Sanadid Forces. After the SDF was formed, significant disagreements emerged with the Army of the Clans (Jaysh al-Ashayer), and later on with the Tahrir Brigades. During the battle to capture Al-Raqqa, disagreements emerged between the YPG and al-Nokhba-elite forces belonging to the Tayyar al-Ghad al-Souri (Syria's Tomorrow Movement).

Sixth: An Assessment of Legislative and Executive Performance

1. Legislative Performance

The DAA project lacks any constitutional guarantees. The laws issued by the legislative council of the DAA are not presented as transitional or interim in nature but attempt to make permanent changes. The DAA approach to the legislative process is very adhoc and lacks due process and hence causes societal imbalances and insecurities. It does not begin with current text to amend or suspend problematic ones but unilaterally sets forth a complete set of new laws and legal framework that is not shared among the general population in other regions and without consultation mechanisms or discussions among political and societal actors. The DAA publicly states that it is following a philosophy that does not necessarily emerge from the needs of the Syrian community, but rather the path of the PKK and the theory of a Democratic Nation put forth by its Turkish leader. This theory merged Marxism with anarchism theories. The PKK's position regarding the DAA was stated by Abdullah

Öcalan from prison, when he sent a message through a delegation that visited him from the Turkish People's Democratic Party (HDP) in February 2014 saying that he "supports the formation of Rojava's cantons." He also stated "Rojava lives the democratic experience and is practically more than just a democratic experience. The entire world will understand this truth later."⁽³⁴⁾ The involvement of the PKK in the regional and international scene is problematic, as it is designated as a terrorist organization by the U.S., the EU, and Turkey, which has fought the PKK for over 40 years. **Due to the linking of all military and political wings with the PYD and its ideology, it appears that local political performance has been mixed up and confused with cross-border ideological aspirations resulting in negative implications on both local and regional levels.**

2. Executive Performance

The executive council, formed by the DAA in early 2014, is similar to a government with full ministries, including ministries of foreign affairs and defense. It is legally grounded in the social contract of the DAA, as well as laws passed by the legislative council. Since establishing the DAA, the PYD and TEV-DEM have sought to include in the executive agency a large number of organizations formed by or affiliated with the DAA, such as the Arab National Commission, the Syriac Union Party, and other Arab, Kurdish, and Syriac organizations. The DAA tried to eliminate the belief that the PYD is monopolizing authority.⁽³⁵⁾ There seems to be an attempt to show that the executive agency is integrated, while in reality it suffers a severe shortage of qualified personnel, and its actual efforts on the ground are quite limited.

The municipalities and environment agency is the most active agency within the DAA. The municipalities are focused primarily on implementing projects through their services, technical, and supplies departments. These projects include: paving roads inside the cities and roads connecting rural areas and cities by organizing closed-envelope bids. Many of the bids were won by the general company for roads and bridges, Zagros, which was established in 2013 and belongs to the DAA's municipalities agency. The municipalities are also involved in projects for cleaning rainwater passages and distributing diesel. Many people have complained of favoritism, and the small quantities of supplies distributed by the authorities. Municipalities shoulder the responsibility for developing plans for the areas of urban expansion. One of the areas undergoing this sort of planning under the pretext of

⁽³⁴⁾ One year after establishment, the democratic self-administration is the best system for administration, Hawar, 21-1-2015, <https://goo.gl/zqEtsS>

⁽³⁵⁾ Who said democratic self-administration is owned by the PYD? Hawar, 16-3-2016, <https://goo.gl/2svbSn>

keeping the city clean and free of pollutants was the industrial district of Al-Malikiyah. The prices of shops in al-Malikiyah ranged from SYP 2.5-3 million. Most of the industrialists in the city suffered due to this decision because they are also shop owners, and many of them were unable to buy shops from the chamber of industry. Several of the industrialists accused traders of buying most of the real estate in the area and controlling the prices.⁽³⁶⁾ Municipalities generate huge revenues for the DAA from the taxes collected on their activities, including preparing slaughterhouses and markets to sell cattle, and collecting taxes on shop owners, such as taxes for protection, sanitation, use of pavements, etc. The municipalities lack qualified staff in critical specializations such as development, planning, and law. They do not have field branches for their agencies to service local populations far from cities under the control of the DAA.

The DAA's control over the education sector has raised much popular dissent among the different ethnic and religious minorities in northeastern Syria. Teaching staff a sizable human capital is being dominated through the payment of salaries with ideological indoctrination of the new generation. With the longevity of the conflict and the disconnect of local units from other parts in Syria, and especially with a stagnant political process, leads to further fragmentation.⁽³⁷⁾

The health agency in the DAA suffered significantly as a result of the war. The agency has faced problems related to the decline in medical staff due to the emigration of doctors, and the increase in health sector expenses for laboratory equipment for hospitals and clinics. The siege of Kobani and other cities by ISIS led to a sharp decline in the quality and quantity of the available medications on the market.

The DAA's tourism and artifacts agency focuses its work on preventing sabotage by antiquities smugglers, and participates in operations to plant trees and take care of the environment. The culture and arts agency suffers from the inactivity of the directorates of culture, theaters, writing, and publication. The agency supervises exhibitions for poetry and literature. It plays a leading role in efforts to revive art and heritage, according to the instructions of the PKK's leader Abdullah Öcalan.⁽³⁸⁾ The self-defense agency imposes forced conscription on all ages 18-30, and has

⁽³⁶⁾ Project for an industrial in Al-Malikiyah, between municipality insisting and industrialists' rejection!!, Qasyoun, 16-9-2017, <https://goo.gl/vFJ2fz>

⁽³⁷⁾ Educational reality in self-administration areas, Omran Center for Strategic Studies, 15-12-2016, <https://goo.gl/WRn8YP>

⁽³⁸⁾ 5th conference for the culture and art movement in Rojava, Euphrates Agency, 25-1-2016, <https://goo.gl/Kr8U94>

conscripted more than 20 thousand young men and women within a period of three years.

Conclusion

Several factors have contributed to the empowerment of the DAA and its control of northern Syria, chief among them was the withdrawal of the regime from Kurdish-majority areas, leaving them to the PYD and its armed wing, the YPG. This provided an atmosphere with security and stability, and contributed to the consolidation of the PYD's authority. The US-led international coalition also contributed to DAA's development after the battle of Kobani, helping the DAA to expand the territories under its control at the expense of ISIS. This expanded DAA's territory reached 24% of Syria's total territory, up from only 10% before the international coalition selected the YPG as its partner. The fact that other Kurdish parties do not maintain military forces allowed the YPG to consolidate its military authority, particularly after it broke up the factions formed by some Kurdish parties, under the pretext of preventing the existence of "two Kurdish forces."

The PYD's control over governing institutions obstructed the development of the DAA. Its attempts to reach a mutual understanding with the ENKS were hindered by two factors: First: the totalitarianism of the PYD and actions it took that echoed military and political developments between the Turkish state and PKK. Second: the divisions within the ENKS, which was formed of several parties and organizations without a mechanism to determine the relative size of the influence of each parties in the decision-making based on the size of their popular support base. These Kurdish political divisions forced local communities to interact with the DAA because DAA institutions controlled the military, services, judicial institutions, and humanitarian assistance reaching the region.

Legally, the DAA is not recognized by any other government, power center, or national actor. It depends solely on its relationships with member states of the US-led international coalition, and its social contract, which is characterized by ambiguity and overlapping political concepts. On one hand, the DAA claims it wants to get rid of the central state, yet it has linked all of the region's inhabitants to its institutions, and created a totalitarian system through its bureaucracy, communes, councils, and military forces. The social contract, in its amended form, contains terms such as "Mother Goddess" that conflict with the collective culture of Syrians, a mixture of pagan and monotheistic concepts such as the phrase "I Swear by God the Great," which is mentioned in the prelude. **The contract did not succeed in**

becoming a constitution for the DAA or a federation, but rather it is a contract for confederations. The social contract grants the right to political asylum and adopts an active role in diplomatic relations. It also grants the right to self-determination.

The social contract faces complex difficulties in implementation, especially with the expansion of the self-proclaimed federalism that was announced unilaterally in the absence of vital partners who represent broad blocs of people such as the ENKS and representatives of Arab-majority areas. This marginalization of other constituents, and the unilateral imposition of laws and a system of governance and administration, created societal tensions and a weak foundation for a security and stability. The other problem pertains to the fluidity of the Syrian political and military scene, where the superpowers and regional countries disagree on the form and means of political transition in Syria.

The manner with which the DAA offers services through the executive council remains ambiguous. The council has only even announced information related to two years of its budget, without detailing the expenses and revenues. The numbers provided lacked accuracy and there was no mechanism for monitoring and auditing. The budget of the DAA remained ambiguous concerning the fate of the money that it controls, particularly with regards to strategic resources such as oil, wheat, cotton and other agricultural products. The DAA agencies lack specialists because many people have abstained from joining its departments for political reasons, or because their income from their own businesses is higher than the salaries offered by the DAA. Furthermore, the overlapping jurisdiction of DAA and regime ministries and security institutions in several areas also weakens its ability to govern and threatening employees of both sides. Teachers that joined the DAA educational system were fired from their jobs with the regime. The DAA created institutions that require a more established and cumulative academic experience at its core, such as the new universities in Afrin, Al-Jazira, and Kobani, founded by the end of 2017. The DAA also inaugurated tens of municipalities new without having the sufficient logistical staff and capacity to manage them.

Legislative councils and parliaments ought to be formed through popular elections; but under the DAA, the legislative councils in each governorate were formed based on internal party agreements. The social contract and bylaws of legislative councils were pre-determined, and were based on the PYD and the literature of PKK and TEV-DEM, instead of democratic engagement with the community. Over the years of DAA rule, the legislative council has issued several controversial laws that did not go through a due process of engaging local population and hence became are

highly unpopular, such as the military self-defense law and the law changing educational curricula, creating a legal crisis for the future of entire generations. The DAA has imposed party ideologies that do not conform with the norms of other components of Syrian society

The fate of the DAA as a political system and a governance system is tied to the future of the overall situation in Syria, and the nature of the final agreement between the countries that share areas of influence and control inside the country. This quick assessment of the structure of the DAA and its executive and legislative authorities has shown that its political platform that is being imposed on the local residents, using security and military forces.

Finally, even if the DAA is successful in imposing a balanced form of governance, it has still failed to eliminate the popular and regional fears created by this project. Thus, its efforts will continue to be rejected, to the detriment of the residents of the areas under its control who have to depend on the DAA to manage their daily affairs.

Chapter 10

Tailored Decentralization: A Path for Syria's Stabilization

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Chapter 10: Tailored Decentralization - A Path for Syria's Stabilization

The future political scenarios in Syria range from a constitutional process followed by presidential elections in 2021, to the freezing of the conflict while maintaining the current territorial divisions, to the creation of more areas or mergers under the direct influence of international actors and the integration of local factions within these areas for the purpose of better negotiating with the central state. There are also ongoing efforts to take over opposition-held areas, conclude security arrangements that appeal to the international community, and reach temporary agreements between international actors, particularly for areas where there are no armed forces affiliated with any of the countries intervening in the conflict. These efforts demonstrate that the international parties have not yet reached a comprehensive deal for the entire country. Most of the deals that have been reached were transactional and partial, and every deal has created new set of circumstances that may carry positive or negative elements in a successful peace process. Despite the uncertainty, the opportunity still exists to empower local actors through strengthening their local legitimacy, and by presenting an initial vision for local governance that meets the needs and demands of the people and alleviates the security concerns of the international actors involved in Syria.

This final concluding chapter presents an initial vision informed by the experiences noted in the other chapters of the book as well as the practical experience in opposition- and regime-held areas and areas under the control of the PYD-led DAA. This chapter focuses on the importance of investing in local Syrian actors at the current stage – when no understandings have yet been reached between international actors – by strengthening local entities to become important vehicles for locally advancing the political process. It also proposes that negotiations should focus more on center-local power sharing arrangements that preserve the good experiences of local governance in legal and political formulas as the only way towards preserving the territorial integrity and unity of Syria.

From Local Administration to Local Governance

Most of the local councils in opposition-controlled areas were spontaneously established between 2012 and 2013 to deal with the defeat and withdrawal of central state agencies,⁽¹⁾ leaving behind an administrative and security vacuum. During this period, the regime sought to overwhelm opposition areas with security threats by releasing radical and extremist prisoners who belonged to al-Qaeda and other Salafi jihadist organizations, many of whom went on to form and join Jabhat al-Nusra and ISIS. The regime also released PKK members who rejoined the PYD and YPG.

The local councils in opposition-controlled areas gradually developed, grew, and transformed. Many workshops and training sessions were held for their members over the past years to strengthen their local governing capabilities. The political circumstances changed and became more complicated with the rise of terrorist groups, requiring the formation of the US-led international coalition to fight ISIS. These developments presented the local councils with continuous existential challenges, both in theory and practice, which limited their abilities to formulate a clear vision for the next phase.

The types of local councils and their functions across Syria can be categorized as follows:

- 1. Local councils that are primarily administrative in nature:** These were formed mostly through a communal selection or election agreements in opposition-controlled areas. These now are supported and directly protected by an international actor with its military presence (Turkey). The majority of these councils adopt and advocate for an administrative decentralization system of governance with little appetite or aspiration for political decentralization in future Syria. Many coordinate or are supervised by the SIG. These councils can be seen in cities and towns of the Euphrates Shield area (northern Aleppo governorate), and Afrin.
- 2. Local self-governance councils:** These view themselves as independent self-administration units. They adopt and offer a federal model by forming executive, legislative and judicial councils in each canton. This type of council operates in northeastern Syria in areas under the military control of the Syrian Democratic Forces (SDF) and protected by U.S. and French military bases. These councils

⁽¹⁾ Local Councils Unit, indicator of local council needs in Syria (Survey of 405 local councils), June 2015.

are governed with a top-down approach by the Democratic Autonomous Administration (DAA) and the Democratic Federation of Northern Syria (DFNS).

- 3. Unstable and at-risk councils:** These councils operate in areas under joint or mixed control between different opposition factions, who believe that they should play an administrative and governing role (such as the Zenki movement). These councils are often affiliated with the Syrian Interim Government and compete with the service and administrative agencies of Hay'at Tahrir al-Sham and its Salvation Government. These councils do not enjoy direct international military support or protection. Such councils operate in Idlib and the northern Hama countryside, in areas surrounded by Turkish monitoring posts (and now the Demilitarized zone), which were established as part of the de-escalation zones agreed upon in Astana. These areas are considered to be existentially at-risk because there is no definitive international guarantor for their safety, and due to the competition among local councils with different affiliations, and some of whom see themselves as independent, or are listed as a terrorist organization. The Idlib governorate council and the Idlib Political Commission of the Syrian Revolutionary Forces are politically active in the region, and individually participate in the political process and in establishing their own foreign relations. They issue political statements and advocate with the international community for Idlib councils.
- 4. Large cities under regime control:** These cities, such as Damascus, Tartous, and others, are managed through a governor who is appointed by the Syrian president in cooperation with the local branch heads of the regime's security agencies and the head of the local Ba'ath Party branch through joint security committees. These local councils (although elected) do not have any real financial or administrative power, but rather implement plans upon direct orders from the governor. They are completely marginalized politically administratively, and financially and often wait for decisions by the local joint security committee and the governor.
- 5. Councils of small cities, villages, and rural areas under regime control:** The regime's executive branch appoints local councils for managing these areas, theoretically according to Legislative Decree 107. No financial, administrative, or security authorities are granted to these councils. Decision-making power remains in the hand of the governor, or another person appointed by the central authority. This form of governance is highly centralized, and does not grant authorities to local actors but rather delegates conditional power. The central

government can reverse this delegation of power, cancel decisions, dissolve the council, and appoint new ones.

- 6. Al-Suweida governorate:** This governorate's inhabitants are majority Druze, and they have tried to avoid aligning either with or against the regime throughout the revolution. Their governorate has been home to revolutionary civil bodies and armed actions against the regime and regime-affiliated militias. The regime maintains a presence through some governmental and security institutions. This governorate was granted some autonomy, such as an unofficial halt to forcible conscription into the military, and local governance bodies were granted additional authorities and some independence in tax collection.

A survey conducted by the Omran Center of 105 local councils in opposition-held areas found that the 57% of the surveyed sample described the role of their councils as “service” oriented. These local councils offer services in the fields of relief, infrastructure, health, and education. 42% of respondents stated that their local council has a dual role: service provision and political representation. The political representation role includes issuing political statements and elaborating official positions, attending political events, organizing demonstrations, facilitating societal reconciliations, and holding local negotiations with the regime and its allies. The remainder of the respondents (1%), identified the role of their councils as purely political.⁽²⁾ 30% of the sample answered that they prefer political decentralization of governance in Syria in the future, while 70% said they preferred administrative decentralization.⁽³⁾ Most respondents were unable to describe the meaning of the two terms, but their disagreement indicates that there is no societal consensus concerning the best system of governance and that the majority tends to support administrative decentralization (whether in broad or limited terms). This analysis confirms the results of another survey by The Day After in 2016 concerning the public opinion of Syrians regarding decentralization and federalism. The majority of the surveyed sample in that study preferred decentralization to federalism.⁽⁴⁾

One of the problems with these surveys is that they assume that centralization and decentralization are two distinct types of governance that have clear characteristics and components. In reality, the degree of centralization and decentralization vary along a spectrum. **The final form of governance is the result of long negotiations**

⁽²⁾ Omran Center for Strategic Studies, Role of Local Councils During the Current and Transitional Period, Analytical Reading into Results of a Survey, May 2016.

⁽³⁾ Ibid.

⁽⁴⁾ The Day After, Survey of opinions and directions in federalism, decentralization, and the experience of self-administration, May 2016, <https://goo.gl/n4gijh>.

between local actors and the central state regarding the distribution of authorities and power.

The political and military reality in Syria in 2015 was different than it is today. Today, the area under the control of the opposition has decreased, while other regions have witnessed direct military intervention by foreign armed forces to ensure their stability. It is advisable for actors to alter their strategies of steadfastly protecting the gains of the armed opposition, and instead push for negotiations aimed at devolving greater authority to local actors, instead of focusing solely on capturing or sharing Syria's central authority. The central political track, established in Geneva in 2012, focused on sharing central authority through the formation of a national unity government. Today the Geneva process has been reduced to the rewriting the Syrian constitution, and holding presidential elections in 2021. It is therefore critical, regardless of the political outcome or scenario of the political process, that local governance powers and authorities are negotiated and included in any agreement or process.

Sharing Governance, Not Government

The collapse of ISIS gives the opposition today an opportunity to return to its basic political demands derived directly from the people. **That is, the goal of transition to a pluralistic democratic political system**, without shouldering responsibility or stigma for the actions of ISIS or any other radical group. Thus far, the **opposition has not presented a clear plan for negotiations**, and none of the opposition's negotiating teams have offered a coherent and viable initiative to establish local governance and build from the bottom-up in parallel to a top-down transitional governing body. All that the negotiating delegations have presented thus far have been responses to the inquiries of the UN's international mediator. Hence, they are reacting rather than taking the initiative in the presence of an opponent such as the regime, which is not a serious partner in negotiations.⁽⁵⁾

Syria's local governance system must be strengthened and legitimized as an institution, particularly at this critical period after the political and military opposition has been weakened, and in some cases eliminated. Local governance should be a model for controlling local security and ensuring stability. After these steps are undertaken on the ground, it will imbue the opposition with new legitimacy in the negotiations during the next phase. The opposition should demand a form of

⁽⁵⁾ Danny Al-Baaaj, Assessment of the Geneva negotiations track. An unpublished paper at Omran Center for Strategic Studies, December 2017.

administrative and financial independence for local units, while at the same time insisting on the unity of Syrian state.

It is important to re-visit the 2012 Geneva Communiqué statement within the context of the principle of sharing governance functions and powers, not the government cabinet. This means giving priority to internationally monitored elections (especially local elections) over any other track, because both the opposition and regime lack legitimacy. Legitimacy is attained with grassroots confidence and final say in the form of elections, and this begins with local administration elections. For these elections to succeed, both sides need to undertake essential steps to restore the functions of the local police and local courts. **A new law should be drafted for local administration (decentralization)** that allows the locally elected authorities to have full authority over the work of the police, local security, and the administration of courts within its jurisdictions. Addressing the issue of the police will allow for negotiations to deal with the matter of defected police officers and help reinstate them in their jobs and secure their retirement and pensions. Local councils may also have limited legislative powers to pass local regulations or codes without confliction with the national law. Local councils are further empowered by the right to collect taxes and fees for services, as well as a portion of court filing fees in their localities.⁽⁶⁾

Focusing negotiations on the specific goal of empowering and developing the work of local councils, will allow the opposition to consolidate the de-escalation or demilitarized zone (Idlib) or safe zones (Euphrates Sheild, Afrin, and DAA governed areas), not only in the military sphere, but as civil governance frameworks under the auspices of Turkey in the north and northwest and under the auspices of the U.S. in the northeast. This means that these areas will remain “liberated” from the regime’s central authority, and accordingly will **provide a space to demonstrate the true alternative process** that the opposition presents to the Assad regime. This proposal does not necessarily clash with Russian demands of preserving state institutions and the territorial unity of Syria.⁽⁷⁾ Such an approach will indirectly make room for the involvement of the Kurds (in their areas) in the negotiations process, and create an opportunity for the opposition to approach them as part of a project for a political vision of decentralization. This will include the Kurds in a political process that does not threaten the interests of the neighboring countries with a federalist vision, but rather enables power-sharing negotiations over authorities and administrative functions, particularly the roles of the central and subnational units of governance.

⁽⁶⁾ Ibid.

⁽⁷⁾ Ibid.

Distributing State Functions between the Center and Localities

The regime currently strives to regain all Syrian territories outside of its control, relying on the support of its Russian and Iranian allies to consolidate its forces and form its own “transitional” plan that would entail a series of “reforms” to provide it a veneer of legitimacy in the eyes of outside observers. However, the presence of international military powers on the ground means that a final resolution of the conflict will not occur in the near future. Instead, there are fluid security and military arrangements created by various alliances across the different parts of the country. International military forces work to control the availability of weapons, and to integrate the armed groups under their control, whether they are opposition groups under Turkish patronage, the SDF operating with American backing, or the 5th and 6th Corps of the Syrian Army under Russian patronage in regime-controlled areas.

Local councils have an opportunity to take steps that can garner legitimacy for their institutions, by negotiating for new authorities for governorate councils that constitutionally guarantee decentralization based on legitimacy acquired through the ballot box. The authority of elected officials should surpass that of appointed ones. The central government would have regional offices to conduct specific agreed upon services on behalf of the central government with deconcentrated powers, and all other powers and functions outside of its limited scope are then devolved to the local governing units. The judiciary would be the legal reference point if there are disputes between the central government and provincial or regional governing councils. The distribution of authorities and responsibilities should not be merely a delegation of power that can be revoked at any time, but rather a permanent political agreement, regardless of its shape.

We have to move away from polarized and binary approach in thinking of centralization versus decentralization, or centralization versus federalism. **Every country and society goes through a process in which local, regional, and international elements interact to generate understandings and security arrangements to manage local and central governing structures, creating a unique balance that cannot be generalized to other experiences.**

Therefore, it is important to study the history of local governance in Syria before the uprising and throughout the different stages of conflict. It is also necessary to present a model that contributes to the solution and that puts the spotlight on local actors to ensure a greater role for them in ongoing negotiations. It is important to avoid widespread beliefs that reject decentralization in post-conflict settings because of

inaccurate fears that it leads to division. Power-sharing arrangements between local powers and the capital can be one of the solutions and a catalyst to help end the political crisis and the war – particularly in Syria where the situation is complicated and multiple actors are involved. It may be the only way to re-stitch the already-fragmented and partitioned map to regain territorial unity and integrity. We need to look into empowering local governance in tandem with strengthening the central state, but without recreating the governance habits and patterns that led to the outbreak of the crisis in the first place: the tyranny of the central government and its security apparatus.

Below is a detailed proposal for the sharing of state functions between the central and local governing structures in Syria.⁽⁸⁾ This proposal helps explain the importance of negotiating such structural changes, which can then be codified in the amended constitution and new laws to guarantee the rights of all of Syria's components to manage their own executive, legislative, and judicial affairs.

1. **Sovereign Functions:** Primarily centralized, with some exceptions:
 - a. Foreign and diplomatic Representation
 - b. Judiciary: The applicable law should be unified for the entire country, but legislative authorities within the local administrative unit can impose and collect local fees, and set the procedures for issuing licenses within its territory, on condition that these laws do not contradict with laws of the central legislative authority. Accordingly, an administrative court should be established in the center-city of each governorate to review legal disputes resulting from local legislation. A central administrative court in the capital reviews disputes between the subnational administrative units and the capital, or disputes arising between the local administrative units.
 - c. Security: The local police and municipal police take orders from the local administrative units, while central national security roles remain in a central security agency.
 - d. Finance and Taxes: While overall tax collection should remain in the hands of central state institutions, local collection of fees falls under the jurisdiction of local entities. An agreement should be reached on how revenues are divided.

⁽⁸⁾ Omran Center for Strategic Studies, unpublished briefing about an initial brainstorming session about the distribution of state functions, November 2017.

- e. **Macro-Economic Planning:** with the participation of local entities: Local entities receive certain powers to prepare, manage, and spend their budgets. This can occur either by having local units participate through its representatives in the second chamber of the central legislature, or by establishing a social and economic council that includes the local along with the national economic chambers (chambers of commerce, industry, agriculture, etc.) to guarantee an active role for the administrative units in drafting economic policies.
2. **Organizational Functions:** Primarily centralized with some exceptions.
 - a. Establish, amend, or eliminate the current borders of administrative units and establish new boundaries exclusively through the legislative authority, not the executive authority.
 - b. Urban planning and organization.
 - c. Establish a central agency concerned with the civil service (such as a civil service council) that acts as a central administration for human resources, guarantees equal opportunity, and offer its services to local governing structures, or has local branches for this purpose. This has been practices in countries such as Lebanon and helps minimize favoritism and increase professional standards at the local level.
 3. **Public Services Functions:** These functions are primarily local with some exceptions that allow the central government to set standards and public policy, but not directly implement policies.
 - a. Education.
 - b. Health.
 - c. Public facilities, tourism, managing them, and benefiting from their revenues.
 - d. Basic services such as water, electricity, and managing production and distribution institutions, collecting local fees, revenues and taxes on these services.
 - e. Municipal services (street-cleaning, gardening, etc.).
 - f. Transportation and telecommunication: The administration managing transportation is local and part of the administrative unit. It is connected to the transportation network of neighboring units. The transportation networks and

international and transnational roads are within the jurisdiction of the central state.

- g. Sharing revenues generated by telecommunications networks between the central power and local units, as codified by law.

To a large extent, empowering the institutions of local governance legally and constitutionally, with assurances from the countries that maintain a military presence in Syria, can help push the negotiations toward a stage of peace-building and guarantee relative stability, pending agreement on the various final security arrangements. The promotion of local governance must not legitimize certain actors and elements such as warlords, or others who have profited on the war, but this can be addressed by reinforcing central government institutions along with devolving a greater role for local governance units. Policies may be proposed to catalyze economic and political cooperation between the different local governance entities to forestall any separatist tendencies. It is important to institute joint monitoring policies both from the top-down and the bottom-up, to ensure that none of the governance institutions – whether central or local – becomes corrupt or accumulates excessive political power. These dual monitoring structures will also ensure that all levels of government remained linked to one another, ensuring the unity of the state.



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