**DEMOCRACY
REPORTING
INTERNATIONAL**

REFORMING DECENTRALISATION IN LEBANON:

THE STATE OF PLAY*

Executive Summary

Lebanese politicians and academics have discussed decentralisation of Lebanon since the end of the civil war. Indeed, the Ta'if Agreement stipulated, under the banner of "extensive administrative decentralisation", the creation of local councils at the district level in order to achieve local development and enhance citizen participation.

While these debates about major structural changes are on-going and Ta'if remains unfulfilled, the reality in many of Lebanon's municipalities is discouraging. They cannot cope with the numerous challenges they face. Many are not able to collect and dispose rubbish or deliver basic public services such as health care, community safety, town planning and development, mobility and public transport. The presence of approximately 1,5 million refugees from Syria has added a massive strain on a local governance system that was dysfunctional even prior to the refugee crisis. Many of these problems do not necessarily originate from weaknesses of the overall structure but often from the weak implementation of the current legal framework.

This small country of 4.5 million inhabitants has 1,108 municipalities, an extremely high ratio by international comparison. Some argue that the central government has set up local authorities to fail by encouraging the creation of smaller and therefore weaker municipalities, drawing more power as local tiers of governments became weaker, allowing political élites to distribute resources among themselves and among the sectarian groups they represent. Financially, local authorities are kept on a tight leash by the central government, which uses its discretionary power to control the revenues of the "Independent Municipal Fund" (IMF), irrespective of legal deadlines and criteria. This set-up favours central political control over good management and local autonomy.

This, combined with the out-dated character of some municipal taxes, has left local authorities in a dire financial situation and an inability to budget and plan for local policies and sustainable development actions. As such, 63–70% of local expenditures are allocated to basic infrastructure works only, and planning is largely ad hoc. Partly because of these financial limitations, local authorities are understaffed and 75% of municipalities cannot hire civil servants in order to fulfil their role.

The obstacles are also bureaucratic and legal. Local authorities are subject to heavy administrative and financial oversight, which results in endemic bottlenecks and backlogs. This is particularly aggravated by excessive paperwork and red-tape, in the absence of an e-government roadmap by the central government.

The waste management crisis and the massive challenge of hosting the refugees from Syria have revived the debate around decentralisation. The President highlighted decentralisation as one of his priorities in his Address to Parliament on 31 October 2016. A parliamentary committee is reviewing a 2014 draft bill which focuses on an overall change by establishing regions as an intermediate level of governmental levels. However, the possibility of introducing a new layer of government should not divert attention and focus from improving the set-up of the current system and the performance of local authorities.

This paper builds on the proceedings of DRI Lebanon's Expert Meeting on the Political and Legal Framework for Decentralisation that was held in Beirut in December 2016.

1. Introduction

Lebanon's constitution has defined "extensive administrative decentralisation" as a reform to achieve local development and enhance citizen participation. Decentralisation is not, however, a neutral policy process. It affects the allocation of power and resources that are influenced by political interests, in Lebanon's sectarian political environment even more than elsewhere.

The current decentralisation framework in Lebanon includes municipalities and federations of municipalities (sometimes called "unions") – both of which are henceforth referred to as "local authorities". There are currently 1,108 municipalities in Lebanon[1], a very high number by any standard. 75% of them are members of 56 municipal federations that conduct joint projects of various municipalities. While they are, by law, granted a significant level of autonomy and a wide array of functions, municipalities are in reality hindered by conflicting legislative texts, the absence of a viable accountability mechanism, administrative and fiscal bottlenecks, and heavy central government control. On-going sectarian tensions, exacerbated by state paralysis and rounds of local and regional conflicts, have also frustrated reform efforts.

Of late, the Syrian refugee crisis, the continuing waste management crisis and several security incidents added concerns for government officials and civil society actors alike and activated their interest in enhancing the role of local authorities across the country.

The election of new municipal councils in May 2016 has revived the discussion on decentralisation in Parliament. The policy was explicitly mentioned in the inaugural address of President Michel Aoun in October 2016, creating momentum among policymakers, civil society actors and researchers.

Two options are currently promoted in this regard. The first one calls for the creation of regions with elected councils as a new layer between the central and the municipal tiers. The second option suggests that rather than overhauling the architecture of the system of governance, a comprehensive combination of amendments should be introduced to improve the implementation of the existing municipal framework. On the one hand, there is a widely held assumption that delegating power to local bodies will render service provision more effective as the local government would be more responsive to the needs of citizens and communities will be better represented. On the other hand, some fear that enhanced decentralisation would shift and reinforce networks of patronage and clientelism to local levels rather than foster sound governance and effective leadership.[2]

1   Lebanese Center for Policy Studies (2014). About Administrative Decentralization in Lebanon. Beirut: LCPS.

2   Harb, M., & Atallah, S. (2015). Local Governments and Public Goods: Assessing Decentralization in the Arab World. Beirut, Lebanon: Lebanese Centre for Policy Studies & Open Society Foundation.

2. The Political and Legal Framework for Decentralisation in Lebanon

2.1 Outline of the Historical and Legal Background of Decentralisation

Lebanon is a unitary state with one decentralised tier of government, represented by municipalities and federations of municipalities. Municipalities are governed by an elected council and are headed by a mayor. By law, municipalities enjoy administrative and financial autonomy; the council holds the policy-making power whereas the mayor is the chief executive, with the exception of the Municipality of Beirut where, for historical and political reasons, it is the government-appointed governor of Beirut who chairs the executive authority, while the mayor of Beirut remains part of the policy-making power.[3] A number of municipalities can form a federation to conduct common projects while retaining their individual autonomy. Local authorities fall under the purview of the Ministry of the Interior and Municipalities (MOIM). The Lebanese territory is divided into 8 governorates – sub-divided into 25 districts; these form the upper and lower deconcentrated tiers of the central government, respectively. Representing the central government and carrying out its tasks, they are not local government bodies. Governorates are chaired by a governor while districts are presided by a district chief (qaimaqam).

Both are state civil servants appointed by the Council of Ministers, and report to MOIM.

Successive administrative reforms in Lebanon have highlighted the need for decentralisation as a priority for effective governance. As early as under the French mandate (1920–1943), decentralisation was a recurring theme among state officials. Lebanon's independence in 1943 gave birth to extensive public administration reforms aiming to extend the state's authority beyond the capital and in remote areas throughout the 1950s and early 1960s. Municipal laws were enacted in 1947, 1952, 1954 and 1963, aiming to enhance political participation and local development. The Municipal Act of 1977 was then introduced to grant a significant power to local authorities in terms of policy-making and service delivery. This is the main reference text that remains applicable today.

The separation of powers in Lebanese local authorities

Mayor	Governor of Beirut	Federation President
(elected by council members) Chairs the executive power Part of the policy-making power	(appointed by gov't) Chairs the executive power	(elected by the council) Chairs the executive power Part of the policy-making power

Executive power: staff members	Policy-making power: Elected council members	Executive power: staff members	Policy-making power: Elected Mayor + Council members	Executive power: staff members	Policy-making power: Federation council members (delegated by the member municipalities)

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3 From a strict legal perspective, the mayor of Beirut is no different from his fellow council members. In practice, however, he is the leader and the spokesperson of the elected council.

Government Tiers in Lebanon
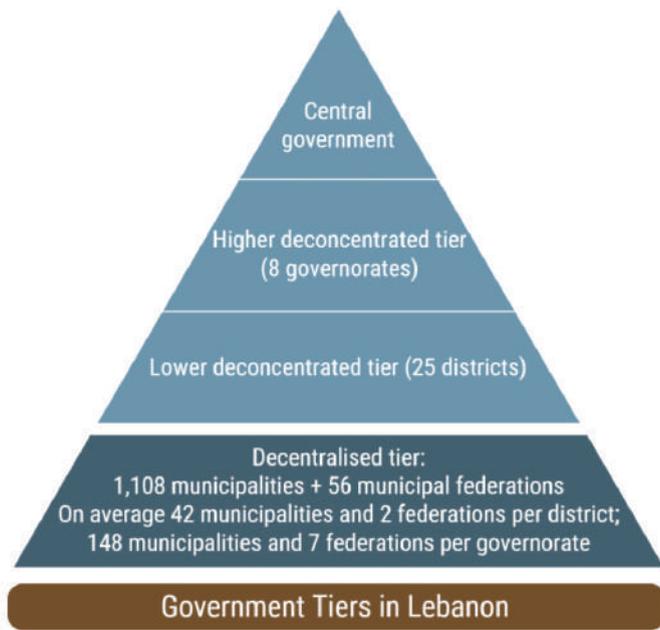
However, the Municipal Act is not the sole legal reference. More than 50 other laws and decrees regulate the work of local authorities. Sectors such as urban planning, mobility, wastewater treatment, solid waste management, municipal police, and public health are each governed by a body of legislation that often consists of overlapping – if not conflicting – jurisdictions between central government and local authorities. The absence of a clear delineation of tasks and responsibilities is not only detrimental to the operations of local authorities, but also to public accountability.

2.2.1 Past Reform Attempts

There have been several projects and attempts to adopt a new legal and political framework for administrative decentralisation since 1991. These were brought forward and initiated by two types of actors: politicians on the one hand, and civil society groups on the other.

2.2.1 Political Attempts

During the Lebanese civil war (1975-1990), public administrations were largely paralysed in terms of service provision, human resource management and policy implementation. The Ta'if Agreement (1989), which laid the groundwork for a political settlement, stipulated the adoption of "extensive administrative decentralisation" to foster "even development" between the different regions of Lebanon. With the integration of the Agreement into the Lebanese Constitution in 1990, a comprehensive decentralisation reform became constitutionally mandated.

However, the text of the Ta'if Agreement is problematic: while it does foresee elected councils at district level, which would represent intermediary elected bodies, it stipulates that the district chief, a central government representative, would chair the council resulting in bodies with unclear accountability mechanisms.

Subsequent decentralisation draft bills have followed this model, but none were adopted. The latest attempt was the draft Administrative Decentralisation Bill, which was championed by the Minister of the Interior and Municipalities, Ziyad Baroud, and released under the auspices of President Michel Sleiman in April 2014. The bill, which deviates on several points from the text of the Ta'if Agreement, is currently being discussed in a parliamentary subcommittee,[4] as highlighted below:

The 2014 Administrative Decentralisation Bill

1. Division of Lebanon into 33 regions with regional councils that are granted a wide scope of work, and suppression of the lower deconcentrated tier (districts);

2. Elections on the basis of proportional representation instead of the so far adopted first-past-the-post system;

3. Improved transparency and mandatory use of ICT and e-government;

4. Institutionalised participation mechanisms and civic oversight at the local level;

5. Promotion of Public-Private Partnerships in local governance;

6. Adoption of a gender quota in the electoral law;

7. A sustainable fiscal and financial system.

Many have seen the draft bill as a good step forward but the bill also drew criticism, notably surrounding the fragmentation of the small Lebanese territory into so many administrative divisions. Furthermore, the bill is silent about municipalities and does not introduce any amendment to their legal framework; nor does it provide a basis for the reform of the municipal electoral system.

That being said, the bill includes a number of key innovations that had been advocated for by the Lebanese civil society since the 1990s, such as e-government, improved transparency, institutionalised civic participation and scrutiny, administrative and financial autonomy of decentralised authorities, and electoral reform.

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4   The subcommittee is part of the Administration and Justice Committee.

2.2.2 The Role of Civil Society Organisations

Upon the government's decision in 1997 to further extend the mandate of the municipal councils which had not been re-elected since 1963,[5] Lebanese civil society organisations joined efforts to hold elections by organising a national movement for local elections under the campaign name "Baladi Baldati Baladiyati", which translates as "My Country, My Town, My Municipality". Lebanese civil society organisations enlisted more than 100 associations along with political party representatives, activists, and volunteers. The nationwide success of the campaign led the Lebanese government to resume municipal elections in 1998. Since then, local elections have been conducted every six years as per the 1977 Municipal Act.

The May 2016 municipal elections marked another peak of civic activism when a civil society-led electoral list called Beirut Madinati ("Beirut, My City") contended elections for the municipal council of the capital. The coalition gained 37% of the votes, against 45% for the list supported by established parties. The new contenders did not, however, win any of the 24 seats because of the winner-takes-all system in force.

5   Government extended the term of the municipal councils between 1967 and 1998. After the mayor's death, municipalities were managed by the district chief.

3. Current Challenges of Local Governance in Lebanon

3.1 Political Challenges

Although administrative decentralisation has been a recurring theme in the Lebanese political discourse since the 1990s, no comprehensive reform garnered enough momentum to be adopted. The sectarian parties' competition for power and resources thwarted any attempt at decentralisation. The issues of districting and the autonomy of local authorities remain highly controversial because they could limit the authority of the central government and the territorial influence of the established sectarian parties. Decentralisation is therefore feared to upset the fragile sectarian-political equilibrium.

In practice, Lebanon's politicians have hindered the effective implementation of municipal governance. In 1997, the Lebanese government abolished all criteria for the establishment of municipalities and has, since then, supported the proliferation of smaller, institutionally weak local authorities. As a result, Lebanon has the highest number of municipalities per square kilometre, most of which crucially depend on central government transfers, which mostly account to 50–70% of their budget. With the municipal districts fragmented, competition in the municipal elections is mostly intra-sectarian, opposing clannish and/or political factions of the same sectarian group, typically in the absence of any programmatic discourse.

Moreover, over the past 20 years, the central government has kept local authorities on a tight leash, using its discretionary power to control the revenues of the Independent Municipal Fund (IMF), often releasing the funds irrespective of the legally stated deadlines and transparency criteria.[6]

In sum, because most municipal institutions are weak and do not have the means to fulfil their role, they depend on the political élite in the central government to access resources and implement local projects. This state of affairs not only fosters a climate for corruption, it leads to bypassing the role of local authorities by consolidating patronage networks that link beneficiaries of municipal services with central government officials. By becoming an extension of central government party politics, elected local councils could not be held accountable and have lost their legitimacy in the eyes of Lebanese civil society and non-partisan groups.

3.2 Financial Challenges

Lebanese local authorities suffer from a chronic lack of financial resources to initiate and implement sustainable development projects. Two thirds of the Lebanese municipalities have an average yearly budget under 66,000 USD[7] while 63–70% of local expenditures are allocated to basic infrastructure works. In more extreme cases, local authorities can only cover their running costs.

These financial limitations lead local authorities to prioritise major revenue sources such as the rental value tax and the building permit tax. Most of the 36 direct municipal fees are not used because they cost more effort and money to calculate or collect, than the value they would produce. Many taxes are obsolete, such as the "investment fee on the generators used in industrial institutions", the "fee on the license for itinerant professions", or the "fee on certificates of technical studies" etc.[8]

Moreover, financial management (i.e., budgeting and spending) in Lebanese local authorities follows antiquated rules and procedures and they are not subject to a unified system. Large local authorities are usually subject to the 1963 Public Accounting Act (to which they are subjected in virtue of a government decree), which is used in all central government administrations, while other municipalities follow the 1982 Municipal Accounting Act. The legal and procedural framework for both systems is out of touch with contemporary financial management systems and principles. For instance, the municipal budget is structured along expenditure types and does not allow to monitor the allocation of expenditures to particular activities or projects according to comprehensive financial programming.[9]

Financial planning is equally precarious. For one, the central government's delays in transferring IMF dues severely affects the yearly financial planning capacity in local authorities. Secondly, because municipal politics seldom function on a programmatic basis, local elected leaders rarely go beyond traditional tax systems and take up proactive fundraising strategies, some of which would be allowed by law.

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6   Atallah, S. (2011). The Independent Municipal Fund: Reforming the Distributional Criteria. No. 1. November 2011. Beirut: Lebanese Center for Policy Studies.

7   ROL Ministry of the Interior and Municipalities (2011a). Administrative Decentralisation in 100 Questions. [Arabic]. Beirut: MOIM.
8   ROL Ministry of the Interior and Municipalities (2011b). Municipal Finance Studies Program: Final Strategic Framework; Final Roadmap for Modernizing Municipal Finance in Lebanon. Beirut: MOIM/ICMA.
9   Ibid.

3.3 Administrative Challenges

Partly because of financial limitations, local authorities are understaffed and unable to hire enough civil servants to perform their duties. 75% of municipalities consider they lack the sufficient funds to hire civil servants. 36% of them function with only one permanent civil servant, 51% with 2–5, while only 13% count more than 6. As for the federations of municipalities, 21% of them have up to 2 permanent civil servants, while 58% do not have even one.[10]

The obstacles to adequate staffing are also bureaucratic and legal. The hiring procedure for municipal civil servants is lengthy (taking up to 1.5–3 years) which negatively affects operations, service provision, and staff workload. Secondly, the recruitment procedure is not uniform and is entirely controlled by central government authorities. Municipal recruitment in district capitals and other government-designated local authorities falls under the jurisdiction of the Civil Service Board (the recruitment agency for central government administrations), while the remaining local authorities depend on MOIM and the governorates' administration.

Furthermore, local authorities are subject to heavy administrative and financial oversight, which results in endemic bottlenecks and backlogs created at the levels of the de-concentrated tiers (districts, governorates) and central government tiers. For instance, a district chief, who typically has only 2–3 aides, assumes wide-ranging oversight duties covering 42 municipalities and 2 municipal federations on average, on top of his regular function as head of the lower-tier deconcentrated authority. A governor, on the other hand, oversees an average of 148 municipalities and 7 federations.
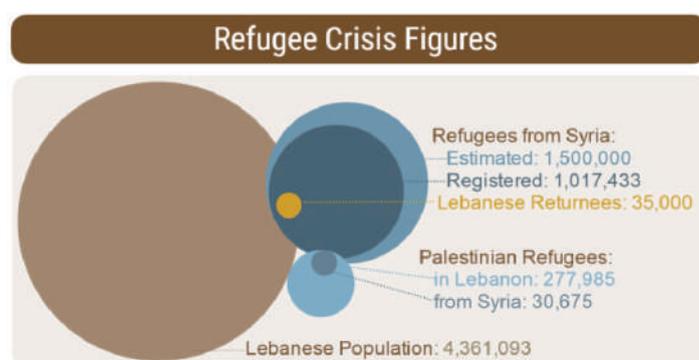
Things are further slowed down by excessive paperwork and red-tape. Municipal operations are out-dated and not in line with the information age (fax machines are, for example, still the privileged means of communication with central government administrations, constituents and the private sector). The absence of an e-government law has so far precluded the creation of an integrated electronic system linking local authorities with deconcentrated and central administrations. Instead, digitisation efforts are limited to the use of stand-alone computers, which renders the coordination between the various government tiers ineffective. This is critical in sectors that are highly centralised, such as urban planning. Although local authorities enjoy a great deal of power in this regard, it is the central authority that ultimately has the last say, which considerably delays the process.

Finally, there is an essential need to remedy the lack of official and reliable data on local government in Lebanon to monitor and evaluate the institutional capacity of local authorities and their performance in terms of management, policymaking and service delivery.

3.4 Local Authorities Under Pressure: The Refugees from Syria

In addition to the range of political, administrative and financial constraints on administrative decentralisation, local authorities now accommodate around 1.5 million refugees from Syria, most of whom reside in the Beqaa Valley, around Beirut, and in the North.[11] The crisis proved to have unprecedented social, economic and cultural repercussions on Lebanon by imposing an additional strain on an already fragile infrastructure (such as electricity, water and wastewater networks) and by aggravating the deficiencies of public and social services, particularly solid waste management, health and education.[12]

Refugee Crisis Figures

Refugees from Syria:
Estimated: 1,500,000
Registered: 1,017,433
Lebanese Returnees: 35,000

Palestinian Refugees:
in Lebanon: 277,985
from Syria: 30,675

Lebanese Population: 4,361,093

The presence of predominantly Muslim Sunni refugees has changed the sectarian balance in various localities, thus fuelling tensions between host communities and refugees. As a result, local authorities have had to carry out actions outside their original jurisdiction, or ones in which they had little experience, such as conflict mitigation, education and contingency planning.

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10 Lebanese Center for Policy Studies (2014). About Administrative Decentralization in Lebanon. Beirut: LCPS.

11 UNHCR. (2015-2016). Regional Refugee & Resilience Plan in Response to the Syria Crisis; Strategic Overview. United Nations High Commissioner for Refugees.
12 Ibid.

Recent analysis has shown that refugees in traditionally vulnerable regions like North-Lebanon and the Beqaa Valley are primarily suffering from insecurities (discrimination, integration in host communities) and competition over employment opportunities, rather than from lack of access to services.[13]

In 2012, the government drafted an emergency response but its resignation and the delay in the formation of a new cabinet led to a fragmentary implementation of the plan. The Ministry of Social Affairs continues to work alongside the United Nations Higher Commissioner for Refugees (UNHCR) to adopt an emergency humanitarian response across various regions in Lebanon. This calls for better articulation of actions between central government agencies and local authorities.

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13 Mourad, L., & Piron, L.-H. (2016). Municipal Service Delivery, Stability, Social Cohesion and Legitimacy in Lebanon: An Analytical Literature Review. Issam Fares Institute for Public Policy and International Affairs (American University of Beirut), Developmental Leadership Program (University of Birmingham).

4.Current Policy Proposals

4.1 Adding A New Tier of Government

One proposal aims at creating a new tier of government between the municipalities and the central level. This is the idea of the proposal which is currently discussed in a parliamentary committee. A number of officials, civil society actors and researchers continue to advocate for this course of action.

The premise of this proposal is essentially political as it primarily aims to fulfil the stipulations of the Ta'if Agreement, which assumes that "extensive administrative decentralisation" will realise "even development" between the Lebanese regions and enhance local participation. On the other hand, proponents of this reform claim that this will grant decentralised authorities greater autonomy and power by re-allocating the roles, responsibilities and resources in a way that is more favourable to local institutions.

This proposal requires the re-examination of the role of local and central government authorities vis-à-vis the district councils (majalis aqdiya). In the current proposal, there are various points of overlap between the different levels of government, thus a high potential for conflict. Any comprehensive reform requires a significant revision of the overall legal framework for decentralisation. It demands, also, a revision of local government finance and equalisation systems. Re-engineering Lebanon's decentralisation model will meet considerable resistance and political bickering regarding spatial rearrangements as it influences sectarian interests.

Last but not least, given Lebanon's entrenched tradition of patronage and pork barrel politics, the danger with the creation of an additional tier of government is that it can shift the locus of corruption to a new level rather than reduce or eliminate it.

Lawmakers should apply simulations on the various scenarios arising from the discussions of the Decentralisation Bill. In a parallel track, given the structural weaknesses of municipal institutions in Lebanon, a study on municipal service provision per sector will help identify how to re-engineer public service delivery and policy-making at the different levels of government.

4.2 Improving the Existing Decentralisation Framework

The other option, which could be labelled as "pragmatic", favours the adaptation and enhanced implementation of the current legal framework governing local authorities prior to engaging in a far-reaching reform. "Pragmatics" argue that the real problem is a lack of rule of law and strong state institutions in the absence of which wider reform will not succeed.

A number of examples are typically presented under this argument. To begin with, central agencies that fulfil crucial oversight and guidance functions, such as MOIM as well as both deconcentrated tiers (governorates and districts), the Court of Audit and the Central Inspection Board, are barely able to handle the current municipal tier. Secondly, decentralisation proposals discussed in Parliament have not suggested roadmaps to reforming the municipal tier, which is structurally defective.

Instead, proponents of this view call for incremental reforms on the basis of available studies that offer ample material for the improvement of municipal performance and service delivery. Specialised studies have also thoroughly addressed the aspects of municipal budgeting and finance, including the modus operandi of the IMF.[14] In the same vein, a flagship World Bank-funded study, commissioned by MOIM, lays down a detailed roadmap to modernise municipal finance, highlighting a succession of priority actions.15 In sum, "pragmatics" advocate a bottom-up approach to decentralisation reform that hinges on strong municipal foundations.

14 Atallah, S. (2011). The Independent Municipal Fund: Reforming the Distributional Criteria. No. 1. November 2011. Beirut: Lebanese Center for Policy Studies.
15   ROL Ministry of the Interior and Municipalities (2011b). Municipal Finance Studies Program: Final Strategic Framework; Final Roadmap for Modernizing Municipal Finance in Lebanon. Beirut: MOIM/ICMA.

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