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Local Authorities and Community Accountability in Yemen

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Policy Paper

Introduction

The local authorities in any country are the closest to citizens and the most closely associated with their day-to-day needs and problems. Yemen, like other countries, has legislations and practices for electing the local authorities as local citizens' representatives in the executive authority. There is an effective law for both local authority and Ministry of Local Administration. Giving further powers to the local authorities was one of the most controversial issues between the power and opposition before 2011.

As Yemen has been witnessing the repercussions of the existing conflict, and the local authorities have been one of the most effective tools of power on ground, the Central Power's control declined and the State's territories were divided between more than actual powers at provincial level, and hence, such local authorities became the most prevalent in people's life and of less controversy at present time.



Given the great importance of local authorities that have become the spotlight of international organizations in Yemen, being a substantial partner in relief operations and pandemic plans, the central authorities' ability got weakened to exercise its responsibilities and functions on ground. As a result, they became more eligible to exercise community accountability, improve performance and minimize corruption practices.

On the other hand, the local authorities are deemed to be the eye of the national and international doers to identify the local societies' needs and the mechanisms of help and coordination. In principle, it is difficult to carry out any post-war development/reconstruction project without a direct and effective intervention of the local authorities. Thus, implementation of community accountability is of an imperative necessity to improve and develop the local authorities' performance.

In this connection, the community accountability at present is of utmost importance and necessity at local levels. This paper will deal with the actual practice of community accountability at Yemen's local authorities' level based on the legislations of local authorities in one hand and the actual practices on ground on the other hand.

This paper depended on direct interviews and open-question form covering leaders and experts at Ministry of Local Administration and a number of local authority members in the capital Sana'a, Ibb, Taiz, Marib, Hadhramout, Shabwa in addition to some relevant literature and legislations.

Development of Local Authorities Experiment in Yemen

Yemen has been suffering from the extremely enormous dispersion of population groups of around 128,000 population groups⁽¹⁾, i.e. more than triple the number of its counterpart Egypt, despite the fact that the latter's population is over three times higher than Yemen's. Thus, the idea of distributing roles and admin levels has become a pressing need to enable the State exercise its functions on the ground.

Due to this dispersion of population, Yemen was historically divided into localities to smooth out the ruler's mission under the old Yemeni State, moving through the Islamic history up to the Ottoman era, when Yemen was divided into localities/provinces (Sana'a, Taiz, Hodeida, Aseer) under the leadership of Yemen's Wali (governor). Imam Yahya continued on the same admin division in North Yemen under his control⁽²⁾.

In South Yemen, the country was divided into around 23 sultanates and sheikhdoms during the British occupation⁽⁴⁾ era, when Britain divided it into Western Aden Protectorates.

After September 26, 1962's revolution in North Yemen, the successive constitutions of Yemen Arab Republic considered the Northern Yemen's governorates as corporate body and boosted the local administration⁽⁵⁾. In North Yemen, the Shura Council elections were divided into constituencies, each represents a district/province as per the then administrative division. In 1973, the National Cooperative Development Associations under the slogan: "War Against Backwardness" represented an advanced experiment in this regard and constituted a quantum leap in the development of local services and infrastructure. The idea of such associations was based on the integrated cooperation among the local inhabitants and the local authority to carry out developmental projects at district/province level. Such

associations' work, however, was largely subject to accountability by virtue of the inhabitants' involvement in proposing, financing and carrying out developmental and community projects.

In South Yemen and during the year 1968, the Local Authority Act was issued and, as a result, the six governorates were reorganized to districts and centers in a compatible manner with the newly born State's policies after they were semi-autonomous sultanates and sheikhdoms and then the situation developed from appointment of local authorities' members to electing them provided that they belong to the ruling party or its local organizations⁽⁶⁾.

With the establishment of Unity between the two parts of Yemen on May 22, 1990, article 118 of Yemen's Constitution stated that the admin units enjoy elected local councils. Thereafter, Law No. 52 of 1991 was issued to organize the local administration. According to this law, the admin units are independent corporate body. It also determined the relationship between the local units and central authorities. However, this law was not applied on the ground and, therefore, the local elections were conducted in 2001 in accordance with Law No. 4 of 2000 regarding the local governance, which replaced Law No. 52 of 1991 whereas the community accountability remained semi-absent.

In the two local councils elections conducted in 2001 and 2006, the General People's Congress (GPC) was the dominant party. As a result, the GPC's members could control the local initiatives⁽⁷⁾. In these elections, the local centers were 5,620⁽⁸⁾ to compete for.

In 2008, Yemen experienced electoral practices to elect governors by the local authorities in each governorate. However, this experience did not develop but ended after its first trial version. Thus, governors were once again appointed by the President of the Republic after their elections had constituted a quantum leap in establishing a democratic process at local levels.

(1) General Profile on Republic of Yemen - http://cdf.childrendefense.org/site/DocServer/Girls_Education-Yemen.pdf?docID=2441

(2) Sayyed Mustafa Salem, *The First Ottoman Conquest of Yemen (1538-1635)*, Cairo, Dar Al-Azhar Printing and Publishing, Edition 4, 1992, page 2.

(3) Dael Al-Mekhlafi - *Local Administration, Fundamentals and Applications (Comparative Study)*, Beirut, Dar Al-Fikr, Edition 1, 1986, page 86.

(4) Abdulkareem Daer, *Local Administration as Mechanism of National Unity and Development in Republic of Yemen*, MA Thesis, Al-Nilain University, Sudan, Faculty of Commerce and Economics, 2002, Page 46.

(5) Abdulhadi Al-Hamdani, *Admin Development in Republic of Yemen*, Damascus, Dar Al-Asr, Edition 1, Page 254.

(6) Qaid Mohammed Tarboosh Radman, *Legislations of Local Authority in Republic of Yemen and their Compatibility with Requirements of Financial and Admin Decentralization*, Modern Discussion website, November 2007, <http://www.m.ahewar.org/s.asp?aid=116102&r=0>

(7) Odile Joly, *Local Development and Political Authority in Makha*, Paper in 'Civil Society, Citizenship and Local Authorities' Symposium, Sana'a - July 2006, Published by the French Institute of Archeology and Social Sciences, Sana'a and Friedrich Ebert Foundation, Dar Al-Afaq Printing and Publishing, Sana'a, 2008, Page 256.

(8) National Information Center, <http://www.yemen-nic.info/yemen/gover>

Challenges and Constraints

before Development of Local Authority

There are constraints that led to non-development of local council experiment in Yemen before eruption of current war in Yemen in 2015, including the people's poor awareness of the democratic process, poor performance of local council's members, some of whom work for their own personal interests and lack of capacity building training courses for these members⁽⁹⁾, in addition to the absence of political trends necessary for development and enhancement of this experience on the ground.

According to the local governance strategy project, the priorities determined by the strategy were:

Covering the gaps in the admin structural organization of executive bodies humanly and technically, setting up new offices and branches for the executive bodies and local units, building and furnishing government complexes to accommodate the various local authority apparatuses, redistributing the manpower of admin apparatus to achieve financial and admin decentralization, training and qualifying to enhance capacity building at local level and making central reforms up to the local levels⁽¹⁰⁾. Such significant priorities were supposed to be achieved during the period (2008-2015). However, implementation of this strategy has not been materialized so far and the timeframe planned was over due to the political instability witnessed by Yemen.

Moving towards local governance requires lots of resources, which are unavailable in Yemen's case and necessitates stable general situation, good governance, political will and clear plans. The high population growth, high illiteracy ratio, poor investment attractions, incomplete infrastructure of good governance, inadequate local development programs and local community awareness, lack of State's accurate database and donors' attention only to security - deemed as the priority - not the development process were, however, the most prominent challenges before this transition⁽¹¹⁾.

(9) Ghanem Mohammed Rumaidh, Local Council in Yemen, a Study on Development of Democratic Experiment, Basic Education Faculty Magazine, Issue No. 51, 2007, Page 54.

(10) Ministry of Local Administration, National Strategy Project of Local Government 2015, Sana'a, August 2008, Page 20.

(11) Previous source, Page 28.

Challenges and Opportunities of National Legislations

The constitution amendment, which was conducted after 1994's war, introduced new clauses explicitly stating to move towards financial and admin decentralization and entrusted the local councils, under their powers, with controlling the executive apparatuses, at local levels in such districts.

The Yemen's constitution along with its two articles (146-147), law No. 4 of 2000 regarding the local authority in the Republic of Yemen issued on 9/2/2000 and its amendments issued by law No. 18 of 2008 and the executive bylaws of Ministry of Local Administration issued by law No. 23 of 2001 formed the basic legislations that regulate the admin units' work at local level and how local councils in governorates and districts exercise their powers and the relationship between them the central authorities and their financial resources. The key issues and trends of law No. 4 of 2000, being the most prominent legislation in this respect, are as follows:

The law endorsed that the local authority bodies should be established on the basis of financial and admin decentralization through the limited decentralization, which combines appointment of some members of local authorities bodies (governors of governorates and directors of districts) and election of major part of them viz. secretary generals of governorates, districts and the rest of members. This chance is to ensure a wide-range popular participation in decision-making.

The law granted the right of equal representation of districts in each governorate's local council @ one member for each district. However, this equal representation ignored the huge difference of districts' populations i.e. it granted a district of a few population the same representation of another district whose population might be many times higher than the former district and this is a challenge that must be overcome in future.

This law determined the term of governor's office for two consecutive terms of 8 years in one governorate un-renewable therein. It is a precedent in Yemen's legislations. It also determined the local council's term by 4 calendar years starting from the 1st meeting held and although it was not actually translated on ground, but this principle will help to practice accountability, if violated.

The law granted the local council's member immunization, which prevented him from being held accountable for any views he/she raises during council's meetings and discussions. This is a positive privilege to these members to encourage them raise their views without fear.

The law granted the governorate's local council members the right to withdraw confidence from the governor, despite being appointed by President and of minister rank. It also granted the district's local council members the right to withdraw confidence from its director general, the secretary general of local council, management body members or heads of executive units. For this purpose, the law established clear controls and measurable standards. As such, these are the clearest versions of right granted in this law.

of 2001, the Ministry was granted lots of powers to supervise the local administration all over the country. However, that represented a legislative shortcoming whereby the Ministry along with its leaders and cadres belong to the executive authority and its positions are occupied by appointment not election similar to the local councils. The bylaws also granted the Ministry 46 powers and different functions to perform.

- There has been a need to amend around 70 law and bylaws whose provisions contradict with the provision of local authority law. This gap will affect the local authorities' performance unless the existing imbalances and discrepancies⁽¹²⁾ are tackled. There is also a discrepancy in the nature and function of local councils' members. Although they are control and supervisory functions, however, they contained important executive functions i.e. forming the bidding committees from the management body of local council, which is a legal disrupting discrepancy.

(12) Researcher's interview with an expert at Ministry of Local Authority, Sana'a, February 2019.

Challenges

of Accountability on Ground

It would have been better for promoting the local administration experiment to continue developing the governor-election process in accordance with the law amendments for the year 2008 and also developing the legislations and practices in view of the practices on ground. However, this experiment was actually ended due to the subsequent political events.

The low capacities of local authorities' leaders to transfer powers and functions outlined in the Local Authority Law thereto. Up to 2007, only 43% of Yemen's districts, powers were transferred to such districts whereas 57% of these districts were not eligible to transfer such powers and functions outlined in the respective law. That is to say, enforcement of law on ground did, in principle, cover only less than half of admin units in Yemen⁽¹³⁾. This matter limits such authorities to hold the executive bodies accountable within their responsibilities. Therefore, it is necessary to qualify the local authorities' members to enable them exercise their legal powers, hold public servants accountable and make them stand accountable before community at the same time.

During the period (2006-2009), the Decentralization and Local Development Support Program, implemented by the UNDP and UN Capital Development Fund, prepared training manuals under the supervision of Ministry of Local Administration. This manual provided the local authority with necessary tools and procedures for the general expenditures. The manual was prepared and actually tested in 72 districts comprising 9 governorates in order to develop the skills of making plans and budgets in their respective districts⁽¹⁴⁾. Given the fact that there are 333 districts in Yemen, out of which a modest number of 72 districts only benefited from the program and their local authorities acquired skills of effective dealing with local budgets. Thus, this experiment should be circulated and the local councils' members are further qualified.

In view of the gaps between the law and enforcing it on reality, it is difficult to decide how actual is the accountability with the local authorities without taking into consideration the measurement indices of local authorities' performance worldwide in terms of ability to perform work and contribute to the integrity enhancement and internal governance including integrity, transparency and accountability⁽¹⁵⁾.

Whereas the accountability is based on information available to the audience, clear and accurate information to deal with as a measurement index, clear job description, published progress reports and procedure manuals regarding procurement and supply and since such main requirements of accountability are still largely absent, the actual practice of accountability is far less even when measured out with the Yemen's legislations of local authorities at the present time.

Local people's involvement in making policies, planning and budgeting, monitoring expenditures and identifying needs is still largely absent in Yemen, and this situation contradicts with the local governance's requirements in which the local authorities should involve citizens and private sector, enjoy transparency and accountability⁽¹⁶⁾. Also, the local authorities' members largely lack the adequate awareness of local people's involvement in their work and performance skills of how to deal with general budgets and, thus, the accountability, as a principle, will not be enhanced unless their skills and capacities are developed.

On the other hand, there is a conflict of interest in the duties assigned to the local authorities, which combined both control and executive functions. Among the law lacunae are viz.: it entrusted the management body with executive functions such as bidding committee, which consists of the management body members in the governorate/district. It is better, however, that the local authority members practice accountability on the executive offices' members since the former's functions are of control nature only to avoid conflict of interest. Furthermore, the members of bidding committee/management body are not subject to Financial Disclosure Law whereas the bidding officials of government institutions, governorate⁽¹⁷⁾ branches are so.

(13) Ministry of Local Administration, National Strategy Project of Local Government 2015, Sana'a, August 2008, Previous source, Page 33.

(14) Researcher's interview with a finance expert, Previous source.

(15) Coalition for Integrity and Accountability "AMAN", a study on Integrity System in Local Government Authorities, Jabalya Municipality, Al-Nazla, Case Study, 2017, Page 13.

(16) Khudair Naseera and Khalofi Ahlam, Local Government, Foundations and Components, MA Thesis, Abdulrahman Mira University, 2013

(17) Researcher's interview with an expert at Ministry of Local Authority, Sana'a, February 2019

In addition, among the critical constraints of local authorities' function and accountability is that since 2015, there has been no government budget according to the recent findings, rather, it is the same of 2014 with the exclusion of investment expenditures therefrom. There is only an expenditure plan mostly biannual in the Ansarullah (Hothi)-controlled governorates⁽¹⁸⁾. Such budget has been reallocated during the last quarter of 2018 in Taiz governorate⁽¹⁹⁾ whereas the local budgets allocations continued in the officially recognized government-controlled governorates such as Hadhramout⁽²⁰⁾, but they are not enough to meet the local requirements as they were actually reduced between 75%-100% subject to variant expenditure items⁽²¹⁾. The budget is mostly prepared but not full and merely contains wages and salaries in the internationally⁽²²⁾ recognized government-controlled governorates. This, however, does not undermine the local authorities' ability of accountability only, but it rather limits and totally demolishes their ability to provide public services in their respective areas.

Furthermore, the Ministry of Local Administration, when the State's general budget continued up to 2014, was using two criteria out of six, which were supposed to be used to determine the government support for each district, mainly the population and growth rate. As the Ministry does not notify the local authorities of their expected central support in a timely manner, the budgets remain estimated because they make the budget plan according to the central support of last year and not the new financial year⁽²³⁾. To avoid this shortcoming, the resources for the upcoming year should be determined in time on the basis of 3 determinants: the actual collections for the last 3 years, calculating average of 3 years and determining the next general assessment⁽²⁴⁾.

The local councils' control role did not continue due to the current conflict, if not in better cases, their control role greatly declined. Besides, the Central Organization for Control and Audit's control role, in turn, also declined to the extent of absence in some elected districts due to the lack of adequate operational expenditures to perform this role.

On the other hand, the majority of local councils' periodical meetings have been suspended since 2015 due to lack of budget to cover the meetings and meeting allowance of attendees and also due to the vacant seats of local councils for death and displacement caused by the current conflict. Rather, in some governorates like Aden, Al-Dhalee and Hadhramout, the local councils' secretary general's seats have not been existing anymore since 2015⁽²⁵⁾. In Magzar district of Marib for instance, there are three vacant seats due to the death of local councils' members⁽²⁶⁾. As a result of such faults, most of the districts do not record revenues and expenditures on daily basis in official records but on monthly basis⁽²⁷⁾.

Under such circumstances, the citizen's role in controlling and holding the local authorities and executive offices accountable is absented. There is no popular control on the local councils by the local society.

(18) Researcher's interview with a Sana'a local authority member, Jan. 2019
 (19) Researcher's interview with a local authority member, Al-Mudhafar District, Taiz, Jan. 2019
 (20) Researcher's interview with Deputy Governor of Hadhramout for Wadi and Desert Affairs and with two local authority members of Ghail Ba-Wazeer and Ash-Shihr Districts, Hadhramout, Jan. 2019.
 (21) Researcher's interview with Deputy Governor of Hadhramout for Wadi and Desert Affairs, Jan. 2019
 (22) Researcher's interview with Deputy Minister of Local Administration in the internationally recognized government, Feb. 2019
 (23) The same source
 (24) The same source
 (25) Researcher's interview with Shabwa local authority member, Jan. 2019
 (26) Researcher's interview with Majzar local authority member, Marib, Feb. 2019
 (27) Researcher's interview with Capital Sana'a local authority member, Jan. 2019

The Local Authority Law No. 4 of 2000 contained explicit provisions to regulate such a control, except for some experiments made by local organizations' efforts as happened in some governorates like Dhamar through Abjad Center for Studies and Development, which formed a shadow local council for youths and came up with research papers in the areas of household gas, water and health and, as a result, some GMs were replaced twice during the years 2014 and 2015⁽²⁸⁾ respectively.

In Hadhramout, a different experiment took place by forming community committees after 2011 and is still performing its role to date, in a parallel manner, and sometimes in place of local councils by virtue of its relationship with the governorate's and security authorities' leadership and their role is confined only to service-related matters and following up provision of such services, through contacts with the official authorities. Such community committees have their own elected leaders and head offices in Mukalla, Ash-Shihr and other places of coastal districts of Hadhramout⁽²⁹⁾. This experiment can temporarily be expanded so that the local authorities' capacities are restored for resuming their role.

In Hadhramout also, and despite the Governor's suspension of local councils meetings⁽³⁰⁾, there are successful experiments of integration between the NGOs and the local authority, most notably the advocacy campaign to open Rayyan airport⁽³¹⁾ and Ghail Ba-Wazeer Director General's response to the community accountability project implemented by the Social Development Association in 2018⁽³²⁾.

As for the transparency and making information available, being key pillars to implement accountability, there have been some electronic websites talking in the name of some governorates whereas no such websites on district wise have been there. The governorate-related websites do not reveal the mechanisms of decision-making or budget spending. They are merely news windows working to promote such authorities' activities rather than making information available or smoothing out the community accountability. Some of local authorities' leaders stated that a limited number of citizens have the access to local authorities' budgets on friendly basis but not in compliance with the law⁽³³⁾.

The declined performance of local authorities despite their great importance was mostly due to the current conflict. Advanced experiments took place in pre-war periods as happened in Al-Baidah in which the governorate local council members withdrew their confidence from the governor⁽³⁴⁾ and so in Aden where 4 DGs of districts were replaced due to bad performance reports forwarded by a control committee of Ministry of Local Administration⁽³⁵⁾. Similar cases took place attempting to withdraw confidence from more than district DGs but the central authorities intervened and stopped the same⁽³⁶⁾.

(28) Researcher's interview with Abjad Center for Studies, Dhamar, Feb. 2019
 (29) Researcher's interview with Mukalla local authority member, Hadhramout, Jan. 2019
 (30) Researcher's interview with Seiyoun local authority member, Hadhramout, Jan. 2019
 (31) Researcher's interview with Head of Advocacy Campaign to Reopen Riyyan Airport, Mukalla, Hadhramout, Jan. 2019
 (32) Researcher's interview with Chairman of Social Development Association, Ghail Ba-Wazeer, Mukallah, Jan. 2019
 (33) Researcher's interview with Capital Sana'a local authority member, Jan. 2019
 (34) Confidence was withdrawn from the governor Yahya Al-Shami by the local authority under the Ex-President Ali Abdullah Saleh, as stated by one of the Ministry of Local Administration's officials, Sana'a.
 (35) Researcher's interview with an expert at Ministry of Local Administration, previous source.
 (36) Previous source

Conclusion and Recommendations

Generally speaking, despite the fact that the effective law grants the local authority members in Yemen the right to hold executive offices' staff accountable at local level, however, practicing this right, on reality, by the local authorities' members is still greatly limited. On the other hand, such authorities are not held accountable except for extremely few cases. The most crucial constraint of this right is the weak capacity building and skills of local authorities' members, absence of adequate qualifying and training for these members and suspension of investment budget since 2015, being a key factor for controlling and holding members accountable and also a helping factor for practicing this right. In addition, low level of citizens' awareness, absence of the central authority's political determination played a significant role in non-implementation of community accountability. In order to enhance such accountability and good governance at local level in Yemen, the following recommendations should be taken into consideration:

- ◆ Building capacity of local councils' members should be based on a national comprehensive plan as the weak capacities of these members represent a substantial reason for hampering the community accountability in Yemen.
- ◆ Building capacity program should be linked with the transparency and integrity procedures to enhance the actual performance of local authorities.
- ◆ Granting more powers and local resources to the local authorities in the current phase, involving them in the post-war reconstruction plans and programs and linking such privileges with the capacity building and transparency enhancement on daily practices.
- ◆ The national legislations of local authorities should be reconsidered to explicitly contain involvement of citizens and civil community in policy-making and implementation and compliance with good governance.
- ◆ The local authority's decisions and activities along with annual budgets must be published on each website of respective local authority at governorate and district wise.
- ◆ Distribution of resources, at local level, and ratio of central support for each district and governorate should be reconsidered on the basis of population and development needs, taking into account compliance with the legal procedures of budgeting at a broader level of participation and transparency.
- ◆ The local authorities should be committed to make handbooks on their services, be obligated to comply with and hold open meetings with citizens to raise their awareness on the importance of participation of local policy-making and execution.
- ◆ Increasing the local authorities' levels to less than a district level for the huge number of many districts' populations and vast areas thereof, which impede the local people's participation, control and accountability and also limit the local authority members' ability to hold the executive apparatuses staff accountable.
- ◆ Widening the circle of community participation and representation through forming local committees, on village and quarter wise, and giving the youths and women the priority to have double ratio of representation in the elected local authorities.
- ◆ Reactivating the legal articles relating to governors' election and improving mechanism of execution.
- ◆ Enhancing the media role i.e. raising citizens' awareness on their right to participate at local level, publishing the local authorities' decisions and activities and revealing corruption practices.
- ◆ The international organizations should stipulate the terms and conditions of transparency to be applicable to the local authorities, when cooperating to coordinate in distribution of humanitarian aids and develop their skills concurrently.

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- ◆ Odile Joly, Local Development and Political Authority in Makha, Paper in 'Civil Society, Citizenship and Local Authorities' Symposium, Sana'a – July 2006, Published by the French Institute of Archeology and Social Sciences, Sana'a and Friedrich Ebert Foundation, Dar Al-Afaq Printing and Publishing, Sana'a, 2008.
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- ◆ National Information Center,
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عن مؤسسة رنين! اليمن

رنين! اليمن مؤسسة غير حكومية غير ربحية بدأت بمزاولة أعمالها كمبادرة شبابية في يناير ٢٠١٠ وسجلت رسمياً في وزارة الشؤون الاجتماعية في أغسطس ٢٠١١. تعمل المؤسسة على خلق مناخ سياسي جديد يعنى بتطوير سياسات أكثر استدامة، ويقبل الشباب كأحد الشركاء الأساسيين في تطوير وتقييم السياسات العامة. تهدف رنين اليمن إلى تقديم أصوات الشباب اليمني لخطاب السياسة العامة في اليمن ودعم العمل الشبابي ذات البعد الوطني والدولي.

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