

The Local Governance System in Libya Conflicting Visions and Overlapping Concepts

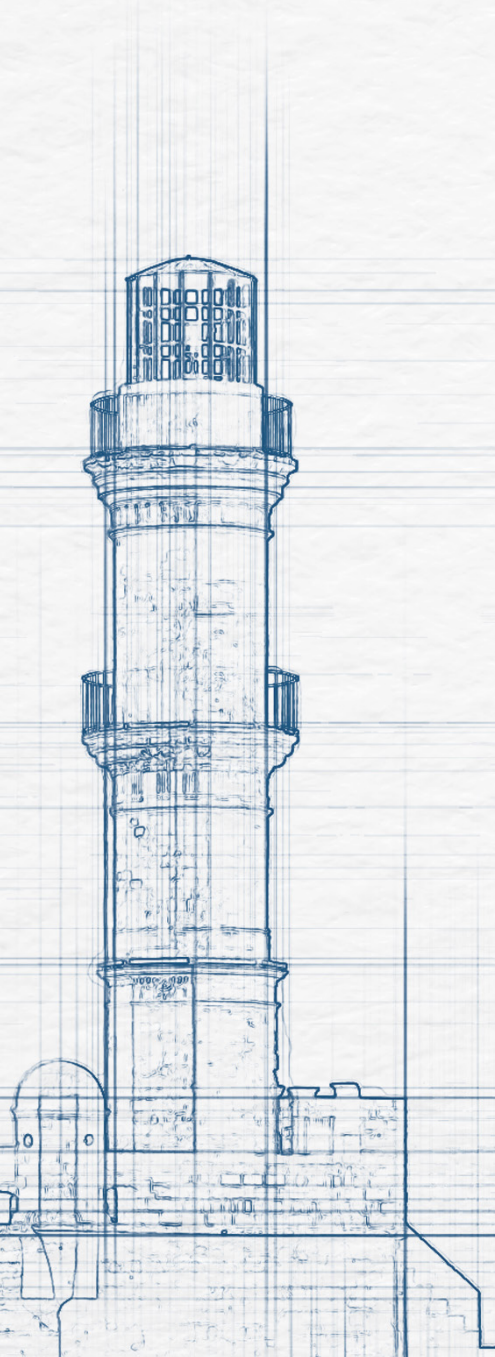
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Introduction

Early 2024 marked a significant shift in how local elections are conducted in Libya. The Libyan High National Election Commission—which replaced the previous Central Committee for the Election of Municipal Councils¹—announced its plans to hold elections for 95 out of 144 municipal councils in a single day. Alongside this, it also adopted new electoral regulations.² This was the first instance of municipal council elections being conducted independently in Libya, without oversight from the Ministry of Local Government and the Prime Minister's Office.

Additionally, the Presidential Council announced its strategy to reorganise the local administrative system of the country. Accordingly, it established a committee to study the feasibility of adopting a governorate system, which would decentralise power and reduce the central government's influence over local matters.³

The abovementioned initiatives are part of a series of attempts to decentralise Libya's administrative system. Throughout various political eras, from the monarchy to the Jamahiriya, policymakers have sought to establish an effective decentralised system. During the Sanusi Monarchy, the focus was on building the state through localised yet centralised institutions, with municipalities, governorates, and three provinces: Tripoli, Cyrenaica, and Fezzan.⁴ Under the Jamahiriya regime, the local structure underwent significant transformations across three stages: initially maintaining the royal administrative divisions, then transitioning to municipalities, and ultimately adopting Shaabiyat as the administrative unit.

Marginalisation and poor governance were among the main reasons for the calls of regime change across Libya in the popular protests of 2011. The National Transitional Council responded to these demands by enacting Constitutional Law No. 59 of 2012, which established yet another local administrative structure.⁵ The law detailed the governance responsibilities at the municipal and governorate levels, which would be overseen by the Ministry of Local Government. To elect local municipal councils, direct elections were planned, under the supervision of the Central Committee for Municipal Council Elections.⁶ Accordingly, amendments were made to temporarily delegate some of the governor's prerogatives related to taxes, local budgets, and investment projects to the local authority.⁷

Over twelve years have passed since Law 59 on Local Administration and its Executive Regulations were passed. Despite several efforts to establish an effective, decentralised local administrative system, the issues of over-centralisation and inadequate service delivery continue to dominate discussions about the future of local governance in Libya. Furthermore, there is no consensus among decision-makers on the ideal model of local governance that best suits the country's challenges and needs. This disagreement is not only limited to visions and aspirations, but extends to the definition of local administration and concepts related to potential models.

This policy paper discusses the issue of local governance in Libya. It sheds light on the key challenges facing decision-makers in envisioning a local administrative system that meets citizens' needs and aligns with the country's unique context. The first section provides a historical background of past attempts to establish decentralisation and offers insights for their failure. The second section discusses the challenges of determining the optimum governance model, among which are a lack of consensus among decision-makers and a confusion over the definitions and models of local administration.

1 Law No. 20 amending Law No. 8 concerning the establishment of the High National Elections Commission.

2 Decision No. 43 regarding the adoption of the executive regulations for municipal council elections.

3 Al-Wasat Portal, "Al-Kouni: The governorate system achieves fairness in the distribution of state resources," August 9, 2023, <https://alwasat.ly/news/libya/>

4 The political system during the era of the Sanusi Monarchy was centralised and had a local administrative structure comprising three regions: Cyrenaica, Fezzan, and Tripoli, along with 10 municipalities, before the division was changed to governorates.

5 Geneva Centre for Security Sector Governance, "Law No. (59) of 2012 regarding the local administration system," July 18, 2012, <https://security-legislation>

6 France 24, "Libya holds its first municipal council elections," November 30, 2013, <https://www.france24.com>

7 The General National Congress issued Law No. (9) of 2013 as an amendment to Law (59) on Local Administration. The law included the addition of Article No. (80) stipulating the initiation of establishing municipalities and transferring powers to them until the issuance of a law establishing governorates. Accordingly, Decision No. (159) of 2019 was issued to transfer powers to local administration units, and the Government of National Unity has been working on completing the transfer of powers since assuming office.

Central Government and Localities: Historical Background

States generally seek to adopt the most efficient administrative structures for governance. Delegating certain powers to local authorities can ease the burden on the central government and allow it to focus on crucial political and economic tasks. Accordingly, the central government defines the nature of its relationship with its localities through the distribution of prerogatives and resources, whether by constitution or legislation. Two concepts emerge from this relationship: local administration and local governance.

Various Libyan governments have viewed local administration as a system that encourages decentralisation. Historically, the relationship between the centre and localities has been one of supervision. Therefore, the central government's role has been to direct localities by setting priorities, determining service quality, allocating financial resources, and establishing distribution mechanisms, while local authorities' main role has been to implement these directives.

The monarchy and Jamahiriya eras used a centralised system of governance. The central government appointed representatives of ministries and secretariats to play an administrative role in the localities.⁸ However, this delegatory system undermined the role of local authorities in these areas. Even after the enactment of Law 59 on Local Administration, the system obstructed the delegation of powers to municipal councils, resulting in communication and administrative gaps on the regional and provincial levels.⁹ To address these challenges, the government frequently resorted to forming emergency or temporary executive committees, which further complicated the system.¹⁰

During the monarchy era, the government transitioned from a centralised system to one of an early stage of self-governance.¹¹ It was not until the enactment of local autonomy laws in 1967 and 1968 that municipalities gained financial and legal independence. Later legal reforms built on this by giving local bodies the prerogatives to collect taxes and contribute to the state treasury.

During the Jamahiriya era, marked by the emblem of popular revolution, the Revolutionary Command Council held exclusive authority over legislation and state policy formulation. This resulted in a relapse to absolute centralisation in decision-making and local priority-setting, with no prospect for accessing economic resources. The transitional period can be divided into two phases:

- **The first phase (1970–1973):** In the first phase, a series of laws were passed, including the local system and organisation of the Ministry of Local Administration. The general legal features of a decentralised state emerged, but the laws did not grant easy access to state resources.
- **The second phase (post-1973):** In the second phase, the People's Committees were established with the aim of making decisions and passing laws which reflect the popular will. However, the absence of good governance prevented any notable reform of existing centralised structures. Upon closer examination of the laws passed during this phase, it becomes evident there was a complete absence of political institutions and visions. The arbitrary legislations lacked a common constitutional basis, which led to premature decisions and impractical visions. Furthermore, administrative powers, licensing permits, contracts, and appointments were granted to the People's Committees without oversight, resulting in alarmingly high corruption rates. Consequently, powers were rapidly reverted to the central authority.

After 2011, an administrative vacuum emerged within the local governance framework, blurring the jurisdictions of authorities on different levels. The need for clarifying these issues led to the enactment of Law 59 on Local Administration. Its primary goal was to clarify the system of local administration and define the relationship between the central government and the localities, in this case the governorates and municipalities. The law also granted governors independent authority,

8 Al-Jazeera, "The political system in Libya," February 23, 2011, <https://www.aljazeera.net/news>

9 Libyan Legal Assembly, "Decision No. 856 of 2022 granting municipalities their local powers and determining governance," September 28, 2022, <https://lawsociety.ly/legislation>.

10 Al Ghayma News Agency, "The Crisis Committee in the South in the interim government delivers medical equipment to specialised centers," July 25, 2019, <https://libyan-cna.net/news/>.

11 During the era of the federal state, there were several regions enjoying only administrative autonomy. The government at that time, called the "Union Government," led by the king, worked on making political decisions and economic visions at the regional level.

tax collection prerogatives, and access to state resources. However, there was one major problem. There was no clear delineation of administrative borders for either governorates or municipalities. Administratively, this meant the provisions to establish the governorates were frozen. Therefore, neither a governor could be appointed, nor the delegation of powers to municipalities possible.

In a scene of chaos, the government initiated municipal elections, which, due to security challenges,¹² resulted in incomplete administrative structures and partial implementation of the law. Shortly after that, Decision No. 330 of 2021 was issued to outline aspects of self-governance,¹³ such as authority delegation and fee collection. However, it could only be implemented in a few municipalities due to the administrative gaps. This period was characterised by numerous interferences in local administration affairs, with frequent changes in governments and decisions, and a lack of autonomy granted to municipal councils.

Following years of failure at implementing Law 59 and delays in establishing governorates, the Government of National Unity sought to address its inability to allocate financial resources to municipalities. In 2022, the government issued yet another decision to adopt new administrative divisions known as districts.¹⁴ However, this decision contradicts Law 59 in implementing the structural framework of the local administration system. The decision merely replaces the unit of governorates with districts, which lack any legal basis. Moreover, these districts are formed by the Ministry of Local Governance and led by an appointed representative, whereas Law 59 establishes governorates through direct elections. Therefore, the government's decision to create districts conflicts with the principle of the democratic transfer of power.

Conflicting Visions and Overlapping Concepts

Looking at all previous attempts to establish a local governance system in Libya since its independence, the different systems were implemented incoherently and plagued by poor management. In turn, insecurity and political instability hindered the formulation of a unified governance system in Libya. However, there was also an absence of a clear vision of governance for the country.

The concept of a decentralised state has political, economic, and social connotations that must be aligned with the realities on the ground. Moreover, it is key to understand the role of concepts and interpretations in shaping visions for the future. Therefore, it is necessary here to clarify some of the ambiguities that characterise the current debate on local governance in Libya. For example, the country operates under a system that aims to promote decentralisation according to Law 59 on Local Administration, but the model it creates is closer to a deconcentration of power under the supervision of the Ministry of Local Governance and vision of the Council of Ministers. So, what is decentralisation, and how does it differ from deconcentration?

Decentralisation is defined as a method of structuring the state, wherein autonomous, shared, and delegated powers are transferred from the central authority to an independent council elected by local citizens. This council enjoys legal personality and financial autonomy, allowing for unrestricted management within a designated geographical area, subject to subsequent oversight. Meanwhile, deconcentration serves as a tool for central authority to oversee local affairs. It is integrated within a hierarchical system and subordinate to the centre, guided by its decisions and priorities. The purpose of deconcentration is to make services closer to citizens by means of a combination of central powers and local administration. Based on these two definitions, it becomes clear that the term “local administration” currently used in Libya refers to a deconcentrated system of governance and is therefore different from the term “local governance”, which refers to a decentralised system of governance.

Additionally, there are contradictions and conflicts in authorities and prerogatives between ministries and local entities. For instance, Investment Law No. 9 of 2010 grants the General Authority for Investment Promotion and the Ministry of Planning

12 Arab World, “Militants disrupt elections in southern Libya,” August 26, 2020, <https://aawsat.com/hom>.

13 Libyan News Agency, “The Council of Ministers issues Decision No. 330 of 2021 regarding the regulation of the local revenue system for municipalities, which governs the mechanism of collecting fees of local nature, and how to deal with those revenues,” August 28, 2021, <https://lana.gov.ly/post>.

14 Libyan Legal Assembly, “Decision No. 182 of 2022 establishing and organizing districts,” February 28, 2022, <https://lawsociety.ly/legislation>.

and Economy the prerogatives to evaluate and allocate projects and engage with investors.¹⁵ These conflict with the prerogative of the governorate established under Law 59, as well as the district unit. Moreover, Law 59 grants municipalities or governorates the prerogatives to privatise, distribute, and invest in public land. Yet, once again, the government's provisions for provinces, granted by Law 59, are contradicted by the Property Law.

In addition to semantic considerations related to terminology and concepts, and conflicting powers, various perspectives and political orientations also influence the visions and perceptions related to local governance and local administration in Libya. During interviews conducted for this research, various perspectives emerged regarding the distinction between these two concepts. A political party leader emphasised the necessity for Libya to adopt a comprehensive system of local governance, which transcends the concept of local administration. This system, seen as a political alternative to partitioning and federalism, plays a crucial role in resolving conflicts over economic resources.

An advisor from the Ministry of Local Governance defined local administration as a hierarchical executive structure subordinate to the central government. He highlighted its role in delivering services, executing decisions, and overseeing local development projects, with the central government providing guidance and oversight.

Conversely, an economic consultant focused on the economic developmental aspect of local administration, advocating for amendments to central laws and regulations to grant municipalities the autonomy in managing local resources through taxation and revenue collection, thereby facilitating economic growth.

These debates over terminology and concepts have contributed to the continued impasse and political stalemate over the optimal political system for Libya. It is therefore necessary to focus the debate on the goals that Libyan politicians are pursuing in order to build a system of governance that meets the needs of the citizens and ensures social peace, regardless of the labels. While the systems of governance adopted in various decentralised countries may serve as models for reference, Libya's current political fragmentation and socio-economic specificities call for a focus on the depth of decentralisation. Decentralisation can be explored by identifying three of its dimensions:

- **Political decentralisation:** Electing local political officials and granting them the authority to make decisions on specific policies.
- **Functional decentralisation:** The transfer of services and distribution of administrative powers between the central government and localities.
- **Fiscal decentralisation:** Granting localities the prerogative to extract and dispose of resources.

Conclusion

The lack of a clear vision among decision-makers about the purpose of the local governance system, combined with the weak infrastructure, has significantly affected its development and implementation. Previous efforts to establish local administration systems have focused more on structure and quantity rather than an overarching vision. Even with the creation of administrative divisions like provinces or governorates, the persistent problem of conflicting jurisdictions and powers between ministries and new units remained. It is clear that many of Libya's laws still support centralisation and are in dire need of being updated and amended.

The definition of any local governance system is shaped by how we define the governance structure and the interplay of authorities within it. From there, it is detailed by a range of factors, notably the state's configuration, economic dynamics, and the prevailing political landscape. These elements collectively mould the contours of the local governance system, whether it leans towards centralised governance, localised administration, administrative decentralisation, or self-governance. This categorisation falls under the broader spectrum of unitary and simple state systems.¹⁶ As a more complex step in choosing

15 Libyan Legal Assembly, "Law No. 9 of 2010 encouraging investment," January 28, 2010, <https://lawsociety.ly/legislation>.

16 Unitary State: a state where both internal and external affairs are managed by a single entity, with all powers concentrated in the hands of the government overseeing its functions. It is characterised by the unity of political legislation and execution, where all decisions, tasks, and functions assigned and how they are implemented are derived from the country's main constitution. Examples of unitary states include Japan, Kuwait, and Iraq.

the local administrative system, there is the composite state model, which includes federal or confederal structures. With this framework established, the method of selecting the local governing body is then determined, whether through elections, appointments, or mandates.

While all decentralisation-related concepts discussed above are important and effective, their relevance relies on specific contexts. Therefore, the first key step for policy-makers and various stakeholders is to clarify and agree upon the different concepts around decentralisation. Subsequently, they could engage in broader discussions on the objectives to be achieved through a customised governance model that accommodates Libya's peculiarities. It would have to ensure a fair distribution of power and resources, achieve political stability, and improve the quality of services for citizens.

Mediterranean Platform

Founded in 2022, and directed by Prof. Luigi Narbone, the Mediterranean Platform is a research, dialogue, and educational programme at the School of Government, Luiss Guido Carli. It offers a space for collective reflection on the opportunities and challenges of the Mediterranean region and promotes informed policymaking and advocacy at the national and transnational levels.

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