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PROCEEDINGS OF THE LIBYA LOCAL GOVERNMENT FORUM

Tunis, Tunisia

September 14–16, 2019

(Revised for Publication: January 2021)

WORLD BANK GROUP

Editors
Michael G. Schaeffer
Maroua Lassoued
Zied Ouelhazi

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Foreword, Minister of Local Government

June 2020

Dear Local Government Forum Participants,

The development of a sound local governance system holds great promise for Libya as we seek to contribute to improving local development and service delivery, and thus, quality of life for the Libyan population. As Libya tries to move forward on its path to improving local governance structures and capacities, which are an essential condition for greater stability and resilience, it is vitally necessary to take stock of the current fiscal and administrative dimensions related to local governance.

The Ministry of Local Government, in conjunction with the World Bank, prepared the first Libya Local Governance Forum in September 2019. Planning of this special event was made possible by the generous contributions of our international partners, including USAID through its Libya Economic Stabilization Program (LESP), the German Development Cooperation (GIZ), and the United Nations Development Program (UNDP). This Forum is equally supported by the World Bank's Libya Building Governance Multi-Donor Trust Fund, which benefits from the contributions of the European Union (EU), the UK Department for International Development (DfID), and the Embassy of the Kingdom of the Netherlands to Libya.

The Libya Local Governance Forum aimed at assisting the government of Libya and the broader international community in better understanding the current constraints in the local governance realm, the potential opportunities for reform, as well as the establishment of a clear road map for the near- to medium-term. The Forum welcomed over 100 participants, including representatives of Libya's central ministries, departments, and agencies responsible for Local Governance; representatives of relevant line ministries responsible for service delivery at the central and local levels; representatives from local governments, including over 20 municipal mayors, advisors, and other staff responsible for the fiscal and administrative aspects of intergovernmental relations; representatives of Civil Society Organizations and academia; and over 40 representatives of the broader International community, who are currently supporting local governance in Libya.

The Ministry of Local Government is pleased to offer participants a range of perspectives to support our discussions and debate. These include 19 background papers drafted by international and Libyan experts on numerous local governance themes, which highlight key theoretical debates, international good practices, and policy options for the government to consider.

We look forward to continuing working with you, our partners, to develop a strategic roadmap for supporting decentralization in Libya in the near- to medium-term.

Sincerely,
Dr. Milad El-Taher
Minister of Local Government

THE WORLD BANK

Michael G. Schaeffer
Resident Representative for Libya
Tunisia Country Office
Maghreb Department
Middle East and North Africa

Palm City- Sidi Abdul Jalil
Janzour
Tripoli- Libya

Mobile: (218) 91 733 2879
Email mschaeffer@worldbank.org

Letter of Welcome, World Bank Country Representative

September 14, 2019

Dear Local Government Forum Participants,

The development of a sound local government system holds great promise for countries seeking to improve service delivery, better target local needs, and promote social inclusion. In particular, these benefits have potentially transformative impact in countries emerging from conflict where local governance structures can be pivotal in rebuilding trust, strengthening core institutions, and supporting political stability. However, international experience has taught us that not all countries have succeeded in their local governance reform efforts and that a one-size-fits-all approach does not always guarantee the intended results. It is for this reason that that the development of a modernized local governance system requires careful planning, a tailored approach to the local context, and above all, a strategic national vision.

As Libya tries to move forward on its path to improving local governance structures and capacities, which are an essential condition for greater stability and resilience, it is vitally necessary to take stock of the current fiscal and administrative dimensions related to local governance. Various subnational modes of governance can have positive impacts by bringing governance and services closer to the citizens. The transformative potential of these reforms will need to be systematically addressed with respect to Libya's economic development, macroeconomic and fiscal sustainability, public finance management, employment situation, wealth distribution, and regional disparities.

Against this background, the Ministry of Local Government in conjunction with the World Bank have prepared the first Libya Local Governance Forum. Planning of this special event has been made possible by the generous contributions of our international partners, including USAID through its Libya Economic Stabilization Program (LESP), the German Development Cooperation (GIZ), and the United Nations Development Program (UNDP). This Forum is equally supported by the World Bank's Libya Building Governance Multi-Donor Trust Fund, which benefits from the contributions of the European Union (EU), the UK Department for International Development (DfID), and the Embassy of the Kingdom of the Netherlands to Libya.

Together, we believe that this Libya Local Governance Forum can assist the government of Libya and the broader international community in better understanding the current constraints in the local governance realm, the potential opportunities for reform, as well as the establishment of a clear road map for the near- to medium-term. Building on previous workshops and analytics produced by the World Bank and other international partners, the Libya Local Governance Forum aims to bring together various stakeholders, including the central government, local public administrations, international donors, and civil society organizations to develop a strategic approach to supporting local governance in Libya.

Today, we are proud to welcome representatives of Libya's central ministries, departments, and agencies responsible for Local Governance; representatives of relevant line ministries responsible for service delivery at the central and local levels; representatives from local governments, including mayors, and members of their staff, representatives of Civil Society Organizations and academia; and representatives of the broader International community.

To enrich the proceedings of this three-day Forum, we are pleased to offer participants a range of perspectives to support our discussions and debate. These include 19 background papers drafted by international experts on numerous local governance themes, which highlight key theoretical debates, international practice, and policy options for the government to consider; presentations that draw on the policy options considered in the related background papers; as well as panel discussions, where participants can share their own experiences and work together to define a strategic approach to local governance in Libya. At the conclusion of the Forum, we look forward to developing a conference document that summarizes key Forum findings, conclusions and recommendations, including challenges, priorities, and policy options.

We thank you for your participation in this Forum and look forward to working with you, our partners, to develop a strategic roadmap for supporting decentralization in Libya in the near- to medium-term.

Sincerely,
Michael G. Schaeffer
Resident Representative, Libya

Preface

Why Libya's Decentralization Dialogue Matters

After decades of living with some form of centralized and autocratic political regime and now having to deal with an internal conflict that is in large part a of "proxy war" for external parties, the Libyan people are embarking on a process of public sector in order to create a new set of institutions that will lay the foundation for a citizen-engaged and representative political system and a well- functioning market system. A critically important part of this process has been a "decentralization dialogue" on how to go about establishing a fiscal partnership between central and local government. Despite the current conflict, the public sector reform progress in Libya is real, observable, and revealing of a commitment to making sustainable a new system of governance.

As part of this dialogue, there is a recognition that an essential feature of a successful broader public sector reform process is to create a Libya-focused knowledge base of intergovernmental policy and practice so that when the current conflict ends— and it will end—and thus the time is right to implement reform, the knowledge to do so is in place.

One of the first actions of the newly establishment of a National Transitional Council (2011), was to issue Law 59(2012) and an accompanying set of regulatory regulations for creating a Local Administration System. Subsequent actions by the Government of National Accord have further defined the role of local administration, including *Circular of the Minister of Finance No. (3) Of 2020* regarding the central government's permission to municipalities to open own-revenue accounts. As noted by both Minister of Local Government (MoLG) El-Taher and the World Bank Country Representative to Libya, Michael G. Schaefer, the commitment to reform has enhanced a Libyan /international collaboration in technical knowledge base development. The set of papers provided in this e-Proceedings document is intended to take stock of the some of the results of this collaboration.

In the first paragraph of this Preface, the reference is made to a Libyan "decentralization dialogue". That phrase is important to comment upon since "decentralization" means different things to different people. For some the term refers to moving quickly to assign a high degree of fiscal and administrative autonomy to local (e.g., provincial, municipal) governments. To do this well—to make a rapid transition to a functioning system of intergovernmental fiscal relations work—comes with an important caveat: local administrations must develop the organizational and, institutional capacity to effectively manage their assigned roles.

For other newly decentralizing countries, the dialogue may be largely about first establishing the pre-conditions for reform whereby a now dominant central authority and emerging local administrations commit to learn together with the goal that each become intergovernmentally capable in a manner that, *inter alia*, allows local officials to be in a financial position to take the lead in making own expenditure and service delivery decisions.

Both the rapid and phased in approaches have been shown to succeed. Whether either approach is, or is not, labelled "decentralization" is of little or no relevance.

How to Use This Proceedings Documents

The purpose of the set of Proceedings papers is to provide a document that informs the citizens of Libya and their government's policymakers and practitioners on both the current status of, and as a guide to, today's Libyan public sector reform decentralization dialogue.

To accomplish this goal, the format of the this document is designed to offer the generalist a quick and reliable introduction to the topic of intergovernmental public sector reform ("fiscal decentralization") as well to further provide the public finance specialist references regarding the technical aspects of intergovernmental public financial management.

Accordingly, this LGF *Proceedings* document begins with important- to read-policy statements in the Ministry of Local Government's Foreword and the World Bank's *Letter of Welcome* on the purpose and scope of the Local Government Forum. This "front matter" material is accompanied by a set of summaries of each of nineteen papers that constitute the remainder of this document.

The nineteen *Proceedings* papers are then organized in five parts in order to a manner that offers the users of this document logical way-of-thinking sequence for any country engaged in a discussion of intergovernmental fiscal reform. The five parts address (i) the rationale as well as the historical context for today's public sector reform discussions; (ii) a universal set of principles for a well-designed intergovernmental fiscal system, the local application of which may vary from country to country and, even, region to region within a country; (iii) the practice that recognizes that the implementation of the universal principles will vary not only from place to place, but also sector-by-sector; (iv) the need to establish institutions to ensure political legitimacy (an open society accompanied by public sector transparency and accountability systems) and social accountability (the critical role of citizen participation); and, (v) the reality that as its public sector reform proceeds, Libya has a range of policy and practice options for creating a new and sustainable system of central/local intergovernmental relations.

Those users of this document who are not directly engaged in the practice public service or who are new to the topic of fiscal decentralization may find that rather than reading all nineteen papers, these Proceedings serve as an as-needed off-the-shelf (even if it is a virtual shelf) topic-by-topic reference to the different aspects of the reform discussion that is now taking place in Libya. However, for the more serious student of public finance, a cover-to-cover reading may make good sense.

For both audiences, generalist and technical policy practitioner alike, the *Proceedings of the Libya Local Government Forum* provide a timely reconnaissance of the issues relating to Libya's public sector reform dialogue. The overriding theme is that a well- designed and well- implemented intergovernmental system is a key to the achievement of many of Libya's broader public sector reform objectives. Moreover, in some countries, a decentralization dialogue has served as a vehicle for conflict resolution.

The Editors
Michael G. Schaeffer, Maroua Lassoued, Zied Ouelhazi

Acknowledgements

This *Proceedings of the Libya Local Government Forum* (LGF) is the result of a collaborative effort of the Ministry of Local Government (MoLG) of the Libya Government National Accord and their bilateral and its multilateral partners Deutsche Gesellschaft fur Internationale Zusammenarbeit (GiZ) GmbH, the European Union, the Embassy of the Netherlands, the United Kingdom (UK) Department for International Development (DfID), Crown Agents/UK and the United States Agency for International Development (USAID), USAID Pragma international consulting group, and the co-host of the LGF, the World Bank Group.

For our colleagues from the MOLG we especially thank Dr. Milad Abdulla Taher, Minister; Salah Otman Fattah, Director of Provincial and Ministerial Affairs, A. Majid Abugara, Advisor; and Abdelmajid Abu. We also give special thanks to Deputy Prime Minster Dr. Mohammad Ammari Zayed for his opening remarks to Forum.

From the European Union we acknowledge the assistance and advice of Lars Flocke, Mary Hovers and Antonis Tsamoulis.

With GIZ we thank Deniz Sertcan, Head of German Development Cooperation; Ulrich Leffler-Franke, Senior Decentralization Advisor; Julius Kluepfel, Political Officer; Manfred van Eckert, Head of Libya Programme, and Rani Daoud, Deputy Head for Libya Development Programme.

From the UK we wish to acknowledge Steph Trinci UK DfID/FCO and Crown Agents representatives Peter Fricker and Alan Lloyd.

From the United States: Daniel Liss and Patricia Morales of the US Embassy, and from USAID, John Pennell, Country

Director, Russell Bauer, Joseph Scheibel, and Sara Werth. With USAID/Pragma, William Klawonn, Chief of Party; Imad Saed, Team Leader, Libya Economic Stabilization Program; and Leila Catic, Paul Davis, Ammar Jarrar, Peter Rundell, and Jan Werner.

From UN Strategic Mission in Libya we acknowledge the support of Ms. Stephanie Williams, Mathew Brubacher and Dr. Robert Walker. From UNDP we acknowledge Gerardo Noto (Country Director) and Peter Rundell.

The editors are further grateful to the leading scholars who contributed to the set of Proceedings papers and at World Bank and with a special appreciation to Ebrahim Mohammed Yahya Al-Harazi his team of editors.

We are also pleased to acknowledge our World Bank colleagues, Dr. Jesko Hentschel (Country Director (Algeria, Libya, Malta, Morocco, Tunisia), Michael Christopher Jelenic who initially served as the Team Leader for the LGF, and who is now with the Organization of Economic Cooperation and Development; David Bernstein, Afef Haddad, Hend Irhiam,, Francesca Recanatini, Michael Schaeffer, Kanae Watanabe (all from World Bank). Finally, we offer a special note of acknowledgement to the Netherlands Jan-Jaap Sas of the Netherlands Embassy.

We would like to recognize and thank the support of the WB Libya Governance Multi-Donor Trust Fund which is supported by the Government of the UK, the European Union, and the Government of the Netherlands.

—The Editors

Libya Local Governance Forum: Supporting a Strategic Approach for Local Governance

September 14–16, 2019
Tunis, Tunisia

Day 1: September 14, 2019 MC: Michael Jelenic	
8:30–9:00	**Registration**
9:00–9:30	**Opening Remarks** • *Mr. Michael Schaeffer, Country Representative to Libya, World Bank* • *H.E. Dr. Mohammad Ammari Zayed, Member of the Presidential Council, Deputy Prime Minister, and Chairman of the Technical Committee for the Transfer of Authorities to Municipalities* • *H.E. Mr. Milad Adbullah Taher, Minister of Local Governance, Ministry of Local Governance* • *Mr. John Pennell, Country Director, USAID/Libya*
9:30–11:00	**Session 1: Introduction** • **"Presentation of the Work of the Higher Committee for the Transfer of Authorities to Municipalities "** *Presenter: Dr. Mohammed Belhaj, Member of the Higher Committee for the Transfer of Authorities to Municipalities* • **"Introduction: A Strategic Approach to Local Governance in Libya"** *Presenter: Mr. Michael Jelenic, Public Sector Specialist, World Bank* • **Plenary Group Discussion** *Moderator: Mr. Michael Jelenic, Public Sector Specialist, World Bank*
11:00–11:30	**Coffee Break**
11:30–13:00	**Session 2: Key Definitions, Distinctions, and Context** • **"Definitions and Distinctions in Local Governance"** *Presenter: Ms. Maroua Lassoued, Governance Specialist, World Bank* • **"The Evolution of the sub-National Government System in Libya: 1951 – 2019"** *Presenter: Mr. Rani Daoud, Deputy Head of Program, GIZ* • **Panel Discussion** *Moderator: Mr. Manfred van Eckert, Head of Program, GIZ / Dr. Yusser El-Gayed, Public Sector Reform, Post Conflict and Governance Specialist, World Bank*
13:00–14:30	**Lunch Break**
14:30–16:00	**Session 3: Expenditure Roles Among Different Levels of Government** • **"Sorting out Expenditure Roles Among Different Levels of Governments"** *Presenters: Mr. Robert Ebel, Lead Public Financial Management Expert, World Bank* **"Functional Assignment – A Core Element of the Decentralization Process"** *Presenter: Ulrich Leffler-Franke, Decentralization Advisor, GIZ* • **"Expenditure Assignment on the basis of law 59/2012"** *Presenter: Mr. Rani Daoud, Deputy Head of Program, GIZ* • **Panel Discussion** *Moderator: Mr. Jan Werner, Inter-governmental Framework Advisor, USAID, Libya Economic Stabilization Program*

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	Day 2: September 15, 2019 **MC: Imad Saed**
9:00–9:15	**Opening Remarks** • *Mr. Gerardo Noto, Resident Representative, UNDP*
9:15–10:30	**Session 4: Existing Fiscal Arrangements** • **"Existing Fiscal Arrangements in Libya"** *Presenter: Mr. Michael Schaeffer, Country Representative, World Bank / Mr. Zied Ouelhazi, Public Sector Specialist, World Bank* • **"Case Study: Linking Local Priorities to National Investment"** *Presenter: Dr. Peter Rundell, Senior Stabilization Advisor, UNDP.* • **Panel Discussion** *Mr. Michael Schaeffer, Country Representative, World Bank*
10:30–11:00	**Coffee Break**
11:00–12:30	**Session 5: Developing a Vision to Guide Intergovernmental Reform** • **"Developing a Vision to Guide Intergovernmental Reform in Libya"** *Presenter: Mr. Salah Othman Fattah, Director of Provincial and Municipal Affairs, Ministry of Local Governance* • **"Options for Reforming the Intergovernmental System as well as the Local Public Finance System in Libya"** *Presenter: Prof. Dr. Jan Werner, Senior Intergovernmental PFM Advisor, USAID, Libya Economic Stabilization Program* • **"Sustaining the Legitimacy of Local Councils through Elections amid Conflict"** *Presenter: Ludwig Daniel Stroux, Specialist, UNDP* • **Panel Discussion** *Moderator: Ahmad Alyasseri, Project Manager, UNDP*
12:30–14:00	**Lunch Break**
14:00–15:30	• **Session 6: Human Resource Management** • **"Human Resource Management in the Libyan Public Administration"** *Presenter: Dr. Yusser El-Gayed, Public Sector Reform, Post Conflict and Governance Specialist* • **Panel Discussion** *Moderator: Dr. Peter Rundell, Senior Stabilization Advisor, UNDP.*
	Day 3: September 16, 2019 **MC: Imad Saed**
9:00–10:30	**Session 7: Service Delivery** • **"Current Status of Service Delivery in Libya: Solid Waste Management"** *Presenter: Ms. Leila Cactic, PFM Advisor, USAID/ Libya Economic Stabilization Program* • **"Public Investment Planning in Service Delivery: Solid Waste Management Case Study Approach"** *Presenter: Mr. Ammar Jarrar, Public Investment Planning Advisor, USAID, Libya Economic Stabilization Program* • **"Case Study: Service Delivery Perspectives in the Health Sector"** *Presenter: Mr. Zied Ouelhazi, Public Sector Specialist, World Bank* • **Panel Discussion** *Moderator: Mr. Michael Schaeffer, Country Representative, World Bank*
10:30–11:00	**Coffee Break**
11:00–12:30	**Session 8: Community Planning and Social Accountability** • **"Community Planning and Social Accountability"** *Presenter: Dr. Peter Rundell, Senior Stabilization Advisor, UNDP.* • **"The Local Development Planning Approach for Libyan Municipalities"** *Presenter: Mr. Rani Daoud, Deputy Head of Program, GIZ* • **Panel Discussion** *Moderator: Mr. Dawoud Al-Massri, Program Manager, UNDP*
12:30–15:00	**Lunch Break**
15:00–16:30	**Session 9: The Road Ahead for Local Governance in Libya** • **"The Road Ahead: What are the Main Components of a Local Governance Policy?"** *Presenter: Mr. Salah Othman Fattah, Director of Provincial and Municipal Affairs, Ministry of Local Governance* • **"Effective International Assistance on Local Governance in Libya"** *Presenter: Ms. Saida Borwin, Head of Technical and International Cooperation, Ministry of Local Governance* • **Panel Discussion** *Moderator: Mr. Imad Saed, Lead Municipal Public Financial Management Advisor, USAID, Libya Economic Stabilization Program*

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16:30–17:00	**Closing remarks** • *Mr. Michael Schaeffer, Country Representative to Libya, World Bank* • *Government of Libya Representative* • *Mr. Gerardo Noto, Resident Representative, UNDP* • *Mr. Julius Kluepfel, acting Head of German Development Cooperation, Germany Embassy* • *John Pennell, Country Director, USAID/Libya*

List of Registered Participants

Libya Local Government Forum
Tunis, Tunisia September 2019

No	Surname	Names	Position Title
1	Gassem MOH Ali	El Manaa	Mayor of Ghdames Municipality
2	Abraheem	Abdulnasir Yunus Mumin	Deputy Officer of Msaaed Municipality
3	Abou Iqdayrah	Abdulnasir Alfaytouri Ali	Mayor of Alzahra Municipality
4	Awn	Abdulrahman Awn dhaw	Mayor of Abuslim Municipality
5	Qashout	Hamza Ramadhan Amhimmid	Mayor of Al Amriya Municipality
6	Mousay	Abraheem Ali Hudouth	Mayor of Toukra Municipality
7	Sawesi	Shaban Abdalla Moussa	Mayor of al Swany Municipality
8	Ahmeed	Mustafa Ahmeed Younus	Mayor of Albariqah Municipality
9	Aons	Fathi Ammar M	Deputy of Ministry of Economy
10	Abdulrahman	Mustafa Mohamed Aboubakar	Mayor of Mrada Municipality
11	Alfoqhi	Alhashmi Abdulla D	Director of HR Department at Ministry of Economy
12	Sghaier	Khiari Khalifa Khairi	Director of Undersecretary of Ministry of Economy
13	Zaid	Muhamamad A M	Member of the Presidential Council and Chairman of the High Committee for the Transfer of Jurisdictions
14	Ali	Adel Amer AlSadeg	Deputy of Dr Al Amari
15	Bousedra	Lamia Fathi Salih	Member of the High Committee for the Transfer of Authorities
16	Elhaj	Mohamed Ali Mehamed	Member of the High Committee for the Transfer of Authorities
17	Alkchir	Ahmed AA	Director at the Presidential Council
18	Asmaeil	Jamal Emran Mohammed	Mayor of Alsahel Municipality
19	B Atia	Husein Mohamed M	Mayor of Tajoura Municipality
20	Shalof	Anwar Melod Ali	General Secretariat of the Higher Council of Local Administration
21	Aban	Fraj Milud M	Mayor of Zanjur Municipality
22	Amir	Husayn Amhidmmid Salih	Director of Minister of LG office
23	Taher	Milad A M	Minister of Local Government

(*continued on next page*)

(continued)

No	Surname	Names	Position Title
24	Fattah	Salah Otman	Director of the Department of Municipalities and Provinces, MoLG
25	Hussein	Fadel Mohammed Ahmed	Mayor of Daraj Municipality
26	Mustafa	Ahmed Matku neenu	Mayor of Ubary Municipality
27	Abou Qasim	Ibrahim Omar Ibrahim	Mayor of Adri Alshati Municipality
28		Mustafa Omar abd Alsalam	Mayor of Misrata Municipality
29	Okasha	Ali Faraj AM	Mayor of Wadi Albawanis Municipality
30	Ibderi	Yosof khalifa M K	Mayor of Gueryan Municipality
31	Abugrara	Abdulmajid M	Deputy of LG Minister
32	AMhimmid	Abdulaziz Salim Mousay	Mayor of Al Kalaa Municipality
33	Ellamushi	Emhmed Abdullah Mohammed	Director of Information Office at MoLG
34	Garbaa	Esam A S	Director of International and Technical Cooperation Bureau at MOP
35	Burwin	Saida Alsadig Salih	Director of International and Technical Cooperation Bureau at MoLG
36	Burwin	Asadig Salih	
37	Sharta	Saad M AL Mabrook	Mayor of al Asabiaa Municipality
38	Albawendi	Omran Abdussalam Ali	Mayor of Qsar Lakhyar Municipality
39	Droughi	Ramadan Mohamed Ahmed	Representative for Ministry of Labor and Rehabilitation
40	Milad	Abdulnaser AB Milad	Representative for Ministry of Labor and Rehabilitation
41	ABdulsamad	Salih Othman Abu zayd	Director of Job Inspection Department, Ministry of Labor
42	Gdora	Ramadan H	Undersecretary of the Director of the Ministry of Communication
43	BenAtya	Khalid Mohammed	Director of International and Technical Cooperation at Ministry of Health (MoH)
44	Esswaisi	Mousa Ali Saeed	Director of Health Facilities MoH
45	Alkmashe	Adulmenmen Alsadik Emhmmed	Representative for Primary Health Care MoH
46	Elbahri	Elmarghani Abdunnabi G	Representative for MoF
47	Dabouk	Majdi Saleh Othman	Representative for MoF
48	Shubar	Hend Muammar Ali	Service Affair Advisor, Office of the First VP at the Presidential Council
49	Maateg	Nihad Omar A	President of "Min Ajlek Libya" Founder
50	El Gheziwi	Aimen Salim Nuri	Member of the Legal Office of MoH
51	Sasi	Ghalia Ali O	President of "MAAHa" Organization
52	Agili	Sohir Ashour Ali	CEO of Maaha Organization
53	Alaswad	Maryam Ahmed Amhimmid	Member of "Maak Libya" Organization
54	Shado	Samyrah Saeid Basheer	Member at "Hay al Andalus"
55	Shadad	Osamah Saied Basheer	
56	AlMuzaghi	Abeer Mohamed Zuheer Khalefa	Director of "SAfaa and Marwa" Organization
57	Shrif	Riad Saleh Dawi M	Director of the Local Utilities Department, MoLG
58	Alritimi	Mohamed Abdulkarim Misbah	Mayor of Hrawa Municipality
59	Iskouh	Mohammed Ahmed Mohammed	Mayor of Gsar Ben Ghchir
60	Al Manshouf	Emad Mahfud A Manshuf	Advisor to Local Government, Office of the VP at the Presidential Council
61	Elmagdob	Mustafa Ali Taher	Member of the General Secretariat of the Supreme Council of Local Administration

Summaries of Papers

Paper 1
Toward a Strategic Approach for Libya Public Sector Reform

Michael Christopher Jelenic and Michael G. Schaeffer

The first paper in this set of *Proceedings* presentations provides an overview and summary of the scope and purpose of the Libya Local Government Forum (LGF). It also provides a summary of the current status of the Libyan public sector reform process. The paper begins with a note on the reasons for, and the current status of, the Libya public sector reform dialogue and why a focus on fiscal decentralization—the intergovernmental sorting out of fiscal roles and responsibilities among different types of governments—makes political and fiscal sense in terms of its potential economic, social and financial outcomes. This is true even though Libya is a society in turmoil. The paper then proceeds to draw on the 2018–2019 Libya-requested EU/UN/World Bank recovery and peace building report and "mapping exercise" in manner that succinctly lays out the legal and institutional framework for public sector reform. The paper concludes with LGF findings relating to the key issues and challenges facing Libya as it works toward well-designed intergovernmental strategy for establishing an efficient, effective, and fiscally sustainable public sector. It further lays out the nature of Libya's partnership with its lead international community partners (EU, GIZ, Italy, the Netherlands, UK/DfID, UNDP, USAID, and the World Bank).

Paper 2
The Libya Fiscal Decentralization Dialogue: Entering the 2020s

Robert D. Ebel and Michael G. Schaeffer

The purpose of Paper 2, which was prepared following the Local Governance Forum (LGF), is to synthesize the main themes of the LGF Proceedings (the set of papers that follow) in a manner that reflects the several "take away" lessons from the papers as well as from comments responses to the papers by members of panels and the participants in the audience. The primary "take away" is that a well-functioning intergovernmental fiscal system is key to achieving Libya's stated broader objectives of (i) macro-economic stabilization; (ii) improved efficiency and effectiveness the delivery of public services, and (iii) a strategy for peacebuilding. To accomplish this purpose, the paper is divided into three sections. The first section, reviews the history and current context of the Libya's fiscal history, and draws the conclusion there are important reasons that the Libyan decentralization dialogue can and should continue even in periods of conflict so that when peace arrives (as it will) a knowledge base will be in place to allow policymakers to act. The second sections lists and discusses the key lessons that emerge from other nations that have embarked on public sector reform program of becoming more intergovernmental. The third section draws on the first two and offers four initial challenges that emerged from the LGF for today's Libya. Cross-references to each of the other LGF papers are made throughout this discussion.

Paper 3
Variants and Administrative Aspects of Local Governance: Definitions and Distinctions

Maroua Lassoued

The presentation by Maroua Lassoued addressed the key task of establishing the terminology of the LGF and why such an agreement is of fundamental importance to the matters of public sector reform. Lassoued begins by recognizing that whereas there is a common set of definitions of that apply to all countries engaged in "fiscal decentralization" reform, there are also important differences—distinctions—of how these generally agreed upon terms apply to Libya's eastern, western, and southern regions. Lassoued then proceeds to make three points that will frame the subsequent set of LGF presentations: The first is that, at present, Libya can be best characterized as having *deconcentration without authority* whereby little autonomy is provided to the municipalities (a matter that many mayors highlight in the general discussion). The second point is that how the mix of "decentralization variants" are applied in public administration practice will vary from country to country. To illustrate this second point, she draws on three country examples: Uganda, Mozambique, and Ethiopia to illustrate that in making recommendations for intergovernmental reform: "no 'no one size /model fits all." Indeed, she notes that the typical practice is asymmetry across (as well as within) countries. The third message there not only different variants (deconcentration, delegation, devolution) of how on a country decentralizes, but also that even with reform a country will adopt some aspect of each of the "three Ds." The paper concludes with a matrix-presentation of Snapshot of Administrative Decentralization Challenges for Libya. Key messages include: (i) the current conflict is impeding implementation of Law 59 (2102); (ii); there is a lack of clarity in the law, and (iii) expenditure assignment remains unclear.

Paper 4
History and Evolution of the Subnational Government System of Libya

Rani Daoud

The paper addresses the process of evolution of the Libyan intergovernmental since its independence in 1951 from a Post WWI Allied (British and French) Occupation, which replaced a previous era (1911–1947) of Italian colonization. By focusing on the scope and content of laws and regulations relating to central/subnational structure, Daoud identifies in very useful detail series of eras of Libyan intergovernmental system change. To take the reader through this complex history, governmental (administrative) maps are provided for each of several eras (there have been eleven in beginning with the Italian colonization in 1911). As a result, Daoud is able to give one a clear understanding of how Libya's current set of intergovernmental relations frame today's current public sector reform (and conflict) dialogue. The intergovernmental history begins with an era of functioning federalism that included a mandated set of expenditure /service delivery assignments to municipal government. This first era then gave way to short period of transition to a unitary system of government that retained some aspects of decentralized governance of newly established governorates and municipal governments in Tripoli and Benghazi. Then comes the *Coup d'état* of 1969 brings Quaddafi to power that leads to the deconcentration variant of decentralization that Lassoued defines in Paper 3. Daoud concludes with a point-by-point summary of the recent and current status of Libyan intergovernmental public sector change, including the establishment of the National Transitional Council and, subsequently, Government of National Accord. Among the conclusions that Daoud draws is that the "severe and rapid changes" in the subnational system over the past 70 years have hindered the establishment of a stable and functional system of government by contributing to the creation of several institutions that have conflicting mandates.

Paper 5
Libya's Fiscal Architecture: An Intergovernmental Perspective

Robert D. Ebel and Zied Ouelhazi

At present, in order to pay for public services, Libya is nearly fully reliant on petroleum receipts (a cost sharing, not a tax, regime), which is a notoriously unstable revenue source. Thus, regardless of the degree to which Libya remains centralized, even if it Libya adopts a decentralization variant largely that of deconcentration and delegation rather than devolution, for Libya to become fiscally sustainable over time will require a commitment to much higher degree of revenue diversification than one observes today. And, there are untapped revenue options to do so: options include an increased reliance of user fees and charges, and basic simple to administer and comply with taxes on income, consumption, and property. Moreover, many of these potential revenues have a subnational (regional, local) character. That is, what may fit the fiscal culture of one part of the country may not be a good answer for another part. Accordingly, going about choosing among these options requires that a first research question is to ask what makes "fiscal sense"—that is, which types of revenues will "fit" Libya's special demographic, economic, and institutional circumstances and arrangements. Drawing on data for Libya, the authors systematically address the "fiscal sense" question from both a public spending and revenue perspective. Special attention is given to the intergovernmental (poly-centric) delivery of health sector services.

Paper 6
Sorting Out Expenditure Roles among Governments in Libya

Robert D. Ebel

There are four fundamental questions that frame the public sector dialogue in all nations that have an intergovernmental character (different types or "levels" of governments). This is true regardless of the overarching form of governance (unitary, federal, con-federal) that is adopted. The four, which may be approached in a generalized sequence are: which type of government is best suited from an efficiency and equity perspective to (i) spend on different types of public services; (ii) generate revenues to pay for those services; (iii) take the lead the design of a system of intergovernmental transfers when the answers to the first two questions lead to fiscal imbalances to be addressed; and (iv) borrow and take on debt? Robert Ebel addresses first of these two questions by identifying and discussing as relevant to Libya three "universal principles" that that serve as a guide for assigning expenditure roles among governments. By turning to the delivery of primary education services as an example of a key public service, he demonstrates that a well-designed system of "expenditure assignment" is a complex topic that can be best answered through a degree of cooperation among different levels of government. By linking to the paper by Ouelhazi, he further argues that the "right" expenditure assignment will change as the nation's intergovernmental fiscal architecture changes. That is, although the universal principles do not change, how they are applied in a decentralized system will by place and will change overtime.

Paper 7
Managing Decentralized Expenditures: The Deconcentration Variant

Hussam Alzahrani

To be "decentralized"—that is to rely on different types ("levels') of governments to delivery public services and, too, to generate "subnational government" revenues—may mean that for some countries rather than devolve significant revenue and spending authority to regional and local governments, a country may adopt a "deconcentration" variant whereby the assignment of expenditure authority, service delivery responsibility and distribution of financial resources is fully managed by central government ministries. In his essay, Hussam Alzahrani explains how the deconcentration variant works in practice and that though it is all centrally managed, it is nevertheless is "intergovernmental in nature". He makes the point that deconcentration works when it adopts an intergovernmental perspective not only when it comes to carrying out the role of macro-fiscal policy (which is a typically a central function even with the devolution variant), but also in carrying out the key public sector functions of (i) budget preparation (adoption of a Medium Term Expenditure Framework, MTEF); (ii) budget execution (e.g., illustrating the expenditure chain approach whereby provincial spending ministries may be held responsible for various aspects of service delivery); (iii) a Treasury Single Account, TSA (and how a TSA fits with an integrated financial management information system), and (iv) systems that promote fiscal accountability (internal and external audit, including an independent Supreme Audit institution).

Paper 8
Functional Assignment: A Core Elements of the Decentralization Process

Ulrich Leffer-Franke

Leffer-Franke places the Libyan public sector reform dialogue on functional (expenditure) assignment in the context of several other country practices and experiences. Finding that the current Libyan framework conditions "seem to be adverse and contrary to fundamental change as administrative relations between the national and local level" he argues that it is time for Libya to undertake the "decisive to escape the fragility trap…." Leffer-Franke begins by discussing addressing core elements of a decentralization process that looks beyond deconcentration to aspects of devolution while at the same time recognizing that the successful implantation of meaning intergovernmental depends very much on contextual factors (thus linking to Ouelhazi). He then proceeds to further emphasize that to make decentralization work requires not only attention technical detail, but also requires a process of participatory inclusion that creates ownership of the reform process. Having addressed core elements of the public sector/intergovernmental reform process, he bring in examples from other countries that are engaged in the same public sector reform dialogue as is Libya. He concludes by (i) acknowledging the understandable pressure Libya is under to break out of the fragility trap with the positive message of the "inherent potential of decentralization for peace building and development, and (ii) providing a list of guiding principles-of-practice for moving along the Libyan decentralization dialogue.

Paper 9
Intergovernmental Fiscal Practices and Best Practices: Lessons for Libya

Michael Schaeffer and Zied Ouelhazi

As noted elsewhere in this set of summaries, there the four fundamental questions facing any intergovernmental system can be usefully thought of/generalized as sequence of reform actions. One of the implications of this sequence is that for a system of decentralized subnational governments, "finance (revenue assignment and authority) follows function (expenditure and service delivery). Having made this function-then-finance set of decisions, it is nearly always the case that the amount of dinars associated with the functional assignment are greater than the amount of dinars that the subnational sector can generate for financing. Thus, there is a need for a system of central to subnational transfers. Now the question arises: just how important is the "finance follows function" rule in a country such as Libya that has as its initial condition, a (very) high degree of fiscal decentralization? Schaeffer and Ouelhazi suggest that if Libya is to decentralize in a non-chaotic fashion, it should, for now, skip past the finance/function first steps and address the current *ad hoc* and non-transparent system of central to municipal transfers so that local governments can have funds to become credible, indeed in the views of citizens, legitimate, providers of local public goods and services. This is, indeed, a very good matter to consider. Taking this approach, Schaeffer and Ouelhazi lay out a set of principles for transfer system design so that when Libya begins to implement Law 59 (2012) and its accompanying rules and regulations, there will be in place the foundation to help make the transition to the next steps of assigning to local governments an increased degree of expenditure and revenue autonomy.

Paper 10
Linking Local Priorities to National Investment: Context and Challenges

Dawoud Almassri and Peter Rundell

In the preceding paper, Schaeffer and Ouelhazi note that one a topic that is often given too little attention in the conventional decentralization dialogue note of "which type of government does what" is the distinction that must be made between recurrent funding and capital (development) financing. Almassri and Rundell further develop this distinction whereby they examine how the current set of laws and practices relating to national investment planning may be interpreted (there is a high degree of ambiguity) and implemented in order to address local development interests. Among their findings is that there is a not only a need for a central/municipal government investment dialogue that includes the views of mayors, municipal councils, and citizens relating to capital project prioritization, but also that the boundaries between the between municipal and sector responsibilities are unclear even to the point that there is often no published information regarding investment planning and spending. One result of this uncertain and non-transparent process is that it encourages citizens to lose trust in their governments in a manner that leads to informal mechanisms of service delivery that range from *ad hoc* utility hookups (*wasta)* to acts of violence, all of which contribute to a disaffection between the people and their governments and heightened risks.

Paper 11
Subnational Government Revenue Mobilization in Libya

Mihaly Kopanyi

Mihaly Kopanyi's presentation makes the transition from topics of the broad framework of fiscal decentralization and functional assignment, to the fundamental question of revenue mobilization: how does one sort out the intergovernmental roles in financing and funding central, regional (provincial) and local (municipal) public services? The first part of the paper reviews and references the analytical documents prepared on this topic by bilateral and multilateral agencies over the past several years, and then proceeds to make a reconnaissance of the Libya's revenue mobilization issues: current status and practice, areas where the financial framework is still incomplete regarding the requisite policies, procedures, and capacity provisions to fund subnational government, and options for reform. Noting that Libya's legislation is in harmony with general international practices for a decentralized unitary state, he then addresses the issues pertaining to how revenues are (or may be) generated by (i) sector ministries and their agents (a need for a clear separation between how revenues for central vs. local services are budgeted); (ii) yet-to be established provinces (a role for revenue management of polycentric services such as one associates with paying for infrastructure), and (iii) localities (a fundamental challenge is to increase their "extremely low" role in financing the public sector). Having established the framework for how to intergovernmentally pay for public services, the paper then systematically addresses the challenges and options for moving forward to a new era of Libyan revenue mobilization that pulls together in a systematic way (i) rationalizing the central revenue system ; (ii) designing intergovernmental fiscal transfers, and (iii) establishing a role for own local revenue generation.

Paper 12

Government Employment and Human Resource Management in Libyan Public Administration

Yusser Al-Gayed

One of the most important matters to be addressed when a country undertakes a broad reform of its public sector system is how to reorganize, manage, and incentivize those who work for governments. After all the policy papers have been written and enabling legislation has been approved, Human Resource Management (HR) is one of the three key pillars of building a capacity to effectively deliver public services at all levels of government (the other two pillars are organizational and institutional capacity). Relying on both quantitative and qualitative data for Libya, Yusser Al-Gayed provides a comprehensive analysis of the current context (there is no agency, central or subnational, that has full control over public administration and government employment), data issues (a mixed set of necessary sources, from reliable to "tenuous at best"), and the role of local governments, past and potential (at present, largely non-existent). The paper begins with a review of the legal framework (there are four key labor laws), and the proceeds to critically analyze the key components of human resource management, including how these components have changed overtime: size of the workforce, the recruitment process, pay and grading of salaries, amount of the wage bill, gender diversity, and the remarkably low role percentage of non-line ministry personnel in the local government workforce. Al-Gayed's analysis concludes with an explicit list of challenges to be addressed to as part of a long-term Libyan commitment to improve the quality of government and employment and public administration, concluding that the current system of human resource management is far from conducive to establishing intergovernmental system envisioned in Law 59 (2012). Ending on a positive note he also identifies a series of "small reform efforts that Libya can now begin to take" to improve HR, including having local governments step up identify their priorities in the context of a conflict affected state.

Paper 13
Service Delivery Perspectives in a Decentralized Environment: Perspectives on the Health Care Sector, the Case of Libya

Zied Ouelhazi

Throughout the LGF there was a common message that a well -designed system of fiscal decentralization—the intergovernmental sorting out and sharing of public sector activities—is about recognizing that there is a set of universal principles that apply to all countries, but that in their application every one of these principles must "fit" the special economic, demographic, and institutional circumstances of place. Thus, how the same principles may apply in one part of a country may differ from another part. For example, there will be place differences in geography, urban vs rural, degree of natural resource endowment, and, even history). But, it is not just place differences that matter, but also the reality that the same universal principles will work out differently by service delivery sector. In this LGF, two representative sectors are examined. The first is made by Zied Ouelhazi who focuses on how the past seven years of conflict have affected, and thus now frame, the delivery of health care in Libya. (The second case, below, is solid waste management). Ouelhazi begins by a review of the universal principles as they apply to the sector, noting that there is empirical evidence of the overall beneficial effect of on health system outcomes in developing ad develop countries alike. But, having said, that, takes on the case of Libya, starting with review of the current arrangements of the health sector after seven years of conflict (destruction of health facilities, disruptions of utility services, gaps in medical supplies, loss of health care workers), and then proceeding to examined the resulting budget implications for both the central Ministry of Health and local primary care facilities. Moreover, as of much importance, he makes it clear that decentralization is not just about a local role , but, that indeed, there is a very large central role to be played since many health sector activities have benefits that spillover across subnational boundaries. Examples of such interjurisdictional "positive externalities" include immunization and disease control research to supplying medical equipment to establishing national medical centers that specialize in difficult to address maladies. There is also a clear local role, e.g., providing hospitals and medical clinics for local and regional communities, hiring and supervising health care workers, prescribing and distributing medicines, and informing the MoH regarding medical supply. Again, it is intergovernmental. Having laid analyzed what a decentralized health sector looks like, Ouelhazi provides a summary and set of conclusions on the implications of conflict for the health sector and a look ahead to *Libya's National Health Policy 2030.*

Paper 14
Current Status of Service Delivery in Libya: Solid Waste Management

Lejla Catic

A key part of the case for fiscal decentralization is that establishing a system whereby subnational (e.g., provincial, municipal) governments have a significant degree of "own" expenditure and revenue autonomy, local public services will be delivered with a degree of efficiency and effectiveness beyond that which central has shown it can provide. It is this theme that Lejla Catic explores in two-step approach. Her paper begins with laying out the reality that in today's Libya the execution of public services is largely the central government through its system of ministries, which, in turn, rely on another publically owned services providers as agents. As a result of this high degree of centralization, the municipal role is basically limited to handling complaints and requests from citizens, which are then passed on to public company service providers over which the municipality has no authority to manage. She then follows up with a case study of one of the most visible of local services, that of solid waste management, which is the responsibility of the Ministry of Local Government and its agents: 23 Public Services Companies (PSC) covering 121 municipalities. She compares the performance of the PSCs to various standards and norms (quite deficient, minimal investment in equipment, lack of accountability), but notes that as the result of a newly approved Solid Waste Management Sector Strategy, MoLG is making several improvements, including authorizing municipalities to set fees for service provision. Catic concludes with a detailed set of recommendations for a "staged approach" of sorting out MoLG and local government roles. Among the recommendations: the current PSC model will be dismantled such that the companies will have to compete for municipal contracts and/or absorbed by the private sector.

Paper 15
Suggested Way Forward for National Public Investment Planning in Libya Solid Waste Management

Ammar Jarrar

Ammar Jarrar's paper on a way forward for national investment planning in the solid waste management (SWM) neatly complements the papers by Catic on the current status and recommendations for improvement of the current SWM services and the Almassri and Rundell LGF presentation on the need for a local role on capital project prioritization. Noting that, at present, most of the SWM budget (91 percent) is allocated on non- development purposes (payroll, administration, current subsidies), Jarrar addresses the need for a capital budget process that includes a multi-year financial plan. Although his remarks are presented in the context of SWM, Jarrar's presentation provides a way of thinking about Libyan development budgeting in general. His recommended process for today's Libya has two steps. The first is to be clear on the initial set of development budgeting arrangements in Libya, which include identifying the main constraints on development budgeting (Jarrar lists four) along with a broader examination the set of laws and their accompanying regulatory instruments of decrees and procedural circulars that the Ministry of Planning distributes to line ministries. The second step is to establish a Public Investment Plan (PIP) that brings together the central government (e.g., Ministry of Planning and Ministry of Finance) with a local "bottom-up" multiyear planning process than includes clarity on project selection criteria, project financing, and a strategy for building the capacity of all classes of PIP stakeholders.

Paper 16
Sustaining Legitimacy of Municipal Councils through Elections

Daniel Stroux

There are two political themes that emerge in the decentralization dialogue in any country in any country. The first, the various aspects which have discussed and debated in this LGF as well as in the several Libya policy research papers generated over the past several years, is that a well- designed system of fiscal decentralization is key to the achievement of a nations' broader objectives that include efficient and effective delivery of local public services. The second is that making decentralization "work" requires a high degree of citizen voice and participation. For most places this involves adopting an elections process whereby citizens select their public officials who represent their views. The robust presence of this second process of elections is what gives legitimacy to the outcomes promised by the first. However, for Libya, there is a third aspect that is not so widely applicable, but is nonetheless very real and relevant: can a system of transparent local (e.g., municipal) elections be established and maintained during conflict? It's is this third aspect that Daniel Stroux addresses. And his answer to the third aspect is not only "yes", but also that a counsel for delay in holding local elections ("why not wait for peaceful time?") serves to undermine a strategy for achieving national cohesion. In making the case for local elections, Stroux explicitly considers both the general challenges of holding elections during conflict and the East-West divide. His paper begins by laying out the legal background (a key role for the Central Committee for Municipal Council elections) and then proceeds to how to make elections conducted in a conflict environment credible according to Libya's own stated goals (Law 59 constitutes calls for the establishment of elected municipal and regional councils) and internationally accepted standards.

Paper 17
Community Participation and Social Accountability: Citizen Aspirations, Knowledge, and Agency

Dawoud Almassri and Peter Rundell

As noted in the commentary by Stroux, while a robust and transparent local elections process would give legitimacy to governments (and thus to a national government), there are other important forms of voice and participation that add to that legitimacy. The Almassri and Rundell paper follow up on this other-forms message by first reporting on citizen polling data collected by United Nations Development Programme (UNDP; data from 2018), and then providing a commentary on the implications for community engagement in municipal planning in a conflict- affected state. In order to get an across-Libya national view of citizen views municipal government, a series of questions in a representative survey format were posed six municipalities: Benghazi, Bayda, Gharyan, Kikla, Sebha, and Ubari. The key questions ranged from whether citizens are clear about how decisions were made within municipalities, to that of whether they think their fellow citizens would decide to spend money on "the right things" if given the chance to participate in a project selection process. As would be expected, the answers varied by municipality. But, importantly, there are three key points of agreement. The first of the three is that more clarity is needed on their municipality's decision making process. The second is that if given the chance, citizens can and will have an effective impact on the spending by their local government; so, "yes" acting collectively, citizens would spend on projects that are needed. The third is that citizens have a basic sense of trust in municipal governance, but that under present circumstances there is a lack of opportunity for participation. Having reported on and then analyzing the polling data, Almassri and Rundell offer several conclusions, key among which is that direct citizen engagement with their local public officials not only enhances the legitimacy of the concept of government, but also that communities are likely to engage across conflict lines if there are credible incentives to do so.

Paper 18

Towards Democratic, Decentralized, Responsive and Transparent Local Government In Libya

Imad Saed

The purpose of Imad Saed's presentation is to pull together in a summary of what has been learned from the series of LGF presentations and the participant response and advice, and lay out a "what is next" Libya agenda for reform and action. His paper accomplishes this dual purpose. Following introductory comments that for Libya a "modernized local governance system requires a national policy/vision" and (later) noting that as of now Libya can generally be characterized as one of administrative de-concentration without authority, Saed describes the current status of local administration, which includes the re-establishment of a Ministry of Local Government (MoLG) that is tasked with developing the legal and regulatory framework for a system of governments. He then briefly reviews the provisions of Law 59 (2012) *Concerning Local Administration* and its accompanying provisions of the *Executive Regulations* in a manner that sets the stage for addressing the status of existing technical and institutional capacities required for local administrations and the central government alike to become intergovernmental. Recognizing that there is this need for both the central and local governments to learn to become intergovernmental, Saed is clear to note that today's absence of such capacity to "should not serve as a justification for delaying decentralization". From there he develops a useful primer on both current and proposed practices relating the assignment of expenditure functions, the importance of role of a system of local own-source revenues, and the need for Libya to develop a transparent formula driven system central to local fiscal transfers. His paper also provides a review of other country cases that are engaged in a decentralization dialogue, a review that makes the important point that Libya is not alone in undertaking the task of developing a governance "framework that clearly articulates functions to be decentralized…and sources of funding of local government". A final section on Recommendations offers specific changes that can now be made by central government's the Higher Committee for the Transfer of Authorities to Municipalities, another message that is a counsel for action, not delay.

Paper 19
Options for Reforming the Intergovernmental System and the Local Public Finance System in Libya

Jan Werner

By placing the current Libya public sector reform in an comparative international context, Jan Warner provides a discussion that lays out a practical path for some next steps in both broadening the Libyan knowledge base as well as recommending some early actions that policymakers may consider as a first steps of building a local government public administration capacity. In this manner the paper expands on the builds on the institutional and organizational reforms provided in the Saed paper. Warner begins his presentation by recognizing that there are weaknesses of current practice that provide opportunities to act in a manner that will enhance both central and local government financial performance. He then proceeds to review how some other countries have addressed public administration challenges similar to that which Libya now faces. Among the challenges he identifies is the need (as Schaeffer and Ouelhazi have also identified) to (i) rationalize the system of central to local transfers and (ii) at the same time build a local capacity for own local revenue mobilization (thus complementing Kopanyi). In both cases, transfers and own-revenues, Warner provides guidelines for the first steps: a basic transfer system designed to move from the current *ad hoc* approach to an approach that has the goal of fiscal equalization (two basic approaches: revenue equalization and cost equalization) and to what he refer as a "tailor made" local property tax system that draws that can be jointly developed in partnership with the central government.

Part I
Introduction: Purpose, Scope and Context

PAPER 1

Introduction: A Strategic Approach for Libya Public Sector Reform

Michael Christopher Jelenic, Public Sector Specialist, World Bank
Michael G. Schaeffer, Libya Country Representative, World Bank

I. Introduction

Improving Libya's public sector performance by embarking on a policy of decentralizing its public sector holds promise for Libya for alleviating bottlenecks in public sector decision making, reducing complex bureaucratic procedures, increasing knowledge about local needs and capacities to meet those needs, and reducing poverty. Moreover, the empirical evidence is clear from the experience of many other countries that a well-designed and implemented system of decentralization—that is, the intergovernmental sorting out of roles and responsibilities between Libya's central and subnational public sector systems—has proven pay-offs for enhancing the level and quality of public sector services and providing gains in the pace economic growth and development. In some cases, a decentralization dialogue has also led to a strategy for conflict resolution. (Box1).

In some countries, designing implementing major public sector reform is made more difficult due to externally imposed circumstances. This is especially true for Libya where a prolonged period of conflict has adversely impacted the relationship between the central public administration and subnational governments. To make things even more challenging, the emergence of competing public administrations between the East, West, and other areas of the country has led to a web of public institutions

with unclear or overlapping mandates accompanied by a limited technical capacity to execute fundamental primary tasks of government. According to the *World Governance Indicators* for Libya, between 2012 and 2017, the negative effects of these multiple challenges are evidenced by declines in public sector effectiveness, political stability, regulatory quality, and the rule of law (Figure 1).

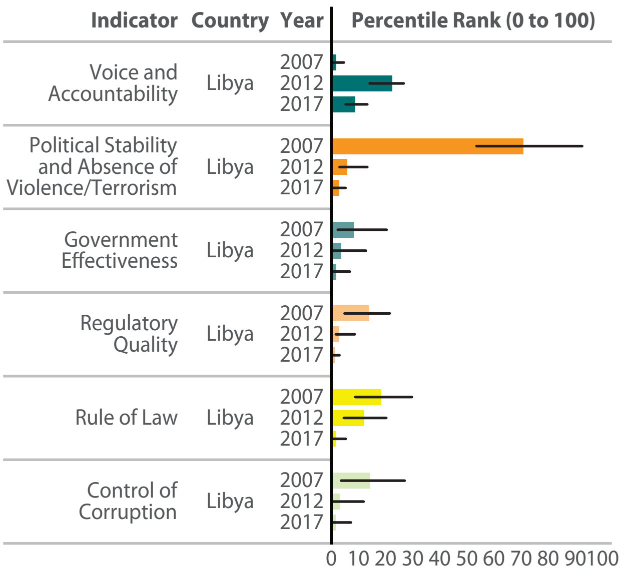
The data also show that basic Libyan local public service delivery has substantially deteriorated over the past several years. Service delivery challenges are further exacerbated along gender lines, with significant differences in

Box 1 Why Public Sector Reform Includes Becoming Intergovernmental

The practice of public sector reform is framed by an understanding of why and how citizens come together to collectively to address four core components of the fiscal "common good"— to provide for (i) their country's macroeconomic stability; (ii) an enabling framework for economic growth and development; (iii) the equitable distribution of income and wealth for classes of peoples and places, and (iv) arrangements whereby they tax themselves in order to supply a set of agreed upon community—demanded "public" goods and services that the private market system fails to provide. As both the theory and practice of public finance and public financial management attest, it takes more than one type of collective organization, thus, more than one type of government, to adequately and efficiently address these core matters. It further requires addressing how these different types of governments fit together as system of governments. That is, it is intergovernmental. As Bahl (1999) notes, the goals are for "all the pieces to fit together" The study of the form and degree of being intergovernmental is conventionally referred to study of the degree and variants of "decentralization" or of "localization"[a].

[a] World Bank (1990–2000).

FIGURE 1 World Governance Indicators 2007–2017



access and outcomes. Some reports suggest that there is a significant difference in girls' access to education in urban areas as compared to rural areas, as well as across the different regions in Libya. In this regard, access is more restricted in the south and other areas outside the northern coastal belt. Likewise, conflict and insecurity have led to a rapid deterioration in access to health services, directly affecting women's access to reproductive and maternal health services.

Against this background, the purpose of this paper is to briefly summarize the goals and content of the *Libya Local Governance Forum LGF),* which was held in Tunis, Tunisia in September 2019. The impetus for convening the LGF was to (i) highlight the main challenges to local governance in Libya by building on a recently conducted report on *Supporting Peace and Stability in Libya,* hereafter referred to as *Mapping Exercise (2019)*; (ii) describe the support mechanisms and programs currently supported by the international community; and (iii) further identity key themes and topics for Libya's public officials, other citizen stakeholders, and international partners to consider in designing a strategic approach to designing a system of intergovernmental fiscal arrangements.

II. Recovery and Peace Building Assessment Mapping Exercise

On August 29, 2018, the Government of National Accord (GNA) requested technical support from the European Union (EU), the United Nations (UN), and the World Bank Group (WBG) to undertake a Recovery and Peacebuilding Assessment. In response to this request and recognizing the commitment the three organizations have made to collaboratively respond to such requests, the Mapping Exercise was initiated to assess the existing body of work and data on the situation and needs in Libya. Specifically, the objective of the Mapping Exercise was to compile a comprehensive overview of the existing information and data regarding the status of each sector in Libya and the related institutional setup. As such, it considered the country's needs as formulated in the literature, as well as ongoing and planned interventions. It took as its starting point the significant body of analytical and data work carried out by the experts in Libya and the international community in recent years.

The Mapping Exercise report covers 26 sectors across 7 thematic areas. A crucial area of the study was to better understand the local governance landscape. As such, the report reviewed a large body of work, including the EU's 2017 "Libyan Local Governance Case Studies" of the cities of Zwara, Suq Aljumaa, Zliten, Misrata, Benghazi, and Albayda; the 2017 "Core Government Functions Assessment" drafted by the United Nations Development Programme (UNDP), which focuses on issues and priorities for local governance;[1] and the "Institutional Mapping of Service Delivery in Libya" by the World Bank in 2014.[2] Other sources include laws and decrees, project documents, and reports by the United States Agency for International Development (USAID), the UNDP,[3] and the Centre for Innovative Local Governance – International Agency of the Association of Netherlands Municipalities (CILG-VNG).[4]

To complement this desk review of secondary sources, a core technical team travelled to Tunis to conduct a series of interviews and consultations. The team used these interviews to refine, clarify, and deepen the information collected through the literature review, as well as to map the existing information and sectoral status. The team also used these discussions to generate an overview of the support currently offered by international donors and development partners. Seeking to better understand the systems in place to assure good coordination of international support, the team met with more than 70 stakeholders and carried out 33 interviews. The set of stakeholders encompassed a wide range of humanitarian representatives, development experts, peace actors, and bilateral partners.

Legal and Institutional Underpinnings for Local Governance in Libya[5]

As a first task, the Mapping Exercise evaluated the current status of decentralization in Libya, including the legal framework, key institutions, and related stakeholders. At the core of this is Law No. 59 *Concerning the Local Administration System*, which was passed by the National Transitional Council after the revolution in 2012. The Executive Regulation of Law No. 59[6] and Cabinet Decree No. 130 of 2013 issuing the executive regulation of Law No. 59[7] subsequently established a new local government structure composed of provinces, municipalities, localities, central government deconcentrated units called Executive Offices (EOs), and specialized committees of provinces.

According to Law No. 59, provincial councils are tasked with the province's oversight, guidance, control, and follow-up of administrative and financial affairs. They are also responsible for the general oversight of municipal activities and the various utilities and activities that by law fall under the province's jurisdiction.[8] Municipalities are charged with the oversight of enforcing municipal regulations and establishing and managing public utilities related to an array of sectors, including urban planning, health and social affairs, water utilities, lighting, sanitation, roads, public hygiene, gardens, public markets, recreational areas, and construction permits. Furthermore, municipalities are to be responsible for the following functions: civil registry affairs; regulating the municipal guard, local markets, and slaughterhouses; issuing local permits; monitoring the environment and public health; and establishing and managing small business incubators.[9]

Law 59 (2012) also calls for creating a Regional Planning Council and a Supreme Council for Local Administration (SCLA). The latter shall coordinate national and subnational levels of governance under the Ministry of Local Governance (MoLG). The accompanying *Executive Regulation of Law No. 59* provides additional information and guidance regarding topics such as the general competencies of the Local Administration Units, the administrative

[1] UNDP (2017c).
[2] World Bank (2014).
[3] UNDP (2015).
[4] CILG-VNG (2017a, 2017b).
[5] This section is replicated from the findings of the RPBA mapping exercise, conducted in the spring 2019.
[6] Executive Regulation of Law No. (59) of 2012 on the Local Administration System attached.
[7] Cabinet Decree No. (130) of 2013 issuing the executive regulation of Law No. (59)/ 2012 on the local administration system.
[8] Executive Regulation of Law No.59 (2012) on the Local Administration System attached to Cabinet Decree No. (130) of 2013.
[9] Article 25 of Law No. 59.

relationship between decentralized and deconcentrated units, and the duties and compositions of the Shura and provincial councils.[10]

Despite being included in the legislation, the provinces, the SCLA, and the Regional Planning Council have yet to be established.[11] Until provinces are established, Law No. 59 of 2013 stipulates that municipalities are granted provincial responsibilities.[12] However as noted, Law No. 59 was designed with the intention that regions (or governorates) would act as an intermediate form of government, which shall be entrusted with the competencies of ministries (E0s). As a consequence, and due to the absence of associated secondary legislation and the existence of conflicting legal guidelines,[13] the MoLG, other ministries (such as Planning, Finance, and Public Works) and state-owned enterprises (SOEs) retain their control over the municipalities.[14] The EOs are present in municipalities, and typically collect the "local taxes", and control municipalities' budgets and decisions, including through a veto right.[15] Consequently, services such as water, electricity, and waste collection remain under the financial and executive control of the national ministries.[16]

Law No. 59 also defines how municipalities can generate and receive funding. The different sources of municipal revenue include own-source revenues (for example, rents, income from municipal investments), shared revenues (for example, custom duties and transit fees), fiscal transfers from the central government, and other sources (for example, fines from the sale of confiscated assets).[17] However, the legal provisions and implementing rules and regulations to implement Law No. 59 are not in place. Furthermore, even if they were, there are several concerns arising from the law itself. These include the fact that only the population criterion is considered for elaborating the amount of state transfers to each municipality, which favors smaller, rural municipalities over larger urban ones.[18] Also, state transfers do not include funds for capital projects, which limits the municipalities' investment capacity.[19]

Key Issues Related to Local Governance in Libya[20]

Based on the findings of the Mapping Exercise, a number of structural and institutional challenges have been identified that impact the local governance landscape in Libya. While not an exhaustive list, key issues noted include the following:

- Limited Public Administration Capacity: Most municipalities lack administrative structures to adequately deliver services.[21] Municipal administrations often have few experienced staff members because staffing is based more on patronage than merit.[22] In addition, there is an unequal distribution in the municipality workforce; some municipalities have an oversized workforce, but others lack staff.[23] Finally, there is a lack of clarity regarding municipalities' boundaries, leading to difficulties in planning and implementation that can in turn result in contestations among mayors.
- Limited Municipal Fiscal Resources: Fiscal resources available to municipalities remain low, centrally controlled, and unequally distributed among localities. As such, they are unable to sustain their empowered functions as called for by Law No. 59.[24] In particular,

[10] Executive Regulation of Law No. (59)/2012 on the Local Administration System attached To Cabinet Decree No. (130) of 2013.
[11] UNDP (2017), 8.
[12] General National Congress Libya, Law No. 9 (2013) amending Law No.59 (2012) Concerning the Local Administration System.
[13] European Union Delegation to Libya (EUD) (2017); UNDP (2017).
[14] UNDP (2017c), 20.
[15] UNDP (2017c), 20.
[16] EUD (2017), 12.
[17] UNDP (2017c), 53.
[18] UNDP (2017c), 27.
[19] Additional bodies exist at the local level. Law No. 51 includes the establishment of Shura Councils, whose function is to advise the municipal council on matters related to local governance (with no voting rights). Furthermore, parallel political and security bodies exist (for example, the Social Council in Bani Waleed, the Higher Social Councils in Ubari, and the Military Council in Misrata), which can play a significant role in resolving local disputes and ensuring local justice. Finally, localities that host many internally displaced persons (IDPs) often have local crisis committees, gathering various local stakeholders (for example, CSOs, non-governmental organizations (NGOs), EOs, armed groups, municipality officials) to coordinate the humanitarian response (UNDP 2017c).
[20] This section is replicated from the findings of the RPBA mapping exercise, conducted in the spring of 2019.
[21] UNDP (2017c), 21.
[22] UNDP (2017c), 21.
[23] UNDP (2015), 5.
[24] UNDP (2017c), 21.

the MoLG provides minimal support to municipalities, largely because the MoLG budget is itself based on the budget projections of the governorates (which have not yet been founded) and would be informed by municipality budget projects. Before the conflict, municipalities (*shaabiyat*) received little support from the MoLG; however, since the conflict, municipalities have received almost no support. At the same time, the municipalities' ability to generate revenue is limited.

- Competing Power Structures: Amid the conflict, some municipalities have become militarized: for example, nine elected mayors were removed by the Libyan National Army (LNA) and replaced by mayors appointed by the military.[25] Also, local-level power vacuums have in some instances contributed to the emergence of parallel bodies in the form of social or military councils. These bodies can have a stabilizing effect on communities[26] when they cooperate with municipal councils (such as by signing social charters), and can also help reconcile neighboring communities (by signing peace charters). However, they can also undermine a municipality's legitimacy by competing with it and threatening its independence.
- Uneven Levels of Participation: Women, youth, and ethnic minorities are not equally represented in the decision-making process,[27] despite legal provisions to ensure at least one seat for women and one seat for veterans who were disabled in the revolution. For instance, according to the 2015 UNDP survey, although the 18–30 year age group represents 32 percent of the Libyan population, this group accounts for only 20 percent of municipal employees and 20 percent of council members.[28] Nevertheless, municipalities were seen as the most legitimate local actor for representing constituents (except in Ubari and Sebha, where tribal figures are predominant),[29] and demand for participation in local public meetings remains high.
- Lack of a National Vision: Governmental divides and the lack of a national vision for decentralization complicate the authorities' ability to legislate and regulate.[30] For instance, the plethora of decrees promulgated in 2014 and 2015 regarding the municipalities' internal organization has created confusion and disparities in the ways in which municipalities apply legal texts, procedures, and regulations.[31] Similarly, the lack of security has impeded the ability of staff to travel, worsening communications between the central government and the regions.[32]
- Analytical Gaps: Based on the main documents and considering the views expressed by experts interviewed, there are remaining analytical gaps with respect to the political, fiscal, and administrative aspects of decentralization. Moreover, there is very limited information regarding public financial management (PFM) at the municipal level, notably in terms of the treasury, procurement, and audit functions.

III. Support from the International Community[33]

Given the wide array of challenges, the international community has been engaging in the local governance sector for quite some time. Accordingly, the Recovery and Peacebuilding Mapping Exercise has identified a number of support programs that have already been launched to support local governance in Libya. Key donor interventions in the sector include the following:

- European Union: European Union (EU) support to municipalities focuses on restoring public services—including rehabilitating key health/education infrastructure, restoring public spaces, and so on. It also entails building administrative capacities within the municipal councils, including those related to planning, budgeting, and management. In selected pilot municipalities, EU support has contributed to local economic development through support to vocational

[25] UNDP (2017c), 14.
[26] World Bank (2018c).
[27] UNDP (2017c), 33.
[28] UNDP (2017c), 33.
[29] Center for Insights in Survey Research (CISR) (2016), 19.
[30] CISR (2016), 19.
[31] CILG-VNG (2017b).
[32] CILG-VNG (2017b), 26.
[33] This section is replicated from the findings of the RPBA mapping exercise, conducted in the spring of 2019.

training centers and small and medium enterprises, while in others, one-stop shops for municipal services (for example, permits, civil registration, and so on) have been established. EU-financed programs are currently active in 49 municipalities across Libya.

- USAID: Through the Libya Economic Stabilization Program (LESP), USAID works to improve the PFM capacities of 24 municipalities, including the creation of a Municipal Budget Planning and Monitoring Unit within the MoLG. The LESP also works to improve service delivery through medium-term strategic plans in primary health care and solid waste management. USAID has also funded the International Republican Institute's (IRI) survey on elections, service delivery, and poll of citizens' perceptions at the municipal level.
- UNDP: The Stabilization Facility for Libya (SFL), managed by the UNDP, aims to provide tangible "quick-wins" by implementing projects at the local level, such as rehabilitating critical infrastructure and restoring services. It does so in close collaboration with local governing institutions. The UNDP also supports activities to increase civic education and voter turnout in preparation for local elections as part of its support to the Central Commission for Municipal Council Elections.[34] Through its capacity strengthening initiative, the UNDP also provides technical assistance intended to strengthen the national government's capacities and develop institutions for improved service delivery at the national and local levels.
- German Embassy and German Development Cooperation (GIZ): GIZ activities aim to support the decentralization process by dialoging with key national players (for example, sectoral ministries, national entities, SOEs, municipalities, the private sector, and CSOs) to achieve an agreement about a form of local decentralization. GIZ also supports municipalities through small-scale service delivery projects and the offering of capacity building to local councils, municipalities, and some ministries such as the MoLG. Likewise, the German Embassy takes a leading role in co-chairing the local governance sub-working group, which seeks to coordinate donor support for local governance in Libya.[35]
- World Bank: The World Bank supports improved local governance and service delivery by providing technical assistance and assistance in organizational, institutional, and human capacity-building. This work will include the development of key analytics around the fiscal, administrative, and political arrangements of local governance. With respect to the fiscal dimensions of local governance, the primary focus will be on the public administration aspects of budget planning and execution, revenue administration and human resource development and management. Analytic assistance will also support stakeholder network analysis and citizen engagement mechanisms (social accountability) as a means to improve the transparency of governments (public accountability). In addition to this analytic work, the World Bank will continue to support public sector reform dialogue through workshops, training, and relevant forums.
- British Embassy/Department for International Development (DfID): Support for local governance in Libya is currently being designed around three pillars: (i) strengthening the capability of the Executive at the central and municipal levels to implement the emerging local government and decentralization agenda in Libya in a conflict sensitive way that supports stability; (ii) improving working relationships between the MoLG and local municipalities, as well as with the central line ministries to strengthen governance and service delivery arrangements at the municipal level; and (iii) supporting sub-national government services to be more responsive to peoples' needs through the incorporation of reconciliation and peacebuilding approaches into local development planning, as well as by ensuring that the needs of women and youth are better understood and their participation accordingly increased.
- Netherlands: CILG-VNG activities aim to improve the management of selected municipalities, improve municipalities' service delivery efforts, and ensure that

[34] UNDP (2019).
[35] This sub-working group is one of the two sub-working groups under the governance working group chaired by the Ministry of Planning and co-chaired by the UNDP.

civil society is empowered to better interact with and contribute to the work of the municipal councils.

- Italy: The Italian government support is directed toward improving service delivery in Tripoli and other municipalities through Quick Impact Projects (QIPs). It also plans to offer this and similar capacity-building activities to 24 other municipalities.

IV. Libya Local Governance Forum: Defining a Strategic Approach

Given the challenges highlighted above related to political, administrative, and fiscal decentralization, the lack of a national vision, and key data gaps, it is evident that a strategic approach needs to be articulated for the medium-to long-term in order to guide reform efforts around local governance. Moreover, given the large number of international partners involved in the sector and their diverse technical assistance and capacity-building activities, such an exercise will be particularly useful in defining key priorities and areas for support to harness complementarities and avoid overlaps.

The *Libya Local Governance Forum* was designed to achieve three reinforcing objectives. The first was to provide a venue for policymakers and practitioners and to engage with one another in discussing key challenges, priorities, and opportunities in local governance. The second was draw on this discussion in order to further build the knowledge base relating to the political, fiscal, and administrative dimensions of intergovernmental public sector reform. The third objective was to serve as an inclusive activity to generate ideas and solutions support Libya public sector efficiently and effectively deliver regional and local public services.

In order to accomplish these three objectives, the forum brought together a broad group of stakeholders, including central government ministries, municipal leaders, civil society organizations (CSOs), and international partners. Organized as a series of sessions over the three-day period, each session began with a short expert presentation on a series topic that had been agreed upon in advance by government leaders and other Libya based stakeholders and representatives of the international research community. Each session began with a formal presentation on the nature and scope of the selected topics that was then followed by a panel commentary on the topic and an all-participant discussion. To summarize the scope of the issues addressed.

- **A Strategic Approach to Local Governance in Libya:** The first session introduced and identified the key themes, challenges, and issues to be discussed over the three-day Forum. The discussion focused on challenges related to the current local government arrangements; the extent to which existing practice corresponds to the existing legal framework; and, how to choose among the different public-sector reform tasks to addressed when "everything is a priority". Once these and other issues were put on the table, there followed the plenary group discussion among participants to reflect on the issues presented, as well as to suggest additional areas that should be discussed during the remainder of the Forum.
- **Definitions and Distinctions in Local Governance:** The next set of sessions began with a review of the key concepts and terminology of intergovernmental fiscal arrangements—recognizing that while there are universal principles for "getting right" the design and implementation of a functioning system of local governance. Among the topics addressed: variants of intergovernmental (decentralized) systems, administrative discretion versus administrative accountability, modes of service delivery of local public goods and services, the role of civil society organizations, and the merits of establishing a Local Governance Association.
- **Universal Principles and Local Applications:** The Forum discussion then moved to the one of the most politically challenging of the fundamental tasks of intergovernmental reform, that of the question of sorting out which "level" or type of government should provide which type of services Three key messages emerged to frame the discussions: (i) "decentralization" is as much about forming an intergovernmental-capable central authority as it is about subnational (e.g., provincial municipal) governance; it is not a "zero sum " game whereby only

local government matters; (ii) there is a set of universal principles that apply to any society undertaking intergovernmental reform, but that the local applications of these principles will vary within a nation depending a variety of factors that among other things include, differences in geography, resource endowments, degree of urbanization, in some places, culture and history, current or ancient (Bird, 2000); and (iii) decentralization need not, and usually does not, occur evenly across the board. That is, implementation will be "asymmetric". That is, depending on a variety of political, economic, and institutional and organizational realities, different areas of Libya will look intergovernmental different.

- **Existing Fiscal Arrangements in Libya:** Having addressed the broad conceptual framework of what it means to be "intergovernmental" the Forum then focused on how effective currently applied public investment arrangements/practices are in supporting local municipal development, including how to link municipal and national investment budget priorities. Topics addressed ranged from case-study lessons from other countries that have embarked on intergovernmental reform (Libya is far from alone in discussing the pros and cons of the role of "decentralization") to the examination of the technical aspects of intergovernmental (central to local) fiscal transfers and options for developing a system of local own-source revenue mobilization and management.
- **Organizations and Institutions for Reform:** Drawing on the previous sessions, LGF participants engaged in a dialogue on the direct vehicles for organizational and institutional capacity building for furthering a public sector reform process. Among the topics considered were intergovernmental budget integration, the extent to which the Presidential Committee will play a role in reshaping/transforming the system from local administration to local governance, and the importance of a culture of cooperation between the Ministry of Finance (MoF) and the MoLG for a pursuing a well-designed intergovernmental framework pursuant to Article 25 of Law 59 of 2012 that calls for a sorting out of fiscal roles and responsibilities for among type of governments. Recognizing that, at present, local governments have little or no own-revenue authority, the urgency for creating a transparent, sustainable, and place-equitable system of intergovernmental transfers was also discussed
- **Human Resource Management in the Libyan Public Administration:** The Forum then proceeded to examine the key role that Human Resource Management (HRM) plays in the delivery of local public services. Issues addressed included payroll budgeting, recruitment, and career and performance management. Special attention was also given to legal framework of relating to managing civil service employment, pay grading of salaries, and gender diversity.
- **Current Status of Service Delivery in Libya:** Up to this point in the Forum, most of the attention had been given to what can be characterized as broad principles and practices of intergovernmental reform. This set the stage for moving beyond broad principles and to a public service sector perspective. Recognizing that the delivery of most government services requires a large degree of degree of intergovernmental cooperation, the Forum discussion turned to case studies on service delivery in two key sectors: health care (which has national, regional and local features) and solid waste management (largely local and regional). Special attention was given determining which type of local public scope of local service delivery can quickly be improved through establishing a performance standard setting process. Two key messages came out of this discussion. The first was that if Libya is to have any prospects creating a system of reliable public service delivery that at the same time addresses current citizen needs and puts in place a modern stock of physical infrastructure for development, it must become intergovernmental capable. This is true since many public services are "poly-centric" in that their benefits cross-over local and regional borders. The second message, which was well illustrated in the cases of health care and solid waste management, is that although nearly all public services are in some manner distributed locally and thereby requiring capable local governments that citizens can control, there must also be

a strong central ability to monitor, evaluate and lead decentralization

- **Community planning and Public and Social Accountability:** The Forum further discussed the social accountability dynamics related to local governance, recognizing that a necessary condition for a decentralization strategy to be successful is the presence of a reciprocal commitment between the citizens and their governments to make the system work. Topics included a presentation of data on citizen perceptions of local budgets and spending, the social accountability roles that members of the community can play in a system of local participatory budgeting, and the need for public accountability in the use of public resources.
- **The Road Ahead and the Main Components of a Local Governance Policy:** The LGF concluded with a panel of practitioners followed by a robust all-participant discussion of conclusions/recommendations of the entire workshop with an overarching focus on importance of creating a collaborative, transparent, and responsive intergovernmental system for Libya. A key conclusion that emerged from this "wrap-up" session that there is not only a need for further clarity on the roles and responsibilities to be assigned to different types governments, but also that that while convening activities are an important and continuing part of the Libyan public sector reform process, it is time to further emphasize the "how-to-get–it done" public administration aspects of a new era of central and local public financial management.

V. Concluding Comments

The LGF started out with a discussion on terminology, focusing on the variants of the term "decentralization", and, *inter alia*, noting that Libya has one of the most one of the most centralized systems in the world. To give just one of several numbers to attest to this, on average, the world's unitary countries subnational government account for 10% of total public tax revenues—a number that is in clear contrast compared to Libya's nearly complete reliance on petroleum revenues that accrue to the central government (and even these revenues are from a production sharing, and not a tax regime). The numbers are also clear that the wealthier countries in the world tend to be more decentralized and that in some countries, fiscal decentralization as served as strategy for conflict resolution among regions. In short, a commitment to a well-designed and implemented system of "decentralization" as reflected Libya's stated objectives to establish a new system of local administration (Law 59, 2012) has a potentially high payoff.

This said, caution is advised to not let the current public sector reform dialogue get bogged down to a debate over the term or degree of "decentralization". A much-preferred way to go is to take the approach of the LGF, and recognize that for any society, unitary, federal, or confederal, "decentralization" is an *intergovernmental system* whereby central and subnational (e.g., local, regional) governments sort-out as well as share their respective roles. And, there are proven principles and practices to make such system work.

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PAPER 2

Libya Fiscal Decentralization Dialogue: Entering the 2020s

Robert D. Ebel, Former Lead Economist for Local Public Finance, World Bank Institute
Michael G. Schaeffer, Libya Country Representative, World Bank

I. Introduction

History, Context and Challenges

Emerging from a history of colonialism and occupation, the people of the newly established Kingdom of Libya approved the Constitution of 1951 that launched seven decades of intergovernmental reforms, each of which included programs for the sorting out of expenditure and revenue roles among different types of government: central, regional, and local (Daoud, Paper 4). The 1951 Constitution established a three tier-federal state accompanied by enabling legislation for municipal laws and regulations designed to create a system of local self-government. By the 1970s, federalism and local self-government had been replaced by a unitary state characterized by increasing degrees of centralization and intergovernmental deconcentration. Today's Libya is deconcentration without authority governance (Saed, Paper 18).

As Daoud documents (Box 1) below, the past 70 years have been not gone well. It is a history that reveals a continuing struggle between those who prefer an authoritarian regime and those who do not, and the extreme and long term damage that can befall a country due to the intervention of external political players who have no interest seeing Libya become a self-governing and stable

success (Tosun and Yilmaz, 2009). As a result, Libya is still in limbo of a drawn-out political transition process that has left it fragmented socially and institutionally (Merzan, 2018).

There are three reasons why this time it can be different. The first is that for a country to be in a continuing transition is not to say that it lacks a national identity or that fragmentation is a challenge too difficult to overcome. Rather, fragmentation can (and in many places has) become a platform for a results-based consensus for a coming together through a system of intergovernmental fiscal relations that serves as a strategy for national cohesion. Contrary to the common view that the most "natural" nation state is unified and homogeneous entity, such fragmented countries are found throughout the world and effectively functioning using the vehicle of some variant of fiscal decentralization (Lassoued, 3; Bird and Ebel, 2007). It is the homogeneous nation that is the exception. As the World Bank Development Report, *Entering the Twenty-first Century* concluded: when a country finds itself deeply divided, decentralization can provide an institutional mechanism for bringing opposition groups into a formal, rule bound-bargaining process that sometimes serves as a path to national unity. (World Bank, 2000, p. 207–08).

The second is that the economics can work. The empirical evidence reveals that a well-designed and implemented system of fiscal decentralization can (i) improve the efficiency and effectiveness of how a nation uses its scarce resources of land, labor and capital; (ii) enhance economic growth and promote inclusive economic development; (iii) create new space for the private market to operate, and (iv) strengthen the central government's ability to carry out its stabilization and distribution role. This is true for large and small countries alike. However, if decentralization is done badly, the delivery of local goods such as primary health care, solid waste management, clean water, and public safety fail—a series of failures that worsens rather than alleviates poverty.

Third, the global politics are in place. There is widespread global acceptance of the United Nation's *Sustainable Development Goals/2030* (SDGs), nearly every one of which entails some element of intergovernmental service delivery. Key among the highly intergovernmental SDGs: good health, gender equality (including girls' education), quality education, clean water and sanitation, sustainable cities and communities, and infrastructure development. What makes this third reason especially relevant to today's Libya is that the SDG predecessor, the *Millennium Development Goals*, which were also highly intergovernmental, showed measurable progress in reducing the number of people in extreme poverty, reducing gender disparity at all levels of education, improving some health outcomes, and providing people access to education and safe drinking water. (Richie and Roser, 2018). So, the challenge arises: will Libya position itself to be part of this long-term progress as it enters the 2020s?

Purpose and Scope

This paper has three reinforcing goals. The first is to draw on the both the messages that emerged from both this Local Government Forum (LGF, 2019) and the growing set of Libya-focused public sector reform research in order provide an overview of the fiscal decentralization dialogue now taking place.

The second is to identify a set of lessons learned from both the Libyan dialogue and the experience of other nation-states that have worked through the same public sector reform process that Libya is now undertaking.

The third goal is to provide a look at Libya in the context of the fundamental policy questions that must be addressed by in any decentralization dialogue.

Throughout this discussion reference is made to the ongoing Libyan "decentralization dialogue" and why establishing a well-functioning intergovernmental system is a key to the achievement of Libya's broader public sector reform goals of efficient utilization of economic resources, macroeconomic stability, and provision of the social safety net. This said, "decentralization" can mean different things to different people. (Lassoued, 3). Indeed, despite common use of the term, whether Libya's current public sector reform process is, or is not, labeled "decentralization" is not all that relevant. However, what does matter is that for the country to develop in a fiscally sustainable manner will require some set of pragmatic *intergovernmental* relations that will reflect a combination of (i) a new system of fiscally capable subnational (e.g., local) governments governance and (ii) a strong central ability and commitment to monitor, evaluate, and , in Libya's case, lead reform.

On this matter of terminology, the comment of Dr. John Garang, Commander of the Sudan People's Liberation Movement at the successful conclusion of the Sudan Peace Consultations (July 2002–January 2005) is worth noting with respect to today's Libya:

> "*In the peace process…we sat down ...to negotiate and solve the serious problem of war and peace instead of*

being bogged down in whether we should have federation, a confederation or true federalism. Now that the [peace agreement has been reached] researchers can give the name that they believe best depicts the arrangements...."[1]

II. Where to Start? Lessons Learned

There are five lessons that emerge from the late 20th and 21st Century fiscal decentralization dialogue as it applies to today's Libya.

- **Lesson 1: *A change of government is not a change in a system; rather one of the preconditions for it. Moreover, it is a change that will require a long period of time and adjustment*. (Kornai, 1992).**

  One of the pay-offs for a nation becoming intergovernmentally capable is that it is a system that by due to its mix types of governments can readily adjust to change as a its economic, demographic, and institutional "fiscal architecture" changes (Ebel and Ouelhazi, 5). There are many examples of such change: economic disparities among regions over time (Jelenic and Schaeffer, 1; Saed, 18); how the composition of public service delivery evolves as the private market develops (Catic, 14; Stroux, 16); citizen willingness-to- pay for a new set of local public services that they can observe in their daily lives (Kopanyi, 11); how new central/regional/local organizations and institutions emerge (Leffer-Franke, 8; Jarrar, 15); increased emphasis on the central government as a financer of economic growth—creating infrastructure investment for a diverse population (Almassari and Rundell, 10); and the introduction of social and political accountability mechanisms that bring together the civil society, government officials and civil servants (Al-Gayed, 12) Almassari and Rundell, 17).[2]

  To organizationally and institutionally plan for change, there are two initial steps that Libya can take. The first is to not only continue, but also further institutionalize, the robust continue policy research activity that is underway and is building upon the existing framework that has as broadly framed by Law *No. 59 of 2012 Concerning the Local Administration System* and its accompanying Executive Regulations and Circulars.[3] One can argue that to date there has been too much reliance on advice from external experts and too little on (some yet to be established) local research organizations that focus on intergovernmental fiscal relations.

  The second is to complement the policy debate by systematically complementing, identifying and prioritizing the set of public financial management operations and management that will allow Libya's 21st century system of intergovernmental relations to succeed rather than fail. As Jelenic and Schaeffer (Paper 1) discuss, a priority is that of developing a pragmatic strategic approach of coordinating organizational, institutional, and individual public administration capacity for an intergovernmental system of the finance and funding of public goods and services.[4] One of the several pragmatic starting points to turn to is the joint multilateral/Libyan "Recovery and Peacebuilding Mapping Exercise" of 2019.[5]

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[1] Quote cited in Brockenforde, Markus; Mansour M Elbabour and Tarek Megerisi. *Decentralization in Libya*. Berlin: Democracy Reporting International; Tripoli: SADEQ Institute, and Benghazi: University of Benghazi Research and Consulting Center. August 2013.

[2] Bahl (1999) provides a very nice short essay that lays out a set of *Implementation Rules for Fiscal Decentralization* http://aysps.gsu.edu/publications:

[3] Among the documents to date: *Executive Regulation of Law No. (59) of on the Local Administration System attached to Cabinet Decree No. (130) of 2013* and *Circular No (3) of 2020*.

[4] There is a large and robust literature on capacity building in developing and fragile state nations. For a start the website of OECD.DAC (www.oecd.dac). Among the many lessons learned, three merit notes pertaining to Libya. The first is to be clear on the purpose of a public sector capacity programme. This is particularly true in conflict affected states since focusing on capacity development may be one possible way of engaging different parts of the society in a common task. The second is to recognize that organizational (how the all the intergovernmental parts fit together as system) and institutional (the implementation process that includes laws, rules, and regulations) aspects of capacity building "lead". Building individual (human skills) is the easy part. Third, developing capacity is a long-term process, one that cannot be led from the outside; it must be owned and led by the very people that benefit, though they can be assisted by external support.

[5] The formal name of the "mapping exercise" document: *Supporting Peace and Stability in Libya: A Compilation of Existing Analysis on Challenges and Needs.*

- **Lesson 2. *Universal principles to local applications*.** There is a set of *universal principles* for getting decentralization right. However, the *local applications*—the practice—of those principles will vary from case to case and sector to sector (Bird, 2000). If all subnational governments within a nation happen to have the same set of demographics and economies and the capacities for carrying out expenditure responsibilities and raising revenues, then uniformity of practice works. But, the reality is that uniformity is not a necessary, nor even, desirable condition for effective decentralization (Bird and Ebel, 2007; Bahl, 1999). The typical case is that some subnational governments (SNGs) are more prepared to be decentralized than others. For example, in Libya's present circumstances, some former governorates and now large municipalities are better positioned to function as governments compared to the now just being established local governments that need time to develop. Some places need to "grow into it" (Bahl, 1999).

  Indeed, when examined closely, virtually every country, whether federal or unitary, large or small, shows some degree of asymmetry in their decentralization practice (Box 3). It is an asymmetry that may be permitted by law (constitutional and/or statutory) or that simply evolves overtime through a social compact that adjusts for differences in the economics of place (e.g., urban vs. rural, resource rich vs. poor), demography (age distribution and/or factors such as ethnicity, language and religion), economic structure (natural resource dependent or diversified), and/or financial management capacity. Such *asymmetrical decentralization* is consistent with both a top-down approach to decentralization (e.g., Egypt) and a bottom-up bargain for increased autonomy as a condition of national union (e.g., Canada).
- **Lesson 3. *It is a system of government.*** Fiscal decentralization is about a central and subnational government coming together in a *system* whereby central and subnational governments alike can become financially stronger. It is not to be approached as a "zero sum" game" whereby a central government is made financially weaker or subnational units are incentivized to leave a union. Rather, it is a power and wealth sharing arrangement that, as other nation states have shown, can not only lead to the effective and efficient delivery of public goods and services, but also to a fiscally sustainable central authority. Moreover, decentralization is not only about sorting out financial roles and responsibilities among governments, but also about non-fiscal matters including land use zoning and community development planning, civil service arrangements, and the institutional relationship a government that funds a local service and the instrumentality (which may be non-governmental) that provides the service. (Al-Gayed, 12; Almassri and Rundell, 10; Catic, 12, Ouelhazi, 13).
- **Lesson 4. *The way that governments become intergovernmentally capable is by being allowed to be capable.***[6] For the intergovernmental fiscal system to work, subnational governments must demonstrate the capacity to perform the tasks assigned to them; and the way they become capable is to allow the SNGs to perform those functions (Saed, 18). The same lesson applies to the central authority—that for decentralization to work, national authorities must also develop capacities—often new to them—to allow them to perform the functions of enabling and coordinating a system of intergovernmental fiscal relations.

  However, at present, this is not the Libya practice. A message that was pressed by the Mayors and other local government representatives during the LGF was that the central authorities are not allowing, let alone assisting, municipalities to perform the most basic functions of Public Financial Management (PMF). Thus, it was not until August 2020 that the Ministry of issued a Decree authorizing municipality to collect fees and to open their own-source revenue bank accounts.[7]

  In addition, there is the important matter that the demarcation of the borders of municipalities and provinces remains in flux. There are well defined provincial borders that go back to Quaddafi era (2010) but are not yet recognized—a feature that reflects a thinking

[6] Paraphrasing Sen on democracy (Sen, 1999).

[7] Circular No (3) of 2020. Reference Bumarati.

about redefining the borders based on demographic, socio-economic factors for better income and wealth distribution.

- **Lesson 5. *Accountability.*** If fiscal decentralization is to achieve its intended goals of efficiency, effectiveness, and national cohesion, it must be accompanied by policies to ensure SNG budget discretion and *public fiscal accountability*—the explicit linking of, and reporting on in an transparent way, the uses and sources of funds and receipts (Yilmaz, *et al*; 2010; UNECA 2010). In turn, citizens must accept their social *accountability* role to develop tools and processes for citizen voice and participation regarding how their governments operate, perform, and report (Almassri and Rundell, 17; Saed 18; UNECA, 2010). A requirement for satisfying the goals of both political and social accountability is a citizen right of free assembly and dialogue (Stroux, 16).

III. A Strategic Approach

There are four fundamental questions common to all countries undertaking intergovernmental reform (Bahl and Bird, 2018; Bird and Vaillancourt, 1998). This is true for unitary, federal, confederal, and conventional and traditional models alike (Alzahrani, 7). The format of this section draws on these four questions as a way of illustrating both the policy and the public financial management agenda for addressing the pre-conditions developing a well-functioning Libyan public sector system. Although the four questions are posed in a logical "way-of-thinking" sequence, it does not follow that reform should be piecemeal rather than comprehensive (Jelenic and Schaeffer, 1; Bahl and Martinez-Vazquez, 2006).

On to the four questions:

- ***Expenditure Roles*:** Which type of government, central, middle tier, and local (general and special purpose district), shall be responsible for delivering which set of public services (in the jargon, "competencies)?

  Policy. In many cases, the delivery of "local" public goods and services is *polycentric.* That is, the financing and funding—the expenditure side of the budget—has an interjurisdictional character. Consider, for example, the that it is not only physical infrastructure projects that cross jurisdictional borders (Box 4), but also many social services draw on support from "other" jurisdictions (Ouelhazi, 13). Moreover, the nature of this cross-border flow changes overtime as service demands and supply costs change.

  Although a checklist in a matrix format of "expenditure assignment" among governments is helpful for getting a first glance sense regarding "which government should provide which type of public service", a checklist is destined to over-simplify and, as a result, cause confusion and, thus, an excuse to delay public sector reform. Even in the case of primary education, a function that is generally agreed as a "local", gets intergovernmentally quite polycentric in its application (Ebel, 6).

  In addition to the polycentric nature of local service delivery functions, further considerations such as the presence of service "spillovers", economies of scale in producing services and budget management capability lead one to conclude that nearly all "local" public services entail some degree of intergovernmental overlapping (Ebel, 6; Leffer-Franke, 8; , UNDP, 2015). Sorting out spending roles is far more complex than the conventional checklist that one often sees in the literature suggests.

  PFM Practice. Interpreting the law. Recognizing that the danger of over-simplifying the "assignment" question reveals two potential challenges with interpreting Law 59/Chapter 4/Article 25 on Municipal Functions, which starts with the sentence that "In general, the municipality may be in charge of…" [eighteen (18) functions].

  The first challenge is to get clarity on whether the listing of the eighteen Article 25 functions is to be interpreted as a permissive set of public activities, including the granting the to a municipality the authority to (i) engage in a joint-service delivery arrangement, and/or (ii) "turn back" the responsibility to a "higher level" of government. As written, Article 25 appears to be permissive due to those first two words: "In general…." Suffice it to say, depending on how "*In general* …" is interpreted makes these two words among the most important words in Law 59 (2012).

The second challenge that arises when, as is the case with Article 25, some traditionally-understood-to be local functions are left off the statutory list of competencies. Thus, Article 25 does not mention education (pre-primary, primary, vocational, or tertiary) or public safety.

Nonetheless, for good reasons—again the universal principle regarding how to treat the spatial benefits of a public service—these functions have a largely local component (Ebel, 6; Leffer-Franke, 8). The writers of Article 25 may readily agree that "education" and "public safety" are to be added to the list of 18 and, thus, is a matter easily remedied. But, then, what about other omissions that are sure to arise as the fiscal architecture of Libya changes (e.g., think of the changing intergovernmental expenditure roles as sea level rises and artificial intelligence technology changes the scope and nature of the delivery of local public goods and services such as education and health)?

One way to promote expenditure role clarity is to discard the approach of coming up with a statutory list of permitted SNG functions and instead just identify the functions that are off-limits—prohibited—as a SNG municipal function. It is not difficult to get start on such "shall not" SNG activities: e.g., issuing money and regulating its supply (central banking), national border controls (including the levying of customs taxes and fees), and establishing a central authority monopoly over state-sponsored violence.[8]

PFM Practice. Expenditure Management Systems. Whereas budgets are political documents, PFM is, as its name indicates, about operations and management rather than policy (Pretorius and Pretorius, 2008; Freire, 2014; Schaeffer, 2015–1; Prakash, 2019). The list of PFM components is long and interrelated: from accounting systems (there are variants) and procurement practices, to establishing procedures for cash management, internal control and external auditing, and distinguishing between an operating vs. capital expenditure. For a *Budget Toolkit* guide refer to Schaeffer (2014, 2015-2).

- ***Revenue Authority*:** Which type of government shall have the authority to impose/levy which type of 'own" revenues?

Policy. The first policy point to make about the decentralization of revenue authority is that for the Libya central government to be financially sustainable, the center not only needs to diversify its own revenue structure, but also assign SNGs the role to collect taxes that require local knowledge as to the nature, location, and size of a revenue source.

There are two key reasons for an intergovernmental "tax mix" approach. The first is that some governments are far better placed organizationally and institutionally to utilize a certain revenue source that are others. A primary central government example is the control of a value added tax base, which requires tax payments and rebates adjustments at the borders of the tax levying jurisdiction, a practice that requires identifying and measuring a multi-jurisdictional flow of taxed vs. untaxed goods and services.[9]

But it is also the case that SNGs are far better situated to generate many types of public revenues that is a central authority. Two primary examples are the tax on real property, which is on an immovable tax base (particularly the land part of the tax) and user fees and charges levied on an observable flow infrastructure service. The policy question that arises for Libya's current system of deconcentration—without—authority (Saed, 18) will, in its own financial interests, 'assign' or "permit" SNGs to develop some form of own revenue sources (Box 5; Bird, 2011).[10]

A lack of statutory permissiveness does not appear to be a problem in the statutory language pertaining

[8] This discussion pertains to getting the statutory policy language right. The resulting statutes can be accompanied by technical memorandum to indicate the intent of the law. A checklist way-of-thinking can serve as a good and important policy guide, but such narrow language should not be incorporated into the law.
[9] https://www.imf.org/external/np/fad/tpaf/pages/vat.htm. Libya is not one of the VAT countries. As of 2018 more than 160 countries (including countries with populations less than Libya's 6.5 million) small countries, employ a national VAT or, as referred to in some countries, a Goods and Services Tax (GST).
[10] There are also examples of central/SNG tax base sharing. For a review of the intergovernmental sorting out of revenue sources, see Bahl and Bird, 2018, Part III.

to the *Financial Resources of Municipalities* (Articles 51 and 52). Here the statutory language is explicit: "municipal resources shall include…other resources prescribed…." What remains unclear is what revenue role the provinces will play (Chapter 6, Article 49, and *Financial Resources of the Provinces*). (Box 4).

PFM Practice. A fundamental rule frames the relationship between revenue Policy and PFM: *Tax Administration is Tax Policy.*[11] What this rule says is that the way in which revenues are administered is, *de-facto* how the "real world" of taxation and tax policy works (Junquera-Varela. *et al*, 2017). Indeed, this rule of public administration—that practice is de facto policy can be applied to any public sector activity. Catic (Paper 14) and Jarrar (Paper 15) illustrate this point regarding solid waste management: the government prepares the plans and draws up the budget as sets the policy standard, but the how the policy is implementation depends on the performance of a separate set of service providers.

As noted above, two typically employed SNG revenue sources are (i) the tax on real property and (ii) beneficiary user fees and charges. Law 59 (2012) appears to be clear in permitting the provincial and municipal use of charges and fees (Article 49 for Provinces, 51a for municipalities); and maybe, too, for property taxes (e.g., for municipalities Article 51p.). In both cases, charges and fees and the tax on real property satisfy the Matching *Principle* that those persons (or persons acting together through institutions) who benefit from a flow of public services should be those who should also pay for those services. But to note that these two revenue sources make fiscal sense as a local revenue, is not to say that they can therefore be easily implemented.

Consider the steps that must be addressed to allow implement a real property tax.

Tax policy:

Tax Yield = Legislated Tax Base (LTB) * Tax Rate

Once given this policy directive, PFM comes into play. The first step for the SNG Office of Revenue Administration is to determine the LYD number for the Tax Base. There are several approaches for making a measurement of the taxable base. The primary ones are area covered and market value. Kopanyi (11) suggests an Area Based approach, which is the method Tunisia employs. For purposes of this illustration the term *Initially Assessed Base (IAB*) is used here.

Determining the LTB requires the tax Administrator to put together a Cadastral Map—a census of land and buildings—that identifies all the properties within the taxing jurisdiction. This allows a Tax Identification Number (TIN) to be assigned to each property; ideally to the owner of each property.

Once the Cadaster is in place, there must be an administrative adjustment for the proportion of properties included in the taxable base (the "Discovery" process can be challenging, especially at the initial data base building stage). This is the task of computing a *Coverage Ratio.* Next comes the *Collection Ratio*, the proportion of the base that the tax administrator tax can successfully identify for the purpose of sending a notice of tax due using to each taxable property. The *Collection Ratio* is likely to be quite low at the start as taxpayers and tax administrators alike get used to the process. Finally, area-based taxes are often adjusted for location to consider the fact that the same sized property in a commercial area or wealthy residential area man be more (or less) "property wealthy" than some other areas. This is Kopanyi's *Zone Factor*.

So now:

Taxable Tax Base = LTB* Coverage Ratio*Collection Ratio* Zone Factor

The next step is for the local government to set a tax rate (or different rates—further complexity matter beyond the scope of this Discussion Note; Box 6). The Tax Rate is calculated by recognizing the two pieces information: (i) required tax yield determined by the Office of the Budget and (ii) the computed Taxable Tax Base. With this information, the tax rate arithmetic is:

[11] The *Tax Administration is Tax Policy* quote is attributed to IMF expert Milka Casanegra de Jantscher; see Bird and Casanegra de Jantscher, 1992; Bahl and Bird, 2018).

Tax Rate = Expected Tax Yield/Estimated Tax Base

Once the Office of Tax Administration (OTA) determines the required yield tax rate, that information is transmitted to the policymakers for approval or adjustment. Note that determining the tax rate is part of the PFM task for the OTA. That is for a given LYD yield, the tax rate is Taxable Tax Base determined, not rate determined.

But, the tax administrator is not done yet. Among the next tasks is to (i) send out the tax bills to each TIN (and for that, a reliable set of street addresses and a postal delivery system helps a lot; but there are alternatives); (ii) establish an enforcement mechanism including penalties for non- or late payment and (iii) set up a taxpayer appeals process.

Given this complexity, nearly all countries come up with some form of intergovernmental co-administration—a cooperative division of functions that can combine local autonomy and familiarity with local conditions and the joint-pooling of technical skills. Recognizing that the fundamental requirement for the property tax to be local tax is that the tax rate determined locally, different countries cooperate differently.

McCluskey, Cornia and Walters (2013) identify four property tax administration variants (dominant roles) along with the following examples:

- *Central Assessment and Central Collection*: Albania, Armenia, Czech Republic, Estonia, Cyprus, France, Georgia, Indonesia, Jamaica, Jordan, Latvia, Portugal, Singapore, Sweden, and Russia.
- *Central Assessment with Local Collection:* Austria, Columbia, Denmark, Kenya (except largest cities), Turkey and New Zealand;
- *Local Assessment and Central Collection:* Slovenia and Tunisia; and
- *Local Assessment and Local Collection:* Brazil, India, Italy, Japan, Greece. Kenya's largest cities, Mexico, Netherlands, Philippines, Slovak Republic, Switzerland Romania.

Why would a local government want to take on administration? There are two reasons. The first is that local officials feel they cannot count on the central government make a sufficient effort to get the valuation right; thus, the locals prefer to have control over the at least the discovery, billing and collection parts of the process. The second is that is it often the case that local officials do not want the central authority to have the detailed information about their real estate markets (e.g., who owns which parcel). This second reason is especially germane in some conflict-affected areas.

- ***Intergovernmental Transfers:*** What is to be done when, one sums up the amount of LYD required to answer the expenditure and revenue assignment questions, the expenditure number is greater than the revenue number?

This inequality if own "fiscal imbalance" is the typical case in all but the wealthiest and high-income jurisdictions. There is no a *priori* reason to expect an equality between expenditure and revenue assignments, which are driven by different place-specific demographic, economic, and institutional factors (Ouelhazi and Schaeffer, 9; Kopanyi, 11; Saed, 18. Warner, 19).

Policy. There are two imbalances inherent in a system of fiscal decentralization. The first is a *vertical fiscal imbalance*: the fiscal reality that, due to the cross-border (national and local) mobility of final products and the factors of production, the central authority typically has access to the nation's most productive tax. This is the case in Libya whereby, at present, nearly 99 percent of total public revenues are generated through cost/profit sharing regime. And, it is a reality that is will continue until the SNGs become PFM capable.

The second is a *horizontal fiscal imbalance* that occurs when the differences in expenditure needs and revenue-generating ability vary across similar types of subnational governments since some jurisdictions are more tax base rich and/or less need impacted than others. This reality sets up the argument in support of some form of transfer formula that equalizes the different revenue generating capacities of different SNGs

The presence of these two imbalances make the case for "rebalancing" through a system of intergovernmental transfers—grants—in the form of fiscal flows between and/or among types of governments. In practice, these flows almost always move from "higher" to "lower" tiers of government (Ouelhazi and Schaeffer, 9). And, again, there are universal principles that apply in order to design the local application (Kopanyi, 11; Saed, 18; Werner, 19).

PFM Practice. Addressing these two imbalances requires the establishment of a system of transfers, some of which may be fully unconditional while others will require some explicit funding spending conditions imposed on the grant-receiving government. Plus, once this grant system in place, the granting government will, or ought to, appropriately design a system of grant fund monitoring and evaluation (Vu and Ebel, 2016).

Suffice it to say, Libya's present PFM challenge is to keep the transfer system simple and transparent. In doing so, it is most important to avoid political credit allocation whereby officials in the higher level/grantor government disproportionately direct transfers to political allies with little or no attention to criteria of economic efficiency or fiscal equity.

Saed (Paper 18) details the Libyan policy problem and practice challenge: at present, only municipalities receive funding from the central government's budget through fiscal transfers made by the Ministry of Finance to the MoLG, which in turn transfers a lump sum to municipalities that reportedly follows a formula that provides for a degree of horizontal equalization that is based on population and geographic area. However, the implementation of this formula faces two major problems: lack of the pre-condition of an updated census data (the last census was conducted in 2006); and no clear demarcation of the boundaries of municipalities and provinces.

- ***Borrowing and Debt:*** How will the timing of receipts be handled for the purpose of financing capital expenditures?

  Policy. Whether in Libya's existing and emerging SNGs are, at present, well enough developed as governments to take on debt for financing capital expenditures will be a matter of their meeting a set of "creditworthiness" standards. For now, for many now-being-established Libya SNGs, there is no such readiness. Moreover, it will take a long time to become borrowing creditworthy and debt management capable. This said, it is not too early for an SNG to identify what it will take to become creditworthy so that creditworthiness variables can be considered when building PMF capacity in spending and taxing (Barati-Stec, 2014; Freire, 2014)

  PFM Practice. There are several organizational and institutional approaches that central governments use to finance capital investment (infrastructure), most of which are typically delivered to citizens by their subnational government or governments. For now, for Libya to even get to the subnational borrowing and debt management stage, there are two further pre-conditions: (i) demarcate the boundaries of the jurisdiction(s) that are capable of engaging in borrowing and debt management provinces and the municipalities; (ii) and be clear and permissive on the SNG expenditure roles and own-revenue mobilization. Once (i) and (ii) are established, the center will still likely have a role establishing a set of rules for monitoring and enforcing a SNG hard budget constraint (Werner, 19; Yilmaz and Ebel, 2020).

Along with addressing all of these questions is that there must be a PFM capacity for Financial Reporting—*inter alia*, a PFM capable Office of the Treasurer (e.g., treasury single accounts, cash management) and an Office of the Controller function (e.g., to pull it all together in a Comprehensive Annual Financial Report). Both offices must function if a government is to have a chance at putting together a Public Investment Management plan (Almassri and Rundell, 10; Schaeffer, 2014).

IV. Concluding Comments

The message that there are several public sector/intergovernmental reform challenges that Libya faces should not be taken seen as an exercise in criticism of the Libyan dialogue. Indeed, the Libyan process is quite robust.

To draw on the historical context and lessons learned discussion, four initial challenges emerge for today's Libya:

- Act on the proposition that if Libya is to have a financially functioning and stable central fiscal authority, that authority must have in place an intergovernmental system of subnational governments that take on/share the task of addressing the Libyan people's expenditure needs and how to finance those needs;
- Recognize that for Libya to succeed in putting together a functioning intergovernmental system, there is the first step of addressing the pre-conditions for change in its public sector system;
- Focus on all three aspects of capacity building—individual, organizational and institutional, with special attention on the latter two (which will define what is needed regarding individual knowledge and skills); and
- Keep on building the intergovernmental fiscal relations knowledge base.

Clearly, how readily these challenges will be met is made much more difficult by the present situation of conflict. But, as some other conflict-affected nations have found, staying-the-course of building a policy and public financial management knowledge base can contribute to strategy for conflict resolution. When the Libyan conflict ends, and it will, and the politics are right, Libya citizens and their governments must have a knowledge base in place and be ready to act.

Box 1 A Brief History of Libya Intergovernmental Systems

- Prior to the Independence of 1951 (December 24), Libya had a history of occupation and colonialization, and along with that a system of governance that fit the needs of the occupiers: Islamic and Christian prior to a three and a half centuries of Ottoman control (1151–1911); Italian colonialization (191101947; Post WWI British and French/UN trusteeship.
- **1951–1963.** A period of Federalism: The Constitution of the Kingdom of Libya (1951, Art 176) establishes three federal states (Wilayat): Tripolitania in the north, Cryrenaica in the East; Fezzan in the Southwest. Federal states are given the authority to establish municipalities (Law 14.1956) Municipal Councils: 50% elected and 50% appointed. Municipalities, including Benghazi and Tripoli are mandated with 25 expenditure/service delivery functions. .
- **1963–1969.** Federal system is replaced by a unitary state with (10) governorates (Muhafazat) replace 3 federal states, with governorates divided into districts (Motsrifuayt) and sub districts (Modiyriyat). Political centralization takes hold as mayors and municipal councils become appointed by the center (by the Cabinet). As units of government, municipalities retain some functions (e.g., health, water and wastewater, licensing)
- **1969–1972.** *Coup d'état* of 1969 brings Quaddafi to power, who, in 1971, citing the inefficiency of administration declares the Arab Socialist Union (ASU) in 1971. The ten governorates are retained (two are renamed). A Ministry of Municipalities (MoLG) created replaces the local administrative role of the Ministry of Interior. Legal functional assignment does not change.
- **1972–1975.** A unitary three tier governance system established by law (center, governorates, municipalities). The Cabinet decides the numbers and boundaries of SNGs. Governors are appointed by the Cabinet and municipal councilors are elected *from* the members of the ASU and the set of ASU employees. The Ministry of Municipalities is "reabsorbed" by the Ministry of Interior
- **1975–1983.** Further steps toward deconcentration without authority. Governorates abolished. ASU "recentralizes" to central control through sectoral ministries. There are now 46 municipalities divided into Wards (Mahalas). People's Municipal Committees replace Municipal councils that were established in 1972.
- **1983–1992.** More reorganization. Mayors are replaced by a Secretary of Popular Committee. During this time the organizational units were reorganized four times (1983, 1984, 1986, and 1990). By 1990 there are just seven municipalities.
- **1992–1996.** Another redesign. Municipalities abolished and replaced by "Basic People's Congress" (BPC)", of which there were 13 as of 1993. BPCs, which are given a wide range of powers, include a "popular committee" and a secretariat (administration). The General People's Congress operates nationally.

(*continued on next page*)

Box 1 A Brief History of Libya Intergovernmental Systems (continued)

- **1996–2001.** A sub-municipal ward l (Mahala) defines the boundaries of a BPC with the BPC retaining significant powers with an Executive Committee In 1999 the term Shabiya/Shabiyah (administrative districts) is adopted and the country is divided into 26 Shabiya and 484 BPCs. .
- **2001–2011.** In 2001 a new set laws set with the intent to establish a system of local Governance of three tiers. People's Congress is established where several BPCs constitute the Shabiya—a governorate. During this period the country was reorganized to first 32, then 22 Shabiya into 22 and 484 BPCs.
- **2011-present.**
  - 2011, NATO intervenes (March 11), Quaddafi regime falls (August) and the National Transitional Council (NTC) established and issues
  - 2012. MoLG re-established. NTC issues law 59 (2012) establishing a three-tier structure: National, regional (provincial/governorate) and Local/Municipal governments. Provincial and municipal councils have the authority to create Shura Councils—an advisory board to examine and study intergovernmental relations.
  - 2015: A United Nations initiated Libyan Political Agreement (LPA) creates the Government of National Accord (GNA) with the intent of establishing a democratic state.
  - 2015–1/2020. Conflict by two groups claiming authority; GNA (northwest region) and the Tobruk Government and Libyan National Army/LNA (east and central region), Local militias control the south along the borders of Chad, Niger and Sudan and parts of southern Algeria and western Egypt. The oil fields are largely in the LNA controlled areas, the population centers are in the Tripoli/ Misrata region (northwest) and Benghazi/Al-Beyda region (northeast)
- September 2019. Local Government Forum The session served as the Forum's first chance to engage in the topic of what Libyan "decentralization" is / will be all about. Among other things, the Session provided the initial opportunity for local officials to express their frustration on how things are going to date. The discussion was not so much on terminology, but on practice. The discussion also revealed that the institution of MoLG is not fully endorsed /supported by some other players/institutions in the Tripoli-based central government. Too, it is useful to note that the views of Eastern Libya were not well represented in the Forum (for reasons that are largely beyond donor-partner control). Topics raised included:
  - (Some) Mayoral concerns that they not only have no *de facto* budget autonomy (the line ministries dominate
  - Further local concerns were expressed that the central government is not forthcoming about sharing information on the substance and timing of the distribution of central → local transfers.
  - Uncertainty regarding the process of establishing municipalities; and, as a related point, a lack of central clarity on the role of provinces (governorates) as provided for in Law 59 (2012).
  - Several local officials argued that they have no revenue autonomy; that the need to develop own local revenue capacity and mobilization is being ignored.
  - It is noted that some municipalities that used to be former governorates (Shabiya) or BPCs have their own municipal building, public administration systems, and experiences staff.

Source: Daoud, Background Paper 4. LGF participant discussion. Tunis, 14–16 September 2020.

Box 2 Terminology: Types and Variants of Intergovernmental Fiscal Relations

Political Decentralization, which precedes fiscal, refers to the empowerment of local populations that are organized into one or more often over-lapping types of governments: to a regional (governorates, provinces); local general purpose (municipalities, towns, districts, settlements), and, sometimes special purpose, which may be organized as either "sub" part of a region or locality (typically sector specific, e.g., education, solid waste management (or as a special authority that crosses and are established by the other types of government boundaries ("polycentric" large infrastructure services such as water supply, transportation networks). Taken together these local population governments are often referred to as "sub-national governments ("SNGs"). Typically, but not always, political decentralization is matched by political empowerment in the form of regional and local elections (Stroux, 16). The institutions of political decentralization include national (and sometimes also SNG) constitutions, central government enacted SNG enabling laws/statutes, and a system of courts, which may also be decentralized (judicial decentralization). At present, the two key Libyan documents that directly frame the Libyan decentralization process are the (i) 2015 Libyan Political Agreement (LPA) that established the Government of National Accord (GNA) as the sole legitimate central government authority and (ii) the preceding and still-in-place *Law Number 59 of 2012* Concerning *the Local Administration System* and accompanying Executive Regulation *of Law 59*. (Daoud, 4).

Fiscal Decentralization. Whereas the decision to decentralization is political, the economic and financial practice (and potential payoff) flows from a system of fiscal decentralization—the sorting out among the types of governments their financial roles and responsibilities. As discussed by Lassoued (Paper 3) and Leffler-Franke (Paper 8) there are several variants fiscal decentralization depending on the degree of fiscal autonomy accorded to the SNG to carry out it's agreed-upon tasks. The broadest classification of are i) d*econcentration*, which refers to the decentralization of central government ministries. Deconcentration with authority means that regional branches of central government office are created with some ability to make independent decisions. Deconcentration without authority occurs when the regional offices are created but with independent capacity for decision making, All deviations from normal practice must be approved by the center ; (ii) *devolution,* refers to a system of independently established SNGs that are given the responsibility for delivery of a set of services along with the authority to impose taxes and fees to finance and fund the services. Some financial support may be provided by a "higher level of government; (iii) with *delegation* SNGs are assigned the responsibility for delivering certain services as agents of a "higher level" (central, regional) authority and for which the assigning level may provide some or all of the funding through some form of fiscal transfer.(Lassoued, 3; Saed, 18)

In practice (nearly) all governmental systems across the world not only have some mix of the "three Ds", but also operate *asymmetrically*; that is different SNGs within a nation state will have/take on different fiscal roles depending factors such as geographic differences (e.g., urban vs. rural), ethnic, linguistic, and or religious character (e.g., traditional vs. conventional history), and, especially prevalent, the capacity to manage and administer (e.g., degrees of organizational, institutional, and/or individual capacity to govern effectively).

What appeared at the LGF is a consensus that the Libyan solution will be that of asymmetric decentralization. And, recognizing that decisions are yet to be made on agreeing to the establishment of a middle tier (governorate /province), the strategy is to now focus on either (i) municipalities and/or (ii) sectors for which there is a capacity to manage and administer in process.

Box 3 Confederal, Federal or Unitary?

One other variant of relevance to, and a matter yet to be determined, per the current Libyan dialogue is whether to be a unitary or federal, or even, confederal state. As a *unitary* state, the central government will have a constitutionally bestowed authority to not only determine what political and political and financial powers that are " assigned" to its subnational governments, but also whether to create, abolish, or change SNG boundaries. Under a *federal* system arrangement for public sector decisions are made by different types or tiers of governments that are largely independent of one another but still recognize the merits of a "coming together" as a nation state. There is still a strong case for a fiscally strong central authority, but, too, one which has constrained powers over SNG financial practices. In a *confederation*, there is typically a weak central government whereby through a treaty-based system of states the national State serves as the agent of the member units and usually without significant independent spending and taxing powers. On this matter of constitutional form, two findings are relevant per the LGF. The first is that the unitary vs. federal choice is yet to be determined. The second is, that the first choice may not relevant to the achievement of national cohesion if all parties can come to an agreement on the degree of fiscal decentralization. Suffice it to note that there are federal countries that are highly decentralized (Switzerland) and those that tilt to centralization (Germany). Too, there are countries that are unitary and centralized (Egypt); but also, the case of unitary and highly decentralized (China).

Box 4 When "Local" Public Services Are Polycentric: The Role for a Middle Tier

During the LGF discussions on the twin topics of the decentralization sorting out of expenditure roles and the effectiveness of the delivery of services financed by local spending, the key point was stressed that the application of the Benefits or Matching Principle calls for spending function to be assigned to the type of government that most closely approximates the area of the flow of benefits.

As an example: Assume that Municipality City A builds a bridge across a river that cuts through the city. If that bridge principally serves the residents of Municipality A, then the decentralization principle is that just the residents of Municipality A should be called upon to pay for the cost of the bridge. That is, there is not significant "spillover" benefit to neighboring City B.

However, what if it turns out that the Bridge is a major roadway that connects Municipality A to the B's economy in an important way? Then, the decentralization principle calls for some form of A and B cost sharing. However, to affect this cost sharing, the residents of "B" need to agree to be taxed. Of the resident of B resist bearing "their share" of the tax requirement, the system has a degree of economic inefficiency to bear.

To extend this example of the breath of the flow of economic commerce, say that the bridge also serves as a conduit for transporting Municipalities C, D, E and so on that are several kilometers away. Now, an inability to get C, E and E to cost share further exacerbates the economic inefficiency effect; indeed, maybe enough to that "A" may reconsider the merits of maintaining (or maybe even building) the bridge.

This matter raises a topic that Libya is yet to adequately address: in this (quite typical) example, how can the efficiency benefits of decentralization be realized? That is, what size of government is efficient for which set of services? As it turns out Law 59/Art. 12 offers a solution for this very circumstance: either establish a regional "middle-tier" general purpose provincial government or give each of the municipalities the authority to enter into "joint service districts arrangements."

The Libya reality is that there are many practical examples of just this situation, e.g., health care whereby the local clinic receives technical support from a regional hospital center. Or, consider the intergovernmental implications for getting water supply from the aquifers of the south to the homes of the 80% of Libya's population that lives along or near the Mediterranean coast (which, in this case, may call for a centrally-financed and funded "benefits area" solution—upgrading the Great Man Made River pipeline and the many deteriorated desalination plants).

At present there is a growing Libyan crisis in citizen access to health services and clean drinking water access. Addressing the challenge of implementing some form of regional government is high on the Libya decentralization agenda.

Box 5 Why Local Own Revenue Mobilization Matters

The decision to decentralize is political. But once the decision is made, whether gradually or with an intended initial "big-bang" reform program (as in Indonesia), a necessary condition is to get the intergovernmental fiscal design "right." That in turn leads to the decentralization theorem: the set of governments closest to the citizens can adjust budgets to local preferences in a manner that best leads to the delivery of a bundle of public services responsive to community preferences. Subnational governments (SNGs) become the vehicle provides services to identifiable recipients until the tax price for those services reflects the benefits received (Oates, 1972).

The focus is now on improving public-sector efficiency. An efficient solution maximizes social welfare subject to a given flow of land, labor, and capital resources. The rule for achieving an efficient allocation of resources is to supply a service until at the margin—for the last "unit" of the service supplied, the welfare benefit to society just matches its cost. In the private sector, as a rule, the market-price system accomplishes that goal. When the private market fails in this objective (pure public goods, externalities, and monopoly), there is a case for public intervention—the public's commandeering of resources to supply the activity. Once the public sector intervenes, the efficiency logic is in favor of some form of fiscal decentralization. The argument is that, because of spatial considerations, SNGs become the conduit for setting up a system of budgets that best approximates the efficient solution of equating benefits and costs. In the economist's jargon, this is the "benefit model" of local finance.

To satisfy those conditions, subnational (local) governments must be allowed to exercise own source taxation at the margin and be in a financial position to do so. This is the essence of decentralization. That is why subnational local tax policy design matters.

Box 6 Own-Revenue Revenue Mobilization Local Taxes by Degree of Central/Local Control

High Revenue Autonomy	SNG sets tax rate and base	Highest degree of own-source revenues (includes user charges and fees).
	SNG sets tax rate only	Necessary and sufficient condition for categorization as "own revenue" (business and income surtax/ surcharge on conforming to the central or regional government tax base).
Moderate Degree of Local Autonomy	SNG sets tax rate, but only within centrally permissible ranges	A typical practice is to cap the top rate
	Tax sharing whereby central/local revenue split can be only changed with consent of SNG	Can result when a local authority collects the tax and remits to the center.
No Local Autonomy Not Own-Source	Revenue sharing with share determined unilaterally by central authority.	100% control by center; this category is a source of much misspecification of what is a central vs. local revenue. Shared Taxes are not own local revenues; rather a form of intergovernmental (Central to Local) transfers/grants

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PAPER 3

Administrative Aspects of Local Governance: Definitions and Distinctions

Maroua Lassoued, Public Sector Governance Consultant, World Bank

I. Administrative Aspects of Decentralization

Administrative decentralization refers to the redistribution of authority, responsibility, and financial resources for providing public services among the various levels of local government. As such, the transfer of responsibility may include the planning, financing, and management of certain public functions from the central government and its agencies to field units of government agencies, subordinate units or levels of government, semi-autonomous public authorities or corporations, and/or area-wide, regional or functional authorities.

Libya's Local Administration Law 59 of 2012 charges municipalities with enhanced autonomy regarding the enforcement of municipal regulations, managing health and social affairs, as well as urban planning, commerce, public utilities, and infrastructure. However, Libyan municipalities often lack the institutional capacities and human resources to effectively deliver basic services. Apart from shortcomings related to the public financial management and procurement processes, many local councils also face a lack of institutional capacity and resources, as well as low levels of citizen engagement. As such, it will be necessary to conduct this analysis with respect to the multiple administrations that have emerged—notably between the Eastern, Western, and Southern areas of Libya.

Before exploring the theme of administrative decentralization more fully, it is first important to distinguish it from other forms of decentralization, including its fiscal and political manifestations (Table 1).

The World Bank's Decentralization Tool Kit[1] notes that fiscal, political and administrative policies and institutions can have a profound effect on political accountability,

[1] See: http://www1.worldbank.org/publicsector/decentralization/toolkit9.pdf.

TABLE 1 Decentralization: Concepts and Characteristics

Decentralization Type	Concept in Brief	Characteristics / Features
Political Decentralization	Political decentralization entails some degree of transferring decision–making power from the central level to local officials. The concept implies that the selection of representatives by local citizens—"governments closer to the people"— can lead to more efficient and effective decisions regarding what local services deliver, as well as how to help pay for these services from locally mobilized taxes and charges.	This type of decentralization often requires constitutional and/or statutory reforms, the development of pluralistic parties, the strengthening of legislatures and public participation in budgeting. It is possible—and, indeed, often likely—to have political, but not fiscal decentralization (see below). There are several methods (not always electoral) for selecting the local leadership.
Fiscal Decentralization	To be fiscally decentralized requires that local bodies have the authority to make local decisions regarding spending and taxation "at the margin". Specifically, there must be some degree of local authority to determine the level and composition of local expenditures and service delivery, as well as the ability to impose fees and taxes to finance such services without central interference. Such *devolution* is the most complete form of decentralization.	There are different degrees of fiscal decentralization. To stress the partnership nature of the intergovernmental sorting out of central/subnational roles and responsibilities, there is almost always a need to complement local sending and tax powers with intergovernmental transfers.
Administrative Decentralization	There are two main components to administrative decentralization", including the degree of discretion allowed to a subnational (local) government to direct its "own" business, as well as the mechanisms used to hold the subnational government accountable for an administrative rule or regulation. This *administrative state* arrangement may apply with any of the "three D" variants listed above. However, the "3 Ds" are not variants of administrative decentralization, although deconcentration can be thought of as the end point of an administrative state. Thus, administrative decentralization is not as broad a concept as "decentralization", which is fundamentally the practice of sorting out intergovernmental roles and responsibilities	The World Bank identifies three broad powers associated with an administrative state: (i) the ability to promulgate and enforce regulatory decisions; (ii) management of human resources, including recruitment and performance management; and (iii) the governing of a procurement system.

Source: Bockenforde and others (2013).

fiscal soundness, and administrative capacity at both the national and subnational levels. This is turn affects the availability and quality of service delivery, as well as the prevalence of moral hazard issues, a soft (or hard) budget constraint between levels of government, the potential for macroeconomic instability, and ultimately, the socioeconomic development impact. For instance, political aspects related to decentralization can affect administrative dimensions, as decentralization legal frameworks determine the reporting relationships and requisite staffing at local levels. Likewise, the administrative aspects of decentralization can have fiscal impacts, as staffing at the local level requires a degree of horizontal fiscal equalization to ensure adequate resource distribution. Finally, fiscal pressures can impact administrative and political choices, as both hard and soft budget constraints have effects on access, quality, and outcomes with respect to service delivery at the decentralized level.

Forms of Administrative Decentralization

- **Deconcentration:** Deconcentration, which is often considered to be the weakest form of decentralization and is used most frequently in unitary states, redistributes decision-making authority and financial and management responsibilities among the various levels of the central government. In this example, deconcentration merely shifts responsibilities from central government officials to those working in regions, provinces or districts. Alternatively, it can create strong field administration or local administrative capacity under the supervision of central government ministries.
- **Delegation:** Delegation is a more extensive form of decentralization. Through delegation, central governments transfer responsibility for decision-making and administration of public functions to local units. These entities operate on its behalf but are not wholly

TABLE 2 Nature of Decentralization

Deconcentration	Delegation	Devolution
• Central government relocates responsibility for implementing a policy to its field offices. • No transfer of power to lower levels of government. • Failure to create additional levels of government.	• Central government refers decision-making and administrative responsibilities for various public functions to another level of government (local government).	• Central government transfers/ shifts resources and authority to an independent and elected regional/local government. • Depending on degree of devolution, there is limited interference by the central government.
Example: • The issuance of a commercial license is governed by the national law and implemented by national agencies. • However, in order to create a commercial license, a citizen who lives outside of Tripoli would have to spend one week there to obtain it.	**Example:** • High schools might be national institutions governed by national laws. However, implementation lies with the sub-units under the general supervision of the national Ministry of Education. • Article 23 of Law 59 of 2012 is characterized by such a principal-agent relationship, as found between the national minister and the municipalities in exercising executive functions.	• Devolution requires some degree of political decentralization, given that the central government no longer has sanctions over the sub-units. • The electorate must assume responsibility by voting in popular elections.

Source: CILG-VNG (2016); Lassoued (2019).

controlled by the central government—although they are ultimately accountable to it. Governments also delegate responsibilities when they create public enterprises/corporations, housing authorities, transportation authorities, special service districts, semi-autonomous school districts, regional development corporations, and/or special project implementation units. Usually these entities have a great deal of discretion in making decisions.

- **Devolution:** When governments devolve functions, they transfer authority for decision-making, finance, and management to independent units of local government. Devolution usually involves a process of transferring responsibilities for services to municipalities that in turn 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 where they exercise authority and perform public functions (Table 2).

II. Country Examples: One Size Does Not Fit All

Many of the decentralization processes which have taken place in the past decade have been motivated by political concerns and a desire for improvements in service delivery. For example, in Latin America, decentralization has been an essential part of the democratization process as discredited central regimes are replaced by elected governments operating under new constitutions. In Africa, the spread of multi-party-political systems created a demand for more local voice in decision making. In some countries, such as Ethiopia, decentralization has been a response to pressures from regional or ethnic groups for more control or participation in the political process. At the extreme end of the political spectrum, decentralization represents a desperate attempt to keep the country together in the face of these pressures by granting more autonomy to all localities or by forging "asymmetrical federations."[2]

A variation on this theme has been decentralization as an outcome of long civil wars, such as in Mozambique and Uganda. In such cases, opening political opportunities at the local levels has allowed for greater participation by all former warring factions in the governance of the country. In many countries, decentralization has simply occurred in the

[2] Asymmetric federalism or asymmetrical federalism can be defined as a federation or confederation in which different constituent states possess different powers: one or more of the sub-states has considerably more autonomy than the other sub-states, although they have the same constitutional status.

absence of any meaningful alternative governance structure to provide local government services. In some cases (particularly in East Asia), decentralization appears to be motivated by the need to improve service delivery to large populations, as well as the recognition of central administration limitations.

Table 3 provides examples of three fragile, conflict and violence-affected (FCV) countries, explaining the decentralization process and factors. Specifically, it explains the different forms of administrative decentralization adopted by each country, the reasons why each chose to decentralize, as well as the political background of each country.

III. Administrative Discretion Versus Administrative Accountability

In the field of public administration, administrative discretion refers to the flexible exercise of judgement and decision making according to rules and justice, that is, it does not include the opinion of administrative authorities. One of the four requirements of administrative accountability is that public administrators exercise lawful and sensible administrative discretion. In this context,

TABLE 3 Comparative Review of Decentralization Practices

Country	Decentralization Form	Local Government Public Services/Scheme	Rationale	Political Situation
Uganda	• Devolution (the central government has recentralized the powers and responsibilities of local governments, changing the decentralization model from devolution to delegation.)	• Local governments are responsible for: public services (primary health care, primary education, feeder road works, water and Sanitation, and agriculture). • Local governments rely on central government transfers. • Local governments collect a very small portion of local taxes. • Only 17 percent of the budget is allocated to local governments.	• Leads to greater citizen participation. • Enhances citizen-led local governance. • Improves livelihoods at the local level. • Delivers quality services to citizens. • Shifts decision-making to the people who best know and understand their community's needs.	• Uganda's current legal and institutional framework for decentralization took effect in 1992, first through a Presidential policy statement and then later according to the 1995 Constitution. • Article 178 of the Constitution (about decentralization).
Mozambique	• Deconcentration /devolution	• Ministry of sate administration (MAE). • Municipal districts, municipal council and municipal assembly, provinces, localities. Executive Council acts as a secretariat supervising the administrative apparatus. • Partially manages local resources. • Collects local revenues (such municipal taxes, fees and services) or obtains revenues from municipal capital or sales of physical assets. • No transfer of fiscal resources. • Public services (education, health, transportation, communications, infrastructure, basic sanitation, energy, water, culture, leisure and sports, social action and environmental management).	• At the end of the civil war, the state was heavily centralized, with decision making concentrated at the central level only. • Shifting decision making from the central to the local level.	• Civil war between Frelimo (the Mozambique Liberation Front), the dominant political party, and *Renamed* (the Mozambican National Resistance), a militant organization. Both signed the Rome General Peace Accords in 1992. • The Constitution of 1990 institutionalized the process of decentralization. • First municipal law, reversing Law 3/94 in 1996. • First municipal elections in 1998 and then in 2003 in a climate of tension and conflict. • Absence of clear policy of fiscal decentralization.

(*continued on next page*)

TABLE 3 Comparative Review of Decentralization Practices *(continued)*

Country	Decentralization Form	Local Government Public Services/Scheme	Rationale	Political Situation
Ethiopia	• Deconcentration/ devolution	• Devolve power, resources and responsibilities to lower levels of government.	• Ensure good governance. • Guarantee local safety. • Establish locally responsive, participatory and transparent and accountable local government. • Ensure efficient service delivery. • Process driven by the central government. • Ensure democratization.	• Decentralization process started in 1991. • Federal system. • Subnational constitution (local governance law).

Source: World Bank (2006; 2013).

discretionary powers are necessary, but the power needs to be regulated.

Administrative decisions often include the exercise of discretion.[3] Discretion exists when the decision maker has the power to make a choice about whether to act, to approve, or to approve with conditions. The role of the decision maker is to make a judgement considering all relevant information (Table 4).

[3] http://www.ombudsman.wa.gov.au/Publications/Documents/guidelines/Exercise-of-discretion-in-admin-decision-making.pdf.

TABLE 4 Defining the Decentralization Process

Determine that the decision maker has the power	Check the relevant legislation and agency policies and guidelines to ensure that the person has the power to act or to make the decision.
Follow statutory and administrative procedures	The person who is responsible for exercising discretion should follow statutory and administrative procedures.
Gather information and establish the facts	Before exercising discretion, it is necessary to gather information and establish the facts. This may require the decision maker to review documents, undertake a site inspection, or seek specialist advice.
Evaluate the evidence	It is important to evaluate and weigh the evidence, as well as to determine the relevant considerations and key facts. When evaluating the evidence, the decision maker must ignore irrelevant considerations.
Consider the standard of proof to be applied	In administrative matters, the standard of proof to be applied is generally 'on the balance of probabilities.' This means that it must be more probable than not that the matter or allegations are proven.
Act reasonably, fairly and without bias	The person deciding must act reasonably and impartially. The decision makers must not handle matters in which they have an actual or reasonably perceived conflict of interest.
Observe the rules of procedural fairness	Before taking certain actions or making decisions, the decision maker may be required to provide procedural fairness to anyone who is likely to be adversely affected by the outcome.
Consider the merits of the case and make a judgement	Although policies, previous decisions, and court and tribunal decisions may exist to guide the decision maker, it is still important to consider the matter or application on its merits in making a judgement about the matter under consideration.
Keep parties informed, advise of the outcome and provide reasons for the decision	The decision makers should keep relevant parties informed during the decision-making process; they should inform the relevant parties of the outcome and provide reasons for the decision reached.

Source: World Bank; VNG (2007).

Administrative Accountability

In its democratic political aspect, decentralization as currently conceived and increasingly practiced in the international development community has two principal components: participation and accountability. Participation is chiefly concerned with increasing the role of citizens in choosing their local leaders and in telling those leaders what to do—in other words, providing inputs into local governance. Accountability constitutes the other side of the process; it is the degree to which local governments must explain or justify what they have done or failed to do. Improved information about local needs and preferences is one of the theoretical advantages of decentralization. However, there is no guarantee that leaders will act on these preferences unless they perceive some sort of accountability to their citizens. Local elections are the most common and powerful form of accountability, but other mechanisms such as citizen councils can have limited influence.

Types of Accountability

There are four main types of accountability: (i) traditional accountability, which focuses on the regularity of fiscal transactions and faithful compliance, as well as on adherence to legal requirements and administrative policies;[4] (ii) managerial accountability, which is concerned with efficiency and economy in the use of funds, property, manpower and other resources; (iii) program accountability, which concerns the results of government operations; and (iv) process accountability, which empathizes procedures and methods of operation.

1. **Traditional accountability**
    - The standards used to judge are set by controllers external to the responsible person.
    - Determines if an act is within the provision of laws and regulations governing the administration.
2. **Managerial accountability**
    - A range of activities, from attempting a work simplification process and revision of forms to systems improvements and agency reorganization.
    - Operational audits done by agencies concerned with management (such as management analysis, method studies and system improvements).
    - Brings attention to how government agencies can reduce waste and promote savings in their operations.
3. **Program accountability**
    - Concerned with the government operations results.
    - Accountability is the property of units and individual bureaucrats
    - Audit if the government units are accomplishing their objectives
    - If the expenditure on carried programs and activities by the government units is efficient and in compliance with applicable laws and regulations
    - Audit whether revenues are being collected and accounted for
4. **Social accountability**
    - Checks if the administrative activities meet citizens' expectations and trust.
    - Citizens must should be able to hold their elected local governments accountable through transparency in the local programs and activities.
5. **Process accountability**
    - Focuses on procedures and methods of operation within public administrations
    - Indicates that the public administration goals cannot be measured directly.

Integrity and Accountability in Libya[5]

Libya is perceived to be among the most corrupt countries in the world. It is ranked 170 out of 180 countries on the 2018 Transparency International Corruptions Perceptions Index.[6] According to the Global Corruption Barometer, 48 percent of Libyans perceive public officials and civil servants to be either corrupt or extremely corrupt. The 2014 World Values Survey showed that Libyans do

[4] Mckinney (1981), 144, as cited by Carino (2003), 808.
[5] This section is replicated from the findings of the RPBA mapping exercise, conducted in the Spring of 2019.
[6] Transparency International (TI) (2018).

not trust their government (for example, only 32 percent of respondents expressed trust and 38 percent not very much trust or none). The same report showed that almost 50 percent of respondents have little or no trust in the civil service.

A 2014 report by Transparency International found that the Libyan integrity system is in an extremely poor state, with most institutions, laws, and regulations either outdated or only very recently implemented.[7] The Ministry of Finance does not regularly publish details about the fiscal regime for the oil sector or regular bulletins about petroleum, taxes, and non-tax revenue collection.[8] Furthermore, Libya does not participate in international initiatives, such as the Extractives Industries Transparency Initiative (EITI).[9] It also lacks a "Publish What You Pay" coalition.[10]

In the wake of the 2011 revolution, active and vocal Civil Society Organizations (CSOs) emerged across the country.[11] Along with the media, they have succeeded in putting some critical questions on the public agenda, while also making demands for transparency and accountability.[12] The rise of citizen activism and the emergence of associations has helped to build networks across the country. It has also facilitated grassroots dialogue regarding the Constitution.[13] However, CSOs are new and generally weak in capacity. Their community is fragmented, and many are often affiliated with different political actors.[14]

The Administrative Control Authority was established in 2013. It is designed to increase transparency in the activities of the various entities that fall under its jurisdiction.[15] With regard to asset declaration and management, Libya boasts a relatively strong legislative framework, but one that remains limited in terms of implementation.

The National Audit Bureau acts as an oversight mechanism and is increasingly critical of the executive branch of government. It is showing progress, and has been able to put some key issues with regard to spending and integrity on the public agenda.[16] It plays an important role with regard to oversight of the executive and legislature, and has contributed to holding the public sector accountable.[17] It is the only oversight mechanism that adheres to the principles of transparency and accountability.[18] The introduction of a National Identification Number (NIN) was designed to further combat corruption by assigning a unique number to each individual. As such, it aims to ensure that transfers and payments go to the right person.[19]

IV. Service Delivery Within Local Governments[20]

What does a proper service package consist of, and what does service delivery mean? Why are services offered at the local level? Improving service delivery does not always concern matters that are purely local. For example, the issuance of passports can be a municipal service, such as in the Netherlands. However, it is administered by the central government. The central government stands for the legitimacy of the document. The municipality supplies the passport, but it guarantees a careful procedure that is part of such an essential public service. The municipality is also a key link as it is responsible for the population register and the municipal personal records database. Therefore, it must guarantee that the data is correct.

Municipal services involve those services that are provided by local governments for its citizens. This does not mean that services are limited to an individual character. Rather, it concerns services in the interest of the citizen collective and/or groups of people. The local governments perform acts that are of service to citizens. This creates possibilities for citizens (including companies and organizations) to do things that would not have been possible without the municipality's involvement. The distinction between *direct* and *indirect* service delivery is significant for the way in

7 TI (2014).
8 United Nations Economic and Social Commission for Western Asia (ESCWA) and World Bank (2015).
9 TI (2014).
10 TI (2015).
11 World Bank (2013).
12 World Bank (2013).
13 Bertelsmann Stiftung (2018).
14 Bertelsmann Stiftung (2018).
15 Centre for Innovative Local Governance-International Agency of the Association of Netherlands Municipalities (CILG-VNG) (2017a).
16 TI (2014).
17 TI (2014).
18 TI (2014).
19 TI (2014).
20 This information is drawn from VNG International (International Co-operation Agency of the Association of Netherlands Municipalities).

which matters need to be organized. Direct services involve direct contact with citizens and demand an alert attitude on the part of the municipal staff concerned. Everything they do, including how well they do it, directly affects the people for whom they work. Indirect services often involve an extra step. Sometimes this is easier in terms of personal relations, but it may demand greater understanding of the effect of relevant measures.

Direct service delivery: Direct service delivery is characterized by the direct effect/impact intended for citizens. There is one-on-one contact that revolves around a service or a product which the user benefits from directly and for which the user often pays. It concerns a transaction between the citizen and the government in the form of a member of government staff.

Indirect service delivery: Indirect service delivery takes place in a specific context. It is derived from rules and does not only affect the applicant and/or the user. It is the user's first interest, but other interests also play a role. This often requires the interests to be weighed. Service delivery by local governments can also concern the devolution of services to other government bodies or organizations that perform a task in the public domain. For example, the land and population registers are dependent on the quality of information and registration with the municipalities.

Individual service delivery: Individual service delivery is aimed at services which influence the individual or a limited group with a strictly private character (for instance, residents of a home or a company). This does not mean that there are no third parties that may experience the consequences of such a decision to provide a service. Even when a permit is refused, this must be considered a form of service.

TABLE 5 Forms of Individual and Collective Service Delivery

Type	Individual	Collective
Direct	Passports Drivers licenses	Information: written, meeting District cleaning
Indirect	Permits Compulsory education	Waste collection Public lightening

Source: VNG (2007); World Bank.

Collective service delivery: Collective service delivery is aimed at the whole community, municipality, district, or possibly even a street. To some degree, this also concerns the administrative functioning of a local or regional government. Some services do not always have to be directly carried out by the authority concerned. For instance, a local government may hire a waste-collection and processing company in the private sector to collect waste in its area of responsibility. However, the final responsibility for the quality of the service provided lies with the contracting party, in this case, the local government.

V. Administrative Decentralization in Libya

Table 6 provides a snapshot of the sequencing of administrative decentralization in Libya and details the current challenges. The snapshot reveals the allotment of functions that are supposed to be implemented by the municipalities are in fact being implemented by the central government—or even by some private companies hired by the central government. Further, there are very limited financial resources currently available to local governments.

TABLE 6 Snapshot of Administrative Decentralization Challenges

Government	De facto Responsibility	Challenges
Legislative and regulatory framework	• Six years of experience in decentralization (1999–2005). • Many of administrative functions were recentralized in 2005. • Law 59 of 2011 on local governance and its executive regulations was established (2013).	• Resumption of conflict has impeded the implementation of Law 59 (2014). • The new local governance system called for by Law 59 has remains partially implemented.
Local administration unit categories (under Law 59)	• Provinces • Municipalities • Localities • Decentralized units are supported by the High Council of Local Administration and the Supreme Council for Regional Planning.	• According to Law 59, provinces, municipalities and local communities have a legal personality and independent financial liability. • However, they remain local administrative institutions and part of the central government.
Distribution of functions	• Provinces have not been established. • Municipalities provide services directly to citizens. They should have an independent legal personality, and a financial liability. • In Libya, municipalities should be financed by transfers or grants from the central government. However, at present there are no intergovernmental transfers. • Budget allocations do exist in the form of some subnational capital spending. • Wages and salaries are largely part of Chapter 1's national budget allocation. Local governments do not currently (independently) allocate funding for wages and salaries from local own-source revenues. • Municipal functions are identified in Article 26 of Law 59.	• The allotment of functions that are supposed to be implemented by municipalities. However, most functions are still being implemented by the central government or private companies hired by the central government. • Very limited financial resources are available, leaving the local governments unable to perform their functions or service delivery. • Expenditure assignments remain relatively unclear.

Source: Lassoued (2019); Libya Local Government Law 59.

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PAPER 4

The History and Evolution of the Sub-National Government System in Libya

A Rapid Review from 1951 to 2019

Rani Daoud[1] Deputy Head of Program, Support to Municipalities in Libya
Deutsche Gesellschaft fur Internationale Zusammenarbeit (GIZ) GmbH

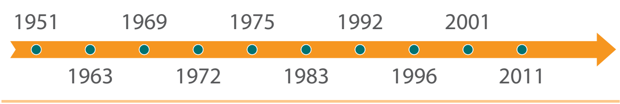
I. Introduction

This paper tries to shade a light on the phases of evolution of the sub-national government system in the modern Libya over the past 70 years, namely since the independence of Libya in 1951. It aims to create a better understanding of the history of the sub-national government system. It also aims to contribute to informing the efforts of the government of Libya as well as in the international community in designing a decentralized democratic local governance system. The paper has been prepared using an analytical approach mainly by reviewing the relevant regulations[2] covering the period of 1951 up to 2019, as well as, the very few literatures on the topic which were found in the internet.[3]

II. Phases of Evolution of the Sub-National Government System

The phases of evolution as suggested by this paper are defined based on the timeframes of the relevant regulations that have governed the system during these times. Figure #1 below shows the schematic frame and milestones of these phases. Then, for each phase, the key characteristics and highlights in terms of the structure of the subnational government system are summarized:

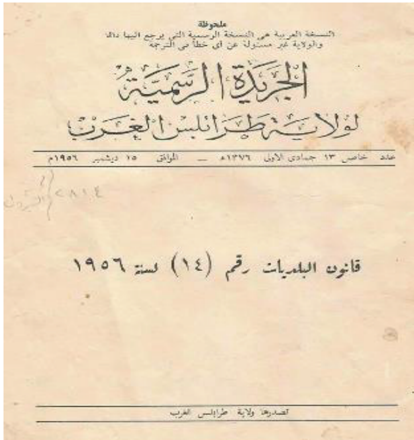
FIGURE 1 Schematic Timeframe of the Evolution of the Sub-National Government System in Libya



[1] https://www.linkedin.com/in/rani-daoud-36163a1a.
[2] All regulations that were analyzed in this paper were obtained from the DCAF legal database: https://security-legislation.ly/ar.
[3] It is worth noting here that very few relevant (but incomplete) literatures on the topic has been only found on Wikipedia: https://en.wikipedia.org/wiki/Districts_of_Libya.

FIGURE 2 The Administrative Division of Libya during the Period 1951–1963

a. The Federal States of Libya 1951–1963



الجريدة الرسمية
لولاية طرابلس الغرب

قانون البلديات رقم (١٤) لسنة ١٩٥٦

b. The cover page of the Municipalities Law 4/1956

1. Tripolitania 2. Cyrenaica 3. Fezzan

1951–1963

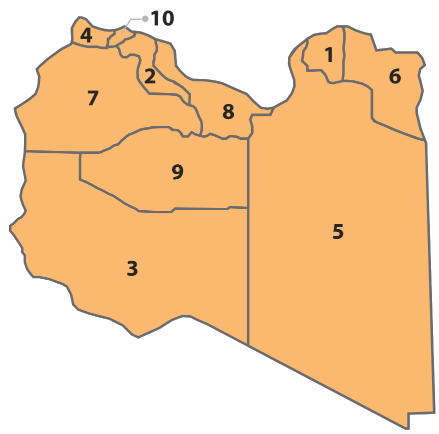
During this period, the Constitution of Libya (1951) has introduced a Federal System consisting of 3 Federal States (in Arabic "Wilayat"). See Figure 2. According to Article 176 of the 1951 constitution of Libya stated "The Kingdom of Libya shall be divided into administrative units in conformity with the law to be promulgated in this connection. Local and regional councils may be formed in the Kingdom. The extent of these units shall be determined by law which shall likewise organize these Councils.". On that basis, Federal States introduced municipal laws and systems. For example, in Tripolitania, the Federal State has established Municipalities by Law 14/1956. See Figure 2. According to the law, Municipalities were mandated with 25 key functions (Art. 66) including, urban planning and regulation, civil registry, solid waste management, public parks. Municipal councils were composed of 50% elected councillors and 50% appointed ones.

1963–1969

During this period, the Federal system was replaced by a unitary system. A new national law on local administration was introduced (Law 8/1964). The country was then organized into 10 Governorates (Muhafazat) that replaced the 3 federal states (see Figure 3). Each governorate was divided to districts (Motsrifuayt) and sub-districts (Modiyriyat)[4].

FIGURE 3 The Administrative Division of Libya during the Period 1963–1969

1. Al Bayda
2. Al Khums
3. Awbari
4. Az Zawiyah
5. Benghazi
6. Darna
7. Al Jabal al Gharbi
8. Misrata
9. Sabha
10. Tripoli



Key functions of the governorates were; education, health, social security, security, regional infrastructure. Governors and Governorate Councils were appointed by Cabinet.

Municipalities were established in large cities only (e.g. Tripoli and Benghazi). Mayors and Municipal Councils were appointed by Cabinet as well. Key functions of municipalities (Article 54 of law 8/64) included: social, health, local facilities, water and waste water, licensing.

[4] There was no data found on the actual administrative division of the districts and sub-districts during this period.

1969–1972

In 1969, Col. Qadhafi through a military coup took over the country. Two consecutive laws on local administration were introduced; Law 62/1970 and law 79/1971. Both laws maintained the system as is with 10 Governorates (Muhafazat), districts (Motsrifuayt), and sub-districts (Modiyriyat). The only change that was introduced was the re-naming of two governorates; Al-Bayda was renamed as "Al-Jabal Al-Akhdar" and Al-Jabal Al Gharbi was renamed to be "Gharyan". See Figure 4.

Nevertheless, law #79/1971 created for the first time a Ministry of Municipalities which took over the role traditionally assumed by the Ministry of Interior for several years. Same functions to governance levels remained with same composition until 1972.

According to the Congress book on Libya,[5] the creation of the Arab Socialist Union (ASU) in 1971 was a key milestone in re-designing the whole sub-national governance system. key reasons were the un-satisfaction of Col. Qadhafi of the levels of participation of the society as well as the inefficiency of administration.

1972–1975

In 1972, a unitary three tier governance system was established by law 130/1972. Sub-national level was composed of Governorates (Muhafazat) and Municipalities (Baladiyat). The Cabinet decides on numbers and boundaries of both levels (Figure 5).

Municipalities were composed of wards (Mahalat) and could have branches where necessary (Forou3 or Modiriyat). Governors and Mayors were appointed. Governorate and Municipal Councils were partially elected from the members of the ASU and partially appointed from employees of the ASU. Ministry of Municipalities was reabsorbed by the Ministry of Interior.

Governors and Mayors were given certain ministerial authorities in administration, finance, and local services within their jurisdiction.

Key functions/mandate of Governorates according to Article 7 of law 130/1972 included; Planning and regulating regional services (health, education, housing, transport),

FIGURE 4 The Administrative Division of Libya during the Period 1969–1972

1. Al Jabal al Akhdar
2. Al Khums
3. Awbari
4. Az Zawiyah
5. Benghazi
6. Darna
7. Gharyan
8. Misrata
9. Sabha
10. Tripoli

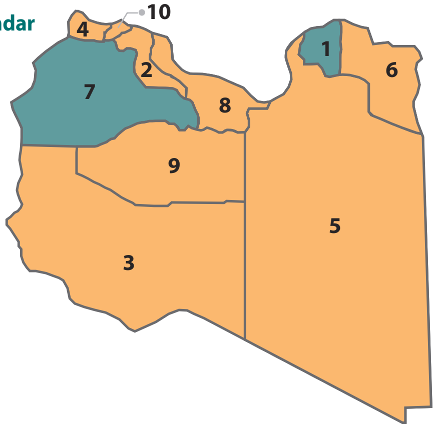
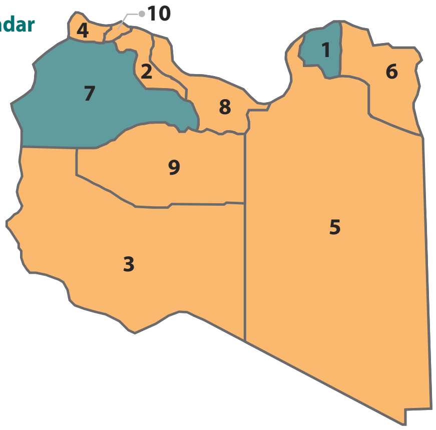


FIGURE 5 The Administrative Division of Libya during the Period 1972–1975

1. Al Jabal al Akhdar
2. Al Khums
3. Awbari
4. Az Zawiyah
5. Benghazi
6. Darna
7. Gharyan
8. Misrata
9. Sabha
10. Tripoli



setting up and collecting taxes, implementing projects of regional nature.

However, key functions of Municipalities[6] according to Articles 18–31 of law 130/72 included; develop and manage local services and facilities including urban planning, water/waste water, electricity, transport.

[5] https://www.loc.gov/item/88600480/.

[6] It is worth noting here that law has clearly defined the functions and mandates of all sub-national government levels in the system compared to earlier laws and regulations.

FIGURE 6 List of the 46 Municipalities of Libya during the Period 1975–1983

#	Municipality	#	Municipality	#	Municipality
1	Ajdabiya	17	Bani Walid	33	Qasr Bin Ghashir
2	Al Abyar	18	Benghazi	34	Sabha
3	Al 'Aziziyah	19	Bin Jawwad	35	Sabratah
4	Al Bayda'	20	Darnah	36	Shahhat
5	Al Jufrah	21	Ghadamis	37	Surman
6	Al Jumayl	22	Gharyan	38	Surt
7	Al Khums	23	Ghat	39	Tajura'
8	Al Kufrah	24	Jadu	40	Tarhunah
9	Al Marj	25	Jalu	41	Tobruk
10	Al Qarabulli	26	Janzur	42	Tripoli
11	Al Qubbah	27	Masallatah	43	Tukrah
12	Al 'Ujaylat	28	Misratah	44	Yafran
13	Ash Shati'	29	Mizdah	45	Zlitan
14	Awbari	30	Murzuq	46	Zuwarah
15	Az Zahra'	31	Nalut		
16	Az Zawiyah	32	Qaminis		

1975–1983

In 1975, the governance structure was changed again. A new Law 16/1975 was introduced. According to the law (16/75), Governorates were abolished. Their *functions, authorities, and finances* were re-centralized to be *executed and supervised* by sectoral ministries: Health, education, housing, social and youth, labour, agriculture, transport, finance, and economy.

Another law (38/1975) was issued on the same year which re-established the Ministry of Municipalities. Again, in that year, additional law was issued (39/1975) which reorganized the subnational level to municipalities only. According to Articles 8–23 of law 39/75, municipalities kept almost same functions and resources they had by the former law.

Accordingly, the country was divided to 46 Municipalities. Municipalities consisted of Mahalas and could have had branches. See Figure 6 for the List of Municipalities.

The new addition during this period was that the so called "people's municipal committees (Lijan Al-Sha3bieh)" had formed/replaced the municipal councils.

1983–1992

The system continued to be as it was. However, a new decree by the Cabinet was issued in 1983 (Decree 183/83) which replaced the Mayor of a municipality by the so called "secretary of popular committee" (Ameen Al-Lajenh Al-Sha3biyah). The same decree had further detailed the organizational units, functions, and tasks within the municipal administration (Figure 7).

According to a report on the decentralization in Libya by DRI,[7] the country during this period was re-organized several times as follows:

- 1983 25 Municipalities
- 1984 24 Municipalities
- 1986 13 Municipalities
- 1990 07 Municipalities

1992–1996

In 1992, a new law was issued (16/1992) that re-designed the governance structure of the country. At the local level: Municipalities were abolished and replaced by the so-called "basic people's congress (BPC)" or "Mo2tamar Sha3bi" while at the national level: there was the "general People's Congress" and its committee.

The "BPC" or "Mo2tamar Sha3bi" was given a wide range of powers and authorities. The decrees and decisions had the same power of law at its level.

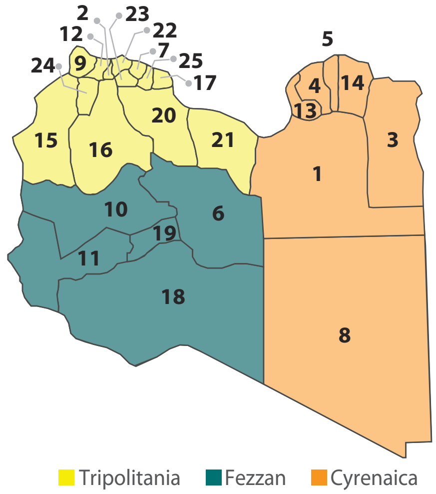
Each BPC had a popular committee (Lajneh sha3biya) and Secretariat (i.e. administration).

[7] http://democracy-reporting.org/newdri/wp-content/uploads/2016/03/dri-ly-rpt_en_decentralisation_in_libya.pdf.

FIGURE 7 Division of Libyan into 25 Municipalities in 1983

Period: 1983–1992

#	Municipality	#	Municipality	#	Municipality
1	Ajdabiya	10	Wadi al Shatti	19	Sabha
2	'Aziziyah	11	Ubari	20	Sawfajjin
3	Butnan	12	Zawiya	21	Sirte
4	Fati	13	Benghazi	22	Tripoli
5	Jabal al Akhdar	14	Derna	23	Tarhuna
6	Jufra	15	Ghadames	24	Yafran
7	Khoms	16	Gharyan	25	Zlitan
8	Kufra	17	Misrata		
9	Nuqat al Khams	18	Murzuq		



Source: Wikipedia.

FIGURE 8 List of the Basic Popular Congress in Libya in 1993

Period: 1992–1996

1993					
#	Mo2tamar Sha3bi	#		#	
1	Al Butnan	6	Al Wusta	11	Naggaza
2	Al Jabal al Akhadar	7	Al Zawiyah	12	Sawfajjin
3	Al Jabal al Gharbi	8	Benghazi	13	Tarabulus
4	Al Jufrah	9	Fazzan		
5	Al Wahah	10	Misratah		

In 1993 the country was divided into 13 Mo2tamar Sha3bi. See Figure 8 for the list of BPCs in 1993.

1996–2001

In 1996, a new Law 1/1996 was issued which re-designed the administrative structure at the local level again. Law 1/1996 created a sub-municipality level called "Mahala" or in English "Ward". The administrative boundaries of the Mahala define the boundaries of the "basic people's congress (BPC)" (Mo2tamar Sha3bi).

By this law, the BPC kept a wide range of powers and authorities.

Each BPC had an executive committee called (Lajneh Al-Mahla Al-sha3biya) assigned to execute all decisions and provide services at the level of each mahala

In 1999, the term Shabiya evolved in the laws and regulations and the country was organized into 26 Shabiya (Figure 9).

FIGURE 9 List of the 26 Shabiya in 1999

Period: 1996–2001

#	Municipality	#	Municipality	#	Municipality
1	Butnan	10	Benghazi	19	Sabrata/Sorman
2	Jafara	11	Derna	20	Sirte
3	Jufra	12	Gharyan	21	Tarhuna/Msalata
4	Kufra	13	Jabal al Akhdar	22	Tripoli
5	Marj	14	Murzuq	23	Wadi al Hayaa
6	Murqub	15	Misrata	24	Wadi al Shatii
7	Quba	16	Nalut	25	Yafran
8	Al Wahat	17	Nuqat al Khams	26	Zawiya
9	Bani Walid	18	Sabha		

2001–2011

In 2001, Law 3/2001 was issued. The law provides an understanding that it was meant to establish a complete self-local governance system in the country with full powers and authorities (executive, legislative, and judiciary) to the local level (Articles 1–2 of Law 3/2001).

The law established a three-tier governance structure with detailed distribution of competencies, powers, and resources across the three levels:

At the local level; the basic people's congress (BPC) and its executive committee remained (Mo2tamar Sha3bi)

At the regional level: a new administrative level was constituted called "Shabiya People's Congress" where several BPC constitute the "Shabiya" or in English "governorate". The Country was organized then to 32 Sha3biayat (See Figure 10) until a resolution in 2006 was issued (Res. 43/2006) which re-organized the country into 22 governorates (Sha3biya) and 484 BPC (Mo2tamar Sha3bi). See Figures 10 and 11 for a list of the governorates in 2001 and then 2006.

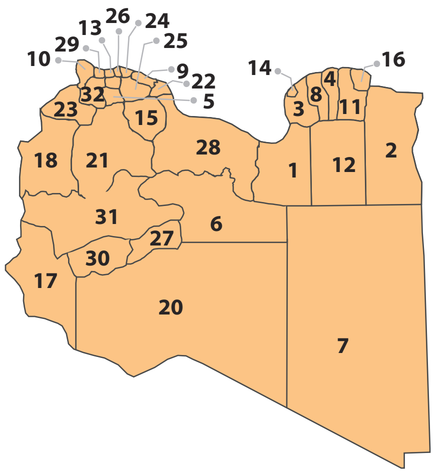
2011–onwards

In February 2011, the Libyan revolution against the former regime took place. As a result, a series of events took place which re-shaped the sub-national government system in Libya. The following is summarizing the key relevant events/milestones:

- 03/2011: The National Transitional Council (NTC) was established.
- 10/2011: The NTC issued resolution 179/2011 which regulated the establishment of the so called "Local Councils" (Majales Mahalia) until elections take place.
- 2012: Cabinet decree 55/2012 on the adoption of the organizational structure of the Ministry of Local Government (MOLG)
- 2012: the NTC issued Law 59/2012 on local administration which defined that the subnational level consists of governorates and municipalities.
- 2013: Cabinet decree 160/2013 to establish the Central Commission of the Municipal Councils Elections CCMCE and decree 161 on the regulation of the municipal elections.
- 2013: Cabinet issued decree 130/2013 on the Executive regulation of law 59.
- 2013: NTC issued law 9/2013 on shifting the competencies of governorate councils to municipal councils/Mayors until the establishment of the governorates.
- 2013: Cabinet Decree 180/2013 had established municipalities (99 municipalities were established at that time). However, administrative boundaries were not defined and still.

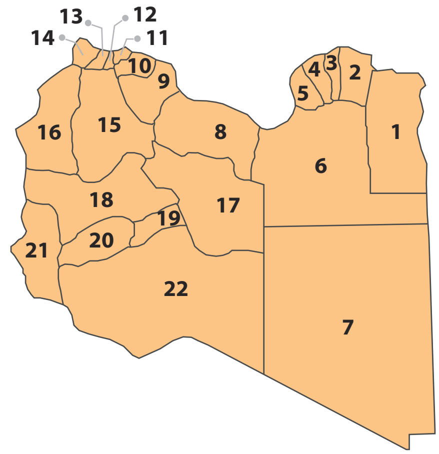
FIGURE 10 Administrative division of Libya in 2001 and 2006

Period: 2001–2011



2001: the Country was organized into 32 Sha3biya

Period: 2001–2011



2006: the Country was reorganized into 22 Sha3biya

- 2014: the start of the elections process in municipalities for the first term of office 2014–2018 had started.
- From 2014–2018: 95 municipalities were elected (in rounds)
- From 2014–2018: Number of municipalities has increased to be 116 municipalities according to official Cabinet decrees. Out of which:
    - 05 municipalities are still in the status of local councils
    - 16 municipalities have appointed committees

III. Concluding Remarks

Given the previous, the following are some key concluding remarks:

- Sub-national government system in Libya is not a newly invented system after 2011. The country has a long history that needs to be probably considered and the lessons learned must be articulated in the design of the current or any new system.
- The severe rapid changes in the sub-national system over the past 70 years have hindered the establishment of a stable and functional sub-national government system in Libya. Rather, it has contributed to the

FIGURE 11 List of Governorates (Sha3biya) in 2006

#	Name	Area (km²)	Municipality Census 2006
		Cyrenaica	
1	Butnan	84,996	159,536
2	Derna	31,511	163,351
3	Jabal al Akhdar	11,429	203,156
4	Marj	13,515	185,848
5	Benghazi	11,372	670,797
6	Al Wahat	105,523	177,047
7	Kufra	433,611	50,104
		Tripolitania	
8	Sirte	77,660	193,720
9	Misrata	29,172	550,983
10	Murqub	6,796	432,202
11	Tripoli	835	1,065,405
12	Jafara	2,666	453,198
13	Zawiya	2,753	290,993
14	Nuqat al Khams	6,089	287,662
15	Jabal al Gharbi	76,717	304,159
16	Nalut	67,191	93,224
		Fezzan	
17	Jufra	117,410	52,342
18	Wadi al Shatii	97,160	78,532
19	Sabha	107,310	134,162
20	Wadi al Hayaa	31,485	76,858
21	Ghat	68,482	23,518
22	Murzug	356,306	78,621
			5,725,373

Source: Wikipedia

creation of several institutions that have conflicting mandates. This has become one of the key challenges in the development the current local governance system in Libya.

- Although in many of the legislations that have been analyzed in this paper, the purpose was clearly stated and designed to create autonomous and decentralized sub-national government institutions, the practice as well as the evolution on the ground has created the opposite.
- Current unbalanced capacities of municipalities are influenced with the history of the system. For example, municipalities which used to be former governorates (Sh3biayt) or BPCs have their own municipal buildings, systems, and experienced staff. Unlike, the many newly established municipalities in 2013.

FIGURE 12 Selected Libya Municipalities 2011--Onward

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Part II
Framework and Principles

PAPER 5

Fiscal Architecture: A Libya Intergovernmental Perspective

Robert D. Ebel, Former Lead Economist for Local Public Finance, World Bank Institute
Zied Ouelhazi, Public Finance Management Specialist, World Bank

I. Introduction

Purpose and Scope[1]

Demographic, economic, and institutional changes are constantly occurring throughout the world (Wallace, 2015). These forces define the "fiscal architecture" of countries—the pressures on expenditures and revenue sources facing government officials worldwide. The concentration of world population has moved from developed to developing economies, the distribution of income in most countries has become increasingly disparate, and some developing countries are witnessing unprecedented increases in the percentage of elderly—others in the young. Population and income growth, as well as changes in the age distribution, economic base, and other factors imply pressures for public expenditures that are different depending on the type of demographic and economic change occurring. At the same time, similar factors affect the capacity of traditional revenue sources.

In the short run, many of these changes are beyond a country's control, but they cannot be ignored in the development of an effective fiscal policy. In the long run, government policy may impact some of these economic and demographic trends. At the same time, the institutional factors that govern a country and the technological changes

faced by all countries also affect fiscal policy—from short- and long-term budgeting decisions to antipoverty policies to intergovernmental fiscal relations. This is because the fiscal architecture of a country impacts its expenditure needs and revenue-producing potential and establishes a framework for developing polices that make "fiscal sense" and provide practical options. Fiscal architecture analysis looks at the specific determinants of revenue capacity, expenditure

[1] The Fiscal architecture methodology was developed by Sally Wallace (2003). This section on Purpose and Scope draws on Wallace's essay in *the Encyclopedia of Taxation and Tax Policy* (2005).

needs, and policy options that are framed, and constrained, by the trends. (Wallace, 2003, 2005)

A Way of Thinking

The purpose of this essay is to contribute to the LGF discussion by presenting a way-of-thinking about the question of "what makes fiscal sense" for subnational government (SNG)—provincial and local—as the country moves ahead with its intergovernmental public sector reform dialogue. (Wallace, 2003).

There are two steps to a Fiscal Architecture exercise:

- Identifying what we know about Libya's demographic, economic and institutional current features and trend over the next decades; and,
- Understanding how these trends affect the choice of potential revenue bases and expenditure programs so that provincial and local policy can be designed to capture the fiscal benefits and minimize the fiscal costs of change.

Demographic characteristics comprise population and population growth, age distribution, health status of the population, household composition, fertility rates, and life expectancy. *Economic characteristics* include both the structure of the economic base (urban and rural) and the composition of sectors (e.g., agriculture, services, and in Libya's case, "industry" dominated by a petroleum and petrochemical sector). *Institutions* are defined in a much broader way that one may typically attach to the term as on organization or place. "Institutions" also refer to the practice of budget execution and preparation and revenue administration as well as the many social and rule-based systems that make budget policies work, such as a system of postal addresses for tax billing and collection; the technology for tracking budget flows, and a range of tools and systems for holding public officials accountable to their citizen-clients (UNECA, 2010). In addition, there are cultural-affected matters such as the ease at which a census taker may be able to secure a population's cooperation to generate data that can be used systematically to examine a variety of impacts of spending and tax policy on business and households alike.

II. The Fiscal Matrix

The premise of the 'Fiscal Architecture' approach is as straightforward as it is important—that a state's fiscal options are a function of the special nature and mix of its people, how the people generate own-income and wealth, and the institutions that society must take into account to bring all of this together.

Given this premise, the task is to adopt "if-then" thinking along the lines that

- *if* based on the best data available, one can make reasonable statements about Libya's current and future demographics, economic structure and institutional arrangements,
- *then* what can one say about what will make "fiscal sense" for expenditure and tax policy?

Here, in brief, is a stylized way of illustrating this thinking framework (Table 1). Further detail and, along with that detail, notes on the nuances of "fiscal sense" policy, are provided in Table 2, which is a core part of this essay.

Fiscal Architecture Findings At-A-Glance, 2020–2040

This section presents an ***At-A-Glance Summary*** of key findings that flow from thinking how Libya's Fiscal Architecture will frame and constrain subnational government expenditure and revenue policy options.

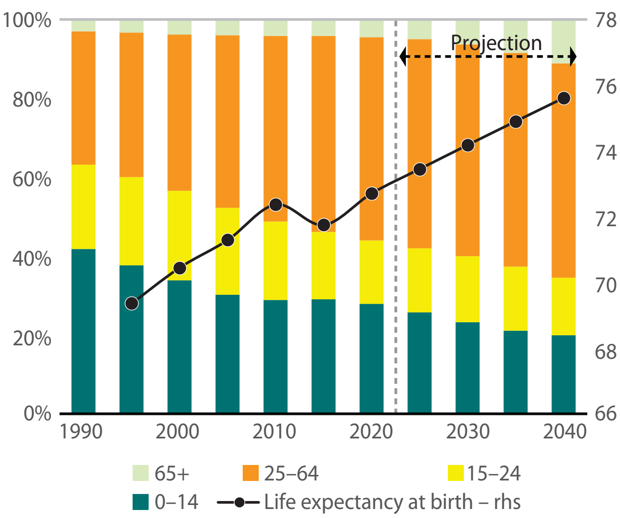
Demographics. Libya's demographic profile reveals both fiscal challenges and opportunities, with a tilt to opportunities if the country can come to a political resolution of its current conflict and turn to the task of creating a sustainable public intergovernmental sector.

One opportunity emerges from today's age profile data that shows Libya having a population that with a high degree of literacy and in the "worker" age group of 15–64 (Figure 1). This gives Libya a Total Dependency ratio of 49 percent, which is below the world average (Table 2). However, as Libya approaches the 2030s and 2040s the population begins to age, and correspondingly, its old age dependency potential support ratio increases (Figure 2). As

TABLE 1 Illustrations of Local Fiscal Architecture and Likely Expenditure and Tax Implications

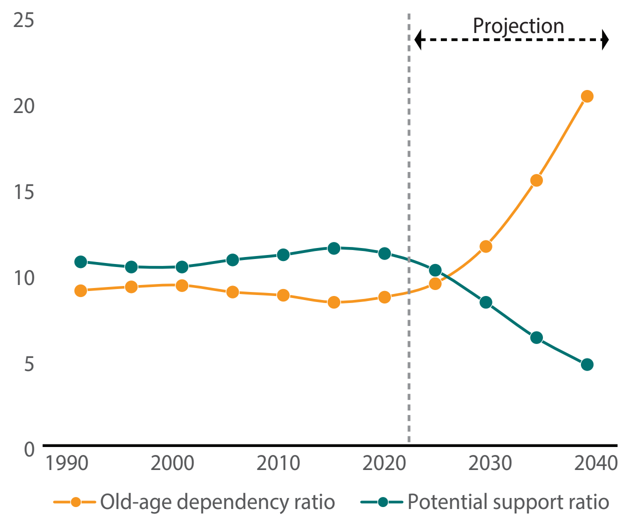
External Reality	Trend/Condition	Spending Implications	Tax Implications
Demographic: Age distribution and family composition	Workforce: disproportionately elderly or young?	Youth: schools, infrastructure of growth; For the 15–64 cohorts, continuing education. And, as society ages, health, hospitals and access to transportation.	For the "end points" of youth and elderly, charges on consumption (sales receipts, excises, and non-tax fee and charge revenue). As employment grows for the workforce age group, taxes on personal income (e.g., wages).
Economic: Structure of output mix	Petroleum dominant for now; but Libya must also look ahead to complement diversify to non-petroleum sectors	Subnational government (general as well as special purpose) cooperation with the center in building and maintaining the physical infrastructure	General Business Activity taxation (e.g., receipts; in some countries provinces add an own-surtax on a national value added tax/ VAT—at central tax that Libya has yet to adopt). Taxation of land and /or land and buildings (for which there are many variants). In some less developed regions SNGs turn to presumptive taxation.
Institutional: State of public records; data.	Many localities have no property records; or they are very old (census). The LGF discussion revealed that there are many municipalities that lack the basic tools and process to prepare a budget.	General government, with high emphasis on systems of public administration/and public financial management (e.g., Chart of Accounts; operating and capital budgeting; transparent and a merit based civil service system). All such activities entail research, training, and other capacity building programs.	Key elements include the public administration work of establishing SNG offices of local revenue administration with functions that include (i) a taxpayer identification process; (ii) revenue base estimation and assessment procedures accompanied by a revenue collection capacity; (iii) public accountability reporting systems; and (iv) a judicial process for taxpayer appeal

FIGURE 1 Population by Broad Age Groups in Libya (%)



Source: United Nations (2019c), World Bank staff calculations, Ouelhazi (2021).

FIGURE 2 Old-age Dependency Ratio and Potential Support Ratio in Libya



Source: United Nations (2019c), World Bank staff calculations, Ouelhazi (2021).

noted in the introduction, these demographic trends tend to be largely beyond a country's ability to control (Wallace, 2005). But what a society can do is take steps to address and adjust to these trends, which is where the public sector reform strategy becomes a matter of critical importance.

For Libya, the overarching reform task is to establish a public financial management system that will allow it to spend on sectors that foster labor productivity and promote income and wealth generation. A key part of this task is a policy of central/subnational cooperation in the provision of public services that are human capital building and workforce support focused, all of which if they are to be efficiently provided, entail some degree of decentralized governance. Here the sectors include education (all levels, but with special emphasis on primary and secondary education), health, transportation, solid waste management, and water supply and distribution. That that Libya is aging (Figures 1 and 2) also calls for a spending on "post-labor productivity" sectors that include components of the elderly health care, access to transportation. And, just as the service delivery function is intergovernmental, so, too, are the revenue tools (Kopanyi, 11; Table 2).[2]

Libya's Economic Structure

Libya's economy is heavily dependent on its hydrocarbon sector that accounts for nearly all its export earnings, which, in turn, largely pays for total public sector spending (Figures 3 and 4). The importance to Libya of the hydrocarbon sector will continue for the short/medium term as the world energy demand increases (IEA, 2019). This petro-economy dependence is not only reflected in Libya's GDP (Table 2), but also its public finances. In 2019 revenues from the hydrocarbon sector accounted for 92.6 percent of total revenues net of a temporary surge in foreign exchange fees (World Bank, July 2020).

However, several problems arise with such an unbalanced economy and public sector.[3] Three key problems pertain to this discussion of the fiscal architecture and its implications for the ongoing fiscal decentralization (intergovernmental) dialogue. The first is the country's heavy reliance on receipts from the petroleum industry, which is a highly volatile/unpredictable revenue source (World Bank, 2009). This reality undermines the central government's ability to carry out an effective macro stabilization policy, which is a fundamental revenue-assignment function of any central authority (Figure 5 and Ebel, 6; Alzahrani, 7; Leffer-Franke, 8; Kopanyi, 11). A perverse outcome is that Libya's stabilization strategy largely comes down to a policy of additional government employee hiring that results in a high and ever increasing wage bill with the result that spending on all other public functions is largely ignored(Figure 5).[4]

The second is that although the world will continue to have a demand for fossil fuel energy sources in the next decade and, thus, the hydrocarbon industry will continue to be of key importance to Libya, policymakers will be well-advised to look to diversification of Libya's economic and revenue base. This is because the demand for fossil fuels consumption is expected to "slow markedly" over in the next few years due to rising motor fuel efficiency along with the transition to electric vehicles, and the growth of alternative energy sources (IEA, 2019). This trend toward a less fossil dependency is especially relevant for Libya since its export commodities (crude oil, refined petroleum products, natural gas, chemicals) are largely to developed economies (Italy, Germany France, China, Spain) that are not only likely to be part of the new fuel efficiency era, but also that can readily adapt to wind, water, and /or solar energy.

The third problem is that Libya's fiscal imbalance undermines the country's ability to effectively not only build the nation's infrastructure that provides the foundation for a country's future economic growth, but also to maintain its current infrastructure. As Ouelhazi notes, Libya's expenditure constrained public sector has led to a loss of its current assets, resulting in shortages in electricity generation capacity along with negative impacts for other services including water and health services (Ouelhazi, forthcoming 2021).

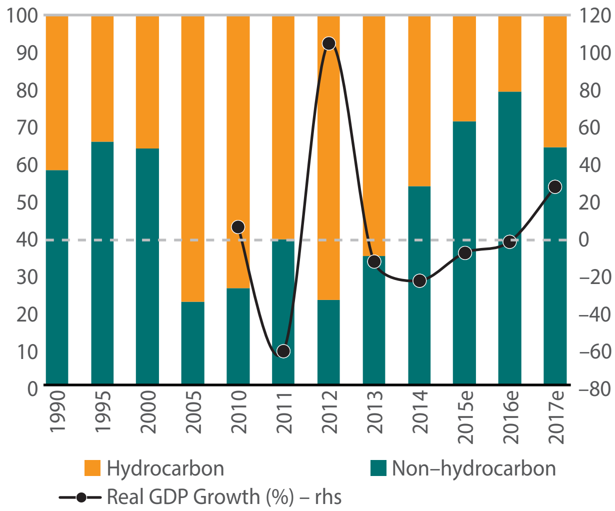
A lesson to be derived from Libya's current public sector reform dialogue is that if Libya is to become fiscally sustainable over time, there is a need, indeed an urgency, to think inter-governmentally. Nearly all, if not all, of the public services that promise to lay a foundation for future

[2] The evolving theory of tax assignment—which type of government is responsible for generating which type of revenue as a society's fiscal architecture changes—is discussed in Bahl and Bird (2018). The status of, and options for, Libya are addressed in Law No. 59/Article 51 and in this LGF, the papers by Ebel and Schaeffer (Paper 2), Kopanyi (11), Saed (18) and Werner (19).

[3] At present Libya has two separate budgets managed by two existing governments, The Government of National Accord (GNA) in Tripoli/ West Libya continues to manage all revenues and expenditures that existed before the current conflict that started in April 2019, including paying for a substantial portion of government wages and salaries of government employees. The Interim Government (IG) operating in Benghazi (East Libya) manages its own "extra spending" by generally financing with government bonds and treasury notes. (World Bank, *Libya Economic Monitor*, July 2020.

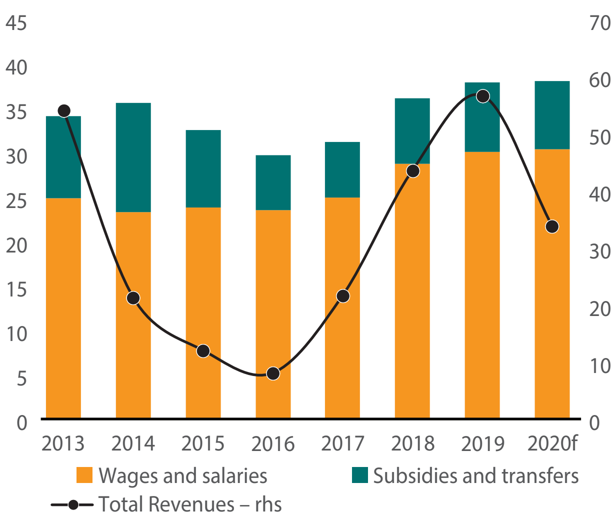
[4] The wage bill will account for 48 percent of GDP in 2020. *Libya Economic Monitor,* May 2020.

FIGURE 3 Hydrocarbon Sector Share in GDP and Real GDP Growth in Libya (%)



Source: Libyan Authorities, World Bank staff estimates, World Bank (2009), Ouelhazi (2021).

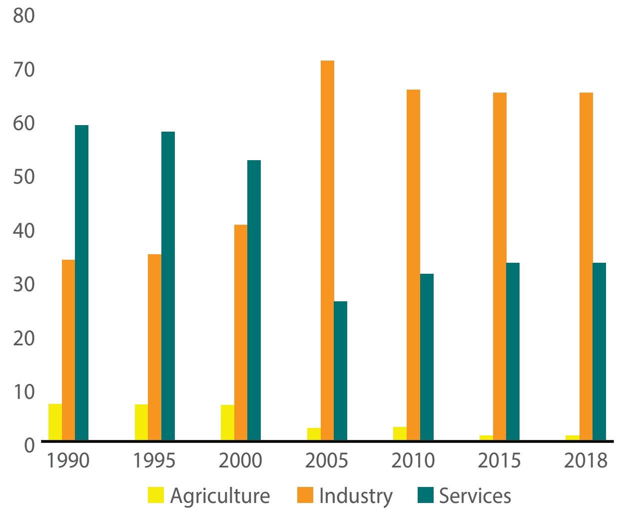
FIGURE 5 Total revenues do not cover wages and salaries and social transfers (billion LYD)



Source: Libyan Authorities, World Bank staff estimates, World Bank (2009); Ouelhazi (2021).

economic development are to some degree "polycentric"—that is, they are such that to function efficiently will require central and subnational coordination and cooperation. Moreover, in order to finance and fund these services, subnational government will also require an intergovernmental

FIGURE 4 Value Added by Economic Activity in Libya (%)



Source: United Nations (2019b), World Bank staff calculations (Ouelhazi 2021).

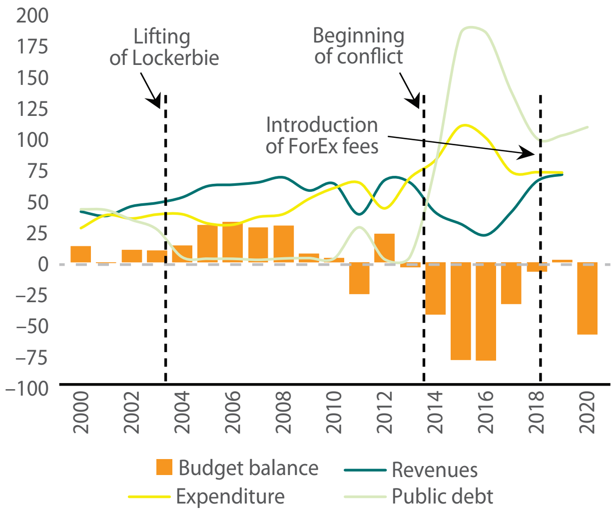
response (Schaeffer and Ouelhazi, 9; Kopanyi, 11; Catic, 14; Saed, 18; Werner, 19).

Institutions. Making useful statements about the fiscal architecture reflects the best one knows about not only demographic and economic features and trends, but also about the set of institutional arrangements that can foster or constrain a country ability to develop in a fiscally sustainable manner. For the most part, the knowledge development papers in this LGF have focused on policy design. This has been an important activity. Knowledge base development—and keeping that policy-oriented knowledge base current as times change—is a necessary condition for any country that is intent on meeting its own set of sustainable development goals.[5] If governments make poor fiscal policy choices, increasing fiscal imbalances will result, which, in turn, will not only lead to adverse macroeconomic consequences and a collapse of the social safety net, but also, potentially, conflict (Figure 6). But, even if the policy is well-designed, to make it all work requires accompanying systems of public financial management/public administration (PFM).[6] To paraphrase

[5] https://www.un.org/sustainabledevelopment/sustainable-development-goals/.

[6] Comments by Vito Tanzi in Allen, Hemming and Potter (2016).

FIGURE 6 Key Fiscal Indicators and Public Debt in Libya (% GDP)



Source: Libyan authorities, World Bank staff calculations; Ouelhazi (2021).

de Jantscher, *public administration is public policy*.[7] Integrating the Libyan intergovernmental policy dialogue with a PFM practice is next on Libya's public sector reform agenda.

Final Comment

Fiscal Architecture analysis is a key fiscal policy planning tool for providing a way-of-thinking about the Libyan future of intergovernmental finance. Given the robust body of policy research that has been generated in the past few years, Libya is well positioned to take the next step of focusing on becoming public administration and public financial management capable.

[7] The comment by the IMF expert Milka Casanegra De Jantscher: *Tax Administration is Tax Policy.* (Bird and de Jantscher, 1992).

LIBYA FISCAL ARCHITECTURE ILLUSTRATION
IMPLICATIONS FOR SUBNATIONAL (E.G., LOCAL) EXPENDITURE AND REVENUE SYSTEMS
Illustrations

Demographics			
	External Circumstances Trend/Condition	**Policy Implications/Options**	
	Demographic	**Expenditure**	**Revenue**
Population Parameters	0–14 years: 33.6% 15–24 years: 15.2% 25–54 years: 41.6 % 55–64 years: 5.6 % 65 years and over: 4.0 %	Pre-elementary schools, elementary, secondary, vocational, and (maybe) other post-secondary schools Vocational training facilities, employment agencies Housing, healthcare	To capture spending of the youth and elderly, user charges, retail sector sales and excise taxes Taxes on personal income (PIT)
	Total Dependency Ratio: (ratio of the number of dependents aged zero to 14 and over the age of 65 to the total population aged 15 to 64). Libya is 49.1% (compared to world average of 52.5) Algeria 52.7; Chad, 100.2; Egypt 61.8; Japan, 64; Niger 112.6; Sudan 83.7; Tunisia 45.6) Potential Support Ratio: the number of people age 15–64 per one older person aged 65 or older is 15.5 for Libya. Compare to Algeria, 11.2; Chad 20.3; Egypt, 12.2; Japan 2.3; Niger 18.6	Emphasis on programs that will develop social and educational human capital of the 15–64 population cohort. Plus, public capital spending on local and/or what may be poly-centric" physical infrastructure Along with the spending on infrastructure: design public sector systems (local, regional and national) for Public Investment Management (PIM)	At present the total unemployment is 30%. But it is even worse for youth ages 15–14; 41% male, 68 % female. This suggests • Low potential capacity personal income tax (PIT) with, now, 2/5 of the youth and most elderly out of the workforce. However, getting in place the framework for an income (e.g., basic wage) tested PIT is merited. • User charges—many options by type of infrastructure. • Include gender budgeting
	Population growth rate: 1.6% (65th in world) *Birth rate*: 17.5 births/1,000 population (106th); *Death rate:* 3.6 deaths/1,000 population (295th) **Literacy:** 91% • Female: 86% • Male: 97%	Examine reasons for low birth rate; implications for spending on health and hospitals. Pre-natal care clinics Libya is ahead of many countries re: literacy. This literacy success provides a foundation to focus on school financing and funding of literacy programs, and girls' education	Consumption charges
Spatial distribution of population	Different income distribution/ standard of living across regions (e.g., developed vs less developed regions). Libya is highly urban: 79% of the total 6.7 million population lives in urban areas. At the 1.64 annual growth rate, the population will increase 20% by 2028. At current rate, 10–12% of that growth will be attributable to immigration	Infrastructure; e.g., water supply (regional) and distribution (local). Transportation network; housing Integration of immigrants	Less developed areas: communal taxes; user charges, sales Much depend the nature of the human capital that contributes to population growth. Infrastructure charges; explore PIT/wage tax. Tax on electricity consumption and other utility services

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LIBYA FISCAL ARCHITECTURE ILLUSTRATION (*continued*)

IMPLICATIONS FOR SUBNATIONAL (E.G., LOCAL) EXPENDITURE AND REVENUE SYSTEMS

Illustrations

Demographics		
External Circumstances Trend/Condition	**Policy Implications/Options**	
Demographic	**Expenditure**	**Revenue**
90% of Libya lives along the Mediterranean. Interior is vastly underpopulated due to the arid Libyan Desert climate and lack of surface water. Less than 2% of the land is suitable for growing permanent crops. High numbers of internally displaced persons due to in conflict	**Urban:** The Matching Principle (tax individuals and businesses who benefit from local services) is key. But for the Principle to work, services delivery must be effective and transparent. E.g., pick up the garbage. Note that many service flows will overlap local jurisdictions; thus explore intergovernmental cooperation arrangements including special purpose districts) **Rural** development planning. Assess rural infrastructure needs; e.g., transportation and communications network; rural access to improved water is on par with urban (54%—55% of population, urban and rural). Spend on general purpose government	**Urban:** Best chance at a (needed) mix of revenue sources: real estate taxation—commercial as well as residential; income taxes, general and selected sales taxes, general business activity tax, non-tax revenues. Are presumptive taxes needed? **Rural:** Hard to tax. User fees and charges. Again, presumptive taxes. Simple land/property tax (there are several tax base valuation approaches that range from the complex to simple to administer)

Demographics, Concluded		
Trend/Conditions		**Budget Implications/Options**
Access to improved Services 1. Drinking water 2. Sanitation facilities 3. Children's health 4. Infant mortality rate 5. Electricity	1. 54% of the population (about the same % urban and rural) have access to a water source. Not a good economic growth and development platform 2. About 95% of the population has access to sanitation facilities. This is a good number. 3. 5.6% of children under the age of 5 years are underweight/undernourished (86th out of 195 countries); Health spending is only 5 % of GDP—Libya ranks 143 out of 195 countries. 4. Libya infant mortality rate (10.8 per 1,000 live births) gives Libya a rank well below world average; indeed near the low end: 143 of 195 countries. 5. The population coverage for electrification is high (99%). There also a need for upgrading the system to avoid periodic service outages	1. Water: An intergovernmental /poly-centric challenge: • Water supply is a regional and/or central competency. Distribution is local • User charges for financing and funding 2. Central conditional grants for financing, may or may not be matching 3. Same as for water, but more local than intergovernmental: user charges, tax on real property in a manner that serves as a benefits tax 3, 4. Health Care service are, like physical infrastructure, polycentric. E.g., local clinics, regional hospitals. There is also a national (central) interest, which leads to a case for conditional central→local transfer/grant 5. Tax/fee on electric utility service

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LIBYA FISCAL ARCHITECTURE ILLUSTRATION *(continued)*

IMPLICATIONS FOR SUBNATIONAL (E.G., LOCAL) EXPENDITURE AND REVENUE SYSTEMS

Illustrations

The Economy	
Gross Domestic Product Data (2016 est)	**Revenue Implications**

Aggregate GDP = LD 56 bn (USD 40 bn total); Libya is 107 of 195 countries
 	
Per capita (PPP): LD per capita = LD 8,694 (USD 6,300n). Per capita puts Libya 144 out of 195 countries.
 	
• Composition of Libya GDP by Disposition of LD (2016 est)
  • Household consumption: 83.5%
  • Government consumption: 21.6%
  • Investment In Fixed Capital: 3.4 %
  • Inventories: 1.3%
  • Net Exports: –9.8%
  • Exports: 32.7% (crude oil, natural gas; refined petrol products, chemicals)
  • Imports: 42.5% (machinery & transport eq. Semi- finished goods; food, consumer products).
 	
• Composition by Sector of Origin
  • Agriculture: 1.7% (wheat , barley, olives, dates, citrus, peanuts, cattle)
  • Industry: 38.2% (petroleum, petro chemicals, textiles, handicrafts, cement, iron& steel,)
  • Services: 60.1%
	• **Consumption based society**, thus rely on consumption taxes and user fees and
	  • Retail general sales
	  • A range of consumer excises from products ranging from tobacco to jewelry and motor vehicles to transient accommodations.
	  • User charges and fees
	  • Presumptive market taxes
	
	• **General Business Taxation**
	  • Agriculture: some potential in a real estate tax or income tax; also per cattle head (though that may have s administrative problems due to culture/owner distrust of government). Petroleum /local revenues. Severance tax, tax on real property, environmental taxes, user charges for off- site infrastructure financing and funding. All feasible with Libya's cost/ profit sharing regime
	  • Petroleum: central source of unrestricted intergovernmental grants
	  • Goods and Services; Gross Receipts Tax (for now, no shared VAT since Libya is not a VAT country). GRT will have to be apportioned by jurisdiction

Economic Structure: Spatial and Sector Considerations			
	Key Features	**Expenditures: Core Activities**	**Revenue Policy and Administration**
Urban	Recognizing the often polycentric character of infrastructure and other core public service delivery, focus on opportunities for intergovernmental cooperation, which will often be among SNGs—options include local-to-local contracting arrangements, and the establishment of joint/ special purpose service districts to complement general purpose government (which for some services will require metropolitan governance)	Fundamental focus on SNG budget preparation and budget execution. Given the current absence of a middle/ regional tier of government, the focus is on municipalities. This may begin with identifying "pilot" municipalities, thereby requiring that the central government plays a key role in local public administration. For the central authority take on this task requires that the SNG and the center must newly learn to be intergovernmental.	• Destination based business receipts taxes (apportioned) • Real Estate/Property Tax / methodologies are available to modernize real estate taxation. • Telephone, electricity and other utility taxes and fees. Licenses and permits as part of the user charge mix • Consumption taxes, fees and charges
Rural	Lack of access to markets; Basic infrastructure (water supply and distribution; roads, schools)		Transaction fees; user charges—what is the willingness to pay? Land taxation; real property self-assessment. At some point an agricultural income tax may be worth exploring. However, this is not an tax-wealth agricultural economy
Business structure	Small and medium enterprises	Technical Support (e.g., to set establish a micro-business enterprise)	Options similar to that illustrated in the bullet points above

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LIBYA FISCAL ARCHITECTURE ILLUSTRATION (*continued*)

IMPLICATIONS FOR SUBNATIONAL (E.G., LOCAL) EXPENDITURE AND REVENUE SYSTEMS

Illustrations

Economic Structure: Spatial and Sector Considerations			
	Key Features	**Expenditures: Core Activities**	**Revenue Policy and Administration**
Emerging global Market-place for destination sales	Potential retail sales market for sale of goods that bypasses the conventional "street front" business? 10% of Libyan residents are internet users		Central Government: Diversify the revenue base, including adoption of a broad based national consumption tax (e.g., VAT) SNGs: plan to institute a broad based destination sales tax regime that includes sales/purchases over the internet and on the use of digital technology to buy and sell

Institutional and Organizational Capacity to be Intergovernmental	
Systems and Processes	**Illustrations**
Are *Public Accountability Institutions* in place? Systems (includes rules and regulation) that build the capacity of the central authority and subnational governments alike to become intergovernmental. (The related process of sorting out intergovernmental functional and revenue authority roles).	Mechanisms and tools to safeguard abuse of government authority: regular Census of population and business; Financial Reporting (e.g., Comprehensive Annual Financial Reports; documents to inform citizens of structure and impact of revenue policy, including how a tax is designed and administered; land and land use records; codes of conduct, taxpayer identification forms (and fees). Internal and external audit. Independent budget analysis. Taxation: is there a taxpayer appeal process with procedures that are transparent? Tax courts
What is the status of *Social Accountability* Arrangements? Role of civil society (citizens acting individually and collectively) to create and participate in the process of governance.	Financial social accountability institutions and tools may be Constitutional and/or statutory (e.g., mechanism allowing for voice and participation; process for public hearings, participatory budgeting), administrative (citizen organized information platforms/ awareness programs)
Communications infrastructure.	E.g., for purposes ranging from systems to facilitate revenue administration can compliance to billing and collection—institutions ranging from IT systems to reliable street/postal addresses.
Cultural. Traditions: values, modes, beliefs as the frame the ways of citizens interacting with their governments	E.g., what is a "tax"; structure of Census—is it finance administration compatible? Self-assessment of tax may be an option. Budget policy in Traditional Authorities/ Governments.
Organizational Capacity	1. Sorting out of the expenditure and revenue "assignment" process; including systems and process for intergovernmental service delivery and tax overlapping; establishing indicators and fiscal rules relating to what will be required for a Libyan SNG to become creditworthy. 2. Separate legal treatment of the Capital City 3. Intergovernmental role of (too many?) overlapping central ministries—e.g., MoF, Planning, MoLG. 4. Recognizing that "local" physical infrastructure is often poly-centric (the flow of infrastructure services crosses local jurisdictional boundaries), general purpose government may (likely will have to be) supplemented with special purpose service delivery districts (e.g., formal systems of metropolitan governance).

Sources: CIA World Factbook; Libya Economic Monitor, selected (monthly) issues. Other Libya Local Government Forum papers cited in text.

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PAPER 6

Sorting out Expenditure Roles among Types of Government: Universal Principles and Local Applications[1]

Robert D. Ebel, Former Lead Economist for Local Public Finance, World Bank Institute

I. Introduction: Purpose and Scope

Setting the Expenditure Role Context

The first and most politically challenging of the sequence of four fundamental questions facing any intergovernmental society is the question of sorting out expenditure roles ("expenditure assignment), that is, determining which type/level of government shall provide which set of public functions.[2]

The primacy of *expenditure assignment* lies in the fact that it is the first step in the intergovernmental fiscal design sequence. Accordingly, it has profound implications for what will be a long term set of central/subnational (SNG) political, economic and fiscal relationships in Libya.[3] In public policy jargon, this concerns the fiscal aspects of "power sharing" and "wealth sharing".

Power sharing focuses on matters such as changing the realignment of program responsibilities of central ministries and abolishing and/or creating a type of government. As such it can entail a redefining of government employee job descriptions and, in some cases, involve the relocation of employees to other places.

Whereas the power arrangements will define the variant, or as Lassoued has noted, the mix of variants of

[1] The theme of Universal Principles, Local Applications is developed by Bird (2000).

[2] The other three questions relate to: revenue assignment and mobilization; intergovernmental transfers; and subnational government borrowing and debt management. Bahl and Bird (2018); Bird (1974).

[3] Throughout this essay, the term subnational governments (SNG) refers to provincial and local governments. A SNG may also be a general purpose or special purpose district (for example, a special district, or a joint service district).

decentralization, *wealth sharing* takes on the issues of economic and fiscal roles among governments within a nation state. For example, during the Sudan Comprehensive Peace Consultations (2002–05), the wealth-sharing protocol addressed all four of the fundamental intergovernmental questions. It also dealt with banking and finance (how to permit both *Sharia* and conventional institutions), as well as the fit between conventional and traditional (indigenous society) systems. (Jackson and Marquette 2003; UNECA 2007).

For purposes of this paper, the focus will be only on the topic of expenditure assignment. However, to say "only on" belies the importance of the topic. This is true for two reasons.

The first, as noted, expenditure assignment represents the first in the sequence of the four fundamental questions facing any intergovernmental society. The level of subnational (for example, local) government revenues required cannot be established independent of expenditure needs. If the process begins by fixing revenues and/or central to local transfers, the correspondence between the economic efficiency question of "who benefits and who pays" will be lost.[4]

The second is that sorting out the expenditure roles among governments is the prelude to the topic of the effectiveness of *service delivery*, which is a primary motivation and for many countries. Indeed, it is *the* primary motivation for establishing a functioning system of subnational (SNG) governance, (Saed 2019).[5] Although the bulk of a country's basic services are consumed locally, in many countries the expenditure and service delivery decisions have been made centrally. The result has been a failed service delivery system, a system that has failed especially for the poor. (Ahmad and others 2005; World Bank 2004).[6]

Initial Considerations

Once a country has made the political decision to restructure its public sector, the question will arise as to how to proceed when everything is a priority. For purposes of this expenditure role discussion, there are four initial matters for consideration.

1. **Agreement on the Need for Public Sector Reform.** The first is to secure agreement on a political consensus that recognizes the role of subnational government in delivering and paying for local public goods and services. (Jelenic 2019).

   For some countries, the starting point of the public sector reform dialogue has been a "reaction from below" against a system of central command and control (for example, Indonesia, Nepal and parts of the former Soviet Union.) For other countries, it is a reaction to a legacy of colonialism (especially in Africa, the Middle East and South Asia).[7]

   For those in conflict-affected states, some have turned to decentralization as a strategy for achieving national cohesion. Examples include present-day Somalia; recently. Bosnia-Herzegovina, Cambodia, Indonesia, Nepal and Sierra Leone; and established "advanced" nations, such as Belgium, Canada, Germany, Spain, Switzerland.[8] Then, there is also the activism of a new generation that is tired of prolonged periods of chronic slow growth and development and/or high levels of corruption.[9,10]

2. **The Kornai Rule.** The second is to recognize that a change in government is not the same as a change in a system, but merely one of the pre-conditions for it. A change in a system is a process that will require a longer period of time and commitment (Kornai 1992). This

[4] Bahl and Bird (2018). Chapter 5.

[5] In the literature, effectiveness refers to the quantity and quality of services. This is different from efficiency.

[6] The World Bank's Public Services Delivery Cluster Report (2014) deals with the draft local administration law. It states explicitly that "…the centralization of power in Tripoli, which was effectively a centralization of control over oil revenues, contributed significantly to the problems in service delivery." (Section 6, page 32). For discussion of investment planning and service delivery in Libya, see Cactic, this Forum (2019).

[7] Selected references: For Central and Eastern Europe: Bird, Ebel, and Wallich (1995); Barati-Stec (2018); and for the Middle East and North Africa: Tosun and Yilmaz (2009), UNECA (2010); for Indonesia: Indonesia MoF (2012) and for India (Rao 2007).

[8] Bird and Ebel (2007); Tosun and Yilmaz (2009); Bird and Vaillancourt (2015).

[9] UNECA (2010).

[10] Fisman and Gatti (2002) and Ivanyana and Shah (2011) conclude that there is a negative relationship between decentralization and corruption. Rossello Villalonga (2017) focuses on European Union (EU) member states and finds that the centralization of public goods might be more efficient (less corrupt) than decentralized provision.

point is particularly relevant for Libya as it continues its dialogue on determining the country's intergovernmental fiscal arrangements. Intergovernmental systems are always in transition (Bahl and Martinez Vazquez, 2006).

3. **Understand the Fiscal Architecture: What Make "Fiscal Sense"?** Third, demographic, economic, and institutional realities will frame what makes "fiscal sense" in terms of the design of spending and revenue policies. Accordingly, one of the policy pre-conditions to examining Libya's expenditures (and tax, transfer, and borrowing and debt arrangements), is to determine the fiscal architecture trends that are largely beyond national as well as regional and municipal control (Ouelhazi 2018; Ouelhazi and Schaeffer 2019; Wallace 2003).
   - *Demographic characteristics* include population size, age distribution, and health status of the population, household composition, fertility rates, and life expectancy.
   - *Economic characteristics* consider the importance of trends for particular sectors. In Libya, this includes not only its petroleum and energy sector, but also its non-fossil fuel sectors of services and manufacturing.[11]
   - *Institutional features* include institutions in the common use of the word, along with a system/set of rules, regulations and data that accompany budget preparation and execution. Institutions also include the many social systems that help to make budget polices work, such as a system of postal addresses for tax billing and collection; technology tools such as computerization for tracking budget flows; a telephone or website where budgets can be found and whereby citizens can learn, understand and access tax forms and instructions; clarity about property rights and the rights of different types of government; a range of tools for holding public officials accountable to their citizen-clients (for example, a Comprehensive Annual Financial Report), and a judicial system for dispute resolution among citizens and between citizens and their governments (audit and appeal mechanisms). There are also cultural matters, such as the ease by which a census taker may be able to secure a population's cooperation to generate data that can be systematically used to inform spending and tax policy for businesses and households alike, as well as the degree to which there is a tradition of citizen voice and participation—whatever form that participation may take.

   The nature of these trends varies not only among nations, but also within a nation's "subnational" region and its geographically smaller jurisdictions (for example, municipalities). Thus, the fiscal architecture for framing national, regional and municipal expenditure policy will vary accordingly. Moreover, the increasing globalization of markets for products and services further magnifies the importance of recognizing these parameters, including the opportunities and limitations they may place on policymakers (World Bank 1999–2000).

4. **Design and Implement:** Fourth, a generalized sequence for reform matters (Bahl and Martinez-Vazquez, 2006). As Libya embarks on intergovernmental reform, it will face twin tasks of system design (first generation decentralization) and implementation (second generation decentralization).[12,13] Libya is getting a good start on the first task of design by developing a knowledge base in support of a decentralization dialogue.[14] Nonetheless, at this early stage, the sorting out of expenditure (and revenue) roles is unsettled. Whereas the decentralization model outlined in Law 59 (2012) "reflects an understanding of decentralization as

[11] Libya's energy sector (petroleum and petroleum products, electricity) accounts for about 95 percent of export earnings and nearly 99 percent of total government revenues. The gross domestic product (GDP) composition by sector of origin is as follows: industry, 38 percent (including petroleum, petrochemicals, textiles, handicrafts, cement iron and steel); services including construction, 60 percent; and Agriculture, 2 percent. Ouelhazi (2018).

[12] For a review of the generations literature, see Zhang, forthcoming, 2019.

[13] For a set of core PFM/ budget guidelines, see Schaeffer (2015a; 2015b; 2015c).

[14] For example, see Adam Smith International (2018); Bockenforde and others (2013); Brookings Institution (2019); UNDP (2017); World Bank (2014); Baifor (2019). *Mediterranean Affairs* also provides a bibliography of Libya decentralization references for 2012–2018. http://mediterraneanaffaris.com.

the restructuring of decision making and implementation responsibilities within the central administration, it … leaves out a major part of the decentralization process, [namely] the transfer of subnational responsibilities and resources outside of the central administration …" (World Bank 2014, p. 24).[15]

Addressing the Problem: Universal Principles to Local Applications

Having recognized the need to address the matter of making fiscal sense in a knowledge-based framework, the next task is to apply a set of universal *principles* that frame spending and revenue roles among governments. As the discussion proceeds during this Forum and beyond, it will become clear that although there is no right or optimal answer to the expenditure assignment question, the principles matter—and matter very much. Among other things, the principles serve as guidelines that will allow for the ruling out of various options that will undercut the goal of developing an efficient and sustainable public sector (*local applications*). Moreover, the specifics of what makes fiscal sense at one stage in Libya's intergovernmental arrangements may not—and, indeed, most likely will not—be the best way to proceed at another time as Libya's fiscal architecture changes.[16]

II. Purpose, Scope and Organization

The focus of this paper addresses a key finding in the Libyan case: although three types of general-purpose governments are acknowledged in Law 59 (central, middle tier, and local tier), the jurisdictional boundaries have not yet been defined. So too, the "demarcation criteria are not identified." (World Bank 2014, p. v).

Accordingly, the purpose of this paper is to present the spatial demarcation criteria for determining expenditure roles. Although this essay includes several references to the current Libyan decentralization dialogue, it is not intended to provide specific recommendations. Rather, it will lay out a way of thinking about which type of government does what.

This paper begins with a brief commentary regarding two threshold topics that are often ignored in the expenditure assignment discussion. First, what justifies public expenditures in the first place? Or, its converse, why not let the private sector do all the spending? Second, what are the forms that spending may take?

It then proceeds to address the following two topics that will first frame the expenditure decentralization dialogue:

- The first is to lay out the three fundamental functions of any public sector system, whether it be unitary, federal or con-federal. In so doing, it makes the case that decentralization is as much about forming an intergovernmentally-capable central authority as it is about local governance.
- The second turns to a set of specific expenditure assignment principles or guidelines for policymakers to apply as they seek to determine the intergovernmental spending roles by type of government.

Having established both the broad and expenditure role normative issues, this paper will then present two matrices to illustrate the determination of expenditure roles among governmental levels.

- Matrix 1 provides a generalized look at the expenditure on a sector-by-sector basis. For most service delivery sectors, all three types of governments as provided for in Law 59 (2012) will have a role to play in making local service delivery work.
- In almost every sector, there is a case for a functional overlapping of intergovernmental responsibilities. This serves to highlight a key policy point: decentralization need not be, indeed, ought not to be, about a coercive central government *vis-à-vis* the subnational government. Of course, there will be tensions regarding various aspects of which government performs a particular function. However, fundamentally decentralization is about a new and sustainable system of cooperation among the various types of government.

[15] Law 59 addresses the jurisdiction of provinces/governorates (Chapter 3) and municipalities (Chapter 4).
[16] Bahl and Martinez-Vazquez (2006); Ouelhazi (2018).

- However, because it is so general, Matrix 1 is just a first step in the expenditure role story. When delving into the service delivery details of a specific sector, the sorting out question can become very complex. This is where some of the central-subnational governmental tensions may arise. To illustrate this point as well as to reach a better sense of sorting out the expenditure roles among governments, Matrix 2 goes into further details about the service delivery components. As such, it helps to illustrate the complex nature for one sector, namely, primary and secondary education.

This paper concludes with a set of comments and presents a list of topics for further discussion regarding expenditure management as the Libya decentralization dialogue continues.

III. Two Threshold Topics

Public versus Private

The economically efficient society, that is, one that uses its scarce economic resources of people, capital and land to maximize total economic welfare, will have a mix of expenditures on privately and publicly provided goods and services (Samuelson 1954).[17] Therefore, a first topic that public policymakers, central and local alike, must address is the nature of that mix. Specifically, what makes one type of spending a private sector function and another a public responsibility?

The response to this provision question is based on the concept of market failure—that is, the circumstances whereby the private market mechanism thwarts the efficient use of society's scarce resources. It can include: (i) pure public goods for which there is no rivalry in consumption and for which exclusion from use is impossible; (ii) the presence of negative and positive externalities; (iii), over-consumption of common property resources; (iv), incomplete markets; and (v) monopoly and monopsony power.[18]

It is also true that there can be government failure when collective decisions undermine social welfare. For example, this may involve the influence of organized rent seeking in the form of the private sector's use of public resources for private gain; limited information; limited control over bureaucracies; and, elite capture of the electoral process.[19]

The often-blurry dividing line between public and private functions has been adequately discussed elsewhere.[20] Thus, it needs no elaboration here. Suffice it to say that this question of the proper role for public intervention is a threshold question for central and local policymakers alike.

Three Forms of Spending

Governments utilize three mechanisms to carry out their expenditure responsibilities: (1) functional spending made through the budgetary process; (2) regulation of private activities; and (3) tax expenditures. This paper focuses on the *functional spending.*

Regulations are both complements to and substitutes for functional spending. They typically involve mandating private agents to spend on tasks that the government would otherwise carry out. For example, business firms may be required to dispose of their solid waste according to regulations. These are accompanied by fines for non-compliance. Similarly, there can be regulations relating to health and sanitation, environmental control, and land use practices.

The use of such regulation to impose costs on households or firms cannot be justified on the basis that it reduces budgetary government spending—or worse, as a technique to hide the costs to society of governmental decisions. Regulation is appropriate if it is designed to internalize what are appropriately private sector costs of production and/or privately generated external costs to society as a whole.[21]

A third and much less transparent way of spending is to use *tax expenditures*. Tax expenditures are revenue

[17] As used here, the term efficiency refers to the public sector's role in promoting allocative efficiency, that is, the society's use of economic resources that produces the maximum level of output using a given set of inputs. This concept of allocative efficiency is distinct from that of technical service provider efficiency.
[18] Stiglitz and Rosengard (2015).
[19] Stiglitz and Rosengard (2015).
[20] This includes a large literature. For a review, see: Stiglitz and Rosengard (2015); and World Bank (1997).
[21] Whenever one economic actor (a firm or individual) undertakes an action that incurs a (net) added value or cost to another economic actor, there is an externality. If these added values (positive

losses resulting from provisions that grant special tax relief designed to encourage certain kinds of taxpayer behavior and/or to aid taxpayers in special circumstances. They may take one of several forms. However, they can be hard to measure. Also, because they tend to have a degree of permanency in law, they are not subject to the periodic budget review required for good public financial management.[22]

IV. The Big Picture: The Theory of the Intergovernmental Public Budget

There are three fundamental functions of the public sector budget: (i) securing macroeconomic stabilization; (ii) adjusting the overall distribution of income and wealth; and (iii) commandeering (allocating) private resources for public use (Musgrave 1959).

The first two public sector roles serve to emphasize that for a well-designed system of intergovernmental arrangements to work, a fiscally capable central authority will need to play a key role.

- ***Stabilization.*** In order to for a nation to maintain high employment and price stability, there is a presumption in favor of central governmental control.[23] This is true for two reasons.

  The first reason is economic. Unlike a central authority, subnational governments cannot effectively establish barriers to commerce or the flow products and factors of production across their borders (trade flows, migration of people, and capital flows).[24] Indeed, a necessary feature for a nation state is a political system that maintains economic openness across subnational borders.

  Thus, for example, local-only spending on an employment program will likely attract job-seeking in-migrants from other jurisdictions. If there are ample job openings, then this is not an issue. However, if not, then the local program will dampen the employment effect for local residents with the result that the national employment level may not change.[25] The same sort of open economy dynamic applies when one subnational jurisdiction goes it alone in trying to change price levels (Vu, 2011).[26]

  The second reason is fiscal. Because subnational markets are so interrelated—again there are spending and factor leakages across jurisdictional boundaries—the responsibility for carrying out counter-cyclical fiscal and monetary policy rests with a central authority. It is for this reason—that is, the financial leakages—that an effective fiscal policy argues for central government control of the main revenue instruments. This is true for Libya which has a petroleum-based revenue system that is highly exposed to international price fluctuations.[27] Another institutional reality of financial leakages is that the basic stabilization tool—control over the money supply—rests with an independent central bank.

- ***Distribution.*** For the same reason concerning the open economy, the task of securing equity in the distribution

externalities) are not paid for by the recipient or net costs (negative externalities) are not paid for by the first actor, the result is inefficient resource allocation.

[22] There are four classifications: (i) exclusions, exemptions, and deductions that reduce taxable income; (ii) preferential rates that apply lower rates to part or all of a taxpayer's income; (iii) credits subtracted from taxes and ordinarily computed; and (iv) deferrals of tax, which result from delayed recognition of income by allowing deductions in the current year that are more properly attributable to a future year.

[23] This is also becoming the case across nations, thus calling for international coordination of macro policies.

[24] An interesting exception to the nation-state only rule—but one that does not undermine the primacy of the role of a nation state in stabilization policy—is Switzerland. It delegates the establishment of a permanent residence to its 26 cantons. Dafflon (2007); Linder (1994).

[25] There are two different stabilization issues: (i) whether the aggregate fiscal position (taxes and spending) of the subnational sector influences the overall national economy; and (ii) whether subnational fiscal changes during economic recessions or expansions might contribute to (pro-cyclical) or dampen (countercyclical) the recession. For example, a subnational sector would be countercyclical if in economic expansions subnational governments would tend to build up reserves, thereby dampening effective demand; and, in recessions, it would tend to spend from reserves, thereby minimizing the dampening effect.

[26] Examining Vietnam, Vu (2011) finds that expenditures on public services can influence inter-provincial migration patterns through a proper design of intergovernmental transfers.

[27] Yusser (2018). Libya's petroleum revenues are generated through a cost-of-production/ profit-sharing regime. Thus, this is not a tax instrument. The key/typical central tax is the Value-Added Tax (VAT)/ General Services Tax (GST) that is used in 160 countries. Libya is not one of these 160 countries. https://www.imf.org/external/np/fad/tpaf/pages/vat.htm.

of income and wealth will largely be a central responsibility.[28] Again, an example to illustrate: a local government policy of pro-poor tax and expenditure entitlements runs the risk of attracting the poor to the jurisdiction. At the same time, it may provide an incentive for high- and middle-income families to relocate to another jurisdiction and/or for investors to move their capital out of the redistributing district. Indeed, the outcome of an aggressive local policy to redistribute income and wealth may result in a perverse equality—everyone will be poor. To say this is not to argue against SNG poverty alleviation policies, but simply to state that in the context of this expenditure role discussion, an effective policy must be national in scope. However, even with the distribution responsibility being largely a central function, a national-focused poverty alleviation program can be expected to be highly intergovernmental, whereby one type of government may act as an implementation agent for another type of government (delegation).[29]

- ***Efficiency.*** This leaves the efficiency argument, that is, allocation policy as the *raison d'être* for a subnational role.[30] Allocation focuses on two topics: (i) the manner in which the public sector intervenes in how an economy uses (allocates) its scarce resources by collectively purchasing not only final goods, but also the services of the factors of production (labor, capital and land); and (ii) the determination of which type or level of government shall be responsible for which purchases.[31]

Principles for Assigning Expenditure Responsibility

Once it is decided that a set of goods and services are appropriate for public provision, the key question arises: which government shall provide which set of goods and services? This concerns the demarcation of subnational boundaries.

There are three distinct, but reinforcing, principles that serve as a guide in answering this question. Each also has a geographic, spatial character.

- **Benefit Area Principle.** Functions should be assigned to the type of government whose jurisdiction most closely approximates the geographical area of benefits provided by the function. Thus, if the spatial benefits of a service are local, then the type of government that spends on that service should also be local. In addition to this being a resource efficient outcome, there is the added gain of local officials being held accountable for the quantity and quality of services delivered (Bahl and Bird 2017; World Bank 1995).

There are two further considerations that fall under the benefit area principle:

- ***Poly-centric services.*** A variety of infrastructure modes cut across subnational jurisdictions, including rural town-to-town and city-to city roadways; water supply and development systems that bring aquifer waters from the Sahara to the coastal cities, land and sea ports; and wetlands and soil reclamation systems. Such infrastructure is inherently "poly-centric" (Bird 1974; Bird and Slack 2017).

  This poly-centric character of infrastructure expenditures calls for cooperation in service delivery among different types of government. This cooperation, which may be Central/SNG, or SNG/SNG, includes not only cooperation in funding current services, but also in the downstream functions of monitoring and evaluation.[32] This poly-centric feature also helps to make the efficiency case for joint service council arrangements (as Law 59 appears to permit), as well as metropolitan and middle tier (for example, provincial/governorate) expenditure role cooperation (Peteri 2007a, 2007b).[33] There is also a role for a central

[28] Bird and others (1995) make the case that due to the legacies of a command economy , the role of subnational governments in countries that are in transition to a post-socialist system have a broader role than the traditional model suggests in terms of distribution (social safety net) policy.

[29] A related matter is the degree to which a directive for the SNG to act as an agent is funded by the mandating unit of government.

[30] Yilmaz, Viallancourt and Dafflon (2012).

[31] The role of mobilization of a SNG's own-source revenues and intergovernmental transfers for financing and funding a government's assigned expenditure role has yet to be addressed.

[32] Vu and Ebel (2016).

[33] Law 59 of 2012, Chapter 3, Article 12f permits the Provincial Councils to "conduct joint projects with other provinces or with

authority, but it will be more on the *financing* side of the capital budget than on the intergovernmental *funding* ledger of service delivery (Rendell, Session 4; and Cactic, Session 6 of this Libya Forum).

- ***Externalities/Spillovers.*** If an activity of one local government has an important external effect whereby its actions create added value (positive externalities) or costs (negative externalities) for individuals or businesses located in another jurisdiction, then the responsibilities for providing (or, in the case of negative externalities, limiting or compensating for) these services should be coordinated in an intergovernmental fashion. Mechanisms for such intergovernmental cooperation range from the establishment of provincial and/or local joint project service delivery arrangements to the establishment of governmental as well as citizen-led coordinating bodies (for example, provincial and local governmental associations, academic research institutions, and non-governmental monitoring institutions).

- **Economies of Scale.** Public goods and services should be provided by the government that can best realize economies of scale in the financing and provision of goods and/or services. Economies of scale refer to the unit (accounting) cost of production. For any good or service, increasing the amount produced may result in increasing, decreasing, or constant costs. Other things being the same, the type of government that can deliver a good or service at the lowest possible cost should provide that service. Economies of scale generally occur when a capital-intensive enterprise can spread the high cost of financing capital over a large number of customers who share the service benefit area. Where scale economies come into play, and in a very important way, is in the financing of large infrastructure projects.[34]
- Expenditure Management. Functions should be assigned to the government that can most effectively manage that function.[35] Specifically, subnational governments should have adequate policy, planning, and public financial management capacity to perform their assigned functions, and they should be willing to pursue intergovernmental policies for promoting inter-jurisdictional cooperation.[36] The notion that local government may be better able than a regional or central government to determine how a service is to be organized or delivered is a key part of this management principle. This can also help to ensure that best practices can be identified through experimentation and then adopted by other jurisdictions.[37]

V. Implementation: Local Applications

The application of the principles put forward does not always yield an unequivocal answer to the right pattern of expenditure assignment. For example, take the situation where all the criteria work for SNG "A" to take the expenditure lead on a given function. However, in a similarly (spatially) situated "B", all the criteria for assignment are met except for one, (for example, the ability to administratively manage expenditures). Then what? The answer is that primary responsibility for the expenditure role will go to "A", but that special arrangements will have to be made for "B". That is, there is a case for asymmetry in how the spending function is sorted out. "A" and "B" are treated differently. There are many other such situations that lead to a system of asymmetrical *decentralization* (Bird and Ebel 2007; Lassoued, 2019).

To take another illustration, consider the universal principles when applied in the case of primary education. It is not uncommon to see a report on decentralization present a general assignment matrix according to whether a function belongs to a central, intermediate (for example, provincial), or local (for example, municipal) general purpose government, and then assign primary education to

other local units or legal entities in the province with the consent of the competent planning authorities, subject to the relevant provisions of the law in force".

[34] Yilmaz and Ebel (2019).

[35] In the literature, effectiveness refers to the quantity and quality of services. This is different from efficiency. Bahl and Bird (2008).

[36] Morrell and Kopanyi (2014).

[37] This criterion of effective management does not refer to the notion of an "adequate" fiscal capacity, which is a separate topic (Yilmaz, 2010). The question of fiscal capacity will be addressed in the subsequent Forums depends on revenue assignment and mobilization and intergovernmental transfers.

the subnational governments. Indeed, this paper provides just this sort of presentation (Matrix 1).

At first glance, this makes a lot of sense—local schools for local children. Why should a national or provincial government have anything to say about schooling in a municipality or village? For the most part, the answer is that it either probably should not, or it should minimize central involvement in the provision of primary education services.

However, in taking a closer look at the components of the delivery of primary education, the situation can become quite complex. For a start, a nation or province as a whole has a strong interest in a well-educated population. As such, there is a broader benefit area than just the locality. Indeed, when applying the guiding principles presented above, primary education can be divided into several subfunctions; for example, setting the curricula (which could include a role for a national core curriculum supplemented by local options); teacher certification (the center or province may wish to set minimum standards); and staff hiring, firing, and salary determination (local).

Similarly, consider public health and vaccinations against diseases such as hepatitis, chicken pox, mumps, along with the research for which there is no vaccine (for example, leishmaniasis).[38] Now the benefits and externality arguments converge to make the case for a supra-local, indeed, even global role.

Alternatively, consider a situation whereby the local government has failed to maintain its water distribution and sewage waste systems (which the conventional Matrix 1 depicts as a local matter) to the point that it is causing illnesses (for example, typhoid fever, amoebic dysentery). The consequences now spill over to other communities in the form of negative externalities (for example, contaminating the rivers or groundwater). If the offending local government does not act to address these costs, then a capable regional and/or central intervention will be required—perhaps even to the point of a take-over the management of the local department of sanitation by some other authority.

What can be done when there is no clearly established line in assigning a function? The European Union has formulated a response, which is embodied in the Council of Europe's European Charter on Local Self Government. In this case, there is a presumption in favor of having responsibilities carried out by the authority that is "closest to the citizen".[39] That is, a higher (central, regional) "level" of government should have a subsidiary role to the lower level of government with respect to expenditure assignment. However, as is true for the European Union (EU), the answer to whether the principle of subsidiarity works for Libya—now or in the future—is that *it depends*. Specifically, it depends upon a host of factors ranging from history (ancient and recent) and timing, to culture and budget management capacity (Matrices 1 and 2).

VI. Illustrations

The two matrices bring together the elements of this discussion of the intergovernmental assignment of expenditure responsibilities. Though illustrative, both are useful. Matrix 1, which presents the conventional expenditure assignment matrix that is found in many country studies, has the merit of providing policymakers with a framework for initially thinking through expenditure assignment *vis-à-vis* the guiding principles.

However, as noted, it quickly becomes clear that in taking a closer look at the delivery of a service as complex as primary education, it is not possible to think in terms of a single function that calls for a single jurisdictional assignment. Rather, it should be viewed as a set of several different functions that come together as complementary and/or concurrent intergovernmental competencies.

Matrix 2 addresses this point of complexity. Again, using the illustration of primary education, it reveals the intergovernmental nature of the service (Gershberg 2006; 2016). For purposes of this illustration, Matrix 2 provides four groups of competencies (though other groupings are certainly possible): (i) organization of instruction (for example, which students shall attend which schools, instruction time, and teaching methods); (ii) personnel management (the critical issues of civil service arrangements with respect to hiring, firing and credentialing); (iii) planning and structure (the

[38] World Health Organization (2011).

[39] *European Charter of Local Self Government*, Article 4, paragraph 32. For a method to measure "closest" see Ivanyana and Shah (2012).

number and types of schools, curriculum and content); and (iv) financing (including matters of budget process and execution). As with Matrix 1, Matrix 2 adopts the Libya model of decentralized governance for three types of governments: central, regional, and local. However, Matrix 2 adds a school category, which may be viewed as either a further type of local government (devolution) or as a service provider that acts as an agent to one of the three forms of governments (deconcentration, delegation).[40]

V. Concluding Comments

This paper offers several messages:

- The matter of expenditure assignment is the first step in addressing a sequence of overarching and fundamental policy questions facing Libya as it undertakes intergovernmental reform. It is also the prelude to further examination of the relationship between public provision and agent/provider of the service delivery function.
- There is a set of universal principles that deals with the expenditure assignment question in pursuit of an efficient allocation of resources.
- There is no best expenditure assignment matrix. Moreover, if such a matrix were available today, that assignment pattern would likely change as the country's fiscal architecture changes.
- Although no country attains the perfect decentralization assignment, if policymakers ignore the expenditure role guidelines, countries will move down an inefficient resource path, resulting in slowed economic growth and development.[41]
- The recognition and implementation of a technically sensible set of universal principles also recognizes that local applications will need to fit the country's unique circumstances, such as a country's fiscal architecture. As Lassoued (this Forum) notes in her overview of the variants of decentralization: "No one size fits all." Indeed, Libya's diverse fiscal architecture argues for policymakers to take a close look at the merits of asymmetrical decentralization, whereby addressing and implementing decentralization will not occur evenly in the same manner within the country (Bird and Ebel 2007: Congleton 2006).

Unfinished Business: Expenditure Management,[42] the Service Delivery Process,[43] Accountability[44]

Several other expenditure role-related questions have yet to be explored as Libya sorts out its intergovernmental fiscal system. These include the following questions:

- How do the universal expenditure assignment guidelines apply to the various service sectors?[45]
- Once a task has been decentralized to a provincial and/or local authority, does that authority come with a sufficient degree of expenditure autonomy to carry out its assigned responsibility? In this regard, to be decentralized is not the same as having the budget autonomy to deliver (and pay for) local service delivery. (Annex 1)
- Who decides how much money is to be spent on an assigned activity?
- How is expenditure need measured?[46]
- Where and how does performance of the service delivery provider (which may be public, private, or a public-private partnership) determine the success of a decentralization program?[47]

[40] There is a distinction between public provision, which is financed and funded by a government (thus, making it public) and the provider of a delivery of a service that may be governmental or non-governmental in nature. (Ahmad 2005; World Bank 2004).
[41] For a review of the results literature, see Bahl and Bird (2018), Chapter 2; Martinez-Vazquez, Lago-Pemas and Sacchi (2015).
[42] Bahl and Bird (2018); and Morell and Kopanyi (2016).
[43] Ahmad and others (2005); World Bank (2004).
[44] McNeil and Malena (2010); UNECA (2010).
[45] This paper has focused largely on the expenditure roles among general purpose governments with a nod to the merits of special purpose (e.g., joint service) service delivery arrangements. But, once these decisions have been made there remains the matter that the universal principles will apply differently to different sectors. How the local application of the universal principles apply to health and sanitation may not be, indeed probably will not be, the same for other sectors such as transportation and education (Ouelhazi, 2019).
[46] For a forthcoming review of country practices in measuring expenditure need as well as revenue capacity see Yilmaz and Zahir 2020)
[47] In a classic study on Uganda, Reinikka and Svensson (2001) found that the share of non-salary spending on primary education that actually reached primary schools was 13 percent. In Bangladesh, the absenteeism rate for doctors in primary health centers was 74 percent (Chaudhury and Hammer 2003).

- Regarding the highly intergovernmental (poly-centric) technical nature of infrastructure services, which type(s) of government is/are responsible for (i) financing the stock of capital expenditures (capital budgeting), and/or (ii) funding current infrastructure services (operations and maintenance expenditure budgeting)? (Cactic, Rendell, and Schaeffer & Ouelhazi, this forum, 2019)
- Which institutions are required to monitor, evaluate and audit delivery public services?
- Which institutions provide for political and social accountability? (UNECA 2010).
- How do policymakers and practitioners define, identify and implement (or oversee the implementation of) the different facets of intergovernmental local capacity building?

Final Comments:

- This discussion and the accompanying expenditure assignment matrices implicitly assume that the Libyan intergovernmental reform task is fundamentally about decentralizing—whether deconcentrating with authority, delegating or devolving, or some mix of all three "Ds". That is, it assumes that there is a competent and capable Libyan central authority. (Alzahrani, 2019; Biafor 2019). If this is not the case—that is, if the center cannot become capable of its role in effectively and efficiently delivering local public services in an intergovernmental manner—then an argument can be made for a city-first strategy. For Libya to adopt a city-first strategy would not be a radical departure given the realities on the ground today. Citing the Palermo International Conference (November 12–13, 2018), Biafor (2019) concludes that "the future for Libya stabilization could only be pursued by a merger between top-down and bottom-up approaches that recognize the need for local authorities to take a major role in governance…in order to accomplish an effective decentralization…" A similar argument for a city-based strategy for rebuilding Libya is presented by the Brookings Institution (2019).[48,49]
- A country in the throes of civil unrest, indeed, even civil war, should not delay the discussions and the accompanying research regarding both the power and wealth-sharing aspects of public sector reform. Even in the face of conflict, it is important to continue a policy dialogue and build the public financial management knowledge base so that when the politics on the ground are right, policymakers and citizens can act in a knowledge-based and informed manner.

[48] The Libyan central authority will still have an important role to play in developing a transparent, formula-based mechanism for distributing petroleum revenues to the SNGs.

[49] Libya is not alone in facing this problem of determining which level of government should take the lead in a conflict-affected society, that is, whether it should be top-down or bottom-up. There are examples for which there is a SNG-lead, including those countries that are (i) intergovernmentally well developed and stable (for example, Switzerland, the United Arab Emirates, and the United States); (ii) emerging but have weak central authorities. They are learning from their already established subnational governments as models (for the new Federal Government of Somalia, FGS: Puntland and Somaliland); and (iii) functioning as a confederation (Bosnia and Herzegovina). In the late 1990s, the post-Oslo Palestinian local governments had capable public financial managers in both the West Bank and Gaza municipalities. However, that capacity was systematically dismantled by Israel following the Al-Aqsa uprising (Intifada) in September 2000.

MATRIX 1 Intergovernmental Assignment of Major Sector Functions among Types of Governments — A First Glance

Expenditure/Service Function	Primary Lead	Rationale for Assignment and Comments
Defense, foreign affairs, trade	C	Benefit and costs are national in scope.
Post and telegraph; census	C	Scale economies. Benefits are national in scope. However, there is also an important regional /local role for "own" data collection.
Monetary policy, currency, banking; fiscal policy	C	The institutional reality is that the center must control the central bank or currency board. Benefits of monetary stability are national in scope.
Water and airports	C, R, L	Port authorities may be joint service delivery units, central/ SNG or one among other SNGs. There are numerous examples of sub-central units managing ports. National coordination is also needed at the national entry point, for example, for national security and customs control.
Transfer payments to persons (pensions, large anti-poverty programs)	C	Redistribution. In many countries, emergency safety net programs are local and may reflect local preferences.
Immigration control	C	SNGs are open economies; it is the national border where the flow of factors and commodities are best controlled. Thus, this is a typical central matter. However, there are exceptions of practice: Switzerland Cantons (regional/intermediate governments) and UAE Emirates have control of decisions about immigration.
Environment: General	C, R, L	Economies of scale suggest that the center is responsible for activities such as geological surveys and ensuring clean air and water. However, the benefits and preferences arguments suggest a regional or even local role for activities such as irrigation and land reclamation. In the case of deterioration of a local environment due to petroleum extraction or mineral mining, the goal is to internalize the costs of clean-up/control to the extraction or mining operations. This will require regulation and taxation by L, R. and C.
Environment: combatting, adjusting to climate change	C	Libya has 1,100 miles of Mediterranean coastline. The costs of adaptation are unknown. Combatting and adapting change will require a central lead along with significant intergovernmental cooperation.
Land use planning, zoning, and licensing	L	This depends on the benefits area. However, the principle is that community land use planning is a local affair. Examples include regulation of buildings, residential occupancy permits; managing municipal property, fairs and local markets.
Capital investment planning	R, L	Except for very large infrastructure projects having significant economies of scale and/or national benefits, the capital investment decision is an appropriate subnational responsibility (benefit area).
Primary and secondary education, literacy	C, R, L	See Matrix 2.
Health: dispensaries and local hospitals	R, L	The benefits argue for a presumption of local engagement. However, there may be a regional role (economies of scale)
Community fire protection	R, L	Primarily local benefits. Fire services are a local responsibility (and in some countries, there may be some degree of private provision).
Community policing	L	Applying the benefits rule, there is a core case for local control. Thus, the "L". However, there is also a case for special policing for provincial or central activities (for example, for inter-municipal and inter-provincial highway control) and information sharing.
Water supply and distribution	C,R, L	Water supply typically has a national (thus "C") and/or regional character (watersheds that cross municipal boundaries); however, the responsibility for connecting water to homes and businesses has a large local/municipal character (benefits, preferences, management). The distribution of the supply to local homes or businesses is a local matter (although, here too, the practice may be asymmetric; for example, rural areas may turn to "R" or "C"). Special purpose districts are common in many countries.

(*continued on next page*)

MATRIX 1 Intergovernmental Assignment of Major Sector Functions among Types of Governments — A First Glance *(continued)*

Expenditure/Service Function	Primary Lead	Rationale for Assignment and Comments
Parks and recreation	C, R, L	Primarily local responsibility (C, R); but some heritage parks may be national.
Roads (inter-provincial)	C	Internal common market.
Local roads and streets	L	The benefit are is local; thus both construction finance and funding operations and maintenance are a local responsibility.

Note: C = central; L= local (for example, municipal, special district, counties, towns and townships, villages, settlements); R = regional or intermediate tier of government (for example, a province) that is sub-central and yet overlaps with municipal/local/village boundaries. SNG refers to the set of subnational (provincial, local) governments. See also Yilmaz (2010).

MATRIX 2. Expenditure Assignment and Service Delivery Complexity among Governments: The Case of Primary Education

Decision Category	Function/Component	Lead/Joint Responsibility	Principles for the Assignment	Comments
Organization of instruction	Which school shall children attend?	L, S	B, H, Mgt	India, Jordan, the Philippines, Thailand, the United Kingdom and the United States. As with many of these assignments, there are central/SNG mechanisms for policy consultation and coordination.
	Instruction time	R, L	H, Mgt	Developed countries typically devolve this decision to the school or local government.
	Choice of textbooks and how to buy them	S, L, R	H, Mgt, Es	Economies of scale (in purchasing) for a core curriculum argue for provincial (or perhaps for a small country, even central) role in textbook selection and purchasing.
	How to group students for learning	S	B, H, Mgt.	School typical in developing and developed countries.
	Teaching methods	S, R	H, Mgt, Es	School typical; however, India is the intermediate case. Training may be provincial or central, as well as school and local.
	Assessing student work	S, R, C	Mgt.	School typical; India intermediate case; Jordan central. Standardized testing also may be a private sector function
	Teaching techniques	S.	Mgt, H,	"S" in many developing and developed countries; India is intermediate, and Jordan is "C".
Personnel management	Hiring /firing the principal and the teaching staff	S, L	B, Mgt	A pattern emerges: countries with a tight unitary history will opt for central control (France, Jordan, Malaysia, Thailand and Turkey). Loose unitary countries tend to be more SNG-oriented (the Netherlands, Sweden). Federal and con-federal countries allocate control to "L". Whether it is general purpose L or special district S may be a local decision (United States).
	Fixing of teacher salary scales	S, L	B, Mgt., H	A golden devolution rule is for school / local control (Chile, Finland, Sweden, and the United States); yet typically this is a central matter in many developing countries. Intermediate countries include Argentina, Denmark, India, and Spain.
	Duties of service for teachers and staff	S, L	B, Mgt., H	This is a similar pattern as for setting salary scales.

(*continued on next page*)

MATRIX 2. Expenditure Assignment and Service Delivery Complexity among Governments: The Case of Primary Education

Decision Category	Function/Component	Lead/Joint Responsibility	Principles for the Assignment	Comments
Personnel management *(continued)*	Career planning for principals and teachers	S, L	B, Mgt	Some countries allocate this function to the center.
	Credentialing of teachers	R, L, S	B	Typically, this is central or intermediate in developing countries. It is also central in some developed countries (Ireland, New Zealand). The US is local and intermediate.
Planning and structures	Creation/closure of a school	L, may have overlaps for R	B, Mgt, Es	Consultation with the S system is important; in developing countries, this is often a central or intermediate function (Austria, India, and Turkey).
	Curriculum and content	S,L, some core courses @ R, C	B	L: China, Denmark, Jordan, and Turkey. S: Chile, Sweden, Spain, the UK and the US.
	Integrating boys and girls education	C	B	This is about equal (or intentionally unequal) access. If the center opts for unequal access, a national benefits case can be made for a provincial or local authority to expand options for equal access.
	Setting graduation standards	L, R	B, Mgt.	Though local is some places (Thailand, UK/Scotland, US), the typical case is P or C.
Financing	Current versus capital budget planning	S,L,R	Mgt., B	The working guideline is that the expenditure role principles apply to operating as well as capital budgeting responsibilities. However, regarding financing and funding, the twin considerations of vertical and horizontal imbalances come into play. For further discussion, see the literature on fiscal transfers.
	Funding to schools for cost sharing of teaching staff salaries	L	Mgt.	The practice reflects the twin (and interrelated) issue of who pays. If the local and school systems are tax and transfer dependent on the province, then the province will generally be in control. Until localities have and then use their authority to mobilize significant own-source revenues, then the center or province will control this local decision.
	Allocations for other current spending	L, R	Mgt. H, B, Ex	
	Budgeting for capital improvements	S, L	Mgt. B, H,	Developed countries are typically S, L; developing countries typically are central or intermediate.
	Whether to set school fees	S, L	Mgt, H,	This matter must be integrated with the broader issue of the intergovernmental grants.
	How to pay for off-site infrastructure	L, R	Ex., Es	Externalities argue for government above the school system

Note: C= Central; L= Local (for example, municipal); P= Provincial (intermediate or middle tier); R= Regional, S= School. Technical Principles: Benefits (B), Heterogeneous Preferences (H); Existence of Economies of Scale (Es), Presence of Externalities (Ex), Management Capacity (Mgt). This matrix expands on Gershberg, 2006 and 2016.

Annex 1. Features of Subnational Government Expenditure Autonomy

Factors Influencing the Degree of Autonomy	Description of the Factor	Central Control and Low Degree of Fiscal Autonomy	High Degree of Subnational Fiscal Autonomy
Broad control over policy	Type of government that sets the main policy guidelines for a service (for example, free primary education as a national policy).	Center makes or has final control over the local budget, and/or can override the provisions of the local budget.	Clearly delineated assignment of functions; SNG controls its own budget process and budget execution institutions (accounting systems, treasury operations, internal and external audit).
Civil service	Control over the level of the wage bill and decisions with respect to hiring, promotion and firing.	Center determines (perhaps through negotiation) the level and structure of civil servant salaries and the conditions of employment.	Local control over civil servants who are engaged in the delivery of local public goods and services. This includes agreements and settlements on wages and employment conditions.
Standards setting and regulation	Government that sets the standards for the composition of local public services and the regulations that may accompany SNG spending programs.	(i) Central standardization imposed in circumstances where there are no clear spillovers. Which unit of government sets the standards? (For example, this could involve national tests of teacher certification that may be justified for their externalities; land use zoning and building codes all fail the externalities test and are typically local). (ii) Lack of consultation when there are external effects.	Local control consistent with compliance with the law, constitutional principles and international standards of human rights.
Administration	Administration of service delivery on a day–to-day basis.	Mandating of internal administrative organization and day-to-day expenditure management (for example, procurement practices).	Local authorities determine their own internal administrative structures in order to adapt them to local needs and ensure effective management.
Monitoring and evaluation	Government that monitors and evaluates SNG performance.	The center has an appropriate and important role in monitoring fiscal flows (spending and revenues). However, monitoring shall not be confused with control.	Clarity in revenue and expenditure assignments is achieved and the responsibility to report fiscal flows, including flows from external (foreign) sources, is accepted and practiced.

Source: Author.

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* Denotes a short list of "core" research sources in addition to those presented in this Forum.

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PAPER 7

Managing Decentralized Expenditures: The Deconcentration Variant

Hussam Alzahrani, Senior Governance Specialist, World Bank

I. Introduction

Over the past ten years, several governments in the Middle East and North Africa (MENA) region, including Libya, have engaged in dialogue regarding the merits of fiscal decentralization as a strategy to improve service delivery. Decentralization can be categorized according to three different variants: devolution, deconcentration, and delegation.

Deconcentration refers to the redistribution of authority, responsibility and financial resources among different ministries of the central government, up to and including the creation of moderately autonomous field administrations and agencies. The ultimate decision-making power rests with the center.

Deconcentration *with authority* implies that central intergovernmental branches can make some independent decisions. Deconcentration *without authority* requires that all major fiscal decisions are approved by the center. This paper focuses on the variant of deconcentration *without authority,* with special attention to the expenditure side of the public sector budget.

This paper is organized into three sections: (1) setting the macro-fiscal policy framework; (2) budget management (preparation and execution); and (3) fiscal accountability. It concludes with some comments bridging these three key activities together.

II. Macro-fiscal Policy

The first step of the expenditure journey is to establish a comprehensive and long-term planning and budgeting process that takes into consideration the needs of all types of governmental jurisdictions: the center, the provincial and the local (for example, cities). With deconcentration, this macro-fiscal role belongs to the central government. Having established its macro-fiscal objectives and recognizing its current and capital spending needs and fiscal space, the central government is also charged with developing a 3–5-year Medium-Term Expenditure Framework (MTEF).

A MTEF outlines the governmental spending that contributes to fiscal discipline and effective resource allocation, as well as to achieving the objectives of the nation's development plan and vision. The MTEF also provides a set of guidelines for budgeting across sectors in a transparent and accountable way (Box 1).

III. Budget Management

Effective budget management, including the two main pillars of budget preparation and execution, is key to aligning expenditures with MTEF's targets and development objectives. At the same time, it also helps to fairly distribute public goods and services across all subnational (intermediate, intergovernmental) units. The intergovernmental level refers to the intermediate tier in the budget management process (for example, the provincial branches).

Budget Preparation

The budget preparation process may be *top-down* whereby the central government begins by setting the annual revenue and expenditure ceilings. Alternatively, it may be *down-top,* in which case the line ministries estimate their expenditures for the upcoming fiscal years and transmit these estimates to the Ministry of Finance (MoF). More typically, there may be a *mix* of both top-down and down-top approaches. Whatever the process may be, the common objective is for the central government to ensure that public revenues are appropriately distributed across line ministries and agencies in a manner consistent with the MTEF.

In adopting a MTEF, the top-down preparation simultaneously addresses compliance with macro-fiscal policy and the creation of a fiscal space consistent with the national development objectives. The MoF first determines the annual aggregate budget ceilings and then moves to the intergovernmental level. Each spending ministry/agency then distributes its allocated budget over its planned capital projects and operating programs in a manner that ensures equitable delivery of services to all intermediate (intergovernmental) entities (provinces and cities). (See Annex 1).

Drawing on the example of Saudi Arabia, a deconcentrated budget management flow chart is presented in Annex 2. The process shows nine functional sectors that cover several line ministries and agencies that, to a large extent, share mutual objectives. The central spending sector deals with specific projects and programs (for example, a giga-project or public subsidy). To ensure the efficiency of the fiscal regime, each annual budget is prepared and integrated into the MTEF (Box 2).

A significant part of budget preparation lies in addressing requests for new capital projects and operating programs. Taking into consideration the nation's development objectives, the intergovernmental entity is responsible for planning its projects and programs consistent with achieving the center's priorities and objectives. They then transmit those plans to the center. In this regard, the MoF role can be thought of as a convening and management unit for a joint/intergovernmental system tasked with drafting the central government's financial plan.

During the fiscal year, some entities may need additional funding to meet their obligations and aspirations. These entities will be required to present their supplemental requests, including a rationale, along with expense justifications to the central government. Any such adjustments are subject to the MTEF and the available fiscal space of the country.

Budget Execution

The budget execution phase begins once the final budget has satisfied the legislative rules and met with cabinet approval. The central government will then announce the budget law and circulate it to all line ministries and agencies along with the budget execution instructions. Importantly, the execution instructions highlight the expenditure rules, controls, and assignments. Spending ministries, in turn, distribute their allocated budgets to their provincial branches to carry out their operations.

The provincial branches are responsible and held accountable for their spending and contracting, including the way in which they deliver services, which should be in a manner consistent with achieving the development objectives. The bidding process is mainly centralized by the line ministries in order to ensure transparency and accountability.

Box 1 Medium-term Expenditure Framework Benefits: Budget Quality and Credibility

- ***Budget realism.*** The revenues that the government can reasonably expect to collect and the new borrowing that it can safely undertake should place an upper limit on spending.
- ***Spending driven by medium-term sector strategies***. Rather than preparing an annual budget by making incremental changes to current programs, determining priorities based on the latest political imperative, and budget¬ing separately for capital and current expenditures, resource allocation should reflect an assessment of priorities within and between sectors based on agreed objectives and policies.
- ***Spending agencies with a voice.*** Instead of focusing primarily on compli¬ance with expenditure controls, the ministries, departments, and other spending agencies should have significant input into the design of sector strategies. This would include some flexibility in managing their resources to pursue sector objectives and implement sector policies efficiently.
- ***Budgets containing multi-year spending allocations.*** To the extent possible, spending agencies should have a predictable resource envelope to ensure effective decision making, which is lacking when budgeting involves annual negotiations over incremental resources. With a MTEF, spending agencies have reasonable assurance about the resources they are likely to receive over the medium term.
- ***Budget funding linked more closely to results.*** A shift in focus from control of inputs to flexibility in the mix of inputs to produce specific outputs and outcomes allows for greater emphasis on allocating resources according to the results achieved by spending programs. It also provides more discretion over the choice of inputs used to achieve particular results.
- ***Greater fiscal transparency and accountability.*** MTEFs provide a clear-cut mechanism for monitoring government performance against approved plans, which makes it easier to hold governments account¬able for their choice of fiscal policies.

Source: World Bank (2013).

Box 2 An Integrated MTEF and the Budget Preparation Process

9–12 months before the new fiscal year

- Cabinet and spending agencies establish national and sector strategic priorities.
- The MoF, in consultation with other economic agencies, develops the macro-fiscal framework and determines the MTEF's resources. These will be based on the previous year's MTEF and high-level fiscal targets and rules.
- Spending agencies cost their existing and new programs.
- The MoF prepares a medium-term budget strategy paper and budget or MTEF guidelines that include provisional expenditure ceilings.

6–9 months before the new fiscal year

- The cabinet reviews and endorses the medium-term budget strategy paper and provisional ceilings.
- The budget strategy paper is submitted to Parliament for information.
- Budget and MTEF guidelines are circulated to the spending agencies.
- Spending agencies prepare their budget and MTEF submissions, considering sector strategies, program costs, and proposed ceilings.

3–6 months before the new fiscal year

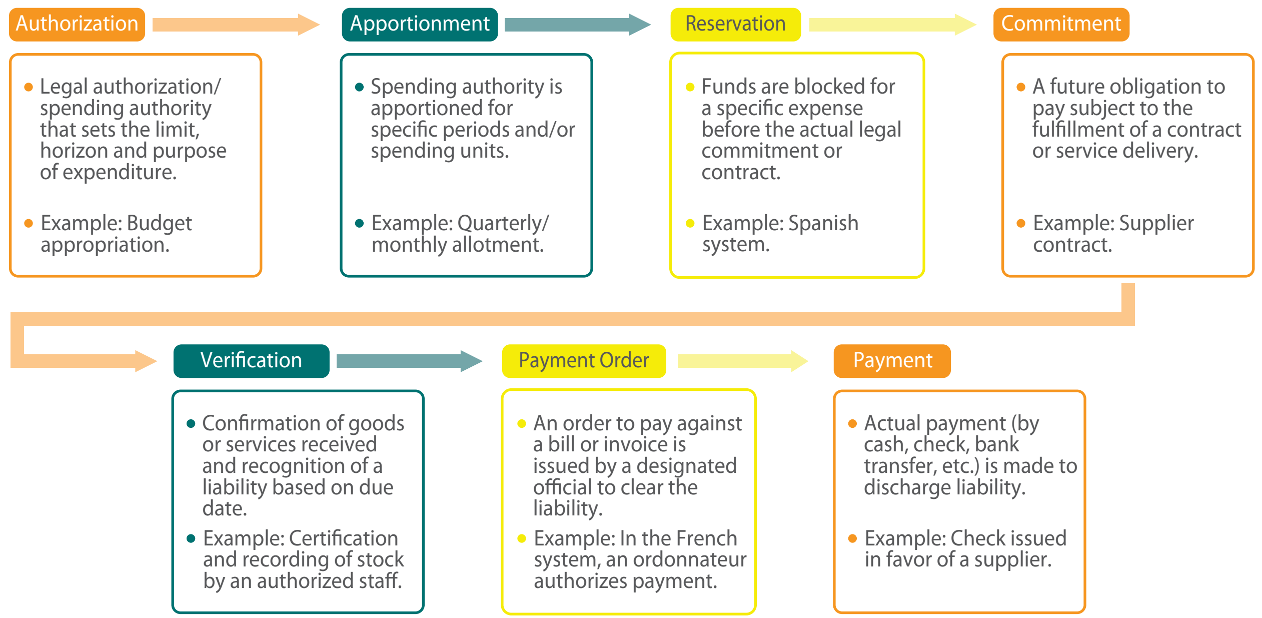
- The MoF reviews the submissions of spending agencies, and hearings are held between the MoF and spending agencies to resolve any technical differences.
- The cabinet is consulted about policy differences and other issues that could require a significant reallocation of budget resources across spending agencies or programs.
- The MoF updates the macro-fiscal framework.
- The MoF prepares the final budget and MTEF, incorporating revised expenditure ceilings.

0–3 months before the new fiscal year

- The cabinet reviews the final budget or MTEF, endorses ceilings, and submits the budget to Parliament for approval.
- Spending agencies revise sector strategies and prepare business plans consistent with their ceilings.

Source: World Bank (2013).

FIGURE 1 Seven Key Stages of the Expenditure Chain



Source: IMF (2016).

Most of line ministries' budgets are allocated to the intergovernmental (typically provincial) branches. This necessitates effective intergovernmental expenditure control mechanisms. Figure 1 presents the seven key stages of the expenditure chain, beginning with spending authorization and ending with payment release. The central government (again, with the MoF in the lead) will be directly in charge of only the first and last phases. The line ministries and their provincial branches are concerned with the remaining stages. This approach is essential for ensuring that the MTEF is implemented and to enhance the central government's stewardship of public resources.

Significantly, the commitment control phase, which plays a vital role in maintaining current and future obligations within the allocated annual budget, is effectively fulfilled within the provincial branches charged with spending and contracting. Thereafter, payment orders are issued by spending ministry officials after verification and checking for fund availability.

Treasury Single Account

As a global best practice, all payment and receipt transactions should be centralized through a Treasury Single Account (TSA) system, whereby the central bank establishes and manages a main (primary) bank account that receives and processes all government revenues and payments.[1] As such, the TSA allows the central government to fully access all available funds in a manner that aids in effective and timely cash management. In addition, it provides oversight and control of fiscal and monetary policy, as well as debt management strategy.[2]

TSA management may be structured either as a fully centralized function, such as in France, Saudi Arabia and the United States, where all central government disbursements are made by the central bank. Alternatively, they may be done through commercial banks held by line ministries, in which a daily settlement process takes place within the primary TSA account.

A well-functioning TSA is key to enhancing public financial management tools (PFM). It also supports the establishment of an Integrated Financial Management Information System (IFMIS).

1 IMF (2011).
2 IMF (2009).

Budget Transfers

When the need for additional funds arises, the spending ministry/agency may be authorized to make transfers between their budget lines. However, this practice will be subject to certain rules and procedures included in the budget execution instructions that aid in maintaining budget credibility. For example, in Saudi Arabia, the spending ministries and agencies can transfer amounts between the budget lines. However, it should not exceed 50 percent of the allocated budget lines (either transferor or transferee lines). This is not applicable to recurring expenses (for example, wages and electricity). For any exception to this, a request must be submitted to the MoF to review and make the appropriate decision as necessary.

IV. Fiscal Accountability

With deconcentration (or for that matter for any fiscal decentralization variant or mix of variants), an accountability agenda must be part of the PFM system. This includes key functions such as routine financial reporting and internal control and audit. These functions play a vital role in achieving the development targets, as well as in countering waste, corruption, and potential misuse of funds. In this regard, some decentralization reforms have failed to meet the expected results due to poor fiscal discipline, weak expenditure management, and misallocation of public resources that could result from expenditure re-assignments.[3]

If well designed, a system of decentralized control and monitoring can ensure that regulations and rules of compliance can enhance expenditure management and service performance. Such systems require an effective internal control approach along with a proper internal audit procedure within each intergovernmental level, including ministries and provincial branches. Such a structure can also lead to a better external audit process, as well as improved performance measurement by the central government regarding spending by line ministries and their provincial branches.

Supreme Audit

The central government should establish a robust, independent, and capable Supreme Audit Institution (SAI) that provides essential financial auditing and monitoring over both intergovernmental and central tiers. The ultimate role of the SAI is to aid the country in meeting its development priorities, as well as in ensuring that public resources are spent in an economic, effective, and efficient manner.[4]

V. Concluding Comment

Fiscal decentralization is one of the most important reforms being considered in MENA countries. The purpose of this paper has been to focus on one of three variants of decentralization, namely deconcentration *without authority*, including its implications for expenditure policy and management. It provides an overview highlighting the manner in which macro-fiscal policy, budget management, and fiscal accountability can be integrated by central and intergovernmental entities.

Among the key messages that flow from this essay, two stand out. The first is that the deconcentration variant of fiscal decentralization is intergovernmental in nature. Specifically, as is true for the other variants of decentralization, deconcentration is a system entailing the sorting out of expenditures responsibilities. In doing so, it also recognizes spatial differences among different types of subnational places (for example, provinces, cities).

The second message is that all three variants share a common set of good public financial management practices, including the integration of a country's macro-fiscal policy and vision. This includes the utilization of sound budget tools by institutions, such as the MTEF and TSA, which help to promote fiscal accountability.

[3] M. Baltaci and S. Yilmaz (2006).

[4] OECD (2011).

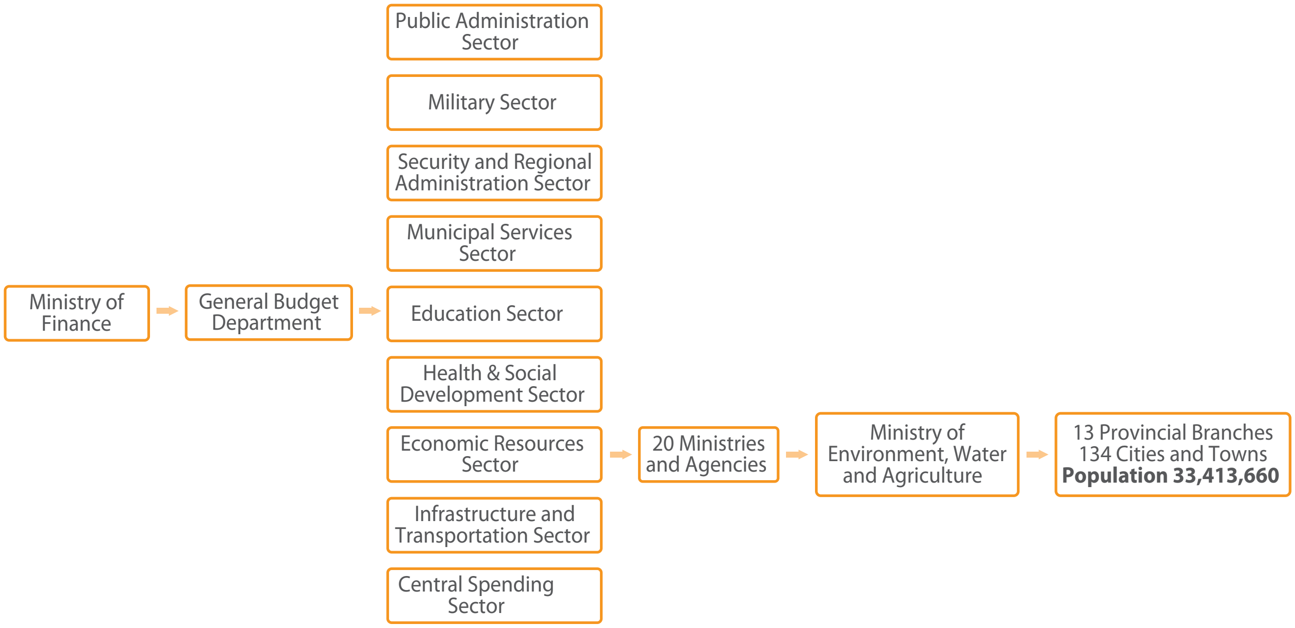
Annex 1: Responsibilities of Expenditure Functions

Category		Function	Responsibility
Macro-fiscal policy		National development plan	Central level
		Medium-term expenditure framework	Central level
Budget management	Preparation	Budget ceilings	Central level
		Sectoral to ministerial distribution	Central and intergovernmental levels*
		New capital projects and operating programs	Requested by the intergovernmental level and approved by the central level
		Additional fund requests during the fiscal year	Requested by the intergovernmental level and approved by the central level
	Execution	Spending and contracting	Intergovernmental level
		Commitment controls	Intergovernmental level
		Payment orders	Intergovernmental level
		Treasury Single Account (TSA)	Central level
		Budget Transfers	Intergovernmental and central levels
Reporting and auditing		Internal control and audit	Intergovernmental level
Supreme Audit Institution (SAI)		Over both intergovernmental and central levels	

Source: Author.
Note: * The intergovernmental level refers to intermediate entities, such as a Ministry up to regional tier, such as a provincial branch.

Annex 2: Budget Structure of Saudi Arabia

FIGURE 7 Seven Key Stages of the Expenditure Chain



Source: Author.

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PAPER 8

Functional Assignment: A Core Element of the Decentralization Process

Dr. Ulrich Leffler-Franke, Decentralization, Advisor
Deutsche Gesellschaft fur Internationale Zusammenarbeit (GIZ) GmbH

I. Introduction

Experience shows that devolving functions often remains partial and fragmented, although gradual reform processes (e.g. Zambia,[1] Ghana, Kenya, Indonesia) are constantly moving forward with devolution as those countries concerned are aware that a strategic approach to local governance encompasses all building blocks as presented in Figure 1 below.

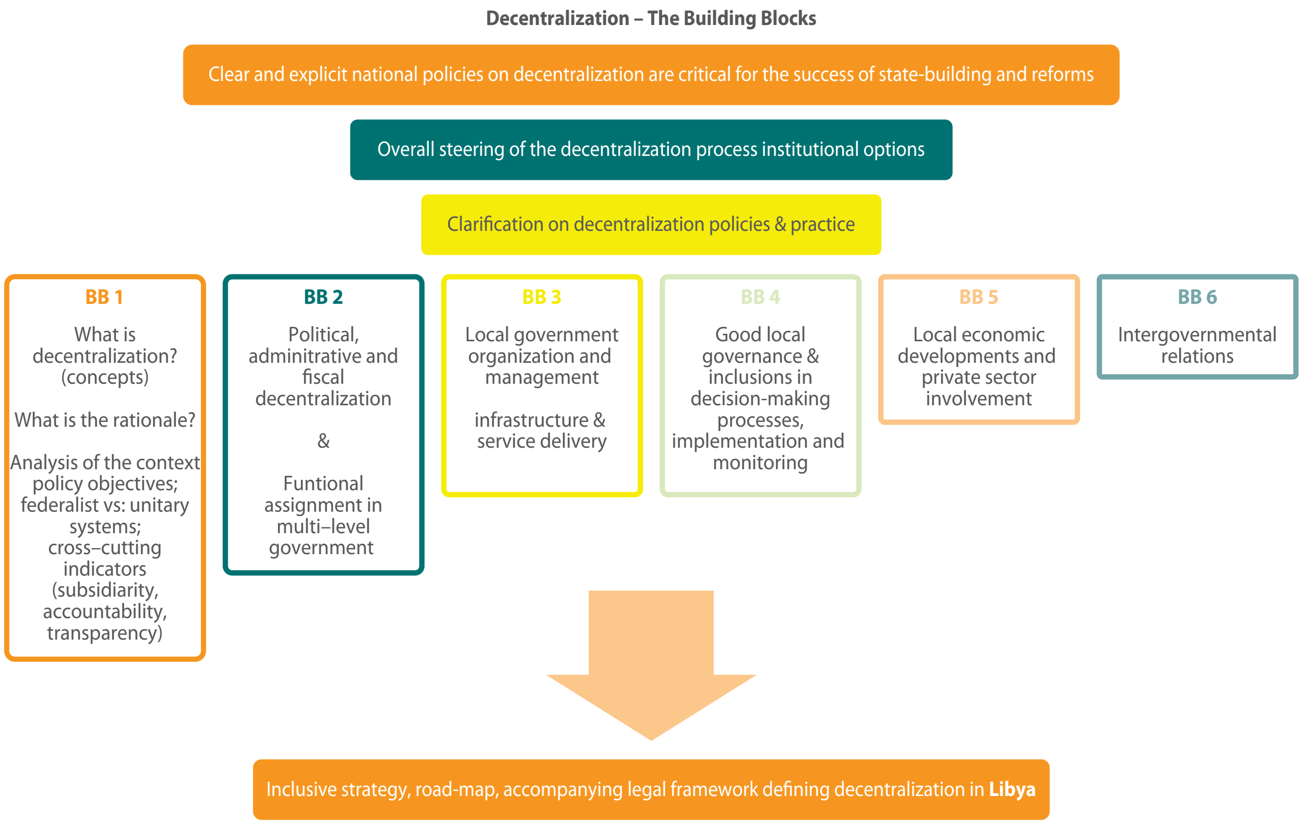
Therefore, it should be noted that decentralization is not at all a hit and run approach. Navigating decentralization reform is a demanding and complicated task. Even OECD countries are still struggling in moving forward. The Libyan framework conditions seem to be adverse and contrary to fundamental change as administrative relations between the national and the local level are nearly absent, but considering the protracted crisis in Libya it is time to undertake decisive step to escape the fragility trap through a well deliberated stepwise process of change.

So far the MoLG has been considered to be the sole custodian of local governance and decentralization, although progress has been limited, but the intention of the Libyan government to put more emphasis on the transfer of competencies and resources to the municipal level has transformed and diversified the institutional set-up concerned with policy formulation, coordination and implementation as requirements of cross-ministerial coordination and political

leverage regarding devolution and functional assignment processes are increasing. The Libyan government set up a Supreme Committee for the Transfer of Competencies of Local Administration (SCTCLA) anchored in the Presidential Council (PC) to steer the overall process of administrative decentralization and discusses actually some pilots as quick-win or quick-impact attempts to enhance service delivery for citizens. Making decentralization work is requiring a uniform, contextualized approach of transferring competencies and resources in order to avoid procedural dispersion and

[1] Leffler-Franke, 2018a.

FIGURE 1 The Building Blocks



Source: Leffler-Franke 2018b.

the risk that the decentralization reform process enters into a dead-end street with its first uncertain steps.

The importance of an effective, efficient, coherent and stable assignment of intergovernmental functions in the context of a decentralization reform has long time been neglected in various decentralization processes all over the world and may be considered as one of the main reasons of failure of decentralization reforms together with a corresponding lack of transparent flow of financial resources to the local level. Functional Assignment (FA) is still front and center of administrative decentralization covering all three modalities (delegation, deconcentration, devolution) and represents a core building block in decentralization processes. FA has often been linked to the negative connotation of being largely technical in nature, but looking at different country experiences shows that the assignment of responsibilities with the framework of administrative decentralization is a highly political dimension. This dimension should be taken into consideration in FA processes in order to yield adequate long-tern downstream results, which lead to empowered local governance. Apart from its importance as an expression of the subsidiarity principle functional assignment has so far been often underestimated or decided upon without considering all dimensions and subsequent implications. Decentralization on the whole and functional assignment are quite demanding issues of getting the reforms right.

Although political, administrative and fiscal decentralization are forming the building blocks of decentralization, the successful implementation of these core elements depends very much on contextual factors. Looking at the progress made in various countries regarding all three core components it became evident that progress in decentralization reform has not been linear. As far as the three common intergovernmental modes of decentralization are concerned, functional assignment is a contentious area of governance. The question of 'who is doing what' created a lot of debates and remains difficult to agree upon between all stakeholders. U-turns including recentralization in various attempts to foster decentralization reform efforts have been common and generally functional assignment have remained in most cases fragmented and partial. The obvious sector-lag of decentralization is an outcome of neglecting the importance of functional assignment.

Looking at administrative decentralization reform process on the whole—including the political and fiscal dimension—one should not forget to get the parameters right in order to avoid downstream confusion.[2]

II. Architecture of Intergovernmental Functional Assignment

Defining and deciding about the roles and functions of different layers within a multi-level government system is crucial for the design and implementation process of decentralization. A clear division of roles and responsibilities between different tiers of government has proven to be central to obtain a stable, efficient and effective public sector as well as improved service delivery for the population especially at local level. FA gained in especially a renewed importance for achieving global policy objectives as defined in the SDGs depending on the effective interaction, coordination and developmental cohesion between different layers of government (the important vertical component) and across sectors (horizontal coordination issue).

The architecture of functional assignment is of prior importance for the whole set of intergovernmental relations and defines close linkages to the overall decentralization policy and goals, the policy implementation process, the legal framework (from constitutional aspects, the organic law, the administrative law, bye laws and regulations), as well as regarding the intergovernmental fiscal architecture, the territorial divisions, and other features important in structuring governance in a given country.[3]

Inclusion, Integration and Dialogue

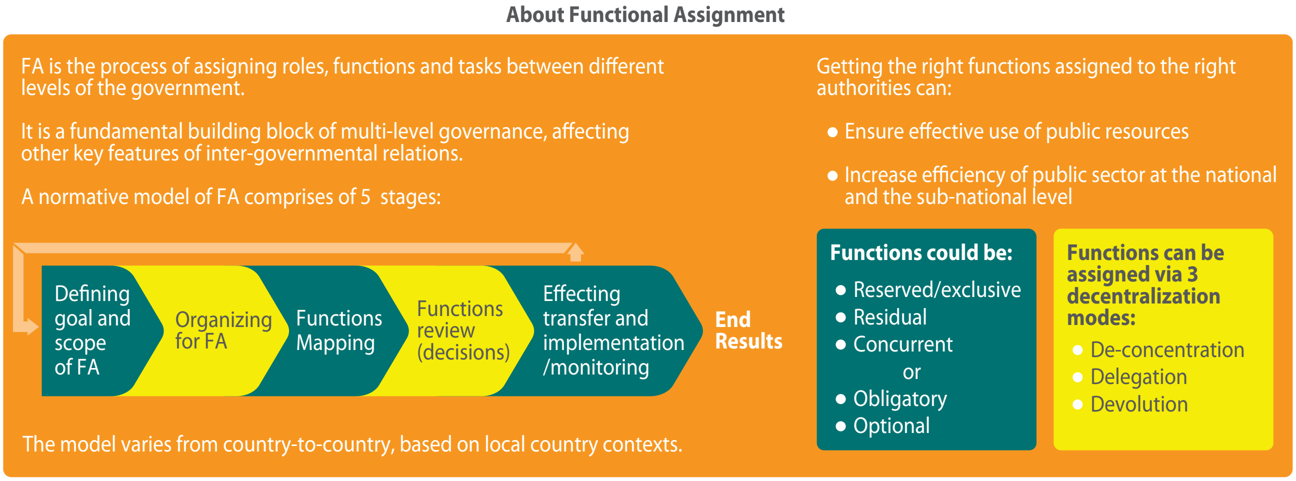
The whole issue of intergovernmental functional assignment is not only a demanding technical administrative task, but foremost a crucial key success factor regarding inclusive, sustainable decentralization and local governance reform attempts. Implementing the functional re-arrangement between different layers of government, but a laboratory of policy innovation. Therefore it needs to be well based on the inclusion of different social and foremost different institutional stakeholders in the design and later the implementation process, as e.g. all sector ministries need to be involved in strategy development of decentralization. This process of participatory inclusion in decision-making allows ownership of the whole reform and reduces negative effects and influence by potential spoilers of the decentralization reform.[4]

The experiences in various countries have shown that inclusion of all actors concerned is of prior importance in a gradual reform process, in which also functional assignments are regularly reviewed and adapted. In Zambia for example this led to sector devolution plans (SDP) as part of the overall Decentralization Implementation Plan (DIP) managed by the President's office on the basis of a National Decentralization Policy. All policy guidance documents are regularly reviewed by all stakeholders concerned and adapted to experiences made. This created a totally new arena of cooperation between the different layers of government in the form of a cooperative arrangement.

All experiences in different countries like Indonesia, Kenya, Nepal, Rwanda, South Africa, Ghana etc. have shown that a key success factor appears to be the existence of government stakeholders who are willing to take some risk to explore new institutional arrangements. They need to be sufficiently interested to give room for a discussion and dialogue and possibly some innovative piloting. Ownership by all involved stakeholders including civil society and private sector actors is key for the decentralization reform process encompassing the functional assignment process in order to achieve some coherency in decentralization across sectors. In Niger for example focal points have been created at the level of each ministry concerned, including the Ministry of Finance, to accompany the transfer of competencies and to discuss controversial issues in dialogue for a in order to

[2] Leffler-Franke, 2017a.
[3] Ferrazzi 2008.
[4] Leffler-Franke, 2017b.

FIGURE 2 Normative Process of Functional Assignment



Source: LOGIN 2016.

find a 'best fit' solution for the functional assignment process ('form follows function'). Ghana is still struggling for the refinement of a successful administrative reform process linked to a fiscal transfer system ('finance follows function'). In Benin and Burkina Faso extensive debates within and between all stakeholders concerned including civil society and community based organizations at the level of a national conference on decentralization took decisions on strategy, implementation and devolution of functions with some sectors taking the lead, but based on a catalogue of criteria differentiated by a typology of decentralized functions or tasks. Indonesia as a big bang example is still refining the functional structure of administrative decentralization by reviewing the process and its performance regularly.

Functional Assignment and Shared Responsibilities

Looking back on all experiences made so far, it became evident that apart of defining functions exclusively to a certain layer of government, the exiting exercise has been how responsibilities and functions have effectively assigned across different levels of government and how the different layers arranged and managed the delivery of these shared responsibilities by choosing the right mode of administrative decentralization. Although delegation and deconcentration are always considered to represent weaker forms of decentralization there are some strong reasons to keep some functions delegated or deconcentrated, especially in contexts where capacities and the availability of funds are limited. But devolution includes considerably more transfer of competencies, powers and resources but looking on prevailing country examples the combination of all three modalities is prevailing although some countries have constitutionally opted for devolution as the final objective. But most of these countries opted for a gradual change process considering all dimensions related to the implications of functional assignment.

Nevertheless, the distillation of a five-step approach of functional assignment is the outcome of experiences with administrative decentralization all over the world. Keeping an eye on the he political dimension always led to more sustainable solutions and more adequate, immediate results of FA which are consisting of: i) coherent distribution of functions; ii) ownership by key stakeholders; iii) assignment is implementable and iv) some stability over time.

The process of FA is based on various practical experiences of implementing decentralization and the assignment of r responsibilities all over the world which have been supported by GIZ.[5] But this normative approach doesn't

[5] GTZ 2009.

FIGURE 3 Methodological Steps

FA Methodology				
Defining the Goal and Scope of FA	**Org. for FA**	**Functional Mapping**	**Functional Review (decisions)**	**Effecting the Transfer and Monitoring**
Conceptual clarity on modalities of decentralisation, defining FA scope facilitating dialogues between different stakeholders	Technical support to policy coordination bodies	De facto and de jure mapping in consultation with sector experts	Review/redefine FA map, lobbying/advocacy	Monitoring of implementation, part of implementation process

Source: LOGIN 2015, GITZ.

represent at all a prescription of 'how to' as there is no blueprint or one size fits all attempt existing. It a distillation of experience and process knowledge collected over time and is meant for elaborating a 'best fit or contextualized' approach adapted to the specific and complicated Libyan framework conditions regarding local governance.

The process itself should be based on dialogue and exploration in the sense of a problem-driven iterative adaptation. It is based on 4 interrelated blocks: i) consultation with stakeholders; ii) diagnostic exercises on status; iii) internal government discussions; and iv) knowledge-sharing between main stakeholders. This will involve feedback loops regarding a) decisions made on services to be decentralized/devolved; b) implementation of pilots to test how new institutional arrangements work in practice and finally c) refinement of the process, capturing of lessons learnt and adaptation.

It's geared at encompassing policy, legal, and institutional reforms and the time span is open ended because refinement of decisions has to be made on a regular basis due to the results of the monitoring system or the performance assessment framework completing the change process of functional assignment.

Tools for Accompanying the Functional Assignment Process

Trying to differentiate the 5-step approach it is obvious that the conceptual strategic clarity about the vision and the different modalities of decentralization is key to initiate the FA process. Navigating the reform process is of central importance but it should be transparent for all stakeholders where this reform process is oriented to. One of the pre-cons of step 1 is a dialogue forum of all stakeholders concerned on a more general vision of decentralization in order to avoid dispersion and failure, which could even contribute to and accentuate the actual paralysis of core government functions in Libya.

The process is structured in 5 well defined systemic stages of FA which remain easily adaptable to different contexts oriented at stakeholder participation and institutional involvement of all layers of government in order assure responsiveness of the process.[6]

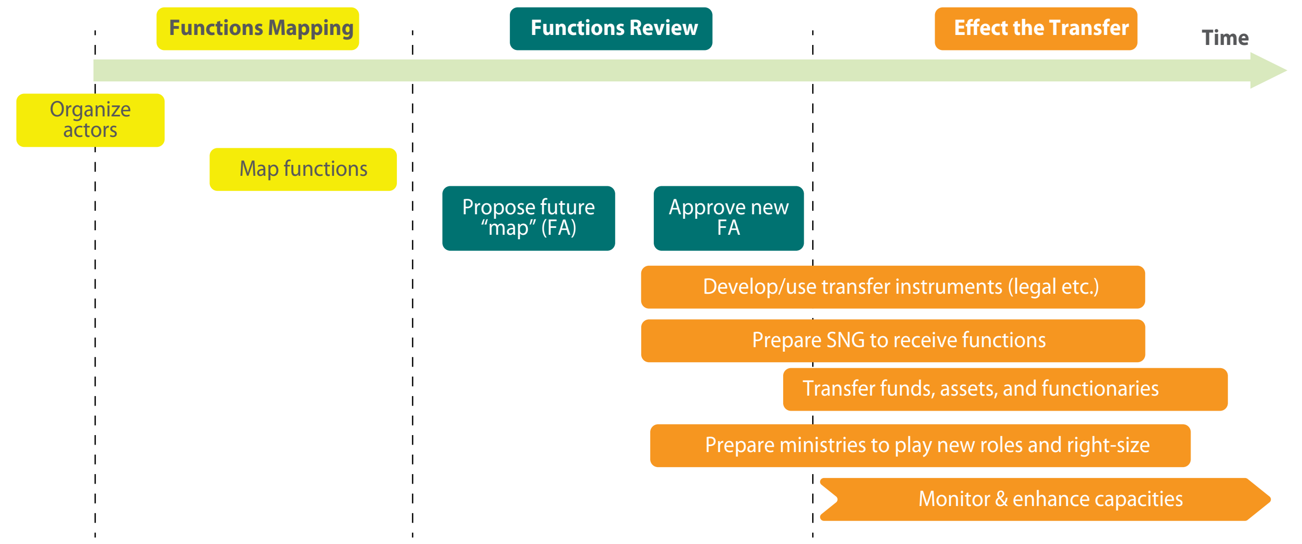
The process itself may be distinguished into five different steps but the first two steps are mainly concerned with goal or parameter setting /the 'vision' or guiding policy document of the decentralization strategy) and internal, cross-sectoral organization. As step 1 is sometimes difficult to achieve in short- or medium-term, because it may be too heavily contested, it may be fed into the process again also at a later stage. This openness of the process also allows for further inclusion of additional stakeholders in the overall reform process (e.g. possibility of open up a dialogue on decentralization with municipalities in the East of Libya or Tobruk institutions concerned).

Sequencing of Functional Assignment

Breaking down the FA process into sequences of implementation (step 3–5) outlines the main thematic issues

[6] Rohdewohld 2017; Ferrazzi/Rohdewohld 2017.

FIGURE 4 Sequencing Functional Assignment



Source: Ferrazi/Rohdewohld 2015.

which need to be tackled during the application of functional assignment.

The tools available for step 3 is a simple 'who is doing what' exercise at the beginning, practically a review of functions at sectoral level. The review of functions should be linked to the identification of functions. One may distinguish between exclusive functions normally retained by central government, residual functions, normally assigned *en bloc* to a specific national layer of the government system. Concurrent functions represent joint or shared functions between different institutional layers allowing for flexible solutions under changing framework conditions. Obligatory functions mainly focused on services laid down in administrative laws (like law 59) defining minimum standards of delivery (mainly through deconcentrated levels). Optional functions are heavily linked to local context.

These functional differentiations distinguish between service delivery on the one hand and production of services on the other hand, easily to identify by existing laws, bye-laws, regulations, government notifications, etc.

Horizontal and vertical unbundling are key tools within the process of functional assignment and characterizing the mapping exercise through the vertical disaggregation of function within a sector (clustering). Horizontal unbundling describes the set of management function related to each sector function. These techniques used in the FA process allow to illustrate the inter-relationships of service delivery functions within a multi-level governance system and embrace also human, physical (assets) und financial resources.[7] These tools are ingredients of successfully elaborate well targeted capacity development measures and foremost an intergovernmental fiscal transfer system or architecture ('finance follows function').

This mapping exercise leads to proposals how to adapt the prevailing functional assignment to the new framework of decentralization. When decisions are made on functions to be decentralized, pilots may be agreed upon, or direct costing and adjustment of financial arrangement as well as adaptation of personnel and organizational structures will follow. In a gradual process some sectors will take the lead and will be followed later by others. This process will be monitored, reviewed regularly and the performance of service delivery will be assessed through inclusion of the clients, the citizens.

III. Challenges Ahead

It is quite understandable that the Libyan government is highly under pressure to advance with the decentralization

[7] Ferrazzi/Rodewohld 2017,106ff.; GTZ 2009.

process in order to counterbalance the growing frustration within the Libyan population that their livelihoods are permanently endangered, effective service delivery is deteriorated and that the country on the whole is on a downward spiral of development. A transition strategy has never been agreed upon and the formal commitments to administrative decentralization within law 59 have never been implemented. Dispersed decentralization by municipalities is now really a constraint but government is putting more emphasis on the reform process itself. The inherent potential of decentralization for peace, state-building and devlopment is slowly gaining momentum.

Good intention is politically speaking not enough. Concentrating on the issue of the transfer of competencies, or functional assignment, a 2018 published OECD study, analyzing the assignment of responsibilities across levels of government,[8] pinpointed to the main challenges related to functional assignment processes and elaborated specific guideline as for policy-makers with effective functional assignment conducive to local development.

It is worth referring to these 10 guiding principles because they describe challenges ahead which are also of importance for the infant reform process in Libya. If the process of functional assignment is not well designed it encompasses the danger of failure and adverse outcomes.

1. *Clarify the sector responsibilities assigned to different government levels*: clarity in the assignment is critical for accountability, monitoring, effectiveness of service delivery, as well as a precondition for effective performance measurement through citizens.
2. *Clarify the functions assigned to different government levels:* avoidance of grey areas in the way functions are assigned.
3. *Ensure balance in the way different responsibilities and functions are decentralized:* ensure complementarities, effective territorial development approaches; avoid a simple focus on operational functions as balanced decentralization is conducive to growth.
4. *Align subnational responsibilities and revenues and enhance subnational capacity to manage their resources:* the alignment between control of financial resources and responsibility for spending is key. (intergovernmental fiscal architecture)
5. *Capacity development for SNGs must actively supported with resources with the center:* this requires long-term commitment from all sides, municipalities and national level.
6. *Build adequate coordination mechanism across levels of government:* build up a workable system of intergovernmental relations to manage joint responsibilities.
7. *Support cross-jurisdictional cooperation:* horizontal cooperation links increase efficiency through economies of scale.
8. *Allow pilot experiences and asymmetric arrangements:* ensure flexibility during the implementation process based on contextualized approaches.
9. *Focus on complementary reforms:* inclusion and participation of citizens in decision-making.
10. *Strengthen monitoring systems and data collection:* create adapted, but effective monitoring system allowing for assessing the performance of service delivery, spending and outcomes.[9]

[8] OECD 2018.
[9] OECD 2018, 45ff.

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PAPER 9

Intergovernmental Fiscal Concepts and Best Practices: Lessons for Libya

Zied Ouelhazi, Public Finance Management Specialist, World Bank
Michael G. Schaeffer, Libya Country Representative, World Bank

I. Introduction[1]

Most countries have several tiers of government. In addition to the national level, many countries have two sub-national levels; provincial (or regional) and local governments. Furthermore, local authorities are often divided into sub-levels, such as ward and village councils. In many countries, the lower levels of government undertake important fiscal functions, both on the expenditure side and with respect to revenues (Boadway and others, 2000).

In such federal systems, various forms of fiscal arrangements between the national and lower levels of government determine the way in which taxes are allocated and shared among the various levels of government, as well as how such funds are transferred from one level to another. Thus, intergovernmental relations, both vertical (between levels of government) and horizontal (within levels) are important for the development and operation of an efficient and effective public sector. According to Bird (1990, p. 281), it is the "workings of the myriad of intergovernmental relations that constitute the essence of the public sector."

Libyan legislation appears to be in harmony with general international trends and practices in that it presumes an intergovernmental finance system for a decentralized unitary state with three government tiers: central, regional, and local governments. Various revenues are assigned to each of these tiers. However, the Libyan economic, political, social, and the financial system is extremely centralized.

This paper addresses some of the key issues and concepts that are of general relevance with respect to intergovernmental fiscal relations. Based on the experiences of several countries, it attempts to derive some basic principles and considerations that should be considered when restructuring governmental functions and finances within a federal economy.

[1] The discussion in the following sections largely draw from Bahl (2000a); Bahl and Linn (1992; 1994); Bird (2001); Schroeder (1988); and Shah (1994).

II. Evaluative Criteria for Intergovernmental Transfers

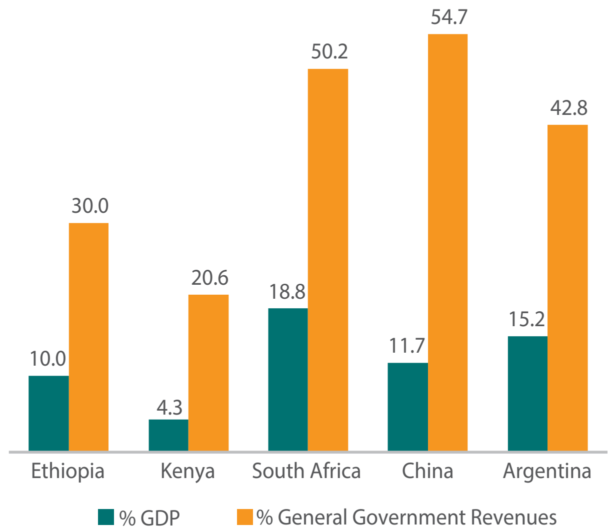
A key issue in intergovernmental fiscal relations is the assignment of functions and finances to different levels of government. This can also be described as the allocation of the authority and responsibility for the public sector decisions among different power centers. The traditional theory of fiscal federalism identifies three major functions for the public sector: macroeconomic stabilization, income distribution and resource allocation (Oates 1972; 1999). The theory assigns the stabilization and redistribution functions to the national government, as well as a significant role to subnational governments in allocating resources. A brief discussion of the basic arguments behind this reasoning follows.

Since lower levels of government are often very dependent on the national government for funding, it sometimes makes more sense to think of them as part of the national government rather than as independent actors. However, in some federal countries where a substantial share of national revenues is diverted to lower levels, the existence of several tiers of government may give rise to difficulties in macroeconomic management (Bird 1990). Even in cases where the primary responsibility for local public services is devolved to subnational governments, several reasons may justify fiscal transfers to local government entities, including:

- To equalize vertically (thereby improving revenue adequacy);
- To equalize horizontally (interjurisdictional redistribution);
- To correct for interjurisdictional externalities; and
- To correct for administrative weaknesses and to possibly streamline the public administration bureaucracy.

Both central and local governments are expected to provide public services. However, it is common to find that the own-source revenue raising powers of subnational governments may not be enough to meet the costs of providing services assigned to them. The resulting gap can be filled by vertical equalization, that is, increasing local revenue-raising powers or transferring resources from the central government. Horizontal equity is also important because

FIGURE 1 Share of Subnational Government Revenues in GDP and General Government Revenues for a Sample of Countries (%)

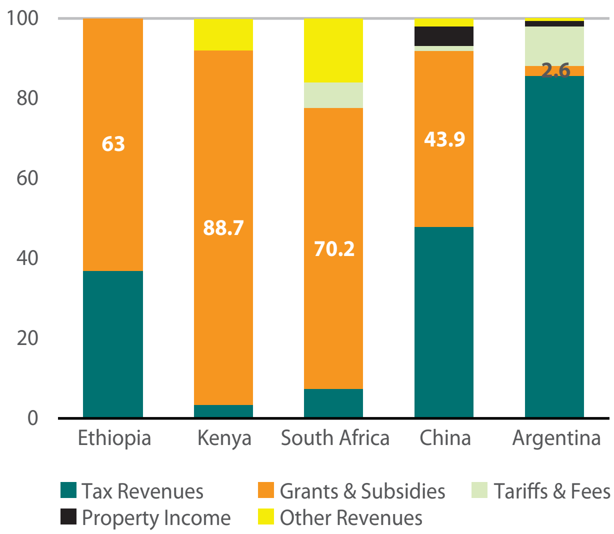


Source: World Observatory on Subnational Government, Finance and Investment (2019).
Note: Data are for fiscal years 2015/2016.

there are generally significant differences in the ability of subnational governments to mobilize resources independently. A third rationale for transfers is that some seemingly local government services generate interjurisdictional spillovers, which are benefits (or costs) that extend beyond the boards of the locality. For example, health services provided in one jurisdiction may improve the overall health situation in neighboring communities. To ensure that the locality provides a greater amount of these services, the central government may transfer additional funds to generate these positive spillovers. Transfer mechanisms are often the most suitable means by which to achieve vertical equalization.

However, in developing the transfer mechanism scheme, it is essential to understand the magnitude (size) of subnational government revenues, as well as to fully understand the nature of actual subnational government expenditures. A brief international comparison of subnational government revenues and their composition illustrates that there is significant variation among countries depending on their administrative structures and financial arrangements (Figures 1 and 2). For example, while the share of subnational government revenues in general government

FIGURE 2 Breakdown of Subnational Government Revenues by Category for a Sample of Countries (%)



Source: World Observatory on Subnational Government, Finance and Investment (2019).
Note: Data are for fiscal years 2015/2016.

revenues in Kenya and Ethiopia account for 20.6 and 30 percent respectively, it reaches 50.2 and 54.7 percent in South Africa and China respectively (Figure 1). The breakdown of subnational government revenues also shows the importance of intergovernmental transfers for countries such as Kenya, and South Africa (Figure 2). In Argentina, the most decentralized country in Latin America, transfers represent only 2.6 percent of subnational government revenues.

The importance of intergovernmental transfers in subnational government revenues is explained by the fiscal asymmetries in revenues and expenditures among subnational governments and the financial arrangements among different governmental levels.[2] Subnational governments are assigned several responsibilities for public services provision (see Annex regarding the main responsibilities of subnational governments in the same sample of countries) compared to their limited ability to raise revenues (for example, China). In some countries, the lack of clarity in legislation or in the responsibilities for tax collection (for example, Ethiopia) the lack of revenue base (for example, in Kenya and South Africa) hinder the capacity/ability of subnational governments to raise their own-source revenues. The tax-sharing agreements between several governmental levels may also affect the proportion of subnational government tax revenues retained (China, as an example). In the Argentinian case, transfers represent only 2.6 percent because the equalization scheme between the federal level and the provinces is funded through the withholding of a specified percentage of provincial tax revenues.

The preceding discussion of objectives provides the basic rationale for the use of intergovernmental transfers. However, equally important is a related set of desirable features that can be considered criteria for evaluating transfer mechanisms. These criteria include revenue adequacy and growth, predictability, simplicity and transparency, allocative efficiency, equity, incentives for sound fiscal management and subnational revenue mobilization. Unfortunately, these objectives often conflict with each other. As such, constructing a transfer system requires careful consideration of trade-offs among the government's various goals. For example, encouraging spending on services with external benefits can conflict with the assumption that subnational governments should best know their own public needs and demands.

Determining the Size of the Transfer Pool

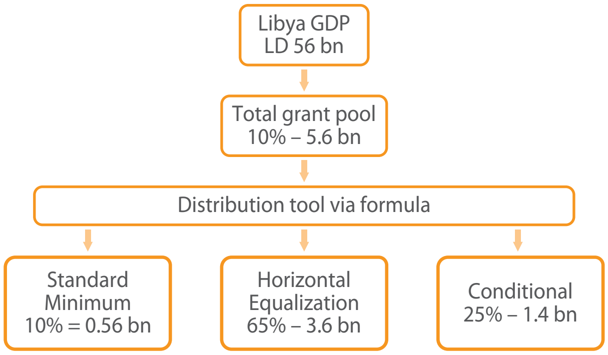
Any mechanism intended to transfer funds from one level of government to another will entail a series of policy choices, including: how to determine the total amount of resources to be distributed; how to allocate that resource pool across all eligible subnational governments; and how to restrict the way in which transfers can be used. Thus, the appropriate design of a transfer system should systematically consider each of these design features.

The size of the transfer pool can be determined in three basic ways. First, the transfer pool may be based on a predefined portion of national revenues in the current or previous fiscal year. This approach can provide an increased degree of certainty to the subnational authorities that

[2] The Argentina case shows an important share of tax revenues. However, this is explained by the fact that in the Argentinian accounting system, the tax revenues category encompasses both exclusive and shared taxes. These represent almost half of subnational government tax revenues.

FIGURE 3 Determination of a Transfer Pool

The Two Step Process: An Illustration



Source: Ebel (2018).
Note: GDP= gross domestic product; LYD= Libyan Dinar.

they will receive a certain level of funds. Second, aggregate transfer allocation maybe be linked depending on the spending plans of subnational governments. Third, a common way of determining a transfer pool is through annual budget decisions. Figure 3 provides a basic example of a transfer pool that could conceivably be applied to Libya. For example, national government revenues are estimated at LYD 56 billion. A certain amount of these funds should be allocated for subnational government transfers. In the case of the example provided, 10 percent of total government revenues are allocated for the subnational governance grant pool.

Fund Allocation

Several approaches are used to allocate the transfer pool across jurisdictions. First, tax-sharing transfers return to a subnational government all or some portion of a central government tax collected within its geographic jurisdiction. Such transfers can be elastic in terms of their growth, if the tax being shared has significant potential for growth (for example, China). Second, transfers allocated based on an objectively defined formula are increasingly popular (for example, Ethiopia). Specifically, they are transparent for the recipient governments and can give the grant government considerable latitude in determining how to meet the main objectives. One limitation of formula-based transfers commonly faced in various developing countries is the lack of timely and adequate data required to implement the allocation formula. Third, cost-sharing transfers reimburse subnational governments for expenditures on priority activities that are deemed worthy of subsidization. Such grants involve either total or partial cost sharing (matching grants). However, if such subsidization is not clearly justified to correct for an interjurisdictional spillover, or to meet some equity goal, then the budgets of recipient governments can be distorted.

Some transfer allocation mechanisms depend on the ad hoc decisions of the granting authority in determining how much of the transfer pool each jurisdiction receives. Such mechanisms may create great uncertainty on the part of transfer recipients since they do not know how their grant will be allocated, or how much they will receive. This also opens the door to arbitrary non-transparent allocations that may work against broader public sector goals. Some major federal systems such as Argentina use a fair degree of non-transparent criteria in their transfer programs.

A final policy choice concerns the degree of autonomy enjoyed by recipient subnational government jurisdictions in using the funds from transfers. Several mechanisms are commonly used. General-purpose allocations, for example, give a subnational government full autonomy over the use of transferred funds (within the legal limits of decentralized functional responsibilities). Such transfers are closest to the spirit of full devolution of spending powers (for example, Kenya, South Africa).

Limited block allocations for sectors permit the recipient government to choose how funds are to be used, but only within a sector. These transfers are particularly relevant when the government determines that significant benefits external to the spending locality are associated with activities, such as health. Finally, specific purpose grants are sometimes used, but can be highly restrictive in terms of how the funds are spent.

This discussion suggests a theoretical total of 36 different combinations of transfer programs (3 methods of determining a transfer pool; 4 types of allocation mechanisms; and 3 levels of restrictions on funding use). However, only a relatively limited number of these combinations are typically considered and used. Table 1 illustrates the various possibilities that are considered feasible. The

TABLE 1 Alternative Forms of Intergovernmental Transfer Programs

Allocation of Transfer Pool (to Subnational Governments)	Determining the Total Transfer Pool: Share of National Government Tax	Annual Budget Decision	Reimbursement of Approved Spending
Origin of Collection	A. General purpose		
Formula	B. General purpose or sectoral bloc	E. General purpose or sectoral block	
Cost reimbursement (partial/total)	C. Sectoral block or specific purpose	F. Sectoral block or specific purpose	K. Sectoral block or specific purpose
Ad hoc (based on annual decisions by granting government)	D. General purpose, sectoral block, or specific purpose	G. General purpose, sectoral block or specific purpose	

Source: Bahl and Linn (1992).

types of spending restrictions that are feasible are also presented.

Choosing Among Options

As noted, there are numerous forms of transfer instruments. It is useful to consider how these different instrument types relate to the objectives discussed above. Since the transfer system of most countries generally includes two or more of these mechanisms, the overall effects of the system can only be determined by evaluating all these mechanisms relative to country priority objectives.

Tax-sharing transfers (A in Table 1) can grow if linked to elastic tax revenues. However, tax-sharing transfers tend to counter equalizing across local governments. They can also take advantage of the superior tax administration abilities of the national government and provide a reasonably certain flow of revenues. Formula-based transfers (Types B and F) can be constructed to allow local councils to use the funds with total discretion. Alternatively, various formulas can be used to distribute funds intended for utilization across different sectors.

The most challenging task in formula-based transfer design is constructing the appropriate formula. Measures of relative demand for services (for example, kilometers of road, spatial aspects) are nearly always included in transfer formulas. Also common are measures of the fiscal gap and local financing capacity. These measures can create incentives for localities to mobilize their own resources rather than to use transferred funds primarily for tax relief.

Because cost reimbursement grants (types C, G, and K) are meant to reimburse the subnational government for all or a portion of the cost of an activity, they are either tied to a sector or to highly specific uses—regardless of the way that the pool is determined. In either case, a choice arises as to whether 100 percent of the financing of approved costs is to be reimbursed, or only a portion thereof. Partial cost reimbursement (for example, a matching grant) encourages subnational governments to mobilize their own resources to meet a portion of the total costs of the activity. However, a locality is more likely to use its limited funds on a subsidized activity than on one for which the local council is required to fund it fully from its own resources. Such grants tend to interfere with subnational fiscal choices and can lead to local inefficient outcomes, unless there is a need to offset an externality. There are various advantages and disadvantages of the different types of transfer mechanisms. As such, the final choice in the design of the system depends on the relative importance of the various objectives that the system is intended to achieve.

Issues in Transfer Design

Several critical issues arise in the design of transfers. First, there is a distinction between transfers for recurrent (routine) and capital (development) expenditures. Recurrent expenditures are made for day-to-day activities.

Development expenditures are made for longer-term activities, such as to construct facilities. In some countries, transfers for recurrent and capital expenditures are clearly separate, whereas in other countries a single transfer can be used for either purpose. As a result, the use of such funds must be monitored judiciously if the central government is serious about achieving its service delivery and budget targets.

A second transfer design issue is that some countries have different types of transfers for the various kinds of subnational governments. In countries where multiple tiers exist, programs for second-tier (provinces, states) and third tier (cities, municipalities) are usually separate. In some cases, transfers to third-tier governments pass through the second tier. However, this can create a problem if the higher tier government retains the resources for its own use. The urban-rural distinction is often particularly important in designing differential transfers because rural governments tend to have fewer functions and sources of revenue than urban areas.

A third transfer design issue concerns the structure of administration. The various transfers can be administered in many ways. In this context, a few key issues are worth noting. Unrestricted and formula-driven grants are usually administered from a special unit established primarily at the Ministry of Finance. Some things can be implemented incorrectly. Grants that involve restrictions on use are typically more problematic because they require more information and interaction. Some countries, such as India, have a complex system of conditional and unconditional transfer system controlled by uncoordinated central and/or state government agencies. Because of the complex and inconsistent objective, the aggregate effects of the transfer system may be difficult to measure. This implies that all components of the entire system must be reviewed to ascertain the overall impacts.

III. Horizontal and Vertical Equalization

All intergovernmental transfer systems have various objectives. Equalization and redistribution are the key concerns. As noted, intergovernmental transfers are used to improve both vertical and horizontal differences in the abilities of governmental levels to mobilize resources to improve service delivery. Although the two dimensions are generally considered separately, they are related. As such, any attempt to improve vertical equity through grants also affects horizontal equity.

The issue of vertical inequities in a multi-tier system of government stems primarily from the outcomes of public service responsibility and revenue assignment decisions. In effect, there is likely a significant imbalance between national revenues and spending requirements and local revenues and spending needs, thus necessitating intergovernmental transfers to correct the imbalances. Implementation questions that arise when attempting to improve the balance include measuring the extent of the imbalance and choosing an appropriate transfer mechanism to correct for it. Table 2 provides a snapshot of how vertical and horizontal transfers are used to correct for fiscal imbalances.

Several approaches can be used for correcting mismatches between the levels of spending and revenue at the subnational level. One approach used is to set aside a certain portion of central revenues for local government as mandated by statute or regulation. A separate approach would be to provide for fixed-share arrangements. However, while these methods can improve the vertical fiscal balance, there is still no certainty that the proportions chosen can lead to a truly balanced system. Only a more detailed analysis of normative spending requirements and revenue potential at the various levels of government can resolve the issue.

Although vertical equity is important, significantly more attention has been given to the horizontal dimension. There is little doubt that resources in most countries are not spatially distributed in a uniform manner. All regions are not endowed with similar levels of natural resources or economic potential. Vertical and horizontal equalization effects are not independent. Once a reasonable degree of vertical equalization has been achieved, there is still a need to determine how the funds are to be distributed among subnational governments.

Two basic approaches are used in addressing equalization. One approach is to concentrate on the abilities of

TABLE 2 Snapshot of Vertical Imbalances and Horizontal Equalization

	Adjusting for Vertical Imbalances and Horizontal Equalization	
	Formula	**Comment**
Adjusting for vertical Imbalances	Discretionary central government finance transfers are based on available resources or special circumstances—and are often used to achieve central goals (for example, shared revenues, direct grants, cost-reimbursement and /or direct grants).	Includes Counter cyclical stimulus packages during a current fiscal crisis as the center uses SNGs as agents to get the money out.
Horizontal equalization	Grants designed (objectively measured) for variations in fiscal capacity [gap between expenditure needs]. For example, for a given quality of public service as measured by workload factors (such as the number of children of school age, poverty levels) and unequal capacity to generate local own-source revenues (standardized tax bases, national average tax rate); or data available as proxy for capacity (for example, GDP, personal income, population).	Formula-driven grant which can build a floor to address the Constitutional requirement for similar services and/or support to subnational governments. Neutral with respect to own revenue effort.
Providing incentives to localities—spillovers	(i) Promote efficiency in local service provision; (ii) stimulate local spending on public goods having positive externalities.	Recognize the need to coordinate with a system of debt financing of infrastructure investment.

Source: Ebel (2018).

the different regions to mobilize resources on their own and to provide greater transfers to municipalities with lower fiscal capacities. A second approach is to include differential expenditure needs in the equalization calculation. If all local governments have approximately the same level of fiscal capacity, equalization may focus almost exclusively on differential spending requirements.

Summary and Concluding Remarks

Intergovernmental transfer programs serve multiple purposes, including assisting in covering subnational fiscal imbalances, and meeting national re-distribution objectives. Such programs can also be used to encourage local government expenditures on goods and services. Several issues and problems are involved in designing transfers. For example, different types of transfers are appropriate, depending on the circumstances. Unrestricted transfers, for example, are appropriate for income redistribution purposes, whereas conditional grants are a less expensive way of encouraging expenditures on target services characterized by spillovers or unacceptable inequities in distribution. If designed properly, both types of transfers can encourage fiscal responsibility.

Fiscal equalization grants are often a priority, but they are difficult to design because of technical (data, and so on) and political complexities. Equal resources do not guarantee equal results. As such, there is no transfer mechanism that may alleviate all situations. However, redistributive grants can generally be designed to improve the status quo. They can also be enhanced over time as better information (data) becomes available.

Intergovernmental transfers can play only a limited role in stimulating more equitable in-country growth. Even under the very best of circumstances, a variety of other interventions will be required to overcome a range of additional constraints on local development. Thus, transfers can serve only as one part of a broad mosaic of policy initiatives to encourage economic development.

Countries may be expected to design their intergovernmental transfer systems in different ways. In more advanced systems, for example, where subnational governments have inadequate sources or revenues (such as South Africa), a more substantial and sophisticated system of transfers is being developed. This system includes redistributive grants designed to alleviate fiscal inequalities, as well as conditional grants designed to cover priority investment needs.

Annex 1: Main Responsibilities of Sub-National Governments in a Sample of Countries

	Ethiopia		Kenya	South Africa		China			Argentina	
	State	Municip.	County	Province	Municip.	Province	Prefecture	County	Province	Municip.
General public services (administration)										
Administrative services (marriage, birth, etc.)	✓	✓				✓		✓	✓	
Public buildings and facilities (town houses, etc.)	✓	✓				✓		✓	✓	
Administration and operation of general services (non-assigned to specific functions)	✓	✓		✓	✓	✓		✓	✓	
Basic research activities (non-assigned to specific areas)	✓	✓	✓							
Public order, safety and defense										
Police	✓				(Discretionary service)				(Shared)	
Firefighting	✓		✓		✓				(Shared)	(Shared)
Civil protection & emergency services	✓	✓		✓	✓					(Shared)
Road traffic control / Traffic signs and lights	✓									
Defense (military and civil)	✓									
Economic affairs/Transports										
Road networks and facilities (highways, national, regional, local)	✓	(local)	✓	(Regional)	(urban)	✓	✓	✓	✓ (inter-rovincial)	✓
Parking										
Railway networks and facilities (national, regional, local)	✓					✓	✓	✓		
Airports (international, national, local)	✓				✓	✓	✓	✓		
Ports (sea and fishing, inland waterways)	✓		✓			✓	✓	✓		
Public transport (road)	✓	(Bus terminals)	✓	✓	✓				(Shared)	✓

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	Ethiopia		Kenya	South Africa		China			Argentina	
	State	Municip.	County	Province	Municip.	Province	Prefecture	County	Province	Municip.
Public transport (railways, tramway)	✓								(Shared)	✓
Special transport services (e.g. pupil and student transport)										
Employment policies / services									✓	
Support to local enterprises and entrepreneurship	✓	✓	✓	✓	✓				✓	
Agriculture, rural development, irrigation	✓	✓	✓			✓	✓	✓		
Telecommunications / IT	✓								✓	
Manufacturing and construction	✓				✓				✓	
Mining	✓									
Tourism	✓			✓	✓				✓	✓
Commerce	✓		✓		✓				✓	
Energy (electricity, gas, etc.)	(Electricity)		✓		✓				(Electricity)	
Environmental protection										
Parks & green areas	✓		✓		✓					✓
Nature preservation	✓		✓		✓				(Shared)	
Noise and vibration abatement					✓					✓
Air pollution		✓			✓					✓
Soil and groundwater protection		✓			✓					✓
Climate protection					✓					✓
Waste management (collection, treatment and disposal of waste)		✓	✓		✓					✓
Sewerage (waste water management)		✓	✓		✓				(Shared)	(Shared)
Street cleaning		✓	✓		✓					
Housing and community amenities										
Drinking water distribution		✓	✓						(Shared)	(Shared)
Public lighting										✓

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	Ethiopia		Kenya	South Africa		China			Argentina	
	State	Municip.	County	Province	Municip.	Province	Prefecture	County	Province	Municip.
Urban heating										✓
Housing (subsidies)	✓		✓	✓	✓					
Housing (Construction/ renovation)	✓	(housing su✓✓ly)	✓	✓	✓					
Housing (Management)	✓		✓	✓	✓					
Urban and land use planning	✓	✓	✓	(Regional ✓lanning)	✓					✓
Urbanism			✓		(Town ✓lanning)					✓
Health										
Pharmaceutical and medical products										
General and specialized medical services and paramedical services (e.g. dental care)										
Primary healthcare (medical centers)	✓	✓	✓	✓	✓	✓			(Shared)	(Shared)
Hospital services (general and specialist)	✓		✓	✓		✓			(Shared)	
Preventative healthcare	✓		✓	✓	✓	✓			(Shared)	(Shared)
Public health services		✓	✓		✓	✓	✓	✓	(Shared)	
Recreation, culture, recreation and religion										
Sports and recreation	✓		✓	✓	✓					(S✓ort)
Libraries	✓		✓	✓	✓					
Museums	✓		✓	✓	(Discretionary service)					
Cultural activities (theatres, exhibition halls, zoos, botanical gardens, etc.)		✓		✓	(Botanical gardens, O✓en s✓aces)					
Cultural heritage/monuments	✓									(Shared)
Media/Broadcasting and publishing services	✓									

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	Ethiopia		Kenya	South Africa		China			Argentina	
	State	**Municip.**	**County**	**Province**	**Municip.**	**Province**	**Prefecture**	**County**	**Province**	**Municip.**
Religious affairs	✓									
Education										
Pre-primary education	✓		✓	✓	✓	✓				
Primary education	✓	✓		✓		✓	✓	✓		✓
Secondary education	✓	✓		✓		✓	✓	✓	✓	
Higher education (universities, other tertiary education institutions)	✓					✓			(Shared)	
Vocational education / training	✓					✓			✓	
Special education	✓		✓			✓				
Research & Development	✓					✓				
Social protection										
Social care for children and youth	✓		✓							
Support services for families	✓		✓							
Elderly	✓		✓							
Disabled people	✓		✓							
Social exclusion / poverty (benefits and policies)	✓		✓			✓				
Immigrants			✓							
Integration of foreigners			✓							
Social welfare centers	✓	✓	✓			✓	✓	✓		
Housing subsidies/benefits	✓		✓							
Unemployment subsidies/ benefits	✓	✓	✓			✓	✓	✓	(Shared)	

Source: World Observatory on Subnational Government, Finance and Investment – 2019 Report.

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PAPER 10

Linking Local Priorities to National Investment: Context and Challenges

Dawoud Almassri and Peter Rundell
United Nations Development Programme, Libya

Law 59 of 2012 and Law 13 of 2000 govern municipal planning, but both present ambiguities in the present circumstances. These mechanisms seem to lack clarity and make duplication and uncoordinated intervention possible—and even likely. Greater transparency regarding how decisions are made, and what decisions have emerged, would help.

The system also lacks transparency regarding outcomes. Allocations, funding releases, expenditures and outcomes are all covered under the regulatory provisions. However, it has not been possible to locate any publication of these provisions at the municipal level. Greater transparency regarding all aspects of funding—including approvals, provisions, and achievements—would help to reduce public disaffection and promote confidence in democratic systems.

I. Background

Law 59 (2012) defines the roles and responsibilities of local authorities, and Law 13 (2000) defines procedures for planning. The division of resources between the municipalities and the government bodies is regulated by Law 59, Articles (49–63). However, both these pieces of legislation (Law 59 and Law 13) present challenges in interpretation, not least because they envisage the operation of a further layer of

sub-national government at the provincial level. What follows is an analysis (or best understanding) of what is currently provided for in the legislation and procedural regulations. It is also an indication of areas where comparison of this understanding of these provisions with practice on the ground could reveal opportunities for improvement.

II. Local Priorities and National Planning: Theory

Municipal investment plans are submitted for national funding through two formal routes. Since some functions which are important at the local level remain the responsibility of the sectoral line ministries (for example, health service facilities such as local hospitals), their investment needs should be submitted through the appropriate sector ministry. The sector ministry then consolidates local requests, prioritizes them according to sector technical criteria, and submits the resulting national sector investment bid to the Ministry of Planning (MoP) for consideration. The Ministry of Planning reviews the bids from all budget-funded investment authorities. It then presents a draft overall investment budget to the National Planning Council (NPC). The Council's final proposal is consolidated with the other Chapters of the budget and submitted to the legislature for approval, after which it can be implemented.

Other investments that remain within the Municipality's authority are submitted through the Ministry of Local Government (MoLG). These investment proposals are aggregated by the MoLG, which also reviews the balance of local investment proposals from a technical and national perspective. A consolidated bid is then submitted to the Ministry of Planning, alongside bids from other line ministries.

The General Companies may also submit investment proposals to the Ministry of Planning. These should be coordinated with the proposals from the relevant sector ministry. However, in cases where the General Company reports to the Council of Ministers rather than to the sector ministry, their investment budget request is submitted separately rather than consolidated with the sector ministry's proposal.

The Ministry of Planning is expected to prevent duplication of requests through these two routes. Thus, for example, if the Ministry of Health's bid includes a proposal for investment in the Sebha General Hospital, the Ministry of Planning should check that the Ministry of Local Government's bid does not also contain a duplicate bid for the same investment.

III. Local Priorities and National Planning: Negotiation

Since resources will inevitably be insufficient for all investment aspirations, priorities need to be established. These are naturally negotiated at various stages of the planning process. In theory, at least four fora appear to present opportunities for negotiation (or political prioritization): the municipalities, the sectors, the MoLG, and the MoP / NPC.

At the municipal level, two forms of prioritization negotiations may occur. These involve resolving which projects in a given sector will be prioritized (for example, which wells should receive new pumps, or which stretches of roads should be resurfaced), as well as negotiating the priorities between sectors (for example, whether to allocate more resources to sewage treatment or primary clinics). Since some of these investments should be funded through sector ministry budgets, negotiations may reflect different views about the division of labor between sectoral and municipal investment budgets, as well as different judgements about relative priorities. The municipal investment budget should be proposed by the Mayor for approval by the Municipal Council.

Municipal-level prioritization may also engage citizens directly. This allows the municipalities to benefit from community insights into immediate needs, and to communicate the trade-offs they may have to make in deciding on priorities. The careful design of such consultations may also allow local peace structures to bring to the municipality's attention (and to the attention of wider audiences, such as the international community or the national authorities) opportunities to reduce the risks of conflict through well-chosen priorities. It would also serve to highlight the hazards of concentration of investment in areas which benefit only one community—or disadvantage another.

Within the sector ministry, negotiations between subsectors and between sub-national entities may occur. These prioritization decisions may be based on technical criteria (such as the number of patients currently unserved who would be served through a new facility, or the estimated disability-adjusted life years saved through an investment) or around more political criteria, such as geographical balance.

Similarly, within a General Company, priorities will be negotiated among functions and locations. These negotiations may be coordinated with those of the relevant sector ministry, or they may operate independently.

Within the Ministry of Local Government, prioritization between municipal requests may also involve negotiation if the bids markedly exceed any ceiling set in the budget circular. The Ministry's role may also include review of the technical content of proposals from the municipalities, and this process may also identify areas where further negotiations are required within a municipality. However, it may also fall to the MoLG to identify aspects of regional imbalance or particularly neglected areas.

The Ministry of Planning reviews all bids for technical content. If the sum of proposals exceeds the Chapter III ceiling,[1] then the MoP must negotiate with bidders about the required reductions to achieve an appropriate balance. This again may involve technical criteria (for instance, comparing a municipal request with a sector ministry request in the same field), as well as more political criteria such as geographical balance and political priority.

IV. Local Priorities and National Planning: Challenges

Globally, political influence is a more significant factor in planning than technical optimality. However, technical criteria (such as the estimated rate of return on investments, or the least-cost route to a defined policy objective) remain significant. Investments without monitorable indicators of progress, along with those without measurable benefits, pose significant challenges for the MoP. However, the absence of such indicators may reveal the limited capacity of the sponsoring body (for example, an under-staffed or under-trained Municipal Council) rather than the intrinsic weakness of the project itself.

At the municipal level, it is not clear that capacity and procedure yet promote transparent negotiations between or within sectors. In theory, the Municipal Director of Planning might convene technical discussions to prepare a proposal for the Mayor to submit to the Municipal Council, drawing in his/her fellow Directors and the local leadership of the General Companies. However, no minutes of such discussions have been found in any internet searches, and it is not clear whether such meetings take place—let alone if minutes are prepared and reported to citizens.

Choices between sectors and regions will inevitably have a political resonance. Citizens might therefore reasonably expect the outcome to be published. At present, it has not been possible to identify any forum in which MoLG allocations to the municipalities are published (on paper or on-line). Without such public proclamation of budget ceilings, it is difficult for citizens to judge the performance of the municipalities or to hold Councillors to account for their use of resources.

The boundaries between municipality responsibilities, duties of General Companies, and expectations of sector ministries remain unclear to citizens. As a result, there remains a real risk of duplication of effort, waste of resources, and imbalance of provision. Without clarity of responsibility, as well as transparency of reporting, accountability remains elusive.

While allocations are not published, neither are funding releases. It has not been possible to establish from any published source how much funding any municipality has received in recent years, let alone to discover the composition of their expenditures. It has also been impossible to discern how much has been spent in most municipalities by most sector ministries. Likewise, General Company spending lacks transparency.

Similarly, there is no obvious published source of information regarding the achievement of the expected results of Chapter III investments. The MoP circular demands quantitative and qualitative goals to be achieved by the state's public policies, as determined by the legislative authority. This is in addition to the sector's proposals about the relevant indicators for evaluating implementation according to quantitative objectives. Neither the targets nor progress towards them seems to be available on-line, making it difficult to establish whether progress is in fact being made. Indeed, it is not clear whether the MoP itself receives this information. Hence, it is uncertain whether the monitoring of investment progress can be effective. This includes determining the effectiveness of investment expenditures, value for money, and the potential need for additional resources.

V. Local Priorities and National Planning: Implications

Polling data shows that citizens wish to have a say in local planning, but do not understand how decisions are made.

[1] The Chapter III ceiling is the agreed maximum value for the total investment budget (Chapter III of the Budget).

This lack of understanding, perceived as a lack of transparency, undermines public trust in the municipalities. It also encourages citizens to turn away from formal systems of advocacy and accountability toward more informal mechanisms—including those involving connections (*wasta)*, or even threats of violence—as an alternative. These inevitably increase conflict risks.

Transparency in resource allocations and expenditure outturns is the necessary accompaniment to transparency in the decision-making processes. Given the widespread public anger, perceptions of corruption and misuse of resources—and the heightened risks of conflict which this disaffection generates—an investment in transparency of resource allocation, funding, and accounting would seem likely to yield high returns.

PAPER 11

Subnational Government Revenue Mobilization in Libya

Mihaly Kopanyi, Former Lead Economist, Thematic Group for Municipal Finance, World Bank
Municipal Finance Consultant, World Bank

I. Introduction

Libya is undergoing a long and slow process of state-building, including the formation of a subnational government system for a decentralized unitary state. In the last five years, national legislators and ministries have issued various laws and regulations that include fragments of such a system.[1] Although inconsistent, stipulations are often unclear. Thus, the set of current regulations provide an incomplete framework for the future. As a result, rules and regulations are not enforced or have not yet became effective. However, the legislation is valid and legally accepted., Regardless of the said shortcomings they are in line with international principles and practices.

In parallel, there are various movements on the ground (for example, cities and towns exist, they provide some services, spend their budget, and collect some revenues despite lacking clear, supportive legislation). Many of these developments and movements are in harmony with legislation. However, some go beyond, signal future options, and demand the adoption of new legislation to fill legal gaps and/or change existing legislation to reduce conflicts across various legal documents. In so doing, they would help to provide a clearer picture and guidance for the future.

The agenda for subnational government revenue mobilization is only one part of the picture. Although

it constitutes a significant block of this puzzle, it cannot cover all the needed changes. Instead, it assumes that the required changes will be legislated and become effective in the near future. As such, it takes into account: (i) the system framed in the said legislation, that is, a certain measurable level of decentralization in a unitary state with provinces or similar regional entities and local governments

[1] Law No. 59 of 2012; Council of Ministers No. 130 of 2013; Law No. 9 of 2013; The Resolution 111 of the Minister of Local Government cancelled the majority of these decisions in 2015. However, this cancellation has not been taken into consideration in many regions and continues to be in force until today.

(municipalities, cities, towns); (ii) expenditure and revenue assignment addressed in various legislation (without good consistency); and (iii) local practices, including, for example, service delivery, own-source revenue mobilization, national or regional revenue sharing, and the existence of efficient national service providers, such as the electricity and telecommunication companies. These all need to be respected in taking the next steps toward building a reliable, simple, and pragmatic revenue mobilization system.

Assuming such a system will emerge gradually as a result of policy and political consensuses, it would then be enshrined in the legislative framework and adopted in practice. The expenditure workshop in July 2019 was a unique opportunity to open policy dialogue with key stakeholders. The proceeds of that workshop (Ebel 2019) will play a crucial role in forming the revenue assignments and the intergovernmental finance framework; these will be incorporated in a revised version of this note.

The issues of how, when, and under what circumstances such an enabling framework of an intergovernmental system will emerge is beyond the scope of this policy note. It does assume that such moves will happen in the foreseeable future. This note discusses an agenda along these lines, exploring options that are possible, desirable—and that reflect some level of growing consensus across various entities, as well as political or regional groups in power.

This note is a companion document to the note on Libya Revenue Assignment: Universal Principles and Local Applications from Libya—from Decentralization to Revenue Autonomy (Ebel 2019b). However, it approaches revenue mobilization from a different and somewhat more prescriptive manner, namely in the context of a possible intergovernmental financial framework.

The note also considers the analysis of the situation and options framed in analytical documents prepared by consultant teams under various bilateral and multilateral donor agencies in the last 5–10 years. These analyses are not built consistently upon each other. The approaches and advice differ, in part because they were drafted at various points in time and for different purposes. As such, they focus more on political and policy issues, with only limited attention to exploring options for the revenue assignment, framework and policies (with three exceptions: Adam Smith International 2007, UNDP 2017, and World Bank 2015). With these limitations in mind, this note aims to consolidate current knowledge by exploring and discussing reasonable and pragmatic options toward the future.

II. Revenue Assignment and Revenue Allocation

A framework of an intergovernmental finance system can be outlined from bits and pieces of various legislation despite a great deal of variation, gaps, unclear stipulations, and contradicting concepts found in the various laws, decrees, and regulations.[2] Meanwhile, some municipalities often manage to collect revenues operating beyond the legal framework. The revenue assignment issues under the current legal framework are well covered in the Revenue Assignment Note (Ebel 2019b). Thus, this note takes the key findings and results of that note into account without repeating them (for example, Box 2 in the Revenue Assignment note). The discussion on revenue assignments and the intergovernmental finance framework should also take into account the fiscal architecture, as well as the fact that that Libya is highly urbanized, with about 79 percent of the population living in urban areas—in fact, in a few dozen cities, towns, and municipalities. This characteristic has major implications in seeking options for an appropriate intergovernmental finance framework, and especially for local revenues.

Current Situation

A 2017 United Nations Development Programme (UNDP) study provides a glimpse into the current situation, although much of the data reflects the situation in

[2] The most notable laws include: Law No. 59 of 2012 Concerning the Local Administration System, and the Executive Regulation of Law No. (59) of 2012 on the Local Administration System attached to Cabinet Decree No. (130) of 2013; the Cabinet Decree No 130 of 2013, and Law No. 9 of 2013; amending Law No. 59 of 2012 concerning the Local Administration System.

2013. The budget situation has improved substantially since 2013. A Reuters report states that Libya earned US$14 billion in oil revenues in 2017—nearly three times more than in the previous year. This enabled the country to halve its budget deficit, according to the Central Bank. This occurred amid a partial recovery in oil output, despite continued political and economic turmoil. Libya's budget deficit for 2017 stood at 10.6 billion Libyan dinars (US$3.748 billion), down from 20.3 billion dinars (US$7.18 billion) the previous year, according to the Central Bank (Reuters, Jan 5, 2018).

The data in indicative of another important characteristic of the fiscal architecture, namely, Libya's high dependence on oil revenues—which are very volatile for both external and internal reasons. Thus, the need for strong central control over public revenues and expenditures prevails. However, it does not preclude the gradual decentralization and the increase in revenues for subnational government entities, especially if those revenues are collected outside the current public revenues within an agreed intergovernmental finance framework.

The main findings of the UNDP (2017, pp.27–28) study include the following:

i. Fiscal resources available to municipalities remain low, centrally controlled and unfairly distributed among localities. The amount transferred in 2013 represented about 1.1 percent of state expenditures and this share seems to have marginally changed, if at all, since then.
ii. State transfers have also become increasingly erratic; they are often late and unpredictable.
   a. There is a revenue-sharing practice that had been regulated, but it is unclear and unheeded.
   b. The transfer pool is vaguely defined.
   c. The transfers appear to aim to counterbalance both vertical and horizontal disparities, but the formula may need revision since it does not seem to be effective.
   d. The intergovernmental finance framework and practices include elements of a good financial system, albeit with a set rules that are only partially followed (Table 1).
iii. Service fees are not common in Libya. When they are collected, it is done by the Executive Offices and deposited into the central government's treasury.
iv. Some municipalities collect local revenues at the fringe or outside of the legal framework, for instance by:
   a. Taxing large companies operating in their jurisdiction (for example, a cement factory or quarries);
   b. Collecting a "share" of customs duties and transit fees in border towns;
   c. Collecting user fees for services not under their mandate, or that they have to co-deliver given the weakness of state delivery systems (for example, solid waste management); and

TABLE 1 Elements of Current Revenue Practices as Provided or Potentially Available for Local Governments

Revenue Source	Composition and Status
Own-source revenue	Centrally-regulated service fees Rents (from municipality-owned assets) Income from municipal investment Fifty percent of revenues generated from investment of municipal properties.
Shared revenues	Share of customs duties and transit fees Share of central taxes assigned to the Governorate Ten percent of proceeds from "Rikaz"—oil revenues.
Fiscal transfers	Grants from the central government.
Other revenue sources	Loans and grants as authorized by the Governorate Council (on an ad hoc or emergency support basis) Fines and penalties Sale of confiscated assets.

Source: UNDP (2017, p. 52).

   d. Collecting revenues from illicit activities taking place on their territory (for example, drug, human, and/or arms trafficking).

v. The investment capacity of municipalities is almost nil because state transfers do not include funds for capital projects, and municipalities have no savings from operations revenues.

vi. Private or external donations also represent a growing share of municipal budgets. However, donor funding often bypasses municipalities, especially from the United States Agency for International Development [USAID] and the UNDP. They support municipalities with fully structured, completed projects that are then handed over as in-kind donations. Some donors, such as German Development Cooperation (GIZ) or the European Union provide funding for Quick Impact Projects that are then implemented by municipalities (except for financial transactions).

It can be concluded that the current practices include the elements of a good intergovernmental finance system. This would include options for central government grants, shared taxes that are in fact formula-based transfers, and own-source revenues. However, the financial framework is still incomplete and inconsistent. Specifically, it lacks the requisite policies, procedures, and capacity provisions to fund local governments.

Revenue Assignment Issues

Article 51 of Law 62 No. 59 of 2012 legislates 16 revenue sources to municipalities and three to the (not yet existent) provinces. The shortcomings of these assignments and implications for local revenues are discussed in detail in the Revenue Assignment Note (see Box 2 in Ebel 2019b). The legislation would serve as a good basis for local revenue assignments—with certain necessary changes. Also, the scope of locally assigned revenues is in harmony with practices of developing countries. However, the details include numerous challenges that will be addressed herewith.

The Executive Regulation of 2013[3] was supposed to provide implementation rules and procedures, but it falls short of regulating local revenues. Instead, it lists 18 regulations of which 13 are related to local taxes and fees. The minister of local governments should issue these regulations, but this has not yet been done (Article 131). There are, however, important refinements in the Executive Regulation 2013; for instance, Article 76 states that "…*where municipal fees are imposed on certain services or as a price for products within the coverage of their expenses. Such fees shall remain in the balance of the concerned local government.*" This reinforcement of local revenues may encourage local governments to impose local service fees, and retain fee revenues in their own budgets. The discussion will turn next to a possible framework for an effective, pragmatic, and workable intergovernmental finance system, including specific revenue options for local governments. At the same time, it will take into account the current legislative framework and practices.

III. The Intergovernmental Finance System and Options for Improvements in Libya

Libyan legislation is in harmony with general international trends and practices in the sense that it presumes an intergovernmental finance system for a decentralized unitary state with three governmental tiers: central, regional, and local, with various revenues assigned to each of these tiers. It is also understandable given the Libyan economic, political, social, and security situation that the financial system is extremely centralized—and that the system will and should be gradually decentralized in a pragmatic manner.

The Intergovernmental Finance Framework

The Libya intergovernmental finance framework includes rules and procedures that assign revenues to the three governmental tiers, namely the central, the intermediate (provincial), and local/municipal governments. Libya's current situation justifies that the vast majority of public revenues

[3] Executive Regulation of Law No. (59) of 2012 on the Local Administration System attached to Cabinet Decree No. (130) of 2013.

are collected by and assigned to the central government. Ideally, these revenues should be deposited to the central treasury account. The share of central revenues constitutes over 99 percent of all revenues, as only a symbolic volume of revenues is collected by the subnational entities. This note supports and seeks options to gradually increase the subnational share of revenues, along with the effective devolution of some service functions over the medium term (see also Adam Smith International 2007).[4] This section discusses the issues and options for a remodeled intergovernmental finance framework with refined revenue assignments among the three governmental tiers.

Central Government Revenues

Central government revenues constitute the bulk of total public revenues in all countries because the central government has the best capacity to collect such revenues. In fact, most central governments purposely seek a mandate to collect most of the broad-band taxes to finance general services and to transfer revenues to the lower governmental tiers to support reductions in vertical and horizontal disparities. This is also the case in Libya—although the nearly 100 percent share of centralized revenues it collects makes Libya one of the most centralized countries in the world.

This note focuses on subnational revenues. However, there are a few issues for consideration and discussion that have a direct impact on subnational revenues. These include: (i) determining the main revenue sources for the central government; (ii) deciding whether all central government revenues are directly deposited to the single treasury account, or whether ministries and deconcentrated central government entities will have direct revenue mandates; and (iii) deciding how to transfer money from the central to the subnational government (SNG) budgets. Libya faces several challenges in this regard. So too, there are issues requiring clarification in building a reliable, sustainable, and predictable intergovernmental finance system.

The current assignment of revenues seems to be adequate in the sense that the legislation assigns all major broad-band and largely indirect revenue sources, such as oil revenues, customs duties and transit fees. One option to consider is to add a number of new sources to central government revenues, for example, a corporate income tax (CIP), a value-added tax (VAT) or sales tax, a personal income tax (PIT), an excise tax, a tax on telecommunications or transport (airport, seaports). Such taxes are better administered centrally. The present and possibly expanded central revenues provide funds that the central government should use to support subnational entities, as will be discussed in the section on transfers. Thus, one challenge is how to expand central revenues to create the space for transfers. The second challenge is how to allocate them to stakeholders in a proper and equitable manner.

Ministry Revenues and Deconcentrated Entities of the Central Government

Today, Libyan ministries and various deconcentrated entities are entitled to collect public revenues largely through fees and charges directly from citizens/customers. This may need to be changed, along with devolving service functions to the lower local governments. For better control of public revenues, it would be preferable to collect and deposit all non-subnational revenues to the central Treasury. This seems to be a rule, but it is not followed consistently. In sum, an option to consider is for ministries and deconcentrated entities (that exclude public utility companies) to be funded from the central budget and financed via budgetary allocations in order the improve central control of public revenues and expenditures.

The implication of this option is that as long as ministries or their deconcentrated regional or local entities are entitled to collect revenues, they will be discouraged from handing over services and revenues to municipalities—regardless if the municipalities could provide such services more effectively and if the ministries and deconcentrated entities manage to gain net income or lose money every

4 The proposals by the Adam Smith International "Executive Structures at Regional and Local Level – A Comprehensive Review" (2007) is an extremely valuable contribution to the policy dialogue regarding the intergovernmental finance framework, although the situation has changed since then. Knowledge has also improved since that presentation.

year from collecting revenues and financing the respective functions or services. This would also be the case if they are motivated to properly serve, expand, and improve the respective services or just behave like a typical budgetary entity that utilizes its annual allocation.

Provincial Revenues in the Intergovernmental Finance Framework

Provinces (or other forms of intermediate or regional entities) require revenues to fulfill their mandates and functions. However, it is unwise to finance them mainly to cover the expenses of their administration or to use them as post offices to transfer revenues from central to local governments. Provinces have three specific roles in the revenue framework. First, provinces manage services of a polycentric nature that require coordination of resources and service functions across several municipalities or even in a zone comprised of several provinces (for example, water in some areas of Libya). These services may be provided by private or corporatized public entities (such as national electricity or telecommunications companies) that do not require the involvement of provinces. Second, provinces manage revenues that are inherently of a regional nature. For instance, natural resource loyalties, and revenues to be shared between the central and local government on a derivation basis are not suited for disaggregation to the municipalities because the municipal jurisdiction may not match with the accounting possibilities of such revenues.[5] Third, revenue sharing on derivative bases widens horizontal disparities. This is a very tangible issue in Libya, where oil revenues are collected in some particular regions and close to some municipalities, whereas others have no access to such revenues. From this perspective the current revenue-sharing system seems to be suboptimal.

An additional challenge is that the provincial revenue sources underscore the need for an effective and equitable revenue-sharing framework between the provinces and the incumbent municipalities. Provinces should not retain and spend all of the provincial revenues; instead, a fair share of 50 percent or more should be distributed to incumbent municipalities. This is one more challenge in forming such a distribution system, namely that provinces in urbanized areas may focus more on the distribution of provincial revenues. In contrast, provinces in rural and desert areas with low levels of urbanization and dispersed populations may need to step in and provide services directly. As such, they may need to retain and spend the bulk of provincial revenues directly, without making downward distributions. This asymmetry in revenue and service responsibility should be discussed and sorted out in forming the revenue framework for provinces (or intermediate-level regional governments).

Municipal Revenues in the Intergovernmental Finance Framework

The first fundamental challenge for municipalities is figure out how to increase their revenue share in the intergovernmental finance system. The current share—likely less than one percent of total public expenditures—is extremely low by all measures. As a result, these low revenues undermine the inherent positions of local governments because being closer to their customers, they are normally responsible for the level and quality of local services and functions.[6] An additional challenge closely related to the first one is that increasing municipal revenues should be gradual. It should also be preceded by or combined with the gradual devolution of service functions. No big bang devolution as in the case of Indonesia seems to be feasible in Libya. In short, options for expanding municipal revenues should be explored. So too, the gradual and very selective expansion of local revenues should be emphasized; it should also be in line with expanding local service and administrative capacities.

The revenue frameworks for municipalities around the world are comprised of a combination of three main revenue or income groups. Each of these is important,

[5] This is a big issue in many countries in Eastern Europe or Turkey, for instance, when the corporate revenues or natural resource loyalties are reported via the corporate headquarters, whereas the services are localized (tank-stations, transport or water networks). Thus, cities do not benefit from fuel surcharges unless the sale of fuel is measured and reported by city jurisdictions.

[6] Most of the studies prepared in the last 5–10 years regarding Libyan decentralization, governance, public finance, or intergovernmental issues strongly underline this fundamental challenge (See UNDP 2017; World Bank 2015).

although they play very different roles according to country circumstances.

a. *Transfers from higher governmental tiers* (central and provincial in Libya)—including unconditional transfers with or without shared taxes, conditional transfers (earmarked grants, targeted grants for operation or development funding), and ad-hoc grants that are supposed to be for emergency—often play a larger role in developing countries.
b. *Own-source revenues*. These include taxes, fees and charges, asset proceeds, dividends from municipal enterprises and other miscellaneous revenues.
c. *External revenues/income*[7] (that is, from outside the fiscal system) consist of private grants and donations, as well as proceeds from debts and financial gains.

The revenue assignment for Libyan municipalities includes most of these revenue sources, but with different qualifications and challenges that will be discussed in detail in the following sections. It can be concluded that the advisors on drafting the legislation for revenue assignments, the revenue allocation framework, and the revenue system have utilized most of the elements of well-functioning subnational revenue systems in other developing countries. Thus, the fundamentals of a functioning intergovernmental revenue framework are in place in Libya. However, there are still shortcomings, contradictions, gaps, and numerous issues that need to be sorted out in policy dialogues, aiming to achieve a consensus on key issues and attributes. This note aims to generate and support such dialogues.

IV. Municipal Revenues: Challenges and Options Moving Forward

This section aims to explore challenges, responses, and options for building a reliable, sustainable, and pragmatic revenue framework, system, policies, and procedures for Libyan municipalities over the medium term. This analysis is based on the literature, and relies heavily on the Revenue Assignment note (Ebel 2019b). However, it is more specific and somewhat prescriptive in analyzing the various challenges and options. The entire spectrum of possible local revenues in the three groups will be discussed. It will also open the scope of possibilities by discussing options to include new revenue sources left unaddressed in previous literature about Libya. It will include well-known sources of revenues in developing countries, as well as in countries facing similar situations.

Intergovernmental Transfers

The term intergovernmental transfers[8] has several meanings. It is used here in the broadest possible sense to include all kinds of financial movements (except on-lent loans) between higher governmental entities to local governments. This would include various transfers and grants from the central treasury, ministries, other central governmental entities, and provinces or other intermediate tiers of governments. A more detailed classification includes: unconditional transfers with or without shared taxes, conditional transfers (earmarked grants, targeted grants for operations, or development funding) and ad-hoc grants (see also Muwonge and Ebel 2014). A pragmatic, workable and sustainable combination of these possibilities would require a discussion of the pros and cons and the options selected for Libya. Libya is highly centralized today, and is likely to remain highly centralized over the medium term, albeit to a lesser degree over time.

Transfer Pool

The cornerstone of an intergovernmental transfer system is a transfer pool. This could be a specific dedicated fund or an account from which the central government's funds are

[7] Revenues, income, receipts, and gains are used here interchangeably in harmony with the financial reporting approach that distinguishes two sides of the budget or income statement: revenues and expenditures, with detailed distinctions about the specific sources, as explained above.

[8] Some literature and scholars distinguish transfers and grants to reflect specific qualifications. By contrast, this paper uses the term grants as one form of transfer, for example, block grants, or conditional or earmarked grants. This is in line with the Organisation for Economic Co-operation and Development (OECD) approach that allows for the interchangeable use of the terms grants and transfers (Böhlinger-Rebesona 2009).

allocated to the subnational tiers (as in the case of the General Budget Grant Revenues in Turkey, Kopanyi 2015). The transfer pool can be a dedicated fund with a fund manager (as with the Iller Bank in Turkey). However, more often it is a virtual pool defined by a set of rules without consolidating or depositing central revenues into one single account through which the transfers are distributed. In this context, a big transfer pool may also include a collection of small pools that are part of the big lake—sometimes containing hidden underground connections. However, they do not form a single pool unless they are well connected and balanced. Libya is facing challenges regarding the transfer pool, which is a sort of virtual pool defined by various central revenues to be shared with subnational governments. The most significant source concerns the oil/petroleum revenues (Rikaz) supplemented by revenues from customs duties and transit fees. In addition, municipalities may receive shares from the provinces.

The specific challenges with the transfer pool include the following:

a. ***Oil/petroleum revenues*** appear to be a kind of shared revenues distributed on a derivative basis. As such, they half-heartedly fund a general transfer pool; if derivative, then they would be considered a shared tax. Further problems include the fact that shared oil revenues are not suitable or are not in adequate in their current form to fill the transfer pool because: (i) only a handful of municipalities are eligible to receive funds on a derivative basis, and this is the most substantial revenue source for both central and local governments; (ii) with derivation, it expands the horizontal fiscal disparities and leaves vast areas ineligible and unserved; (iii) it increases disparities across municipalities even within the geographic regions that receive shares from oil revenues because derivation targets municipalities. In sum, the derivative base allocation of this revenue source resembles a royalty paid to local entities based on the extraction of natural resources. An explicit royalty would better serve the fair allocation of oil revenues, and it could be clearly accounted as an own-source revenue.
b. ***Revenues from customs duties and transit fees*** appear[9] to be very suitable for funding the general transfer pool. Libyan practice appears to aim to use this pool for serving both vertical and horizontal equalization purposes. An allocation formula (Table 2) (as explained in UNDP 2017) reflects a strong government priority to use these transfers for equalizing disparities across small and large municipalities—strongly favoring support for the small. The per capital allocation is six-fold greater for the smallest municipality as compared to the largest municipalities. The banded distribution of recipient local councils is justified by the presumed uncertainties of estimating local populations. Thus, this would help to reduce perverse incentives to over-estimate populations with larger shares. A further challenge is that these are called shared revenues.[10] In actuality, they are apparently formula-based, general or unconditional transfers.

Options for Improvement

There is a need for policy dialogue about the function, characteristics, and size of the transfer pool. Currently, all revenues transferred from national collections may represent a share of 1 percent of total public expenditures. Policy dialogue among all key stakeholders (national, regional, local) is needed. In this context, the options for improvement may include the following:

a. Expand the revenue pool to 2–3 percent of public expenditures. This would serve several purposes including: signal and underscore the policy priority of central government support to local governments; improve financing capacity of local governments; and build citizens' awareness and trust in devolution. These measures could be achieved with a moderate cost to the central government.

[9] The term "appear" is used to reflect that the respective regulation is unclear and there is only anecdotal evidence (no hard numbers) about the practical allocation of the revenues.

[10] In many countries in Africa but also South-East Europe, the governments use the term "shared revenues" to reflect the fact that centrally collected revenues are shared with the local government sector. Also, it may be to distinguish formula-based allocations from earmarked or ad-hoc grants. In contrast, revenues are classified as shared in the literature only if those revenues are shared on a derivative basis directly with each municipality (Böhlinger and Rebesona 2009).

TABLE 2: Allocation Formula for Central Transfers in Libya (2013, Libyan dinar)

Class	Population range		Allocation	Allocation per capita
1	—	15,000	3,000,000	400
2	15,000	20,000	3,500,000	200
3	20,000	27,500	4,500,000	189
4	27,500	35,000	5,000,000	160
5	35,000	42,500	6,424,000	166
6	42,500	50,000	7,165,000	155
7	50,000	70,000	8,650,000	144
8	70,000	100,000	9,145,000	108
9	100,000	125,000	10,130,000	90
10	125,000	150,000	11,120,000	81
11	150,000	175,000	12,110,000	75
12	175,000	200,000	14,085,000	75
13	200,000	250,000	15,800,000	70
14	250,000	350,000	17,800,000	59
15	350,000	750,000	33,500,000	61
16	750,000	1,350,000	67,000,000	64

Source: UNDP (2017, page 51).

b. Define the set of central government revenues that will fund the transfer pool. This may include to channel for a substantial portion (half or more) of oil revenue shares (for example, 5 of the 10 percent) to the general transfer pool. It may also expand the pool by collecting and channelling revenues from new sources, such as a corporate income tax, a personal income tax, and a general sales tax (however, establishing a VAT would be cumbersome at this time, but could be part of a longer term plan).

c. Establish two transfer pools or dedicate a sub-pool to exclusively support development expenditures at the local level. This option should be assessed together with the option to devolve some development roles from ministries to municipalities in harmony with Article 21 of Law No. 59. Many countries rule that local governments should spend about 40 percent of total revenues (including transfers and own-source revenues) for development. This aims to restrict excessive spending for operations, and especially reckless hiring of staff, among other things. This works with or without development transfers in those countries (for instance, Turkey has only shared revenues and general transfers, but still stipulates 40 percent of spending on development). As such, it makes the rules simple. However, enforcement is often weak, and municipalities fail to spend the 40 percent on development for many years—without sanctions or negative consequences.

Forms of Transfers

As noted, transfers can be general, unconditional, conditional, or ad-hoc grants from central to subnational governments. Given the present shortage of central government revenues and the political and security situation in Libya, selecting the right set of transfers should follow the principle of simplicity and central control. However, the set of transfer instruments should also be small to avoid an overly dispersed distribution of miniscule transfers from a small pool.

Shared taxes–shared revenues. The current legislation and practices stipulate as *shared revenues* customs duties and transit fees and 10 percent of oil revenues, plus revenues shared between municipalities and (not yet existent) provinces. However, currently the customs duties and transit fees are in fact general formula-based transfers, and are allocated in part using a formula (Table 2) and in part on an ad hoc basis. The oil revenues are suitable for revenue sharing, but one option may be to instead split these shares into a combination of natural resource royalty fees. Another may be to use transfer pool and formula-based grants as a source of revenue sharing. For example, in the beginning, half or 5 percent of the current 10 percent of oil revenues could be changed to royalty fees and collected and transferred to municipalities together with other loyalties as own-source revenues.

The current subnational revenue base—and the very minimal information that would underscore a fair sharing arrangement—do not support maintaining a class of revenues as shared revenues. This is because those are shared between the central government and the local government sector. However, they are not shared with individual municipalities on a derivative basis. Municipalities may prefer shared taxes for general transfers because the name shared revenue may signal to them a sort of entitlement. They may also prefer this arrangement because of a low level of trust in central transfers. Also, shared revenues transferred through the treasury have been subject to delays, unpredictability and so on.

The municipal share of the value of local taxes allocated to the province and municipal share of customs, transit, airport, and port fees levied in the province are valid options for shared revenues, as stipulated in the Law No. 59, Article 51. However, they are not yet effective or do not comply with the law so long as the provinces do not exist. Anecdotal evidence suggests that they might be effective because agencies of the central government collect and share them on a derivative basis. Should provinces manage these taxes and fees in the future, they could share them with municipalities on a derivative basis. Should they share them based on an explicit formula or on an implicitly used formula (population), then these would be provincial transfers and not shared taxes. Furthermore, a revised intergovernmental financial framework may entitle municipalities to collect local taxes, although it may leave some room for the provincial administration to improve collection efficiency. This could be especially important in less populated and unurbanized provinces or regions. In short, the revision of principles and classification of shared revenues are among the important subjects for policy dialogue in building a sustainable and consistent subnational revenue system.

Unconditional transfers. Unconditional transfers or unconditional grants (also called block grants to signal a lack of conditions attached) cover various possibilities, including all kinds of grants/transfers that are provided to the municipalities without conditions attached to them that would limit either access or spending eligibility. The unconditional transfers are often allocated by using specific formulas that could range from very simple (for example, using only population as an allocation base) to very complicated[11] formulas. Table 2 presents a banded distribution formula for unconditional grants that was applied in 2013. It is supposedly being applied to date in Libya, although it has been mistakenly named shared revenues. However, this is a good precedent and historical practice for an equalization formula that can be revised and further improved. Few countries distribute central grants without adopted and published formulas. That means that they provide ad-hoc grants often based on political rather than socioeconomic principles. The present transfers in Libya are unconditional transfers that are generally accepted, although they have been very small to date.

Conditional grants. Conditional grants are transfers that include conditions attached to them, either in obtaining them or (mostly) in spending them. Conditional grants are often used to fund services assigned to higher government tiers, but they are performed by local governments as delegated functions. Conditional grants are used very extensively in Rwanda, where ministries are assigned as the provider of many local services including primary education, health, social assistance, and so on. However, local governments perform these functions and are financed by earmarked grants from ministries. These funds should be spent exclusively on the specific services, and unspent/saved money should be returned to the ministry. On the other hand, should expenditures appear greater than the grants, the local governments

[11] The Turkish allocation formula is very complicated, and it is defined in a large matrix. It includes 10 factors and defines 8 various portions of allocated amount (Kopanyi 2015).

should cover extra costs from other local revenues (through a general block grant or an own-source revenue).

Conditional grants could assume a form of performance grants with conditions attached to access them. The most common form is matching targeted grants where the central government sets national policy or service priorities such as "improving water services". Municipalities can then apply for these grants if they are able and willing to cover 30 or 50 percent of the total investment cost from local revenues (general grants and own-source revenues). This is a powerful instrument, but it makes the rich municipalities richer and leaves out poor municipalities who lack funds to match the central grant. Thus, they are unable to receive such grants.

Libya's system does not include conditional, earmarked, targeted or performance grants. They are not part of the country's practice or legislation. Instead ministries are assigned to provide several local services directly or through deconcentrated entities. A good step toward improving devolution would be to delegate or devolve some services or functions to the municipalities. They could initially be funded with earmarked grants and later with general grants and own-source revenues. As such, it would enable the maintenance of control over public expenditures, at least temporarily. Such an arrangement would benefit from local knowledge, management, initiatives, and improved accountability toward local citizens.

Libya does not use performance-based grants. These do not seem to be adequate in the medium term because the transfer pool is small, and the socioeconomic circumstances of municipalities are very diverse. As such, it would create an imbalance and unfair advantages to the richer municipalities. Donors promote a special performance grant system in developing countries (for example, in Bangladesh, Kenya, and Nepal) that include simple minimum conditions for municipalities should meet in order to obtain such grants. Performance measurements are used to obtain additional and higher shares of grants (these are called minimum conditions performance measurement [MCPM] systems).

In Libya, the current information base for setting conditions for performance grants is so weak that it would be very difficult to establish a set of fair conditions. In the near future, however, Libya may be able to test a performance grant system (for example, after positive experiences with the expanded transfer pool and earmarked grants) based on MCPM. For example, the West Bank and Gaza experience includes a classification of municipalities by financial and management capacities ranked into 8 bands, as well as a graduation system to incentivize better performance and eligibility for larger grants. The Palestinian allocation system has been very effective, demanding, and successful; initially, only two best municipalities were ranked into the C band (third rank), and the rest were all below. Only one municipality reached grade A in ten years because the system is demanding and controlled to avoid inflating scores (World Bank 2014b).

Formulas for Allocating Unconditional Grants – Options for Libya

International practices show that countries may opt for using one simple formula that serves both vertical and horizontal equalization. Alternatively, they may apply two grants with two separate formulas, one as a general transfer (a block grant in Rwanda), and the other as a specific equalization grant. Some more complicated formulas (such as in Turkey) include segments of both general transfers and equalization with either strong or symbolic equalization effects. It should be noted that equalization, no matter how it is communicated, is always relative; that is, even a super formula can only reduce disparities rather than eliminate them. Total elimination of disparities by transfers is neither possible nor advisable because it would penalize the best performing municipalities and induce adverse incentives.

The current situation in Libya suggests that municipalities need both a general transfer to provide a basic, sustainable funding of core local functions (which should be defined in the policy dialogue), and an equalization grant to support reducing horizontal disparities. In the beginning, maybe the half of the (expanded) transfer pool could be allocated by a general formula. This could be an undifferentiated allocation of grants to all municipalities, perhaps based on population.[12] This is further justified by the

[12] In fact, such an allocation already has some equalization effect because it provides more funding to highly populated municipalities, given their need to provide services that are larger in terms of scope and size.

fact that Libya is highly urbanized, with about 80 percent of the population living in urban areas. Thus, a general grant would serve as a basic fund to finance urban services. The other would then aim to reduce horizontal disparities.

Libya faces multiple challenges in this field. First, there are disparities across large and small municipalities. Second, there are greater disparities between urban and rural areas, and provinces and localities. Third, there are disparities between areas that benefit from oil revenues and those that do not. Thus, there is a great deal of overlapping across these three sets of disparities that further complicates the picture. For example, municipalities in oil revenue areas appear to be larger and richer because they benefit from all three disparities. This may suggest that Libya needs a very sophisticated transfer system to address these disparities, for example, in large and urbanized cities located in oil-revenue zones.

Developing such a precise and sophisticated equalization system requires data and time. For instance, the development of a new transfer formula for Jordan took over a year, and it required substantial data and a detailed regression analysis and model (World Bank 2015). Eventually, two major factors were identified, including population and the area of the municipal jurisdiction. In this context, a complicated formula may appear to be too difficult for stakeholders to understand, raising reservations about distortions that favor some municipalities. Furthermore, without the requisite data, there is no chance of developing a sophisticated allocation formula for Libya. Instead, experts and stakeholders may aim to produce a very simple, professionally justified formula that could be as straightforward as a combination of population and jurisdiction area (square kilometers [km2]). Such a formula would be clear and easy for stakeholders to understand and accept, although adequate coefficients still need testing. This could be based on the limited data available to measure its effectiveness in reducing horizontal disparities.

The great disparities across small and large municipalities, and especially between urban and rural areas/provinces, justify seeking and testing options for an asymmetric allocation system. For instance, provinces (instead of small municipalities or rural settlements) would receive transfers to manage sparsely populated rural or desert areas.

Options for Improvement of the Transfer System

As a result of this analysis, the importance of simplicity cannot be overestimated. Key lessons include:

a. Expand the revenue pool to 2–3 percent of public expenditures.
b. Define an expanded set of central government revenues that will fund the transfer pool.
c. Establish two transfer pools or dedicate a sub-pool to exclusively support development expenditures.
d. Adopt a combined transfer formula that provides for both general funding and an equalization grant.
e. Explore options for servicing and funding sparsely populated rural and desert areas.

Local Own-source Revenues

The common set of own-source revenues includes local taxes, fees and charges, loyalties on natural resource exploitation, asset proceeds, and others such as penalties, or miscellaneous administrative fees. Libya's current regulations and practices include many of these "internationally standard" own-source revenues, but lacks some key local revenues. In other cases, it shows misclassification of shared revenues. Policy dialogue to clarify own-source resources and reach consensus on a set of reliable and sustainable own-source resources is a vital next step. This section aims at assessing the situation and exploring options for improvement.

Local Taxes

The current legislation does not assign local taxes to municipalities, except those to be shared with the provinces. Some municipalities are reported to collect some taxes, such as a sort of corporate income or local business tax from large local companies (cement factories, manufacturing companies). However, these are not clearly legal, and remain sporadic practices. International experience suggests that exploring options to empower municipalities in collecting a reasonable amount of local taxes may be worth considering. The most obvious among these taxes could be an (urban) property tax set in a very simple way to administer (for example, an area-based tax). Initially, it would not collect a high volume of revenue, but it would start to build a culture among citizens (especially in urban settlements) about the need to contribute to financing general services. A moderate, but similarly important, communal fee could serve similar purposes, and would be another option to consider.

Local *business taxes* based on net turnover (already under experimentation) is another option combined with or collected in the form of a local *business license fee*. This is a tax if it is far greater than the negligible administrative cost of registering local businesses (Kopanyi-Franzsen 2018). Taxing informal business activities with *presumptive taxes*[13] is also a good option that would generate revenues. In addition, it would incentivize regularization and licensing of some of the informal business activities. Finally, municipalities may collect *betterment levies* (that are also, in fact, taxes) from property owners who benefit from public infrastructure development, such as roads, water, and transport infrastructure. This can be done if authorized, regardless of who has completed the development—whether it be a municipality, a central government entity, or an international donor. For their part, the donors would be supportive of municipality's charging owners with betterment levies.

In sum, introducing local taxes (those that would increase own-source revenues without burdening the central budget/treasury, establishing or increasing downward accountability) would be a bold opportunity, and should be among the key policy options to discuss among the main stakeholders. However, *taxing illicit activities* and actors should not be a part of a sound local revenue system, framework, and practices.

Local Fees and Charges

Municipalities currently collect a negligible volume of fees from a very short list of sources, mainly small administrative fees. One practical reason behind this arrangement is that a municipality may collect fees in exchange for the cost of the service it has delivered. However, municipalities provide very few services today, regardless of legislation and regulation. In fact, most of the local services are provided by the ministries (for example, the Ministries of Local Government, and Transport) or deconcentrated entities of ministries or the central government.

Current legislation provides a framework for municipalities to collect fees, although detailed regulations for moving the provisions of some local services from the ministries or other agencies have yet to be issued and enforced. This requires a consensus on policies that municipalities should provide local services and collect fees whenever they are likely to be the most efficient agents. Municipalities can also achieve this in a simpler way whenever they are willing and able to provide those services. However, they need to press the current providers to hand over assets, service instruments, data, and management responsibilities. Regulations can be drafted quickly[14]—if consensus can be reached on these fundamental principles and procedures.

Article 76 of the Executive Regulation 2013 provides a new path of own-source revenues for municipalities by stipulating that: "*All citizens shall be equal in benefitting from local services, which shall be provided free of charge, and in the cases* where municipal fees are imposed on certain services or as a price for products *within the coverage of their expenses*. Such fees shall remain in the balance of the concerned local government." In harmony with this regulation, the Law No. 59 of 2012 lists 14 different fees the municipality may collect. These include: "*Fees for municipal services; proceeds of museums, exhibitions, gardens, clubs, etc., revenue of fairs, libraries and stadiums owned by the municipality; sales of advertising and tourism products and of publications issued by the municipality; proceeds of public open markets, slaughterhouses, baths, and public transportation operated by the municipality.*"

One pragmatic approach in moving forward would be to reach a consensus on the said principles and options

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[13] Presumptive tax means that the tax-base is assumed to be a certain amount irrespective of the actual base. It is often set in bands. A presumptive tax is commonly used for income, business, or transport taxation.

[14] One caveat to this quick move is that the agencies that have been providing local services—whether effectively, ineffectively or in mediocre ways—are not willing to hand over the respective assets and services because such a move may result in the dissolution of those entities. For instance, Kenya adopted a detailed devolution program in 2012, devolving functions and finances to local governments (called counties). However, the deconcentrated central government agencies have not handed over assets and functions to local governments 8 years after devolution (Kopanyi-Muwonge 2019).

and then allow municipalities, especially in the larger cities, to take over the provision of selected local services gradually. In tandem, the municipalities would start collecting fees and charge for services. However, experience suggests that collecting fees to cover the cost of services would not generate substantial free revenues to municipalities; rather, they would provide cost recovery at best.

Some services may generate free revenues above and beyond the costs of operation. These include revenues for fairs, billboards and advertising, tourism, and public markets. Local service fees are not money-makers or panaceas that would lift local free revenues to measurable higher levels. However, improved provision of local services increases the legitimacy of the local government, supporting collection of general taxes and other charges. Some municipalities are reported to have started correcting their service shortcomings to support citizens, for example, improving solid waste collection and transport from their own budget. This is a signal that localizing local services may improve them.

Loyalties

Article 51 stipulates that municipalities are entitled to retain *ten percent of any ore found within municipal boundaries, in lands not owned by the State and on beaches that are located within the municipal boundaries, in accordance with the legislation in force.* This is the legal basis for collecting loyalties with a rate of 10 percent of oil revenues included. However, many more are listed. Some municipalities collect loyalties (for example, from gypsum mining, quarries). In short, a policy dialogue on loyalty fees could serve as a means of defining a consistent own-source revenue base. As noted, the current "shared tax" on oil revenues could be changed into two funding instruments: a part of general transfers (say 5 of 10 percent total) and another part could be turned into municipal loyalties. This could be a bold option deserving of policy dialogue and decision.

Asset Proceeds

Municipalities currently own a minimal amount of public assets, although ownership might be unclear and disputed among possible owners, that is, among central, regional or local government entities. However, it seems that municipalities may facilitate selling public assets found in their jurisdictions regardless of whether they are the registered owners. They could retain half of the proceeds and share the other half with the registered owner (although not stated so explicitly). Nevertheless, the Article 51 of Law No. 59 of 2012 lists four possible asset proceeds in harmony with international experiences. These include both potential current and capital revenue sources: *"Rents of properties leased by the municipality and sales of goods confiscated by the municipal guard can be considered as potential current revenues, municipal investment yields (that is, dividends or interests)".* Meanwhile, the Article also empowers municipalities to retain 50 percent of the value of buildings and properties sold by municipalities that should be classified as capital revenues.

These considerations suggest that legislation assume the municipalities to be owners or co-owners of all public lands and assets in their jurisdictions. This is reconfirmed by the stipulation in Article 17 of the Executive Regulation 2013 that provides a long list of assets the municipalities should retain or allocate areas (that is, land) for these public purposes. "*In accordance with the approved plan, every municipality shall allocate a part of its total area to establish the State-owned municipal facilities that may not be disposed of by transfer of property or easement for any entity, in particular: The headquarters of the municipality, including the conference hall; The municipal square; The municipal hotel; The municipal mosque; The municipal stadium; The municipal theatre; The municipal garden; The municipal dispensaries and hospital; Municipal guard and police stations; Reform and rehabilitation institutions; Shelters; Cemeteries; Nurseries; Temporary affordable residence for the poor; Public markets; Slaughterhouses; Industrial zones; Areas belonging to the Ministries of Defense and Transportation; Parking lots; Museums; Central libraries; Ruins located within the municipal boundaries; and Public squares."*

The Regulation also emphasizes that *"…the general character and actual requirements of the municipality shall be taken into consideration*." The latter can be interpreted to mean that the municipality should not be merely a passive provider of land or sites. Rather, it should be an active decision maker according to the approved (master?) plan, while also taking into account the local character and requirements.

Municipalities seem to be owners or co-owners of public land and public assets in their jurisdiction. As such, they may propose and facilitate the selling of land or property to the private sector while retaining half of the proceeds. However, it should be noted that those land parcels and properties unutilized and unnecessary to the well-functioning of the municipality and local services are in fact very limited in most cases. The careless selling of land may generate good revenues today. However, in the near future, it may force the municipality to purchase land for some key service purpose at a much higher price. Thus, it may generate no net revenues, but rather net losses in the medium term.

A worse-case scenario could be when the land or other assets are divested for free under the flag of supporting local business development or some other specific policy or political goal. However, more often than not, such transactions are motivated by political objectives or corruption. Thus, municipalities should account for and register all assets. They should develop an asset management strategy, system, and plan to sell assets strategically and generate substantial own-source revenues. At the same time, they should take into account the core function and sustainability of the municipality and services.

In sum, the lease, rent, or sale of land and properties could and should be considered as a strategic source of own-source revenues. When managed properly and strategically, it can increase the wealth of a municipality, broaden the base and depth of local services, and support sustainability. These benefits justify a policy dialogue about the role of land and other public assets in funding municipalities.

Contribution and Land-Value Capture (LVC)

Contributions in the form of charges that municipalities collect from developers or from property owners to contribute to the development of infrastructure are very common in both developed and developing countries. They are well justified and relatively easy to collect when developers are keen to invest in sizable projects. Such projects also require trunk infrastructure, such as water and sewer mains, electricity, telecommunications, gas, and roads. Developers have direct and imminent interests in both obtaining building permits and ensuring access to trunk infrastructure. Thus, they are often willing to pay the required contribution that could be as high as 50 percent of the investment cost of such infrastructure. These fees not only generate a substantial volume of own-source revenues, but they also improve equity by encouraging developers to share the often-enormous private benefits they gain from those developments, largely because of good location and services.

Turning a fair share of their private gains into public gains and using them for infrastructure development is a major equity/fairness factor. Likewise, common citizens and owners of properties are willing to contribute and provide a fair share of their gains when the infrastructure increases property values. This is especially the case when the agreement is part of the decision-making and consultative process. Such contributions are very common worldwide (50 percent of the contribution is stipulated in Jordan and Turkey) However, it is much more difficult to collect such contributions retrospectively, because people may say these are entitlements.

Other Revenues

Municipal or other public or private accounts always include a line item called other revenues or receipts. These may include penalties and settlements imposed in return for reconciliation, security deposits, and miscellaneous charges. For instance, traffic violation fines generate substantial revenues for the city of Amman, Jordan. The Executive Regulation includes one "other item": "*penalties and settlements imposed in return for reconciliation*". However, as said, there might be many more. Other revenues should be properly accounted for, despite the fact that the line of "other revenues" should represent a very small share of total revenues. A high share (for example, anything above 10 percent of own-source revenues) would signal poor classification of revenues made on purpose or by mistake. A bad, but common, practice in municipal budgeting is that the expenditure budget is adopted first and then the revenue budget is formed, but this often signals a gap between revenues and expenditures, that is, a budget deficit. Some officers correct this deficit in a simple way: they increase the line of "other revenues" to turn the budget total to a zero balance, that is, a balanced budget. When asked, the officer may admit this and say that there is indeed a hidden deficit, and the municipality may fill it with extra efforts to collect revenues (not a realistic goal) or by selling land (that may happen). However, it is still a questionable practice.

External Revenues

External revenues may include loans, donations and trusts as also stipulated in the executive order. In fact, Libyan municipalities have been benefitting from external revenues in many forms. By law they are eligible to borrow only in short-term liquidity loans that should be repaid within the same fiscal year. Debt financing of infrastructure is not allowed by the Law. Debt financing of infrastructure can still be an indirect option for municipalities. It can be done by forming or investing into legally independent service or business entities (hotels, resorts, and so on) who can borrow funds from the market for development (Article 93 of Executive Regulation 2013). Thus, municipalities can indirectly fund development from debts. Another issue that deserves attention through policy dialogue and regulation includes the fact that the municipality may sign formal commitments and support such borrowing by a guarantee. Alternatively, lenders may consider the municipality as a sole owner of such business entities as an effective guarantor of debt without a signed guarantee. In fact, this is the equivalent of on-budget debt financing.

Libyan municipalities also benefit from donor support. However, with few or any exceptions, donors manage them as off-budget items from the municipal financing perspective. As noted, some donors (GIZ, EU) discuss development projects (for roads, health, school facilities) with the municipalities and work cooperatively on construction. However, they keep their finances independent of the municipalities. Other donors may or may not discuss projects with municipalities at all. Instead, they may coordinate with the ministries, and then implement the projects with full discretion. In such cases, the municipality is left out of the coordination process and is hardly aware of the costs of the project. However, it receives it as an in-kind contribution from the donor (USAID, UNDP) after completion.

Such management of donations is understandable given the fluid political, intergovernmental, economic, and security situation, as well as the low capacity of the municipalities in Libya. However, it often undermines the sustainability of the developed assets because the municipality is not involved, or is unaware of, and/or often lacks the capacity to finance operations and maintenance in the years ahead. In some cases, donors soften this challenge by including, for example, 3 years of operations and maintenance costs capitalized into the project cost. In this way, they improve sustainability, give time to the municipality to adjust its budget and management for proper operations and maintenance. However, it may also simply hide the weakness in sustainability.

In sum, external revenues already play a reasonable part of municipal development in Libya. The current restriction of debts for short-term liquidity borrowing is well justified by the low level of local and especially own-source revenues, as well as the lack of creditworthiness and borrowing capacity of Libyan municipalities. As this restriction is rightly and likely to remain in force in the medium term, no policy change is justified. Furthermore, donors play a substantial role in developing municipal assets in certain regions. These are in line with the regulation. However, most donor support does not truly qualify as external revenues. Rather, donors support municipalities only through the provision of assets apart from on-budget revenues. This arrangement is likely to remain in practice in the medium term, and there is no good reason to change it.

Options for Improvement of Own-Source Revenues

This analysis discussed and explored numerous options for improving subnational revenues, especially municipal revenues. These merit in-depth policy dialogue and political and policy consensus. This brief analysis aims to address only the main policy options without detailed analysis of the conditions, scope, and modalities that can be done in the course of a broader policy dialogue. The main options discussed include the following:

a. Streamline definition of shared taxes and define shared taxes as only those fit for revenue sharing on a derivative basis.
b. Shared taxes seem to be more adequate for sharing with regions or provinces rather than with the municipalities.
c. Introduce the systematic collection of loyalties, some of them by changing "shared" taxes to "loyalty", for example, through oil revenue sharing.
d. Institutionalize local taxes by moving tax assignment from the provinces to the municipalities. Also, empower the municipalities to collect new local taxes that may include: property tax, communal tax, business tax, business license fee, and betterment levies.
e. Streamline local fees in tandem with changing service provisions and devolving services that can be more effectively provided by the municipalities. Encourage the systematic collection of fees by reducing services provided free of charge.
f. Regulate asset proceeds and guide the municipalities to increase revenues from public assets in a strategic and sustainable manner;
g. Institutionalize collecting contributions from developers and from citizens. This would expand development funds for municipalities and improve equity by turning a fair share of private gains from public infrastructure development into public benefits and funding new infrastructure.
h. Explore options for land-value capture instruments.
i. Explore options to better inform and involve the municipalities in selecting and implementing donor projects.

V. Conclusion

The main purpose of this note is to provide background material and inform discussions in one of the unique policy dialogue events, namely a *Workshop on Subnational Government Revenue Systems: Framework, Policy, and Administration*. This event is planned to be held with the involvement of Libyan central and local government officers in September or October 2019. This note was prepared for this specific purpose, and includes a broad set of issues and options important for the planned revenue workshop. As such, it will help to further policy dialogue among key Libyan stakeholders. Policy dialogue is vital to sorting out the issues, as well as to supporting the subsequent revision of the legislative, institutional, and financial framework.

This note is based on studies that donor consultants have developed in the last 5 years, exposing numerous weaknesses, gaps, and a lack of clarity in laws and regulations. However, this note assumes that many of those weaknesses and normative texts of laws and regulations can be fixed quickly after consensus is reached on key characteristics of the intergovernmental finance system. This would include reaching a consensus on issues such as expenditure and revenue assignments, service delivery, and details on financing of the municipalities. Thus, this note discussed options in the context of a possible, desirable, sustainable, pragmatic, and workable intergovernmental financing and local revenue framework. In this context, it will help to support and provoke in-depth policy dialogue in Libya. The main lessons learned include the following:

a. Libya is a highly urbanized country, with about 80 percent of its population living in urban areas, that is, municipalities. Thus, the municipalities should be positioned to lead local service provision whenever local provision would be most effective.
b. Municipalities currently have an extremely small revenue base that is not sustainable. It prevents the effective and efficient provision of local services and constrains downward accountability. Thus, both transfers and own-source revenues should be increased, along with the gradual devolution of some local services.
c. The possible roles, functions, and funding of the provinces should be carefully analysed. Provinces may be the most appropriate entities for service provision in rural and desert areas with dispersed populations. In such cases, they may take over all services and functions that municipalities would normally perform in urbanized areas.
d. The note analysed nine possible options for increasing own-service revenues that are not mutually exclusive. However, the introduction of such revenues requires careful selection of the most adequate sources and

expansion options and modalities, but also pragmatic sequencing.

e. The empowerment and increased funding of municipalities should be considered as a gradual process. As such, it should follow the generally accepted principles and vision for the intergovernmental finance system and framework.

f. The current legislative framework is not conducive to streamlining the intergovernmental finance system and framework. However, the normative texts of laws and regulations can be fixed quickly, in fact as soon as a policy dialogue can lead to a common understanding and consensus on the basic principles and key attributes of a devolved intergovernmental system of a unitary state.

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Part III
Sector Decentralization

PAPER 12

Public Administration and Government Employment in Libya

Dr. Yusser Al-Gayed
Public Sector Consultant, Word Bank

I. Introduction

This paper provides a critical analysis of public administration and government employment in Libya. It includes a short diagnostic of the context and identifies challenges and opportunities for enhancing the current public administration system. In doing so, it relies primarily on both quantitative and qualitative data from primary and secondary sources in the form of archival records, reports and legislation. In this context, is important to note that primary data concerning Libya's public service is scarce and unreliable.

II. Libya Public Administration Overview

A variety of legislation has been adopted to address public administration and employment issues. Libya's public administration is governed by a legal framework comprised of the following labor laws:

- Labour Law 58 of 1970
- Law 55 of 1976
- Wage System Law 15 of 1981
- Labor Relations Law 12 of 2010

Law 12 of 2010 governs public employment and covers all employment relations, including partnerships (Part II), contract employees (Part III) and the civil service (Part IV) (International Labour Organisation, 2010). A separate civil service law has been drafted by the General Planning Council and the Ministry of Labor and Capacity Building (MoLCB). However, it has not yet been approved by the House of Representatives.

At the executive level, the MoLCB has oversight and responsibility for ensuring a competent, merit-based and independent public service that has the capacity to manage the effective and efficient delivery of services to the Libyan people. Thus far, however, the MoLCB has been unsuccessful in fulfilling its mandate. The existing difficulties stem from the public service inherited by the Gaddafi regime and successive governments. Aside from deficiencies in technical capacity, there are also strong political-economy pull factors that have undermined the pace of public administration reform over the years.

Current Context

Currently, there is no central agency that has full control over the Libyan public administration or its human resources. Prior to 2011, it was the sole remit of the General People's Committee of Manpower, Employment and Training. Between 1970 and 1979, the Ministry of Public Administration was the putative regulator in the sector. However, it was merged with the Ministry of Labor and Professional Training from 1970 onward.

Over the years, public service authorities have been reduced to a single department or unit within the various ministries. Accordingly, the scope of their role has been reduced to merely providing authorization for entry into the public service. Although the MoLCB has not been able to carry out its remit effectively, in theory, it remains the sole agency responsible for public service employment.

The Libyan public service is devoid of civil servants with optimal skill levels. Consequently, it remains inefficient in delivering public services. The inefficiency of the public service is inextricably linked to its systemic, patronage-based nature. Indeed, over the past four decades, it has served as a steady source of income for civil servants. Libyan society has developed entrenched, systemic attitudes of entitlement to public sector jobs, conceptualizing these jobs as their personal slice of the country's oil wealth. There is the suggestion, therefore, that merit plays little part in recruitment and promotion decisions in the country's public administration. Indeed, clientelist networks have played a primary role in facilitating and controlling recruitment into the public sector, serving to ensure the regime's hold over society.

This phenomenon remains unchanged. In fact, it may have increased, with every successive government injecting more public servants into the public administration pool for political gains. The power to control the use of the public service has been contested both politically and militarily and is likely to continue in the short- to medium-term.

Data Issues

Any review and assessment of public sector employment should be as comprehensive as possible. In this context, statistics and trends regarding the number of public servants should include: (i) a historical analysis to show how staffing patterns have changed over time; (ii) a ministry/department review to match spending with declared priorities; (iii) a focus on cadres to identify areas of overstaffing, such as drivers, assistants and secretaries; and (iv) a review of salary grades to facilitate pay reform.

A comprehensive analysis of public sector employment must also include data obtained from the following sources: payroll data, headcount exercises, budget documents, Auditor-General reports, national accounts, and public expenditure reviews. In most cases, such data is available from the Ministries of Finance, Planning or Labor. Other important sources of data include the Central Statistics Office and the Public Service Commission or their equivalents.

In the case of Libya, however, these bodies are unable to provide the data required to conduct such an analysis. Data has historically been scarce and lacking in content. As such, the scope of this paper is necessarily limited due to these data constraints. Instead, this paper will attempt to provide a snapshot of what the public administration in Libya looks like today based on the limited available data.

Data Discrepancies

There is no accurate centralized database detailing the size and composition of government employment in Libya. There is no national human resource (HR) database with complete information about who is employed by the central and local governments. A national HR archive was removed and relocated to the office of the Prime Minister in 2010, just before the 2011 conflict. However, many records were destroyed, changed, or replaced with the onset of conflict. As a result, existing data is often riddled with mistakes and inconsistent entries. In addition, it is not shared vertically or horizontally within the government.

To counteract this data shortage, initiatives such as the National Identity Number (NIN), introduced by Law 8 of 2014, have been implemented to restore and/or correct records, as well as help eliminate ghost workers using false or duplicate identification numbers. However, the application of the NIN has been adversely affected by bureaucratic and political setbacks, and has not achieved its goal.

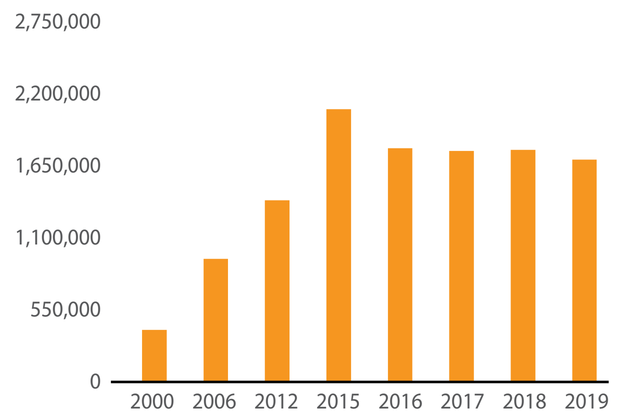
As noted, another problematic area concerns the fact that the sparse data that does exist is not being shared horizontally or vertically. Rather, each administration acts as an island with no record integration between them. Ideally, HR employee files should include basic personnel information about current and past compensation, grade, performance reviews, and details confirming pensions, leave, and health benefits (World Bank 2000). However, the Libyan central and local administration units maintain their own individual employment records, including some minimal data about their employees. The scope of this data may include name, date of appointment, grade, qualifications, and annual leave. Some units may also have financial records that contain data concerning the employee's monthly wages. Examples of such units include the Central Bank, the Audit Bureau, the MoLCB, and the Ministry of Finance (MoF)—all of which hold their own data.

Although there are vast discrepancies in the data published by the Libyan Government and its various institutions, and as a result of its limited availability, this paper relies on primary data drawn from the MoF database. Ministry data suggests that 1,712,798 salaries were paid to public sector employees as of April 2019.

The Decentralization Experience

Libya has had previous experience with adopting a decentralized form of government. Between 1977 and 2005, for example, the structure of the Libyan government changed eighteen times. These changes reflected the struggle between local and central governments. To a large extent, these changes have been mostly demand-driven by political and tribal pressures. Nevertheless, the underlining

FIGURE 1 Number of Public Sector Employees, 2000–2019



Source: Adapted from data from the Ministry of Finance and Ministry of Labor.

trends and outcomes of these different structures are useful for understanding the national vision and strategy for decentralization in the current context.

The Libyan public administration has undergone successive periods of expansion and downsizing. In 1999, Libya witnessed a wave of decentralization driven by the goal of absorbing some of the resentment and dissent occurring at the local level. Increased political and financial management powers were allocated to the local government, further shifting human resource management towards the local level. Thus, the Libyan public administration more than doubled in size from 403,000 in 2000 to 950,000 by 2006 (Figure 1).

In 2006, the Libyan government launched a public administration reform program to address the overstaffed public sector and improve performance and service delivery. As part of the program various redundancy packages were offered, such as continued payments for a period of three years to public sector employees who would take voluntary redundancy. Other initiatives included the Economic Social Development Fund, which is designed to pay a minimum dividend of Libyan Dinars (LD) 500 per month to approximately 250,000 families as part of a revenue-sharing scheme. Eventually, by 2009, approximately 300,000 public sector employees left the service.

In March 2011, the Gaddafi regime mandated the doubling of public sector salaries and requested that the

300,000 employees who had been made redundant be readmitted into the public service. The underlying motives of this decision were political in nature and informed the increase in government spending on wages from LD 8 billion in 2011 to almost LD 20 billion in 2012 (Central Bank of Libya, 2012). The wage bill has continued to increase until the present day.

The total number of public servants peaked in 2015, reaching approximately 2.1 million (MoF 2015). This figure then dropped to approximately 1.8 million public servants in 2016. Today, the estimated figure is approximately 1.75 million (MoF 2015). This inflated public administration has become a drain on the fiscal account to the point that it has become a hindrance to the state's ability to function properly.

Government Employment as Suggested by Law 59

Chapter 7 of Law 59 outlines the provisions that govern the employment of public servants within local government entities. It stipulated that all public servants employed to deliver services at the local level be transferred to the administration of the governorates. Additionally, according to Article 68 (a) of the law, all employees contracted to these local entities are to be transferred to the governorate with the same contracts. This action is to be taken after consulting with the line ministries affected by this transfer.

Article 68(a) further suggests that the governor is the executive responsible for all public servants within the governorate. However, the situation is different for public sectors that operate at the local level but report directly to the central line ministries that have not been transferred to the governorate. In such cases, according to Article 72, the governor has designated the following authorities to take actions, such as: (i) reporting to the line ministry the transfer of any employee from the jurisdiction of his governorate, if deemed to act contrary to the public benefit; and (ii) recommending to the line ministry the promotion of any employee operating in the jurisdiction of the governorate.

Article 72 further suggests that the mayor is the chief executive responsible for all public servants operating within the municipality. As such, the mayor is delegated all the related authorities of the Minister of Finance and Administration. Thus, the law's division of authority between central and local government entities in the hiring and firing of public servants is loosely defined.

Public Administration Size

The size of the public service has increased dramatically since 2011. Figure 2 draws on data obtained from the Ministry of Finance and Ministry of Labor for the following years: 2000, 2006, 2012, 2015, and (April) 2019.

In conflict-affected countries, extensive market inefficiencies cause a country's labor market to become unstable and unpredictable (Beasley, 2006). These dynamics invariably impinge on certain demographics within a society. Affected groups include mostly ex-combatants, displaced persons seeking reintegration, women, youth, the disabled and the war-wounded. From a stabilization perspective, these categories of persons need to be absorbed into some type of labor.

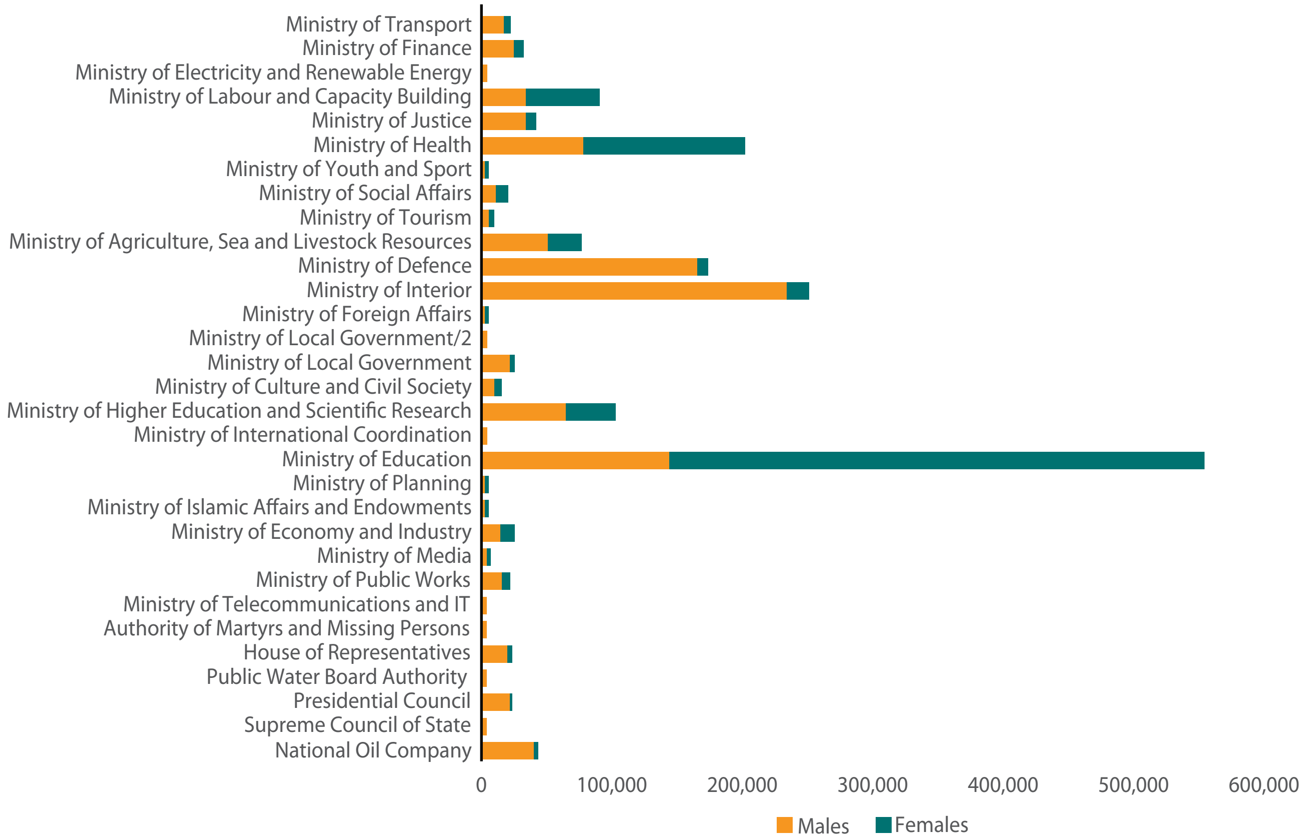
In the Libyan context, which lacks a robust private sector, the only employer is the state. With the ongoing conflict and continued political divisions, the size of the public administration has increased over the past 8 years, further straining the country's fiscal finances.

III. Recent Trends in the Libyan Public Service

The data extrapolated from the various data sets from the MoF shows a trend in new recruitments in the under 30 age bracket into both the Ministry of Interior and the Ministry of Defense. This is naturally justified considering the number of combatants that have been involved in the various conflicts since 2011. Governments have had limited control over the police and the security apparatus as a whole. The national police force, which reports to the Ministry of Interior, has official responsibility for providing security to the Libyan public.

This arrangement has varied widely since 2011, depending on whether the organizational police structures from the Qadhafi-era remained intact. For example,

FIGURE 2 Male-Female Ratio by Ministry



Source: Ministry of Finance (2019).

this was true for most cities in the East, such as Tobruk, where the vast majority of the security personnel continued to function to a certain degree as they did following 2011. In others, such as Sebha, though, they existed in name only (United States Department of State 2018). The government had only nominal control of the police and the security apparatus, and security-related police work generally fell to different armed groups—all of whom were absorbed into the public sector, receiving salaries from the Libyan government.

It could also be argued that large numbers of unemployed youth were among the factors that sparked the 2011 conflict. The situation persists and could likely destabilize a peace process or a transitional period, which could lead to renewed conflict. The reintegration of ex-combatants in Libya has been carried out haphazardly. Again, it should be noted that Libya has been in conflict since 2011. As a result of conflicting warring political factions, jobless youth are easier to recruit as troops, participating in renewed violence. Hence, the majority were offered a public sector wage by parallel governments.

The high incidence of conflicts requires large security-related payrolls which are often not reported by governments. Security-related payrolls are likely to be high in many parts of the Middle East, North Africa, Afghanistan and Pakistan (MENAP). In Iraq, for example, the security-related wage bill accounts for approximately 40 percent of the total government wage bill, according to figures from the International Monetary Fund (IMF) (2018).

Pay and Grading

There are a total of 16 salary grades in the public sector. Both the salary grades and the steps for higher-level personnel

TABLE 1: Public Service Salary Grades in the Libyan Public Administration System

Grade	Starting Salary (LD)	Yearly Raise (LD)
1	450	5
2	475	5
3	500	6
4	530	6
5	560	8
6	600	8
7	640	9
8	685	9
9	730	12
10	790	12
11	862	12
12	939	12
13	1,006	15
14	1,096	15
15	1,186	15
16	1,276	15

Source: Law 27 of 2011 of the General People's Committee.
Note: 1LD= 0.71US$.

are outlined in the salary schedule attached to Law 27[1] of 2011 of the General People's Committee. The scale consists of 16 grades, the lowest being the first and the highest being the sixteenth (Table 1). These are further divided into three levels of positions, including: (i) low-level administration starting from Grades 1–6; (ii) mid-level administration from Grades 7–10; and (iii) senior administration from Grades 11–16.

As illustrated in Table 1, with a compression ratio of 1:3, the salary scale is too compressed. The ratio between the highest and the lowest salary is not conducive to high productivity and performance. Therefore, the pay scale fails to attract those with the right technical skills and managerial capacity into the public sector. Thus, the existing salary scheme does not serve to retain and recruit well-qualified staff.

Information related to the composition of the public sector by managerial, technical, administrative and support staff is not available. Thus, there are no grades assigned to the approximately 1.3 million public employee entries in the data. According to the Director of Information Technology at the MoF, the vast majority of the Libyan public service employees are between Grades 6–9. However, because of data limitations, this is difficult to verify.

Gender

Figure 2 illustrates the male-to-female worker ratio by ministry. Most female members of the public service tend to work for the Ministry of Education as teachers or substitute teachers. This was particularly true during the period between 1999 and 2006. During this time, some schools had a teacher-student ratio of 3–1 (General People's Congress of Manpower and Employment 2006).

Local Government Public Sector Employees

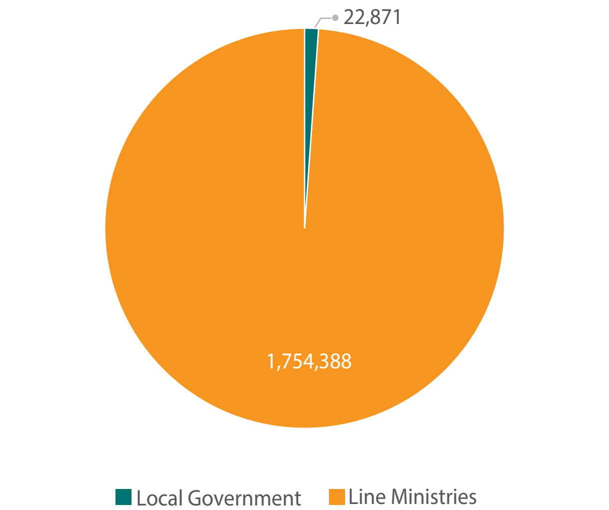
Libya's data concerning public sector employees is tenuous at best. As noted, the data is scarce, particularly at the local level. The data that suggests that Libya has only 22,871 public servants appears to be overly conservative and does not align with the scope of public service duties required across the country's 104 districts (Figure 3). Employees of municipal administrations are often seconded from the national public administration.

There is also a shortage of experienced civil service employees in local government staffing. Those that do not get paid through Chapter 1 of the Libyan National Budget have temporary contracts issued directly by the municipalities. These may be in the form of renewable secondments, time-limited contracts or consultancies (UNDP Libya 2015).

Recruitment procedures for municipal staff lack clarity and transparency. They do not follow a systematic selection process due to the lack of a human resource strategy. Recruitment and promotion decisions are made at the local level in consultation with the central government (World Bank 2014).

[1] According to Law 51 of 2015, a new committee has been formed to study the revision of the pay and grade scale, including starting and maximum salaries for each grade. However, no action has been taken.

FIGURE 3 Number of Employees Registered as Local Government Employees

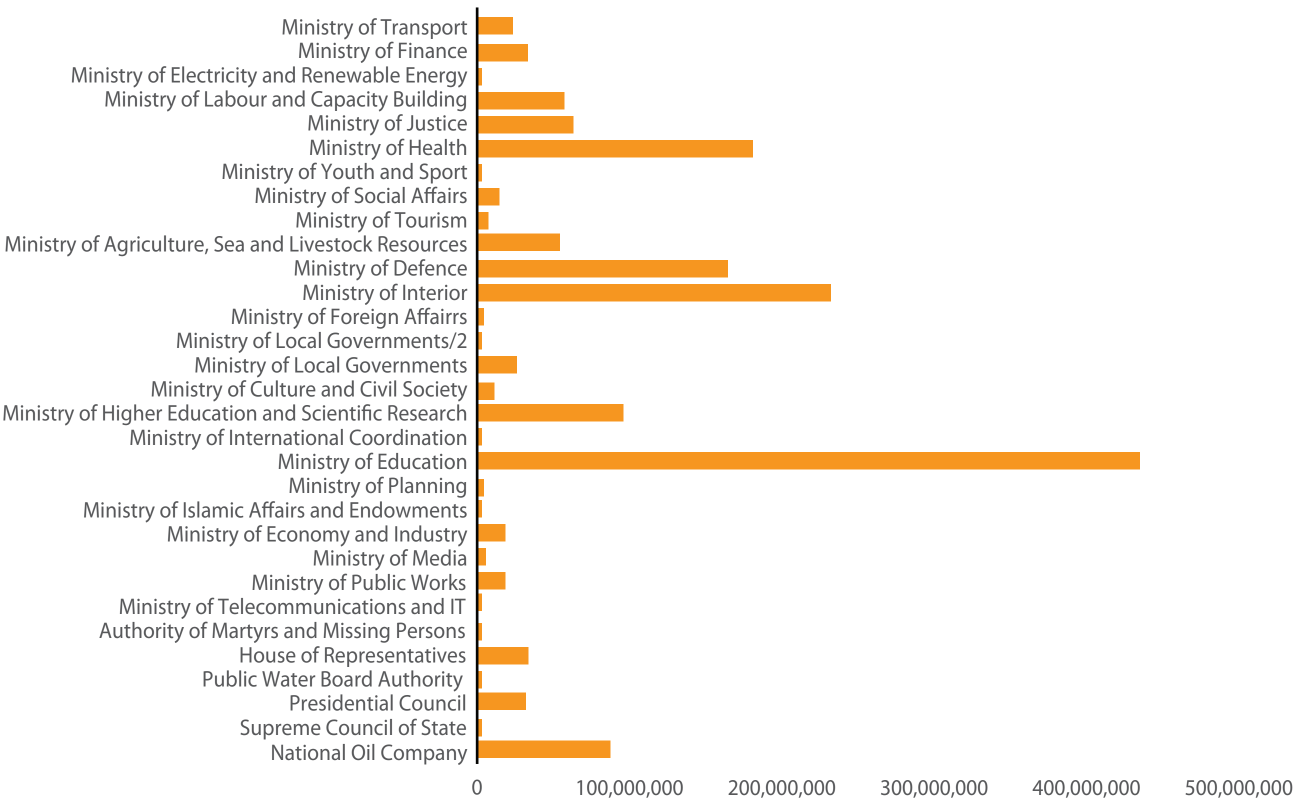


Source: Ministry of Finance (2019).

Wage Bill as a Percentage of GDP and Total Expenditures

The Central Bank of Libya (2019) noted in a published paper that the Chapter One budget amounts to 55.2 percent of the country's gross domestic product (GDP). As such, it has spent LD 9.933 billion on salaries alone (Figure 4). In many countries, particularly those in the Middle East and North Africa, past socioeconomic models of governance have resulted in the government acting as an 'employer of first resort', in effect, offering public sector employment as a means of social support. This is particularly true in oil-rich countries such as Libya. Indeed, Libya has the highest wage bill as a percentage of GDP in the Middle East and North Africa region, followed by Iraq and Yemen (IMF 2018).

FIGURE 4 Total Calculated Spending by Ministry (Chapter 1 Budget, April 2019)



Source: Ministry of Finance (2019).

As noted, public wages have been used as a tool of oil wealth distribution—and as a means of gaining political support. The IMF (2018) has also suggested that countries with higher oil income per capita generally have high public wage bills in per capita terms.

IV. Identifying Current Challenges and Opportunities

Reforming the public administration in Libya is an essential part of restoring legitimate, inclusive and accountable governance institutions. Without an effective, efficient and competent public administration, Libya will face difficult challenges in delivering essential public services and stimulating the economy. This paper concludes that the current sub-optimal political equilibrium manifested in government employment and public administration is reinforced by a number of systemic dysfunctions, including the following:

- Weak formal public administration institutions: There is no central oversight agency and only a weak legislative basis for managing government employment and the public administration.
- Weak human resource management systems: The system is characterized by a shortage of technical and managerial skills at the senior cadres of civil service, a bloated civil service and a large wage bill, as well as a prevalence of ghost workers.
- Weak data management systems: There is no unified and up-to-date civil service data management system.
- Inadequate training: Inadequate training for civil servants is a problem at all levels.
- Lack of employment opportunities in the private sector. Few alternatives to public sector employment exist.

Increased efforts are needed to improve the quality of government employment and public administration in these priority areas. Thus, reform efforts will require a long-term commitment on the part of the Libyan leadership.

It should also be noted that any public administration reform process ought to be a part of an iterative and evolutionary long-term process, rather than as rapid comprehensive program of change. Basic good management practices are required at this point in time because the Libyan public administration system does not have the capacity or political space to implement more sophisticated human resource practices. In this regard, experience with post-conflict public sector reforms undertaken by fragile governments warns of the dangers of overloading such governments with too many or complex reforms. Even urgent reforms need to be approached more gradually.

Challenges

The primary feature of effective local government is the clear allocation of functional and expenditure assignments. Without accurate data, it is impossible to provide costs for decentralization. Therefore, this is perhaps the biggest challenge today.

In order to determine the cost of decentralization for Chapter 1 in the Libyan National Budget, it is imperative that the functions of the public sector employees be determined. In addition, there needs to be a clear delineation of what governmental level and district each employee occupies, as well as their grade.

The possibilities for costing decentralization are significantly undermined because the current MoF database does not contain the requisite data. Without this data, it will be almost impossible to determine what amounts ought to be transferred to each municipality for Chapters 1, 2 and 3 of the Libyan National Budget.

Law 59 divides the Libyan territory into the following three tiers: (i) governorates, a territorial subdivision of the country consisting of deconcentrated administrative units of the central government headed by a governor, (ii) the municipality headed by the Mayor; and (iii) the *Mahala* (locality) headed by a *mukhtar* (representative).

Poor implementation of the Sections of Law 59 pertaining to governorates and the absence of governors suggests that the municipalities can be conceptualized as decentralized local administrations (governments) who enjoy administrative and fiscal autonomy. Article 24 of the law states that the municipality is the executive local institution which performs service delivery (World Bank 2014; UNDP Libya 2015). According to Article 25 of the Law:

The municipality shall be in charge of the enforcement of municipal regulations, and the establishment and management of public utilities related to urban planning, organization, buildings, health and social affairs, water utilities, lighting, sanitation, roads, squares, bridges, local transportation, public hygiene, gardens, public recreation areas, shelters, real estate, spaces, public markets, and construction permits for tourism and investment projects within the boundaries of the municipality. The municipality shall establish and manage within its jurisdiction, whether personally or through an intermediary, the institutions that it deems able to execute the functions thereof in the manner prescribed by the Executive Regulation of this law.

However, the prospect of effectively carrying out these functions is severely limited if there is no clear allocation of function and expenditure. The data is simply unavailable to perform these functions.

The large wage bill amidst the ongoing conflict also adds enormous fiscal pressure on the state and is unsustainable. In this regard, an IMF (2018) diagnostic tool to strengthen wage bill management in the Middle East and Central Asia poses four questions:

1. Is the wage bill fiscally sustainable?
2. Is it delivering public services efficiently?
3. Are institutions and data adequate?
4. Are wage bill policies coordinated with other policies?

The response to all four questions posed in the diagnostic in the context of Libya is no.

The Way Forward

A discussion about reforming public sector employment and the wage bill in Libya cannot be held in isolation of the country's current conflict. As such, this reform process will need to be conflict-sensitive. In other words, any type of reforms or interventions will need to: (i) prevent or reduce violence; (ii) protect people and key institutions; (iii) promote political processes which can lead to greater stability; and (iv) prepare for longer-term, non-violent politics and development (HMG Stabilization Unit 2010).

Public administration reforms in the Libyan environment will ultimately need to ensure that central and subnational governments can fulfil their 'core' or 'survival' functions. Across the country, there is an acute failure to deliver even the most basic survival functions.

Public administration reform is by definition a long-term process. This is especially the case where systems have suffered years of neglect, under-investment, destruction of infrastructure and deterioration of human capacity. By contrast, stabilization activities are comparatively short term, exploiting small fragile windows of opportunity.

Focusing on international HR and public sector employment best practices will not work in the current context. As such, it would be wiser to move forward with smaller reform efforts, which would be a comparatively more sustainable and effective strategy to undertake. Thus, this paper seeks to highlight possible opportunities that should be seized to achieve as good as possible a result. In this case, such reforms could start by costing public sector employment across the local government. This would be a tremendous feat in its own right.

When everything is broken, it is critical to prioritize. Although data collection ought to be a priority, it comes down to the individual local governments to identify what their underlying priorities in the context of conflict will be. These may differ from one locality to another.

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PAPER 13

Service Delivery in a Decentralized Environment: Perspectives in the Health Sector, the Case of Libya

Zied Ouelhazi, Public Finance Management Specialist, World Bank

I. Introduction

After seven years of conflict, the Libyan health system has been severely, and adversely, impacted. Libya's national health system faced structural challenges even before the conflict began. It was hospital-centric and inefficient; primary health care and referral systems were lacking; health information systems were underdeveloped; management capacity was weak; and infrastructure and services were concentrated in urban coastal areas. Since 2011, many of these challenges have been exacerbated, and new ones have developed. The fragmentation of the country into competing governments and militia-controlled areas has eroded stewardship and governance in the health sector. Health budgets have been sharply reduced due to the country's budgetary crisis.

To tackle these structural issues, the Ministry of Health in Libya drafted a policy document setting the stage for a development of the health sector strategy in Libya. The draft suggests a high-level macro policy addressing the systemic issues of health sector and contributing to achieving the Sustainable Development Goals (SDG), 2030, essentially SDG-3.

The policy aims to improve health service delivery deconcentrating and delegating responsibilities to entities in the Libyan health system. The Policy emphasizes the need to respond to needs of citizens as individuals, families or communities, while encouraging a participative approach. In addition, the policy intends to shift the paradigm of how the health system is governed by granting further autonomy to hospitals of reasonable size and devolving powers to regional and local entities that.

The purpose of this paper is to review MoH policy reforming the health sector and to bring policymakers and decision-makers' attention to key aspects linked to the decentralization of health services. The paper is structured as follows: The second section focuses on whether decentralization improves or not health services delivery based on international experience; The third section presents the case of the health sector in Libya; and, The last section summarizes and concludes.

II. Does Decentralization Improve Health Services Delivery and Outcomes?

Decentralization has been promoted as a means to improve allocative efficiency of public goods and service delivery, improve the accountability and responsiveness of government, facilitate popular participation in decision making, maintain state legitimacy and stability and contribute to better democratic governance (Dwicaksono and Fox, 2018). Having superior information on local conditions and needs than central governments and having control over jurisdictions that are smaller and more homogenous than those of national government, local governments are believed to better match local citizens' preferences and demand in terms of public services delivery (Channa and Faguet, 2016). In the health sector, decentralization would allow local

governments to better align with the key principles of primary health care service provision (Dwicaksono and Fox, 2018). Taking the government "closer to the people" increases technical efficiency by reducing bureaucracy and lowering the unit costs of government expenditure (Channa and Faguet, 2016). Citizens' engagement is greater in decision making and production of local services than at the central level which increases local officials accountability to voters and, hence, reduces corruption(Channa and Faguet, 2016). Decentralized health systems are believed to encourage citizen participation in planning and providing health services (Dwicaksono and Fox, 2018)

Skeptics note that decentralization may exacerbate economic inequality, reduce social welfare and reduce central government control. Significant consensus holds that the devolution of public funds and taxation authority should, on its own, exacerbate inequality amongst richer versus poorer subnational units (Channa and Faguet, 2016). For the provision of public goods—such as health services—decentralization of decision power to local governments may in fact be inefficient from society's perspective (Couttolenc, 2012). According to Couttolenc, when given the possibility to choose, citizens tend to prioritize provision of goods and services which benefit them directly (private goods) rather than those which benefit larger groups or society as a whole (public goods). This gives evidence for a crowding-out effect for local governments, whose neighbors budget higher amounts on public-type goods, budget less on such goods themselves, which gives place to a responsiveness-vs-spillover effects trade-off. According to Oates decentralization theorem, devolution is superior only so long as there are no spillover effects. In the presence of spillover effects, the theoretical prediction for preference matching of decentralization is ambiguous or even negative (Akin et al., 2005).

Despite the difficulty of measuring impacts of decentralization due to the complexity and multifaceted nature of the process (Couttolenc, 2012, Dwicaksono and Fox, 2018), several studies have attempted to empirically assess its effects on health system components. While some studies focused on preference matching, others showed more interest to technical efficiency. Different research approaches have been used to assess the effect of decentralization on the health services provision varying from econometric models to Randomized Control Trials technique. Studies covered single or sample of countries belonging to different income groups. Health performance and outcomes indicators that have been used are mostly related to service delivery, immunization, out-of-pocket health expenditure, mortality rates (infant, child, adults). To measure decentralization, studies used fiscal indicators (for example, local revenues, fiscal autonomy, local government health expenditure, etc.) and political indicators (degree of autonomy at the local level, dates holding local elections, etc.).

There is empirical evidence of beneficial effect of decentralization on health system performance and outcomes. An analysis of 45 developing and developed countries shows that decentralization could enhance preference matching (Channa and Faguet, 2016). Faguet and Sanchez

Torres (2014) find a beneficial effect of decentralization on health system performance in Columbia. In Tanzania, full-scale decentralization coupled with health system reforms have increased the utilization of skilled birth attendants among poor women and reduced disparity across socio-economic groups (Kengia et al., 2013). In India (Asfaw et al., 2007) and China (Uchimura and Jütting, 2009), more fiscally decentralized subnational units with functional transfer system in place have lower infant mortality rates than other units.

Other empirical studies show that decentralization has a harmful or no significant effect on the health system at the local level. In Uganda, as subnational governments progressed further into the decentralization process, they allocated less money for public goods and primary healthcare (Akin et al., 2005). The same result is also found for Philippines (Schwartz et al., 2002). In Indonesia, increase in local revenues did not translate into an equal rate of increase in public health spending (Kruse et al., 2012, Skoufias et al., 2011). In addition, disparity of facility-based birth delivery has worsened (Hodge et al., 2015). While preference matching has been observed in other sectors in Bolivia such as education, water management and urban development, it was not the case in the health sector (Faguet, 2012). Decentralization implied higher out-of-pocket costs in state-controlled healthcare providers compared to centrally-managed healthcare providers in Mexico (Bustamante, 2010). Maharani and Tampubolon (2014) did not find any significant effect of fiscal decentralization on complete immunization status of children aged 12–23 months.

Another set of studies provided mixed or contradictory, results while assessing the effect of decentralization on the health sector. Conducting an analysis on 140 low- and middle-income countries over 18 years, Khaleghian (2004) finds positive and significant benefits of decentralization on immunization in low-income countries however it is associated with a decrease in the diphtheria and measles coverage in middle income countries. Based on this result, the author encourages continued central government support to health initiatives. Robalino et al. (2001) find significant and negative relationship between fiscal decentralization and Infant mortality in their analysis of 45–70 low and high incomes countries. They also note that benefits associated with fiscal decentralization may have a U-shaped curve with respect to GDP per capita implying that countries with low and high income are more likely to benefit from the reform than middle-income ones. Using the same study design, Rocha et al. (2016) and Guanais and Macinko (2009) find contradictory results in the case of Brazil. While the former finds no significant effect of decentralization on health sector, the latter find significant beneficial effects. Using same unit of analysis but different analytical methodology, Jin and Sun (2011) and Uchimura and Jütting (2009) reported different findings with harmful effect of decentralization for the recent study.

Decentralization design, institutional (resistance to change, low managerial capacity at local level, low monitoring and evaluation capacity at regional/national level), political and macroeconomic factors, among others, may lead to lower than expected impacts of decentralization (Dwicaksono and Fox, 2018, Couttolenc, 2012):

- In some countries, decentralization has been implemented in a phased manner (for example, Columbia), while in others, it was a sudden policy change (for example, Indonesia).
- The relationship between the level of decentralization (as measured by the ratio of own-source subnational government revenues to subnational government expenditure) and key health performance and outcome indicators show variations among countries belonging to different income groups (see figure in Annex).
- In Philippines (Couttolenc, 2012), for example, decentralization process and the parallel reforms have been challenged all along by civil servant unions and a strong medical establishment. Decentralization in the country seemed to further increase health system fragmentation lowering the ability of local governments to build their capacity. Despite efforts of improving coordination and reducing fragmentation, these were challenged by the lower managerial capacities at the local level and monitoring and evaluation capacities at the regional and national level. Health indicators in Philippines show an increasing share of out-of-pocket expenditure in total health expenditure a stagnating level of

maternal mortality rate and relatively declining immunization against DPT (Figure 1).

- Despite strengthening the decentralization process in 1999, central government of Nigeria retained important authority and influence over subnational government and overlapping responsibilities creates policy conflicts, duplication of efforts and inefficient use of resources. As shown in Figure 1, the out-of-pocket expenditure share in total health expenditure has rarely decreased below the level of year 2000. The evolution of Immunization against DPT slightly improved after 1999 however it remains lower than its level of year 1990.

Studies appraising the effect of decentralization on health system components show beneficial, no significant or even harmful impacts. Studies focusing on assessing the effect of decentralization on input's component of the system show harmful effects on local health spending; contradicting allocative efficiency arguments advanced in the decentralization literature (Dwicaksono and Fox, 2018). Decentralization changes the pattern of local spending but there is little evidence that sustains increase of local spending in the health sector due to a lack of visible change in allocation patterns and the possibility of externalities in the area (Channa and Faguet, 2016). The review of empirical studies interested by the impact of decentralization on health performance and outcomes provide mixed finding. Health decentralization could have a positive influence on mortality rates, however, the same is not necessarily true for immunization. (Channa and Faguet, 2016)

III. Case Study: The Health Sector in Libya

After seven years of conflict, the Libyan health system has been severely impacted. Libya's national health system faced structural challenges even before the conflict began. It was hospital-centric and inefficient; primary health care and referral systems were lacking; health information systems were underdeveloped; management capacity was weak; and infrastructure and services were concentrated in urban coastal areas. Since 2011, many of these challenges have been exacerbated, and new ones have developed. The fragmentation of the country into competing governments and militia-controlled areas has eroded stewardship and governance in the health sector. Health budgets have been sharply reduced due to the country's budgetary crisis. Violence has directly affected the functionality of health facilities; more than 1 in 3 in Benghazi and 1 in 6 in Tripoli have been partially or fully destroyed, and nearly 20 percent have closed. Disruptions of electricity, water, and heating have been widely reported. The health sector now faces critical gaps in medicines and supplies and a loss of health workers, many of whom were from overseas and have fled amid the violence.

Current Situation of the Health Sector in Libya[1]

The health sector is governed by a Minister of Health (MoH) established in 2011[2] which is supervising several central institutions (World Health Organization et al., 2017):

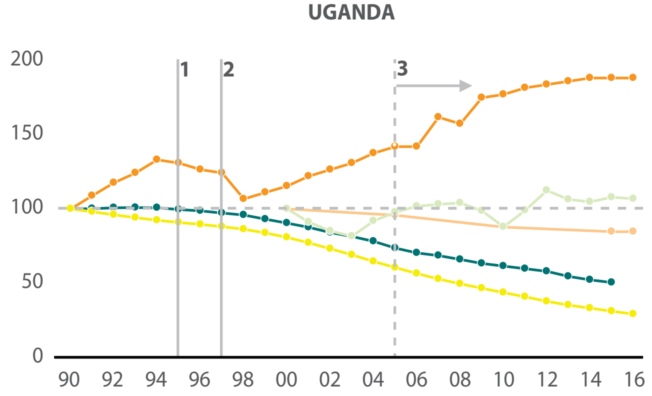
- Health Information Center (HIC)
- National Center for Disease Control (NCDC)
- National Council for Medical responsibilities (NCMR)
- National program for organ transplantation (NPOT)
- Libyan board for medical specialties
- Medical Supply Organization (MSO)
- The center for human resource development
- Authority of ambulance services
- Hospitals and Medical Centers
- Directorates of health services at the district level

The District Health Officer (DHO) is responsible for providing comprehensive healthcare. Promotive, preventive, curative, and rehabilitative services are provided to all citizens free of charge. Initially, the DHO's responsibility included overseeing hospital care, but hospitals have now become autonomous. The DHO now oversees only the primary health care facilities working at the municipal level.

[1] In this background paper, the analysis is limited to the public health sector.

[2] Formerly the Secretariate of Health re-established in 2006 in efforts of re-centralization of health system in Libya.

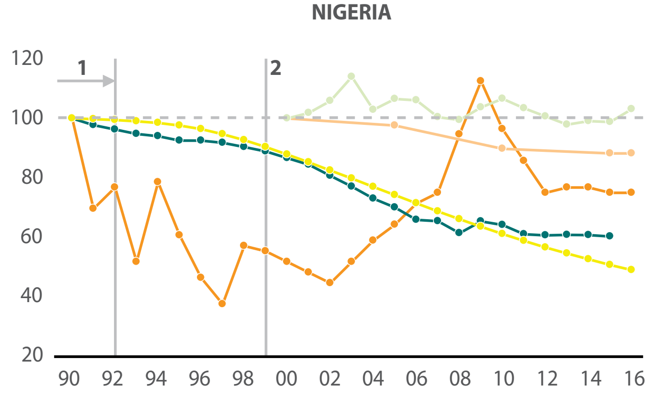
FIGURE 1 Trends in Key Health Indicators in a Sample of Countries Affected by Conflicts



1. 1995: Provision for a system of decentralization and local governance

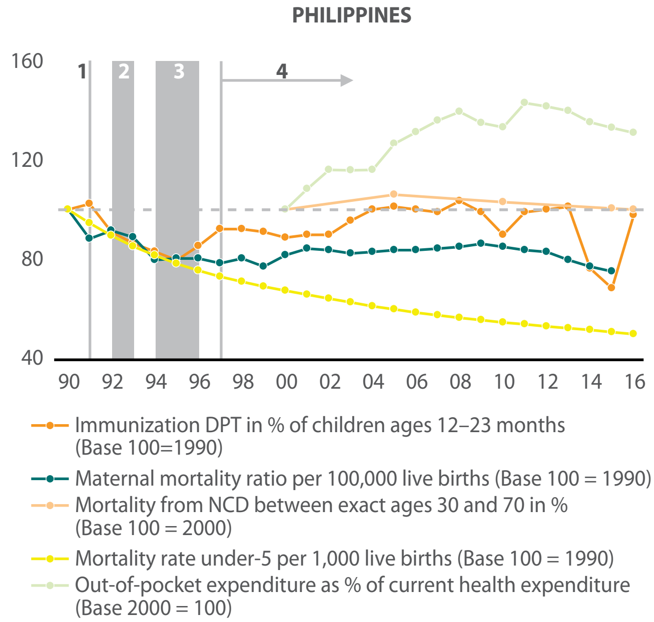
2. 1997: Local Government Act

3.- 2005: Re-centralization efforts



1. Prior to 1992: 1951 constitution introducing decentralization and regional autonomy. 1954 constitution raising true structure of federalism; incorporated later in 1960 constitution. 1979 constitution recognizing local governments as legal entities

2. 1999: 1999 constitution providing far reaching responsibilities to local governments



1. 1991: Local Government Code

2. 1992-1993: Formal transfer of functions

3. 1994-1996: Adjustment by local governments

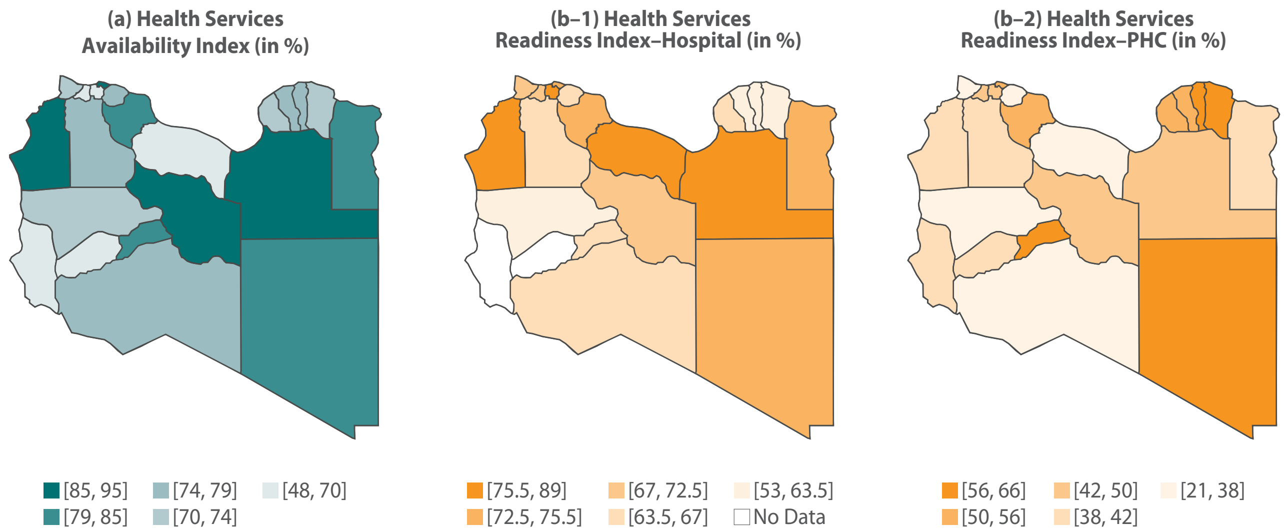
4. 1997-Onward: Institutionalization of decentralized system

In 2016: Presidential Executive Order to review 1987 constitution to shift to federalism

Source: World Development Indicators (World Bank) – Author's calculations. OECD and UCLG (2019).

However, as per several decrees of the presidential Council approving the financial arrangements, the number of autonomous facilities have increased to cover also other primary healthcare type facilities such as clinics, laboratories, treatment centers. The number increased from 103 in 2012 to 233 in 2018.

FIGURE 2 Public Health Service Availability and Readiness in Libya (2017)



Source : World Health Organization et al. (2017) – Mapping by the author.

Governance of the health sector in Libya is challenging. Supervision and monitoring systems in the sector are not effective and the accountability mechanisms are weak. In addition, supply chain management systems are outdated and poorly regulated, leading to waste and governance issues. Management capacities, such as planning and financial management are weak. Moreover, weak governance has slowed the roll out of policy reforms, such as implementing a basic primary service package or an essential medicines list, as well as efforts to improve transparency within the pharmaceutical supply chain.

Despite the conflict and the structural challenges, Libya remains well-endowed in terms of health infrastructure and health workforce but exhibiting disparities among provinces. As per the Service Availability and Readiness Assessment conducted by the World Health Organization (2017) in Libya health service availability index[3] is around 81 percent. The score is mainly driven by a strong average infrastructure density index (87 percent), health workforce density index (100 percent). However, The Service availability index is negatively impacted by the service utilization index (57 percent at the national level). Service utilization index ranges between 3 and 94 percent with 13 from 22 provinces registering scores below the national average. In addition, health service availability displays disparities among provinces with Ubari, Sirt and Aljifara lagging behind with scores lower than the average at the national level (Figure 2-a).

Public health facilities in Libya suffer from weak capacity to provide general health services with disparities among provinces (Figure 2-b-1 for hospitals and 2-b-2 for primary health care facilities). Based on the availability of very basic items and utilities, the health services readiness index score for public health hospitals at the national level is around 69 percent (World Health Organization et al., 2017). This would likely imply that, for specialist services, the readiness score should be lower. Regarding primary health care facilities, the service readiness index is even lower than for public hospitals, with 45 percent. Based on the scores at the national level, primary health care facilities are mostly lacking basic medicines, diagnostics equipment, and basic amenities (World Health Organization et al., 2017).

A Rapid Survey of Primary Health Care conducted by the World Bank (2018) with 1012 patients in Tripoli and Benghazi, shows that the quality of care is very low. Approximately a third of all patients do not go to the clinic closest to their home. The lack of doctors and nurses, medications, and

[3] For detailed methodology on how the index is calculated, refer to World Health Organization et al. (2017).

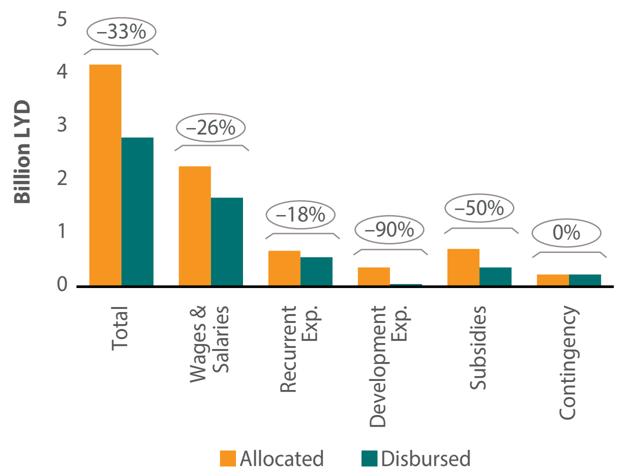
overcrowding were the primary reasons that patients used more distant PHC facilities (Messiah et al., 2018). Most of the patients interviewed (between 70 and 86 percent) report that providers are not conducting physical exams and taking vital signs. Waits are reported as an issue for 33 percent of respondents from Benghazi but only for 3 percent of those in Tripoli (World Bank, 2018). Shortage in necessary medicines, vaccines and contraceptives is reported as the main challenge for 63 percent of respondents from Tripoli and 56 percent of those from Benghazi.

The Ministry of Health (MOH) health budget has sharply declined amid ongoing fiscal challenges and most resources are allocated towards salaries and away from operations budget. In addition, the system is suffering from significant inefficiencies. Health sector budget[4] represents 8–9 percent of total government budget, declining from 5.3 Billion LYD in 2013 to 3.6 in 2017 (Libyan Audit Bureau, 2017). In 2017, only 67 percent of the health sector appropriation were disbursed to the reporting units with an amount of 2.8 billion LYD (Figure 3). Wages and salaries represented 59 percent of the disbursed amount followed by recurrent expenditure and subsidies with, respectively, 19 and 12 percent. Development expenditure represented only 1 percent of total disbursements to health sector which could explain low scores of service readiness index. Primary health care as well as the autonomous hospitals received only 78 and 64 percent from the allocated budget for wages and salaries and recurrent expenditure hindering the capacity of health facilities and quality of service provision.

According to World Bank (2018), 88% of interviewed health providers reported that they had not been paid on time, and 52% reported that they had not been paid in full. Delayed payments were a problem in both Tripoli and Benghazi (Messiah et al., 2018). In addition, out-of-pocket health expenditure is increasing. 52 percent of patients in Tripoli and 44 percent in Benghazi report that healthcare costs are a problem; 26 percent of respondents in Tripoli and 23 percent of those in Benghazi reported also that they are foregoing recommended services or medicines due to cost (World Bank, 2018).

To tackle these systemic issues, the MoH developed a draft policy document setting the stage for a development of the health sector strategy in Libya (Ministry of Health

FIGURE 3 Health Sector Budget: Appropriations vs. Disbursements (2017)



Source : Libyan Audit Bureau (2017) – Author's calculation.

Libya, 2019b). The draft suggests a high-level macro policy addressing the systemic issues of health sector and contributing to achieving the Sustainable Development Goals (SDG), 2030, essentially SDG-3. The policy vision specifies that "well and healthy people, whose health needs, especially of the underserved and vulnerable, are effectively addressed". Hence, the policy aims to reform and re-build a responsive health system that ensures access by all to the needed health services while lowing healthcare costs burden.

Libya National Health Policy 2030

The Libyan national policy[5] seemingly sets the ground for decentralization reform of the health system. It promotes citizens' preferences matching, communities' participation and powers' decentralization to regions (Ministry of Health Libya, 2019b). The Policy emphasizes the need to respond

[4] Health sector appropriations, as reported by the Libyan Audit Bureau, includes wages and salaries, recurrent expenditure, development expenditure, subsidies and contingency.

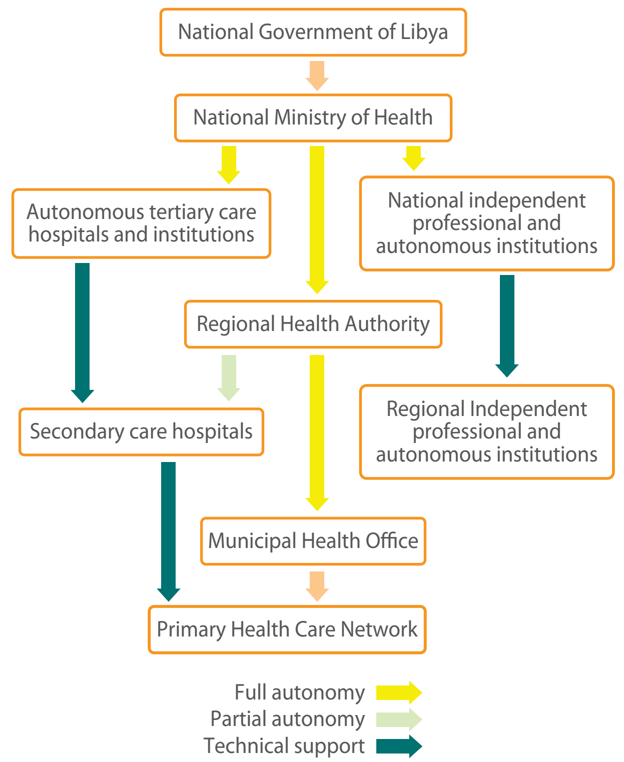
[5] An analysis of the reform is provided in the Annex 2 of the present background paper. It focuses on the common health's functional areas that can be affected by decentralization: planning, budgeting and management of finances, service organization, human resources management, governance and evaluation and monitoring).

to needs of citizens as individuals, families or communities, while encouraging a participative approach. In addition, the policy intends to shift the paradigm of how the health system is governed by granting further autonomy to hospitals of reasonable size and devolving powers to regions where a regional health authority may be established. To this end, and as a first step, the MoH (2019a) proposed a reorganized structure of the ministry.

Under the suggested policy and the restructured organization of the Ministry of Health, the decentralization model to be adopted is a mix of deconcentration and delegation but remains unrelated to components of subnational governments (provincial, once defined and established, and municipal). The draft policy is deconcentrating health services provision and financing to lower levels of the health system at the regional and municipal level. The MoH delegates regulatory and technical provisions to autonomous health institutions and organizations at the national Level. However, it should be noticed that concepts such as "decentralization", "delegation" and "devolution" are used interchangeably in both documents. For example, in the reorganized structure of the MoH document (Ministry of Health Libya, 2019a, p.10), it is stated that "… decision making powers related to planning, financing and management will be decentralized and delegated to lower levels in the health system hierarchy". In addition, in the policy document, "…It is proposed to grant autonomy to the hospitals and devolve powers to the regions, where a regional health authority may be established" (Ministry of Health Libya, 2019b, p.7).

The reorganized structure of MoH (Ministry of Health Libya, 2019a) suggests three levels of governance of the health system (Figure 4). The first level encompasses the ministry and autonomous regulatory, professional and technical bodies[6] as well as autonomous tertiary hospitals. At the second level, autonomous regional health authorities (RHA) are established based on several criteria related to demographic and territory size, closeness to the community, providing less complex and effective management and supervision. At the same level, regulatory, professional and technical autonomous bodies have their regional branches. In addition to the above, second level of governance comprises the secondary care hospitals (general and

FIGURE 4 Suggested Governance system of the Health System in Libya



Source: Ministry of Health Libya (2019a).

rural ones) which are made partially autonomous. The third level of governance includes autonomous municipal health offices (MHO) that are autonomous in their operations and ensures the delivery of primary health care.

MoH with the Ministry of Local Governance (MoLG) signed recently (on September 12, 2019) an agreement to transfer responsibilities related to primary health care to municipalities. Technical committees from both ministries should meet to agree on the functions to be transferred. To this regard and to ensure that the decentralization improves health performance and outcomes at

[6] These bodies comprise: i) regulatory bodies such as Accreditation and licensing authority of health facilities, Health technology assessment and certification authority, Drugs regulatory authority and Quality control laboratory, ii) professional bodies such as General healthcare council regrouping the independent professional councils, syndicate s and societies, and Libyan medical specialization board, and iii) Technical bodies such as National medical supplies organization, National health insurance fund, National ambulance services, National blood transfusion services.

the local level, attention should be paid to following areas (Couttolenc, 2012):

- Scope: What are the activities to be decentralized; planning, budget preparation, human resources management, procurement, etc.? The decision related to the scope of decentralization depends on a number of factors such as economies of scale required for particular activities or functions.
- Depth and degree of autonomy in managing the transferred responsibilities: there is a need to balance the potential conflict between national policies and planning, and local needs at the level of municipalities.
- National policy and strategy: The decentralization process's definition and implementation should be guided by a clear and comprehensive strategy bringing together all aspects and issues of decentralization (decision space). Lack of comprehensiveness may lead to fragmented, uncoordinated and even conflicting policies.
- Institutional capacity: To which extent are municipalities ready to take over their new responsibilities? Does the municipality have sufficient number of qualified personnel? If not, will staff be decentralized from central level to municipalities or will it be hired under municipalities own regime? International experience reports several models of hiring regimes:
  - i. uniform centralized national civil service;
  - ii. decentralized civil service (for example Uganda);
  - iii. mixed models with central civil service being transferred under their original regime but new staff being hired under municipality's own regime;
  - iv. separation from national civil service and hiring staff under a new regime (for example, Ghana); or
  - v. old civil servants are transferred but "delinked" from the central civil service (for example, Zambia).

  Depending on the model chosen, a strategy of managing change should be considered; civil servants in Philippines, threatened by decentralization, often mobilized against it. Another aspect linked to the decentralization of the civil servants with their acquired benefits is the risk of financial sustainability at the level of the municipality.
- **Financing:** Transferring responsibilities without proper financial autonomy usually reduces the benefits of Libya (Couttolenc, 2012). In the case of health sector in Libya, depending on transferred responsibilities, both technical committees should answer the following questions: How these activities will be funded taking into account the current regulation? What mix of transfers from Libyan government, municipal revenues and donors is appropriate? What type of accountability mechanisms should be put in place to avoid leakage of allocated funds to other sectors such as education, etc.?
- **Accountability and participation**: The degree of autonomy of municipalities, institutional capacity and accountability are identified as the three key elements for effective and efficient service delivery at the local level. For the primary health care responsibilities to be transferred, there is a need to define the appropriate set of accountability mechanisms to put in place. These should be accompanied by incentive mechanisms to municipal agents. Allowing for increased local citizens' participation improves, also, the accountability of the municipal council. However, discussion should also take into consideration the possibility of capture of the devolved autonomy by local leaders or interest group which could weaken community participation and transparency.

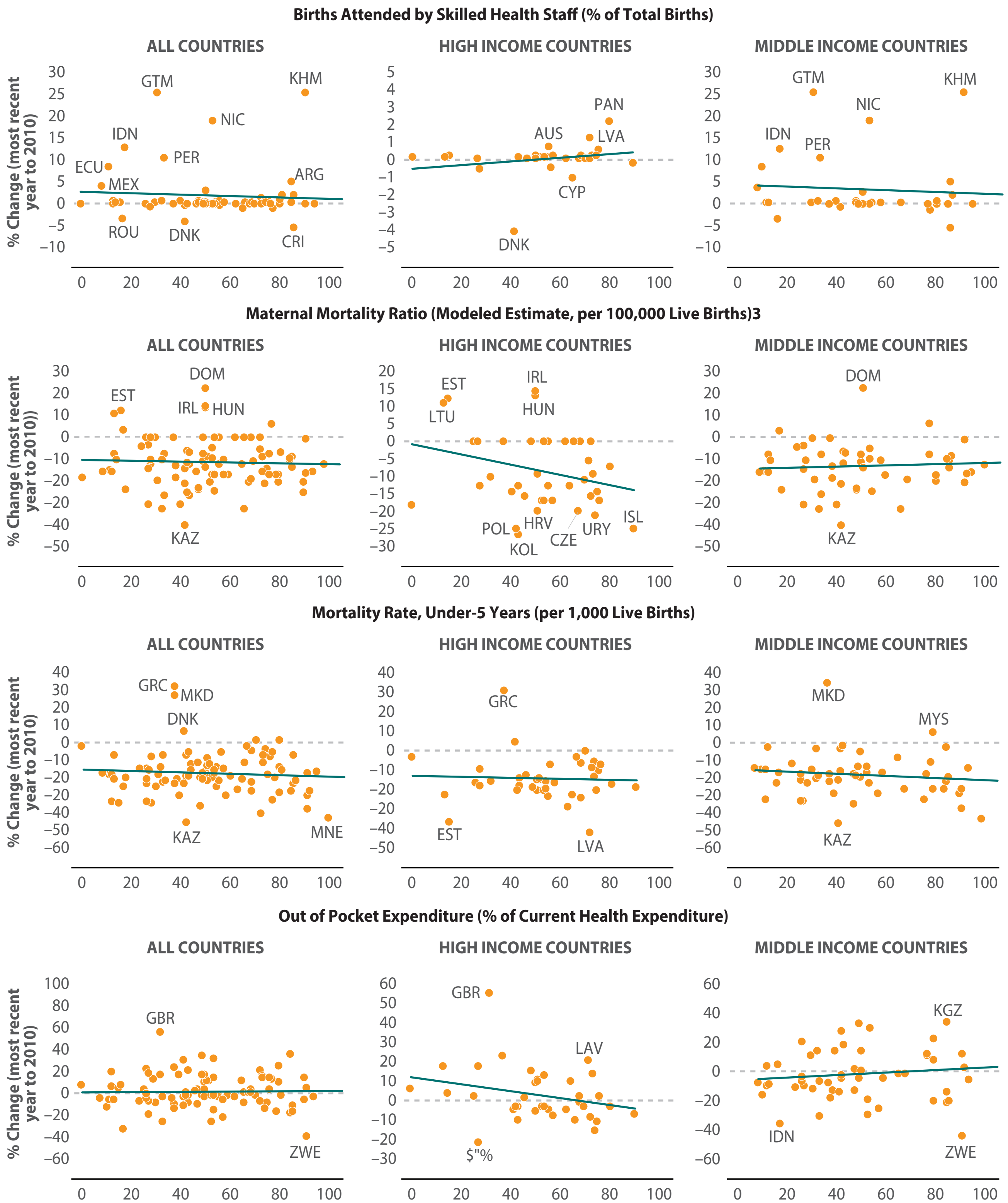
IV. Summary and Concluding Remarks

Current situation of the health sector in Libya urged the government to draft a national health policy until 2030 seeking to bring health services provision closer to citizens while ensuring efficient allocation of resources. The Policy suggests moving from a heavily centralized health system to deconcentrated and delegated one. Recently, the MoH Libya moved further in the decentralization model and signed an agreement with MoLG to devolve primary healthcare to municipalities. Both ministries agreed to constitute technical committees at their respective levels to discuss functions to be transferred.

In the present background paper, international experience shows that devolution could be beneficial, harmful or with no effect on health performance and outcomes. Decentralization could positively impact mortality rates, but it is not usually the case for immunization. On the other side, decentralization could worsen economic inequality and reduce social welfare and central government control.

To ensure that decentralization leads to the desirable health outcomes, MoH Libya should pay attention to several policy areas. The policy reform should reflect the local demographic, socioeconomic and institutional specificities of Libya. The policy discussion should cover the decision space of municipalities, the mechanisms of accountability and how to build institutional capacities at their level.

Annex 1: Relationship Between Level of Decentralization and Key Health Indicators



Source: OECD and UCLG (2019), World Development Indicators (World Bank) – Author's calculations.
Note: Horizontal axis measures labeled Degree of Decentralization: Ratio of SNG Own Source Revenue to SNG Expenditures.

Annex 2: Review of National Health Policy 2030 – Libya

The analysis of the reform focuses on the common health's functional areas that can be affected by decentralization: planning, budgeting and management of finances, service organization, human resources management, governance and evaluation and monitoring). It is based on the policy document and the restructuring of the Ministry of Health document.

Planning

Health policies and strategies' design is retained by the Ministry of Health (MoH) while Regional Health Authority (RHA) adapts it to the regional context and implements it; however, the latter still needs that the adapted plans are approved by MoH. The Ministry put in place the appropriate planning mechanisms for framing national health policies and strategies, leads and steers the policy process at the national level and assists RHAs in adaptation and implementation processes. RHA conducts policies' adaptation process of the nationally approved health policies and develops development and operational plans that should be approved at MoH level within a "planning forum/board".

Budgeting and Management of Finances

Budget process remains complex and ill-defined. Budget preparation is processed at the different levels of governance (national, regional and municipal) following national guidelines. Autonomous regulatory and technical bodies submit their budget requests [operational (wages and salaries, and recurrent) and development expenditure] that MoH consolidates and submits to the Ministry of Finance (MOF). The policy and new structure of MoH's documents remain silent whether autonomous hospitals should also submit their funding requests to MoH or continue to deal directly with the MoF as per the law 9-2004 and law 179-2009. Once the budget is approved, MoH disburses funds/grants to the respective budget centers while ensuring also equitable distribution of MoH funds to regions, healthcare levels and programs based on a transfer formula to be defined. At the level of RHA, once development and operational plan's funding is approved, this is submitted directly to MoF which should disburse financial resources to the implementing agencies!

Regarding collection and use of user fees, these are defined by law for the case of autonomous and partial-autonomous hospitals. These facilities are also able to collect other revenues upon approval from the competent authority. However, for other public health facilities, the policy draft states that the basic health services' package will be provided free of cost, while other healthcare services should be financed through a contribution scheme (premium and co-payment incase insurance scheme is introduced). At the level of Municipalities, MHOs are made able to liaise with the mayor for potential additional funds from the municipality revenues.

Service Organization

The draft policy confirms the autonomy of hospitals (granted by law 9-2004 and law 179-2009; although the appointment of the director general is not defined by these regulations), establishes a payment mechanism for providers, deconcentrates the procurement to the regional level and set the ground for improved access to health services for the vulnerable and underserved population.

Providers payment mechanisms are defined at the level of RHA in coordination with related MoH authorities at national level, regional social security and health insurance fund (established by law 20-2010) to agree on benefit package options. At the national level, MoH oversees the execution of the agreed benefit package.

Procurement and supply chain management show some duplication of responsibilities between MoH and RHA while allowing RHA for processing procurement at their level. Duplication of responsibilities is observed at the level of developing dataset/dictionary of drug lists, drug formulary, equipment and other consumables as well as procurement planning. While operating guidelines and standard procedures of procurement (pharmaceutical, vaccines, health equipment, supplies, etc.) are defined at MoH in collaboration with related regulatory autonomous bodies, RHA is able to procure these inputs, to manage their storage and distribution among health facilities and municipalities. The MHO follows up on basic amenities and medicines' availability at the level of health facilities but is also able to procure emergency items through medical supplies organization.

The draft policy establishes a mechanism to improve access to health services for the most vulnerable, but it does not specify how these are identified. For the vulnerable and underserved population, these will benefit from subsidies and safety nets programs.

Human Resources Management

By reference to the draft policy and the restructured organization of MoH document, the ministry plans (over 10 years) Human resources mix needs and defines guidelines and operating procedures related to human resources management. It also defines salary scale and introduces career structure and incentives regimes as well as needs for continuous capacity building for healthcare personnel. RHAs hire/fire, promote/demote, transfer health workforce in response to regional needs. These authorities ensure also staff training and implement continuous professional development.

Governance

Autonomous hospital is led by a General Director who is appointed by the Minister of health and managed by the Scientific committee which sets the strategy of development plan for the hospital. The regulation does not provide the size of the committee.

RHA is led by a politically appointed deputy minister. The Deputy minister is appointed by MoH but accountable to the citizens of the region. In another option, RHA could be led by a board of governors comprising two Chief Executives at hospitals, two Municipal Health Officers, one Director from RHA, the Director of Regional Health Services (these members are selected on rotation basis for one year), Director General of Regional Health Service. RHA is headed by a Director General of Health Services and comprises six Directorates. It should be noticed that RHA replicates, to some degree, the organization of MoH.

MHO should operate with support (and not under control) of the Mayor of the municipality. MHO reports to its respective RHA. MHO has three sections: i) information, monitoring and evaluation; ii) primary health care; and iii) health administration, legal and resource management.

While the draft policy underlines the importance of community participation, it remains silent on the mechanisms and processes to implement such participatory approach at the municipal and/or regional levels.

Evaluation and Monitoring

As per the draft policy, MoH should put in place an integrated HMIS to collect data from the different levels of health system. It also suggests establishing a National Health Observatory to disseminate information on health status, health management and to produce periodic reports Data to be collected encompass demographic, epidemiological, vital statistics, medical records, health status data through household and facility-based surveys. Information collected and analyses conducted should support the evaluation and monitoring of health policies and promote scientific research in health. It should be shared and disseminated in dashboard format.

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PAPER 14

Current Status of Service Delivery in Libya Solid Waste Management[1]

Lejla Catic, PFM Adviser, USAID Libya Economic Stabilization Program

I. Introduction

According to the Libyan Law on Local Administration Systems (Law 59/2012) the "municipality" is the executive local institution that aims at service delivery. The functions of the municipality include enforcement of municipal decrees; establishment and management of public utilities; administration of urban planning affairs, social services, health services, water utilities, sanitation, lighting, road maintenance, public buildings, public gardens, public stores and waste management. Additionally, the municipality is authorized to issue construction permits for implementing tourism and other investment projects within its jurisdiction.[2]

However, due to lack of subsidiary regulations (and inconsistencies in the existing regulations described further in the text), many articles of Law 59 are not being implemented in Libya. For example, law 59 of 2012 states that the country is to be divided into provinces and up to date provinces have not been established.

In reality, the execution of public services is largely the responsibility of the central government. The various line ministries prepare sector plans and budgets and contract service providers. Implementation is carried out not by the ministries, but by service providers, mainly publicly owned companies. Some of the examples include:

- A government owned company, the General Electricity Company (GECOL), provides electricity. GECOL reports directly to the Ministry of Electricity and Renewable Energy. The company has its own operational structure and budget and is considered to be one of the best organized public service providers in Libya.

[1] Disclaimer: This paper was made possible with the support of the American People through the U.S. Agency for International Development (USAID). The contents of this document are the sole responsibility of the authors and do not necessarily reflect the views of USAID or the US Government.
[2] Law 59/2012, Article 25.

- Operation, management and maintenance of the water and sewage network as well as the sanitation plants are responsibility of the General Water Company (GWC). The GWC reports to the Ministry of Housing and Utilities.[3]
- Landlines, post, Internet and mobile service providers come under the authority of the Libyan Post, Telecommunication and Information Technology Company (LPTIC), a holding company with 8 subsidiary companies. LPTIC reports to the Ministry of Telecommunications and Informatics.[4]
- Solid waste management is the responsibility of 23 public companies that share the same name—Public Services Company (PSC). PSC reports directly to the Ministry of Local Government.

In reality, the role of municipality in service delivery is limited. The municipalities are mainly responsible for monitoring service delivery—the municipal councils receive complaints and requests from citizens, forward these to the service providers and/or relevant ministries and advocate for resolutions where applicable. However, municipal councils have no authority over the service providers. Their ability to actually influence the quality of services is greatly limited and dependents on the individuals involved and the personal relationships between the members of the municipal council (mostly mayor and the deputy) and the service provider.

At the same time, their proximity to the citizens, as well as the fact that they are elected bodies creates expectations among citizens regarding the responsibility and ability of municipal councils to deliver services and/or solve their problems. This puts the municipal councils in an unenviable position of accountability without authority.

The proximity of the municipalities to the citizens creates opportunities for the service delivery to be delivered in a more effective and responsive manner. There is a general consensus amongst all stakeholders in Libya that a more effective system of service delivery can be created by engaging local governments in managing their infrastructure, and by engaging local governments in managing their infrastructure and service delivery. However, decentralization may take several different modalities. Which particular modality would be best applied in Libya greatly depends on the specific characteristics and complexities inherent to each sector. Thus, a thorough analysis of the current situation of each key public service and institutional arrangement for their delivery should be a first step in establishing a regulatory framework for decentralization.

The purpose of this paper is to examine in more detail—using as an example one key sector, solid waste management—the current roles and responsibilities of central ministries, local government and public companies; the status of service delivery; major performance gaps and the potential way forward, in line with international best practice.

II. Example of Solid Waste Management

The Current System

Solid waste management is the responsibility of the MoLG. This authority comes from the statute of the Ministry, contained in the Government Decree on Organisational Structure of MoLG (133/2014). The MoLG is discharging this responsibility by outsourcing the service out to and overseeing the work of the Public Services Companies (PSC).

There are currently 23 Public Services Companies (PSC), covering 121 municipalities. Apart from collection, transportation and disposal of the solid waste, these companies are also responsible for streets sweeping, as well as pest control, public gardens maintenance, burials and graveyards maintenance. There is no contract in place currently to govern the relationship between the MoLG and the Public Service Company. Thus, performance standards, performance targets, funding assumptions and enforcement mechanism are not set anywhere.

To support them in delivery of the solid waste collection, transportation and disposal, the PSC sub-contracts part of the work to the private sector, to so called "support companies". In many municipalities the private companies manage majority of waste collection (for example in Souq

[3] The World Bank, Institutional mapping of local service delivery in Libya, Feb 2014.
[4] The World Bank, Institutional mapping of local service delivery in Libya, Feb 2014.

Al Joumah private companies manage over 70% of the waste collection, in Al-Khoms they manage 55% of waste collection). However, no contract is in place to govern relationships between Public Service Company and supporting (private) companies either.

The funding for the solid waste management comes from the MoLG directly to the PSC, in a form of a transfer of funds through Chapter 4 (subsidies) of the Government's budget.[5] The budget is calculated using unit cost set by a Committee formed by MoLG, and chaired by the Director of the PSC Supervision Department. However, over the past years the MoF has consistently approved a lower budget than what was requested. The PSC bridges this gap in funding by contracting out large portions of service delivery to supporting companies, and paying them significantly lower price than the set unit cost. The supporting companies often compensate for the low price by charging fees from the citizens.

The funds for the PSC are released on quarterly basis upon receipt of the performance report from the PSC to the Environmental Sanitation Office of the MoLG. In theory, the Environmental Sanitation Office is meant to assess the performance of the PSC and recommend the amount to be transferred to the company. However, given that there is no contract in place between MoLG and PSC (and thus performance criteria and targets for solid waste collection are not set anywhere), the MoLG cannot assess whether the PSC's performance was satisfactory or not. Hence, upon receipt of these reports, the MoLG automatically releases 25% of the annual budget, without any assessment of the actual performance. The system does not provide incentive for PSC to implement robust internal monitoring mechanism.

The Environmental Sanitation Office of MoLG is meant to provide external oversight over the work of the PSC through its branch offices in each municipality. In many municipalities, the Environmental Sanitation Office and PSC municipal branch hold regular meetings. However, without any feedback/correction mechanism this oversight has very little impact on the work of the PSC.

The Law 59/2012 assigns responsibility for the solid waste to municipalities. Furthermore, the new Decree 28/2019 on "Public Hygiene Regulations" (discussed in more details below) clearly gives the responsibility for solid waste management, either directly or through outsourcing to the municipality. However, due to the lack of the required Government decrees and regulations as well as perceived inconsistencies between the existing laws, municipalities play minimal or no role in the solid waste management. In some cases, municipalities do allocate limited resources for solid waste management either from their own operational budget (Chapter 2) or from allocated funds for the municipality from the Government's Emergency Fund. However, these instances appear to be rare.

Service Delivery Status and Comparison to the Standards

There is no exact information on the amount of waste produced annually in Libya. Most transfer stations and landfills do not have weight bridges, and those who do have it, due to lack of proper supervision do not have reliable data. The records of the collected waste are made by simply calculating the volume of the trucks that enter a landfill. This in itself is a problem—as it makes it extremely challenging to establish a realistic budget for the SWM, or to monitor the performance of service providers; and it creates significant space for records manipulation.

Several studies conducted in Libya since 2011, in Tripoli and Benghazi, assessed the amount of waste produced by households to be between 1.1–1.3 kg/person.

The table below includes comparison between the existing status of service delivery in SWM and the Libyan standards, based o international standards and norms:

A total number of 31,500 employees work in the sector, of which 24,000 administrative staff[6] and 7,500 street workers. Of the total budget for SWM, some 70% is spent on the salaries. Still, in comparison to the Libyan solid waste management standards, the sector is currently operating

[5] Although collecting fees from business is allowed by law, fee collection in general is not practiced. Fee collection from the household is not stipulated in the law, however, there is anecdotal evidence that the private companies collect fees form households in some cases to bridge the gap between the actual cost of service delivery and the amount they are paid by the PSC.

[6] Administrative staff term used in this document includes technicians, supervisors, admin and finance staff.

TABLE 1 Comparison to the Service Delivery Standards and Norms:

Item		Current Situation	Standard[a]	Gap
Total population		7,181,245		
Total urban population		5,385,934		
Average waste generated per capita (kg/person/day)		1.3		
Total waste generated annually (tons)		2,555,625		
Total length of roads swept (km)		5,709		
Service coverage (% of population serviced)		50–80%*	100%	20–50%
Number of landfills operated		40	n.a.	n.a.
Number of temporary landfills (transfer stations)		80*	121*	41
Number of workers		7,532	20,071	–12,539
Number of administrative staff (incl. technicians, supervisors and engineers)		23,995	10,437	+13,558
Number of vehicles		880*	2,500	1,620
Number of garbage containers	30m	60*	600	540
	1100l	7,500*	75,000	67,500
	small	5,000*	50,000	45,000

*MoLG's estimate, the actual data is missing.
[a] Needs are calculated applying Libyan standards for solid waste management.

with the **shortage of 12,500 street workers**. At the same time, there is **an excess of 13,500 administrative workers** (including technicians, supervisors, admin and finance staff). Anecdotal evidence suggests that many of these administrative staff do not actually show up for work, i.e. are ghost workers. These numbers indicate significant inefficiencies in the way limited public funds are spent on SWM services.

The companies (PSC and support companies combined) have at their disposal estimated number of 880 operational vehicles. The sector is currently operating with a **shortage of some 1,620 vehicles;** while the 880 available and operational vehicles are long past their useful life and thus vulnerable to frequent breakdowns.

The number of containers provided in Libya is limited, and insufficient for ensuring coverage for all residents. Most municipalities have very few to non-residential containers, and only 10% of communal containers are available. Waste is mainly disposed in plastic bags left either at a designated collection point, if it is available, or in any accessible road side and open areas. This results in waste being scattered by elements or animals, making it more difficult to collect; and increasing environmental and public health hazards. Moreover, due to lack of supervision by the company and more importantly by the authorities (i.e. Environmental Sanitation Office), collection routes are often not followed and frequency of waste collection quite variable.

The state of service delivery in solid waste management sector is quite deficient overall, with only 50–80% of citizens receiving service. This is a result not only of low levels of funding, but also of very inefficient utilization of existing funding—it is mainly concentrated on a bloated administrative workforce, with minimal investment in equipment or running costs. The inadequate management of funds is also demonstrated by the lack of transfer stations, which leads to overuse of vehicles and unnecessarily high consumption of fuel.

These inefficiencies in the system are possible due to lack of clear and accountability-focused contractual arrangements between the government and the service provider; the lack of a defined set performance standards and targets; and lack of clearly defined oversight responsibilities. These deficiencies could largely be addressed by introduction of clear performance-based contracts. Moreover, opening the sector to competition would further improve efficiency in public spending on solid waste management.

Lack of supervision is another serious shortcoming for the sector. This is largely because supervision is the responsibility of the central ministry and is thereby removed from the purview of local residents. As a result, service delivery agents are effectively shielded from pressure for accountability at the local level.

III. Regulatory Analysis

The existing legislation in Libya contains contradicting definitions of roles and responsibilities in the solid waste management sector:

The Solid Waste Law (13/1984) has not been updated since 1984 and contains outdated references to who has the authority over the sector, referring to the people's committees of municipalities, as bodies responsible for supervision of street cleaning.

The Law on Local Administration (59/2012) envisages a significant role for the municipalities in the sector, particularly with respect to oversight of affairs pertaining to public hygiene. The Executive Regulation of the Law, attached to the Cabinet Decree 130/2013, gives municipalities clear responsibility to "*conduct the necessary tenders* related to public hygiene and waste transfer", as well as to "*propose… environmental decisions, legislation, and regulations* that govern the work progress at the municipality".

At the same time, the Government Decree on the Organizational Structure of the MoLG (133/2014), Article 9, gives MoLG responsibility to propose legislation pertaining to solid waste management, propose and circulate public hygiene programs, oversee waste collection sites, oversee recycling and technically monitor units concerned with public hygiene, amongst other things.

The Decree on the Organizational Structure of Municipalities (212/2018), Article 19, gives responsibilities for supervision of solid waste management, development of programs and improvement of quality of services to the Environmental Sanitation Office of the Municipality. However, the affiliation of these offices to the MoLG is not entirely clear. If these offices are meant to report to the Environmental Sanitation Office of the MoLG, this gives the MoLG powers to impose controls on all activities of municipalities with respect to the solid waste management, from the choice of staff to the choice of investments and the extent and modalities of services delivery. Effectively, the Decree does not envisage decentralization (stipulated in the Law 59), but rather delegation of authority for solid waste management to the municipality.

The Decree on Public Hygiene Regulations (28/2019), issued as a result of the newly approved Solid Waste Management Sector Strategy, clearly gives the responsibility for "*public hygiene and rodent and insect control*" or "*entrusting of these tasks to a company authorized to engage in these activities*"[7] to the municipality. According to the Decree, the municipality is responsible for setting the daily schedule for waste collection, specifying collection locations, establishing final disposal locations and overseeing street cleaning.[8] The Decree further stipulates that "*fees for services of public hygiene and rodent and insect control shall be determined through a decision made by the municipal council* and shall be within the standard rates established by the State".[9]

The Decree on Municipal Fee Regulation (14/2019) also contains a provision mandating that the municipalities are to set the fees for service provision.[10]

IV. International Best Practice Institutional Arrangements

Public General Service Provision

What are the most appropriate institutional arrangements for service delivery?

According to the "decentralization theorem" formulated by Wallace Oates, "each public service should be provided by the jurisdiction having control over the minimum geographic area that would internalize benefits and costs of such provision".[11]

The Maastricht Treaty underscored the critical importance of the well-known "principle of subsidiarity," for

[7] Decree 28/2019 on "Public Hygiene Regulations", Article 2.
[8] Decree 28/2019 on "Public Hygiene Regulations", Article 4.
[9] Decree 28/2019 on "Public Hygiene Regulations", Article 29.
[10] Decree on Municipal Fee Regulation (14/2019), Article 4.
[11] Wallace E. Oates, *Journal of Economic Literature*, Vol. 37, No. 3 (Sep., 1999).

purposes of determining the assignment of responsibilities among members of the European Community. According to this principle, service delivery functions should be assigned to lower levels of government, unless a convincing case can be made that the service would be more effective at a higher level of government. In turn this again is determined fundamentally by whether or not most of the benefits and costs associated with the provision of that service are experienced at the local level—when that is the case, local governments should be given service provision responsibility.

These fundamental public finance efficiency principles underscore the rationality of a central role for local government in service delivery across a range of functional areas because:

- The locus of benefits/cots is at the local level for many types of public services.
- Local governments understand the concerns of local residents;
- Local decision-makers are closer to the voters making them more responsive to their needs;
- Unnecessary layers of administration are eliminated.

The circumstances under which provision of services should be undertaken by the central level include:

- Benefits and costs of public services are realized by nonresidents (i.e. the provision of the service generates external benefits for citizens outside the boundaries of the community);
- Provision of the service is in the national interest, such as defense or foreign affairs;
- *The se*rvice requires an area larger than a local jurisdiction for cost–effective provision—i.e. economies of scale exist in service provision. This would be case with, for example, with certain forms of public transportation.

In line with the above considerations, Anwar Shah suggests the following general guidelines for the appropriate assignment of responsibilities for service delivery between local, regional and central government.[12]

It should also be underscored that the assigned government authority may decide to provide services directly, or to outsource it to private sector. In general, the evidence tends to suggest that private provision of a range of services can promote efficiency and effectiveness.

Solid Waste Management

International best practice recognizes that solid waste management, including control over collection, storage and disposal of waste, is most efficiently administered at the local (municipal or county) level. This relates to the fact that local government is the unit of government closest to the citizenry and will likely be the most responsive and accountable to local citizens in providing the service. In addition, the vast majority of benefits associated with garbage collection and disposal are captured at the municipal level. The local government may either provide these services directly or by outsourcing to private sector.[13]

Local government usually has a clear responsibility for zoning, which divides a municipality into districts based on functional utilization, and prohibits given activities within districts. Local government is also free to adopt and enforce any additional regulations imposing conditions, restrictions or limitations on the local handling or disposal of solid waste, providing that no conflict with state regulations occurs.

By contrast the central government is usually responsible for establishing national solid waste management strategy, setting national norms and standards and maintaining a national waste information system.

In addition, in a number of countries waste disposal is usually managed collectively by a group of municipalities sharing geographical boundaries and final disposal landfills. In a case of Jordan, for example, such bodies are called Common Service Councils.

Table below shows several examples of roles of local government in solid waste management from different countries in the region and internationally:

[12] The Reform of Intergovernmental Fiscal Relations in Developing and Emerging Market Economies, Anwar Shah, The World bank, 1994.
[13] In addition, even in those cases where the service is outsourced to the private sector, often local government is responsible for providing waste bins, including special bins for waste separation at the source.

Expenditure Category	Policy, Standards, Oversight	Provision	Comment
Defense	F	F	Benefits and costs are national in scope
Foreign affairs	F	F	Benefits and costs are national in scope
Monetary policy, currency, banking	F	F	Benefits and costs are national in scope
Environment	F	F	Benefits and costs are national in scope
Subsidies to business	F	F	Regional development, industrial policy
Industry and agriculture	F,S,L	S,L	Significant inter-jurisdictional spillovers
Education	F,S,L	S,L	
Health	F,S,L	S,L	
Social	F,S,L	S,L	
Police	S,L	S,L	Primarily local benefits
Water, sewerage, waste	L	L	Primarily local benefits
Fire protection	L	L	Primarily local benefits
Parks and recreation			Primarily local benefits, but national and provincial governments may establish own parks.

L=local; S=state (regional); F=federal (central).

Country	Role of Local Government is Waste Management Service Delivery
The United States	The Resource Conservation and Recovery Act (RCRA) sets forth comprehensive federal planning guidelines to be utilized by local and state governments in the development of individual state or regional solid waste programs. However, it leaves primary responsibility for solid waste management with state and local governments. In California, the Waste Management Act leaves primary responsibility for solid waste management and planning (providing household waste collection and recycling services, managing and operating landfill sites, delivering education and awareness programs, and providing and maintaining litter infrastructure) with local government; subject to the requirement that all activities conform with the state Solid Waste Management Plan.[a]
United Kingdom	The Environmental Protection Act 1990 designates the roles of "waste collection authority" and "waste disposal authority" to councils. Single tier unitary authorities have collection and disposal responsibility, whereas two tier authorities have separate collection and disposal responsibilities between the district and county councils respectively.
Germany	According to the Basic Law for the Federal Republic of Germany and the constitutions of the *Länder*, wastewater waste management is amongst the most important services provided by the municipality.[b] Waste management legislation is based on European law, German federal law, the regional laws of the federal states and the statutes of the local authority waste management services.
South Africa	Article 5B of the Constitution assigns responsibility for provision of the waste management services, which include waste removal, storage and disposal services, to the local government. Municipalities also must work with industry and other stakeholders to extend recycling at municipal level. Provincial government is the primary regulatory authority for waste activities, except for activities for which the Minister is the authority. National government is responsible for ensuring that the Waste Act is implemented and National Waste Management Strategy set.[c]
Turkey	The 1991 Solid Waste Control provides guidelines and standards for solid waste collection, storage, transport, and disposal. The responsibility for waste collection lies with the municipality, within the regulatory framework set by the *Ministry of Environment and Forestry*.[d]
Jordan	Waste collection is the responsibility of the 22 Common Service Councils (CSCs), which were created to serve groups of municipalities, given the impracticality of assigning each municipality to operate its own landfill.[e]

[a] An Assessment of the Role of Local Government in Environmental Regulation, Corrie, Pamela, 1986.
[b] Local Government Administration in Germany, Dieter Haschke, 1997.
[c] National Waste Management Strategy (NWMS) Final Draft, Environmental Affairs Department, South Africa, 2011.
[d] Municipal solid waste management strategies in Turkey, Andac Akdemir, 2019.
[e] Solid Waste Management in Jordan, Mohammed Aljaradin, 2014.

V. Recommendations

When it comes to institutional arrangements for solid waste management, there is a general agreement amongst stakeholders in Libya that the efficiency of SWM can only be decisively improved by bringing service delivery closer to the citizens. As described above, both theory of service delivery, fiscal decentralization and international best practice in SWM service provision underscores that this should be the preferred service delivery approach.

Following the principle of subsidiarity, the assignment of roles and responsibilities most likely to be associated with efficient and cost-effective service delivery would include:

1. National Government, represented by the MoLG: responsible for policy setting including:
    - Setting the overall sector strategy and general policy framework,
    - Setting policies and regulations to incentivize recycling,
    - Setting up standards and norms,
    - Regulating fees to be collected by the local governments,
2. The regional level of government, represented by the Solid Waste Management Joint Service Councils, or clusters of municipalities (through which a number of municipalities who share landfills, and are geographically close to each other, can be members of and manage the collection and transportation of solid waste) should be responsible for the following waste disposal service aspects:
    - Ownership over the final landfills,
    - Entering into contracts with specialized management companies to conduct management and operation of final landfills,
    - Oversight over the management of the landfills,
3. Local authorities, represented by the municipalities, should be responsible for waste collection, sorting and transfer within its administrative boundaries, including:
    - Setting locality specific policies and executive regulations,
    - Development of the Municipal Operational Plan for Solid Waste Management,
    - Contracting out waste collection and transportation through competitive public procurement processes,
    - Conducting field monitoring to ensure that waste is collected in accordance with agreed upon waste zoning, routes, and scheduling arrangements,
    - Collecting feedback from citizens on solid waste management, and sharing/discussing them with service providers,
    - Overseeing the waste weighing and recording process for collected waste at the transfer stations and final landfills,
    - Through the activities of municipal guards: (i) controlling disposal of wastes in unallocated areas, and (ii) imposing fines provided for by the law.
4. Service providers, i.e. companies competing in the market for contracts awarded by the authorities through an open public procurement process, should be responsible for:
    - Collection of waste, in line with the performance standards and targets specified in their contracts,
    - Transportation of waste to the specified landfills,
    - Management of the transfer stations and landfills.

    The PSC would most likely be either dismantled or broken into smaller companies, who would compete for municipal contracts, and would gradually be absorbed by the private sector.

Conclusion

Law 59/2012 empowers the municipal council to manage a range of local services, including public utilities; administration of urban planning affairs, social services, health services, water utilities, sanitation, lighting, road maintenance, public buildings, public gardens, public stores and waste management. Indeed, the principle of subsidiarity would suggest that solid waste, sewage, water, firefighting, and parks management services are in general best provided at the local level. These services can best be provided directly by the local government, or outsourced to the private sector, within the context of overarching regulatory/operational standards set by the national government.

The Government of Libya has developed a comprehensive and best practice compliant Solid Waste Management Sector Strategy, which recommends decentralization of service delivery in the sector as the optimal approach for improving service delivery. In line with the Strategy's key recommendations, the Government has issued Decree 28/2019. This clearly states that waste management is the responsibility of the municipality and provides control over setting solid waste management fees to the municipal council. To improve overall service delivery in Libya, a similar approach should be adopted with other key local services, including sewage, water utilities, road maintenance and lighting.

In this regard, a National Decentralization Strategy should be expeditiously developed which articulates:

- The structure of the sub-national governance system and relations between its tiers;
- The assignment of responsibilities in services delivery to the different tiers of the public governance system, following the principle of subsidiarity (effectiveness and efficiency in local service delivery); and
- Assignment of the appropriate financial resources to match these responsibilities, including a mandate for the municipalities to set and levy cost-based fees for service delivery.

Considering the limited institutional capacity of newly formed local government units, a staged approach to decentralization may be the most realistic strategy to adopt at this point in time. Along the same lines, opening the sector to competition through outsourcing of service delivery to private sector (through open procurement processes) is likely to promote more efficient service delivery.

PAPER 15

Suggested Way Forward for National Public Investment Planning in Libya On Solid Waste Management[1]

Ammar Jarrar, Public Investment Planning Advisor, USAID Libya Economic Stabilization Program

I. Introduction

Huge fiscal deficits have emerged during the post-transition period in Libya. Because virtually all public funds are channeled into wages/salaries and a large-scale public subsidy system, limited fiscal space has been made available for capital expenditures. As a result, physical infrastructure has been adversely impacted across Libya, and national and sub-national governments face an ongoing crisis with regards to their capacity to deliver basic goods and services to citizens. As the following statistics show, salaries and administrative expenses (chapters one and two, respectively) have accounted for no less than 60% of the total pool of expenditures since 2014. This rate stood at 74% by end of 2018, and reached 91% after adding subsidies, leaving no more than 9% for development-specific expenditures.

From a budget planning dimension, no coordination—let alone integration—of recurrent and capital budget planning takes place in Libya; and there is no urgency for change given that the majority of spending goes to the public-sector payroll and subsidies. Therefore, a strong policy must be put in place that requires a disciplined, longer-term approach to establishing budget priorities and that singles out capital spending as a key priority. Also, the policy will need to be supported by a multi-year macro-fiscal and budget formulation process[2] that is compatible with the needs of capital budgeting.

[1] Disclaimer: This paper was made possible with the support of the American People through the U.S. Agency for International Development (USAID). The contents of this document are the sole responsibility of the authors and do not necessarily reflect the views of USAID or the US Government.

[2] Currently, the budget formulation process is conducted on an annual basis, whereby all planning takes place on an incremental basis, hence leaving little room for medium- to long-term planning.

TABLE 1 Breakdown of Revenues vs Expenditures in Libya (2014–2018) in Libyan dDinar

	2014	2015	2016	2017	2018
Revenues	21,543	16,843	8,595	22,338	35,911
Expenditures	43,814	36,015	28,788	32,692	39,286
Deficit	−22,271	−19,172	−20,193	−10,354	−3,375
Expenditures breakdown:					
Salaries	23,632	20,307	19,093	20,293	23,607
%	54%	56%	66%	62%	60%
Administration	3,260	3,626	2,223	4,541	5,663
%	7%	10%	8%	14%	14%
Development	4,482	3,862	1,398	1,888	3,390
%	10%	11%	5%	6%	9%
Subsidies	12,440	8,220	5,724	5,970	6,627
%	28%	23%	20%	18%	17%

Source: Central Bank of Libya, Q4 2018 bulletin.
Note: the four expenditure components cover national and sub–national spending, and they coincide with the four chapters under the budget, namely chapter one (wages and salaries), chapter two (administrative expenditures), chapter three (development and capital expenditures), and chapter four (subsidies and price–stabilization schemes).

II. Subnational Budgeting for Development Projects

Due to the de-concentrated nature of intergovernmental finance in Libya, responsibilities for expenditures and revenue source control is vested in the national government. Most public services are provided by local offices of sectoral line ministries, and budget execution functions at the local level are handled exclusively by local MOF offices. This financial management state of affairs is expected to change as Law 59 is put into effect, which will result in greater subnational empowerment.

The situation for development budgeting is similar to the existing public financial management framework for expenditure and revenue management. To illustrate, provinces and regional planning authorities are envisioned in Law 59 as coordinating bodies for municipal development budgets, but since no provinces have yet been formed, no development planning takes place at the subnational level. The Ministry of Local Government coordinates the budgets and activities of municipalities, including any development requirements as municipal operating and development budgets must pass through the MOLG budget.

Main Constraints on Development Budgeting in Libya

The following are the main issues that negatively impact development budgeting in Libya:

- There is no programming for public investments from either a top-down or bottom-up standpoint. MoP does not plan for investments within a strategic sectoral approach or at the line-ministry level. Instead, line ministries apply for a share of the annual funds allocated by the Presidential Council under Chapter 3 based on their year-to-year requirements.
- There are no consistent or homogeneous guidelines for project screening and/or appraisal even though MoP's internal bylaws specify that such guidelines are a prerequisite for investment selection.
- The Libyan government has a poor track record of public investment implementation. This is evident from the huge inventory of suspended projects that dates to the pre-transition period,[3] which reflects a flawed

[3] In 2008, the development budget peaked at LYD 28.9 billion, followed by LYD 19 billion in 2009, compared to LYD 1.9 and 3.4 billion in 2017 and 2018, respectively.

framework for project selection and implementation. This substantial backlog of projects has gravely stalled development budgeting as private investors have become reluctant to re-enter the market.

- Development and recurrent budgeting are not synchronized, which echoes the lack of coordination and joint planning between the MoP and the MoF for development budgeting.

III. Institutional Framework for Development Budgeting in Libya

Law 13 of 2000, Cabinet Decree 137 of 2012, and the MoP's internal bylaws are the principal cornerstones that set the tone for public investments as they formally recognize MoP's responsibilities and development budgeting requirements.

A Synopsis of the Key Regulatory Documents

Law 13 of 2000:

Law 13 of 2000 focuses on project development for large scale investments that are to be selected and implemented by a public planning council (PPC). The law specifically embraces economic reform measures.

The law identifies eight sources of funding for reform projects, but it provides that oil revenue is to be the principal source. According to the law, at least 70% of a project's funding is to come from oil revenue. However, actual disbursements are in breach of this requirement. This was pointed out in the 2017 Audit Bureau report,[4] which noted that over the five-year period of 2013–2017, only 57% of the development budget was financed from oil revenues.

Cabinet decree number 137 of 2012:

- This decree assigns to the MoP a range of authorities to establish plans and programs needed to implement economic development policies;
- As far as the public investment mandate is concerned, three managerial layers (stipulated in article 4 of the law (on organizational structure) stand out:

1. The Economic and Social Planning Department. This department is responsible for drafting strategies and economic policies. It is also responsible for validating proposed projects and determining their technical and economic inputs. The department is also responsible for determining the availability of project finance and maintaining a database of macroeconomic data across different sectors.
2. Technical Affairs and Project Feasibility Department. This department has a wide mandate covering different aspects of public investments, including the conduct of feasibility studies, determining infrastructure projects' needs, and setting procurement criteria for selecting contractors.
3. Oversight Department of Projects under the Budget. This department is responsible for classifying development budget projects, maintaining the books, and preparing the financial statements for such projects. The department also issues the disbursement instructions for the funds that finance project implementation.

Current Procedural Steps for Development Budgeting:

- MoP distributes a circular to line ministries in November outlining the next year's guidelines for the development budget under Chapter 3, including expenditure priorities, and the deadlines for the submission of line ministry proposals. The Presidential Council (PC) sets the guidelines and budget allocations across the four chapters.
- Between November and Q1 of next year, the PC approves a budget for Chapter 3 investments
- Within this timeline, line ministries forward their proposals to MoP
- The PC identifies sector ceilings in May across the four chapters, including the Chapter 3 development budget
- MoP sends the final list of project proposals to the PC in July

[4] The Libyan Audit Report, 2017, page 52.

- The PC approves the allowances for Chapter 3 in August
- A dialogue ensues between the MoP and the line ministries to finalize line ministry requests within a period of two months
- MoF is involved at the final stage (following the PC decision on budget allocations) where focus shifts to the disbursement of funds

IV. USAID Efforts to Improve Development Budgeting

Identify a Public Investment Plan (PIP) Methodology

Working closely with the Libyan government, USAID's LESP project has selected the solid waste management (SWM) and primary health care (PHC) sectors with a view to developing and implementing pilot delivery models for these services, which are crucial to citizen welfare. The LESP project's primary objective in this area has been to develop each sector's service provision and related cost management strategy and related PIP for a medium-term timeframe (2020–2022).

The LESP project also has prepared PIPs that are linked with these strategies. The SWM investment plan identifies a number of key required investments, which the Ministry of Local Government (MoLG) has endorsed. These are located across important Libyan municipalities and aim to expand SWM services and enhance the functionality of landfills, a major infrastructure investment priority required to improve the performance of the entire SWM service supply chain. The PHC investment plan identifies capital refurbishment requirements for a number of PHC clinics located in crucial municipalities. The concerned clinics require major rehabilitation due to lack of maintenance and, in some cases, damage suffered during periods of conflict.

The Main features of PIP Formulation are as Follows

Sector strategies as key foundations

Public investment selection needs to be based on the medium-term goals and outcomes specified in sector strategies. Investments are a critical element in the implementation of such strategies; they support the expansion of services and respond to critical infrastructure needs.

Screening criteria based on investment size thresholds

Screening criteria need to be applied at an early stage of investment proposal development by line ministries. These are determined based on project capital size thresholds, ranging from qualitative criteria to cost-efficiency and cost-effectiveness measures for small to medium-size investments, respectively. Cost-benefit analysis is applied for large projects. Screening criteria provide the guidelines for validating and establishing a short list of priority projects.

Cost benefit analysis (CBA) as a powerful tool

CBAs are tools to assess a proposed public investment's financial and economic feasibility. A financial CBA assesses a project's financial costs and revenues; an economic CBA identifies the benefits that would accrue to Libyan society after adjusting values to account for market distortions.

V. Steps Moving Forward

Propose a Public Investment Plan (PIP) Organizational Setup

The following are the initial recommendations suggested by LESP for consideration by public and private stakeholders, and by the major donor organizations engaged in the medium-term budgeting and IGF reform process:

- **First recommendation.** The PC should establish a joint MoP/MoF PIP committee to manage and oversee a public investment project application process for line ministries. Planning for sub-national public investments would remain under the MoLG until Law 59 is fully implemented.
- **Second recommendation.** A bottom-up national PIP planning process should be introduced. This process would involve the preparation by line ministries of

their public investment proposals in accordance with guidelines provided by the PIP Committee. The proposals should align with the priorities set in the relevant medium-term sector strategy and be submitted within a specific period in the annual budget cycle. The process would begin with a capital budget call by the MoP and MoF and would culminate with the submission by the ministries of requests to the MoF for the inclusion of approved public investment projects within the next year's budget.

- **Third recommendation.** A PIP Unit should be established within the MoP to manage the PIP process on behalf of the Ministry. A principal function of the PIP Unit would be to ensure that the investment proposals of line ministries are aligned with the relevant sector strategy or with clearly articulated specific objectives or priorities of the ministry.
- **Fourth recommendation.** The PIP Unit should establish the selection criteria, which should be set in accordance with the capital size[5] of the proposed investment as follows:
  - I. Small projects would be screened according to the following factors, which are treated as elements to support project relevance for the ministry or sector, as opposed to being prioritization criteria:
    1. Size of project, including crucial assets required, such as land and fixed assets
    2. Geographic location
    3. Ministry's track record of implementing similar projects
    4. Environmental and social risk factors
    5. Estimated demand for the service in question, or estimates for a similar service provided in another sector or by another ministry
    6. Expected timeline for implementation
    7. Foreign exchange risk, based on the projected need for foreign labor, management, and/or equipment.
  - II. Medium-sized projects would be screened using qualitative criteria and cost-efficiency and/or cost-effectiveness indicators. Examples include:
    1. Degree of societal impact (e.g., the projected health and/or environmental benefits)
    2. Contribution to investment promotion in targeted geographical regions
    3. Degree of support for certain business drivers
    4. Degree of support for capacity development in high value-added industries (e.g., manufacturing skills, agricultural skills))
    5. Cost efficiency of investments
    6. Cost effectiveness of investments in achieving pre-set targets and outcomes
  - III. Large projects would be screened using a full-fledged cost-benefit analysis, as follows:
    1. Financial analysis recording all projected costs and revenue streams
    2. Economic analysis to identify all projected societal benefits
    3. Calculating net present values for both types of analysis, supported by projected financial and economic rates of return
    4. Provide basic training on CBA skills
    5. Develop templates and formats for line ministries to apply analytical techniques
  - IV. Screening of medium-sized and large projects should result in the ranking/prioritization of a short list of public investments, which the PIP Committee would then match with available budgetary funds.
- **Fifth recommendation.** The PIP Unit should identify the PIP capacity-building needs of the most significant PIP stakeholders. This needs assessment would, for example, determine the capacity of various stakeholders with respect to procurement and crucial technical and appraisal areas (project design, appraisal and selection) requiring substantial expertise.
- **Sixth recommendation.** The PIP Unit should develop and maintain a project database that encompasses the projects that are within the budget ceiling established by the MoF. This would strengthen planning capacity

[5] LESP proposes that the MoP use three distinct thresholds for determining the capital size classification of a proposed investment project. For example, such thresholds could potentially be: Small: up to LYD 500,000; Medium: over LYD 500,000 but no more than LYD 2,000,000; and Large: over LYD 2,000,000. LESP that such thresholds be used as part of the process for setting selection criteria for public investments.

and promote the making of informed investment decisions with respect to the government´s portfolio of projects. This database should serve as a highly reliable and up-to-date source of information on public investments and allow the tracking of projects through the entire project lifecycle.

Introduce Improvements in Line with PEFA Frameworks

The public investment planning framework in Libya could also benefit from the model prescribed by the World Bank in accordance with the PEFA platform for public investments. This would complement the ongoing reforms suggested by USAID and promote higher efficiency in public investments, especially from an ex-post perspective. The areas described below are consistent with the PEFA assessments that have been conducted in several MENA countries (Jordan, Tunisia, Iraq, and Morocco):

- **Public Investment Costing:** The budget documentation for public investments should include total lifecycle costs of major investment projects, including both capital and recurrent costs. Also, a year-by-year breakdown of the costs should be provided for each project for at least the current budget year and the two following years.
- **Public investment Monitoring:** Public investments should comply with standard procedures and rules established for project implementation. Information on costs and physical progress should be published at least annually. Progress in project execution should be effectively monitored by the sponsoring line ministry and reported to the MoP on a quarterly basis.
- **Public Investment Ex-Post Evaluation:** Public investments that have been implemented need to be examined to validate whether the key sectoral objectives related to the project have been achieved, a process that becomes even more crucial when project implementation is delayed and capital overruns are being experienced. Ex-post evaluation processes can play a very important role in revealing flaws or shortcomings in design, formulation, planning, or implementation. In some cases, inadequate project performance may also be linked to deteriorating economic and political conditions. Project evaluation determines whether a public investment provides adequate "value for money;" it also provides lessons learned that can improve the design and implementation of similar projects in future.

Part IV
Accountability, Participation, and Legitimacy

PAPER 16

Sustaining the Legitimacy of Municipal Councils through Elections Amid Conflict

Daniel Stroux, United Nations Development Programme (UNDP)

I. Introduction

How can the democratic legitimacy of Libyan municipal councils be maintained during the on-going conflict in the country? The recent launch of a second generation of municipal council elections in March and April 2019 was severely affected—although not completely halted—by the outbreak of hostilities on April 6, 2019. The Central Committee for Municipal Council Elections (CCMCE) has held a total of 25 elections since 2018. However, it faces multiple security and politically-related challenges in conducting elections in those remaining nearly 100 councils whose four-year-mandate has expired after the elections of 2014/2015. In addition, the newly created municipalities are also seeking democratic legitimation.

The recently elected councils are also facing major political pressure as a result of the Libyan East-West-Divide, as the internationally non-recognized 'Interim Government' challenges their legitimacy by appointing parallel Steering Committees, among other measures. Additional tensions and conflict in these municipalities are the result of these sometime successful interventions by the Interim Government even beyond its territorial reach. Within this challenging context, special attention needs to be given to the mandate renewal of the municipal councils through local elections in Libya to further promote local democracy in the country.

The paper argues that despite the conflict, the democratic legitimization of the municipal councils should not be halted but carefully continued. However, certain conditions must be met to ensure credible electoral processes and to support the subsequent, systematically building of the councils' capacities. We plead for a democracy bonus for the newly elected, not only to help with improving service delivery, but to also promote the democratic practice of inclusive participation of citizens. This includes citizen participation in between elections, as well as through periodic elections in accordance with the councils' legal mandate, respecting the basic rights of the Libyan people to freely elect their representatives.

Furthermore, we argue that democratically-elected local leaders acquire a natural, but undetected and insufficiently promoted leadership role in Libya. Local leaders assume this role through the growing importance of the municipality level for the citizenry—and the simultaneous weakness of national institutions. The East-West-Divide with the Interim Government's intervention against the newly elected councils' affairs needs to be dealt with through a mix of support to these councils and clear political messaging vis-à-vis these destabilization attempts. Otherwise, the efforts to promote democratic governance and stability through democratic processes at the local level may fail.

II. Background to Municipal Council Elections

Legal Background

Law N° 59, the Law on Decentralization of 2013, constitutes the legal framework for the establishment of the municipal councils and their democratic legitimation through periodic elections.[1] The tasks and obligations of the Central Committee for Municipal Council Elections were addressed in Executive Regulation 160/2013, which determined the rules and regulations of the autonomous electoral authority for preparing and conducting municipal council elections.

The CCMCE is administratively and financially under the aegis of the GNA Ministry of Local Governance. However, it is independent in its action in terms of taking all decisions related to elections—without the Ministry's interference. It is also financially located within the Ministry's budget allocations. In this context, it should be noted that it had a negative impact on the electoral authority's ability to renew expired councils' mandates in due time in 2018 and 2019.

The Presidential Council replaced Regulation 160/2013 in October 2018 with a new text, mainly changing the electoral system from a Single Non-Transferable one to a Party Block Vote System. It also issued final amendments in January 2019. Further changes were introduced regarding mechanisms pertaining to the Electoral Dispute Resolution System by referring the responsibility for all disputes, including administrative disputes, to the court system. All regulations dealing with the preparation and conducting of local elections are now included in Executive Regulation 18/2019.[2]

A recent court ruling, however, has brought Regulation 18/2019 to a stop, mainly by contesting the newly introduced Party-Block-Vote system. The court ruling is being challenged and a final decision is pending. It might question the elections already held in March and April 2019, thus endangering the legality of those newly-elected councils.

The term of the municipal councils is four years. Depending on the size of the municipality (whether it is below or above 250,000 inhabitants), eligible Libyan voters elect either a seven- or a nine-member council. Law N° 59 specifies the composition of the council, with a one-seat quota for female representation, as well as a one-seat quota for a person hurt/disabled during the 2011 Revolution. Municipal councils plan, direct and supervise the municipalities' service delivery to the citizenry.

III. Main Challenges for the CCMCE and Elected Councils

Libya held 92 municipal council elections throughout the country between 2014 and 2016. Municipal elections were not possible in six cases because of the difficult security situation. Libyan authorities in the East and West also created new municipalities by dividing larger administrative units. As a result, about 100 councils today seek legitimacy through democratic elections, as well as the 25 that already held elections in 2018/2019.[3]

[1] Law No. 59 also created elected regional councils. However, these have not yet come into existence in Libya.

[2] These changes resulted in criticism against the Presidential Council. It was argued that while the previous regulatory framework for local elections was a product of the unity government from before 2014—and therefore accepted nationwide—the new framework was created by the Presidential Council (PC) without consultation. As such, it could not be applied throughout Libya. This was a major setback to the CCMCE's plans to conduct elections in Eastern Libya. It set the scene for the 'Interim Government' to strongly oppose the CCMCE's work as an all-Libyan institution.

[3] Sixty-seven municipal councils were supposed to elect their councils in 2018 following the expiration of their four-year mandate; 13 mandates will expire in 2019; and two are due for election in 2020, and one in 2021. The CCMCE started in 2018 with the holding of elections in the municipalities of Beni Waleed, Derj and Zawiya, which were still first-generation council elections.

The main challenges for conducting credible municipal council elections and sustaining these legitimate institutions are related to the security situation, the political divide, financial problems, and the lack of democratic practice and knowledge among the citizenry. The unstable regulatory framework has continued to hinder the CCMCE's invitation to the citizens to participate in the polls.

Security-Related Challenges

Of the 35 elections that had been planned for March and April 2019, the CCMCE was able to conduct 22 elections in Southern and Western Libya. These elections occurred in the midst of an environment characterized by tensions and conflict in and around Tripoli. Elections in the Western municipalities were geographically located outside Tripoli's conflict zone, and nine elections were held in the South.

The CCMCE suspended 13 elections following the CCMCE sub-committees' recommendation and the Ministry of Interior's advice that elections could not be secured. These municipalities were partially affected by the conflict. In most cases, the sub-committees, working in close coordination with the security forces on the ground, had advised against the holding of elections.[4]

One election (Al Haraba) had to be halted during election day. The police did not provide the required security, leaving polling stations without protection. An armed group's intervention finally brought the election to a halt around mid-day, thereby forcing the CCMCE to suspend the process.

East-West Upheavals, and 'Attacks' on the CCMCE and Elected Councils

Several of the suspensions were politically rather than security driven. In some of the municipalities, key stakeholders had aligned—or felt forced to align—with the Libyan National Army (LNA) and the Eastern Government. They rejected the CCMCE's call for elections, as operating under the umbrella of the Government of National Accord (GNA).[5] Boosted by the LNA territorial advances during the first three months of 2019 toward Tripoli and the possible scenario of a complete LNA takeover, the 'Interim Government' had exacerbated its campaign against the CCMCE conducting elections.

Since October 2018, the Interim Government had published several letters contesting the CCMCE's legitimacy. Specifically, it said that the CCMCE was a GNA branch, and not an independent institution. As such, it was not legitimized to run elections in the East. In another letter, the Minister of Local Governance in the East personally attacked the CCMCE Chairperson saying that he would be arrested if he travelled to Eastern Libya, hinting at the previous CCMCE plans to run elections throughout Libya including in the East.

In March and April 2019, the campaign intensified with letters sent to municipalities having had elections or those about to go to the polls that these elections would not be recognized and would have to be repeated. Since May, the appointment of 'Steering Committees' as parallel councils, including in municipalities where elections had already been held by the CCMCE, created additional tensions in a number of municipalities.[6]

The 'Interim Government' established a Parallel Election Committee for local elections on July 1, 2019. On July 7, 2019, the 'Interim Government' held a press conference announcing elections within 90 days, once more trying to delegitimize the work of the CCMCE and putting pressure on the newly-elected municipal councils. Once more, it reiterated that it would not recognize elections that were organized by the GNA. Thus, according to the 'Interim Government', Municipalities that want to deal with the Interim Government in a stable and secure manner will have new elections.

[4] Elections were suspended in Kikla, Al Asaaba, Zawiya South, Sabratha and Surman, among other places.

[5] The case of Sabratha can serve as an example for the power struggle between the GNA and the Interim Government. The Interim Government appointed a mayor for Sabratha without the LNA having control over the territory. The postponement of the election from April 20 to April 27, and then later to after Ramadan can be seen as part of this power struggle between the group leaning toward Haftar / Al Thinny government—trying to prevent elections from happening—and the GNA side pushing the council elections forward.

[6] This includes: Beni Waleed, Gaser ben Ghashier, Souq Alkhamies , Gheryain, Alshewreif, Sebratha and Surman, although Beni Waleed and Alshewreif are those with recently elected councils.

The Eastern Government's pressure created a lot of uncertainties, but only partially impacted negatively on the conduct of elections or the work of the newly-elected councils.. For instance, despite the LNA excursion to the South in February 2019, elections were held in the South without political interference that could halt the process or stop councils from taking office through swearing-in ceremonies conducted by the GNA Ministry of Local Governance. In other cases, such as in Beni Waleed, the appointment of a parallel council created major tensions within the council.[7]

Legal and Financial Challenges

A lack of funding had been a major obstacle to the CCMCE's ability to organize municipal elections in accordance with the timelines stipulated in the law. When funds were finally received by the CCMCE, the PC substantially changed regulatory framework in October 2018 with a fundamental change of the electoral system. This forced the CCMCE to reorganize from scratch the electoral process, thereby again delaying elections for several months. Finally, with 22 elections held before Ramadan, the Supreme Court ruling to cancel Regulation 18/2019 may spoil the CCMCE's work to date. In addition, it has once again been the reason for a deferral of several already scheduled elections for August 2019.

Democratic Practice Yet to be Acquired and Knowledge of Councils to be Increased

Low turnout in local elections is a pattern worldwide for a variety of reasons. In Libya, voters' participation has been an average of 56 percent during the first-generation municipal elections of 2014/2015. This rate is being reproduced during the ongoing second-generation local elections. Currently, voter participation averages 46 percent, ranging between 24 and 64 percent in terms of turnout rates. A Libya-specific pattern is the low participation of women and youth in local elections. On average, female registration was 10 percent below male registration. In some cases, women's turnout on Election Day was only at 30 percent as compared to a male participation rate of 70 percent.

While voter turnout figures on Election-Day look relatively 'normal' at first glance, these figures need to be analyzed with registration figures of between 37 and 84 percent, as well as in relation to the potential electorate per municipality in the 2018 and 2019 elections. Voter participation in relation to the potential electorate of a municipality therefore ranges between 13 and 53 percent. There is no minimum threshold regarding the voter registration or turnout rates for conducting elections.

There are numerous reasons for low participation in 2019, including among others: the lack of knowledge and awareness about the work and function of the municipal councils; frustration with service delivery in the municipalities; the lack of visibility of the mayors' and councils' work; the lack of democratic practice in Libya with generally malfunctioning institutions; as well as hesitation to go to the polls during these troublesome times.

In this context, it should be noted that the decentralization process in Libya is largely lagging behind. The municipal councils had little funding since the time of their establishment, and they have no financial autonomy. As such, many of their legally set tasks have not yet been transferred from the Central Government to the local level. Councils have mostly been left on their own. However, by virtue of the creativity of their mayors and council members, many have been able to gain respect among their citizens. The latest survey commissioned by the International Republican Institute (IRI) in 15 municipalities throughout Libya confirms the good reputation of municipal councils among their citizens—despite the lack of reliable service delivery.[8]

Considering these challenges, planning further municipal elections requires a careful strategy. It should take into account a set of additional challenges beyond the already complex task of planning and conducting elections. We outline elements of a possible way forward in the next chapters.

[7] The Interim Government's nomination of elected council members nearly broke the elected council apart. A combination of several factors, including negotiations among the mayor and council members, as well as the LNA withdrawal from Beni Waleed during June alleviated the situation. As a result, the legitimately elected council continued its work in July.

[8] The International Republican Institute's (IRI) Center for Insights in Survey Research released the survey on May 15, 2019.

IV. Why Hold Local Elections?

Why should Libya elect its municipal councils during times of conflict? Many say that it is better to wait for more peaceful times for municipal elections, asking why people should vote now. There are at least five arguments to reply to this question, confirming the need for conducting elections and allow the newly-elected councils to assume their responsibilities.

The first reason is that Libya is a signatory to international law treaties including the *Universal Declaration of Human Rights 'UDHR' (1948),* and *'The International Covenant on Civil and Political Rights (1966)',* which include the right of a citizen to take part in the government of his or her country as a voter and as a candidate. These treaties also state that the will of the people shall be the basis of the authority of a government through periodic elections.

The basic right of citizens to choose their leaders is part of the Libyan transitional constitutional framework (Article 18). As noted, it has become part of its legal framework through Law N°. 59 and executive regulations. Thus, the renewal of the council's mandate after four years is part of Libya's legal obligations, which should be respected by its institutions as well as its international partners as a commitment to the rule of law and citizens' rights.

In fact, the CCMCE had been asked by key stakeholders in municipalities, including by its elected leaders and citizens, not to delay elections following the mandate expiry. Libyan citizens want to see their council members mandate renewed and want a fresh start. Despite the relative popularity of mayors, there has been considerable frustration with the first generation of councils, who were not only unequipped to fulfil their function, but often struggling internally. In many cases, mayors and council members are tired of their unfulfilled and unfulfilling tasks. In the East, only very few elected councils remain, and the Eastern government appointed most of them. Small demonstrations regularly pop up advocating for local elections (for instance in Benghazi on 23 July).

The municipal councils have been positively perceived by the Libyans through the role of the mayors (and council members) as mediators and peacekeepers in their respective communities. Despite major challenges , many local leaders became legitimate and respected representatives of their communities, as confirmed by the IRI survey of 15 municipalities.

Therefore, there seems to be a solid case of promoting the idea of mandate renewal through democratic processes. The timid democratic gains Libya has achieved through legitimately elected leaders at the local level should be further promoted by carefully renewing mandates where possible from a security and political feasibility point of view.

V. Can Elections be Conducted in a Conflict Environment and be Credible According to Internationally Accepted Standards?

As to whether elections can be conducted during tension and conflict, scientific research in this respect mostly focusses on national elections during transitions and post-conflict situations. Local elections have rarely been analyzed in relation to conflict situations. This is in line with international electoral assistance, which is generally oriented toward national electoral processes.

In Libya, there are at least three major differences between national and local elections: the geographic dimension as municipal elections are held in many smaller entities, the time dimension as elections do not have to be held all on one day; and the political dimension as local elections, while competitive, seem on first sight to be less challenging than national elections.

These three aspects have allowed municipal council elections to proceed without major difficulties in March and April 2019—at least in the Southern and Western municipalities. In addition, as noted, there are the increasing difficulties considering the GNA and the Interim Government's competition over the authority of municipalities, as well as the 'Interim Government's' claim to run municipal elections on its own, not to mention its continuous undermining of newly-elected councils.

Voter and Candidate Trust are at the Heart of a Credible Process

In such a crisis situation, it is crucial that elections not be held just for the sake of elections. Rather, these must be credible processes producing credibly elected, legitimate institutions. At the heart of the credibility of an electoral process is voter confidence and trust in the electoral process, closely interlinked to personal security and safety.

Several key questions arise from these criteria: Can the voter cast his/her ballot in a secured environment and without fear? Does the voter trust the process, and does his/her vote count? Can the voter trust that his/her vote and those of other voters are duly reflected in the outcome of the elections?

Similar criteria of confidence and trust determine the candidates' participation in the electoral process. This includes questions related to a secure election campaign period, to the capacity to mobilize voters, to the electoral authority's independence to run a transparent process without political interference. It also includes questions about a conclusion to the elections through an uncontested swearing-in process and a stable four-year mandate—without interference due to the competition between East and West.

Experience from the March and April 2019 Elections

From the experience of the 22 elections held in March and April 2019, apart from some exceptional cases including Sebha and those mentioned above, where elections had to be postponed or were disrupted, elections were largely credible and results were accepted by key stakeholders. These elections have in principle provided good conditions for an uncontested start of the newly-elected councils.

As a basis for this judgement, we use a combination of voter registration rates, the turn-out rate (also in comparison to the 2014/2015 elections), available observer reports from 15 municipalities, as well as internal reports from election day by the CCMCE sub-committees'.[9] In addition, we can determine that the eleven electoral complaints following candidate registration and the announcement of provisional results confirm a healthy functioning of the electoral process, allowing criticism and recourse through the legally-provided electoral dispute resolution mechanisms. The ongoing court case in Sebha regarding its annulled election results may be an exception, related to the high level of polarization of the situation in Sebha.

Conditions to Hold Further Credible Elections

In this context, there are four main areas in which the CCMCE must pay special attention to solidify the electoral processes. These are: (1) the inclusion of key stakeholders of a municipality in the decision-making process about whether to hold elections; (2) ensuring operational capacity at all levels in the preparations and conduct of the process; (3) an increased level of transparency and credibility of the process through an improved communication with all stakeholders; and (4) a considerably increased outreach effort, including informing voters about the purpose of the elections, as well as the added value of democratic elections.

Regarding the first point, the CCMCE needs to fully involve the CCMCE sub-committees in analyzing the situation in the municipality through stakeholder meetings. These meetings should include candidates, civil society groups, and other relevant stakeholders, such as the local police/ security providers. Analysis should cover a variety of questions. For example, to what degree does the general security situation allow elections to be held? Does the general security situation negatively impact voter's participation? How can the CCMCE campaign better reach out to citizens and motivate them to participate in the process? Efforts should also be made to analyze the feasibility of candidates to organize their participation on Election Day. In this context, the CCMCE decided to conduct surveys in municipalities to be in a better position to analyze these questions and take decisions based on more thorough information.

Regarding the second point, the CCMCE needs to ensure that it has sufficient operational capacity at the headquarters and sub-committee levels to smoothly conduct the electoral process in a given municipality. Aspects to be considered include: whether all staff, including polling station staff, has received sufficient training; whether

9 National Democratic Institute, NDI, 2019, Libya Municipal Elections Observation, Preliminary Report, April-May 2019. The report is the preliminary conclusion of the observations conducted in 15 municipal council elections by three NDI partners, including Ho2, Libya's Network for Democracy Development (LNDD), and Aladasa.

sensitive materials, in particular the ballot papers, are available in time for distribution on Election Day; and whether logistical challenges to transport sensitive materials through third-party contractors can be solved without those materials being intercepted by conflicting forces. Another factor to be considered concerns whether the arrangements taken vis-à-vis the results compilation can be realized in a timely fashion in Tripoli (centrally), and so on. In future elections, these aspects may require additional careful planning from the CCMCE to ensure the highest level of transparency and reliability in the conduct of the electoral process.

Regarding the third point, the CCMCE should employ additional efforts to boost its institutional credibility and reputation during this crisis. The 'Interim Government' tentative move to contest the CCMCE's credibility and the newly elected councils' legitimacy has been ongoing. The CCMCE will need to further build confidence and trust with voters and political actors at all levels. A multi-layered communications strategy should comprehensively capture these aspects, including outreach to national and local stakeholders. In principle, the CCMCE is operating on solid ground, with a total of 124 credible municipal elections conducted between 2014 and 2019.

Finally, regarding the fourth point, it is important to promote voter registration where rates are below a certain level. So too, it is important to promote higher turn-out in the elections through additional civic and voter information campaigns. In this context, it is recommended that a certain minimum percentage of registered voters be reached before the CCMCE calls for an election. This is particularly important in larger cities, such as Misrata or Khoms or in some municipalities in Tripoli, where voter registration rates have been at a level of less than 30 percent of the potential electorate. At the same time, the level of voter registration should not be an impediment to elections, especially if local stakeholders give a green light to moving ahead with mandate renewal.

In conducting further municipal elections before the end of the year, a number of aspects beyond the CCMCE's zone of influence need to be addressed. When the outstanding court case regarding which regulation the CCMCE shall continue its work is decided, the CCMCE will then be able to schedule further elections in Western and Southern Libya. With the CCMCE currently not welcomed in the Eastern part of the country, and negotiations between East and West not yet on the horizon, we can expect the 'Interim Government's' Parallel Committee to run some elections—albeit with delays regarding the announced 90-day-schedule for first elections, as well as questions about its credibility. At this stage, we take note of the 'Interim Government's public announcements that it wants to conduct democratic local elections for mandate renewal. In this context, we unequivocally plead for *ONE* local electoral authority for Libya, while referring to the CCMCE's record of conducting credible elections since 2014. Technical cooperation between the CCMCE with the Parallel Committee at the sub-committee level may, as of today, be a dream, but it may represents a longer-term vision for reuniting efforts and institutions following for instance a new political agreement or a peace accord between the two conflicting sides.

VI. Election of Legitimate Institutions – What's Next?

There is a common understanding that the newly-elected councils need to be strengthened to perform within the difficult context of a delayed decentralization effort, specifically within the challenging political divide between East and West. Previously, we dealt with questions of capacity building and how the international partners can promote the newly-elected councils and their administration. We also proposed a way forward in relation to those councils under political pressure from both the 'Interim Government' and the GNA.

Leave No One Behind

Newly-elected local council members face similar problems worldwide to varying degrees, depending on how anchored a political system may be. The second generation of Libya's council members deserve special attention in the context of a yet to be implemented decentralization process. Awareness and practical knowledge are needed in the many areas for which a municipality is responsible. This includes: financial and strategic planning; decision making about the priorities during their four-year-mandate; an understanding of their oversight function; communications skills and outreach to their citizens; as well as many other areas of responsibility. Such knowledge would enable the mayor and council members to efficiently and effectively run the affairs of the municipality.

Considering these tasks, newly-elected council members, including the mayors, should undergo similar capacity strengthening efforts. Due to different priorities and limited funding, international partners cannot focus on all 124 municipalities in the same way. However, from a capacity-building point of view, there is no reason why we cannot allow newly-elected council members to profit from a jointly implemented and systematic approach.

The UNDP program to support local elections includes basic training related to inclusive participation and outreach. We strongly promote the idea of increasing the synergies among international partners to jointly approach the newly-elected councils. 'Leave no one behind' is the core idea behind this approach. It is intended to ensure a balanced and fair development in the municipalities, and skilled council members will help to ensure more balanced results.[10]

How to Sustain Newly-Elected Institutions

As noted, newly-elected municipal councils are under intense political pressure. Letters have been written and/or announcements have been made to disprove / deny the council's legitimacy. In addition, Steering Committees have been appointed to replace the elected councils. Such denial of the people's verdict delivered through the ballot has created social and political tensions and conflict within the communities.[11]

How to Sustain the Elected Councils

Firstly, it is important to systematically support the newly-elected councils in a balanced capacity-building effort. The councils need to form their identity as the driving force for service delivery, supervising the municipality's administration. The greater the self-concept and commitment to advance the municipality's affairs, the stronger a mayor and council members can counter initiatives to discredit, delegitimize or to dissolve a council. At the same time, the council should be in a position to work together with both sides, including the GNA and the 'Interim Government' where needed. The main reference point for the council should be service to the citizens, not the question of loyalty to the GNA or to the 'Interim Government'. We are aware that such a statement is easy to make, but its implementation will help strengthen the position of the elected council.

Secondly, supported by their international partners, Libyan stakeholders at all levels in the East and West should systematically remind themselves of Libya's obligation to renew the mandate of the councils every four years through periodic elections according to the legal framework. The respect of the rule of law is an important part of Libya's transition process toward a new political culture.

Thirdly, service delivery through an *elected* mayor and council members is, by definition, more promising. Elected local leaders are more oriented toward the electorate of a municipality who voted for them. Their direct responsibility to the citizens through the election is usually a better guarantee of success than through an appointed, loyal Steering Committee.

Fourthly, international partners should publicly promote the elected councils and clearly differentiate their relationships with non-elected / appointed councils. A review of the scope of a given program to support municipalities should include incentives, such as a 'Democracy Bonus' giving priority to legitimately elected councils in the immediate post-election period. Such a bonus should be accompanied by a public show of support to these councils. In cases where due elections have not been held, or could not be held, or were openly rejected, it will be important to remind key stakeholders of the need for democratic mandate

[10] There is a high level of (uneven) support to municipalities depending on many factors, including geographic scope, population, and municipalities affected by conflict, and so on. Key international partners include the European Union, Germany, the Netherlands, and the United States Agency for International Development (USAID), as well as a number of implementing agencies.

[11] We wish to point out that it is not about the promotion of the GNA and the denial of the 'Interim Government'. Rather, it is about respecting the people's verdict of legitimately-elected councils through credible elections.

renewal. There is a choice of having or not having public appearances with an appointed mayor or council members. International partners should make a conscious choice of how local democracy can be supported—or undermined—in the current Libyan context.

Fifthly, promises of financial contributions to municipalities by the Central Government usually remain unfulfilled. A true creation of loyalty will be through effective financial support to the municipalities for better service delivery. International partners must continue their appeals through coordination mechanisms and bilateral talks to promote a more responsible local governance approach.

Sixth, newly-elected mayors and council members should become more aware and self-conscious of the added value of their democratic mandate in representing Libya's people. Their united voices as locally elected democratic leaders could make a difference not only in self-defense against external interventions, but also in finding national solutions, including solutions for building peace, democracy and development as opposed to war and destruction. The newly elected councils could be joined by those elected in 2014/2015 and still in charge. Municipal associations could help to foster this, as yet, undetected potential for Libya.

VII. Conclusions and Recommendations

Mandate renewal of the municipal councils through democratic elections in Libya should be carefully but systematically pursued by the CCMCE and its partners during times of conflict. Local elections can be conducted where local stakeholders largely agree to mandate a renewal according to the legal framework and when national institutions can (more or less) guarantee the security of their citizens when casting their ballots. We also described the efforts needed by the CCMCE to ensure a high level of transparency and credibility of the electoral process through operational readiness, increased institutional communication efforts, as well as a strengthened civic and voter education campaign. We also recognize the clear link between the slow pace of the decentralization process between the (non-) functioning of the municipal councils and the municipality's service delivery with the low interest in local elections on the part of the citizenry. Therefore, there is an urgent need to break the vicious circle of dysfunctional local institutions coupled with a lack of awareness and knowledge about the municipal council challenges.

Strengthening local democracy in Libya must translate into strengthening the newly-elected councils in a systematic fashion, including through the reinforcement of capacities and skills of the mayors, council members and their administration. These councils should also profit from a Democracy Bonus provided by international partners, who should review the scope of their programs in favor of an immediate post-election support initiative directed toward the newly-elected councils.

Any initiatives to object to or destabilize the mandate renewal through democratic elections or demote the newly-elected councils need to be opposed in the same way by national and international stakeholders alike. Libya is legally committed to its people's political rights to democratically elect their leaders. The 'Interim Government's recent efforts to schedule municipal elections on their own must therefore be carefully observed, although this paper clearly pleads for *ONE* CCMCE conducting local elections, thereby avoiding a further duplication of institutions.

Coordination mechanisms and synergies should be promoted in the international support to the municipalities. In addition, national stakeholders at the governmental level, as well as the newly-elected themselves, need to become more conscious of their role and impact in promoting or degrading local democracy. There is, as yet, an undetected force of democratic local leadership for the local level, and indeed beyond the local level: The agenda for peace, democracy and development in Libya is, at least partially, in the hands of locally-elected leaders in Libya.

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PAPER 17

Community Participation and Social Accountability Citizen Aspirations, Knowledge and Agency

Dawoud Almassri and Peter Rundell
United Nations Development Programme (UNDP)

Polling data indicates that Libyans wish to have a say in local investment, but they lack a clear understanding of the decision-making process involved. They also lack information on how municipal budgets are set and how they are spent.

Experience indicates that community participation in investment planning can enhance municipal relationships with citizens—and reduce conflict risks. Community-based social accountability mechanisms provide another avenue through which public investment can enhance the social contract and minimize conflict risks. Greater clarity on decision-making processes would help to manage these associated risks.

I. Community Understanding of Municipal Investment

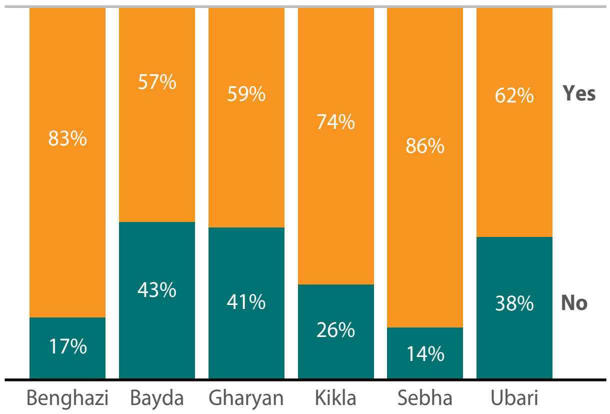
Municipalities are the most immediate points of contact for most Libyans, and citizens think they should have a say in their use of resources (Figure 1). Polling data suggests that a strong majority of respondents believe that people should have a say in how their municipality's budget is spent.

Three hundred and fifty respondents in each city, with equal numbers of men and women, were contacted through household selection by random walk from random start points in each city for face-to-face interviews (respondents within the household were selected by the Kish grid). Ninety-five percent confidence interval ± 5% at worst. June–July 2018.

Those who responded "No" appear to do so for technocratic reasons. Their answers are mainly based on confidence in the technical capacity of municipal decision-making, together with a mistrust of citizen decisions (Figure 2).

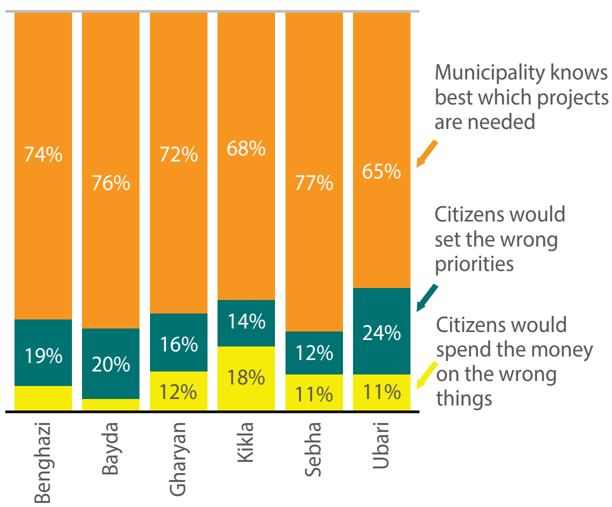
Those respondents who said "Yes" seem driven primarily by a desire for citizen direction of municipal activity—a democratic imperative—with doubts about municipal capacity ranking a very low fourth place (Figure 3). There

FIGURE 1 Citizen Responses to Participation in Municipality Budget Decisions



Source: UNDP 2019.
Notes: The question posed was: "Do you think that citizens should be able to have a say in how a municipallity's budget is spent?.

FIGURE 2 Rationales for Replies: If Not, Why Not?



Source: UNDP 2019.

is both a sense that citizens know best what they need, and that municipalities should listen to their citizens. This indicates a desire to see local democracy operate through continued accountability, rather than purely through periodic elections.

However, citizens have limited knowledge about the budgets of the municipalities. Reporting of public expenditures by municipalities seems difficult to find. Indeed, few respondents think there is enough information available about the size of the municipal budget (for instance, from 6 percent in Benghazi to 41 percent in Ubari).

This lack of information also pertains to the composition of municipal spending. The same polling data show that between 1 and 41 percent of respondents claim to know what the municipality spends its money on (again the figures are low in Benghazi and high in Ubari). Given the paucity of published information, those who agree or strongly agree presumably do so on the basis of other, less formal, sources (such as family connections with municipal officials, radio reports, local conversations, and so on).

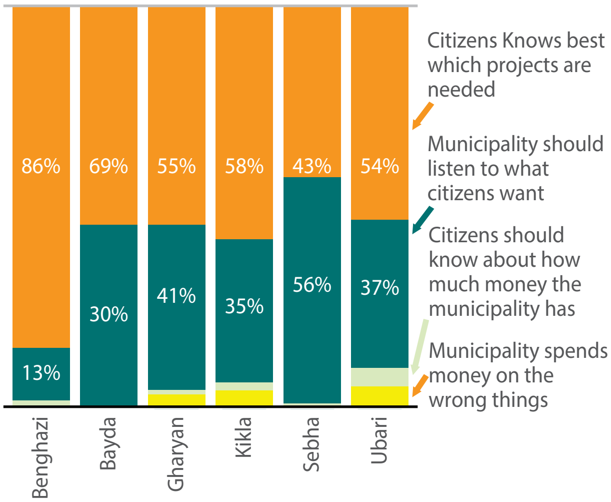
Citizens are also unclear about how decisions are made within municipalities. Typically, the lower the share of citizens who think the municipality holds meetings to discuss future plans, the higher the share who do not know how decisions are made (although it is noteworthy that in Benghazi, where only 6 percent think the municipality holds meetings to discuss future plans, the rate who agree or strongly agree that they do not know how decisions are made is relatively low).

Generally, this data indicates that citizens lack information about their municipality's investment plans and wish to have a stronger say. However, this gives no indication of engagement fatigue or lack of interest in local planning. Rather, it indicates a lack of opportunity for participation.

II. Community Engagement in Municipal Planning

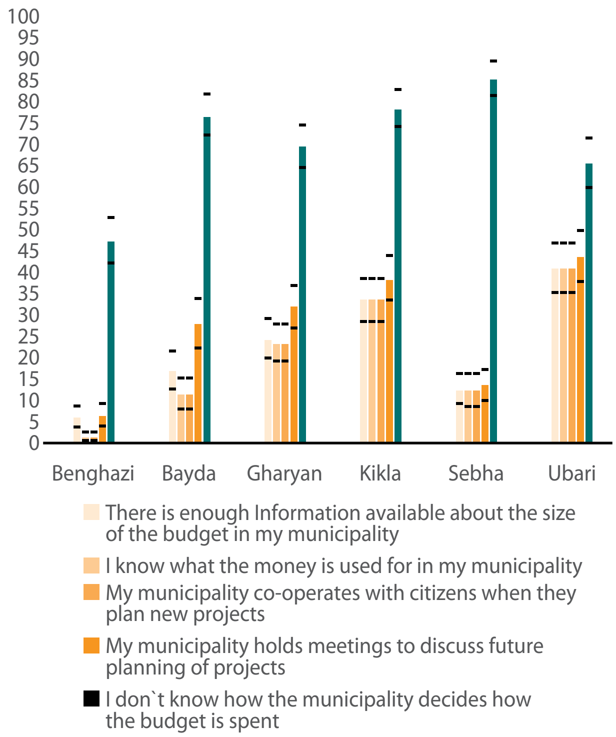
Experience indicates that community participation in local investment can usefully complement official municipal functions. For example, UNDP has worked with local peace structures to develop a collaborative mechanism for local social accountability. Citizen groups join municipal officials when items are handed over to end-users (for instance, a refurbished school to the Principal, or an ambulance to the hospital). They are not able to offer a professional judgement about the work done as that is the role of the relevant sectoral expert, for example, the Municipal engineer. However, they can provide a mechanism for community reassurance that what has been done meets the stated expectations.

FIGURE 3 Rationale for Replies: If Yes, Why?



Source: UNDP 2019.

FIGURE 4 Share of Respondents Who Agree or Strongly Agree with Five Statements about their Engagement with Municipal Planning



Source: UNDP 2019.

Such engagement helps to reduce the risk of conflict through disappointed expectations. Bringing together the technical experts, the service users, and community representatives has enabled all parties to dismiss the rumours that otherwise populate social media about inadequate work or inappropriate provision. In addition, by ensuring that representatives from across the various communities take part, the risk of perceived favouritism for some communities over others is diminished. It also provides an avenue through which municipal representatives can engage with responsible citizens and demonstrate that the municipality is in fact meeting citizens' desires and concerns.

Conflict reduction gains only come about, of course, if allocations are seen to be fair and inclusive. Technocratic planning is the natural purview of technical experts in municipal service divisions, and their responsibility is to identify the technically optimal allocation of resources. However, the investment plan that optimizes the number of connections to a reliable fresh water supply, for instance, or the number of pupils having access to a given level of education, may leave some groups at a disadvantage—or even largely excluded—without deliberate intent. Such allocations will, however, not be seen as fair and inclusive; instead, they have the potential to stoke future tensions and invite instability.

Community participation in investment allocation can support fairness and inclusion. Extensive prior consultations with communities and sectoral experts are a precondition for effective participatory conversations. As such, they require suitable resources. Such consultations need to be seen by communities as genuinely open and transparent, providing the opportunity for citizens to raise their concerns and state their preferences.

Investment allocation needs to reflect the realities of local conditions. Where there has been conflict, especially if it occurred recently, investment plans will need to address the concerns of the parties. Ideally, they should strengthen the interests that sustain the peace deal, broaden it to bring others into the arrangement, and disarm those who threaten the deal or feel threatened by it. This requires careful prior conflict analysis, so that interests are properly identified. Also, participation should be structured to ensure that no key actors are excluded.

Communities are more likely to engage across conflict lines if there are credible incentives to do so. Actors external to the conflict will inevitably have an impact on the dynamics when they bring resources to bear. International donors such as the UNDP may be able to engage without being seen as aligned to one or another party, but their resources will be far smaller than those of the state budget. Hence government engagement —which may or may not be external to a local conflict—is a key factor in shaping the conflict impact of planning. It is of course also key to ensuring the sustainability of such investments because the state budget will be the source of financing for operations and maintenance. Hence, it is important for the local planning process to bring together all sources of investment finance—including local enterprises, civil society, international donors and the government—to ensure that a coherent picture emerges. This also helps to avoid wasteful duplication or damaging exclusions.

Discussions of formal and informal avenues of investment planning need to accommodate the complex systems of local power and communications. Since technical criteria cannot completely identify optimal investment packages, there must always be a political choice in setting priorities. In this context, Libya is no exception to this general rule. In Libya, as elsewhere, there are competing sources of local power, including commercial wealth, traditional authority, elected representation, military forces, social standing, political charisma and many more. At the same time, there are also contested avenues of communication for messages to reach those who hold positions of power and responsibility. As such, discussions of investment planning need to be sufficiently flexible to accommodate these complexities and their locally-specific manifestations.

For effective engagement of communities in local planning, greater clarity about the processes would help to manage risks. Communities appear keen to engage in these discussions, as demonstrated by both polling data and project experience. However, their understanding of the process by which consultations at the local level are translated into funding flows is uncertain. Here again, polling data and project experience show this lack of clarity to be widespread. Clarity about where decisions lie and how they are made would help to mitigate the risk of unrealistic expectations which, if disappointed, can precipitate serious disaffection or even violent rejection.

Part V
Options for Reform

PAPER 18

Towards Democratic, Decentralized, Responsive and Transparent Local Governance in Libya[1]

Imad Saed, Lead Municipal PFM Advisor, USAID Libya Economic Stabilization Program

I. Introduction

It is important to understand how the meaning of "local governance" differs from other related concepts. Local governance is distinct from decentralization, although the two terms are at times used interchangeably.[2] Decentralization is a national level political process that can involve changes in political, legal, administrative, functional and fiscal systems.

Local governance encompasses a broad spectrum of issues and actors that influence local political, economic, and overall human development planning and decision-making. Some of the elements that shape local governance include political patterns, institutional arrangements, accountability mechanisms, the degree of civil society empowerment, and the extent of the capacity to generate local resources.

Local government generally denotes government institutions at the local level, comprising representative bodies, administrative organs, and the local branches of the central government. Municipalities and local or district councils are common terms used to refer to local government.

Many, if not all, countries in the Middle East and North Africa (MENA) region inherited local governance systems from various ruling powers over the past century that did not at the time reflect national interests. Furthermore,

although these systems were reformed and modernized over time in their countries of origin, they remained largely unchanged in the countries to which they had been exported, a fact that underscores the current calls for their comprehensive reform.

[1] Disclaimer: This paper was made possible with the support of the American People through the U.S. Agency for International Development (USAID). The contents of this document are the sole responsibility of the authors and do not necessarily reflect the views of USAID or the US Government.

[2] Rethinking approaches to local governance in the conflict affected countries in the Arab Region, UNDP report, 2010.

The development of a modernised local governance system requires a national policy/vision to establish and guide a comprehensive set of reforms that cover and promote local public service delivery, administrative and fiscal decentralization, enhanced community participation, and broad legal realignment. Such reforms are necessary to the establishment of a fundamentally democratic, decentralized, transparent, and responsive local governance system. However, in many countries the achievement of this objective remains highly challenging, particularly in those that have undergone a fundamental political transformation but have yet to establish mechanisms for building consensus among the new holders of political power.

II. Local Administration in Libya

In Libya, following the first elections after the 17 February Revolution, the General National Congress (GNC) was elected and installed in August 2012. An interim government was formed in November 2012. Among the priorities of the interim government was the development of a comprehensive process of public sector reforms. This process included a substantial restructuring of the Libyan local governance system with the goal of enhancing local capacities to address the long-forgotten needs of local populations. To advance this process, the Ministry of Local Government (MoLG) was tasked with the development of a Local Administration Law to provide the regulatory framework for the operation of the local councils that had evolved during the transitional period.

Local governance in Libya manifests mainly in the forms of de-concentration and delegation (agency), or as complex mixtures of these. There are some signs of movement towards delegation that are more pronounced at the previous *shabiya*[3] level. Variations can be noted among service sectors—and among services within given sectors—even though such services do not appear to have been delegated to the subnational level.

Local Administration Tiers in Libya

The Libyan local administration system comprises two tiers—central and local—with three administrative layers:

1. The ***central level.*** The top administrative layer is the MoLG. The MoLG has its main headquarters in Tripoli, which makes it hard for municipalities to communicate with the MoLG in an effective and timely manner, given that Libya is a large country (970 thousand square kilometres) with municipalities scattered across its territory.
2. The ***provincial level***. Following the revolution, the local administration structure underwent a major re-organization in 2012 when the Government of Libya decided to eliminate the *Sha'biyat*[4] and to instead establish provinces. Although Law 59 of 2012 provides for the establishment of provinces, these have still not been created. The establishment of provinces would add a second layer to the local administration system. The provinces are foreseen as having a monitoring and financing function vis-à-vis municipalities and as serving as a mediator between the MoLG and the municipalities. The decision to establish provinces was not based on public policy considerations but resulted principally from political concerns. Furthermore, the boundaries of neither provinces nor municipalities have yet been demarcated.

The complications resulting from this approach are administrative, financial, and technical. The sources of these complications include the creation of 121 municipalities and an unknown number of provinces without defining a clear role for either layer, the lack of adequate technical capacity at either the local or provincial level to carry out mandated responsibilities in service delivery, and the failure to elaborate in detail the structure and responsibilities for the management of the own source revenues (OSR) sources specified in Articles 25, 49, and 51 of Law 59 for either

[3] Shabiya Shabiyah (Arabic: شعبية ša'biyyah, plural: شعبيات ša'biyyāt) is a neologism exclusive to Libya under Gaddafi, in line with exclusive terms for republic (jamahiriya), ministry (amanah). The term basically means governorate, that is, a top-level administrative division that previously existed at the local level before the Feb 11th revolution in 2011.

[4] *Sha'biyat* used to exist as districts in Libya under the Gaddafi's regime where the country was divided to 22 sha'biyat. Within each one people elect a popular conference committee, while the committee elects a secretary who acts as a governor and reports directly to the central government.

municipalities or provinces. Many municipalities have been unable to support themselves financially; they lack the tax base required to finance their operations and must therefore depend almost entirely on the central government and outside donations.

3. The ***municipal level.*** There are 121 municipalities; 118 are officially recognized while three are not.

Municipal Functions/Service Delivery

Even though Article 25 of Law 59 specifies a wide range of public services to be performed by municipalities,[5] the delivery of virtually all public services continues to be carried out by the central government, either by line ministries (e.g., health care and education) or by government-run public companies (water and sanitation, electricity and solid waste management).

In early 2018 the Presidential Council (PC) of the Government of National Accord (GNA) issued Decree No. 35, which established a Higher Committee for the Transfer of Authorities to Municipalities. The membership of this committee was at the deputy minister level until February of 2019, when the PC issued Decree No. 247, mandating that the membership of the committee was now to be composed of ministers. This move can be considered as demonstrating a recently increased seriousness on the part of the GNA with respect to advancing the process of decentralisation.

With technical assistance provided by the USAID-funded Libya Economic Stabilization Program (LESP),[6] the MoLG also took significant steps to advance decentralisation in late 2018 and early 20019 by issuing a series of ministerial decrees that expanded the authority of municipalities over the delivery of certain public services, and over the regulation of a number of other regulatory functions. The services and public oversight functions covered by the decrees include water and sanitation, billboards, public spaces, public gardens, coffee shops, municipal guards, business licensing, public markets, building licensing and urban planning, swimming pools and summer resorts, public transportation, and slaughterhouses.

The MoLG also increased the potential sources of OSR available to municipalities when it issued MoLG Decree Number 14 of 2019, which authorised municipalities to propose and collect fees related to these services and subject areas, and to establish bank accounts for the deposit and expenditure of municipal OSR.

While the measures described above constitute significant steps in the right direction, a clear strategy on decentralization is still needed. Such a strategy should articulate in detail the specific mandates and roles of the sector line ministries and municipalities vis-à-vis each other. In addition, the strategy should clearly define a robust mechanism that will ensure that municipalities have sufficient funding to perform all mandated functions. The strategy should also lay out an approach for increasing municipal capacity to carry out those functions; such an approach should be based on a needs assessment that identifies the areas where targeted assistance is required to build municipal capacity.

For the transfer of functions to municipalities to be effective and to serve the purpose of decentralization, adequate technical capacity needs to be in place to ensure municipalities are capable of delivering services that meet specified quality and coverage standards, and that satisfy citizen expectations. Nevertheless, the absence of sufficient capacity at the municipal level should not serve as a justification for delaying decentralization. There is a need for a clear vision that specifies the public service delivery functions that are to be transferred. Such a vision can then serve as the basis for the design and implementation of a capacity development program.

The development and implementation of public service sector strategies that articulate an effective role for municipalities can be an effective approach for advancing decentralization. A current example is the solid waste

[5] According to article 25 of law 59 of 2012, municipal functions include: urban planning, organization, buildings, health and social affairs, water utilities, lighting, sanitation, roads, squares, bridges, local transportation, gardens, public recreation areas, shelters, real estate, spaces, public markets, and construction permits for tourism and investment projects within the boundaries of the municipality. In particular, the municipality shall assume the following functions: a) Civil Registry affairs , B) Regulation of municipal guard, local markets and slaughterhouses, C) Construction and management of local roads and bridges, D) Issuing local permits, E) Monitoring the environment and public health, and F) Establish and manage small business incubators in cooperation with competent authorities.

[6] https://pragmacorp.com/project/economic-growth-best-practices/.

management (SWM) sector strategy that was recently approved by the MoLG. That strategy introduces a decentralised role for municipalities, by authorizing them to contract for the delivery of SWM services by companies selected through a competitive bidding process. The strategy also introduces new fiscal management arrangements and a transparent financing mechanism.[7]

Existing Technical and Institutional Capacities

Having the required capacity means that local authorities can effectively exercise their authority and autonomy to respond to the local needs for which they are held accountable, because they have the competence to do so. The main challenge facing decentralization is ensuring that the institutions to which responsibilities are decentralized have the capacity to discharge those responsibilities.

Capacities can and do vary widely in terms of both particular functions and across municipalities of the same category. A decentralized system will quickly fail if local authorities have no capacity to deliver expected services. The capacities of a municipalities vary widely in accordance with their size, experience, donor assistance, and political linkages. On the other side, national authorities require certain capacities—often new to them—to allow them to perform the functions of enabling and coordinating a decentralized system.

The existing capacities of the MoLG and municipalities—which have only been established relatively, recently—are considered to be weak. This is especially true with respect to public expenditure management and service delivery[8] and other areas that require a higher degree of decentralization: local economic development, local and sub-national strategic planning, community participation, anti-corruption, human resource management, and OSR management.

The MoLG is a newly established ministry, and the capacities of its staff need to be enhanced to equip them with the advanced skills needed to perform the ministry's mandate as specified in Law 59. The MoLG's capacities must also be increased in other areas to enable it to more effectively carry out its role in developing the policies[9] and strategies associated with a more decentralized local administration system. In particular, the MoLG requires substantial capacity building work to enable it to carry out its key functions in the areas of policy development, strategy development, planning, monitoring, and steering.

Most municipalities cannot respond adequately to the growing expectations of citizens that municipalities can carry out the central government's functions in areas where the latter is failing to protect citizens, and/or provide for their basic needs. Even carrying out the most basic administrative functions with some level of efficiency and transparency represents a serious challenge for many municipalities.[10]

In terms of human resources, some municipalities find themselves with a ballooned workforce inherited from previous local administrations, while others lack necessary staff. The recruitment of qualified candidates in municipal administrations based on merit-based competition is not the norm.

Harmonizing the performance of MoLG and the municipalities can only be achieved through a clearly delineated and detailed division of their respective roles and authority that is laid out in professionally drafted legislation, and supported by staff with well-developed capacities. In this regard MoLG has taken a number of significant steps in formulating a new local governance system. It can achieve better results if its staff have the necessary expertise and skills. In particular, the MoLG needs to develop a clear and detailed policy to guide the reform of the local administration/governance system. Such a policy is expected to inform the efforts of national and international partners in

[7] The solid waste sector strategy was developed by MoLG with technical support form the USAID funded Libya Economic stabilization Program (LESP) implemented by The Pragma Corporation.

[8] The institutional and capacities arrangements at he local level during the transitional period in Libya, Assessment report, UNDP/Libya, March 2013.

[9] The Ministry of Local Government shall develop the plans and programs necessary for the implementation of the ***State's public policy*** in the field of local government, including facilities, urban planning and development that are within the mandate of local administration units, particularly the following: 1) Propose draft laws, regulations, ***policies*** and development plans related to the work of the Ministry, follow up and evaluate their implementation once approved.

[10] Rapid Diagnostic on the Situation of Local Governance and Local Development in Libya, UNDP/Libya, November, 2015.

their efforts to strategically support the establishment of a democratic, decentralised, responsive, and transparent system of local governance in Libya.

Despite the tireless efforts made over the past few years to build local administration/ governance capacity in Libya, there is still a very large amount of work to be done. It is important that there is a substantial level of harmony, coordination, and consistency among the various capacity building efforts; and that steps be taken to ensure that they are directed at increasing the ability of the institutions of local government to carry out their core roles, tasks, and responsibilities.

Current donor-funded capacity building programs and central government assistance in developing human capacity should be based on a strategic approach that considers the distinct needs of municipalities of different sizes (rather than one approach for all). Clear and detailed job descriptions/requirements must also first be put in place for all municipal staff so that capacity building efforts can be properly targeted and designed; this applies equally to staff involved in providing or arranging for the delivery of public services.

Although a number of needs assessment exercises have been conducted by various stakeholders, it is recommended that a comprehensive needs assessment be conducted for the entire local government sector. In developing such an assessment, due account should be taken of the specific roles and tasks of the different local government institutions. Conducting such a needs assessment will ensure that future efforts at building the capacity of all related local government institutions are both truly required and appropriately targeted.

Fiscal Arrangements

Current municipal financing in Libya is highly centralized. Municipalities only receive funding from the central government's budget through fiscal transfers made by the Ministry of Finance to the MoLG, which in turn transfers a lump sum to municipalities that reportedly follows a formula that provides for a 50% equalization rate, 25% based on population, and 25% on based on geographic area. However, the implementation of this formula faces two major problems: lack of updated census data (the last census was conducted in 2006); and no clear demarcation of the boundaries of municipalities and provinces.

III. Inter-Governmental Frame (IGF)

Government financial transfers to municipalities through the Ministry of Local Government are not regularized or transparent, leaving municipalities with severe financing shortfall situations. This severely limits their ability to provide services that respond to citizen's needs and meet their expectations.

Article 51 of Law 59 lists a significant number of categories of revenue that are to serve as municipal OSR; however, taken together, for the foreseeable future these OSR sources will only provide a fraction of the revenues needed by municipalities. In addition, Article 49 specifies several categories of shared taxes that are to be provided to municipalities by provinces; however, as already noted, no provinces have yet been established. Therefore, developing a responsive, effective, and transparent Inter-Governmental Finance Framework (IGFF) should be deemed of the highest priority. Such an IGFF should advance fiscal decentralisation by providing for well-targeted direct financial transfers to municipalities that meet objectively defined needs-based criteria. These should help ensure that the municipalities have the fiscal capacity to finance the delivery of public services. The IGFF should also provide for impactful public investments by the central government to improve public service delivery, especially in critical services such as SWM, primary health care, and education.

Article 49 of law 59 of 2012 states that provinces are to distribute 10% of shared tax and fees with the municipalities located within the province, but the provinces have not been established and the relevant boundaries have not been defined. Instead, the MoF transfers a lump sum to the MoLG, which in turn acts in the place of the provinces, and distributes this lump sum among the municipalities. However, the distribution of these funds reportedly follows a formula that is neither responsive nor transparent. Under the formula, the application of an equalization rate determines 50% of the funds provided to a municipality, while 25% is based on its population and 25% on its geographic area. However, again in the absence of recent census data and the lack of official geographic boundaries has meant that the amount actually provided to a municipality is likely heavily influenced by political factors.

MoLG, with technical support from USAID's LESP project has made significant progress over the past year in its efforts to help refine Libya's IGFF to make it a more responsive, effective, and transparent transfer mechanism. These efforts include work on the development of new approach that is based on international best practice and that introduces fair, transparent, and responsive equalization and subvention formulae that take into consideration population, development indicators, and categorical factors that give special attention to municipal size differences and their impact on the cost of providing services.[11]

IV. Own Source Revenue

Own source revenue (OSR) originates mainly from local taxes and service fees, which are currently collected by the central government. Article 51 of Law 59 lists 16[12] distinct potential sources of municipal OSR revenue.

Currently, most, if not all, of the revenue from the sources specified in Article 51 are collected by the central government. To begin the process of transferring the authority for the collection of this revenue to municipalities, the MoLG recognized in 2018 that three major steps were required:

1. The MoLG had to issue one or more decrees transferring the collection authority to municipalities.
2. The MoLG had to authorize municipalities to open their own bank accounts, which were to be used for the deposit and proper management of the funds collected.
3. The MoLG had to promote the development of the PFM capacities of municipalities with a special focus on the collection, management, budgeting, and expenditure of OSR.

To this end, earlier this year the Minister of MoLG issued Decree Number 14 of 2019 authorizing municipalities to collect fees and to open their own OSR bank accounts.

Legal Frame

Libya is approaching a critical stage in its transition: the preparation of a new constitution and laying the legal foundations of the new Libya. Two of the most important questions in any constitution-drafting process, and particularly in Libya's, is how and to what degree governmental authority will be decentralized, and how will that decentralization be reflected in the local administration/governance system. At the moment, the situation in Libya can generally be characterized as one of administrative de-concentration without authority.[13]

Prior to the revolution in 2011, the Libyan local administration system had not been altered since the early 1970s when the first local administration law was issued. That law provided for a considerably low degree of decentralization and was not informed by any national vision or conceptual policy framework. The result was fragmented development across the different areas and governorates, and growing frustration among the populations of less developed areas, particularly the southern areas of the country.

Following the national elections in 2012, the new Libyan government established for the first time a ministry responsible for local government matters, the Ministry of Local Government (MoLG). The MoLG was mandated to lead the development of a decentralized local administration/governance system, and the national policies on local

[11] See IGF frame developed and endorsed by MoLG with technical assistance of the USAID Libya Economic Stabilization Program.
[12] Article 51: Municipal resources include: Fees for municipal services, proceeds of museums, exhibition, gardens, clubs…etc; rents of properties leased by the municipality; revenues from fairs, libraries, and stadiums owned by the municipality; municipality share of value of local taxes allocated to the province; municipal share of customs, transit, airport, and port fees levied in the province; municipal investment yield; 50% of the value of buildings and properties sold by municipalities; penalties and settlements imposed in return for reconciliation; loans, donations, and trusts approved by the provincial council; sales, of advertising and tourism products; proceeds of public open markets, slaughterhouses, baths, and public transportation operated by the municipality; 10% of any ore found within municipal boundaries; sales of goods confiscated by the municipal guards; government support and subsidies and other resources prescribed by a decision of the council.
[13] Executive structures at regional and local level, comprehensive review, Libya, Adam Smith International, 2013.

governance. The MoLG also was made responsible for monitoring the performance of the local councils and governorates.[14] In accordance with its mandate, the MoLG led the development of a new law on local administration, Law 59, which was endorsed by the temporary national council and came into effect in 2012.

While Law 59 of 2012 can be considered a step in the right direction toward the establishment of a local governance system in the country, the new law still needs to be well-articulated to citizens, municipalities, governorates, and civil society. It also needs to be validated through a participatory implementation strategy, that strives to achieve consensus through the participation of all local and national partners.

The law states that the system of local administration is to have two tiers: municipalities and provinces. To date, 121 municipalities have been established, of which 118 have had their legal status validated, while three still need to legalize their establishment and obtain the official recognition of the MoLG. Provinces, which were foreseen in Article 49 of Law 59 as having an important role in local PFM and the financing of municipalities, have not yet been established and there are no signs that this will change in the near future.

Article 25 of Law 59 describes the functions that are to be performed by municipalities with respect to public service delivery; however, most, if not all, of these services are being provided either by the local branches of sector line ministries (education, primary healthcare) or by public government companies (electricity, water, sanitation, and SWM). These public government companies still enjoy a legal status that is in conflict with Article 25 of Law 59. This is an issue that needs to be addressed rather urgently, if the decentralization of service delivery to municipalities is to be advanced.

V. Policy Development: Cases of Similar Context

Tunisia

In Tunisia, local governments used to be under the Ministry of Interior, which implied a central state approach in managing local affairs. Following the revolution in 2011, the Ministry of Local and Environment Affairs was established to regulate, supervise, and lead the reform of local governance in the country.

On March 3, 2011, Tunisian elected a new council for drafting the new constitution in Tunis. On 26th January 2014, the new constitution of Tunis was approved. Chapter 13 of the constitution stated that "the state is committed to support and adopt decentralization in the country" which is a major constitutional step forward. Moreover, chapter 7 of the constitution further emphasized concepts of decentralization, democracy, community participation and accountability.

With regard to the administrative tiers of local governance, the Tunisian constitution was very clear regarding the creation of provinces (wilayat), municipalities and localities. In 2018, municipal elections were conducted in Tunisia, allowing citizens to elect their local representatives. This represents the fundamental building block for democratic local governance.

Guided by the clear articles of the Tunisian constitution on local governance decentralization, the national government (represented by the Ministry of Local and Environment Affairs), initiated practical steps—grounded in clear constitutional guidance—to reform the local governance sector, and to effectively coordinate/focus relevant donor assistance activities. In this regard the USAID funded Tunisia Accountability, Decentralization, and Effective Municipalities (TADAEEM or "Consolidation")[15] Program is a good example of a constitutionally-guided technical support effort, that is tailored to empower service delivery and community participation decentralisation in Tunis.

Jordan

In 2015, Jordan took a step forward in further supporting decentralisation in local governance by issuing Decentralisation Law Number 49 of 2015. The new law offered a higher degree of decentralization, where provincial council and governors are elected and enjoy higher administrative and financial authorities and responsibilities at the provincial

[14] Libyan Local Administration Law number 59 for 2012.

[15] https://www.usaid.gov/tunisia/democracy-and-governance.

level. This includes collecting local taxes and fees and contributing substantively to municipal budgetary processes.

Following the decentralization law, the Government of Jordan issued the new amended municipal law of 2015 that delegates a wide range of service delivery to elected local councils and mayors as stated in articles 5 and 6. Through this reform over 30 functions have been delegated to municipalities. Moreover, in support of fiscal decentralization, the new municipal law of 2015 pinpointed decentralized sources of own source revenue for municipalities to manage, collect and budget.

In addition, municipalities in Jordan have the chance to access financing in loans form through the Cities and Villages Development Bank (CVDB)[16] that receives funds from the central government. It offers a soft long term borrowing mechanism for cities and municipalities to provide access to financing special infrastructure, development and service delivery projects.

Somalia

Somalia has taken progressive decentralisation steps and included decentralization of local governance in "Somalia's Constitution of 2012" and Law 23.[17] Local governance functions, own source revenue sources, and the overall intergovernmental framework have been clearly defined under this legal framework.

Local governance tiers in Somalia consist of three layers: Ministry of Interior as the regulatory ministry, regions and districts. Each district has an elected council and mayor for the capital city and in each cluster within its boundaries. The district capital city provides services for all clusters in the district. Services include, but are not limited to: primary education, primary health care, public cleaning, local economic development, business licencing, construction and maintenance of internal roads, electricity, urban and spatial planning, building licencing, natural resources and environment, water and sanitation.

Since the approval of the constitution of Somalia and Law 23 of 2012, the federal governments of Somali Land State of Somalia and the Puntland State of Somalia have made progressive steps in advancing local governance decentralisation. In this regard they formed a local governance decentralisation champion office that is chaired by the Vice President in each of the two federal states. This office includes membership of the key sector line ministries: Ministry of Interior, Ministry of Finance, Ministry of Planning, Ministry of Health, Ministry of Education, Ministry of Public Works, Ministry of Environment and Natural Resources, and Water Authority.

In November 2013, the Champion Office for Local Governance Decentralisation, with technical support from a consortium of UN agencies: UNDP, UNICEF, UN Habitat, ILO and UNCDF, developed a local governance decentralisation policy.[18] The decentralisation policy has guided the development of clear sector decentralisation strategies for service delivery and fiscal decentralisation. These were developed by the champion office, and through technical support provided by the United Nations Joint Program for Local Governance (UNJPLG) service delivery.[19]

VI. Decentralised Local Governance Policy

Decentralization refers to the restructuring of authority, such that there is a system of co-responsibility between institutions of governance at the central, regional and local levels (in accordance with the principle of subsidiarity). Under such a governance regime, functions (or tasks) are transferred to the lowest institutional or social level that is capable (or potentially capable) of completing them. Decentralization relates to the role of, and the relationship between central and sub-national institutions—whether they are public, private or civic.[20]

[16] https://www.govserv.org/JO/Amman/227723844665542/بنك -تنمية -المدن -والقرى ---الأردن-CVDB---Jordan.
[17] https://www.constituteproject.org/constitution/Somalia_2012.pdf.
[18] See local governance decentralisation and road map for Somaliland State of Somalia and Puntland State of Somalia, developed and approved by both governments in 2013.
[19] http://www.so.undp.org/content/somalia/en/home/operations/projects/womens_empowerment/joint-programme-on-local-governance-and-decentralized-service-de.html.
[20] UNDP (2004) Decentralized Governance for Development: A Combined Practice Note on Decentralisation, Local Governance and Urban/Rural Development.

To support decentralization in local governance, countries have chosen to develop a local governance public policy framework that clearly articulates functions to be decentralized; a fiscal decentralization system where sources of funding of local governments are clearly articulated; and a legal framework that regulates intergovernmental fiscal relations, responsibilities and authorities in service delivery and financial management and community participation.

Public policy is a combination of basic decisions, commitments, and actions made by those who hold authority or affect government decisions. The policy-making process weighs and balances public values. Often there is no "right" choice or correct technical answer to the issue at hand. Policymaking can at times be an adversarial process, characterized by the clash of competing and conflicting interests and viewpoints, rather than an impartial, disinterested, or "objective" search for "correct" solutions for policy issues. The larger and more diverse the constituency, the more difficult policymaking becomes, particularly when addressing regional issues.[21]

Local governance policy, if it exists, is expected to guide the national and international efforts in Libya towards systematically support the development of a democratic, decentralized, responsive and transparent system of local governance. The following serve as a set of proposals to consider for inclusion in an overarching policy framework for local governance:

Political Decentralisation

To ensure local democratic presentation, where citizens have the chance to choose their local representative officials through direct democratic and transparent local elections that are conducted on a regular basis and are guaranteed by law.

Administrative Decentralisation

Clear and effective relations between central, regional/provincial, and local governments should be well articulated, and guarantee a decentralized role for local governments in service delivery. This should be defined in a manner which enables local governments to perform an effective role in providing high quality services to their constituents.

Fiscal Decentralisation

To clearly enable and articulate decentralized fiscal resources, including local taxes and service fees to be collected directly by local governments, in addition to a responsive intergovernmental framework where guarantees predictable and transparent fiscal transfers of shared taxes and earmarked funds in accordance with objectively defined needs-based criteria, in order to enable local governments to perform mandated functions and responsibilities. Viewed as a whole, this fiscal financing framework provides for a robust local finance strategy that clearly identifies funding for decentralized local services.

Service Delivery Decentralisation

Well-defined functions of service delivery, where the role of the central government is focused on developing public/national sector policies, and the regional/provincial level focus is geared towards ensuring the implementation of public policies at the regional level; while local governments have a decentralized role in carrying out implementation of service delivery at the local level, in line with national policies and in a participatory fashion.

Community Participation/Social Accountability

Locally elected officials can best be held accountable by their constituencies (rather than being answerable only or primarily to the central government). Moreover fruitful community participation and social accountability tools help citizens effectively monitor and evaluate local government's performance. This in turn underscores the important role which can be played by Civil Society Organisations in democratic community governance processes. Community participation should not be left as an optional feature of the governance regime. and should be legally guaranteed.

[21] Local Government Policy Making Process, Municipal Research and Services Center of Washington, February 1999.

Anti Corruption/Transparency

During the decentralization process, special attention should be given to ensuring transparency and accountability, in order to ensure not to decentralise possible corruption that could be nested at the central level, or (even worse) to encourage a further intensification of corrupt practices. To avoid this outcome, robust legislations that empowers and enforces transparency in local budgeting and public financial management is critically important. The overall public governance framework for decentralization which is put in place should also mandate anti-corruption measures to combat nepotism, favouritism, abuse of authority and funds mismanagement. Moreover the "checks and balances" based regulatory oversight role of the central government in enforcing compliance with core service provision and related fiscal governance standards, can play an important role in promoting improved fiscal efficiency and transparency outcomes under a decentralized fiscal system.

Legal Revision

Conduct comprehensive reform of the elements of the legal framework that affect local governance to reflect all components of the decentralized local governance policy. These reforms should be developed through a participatory approach, whereby all stakeholders (the central government line ministries, municipalities, civil society, academia, and the private sector) are effectively represented.

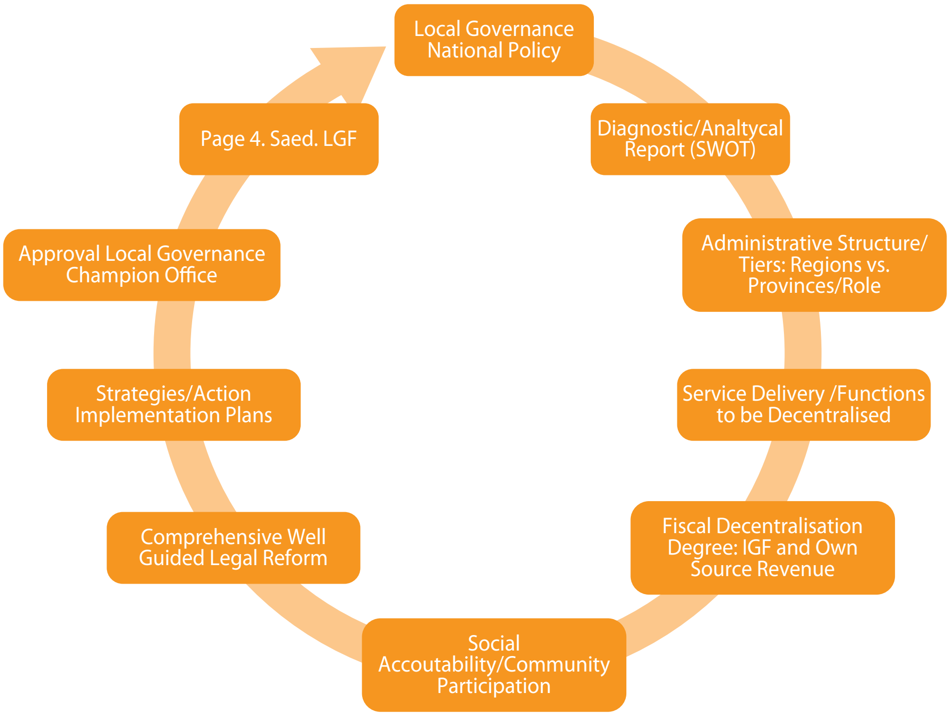
VII. Conclusion and Recommended Actions

In addition to the four ministries that currently constitute the membership of the Higher Committee for the Transfer of Authorities to Municipalities, it is recommended that the membership of the Higher Committee be expanded to include the following ministries: the Ministry of Health, the Ministry of Economy, the Ministry of Planning, and the Ministry of Transportation and Public Works.

The Higher Committee's mandate should also be expanded to make it responsible for the development of a national policy on decentralized local governance, which can better guide the transformation of the current local administration system to a democratic, decentralized, responsive, and transparent local governance system.

The evolution of a democratic, decentralised, responsive and transparent system of local governance in Libya is expected to provide strategic guidance to the Government of Libya and international partners in directing efforts that can contribute to transformational reform of the local administration system in Libya. Moreover, such a policy will guide and inform the comprehensive revision of the existing local governance-related sector legal/regulatory framework, in a manner which helps to ensure harmonised legislative guidelines moving ahead.

The below chart shows suggested steps and actions to be taken by the higher committee to lead and steer the development of a national local governance policy.


Local Governance National Policy
Diagnostic/Analytcal Report (SWOT)
Administrative Structure/ Tiers: Regions vs. Provinces/Role
Service Delivery /Functions to be Decentralised
Fiscal Decentralisation Degree: IGF and Own Source Revenue
Social Accoutability/Community Participation
Comprehensive Well Guided Legal Reform
Strategies/Action Implementation Plans
Approval Local Governance Champion Office
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PAPER 19

Options for Reforming the Intergovernmental and Local Public Finance System in Libya[1]

Jan Warner,[2] Senior Intergovernmental PFM Advisor under the Libya Economic Stabilization Program (LESP) of the USAID Middle East Growth (MEG)

I. Introduction

Libya is a unitary country, with the central government in the capital Tripoli. There are 22 districts and 121 municipalities. The number of municipalities has increased in recent years. With Law 59 of 2012 (hereinafter referred to as "Law 59"), in combination with Decree numbers 180 and 540 of 2013, the central government originally established 99 new municipalities. Those were subsequently split up to create 112 municipalities by July 2014. Today there are 121 municipalities; 118 of which have been formally established, with the creation of three still in process.

In the years 2013 and 2014, around 85 municipal councils were effectively elected under the supervision of the Central Committee for Municipal Council Elections. In the municipalities where no elections were conducted, ad hoc local councils, inherited from the revolution period in 2011 and selected by popular acclamation or through other non-official electoral processes, have remained in place.[3]

Libya had more than 6.7 million inhabitants[4] in 2018. The exact distribution among the 121 municipalities is provided in the appendix.

The expenditure assignment of municipalities in Libya takes two forms. On the one hand, the legal framework for decentralisation is mainly provided for in Law 59, which—in Article 25—specifies a number of municipal expenditure

[1] Disclaimer: This paper was made possible with the support of the American People through the U.S. Agency for International Development (USAID). The contents of this document are the sole responsibility of the authors and do not necessarily reflect the views of USAID or the US Government.

[2] Prepared by Prof. Dr. Jan Warner, Senior Intergovernmental PFM Advisor, USAID Libya Economic Stabilization Program; Professor of Economics at the Cologne Business School, University of Applied Sciences, Hardefuststraße 1, 50677 Köln; and Lead Economist at the Institute of Local Public Finance, Friedrich-Ebert-Straße 79, 63225 Langen, Germany. jan.werner@ilpf.de and jwarner@pragmacorp.com.

[3] See UNDP, 2015, page 11.

[4] The World Bank has reported 6.3 million people for 2017, see World Bank, 2019, page 1.

areas (the appendix contains the full list of these areas). On the other hand, however, the majority of municipalities are only acting as an agent for the central government; e.g., issuing identification cards or doing simple works like cleaning public parks or taking care of street lighting. In some areas, such as water utilities, there are special purpose public entities that work independently and away from any municipal control.[5] The so-called municipal guard, which—for example—is responsible for monitoring the local markets, collects the market fee without any municipal supervision[6] and is an agent of the Ministry of Local Government (MoLG).

The legal framework specifies a vast number of expenditure areas that are to be delegated to the municipalities, such as housing, planning, roads, basic health, securities, permits, water utilities, and electricity. However, the municipalities do not offer this range of public services to their inhabitants due to the substantial capacity deficits (in terms of both know-how and equipment) of the local administrations, fiscal deficits (owing to the low volume and unpredictability of revenue flows), and a lack of political will.

Another major weakness in the intergovernmental framework in Libya is that the municipalities are not mandated to collect taxes nor in reality to receive any fixed portion of national taxes. Apart from a small amount of revenue from user fees, the municipalities must rely on vertical transfers from the central government as their main or sole source of revenue. The following table explains the structure of these vertical grants from 2013 until 2018, based on the value per citizen[7] in US-dollars:[8]

	2013	2014	2015	2016	2017	2018
Wage reimbursement	3.6 US-$	3.0 US-$	2.7 US-$	3.7 US-$	3.6 US-$	10.8 US-$
Funds for local expenditure	60.5 US-$	30.2 US-$	15.1 US-$	18.3 US-$	21.5 US-$	12.1 US-$
Funds for local investments	24.2 US-$	241.9 US-$	72.6 US-$	0 US-$	0 US-$	0 US-$

Source: Own calculation based on Law 13 of 2014 and the budget plans of the central government, mainly from the budget plans of the MoLG for 2013 to 2018.

The salary structure of the municipalities relies on the allocation factor of the wage reimbursement fund. Local employees are hired and fired by the MoLG. The MoLG transfers the exact salary amount to the municipalities, and the municipalities pay out the salary. This structure results in a zero sum game for the municipalities, as they cannot influence the personnel structure, but only act as an agent of the central government. This situation is an extreme violation of the principle of administrative decentralisation.[9] The funds for local expenditure and local infrastructure are supposed to be distributed between the municipalities based on three indicators: population, geographical area, and a lump sum. However, neither the exact basis of data nor the exact calculation are published by the MoLG. Thus the transfer system could be described more as an ad hoc system, which creates a lot of negative potential for political pork-barrelling.

Another challenge for the municipalities is the time lag in the availability of resources. In 2018, for example, the first allocation of the fund for local expenditures was released in September and October.

In addition to the municipalities' low fiscal autonomy, local expenditure is dependent on federal revenue transfers that leave little room for any freedom in fiscal policymaking. Unfortunately, a low quality of education and health services leads to low living standards, and their improvement is the key to raising the economic prospects of the municipalities in Libya. Only well educated people with a sound public service delivery are able and willing to pay

[5] The Great-Man-Made-River-Project (GMMRP) is the biggest central water supplier in Libya; for this reason the decentralization of water supply is quite a tricky task. The municipalities can only collect some user fees. Moreover, the Libyan population does not have high tax morale, because historically no fee at all was charged for such basic services.

[6] In April, Decree number 56 of 2019 was issued, and Article 19 thereof provides that a municipality's mayor should supervise the Municipal Guard and determine, with the Minister of Local Government, on the link and communications system between the Municipal Guard and the municipality. However, as in various other areas in Libya, there is a large discrepancy between the law and its practical implementation in the municipalities.

[7] The median total population of 6.2 million people during the period 2013–2018 was used in the calculation for each year.

[8] The average exchange rate used for the period was 1 Libyan Dinar = 0.75 US-Dollar .

[9] In administrative decentralization, the central government gives regional and local authorities the right to provide and manage public goods under their own full responsibility. For example, the local units are allowed to hire and fire their employees or to offer a particular level of child care.

taxes, because both tax morale and the tax ratio in relation to GDP[10]—only 1.5 % in 2018[11]—are extremely low in Libya.

II. Local Public Finance and Intergovernmental Transfer around the World

The decentralisation of expenditures and public functions in fiscal federalism raises two key issues: 1. How will these be financed; and 2. What degree of autonomy should be granted to subnational and local authorities in providing public goods and services.

In Anglo-Saxon countries such as Canada, the United States, and the United Kingdom local authorities have access to an extensive system of local property taxation, which creates a direct link between the preferences of the citizens in terms of local public goods and the policy makers who have to provide the local public goods. In contrast, grants or transfers do not create a similar connection between public payment and the reception of services.

Several European countries—including Switzerland, Belgium, Croatia, and the Scandinavian countries—give local authorities significant tax autonomy. Besides a local property tax, they commonly apply a local surcharge on personal income taxes.

Countries such as Austria, Bolivia, Germany, Pakistan, and Poland have developed local tax systems with their own revenues as well as tax-sharing.

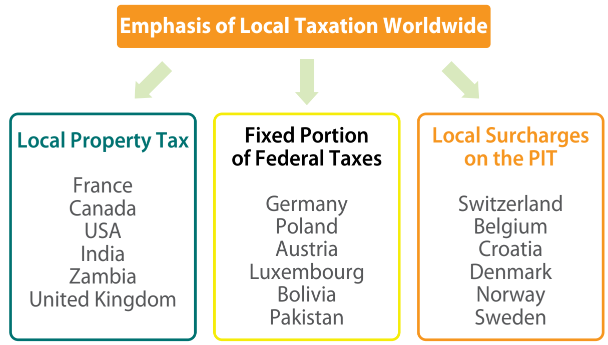
The following three figures summarise the different local taxation concepts, as well as the pros and cons of tax sharing and local tax structures around the world.

The pros of a tax-sharing system include stable revenues, because the taxes are not as strongly affected by economic fluctuations. A common tax for all tiers of government also strengthens the solidarity between them as they are all sitting in the same boat.

[10] GDP in Libya was estimated to be 43.6 billion US dollars or 69.32 billion Libyan dinars in 2018.

[11] The total public revenues in Libya amounted to 35.9 billion Libyan dinars (LYD) in 2018, made up of 33.5 billion LYD from oil revenues and 2.4 billion LYD from non-oil revenues. The non-oil revenues themselves can divided into 1.1 billion LYD of tax revenue, 0.4 billion LYD in customs revenue, and 0.9 billion other revenues. Source Central Bank of Libya, 2018, pages 61–62.

FIGURE 1 Options for Local Taxation



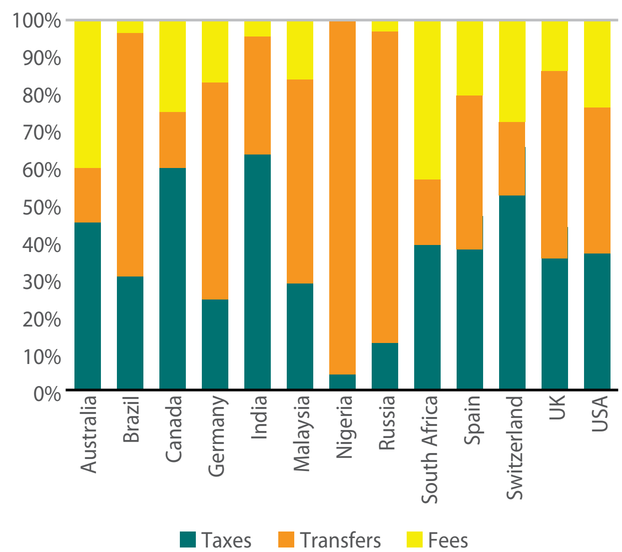
Source: Werner, 2019.

FIGURE 2 Pros and Cons of Tax Sharing and Own Revenues

	Tax sSharing	Own Revenues
Pro	• Stable revenues, because the taxes are not strongly affected by economic fluctuation • Common tax for all tiers of government	• High revenue autonomy and direct link to the local accountability • No political pork barrelling possible
Con	• No revenue autonomy and for this reason a low local accountability • Lower transparency	• No stable revenues flow • Administration issue

Source: Werner, 2019.

FIGURE 3 Local Public Finance Structure Around the World



Source: Werner, 2019.

The cons of tax-sharing include the lack of revenue autonomy, which in turn leads to a lower level of local accountability and less transparency compared to the Anglo-Saxon model with its intensive property tax, or in the Scandinavian model with its local piggy-back tax on the national personal income tax.

Nevertheless, vertical grants also are needed in the Anglo-Saxon, Scandinavian, and the German models. Grants and transfers avoid external effects and spillovers; for example, a local jurisdiction benefits from services of other local authorities without participating in the cost. This situation often exists in the relationship between a metropolitan city and its suburbs.

But why should a country use intergovernmental transfer or even a fiscal equalisation system? The reasons are diverse and include:

- Bridging vertical fiscal gaps, e.g. Canada
- Bridging fiscal divide through fiscal equalisation, e.g. Indonesia and the province of Aceh
- Setting national minimum standards, e.g. Denmark and Sweden for their education sector
- Compensating for the spillover of benefits, e.g., Switzerland and Germany with their city states
- Influencing local priorities or political pork barrelling, e.g. with the US Homeland Security grants, earmarked grants for capital investments
- Dealing with infrastructure deficiencies and creating macroeconomic stability in depressed units through incentive grants, e.g. Cohesion Fund of the EU, bail out dilemma in federal countries

When a country wants to create an equalisation system, the first consideration is whether it should consist of direct horizontal transfers between the subnational entities or be purely a vertical equalisation system, meaning that there is transfer between the different tiers of government (e.g., from the central government to the provinces or from the regions and municipalities).[12]

The majority of equalisation systems worldwide are vertical ones. However, Germany's equalisation system among the 16 federal states has a strong horizontal element. Likewise, Switzerland has a horizontal education equalisation system for its 12 universities. Two of them are institutions of the central government, with the rest spread across 10 different Swiss cantons. The 16 remaining cantons do not have universities but make payments horizontally to those that do to cover the spillover costs of educating their commuting students. The calculation of the funds is very detailed, taking into account the duration of the studies and different faculty costs, for example.[13]

The equalisation system may be based mainly on revenue equalisation or on cost equalisation. Revenue equalisation means that a rich local unit is considered rich because it possesses more fiscal revenues per capita than the national average.

Cost equalisation means that the different expenditure needs of municipalities or regions are considered and extra burdens are rebalanced or compensated for in the respective equalisation system or rather in formula.

Two well-known examples of revenue equalisation include the Canadian equalisation system between its provinces (see Boadway, 2004; Bird & Vaillancourt, 2007 and Tombe, 2018) and the German equalisation system between its federal states (Werner, 2003; Spahn & Werner, 2007 and Werner, 2018). In contrast, Australia, Denmark, and Sweden (see Werner & Shah, 2005) base their respective equalisation systems on the concept of cost equalisation.

In Denmark, the local units are responsible for primary education. Thus education expenditures are higher in municipalities with more young families and school-aged children than in those with a similar population but fewer pupils. To compensate, the Danish equalisation system has a demographic composition,[14] where the population is divided into different age groups, and the municipalities receive their funds based on the individual age of

[12] Normally a vertical equalisation system is a top-down approach, but in the case of the European Union and Bosnia-Herzegovina (from 1995 until 2005, see Werner, Guihéry and Djukic, 2006) there is a bottom-up approach, for the latter because the central government was politically weak and did not have its own taxation right.
[13] For detailed description see Werner, 2008.
[14] Besides the demographic factor, there is also another factor which balances the respective socio-economic circumstances of each citizen, for example if a person is unemployed or not or if the person is a migrant or not.

every citizen. According to the formula, citizens aged 6 to 16 and those older than 85 years generate the highest funds for the municipalities, and people in the age group from 20 to 24 generate the lowest funds.

Another form of equalisation takes into account geographic or spatial diversity across different regions. For example, in Nepal, it is quite easy to construct an asphalt road in the flat area along the Indian border, but will cost three times more to do so in the mountainous terrain of the Himalayas due to the need for bridges and more intensive earthwork. Switzerland has addressed discrepancies in geography, economic development, and population across its cantons by factoring in a "load-balancing" (*Lastenausgleich*) in its equalisation formula. Based on the calculation, the central Swiss government will transfer 710 million US-dollars to the cantons in 2019.

The following two figures describe the two principle questions of revenue and cost equalisation systems.

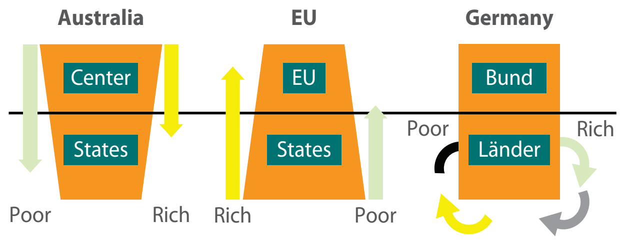
While the German system mainly equalises revenue disparities between the federal states, the Swiss university education equalisation system considers the different expenditure needs of each canton.

Revenue equalisation systems are easier to administer and more transparent, but not suited for taking into account spillover. In the view of this author, revenue equalisation should be used solely for regions or provinces, while a local equalisation system should be based on cost equalisation.

The third question to consider in any equalisation system is which type of institutional arrangement to be used. Options include:

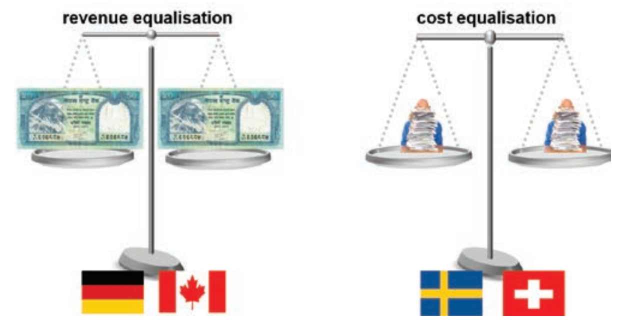
- Central government **agency** ("sink or swim")
  - MoF as in China, Croatia, Italy, and Poland
- National **legislature** ("A cobbler should stick to his last")
  - Senate of Brazil fixed by the constitution
- Intergovernmental **forum** ("avoid a toothless paper tiger")
  - Bolivia, Canada, Indonesia, Germany, and Montenegro
- Independent agency / **grant commission** ("political outsourcing")
  - Australia, India, Pakistan, South Africa, and Uganda

FIGURE 4 Local Public Finance Structure around the World



Source: Spahn / Werner, 2007.

FIGURE 5 Difference Between Revenue Equalisation and Cost Equalisation



Source: Werner, 2018.

As an example of an independent agency, Australia has a strong, vertical fiscal imbalance in favour of the central government. It corrects this imbalance by using asymmetric vertical grants (based on the goods and services tax) with an implicit equalising effect. The Australian Commonwealth Grants Commission (CGC), set up in 1933, advises the central government and the Australian states. As an advisory body, the CGC is asked to calculate appropriate ratios of per capita grants for the distribution of general revenue assistance from the Australian Government to the states and territories. The central government, as well as the states and territories, accept the suggested distribution of the grants to the states, even though *de jure* the right to make the final decision belongs to the Commonwealth Minister for Finance and Administration.

The Australian system of fiscal equalisation is perhaps the most complex, all-embracing, and thorough system of all federations worldwide. Indeed, it is often criticised for its complexity and lack of transparency. Even the CGC itself observes that "the simplification of methods should be a priority going forward" (see CGC, 2004, page84). The country has put in place an explicit and ambitious equalisation scheme that aims at full, standardised budget equalisation. In establishing a point of reference for such a scheme, Australia not only attempts to evaluate the standardised taxing capacity of its states, but also of standardised expenditures adjusted for needs and cost differentials among jurisdictions.

As an example of the intergovernmental forum, the Canadian equalisation system is embraces the country's heterogeneity of different forms of cultural heritage, with the major French-speaking province of Quebec, the bilingual mixed province of New Brunswick, and the eight English-speaking Anglo-Saxon provinces. While Canada has one of the highest forms of subnational tax sovereignty in the world, its economically weak provinces, which are mostly located on the Atlantic Ocean coastline, are heavily influenced by the vertical equalisation grants of the central government in Ottawa.

On 5th December 2003, the premiers of Canada's 10 provinces and 3 territories created the Council of the Federation. Its objectives are to promote interprovincial territorial cooperation, to foster the relations between governments based on respect for the Constitution and recognition of the diversity within the Federation, and to show leadership on issues important to all Canadians. This intergovernmental forum is a council without the central government and shows the political strength of the provinces in Canada. The Canadian Intergovernmental Conference Secretariat (CICS) is a neutral agency which provides administrative services required for the planning and conduct of intergovernmental conferences. The CICS was established in May 1973 and is an impartial agency at the service of 14 governments (central, provincial and territorial).

III. Recommendations for Libya

Recommendation 1. Address the need for governance capacity strengthening by reinvigorating the Abu Saleem Local Governance Center as a local governance public service academy. The local governance system in Libya is currently undergoing substantial changes, as significant steps are undertaken towards greater decentralization of service delivery and fiscal responsibilities. This decentralization initiative requires that persons possessing the necessary technical skills be available to both the Ministry of Local Government and the municipalities (and the provinces, if and when these are established). To ensure that a sufficient pool of persons possessing the needed technical skills are available, the Abu Saleem Local Governance Center should be reinvigorated to serve as a local governance public service academy. Currently this advanced training institution is dormant, with no courses being held and the institution existing virtually only on paper. However, the municipalities in Libya have a huge personnel deficit in terms of administrative knowledge and skills; and the general principle for successful decentralization is that "finance follows function, and function follows capacity."

Recommendation 2. Continue to hold yearly elections. To ensure the legitimacy of the local officials who are managing local financial resources—including both those generated as own source revenue and those transferred by the central government—it imperative for the country to continue holding nationwide local elections every four years. Democratic legitimation is important to the establishment of the tax-benefit connection at the local level and can send a clear signal of normality, peace, and stability to the people.[15] Moreover, it is crucial to the deepening of social accountability and community participation that local governments be made answerable to their constituencies.

[15] An international example is the Pakistani province of Khyper Pakthunkhwa (KP), close to the border with Afghanistan. The province was confronted with the "War in North-West Pakistan" in 2004, which was an armed conflict between the regular Pakistani army and various armed militant groups, such as the Tehrik-i-Taliban Pakistan (TTP), Jundallah, Lashkar-e-Islam (LeI), Tehreek-e-Nafaz-e-Shariat-e-Mohammadi (TNSM), and al-Qaeda.. Local elections were held in KP on 30th May 2015, and a total of 84,420 candidates contested 41,762 seats on district, town, neighbourhood and village councils. They were the first local elections in the province for ten years, because the last local elections in the province had taken place in February 2005. The local councils that had been elected then were dissolved on 20th February 2010 after their term of office ended, and they were replaced by administrators until the 2015 elections.

Recommendation 3. **Introduce significant types of own-source revenue for municipalities in Libya.** Currently, the municipalities are highly dependent on vertical transfers from the central government and have no fiscal autonomy. One of the key issues for the Libyan local authorities is thus to release them from their fiscal dormancy, and enable them to generate own-source revenues.

Own-source revenues may be either taxes or fees, but fees and user charges also imply direct costs for a local jurisdiction; no fees are generated if no service is offered. For this reason, taxes are always preferable to fees.

Based on the classification of Figure 1, only the option of property tax seems to be advisable in the Libyan context, because there is no enhanced personal income tax system in Libya yet, which would allow a piggy back of local surcharges on the national personal income tax, as in the Nordic countries, Switzerland, Belgium, and Croatia. Moreover, a tax sharing system such as that of Bolivia, Pakistan, or Germany is also not possible, because there is no valued added tax to share in Libya and—even if there were—tax sharing of this kind would not sufficiently increase the fiscal freedom of the municipalities in Libya.

Hence, the introduction of a local property tax could be the only main source for gaining local revenues. However, the introduction of a property tax system is not a short-term goal, it has to be seen as a medium/long-term goal, as its introduction requires a thorough strategy and implementation plan, which could be developed during the next five years.

A general problem of all property tax systems is the question of how to obtain a market-based valuation of the property without generating high administrative costs. In Libya, there is only an incomplete nation-wide cadastre. Furthermore, since properties are sold without conveyance duty / real estate transfer tax, it is impossible to determine property values on the basis of selling prices.

A tailor-made property tax system for Libya should thus use the following concepts.

- Tax administration and tax collection should be handled by the central administration, with the central government receiving 15 % of the total tax revenues as a refund for administration costs. This feature can be compared to a tax sharing system.
- The tax rate should be fixed independently by every municipality and the central government should set only a minimum tax rate. This feature guarantees high revenue autonomy for the municipalities.
- Due to the incomplete cadastre for properties, property values cannot be established based on the selling prices of neighboring properties. The assessment of the property thus has to be handled by the central government along the following general guidelines:
  - Three benchmark indicators could be used to determine the tax assessment base for real property:
    a. Maximum ground space
    b. Maximum number of floors
    c. Size of property[16]

    All three figures would be multiplied and, in order to attract incentives for optimal land use, it would be irrelevant whether the property is fully constructed or undeveloped.
- The municipalities would divide individual building sections into special building zones,[17] to which they would allocate individual building zone factors. The municipalities themselves would decide not only how high this building zone factor should be but also how big the zone should be.
- The municipalities would also set the local real property tax rates, with all zones being subject to the same municipal assessment rate.
- The real property tax rates set by municipalities would be subject to a minimum/maximum range established

[16] Indicator c is measured in square meters, whereas the two indicators a and b are measured in decimal numbers and calculated in relation to the total size of the property. For example, if a property has a size of 400 square meters and the building on this property has two floors, with a ground space of 240 square meters, the respective benchmark indicators are a = 0.6, b = 2.0, and c = 400.

[17] Based on decree 225 / 2018 the municipalities are newly responsible for offering construction permits. Article 11 of this decree orders also a filed survey by the office of urban planning and public property (OUPPP). The democratically elected mayor—with the assistance of the OUPPP—could suggest the building zones and to lower the corruption factor such building zones need the approval of the local council.

by the central government. This is to ensure that municipalities do not set rates that are either excessive or so low that the property tax contributes only marginally to a municipal budget.

Hence, the new local real property tax would be calculated in the following manner:

Ground space * Floor number * Size of property * Zone factor * Local tax rate = Tax liability

In addition, a process for valuing real property will need to be established. Various valuation approaches based on limited surveying work have been used in developing countries. These approaches should be reviewed with an eye to establishing a mass valuation process best suited to the current Libyan context.

A new property tax system such as this one could be implemented within the next five years in Libya, if there is a common political will-power. Moreover, a well-conceived and properly managed pilot program involving a small number of municipalities could be completed within two to three years. Such a pilot program could establish the basis and build the culture and experiences for the new property tax system.

Recommendation 4. Introduce a transfer system that is formula-based and ensures that national income, mainly from the oil revenues, reaches all citizens through decentralized, improved service delivery in Libya. The basic vertical transfer could have the nature of a block or unconditional grant. Additional vertical transfers could be made in the long term in the form of categorical grants; i.e. grants provided for a specific purpose, such as education or health. The amount of any vertical transfer, regardless of type, should be determined in strict accordance with a formula that is highly transparent and easy to administer.

To prevent any future ad-hoc decision-making or even political pork barrelling, it is essential for the Ministry of Local Government to publish all information—the formulae, collected data, and calculation for every municipality—in advance on the internet. Such a transparent process allows the municipalities to control the whole workflow of the transfer system on the one hand, and at the same time, the civil society can also cross check how funds have been delivered from the central government to their respective municipalities.

The following block grant formula is a transparent and easily administrable example for Libya.[18]

$$T_i = 0.50 * (POP_i / POP_{nation}) + 0.40 (Dev_i - Dev_{nation}) + 0.10 (LocalRev_i - LocalRev_{nation})$$ [19]

T_i:	receiving transfer of the local authority i
POP_i:	number of inhabitants in local authority i based on the census of 2006
POP_{nation}:	total population of the whole nation based on census of the year 2006
$LocalRev_i$:	collected own revenues in local authority i per capita (based on census of 2006)
$LocalRev_{nation}$:	total collected own revenues in the region per capita (based on census 2006)
Dev_i :	development index[20] of the local authority i
Dev_{region}	average, nationwide development index

In the years without any revenues from the future property tax, the formula can use the indicator "LocalRev" instead—a "population readjustment factor" to strengthen the urban centres in Libya. For example, the number of inhabitants in municipalities with more than 100,000 citizens would be "readjusted" in the formula; i.e. the inhabitant numbers would be multiplied by a factor of 1.35.

[18] A metropolitan area has per capita a higher expenditure needs than a city with just 10,000 inhabitants.

[19] In a previous version, a ratio of 75 % population and 15 % development index was suggested to the local partner. The emphasis on population in the suggested ratio was made because population is a very transparent indicator as well the only fully available data set for Libya. Nevertheless, the clear response from the local partner was that such a population-heavy ratio is not politically desirable. Here, it must again be stressed that the future process of selecting criteria for the development index will create even more political tension; however, the formula will be revised to reflect the desire of the local partner.

[20] The development index considers for example the topographic situation, the climatic circumstances or the burden from Libyan refugees in every municipality individually.

Moreover, in the first years after the introduction of the local property tax, the "LocalRev" indicator could be an incentive grant, which would mean that, for every Libyan dinar collected from property tax, the municipality would receive an additional Libyan dinar from the transfer system to generate an incentive to collect the tax in a proper way. However, in the long run this indicator should be changed to an equalisation grant, which would reduce the fiscal gap between fiscally rich municipalities and fiscally poor municipalities.

In addition to block grants, many IGF regimes around the world establish one or more categorical grants to provide financing for specific purposes. Categorical grants are sometimes desirable, because they ensure a much stronger correspondence with objective needs-based indicators in critical expenditure areas (e.g., health, education) than can be achieved if fiscal resources are allocated solely through a general unconditional block grant. Categorical grants could be viewed in some instances as eroding the fiscal autonomy of the local units, as it limits the autonomy of local mayors to independently determine about their fiscal resources. From that perspective at a theoretical level of accountability, unconditional block grants make more sense than earmarked grants.

However, under the current transitional circumstances in Libya it is unrealistic to fully and accurately reflect the priority needs of local citizens. Given this, and in the interest of ensuring national minimum standards of public goods, earmarked grants are sometimes considered preferable. For this reason, Libya should give serious consideration to the types of categorical grants. Libya should start with a formula-based bock grant, and should seriously consider designing and implementing a categorical grant mechanism in the next 2–4 years in key service provision areas (e.g., education, health care), in a manner that would effectively supplement the block grant formula.

Recommendation 5. Establish a pooled financing arrangement to enhance municipal revenue through a Local Development Fund (LDF). Besides taxes, fees, and vertical transfers, the concept of local borrowing also has a major effect on the delivery of infrastructure. Possible options for the local government borrowing system include:

1. Severe restriction and generally no independent local borrowing[21]
   - Ethiopia, China (until 2015) and Pakistan
2. Pooled municipal government debt through a provincial government agency
   - Canada and India
3. A municipal bond system
   - USA, Mexico, Poland, Czech Republic, Slovakia, Hungary, China (since 2015), and South Africa
4. Commercial and private banks
   - France, Belgium (until the collapse of Dexia)
5. Public "savings banks" with a normal commercial business
   - Austria, Germany
6. Public central institution or a public bank without any commercial business
   - Denmark, France, Norway, and United Kingdom

Because of the limited capital market in Libya, options three, four, and five are not feasible. In addition, the examples of South Africa or the United Kingdom[22] prove that the municipal bond system is not always a silver bullet.

A public banking institution is not a realistic possibility under current institutional circumstances either for

[21] National law restricts any form of local borrowing. For example, the Pakistan province of Punjab reformed its local government system in April 2019. Article 149, clause 1 of the law says that a local government may raise a loan with the previous sanction of the government of Punjab. In China the national Ministry of Finance has operated with a similar strict regulation, leading to a situation where nearly no municipality was allowed to attract money from the capital market. The goal of the Chinese MoF was to create macroeconomic stability, but the municipality sometimes undermined this regulation by founding a private company, and this company attracts credits (e.g., Shanghai bridge construction company). In 2015, China reduced this strict regulation, and since this time the municipality has been able even to offer municipal bonds.

[22] In the United Kingdom, the UK Municipal Bonds Agency was created—in addition to the Public Works Loan Board—to lower the long-term financing costs of British municipalities through the bond market. The Municipal Bonds Agency was introduced by the Local Government Association with the idea that multiple councils banded together would have enough clout to raise hundreds of millions of pounds. The theory was that investors would be reassured by lending across a diverse, pooled spread of councils. The response of the capital market to this concept was reserved, especially after the fiscal crisis at Northamptonshire County Council.

Libya, given the major institution-building requirements implied, and the checkered governance and financial viability track record of such entities in general in emerging market settings.

However, instead of unregulated access to the capital market, Libya might consider combining the concept of pool financing and the establishment of a local infrastructure finance mechanism. Including rural entities in a common pooled financing system[23] is almost certainly cheaper for the urban areas in Libya. If the gap in infrastructure delivery between rural and urban entities increases, then rural depopulation will also increase, putting pressure on the infrastructure provisions of urban authorities.

Another potential option for Libya is the establishment of a Local Development Fund (LDF). Such a fund could, for example, offer municipalities grant financing for future local infrastructure projects, but not for current expenditures. There are various potential mechanisms for financing an LDF. One possibility would be through Article 49 of Law 59, which provides that 10% of national tax and customs revenue is to be allocated to the provinces. As the provinces do not currently exist, perhaps a legal mechanism could be found to make this funding available to local governments.

One drawback to this option is that national tax revenues are low currently low, and customs revenues are not significant. Moreover, the creation of an LDF or other local finance institution will require substantial institutional capacity building, as well as the development of a robust system of safeguards to protect against abuse and pork-barrel arrangements. Grant allocation should in fact be made on the basis of a rigorous cost-benefit/cost-efficiency analysis regarding the net benefits of an infrastructure project financing proposal.

Recommendation 6. Create a stabilisation fund (see Werner, 2012) for oil revenues—as in Russia for oil or in Chile for copper—to reduce the negative economic effects of any oil price fluctuation for Libya.[24] Note that the creation of such a fund must take into account the existing Libyan Investment Agency (LIA), a government entity that manages Libya's sovereign wealth funds. One potential approach might be to provide for the draw-down of funds from the LIA as appropriate to provide a source of infrastructure financing. It should also be noted that the establishment of a stabilization fund will involve considerations that go beyond local finance issues.

Recommendation 7. Widen bank account access and provide full fiscal responsibility for all collected fees, revenues from property rents, and revenues from the sales of property by the municipalities ("own source revenues bank accounts"). Recently the competence for some,[25] but not all, fee collections by the so-called MH5 of the MoF's accounting department has already been red. However, it provokes criticisms based on inadequate transparency when the fees are not collected directly by the municipalities. Instead, all such revenues are transferred from the MoF to the MoLG, and the MoLG then sends them to the municipalities; local units thus have no possibility to control the flow of capital. Finally, it is important to note that even for the best tax systems, in combination with an upright, incorruptible tax administration, it is impossible to improve a tax collection rate without political will.

IV. Conclusion

Local public finance and fiscal transfers are a highly technical as well as political issue. Institutional arrangements can reduce or increase fiscal conflicts. Thus, the importance of the institutional arrangement of the future equalisation system in Libya cannot be underestimated.

Because of limitations in the administrative capacity of the national MoLG and in the quality and accuracy of available data in Libya, any new equalization system must

[23] An international example about pooled financing from India is presented in the Appendix.

[24] Such a stabilization fund is not a new instrument rather it should be a general principle of the already existing Libyan investment agency. Moreover the Libyan Investment Agency (LIA) should also consider the Extractive Industries Transparency Initiative (EITI) and it should be politically decided a priori how much money from this fund should be used for the local units.

[25] The transfer of authorities to municipalities that started in late 2018 and early 2019, when MoLG issued a series of decrees authorising municipalities to carry out a number of functions as stated in article 25 of law 59 of 2012 and to point out decree number 14 of 2019 issued by the minister of local government on municipal fees where municipalities are authorised to collect fees and have their own source revenue bank account at a local commercial bank.

be simple and transparent. It should use the existing data on population figures, though a new new census should be undertaken as quickly as possible to acquire an even more reliable indicator.

The suggested concept of pooled financing and the creation of an institution to provide debt financing to local governments for local infrastructure projects, like the MIA, which could be a municipal development fund—administrated purely by the MOLG or in a combination of MOLG with some additional local representatives—offers subnational entities a longer term option for financing infrastructure investments. It also fulfils the so-called Golden rule of fiscal policy, whereby a government—including a local government—may only borrow to finance investments and not to fund current spending.

The following table classifies the seven recommendations of this report in terms of their temporal implementation.

Short Term within One Year	Medium Term within 1–3 yYears	Long Term within Five Years
• A transparent formula for the block grant vertical transfer • Full operation of the local governance school • Full bank account access rights for the municipalities in the area of fees and any revenues from property	• Municipal Development Fund (MDF) • Oil stabilization fund • Local elections throughout Libya • Pilot application of a local property tax • Establishment of two or three categorical grant transfer mechanisms and the formula for each as well as for the block grant	• A nationwide local property tax

Appendix

The following table classifies the municipalities based on population figures in 2018:

TABLE 1 Population Structure of the Municipalities in Libya

Size of Population	# of Municipalities	Band
Over 500,000	1	A
From 100,000–499,999	19	B
From 75,000–99,999	7	C
From 50,000–74,999	6	D
From 25,000–49,999	27	E
From 10,000–24,999	37	F
From 5,000–9,999	13	G
From 1,000–4,999	10	H
Under 1,000	1	I

Source: Ministry of Local Governments, 2019.

The expenditure assignment of the municipalities in Libya is twofold. On the one hand, the legal framework for decentralisation is mainly law 59 / 2012, and article 25 of the respective law determines the following expenditure areas:

- Urban planning
- Health and social affairs
- Water utilities
- Street lighting
- Sanitation / Public hygiene, for example waste management
- Local transportation, for example the public transportation system or licences for private taxis
- Public parks
- Shelter / social housing
- Public space management, for example licences for billboards or pedlars, control of the traffic and provisions of parking lots
- Cemeteries
- Civil registry affairs, for example birth certification, civil status or identification cards as agents of the central government
- Regulation of local markets and slaughterhouses
- Construction and maintenance of local roads and bridges
- Licences for economic activities of private companies
- Monitoring of the environment and public health, for example pollution and the safety of commercial premises, foodstuff inspections and pest control in private or commercial properties
- Promotion of economic development, for example the establishment and management of small business incubators

The following Box 1 explains the concept of pooled financing in India.

Box 1 Pooled Financing Like the Tamil Nadu Urban Development Fund in India

The Tamil Nadu Urban Development Fund (TNUDF) was established in 1996 and is mainly financed by the regional government of Tamil Nadu and the World Bank.

The fund manager of the TNUDF is Tamil Nadu Urban Infrastructure Financial Services Limited (TNUIFSL). The regional government holds 49 % shares of the TNUIFSL and the remaining 51% of shares belongs to three national banks. The daily management responsibility of this fund belongs to the ICICI Bank, which holds with 21%, the largest share of the three Indian banks.

Eligible Borrowers for the Tamil Nadu Urban Development Fund include both urban local bodies in India and any private institutions that create urban infrastructures in India.

The TNUDF uses both capacity development and polled financing for the infrastructure financing. Polled financing means that several projects are pooled and lumped together in a bond issuance, and this can provide a significant reduction of transaction costs and improved pricing. Especially for smaller and less creditworthy local authorities, this concept makes sense.

Currently, a sum of Rs.3,510.19 crores is available at the TNUDF for providing financial assistance for the implementation of urban infrastructure projects.[a]

The lesson to be learned from the Tamil Nadu Urban Development Fund in India is that the local units should use the idea of polled financing as much as possible to reduce their financing costs. Moreover, the urban areas should not be blind to the financial situation of their surrounding rural entities. To include those rural entities in a common polled financing is surely cheaper in the long run for the urban, because if the infrastructure delivery gap between rural and urban entities increases, then the rural depopulation will also increase and the urban authorities will have pressure on their own infrastructure.

Furthermore, the aspect of capacity development should not be underestimated, as financial institutions such as commercial banks or pension funds from abroad expect very qualified dialogue partners.

Tamil Nadu Urban Development Fund, 2019, page 2.

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