ABSTRACT

The paper starts by explaining the notion of administrative decentralization and setting it apart from other notions. Then, it proceeds to exploring the disadvantages of a narrow version of administrative decentralization and advantages of an expanded one. The paper outlines next the key proposals and projects of administrative decentralization in Lebanon in modern history and in the present. The main features of the administrative decentralization draft law under discussion are then tackled. The paper later presents notes and recommendations about the mentioned draft law. Also, it gives an overview of the housing crisis in Lebanon, indicating the role of the sought decentralization in this regard. The paper concludes with a comparison between expanding administrative decentralization and reforming the Municipalities’ Law, knowing that both were topics of discussion of the two ad hoc parliamentary subcommittees shortly before the public protests broke out in Lebanon.

Keywords: local governance; local authorities; municipalities; administrative organization; administrative decentralization; development; housing crisis.
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INTRODUCTION

This paper tackles the issue of promoting local governance, which must be given utmost importance from Lebanese legislators, as it is at the heart of their role to serve the public interest supposedly. Without generalizing, in light of some relatively successful municipal experiences\(^1\), and given the current Lebanese State crisis\(^2\), Lebanon is in dire need of rationalizing local governance and local administration, reviving democracy and enabling development in its framework, renewing administrative organization and expanding administrative decentralization. This paper aims at highlighting ways to enhance local authorities and optimally cater to local needs and interests in Lebanon, in light of the best applicable practices in comparative law.

The paper\(^3\) starts by explaining the notion of administrative decentralization and setting it apart from other notions. Then, it proceeds to exploring the disadvantages of a narrow version of administrative decentralization and advantages of an expanded one. The paper outlines next the key proposals and projects of administrative decentralization in Lebanon in modern history and in the present. The main features of the administrative decentralization draft law under discussion are then tackled. The paper later presents notes and recommendations about the mentioned draft law. Also, it gives an overview of the housing crisis in Lebanon, indicating the role of the sought decentralization in this regard. The paper concludes with a comparison between expanding administrative decentralization and reforming the Municipalities’ Law, knowing that both were topics of discussion of the two ad hoc parliamentary subcommittees shortly before the public protests broke out in Lebanon.

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\(^1\) For more about the performance of municipalities in Lebanon, refer to: Fouad Gehad Marei, Are municipalities in Lebanon delivering? Democracy Reporting International, July 2019.

\(^2\) For more on precarity (notably economic and financial precarity - even undeclared bankruptcy), refer to: Karim Daher, Civisme fiscal et engagement citoyen, dans : L’Observatoire de la fonction publique et de la bonne gouvernance de l’USJ-Beyrouth, et Konrad Adenauer Stiftung, Démocratie en crise, Démocratie en mutation, Colloque international, 14 novembre 2019, Beyrouth.

\(^3\) Note from the author: The paper was written\(^3\) in December 2019 shortly before the outbreak of the coronavirus pandemic and the declaration of the state of emergency and lockdown that followed. The situation in Lebanon and the world ever since, as well as the consequences on several levels, necessitate careful handling from the central and local authorities alike, and they emphasize once again the pressing need to expand administrative decentralization in Lebanon. The same conclusion applies to the catastrophes caused by Beirut port’s explosion on August 4, 2020. The latter has serious impacts on other issues discussed in this paper too, notably the idea of federalism, and the housing crisis in Lebanon. The original text of this paper is in Arabic and may be referred to on the following link <http://jcl-mena.org/5.Modest-Administrative-Decentralization-in-Lebanon-and-Its-Expansion-Plans.ar.pdf>
ADMINISTRATIVE DECENTRALIZATION: NOTION AND ADVANTAGES

Before delving into the topic, it is important to quickly explain the notion of administrative decentralization and distinguish it from other notions (in light of comparative law, when necessary), and to explore the disadvantages of the narrow version of administrative decentralization and the advantages of an expanded administrative decentralization.

a) Distinction between administrative decentralization and other notions

First, it is important to distinguish between the following technical legal expressions and compare them to the applicable administrative structure in Lebanon currently:

First: Administrative decentralization

Administrative decentralization within a united or simple State (non-composite) is based on the Central State giving some administrative powers to legal, elected units or entities locally, as in in regions, to have a legal capacity and financial and administrative independence to manage the affairs of each region, developmentally, economically and commercially.

In the currently applicable Lebanese administrative system, administrative decentralization is limited to municipalities led by heads of municipalities and municipal unions led by the municipal union heads. Municipalities are “local councils elected to manage a specific municipal territory.” Municipal unions are formed of “several municipalities that decide to unite to facilitate the implementation of common construction projects and to save on economic and financial expenses.”

4 For more information about these concepts, refer to the below publications:

مجرد رفع عبد الوهاب، الأنظمة السياسية، الحليب، 2007، بيروت، ص. 48 وص. 67 – 69
معمر الكبيسي، توزيع الاختصاصات الدستورية في الدولة الفيدرالية، الحليب، ط. 1، 2010، بيروت، ص. 15-40 وص. 102-107، وحوال الفيدرالية العراقية، انظر ص. 418-419
عدنان الزنكنة، المركز القانوني، رئيس الدولة الفيدرالية، الحليب، ط. 1، 2011، برود، ص. 25-23. وحوال الفيدرالية العراقية، انظر ص. 351-345، وص. 44

5 In comparative law, refer to:

Sénat français, La réforme régionale en Italie : Un exemple de décentralisation, novembre 2002, N. GA 41, (France-Italie) ;

6 موسى حبيقة وسامر فواز، القطاع العام، مجلس النواب، 2008، ص. 39-57، انظر خصوصاً ص. 39 وص. 55.
Second: Deconcentration

Deconcentration falls under the notion of proportional centralized organization, within the united or simple State, and it is defined as the central authority’s delegation of tasks to its representatives in different areas to constitute an extension of it, without their having a legal capacity or financial independence. However, they have modest administrative independence.

In the Lebanese administrative system that is currently in force, deconcentration is at the level of districts (qada’) headed by district officers (qaymaqam), and governorates (there were only five governorates in 1959; then they became six in 1975; eight in 2003; and finally nine in 20178) headed by Governors. The central authority9 appoints the district officers and Governors.

Third: Political federalism10

In a composite, federal state, which is one state having a Constitution that establishes a federal, legislative, executive and judicial authority, but is divided into different autonomous States, such that: first, each state has a local Constitution that does not contradict the federal Constitution; and second, each state has a local authority composed of legislative, executive and judicial authorities, political federalism is based on the federation maintaining the defense, foreign affairs’ and monetary issues only within the competence of the Central State authority exclusively11.

Federalism is not mentioned, neither in the Lebanese law in force12 nor in the administrative decentralization draft law. The aim behind expanding administrative decentralization is not federalism or

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7 Note that this paper will not tackle decentralization of utilities, which is a form of managing public utilities.
8 The nine governorates are: Beirut, Mount Lebanon, Ftoh Keserwan and Byblos, North Lebanon, Akkar, Baalbek-Hermel, the Bekaa, South Lebanon and Nabatieh.
9 زياد بارود، اللامركزية الإدارية في لبنان، مجلس النواب ومشروع برنامج الأمم المتحدة الن米兰ي، الملف 71، تشرين الثاني 7004 ص 14-15.
11 عصام سليمان، أسس الفيدرالية وشروط قيامها، في: جامعة سيده اللوبيرة والمركز العربي لتطوير حكم القانون والمقاومة، بناء دولة الحق والقانون، سلسلة ندوات 2008-2009، منشورات الحق القانوني، ط 1، 2010، ص 204-6.
12 About federalism and the Lebanese political and constitutional system, refer to:
politic decentralization, rather fulfilling the demand of expanded administrative decentralization, far from any political federal inclination.

The Lebanese people rejected the option of political federalism, as per the National Accord Document in the Lebanese parliamentary meeting in Taif city in Saudi Arabia on Oct. 22, 1989, ratified on Nov. 5, 1989. The accord ended the civil war, otherwise known as “the war for others” (non-Lebanese) that broke out in Lebanon between 1975 and 1990.

Political federalism, which some Lebanese people called for, especially during the aforementioned war, was also rejected as per the Lebanese Constitution amended in 1991.

Repeated calls for federalism appeared (and still appear sometimes). However, other Lebanese people refuse this option because of Lebanon’s small geography, or for fear of federalism being a prelude to dividing the country into different States - which was proposed repeatedly but was met with failure.

Fourth: Partition

In the context of division, there are concerns related to the risk of fragmentation and partition of States into two or more States (this constitutes a fundamental divergence in comparison with federalism under

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16 هائي عانوني، لم لا التفشي أو الفيدرالية؟، النهار، ص. 9، 23/8/2019، منتشر.


18 غسان حجار، مجلس الجنوب،...(يفيد)، النهار، 26 أيلول 2019، ص. 3، جدل.

which the State remains one and the same). These concerns have increased in the Arab region in general in the past few years, especially since the term “Arab Spring” was coined. Several Arab States resorted to partition based on conflicts, sectarian, confessional or ethnic considerations, particularly in Sudan when the secession of South Sudan occurred in 2011.

In reality, not by law, a sort of partition prevails in federal Iraq. There are also serious possibilities to divide Libya where chaos has been rampant since 2011, and Yemen, at least since 2015, after the unification of its north and south in 1990. Demands for partition have been voiced in several Arab countries also, like the Arab Maghreb, from some social components including but not limited to the Amazigh.

Moreover, some States are marked by precarity, at least at the level of their systems of governance up to this date, like in Syria, in the wake of the war that has been draining it internally since 2011. On Sept. 5, 2019, the “establishment of the Kingdom of the Yellow Mountain” was “declared” as a “sovereign Arab

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23 About the Iraqi Federal State:
27 Against these demands, refer to:
Islamic State” (before that, the establishment of the Kingdom of North Sudan was declared in 2014, and another ruler was ordained to govern the area between Egypt and Sudan). This prompts questions about the possibility of establishment of new Arab States and the creation of different Arab-Arab (inter-Arab) regional borders in the short or medium-term. Relevant preparations seem to be increasingly underway, even if their sole aim, for now, is to check such projects’ feasibility.

It is noteworthy that a terrorist organization (the so-called “Islamic State of Iraq and Al-Sham (ISIS)”) had occupied several Arab territories, and it even removed the borders between Syria and Iraq in summer 2014; establishing a so-called Islamic caliphate. However, these areas were liberated by the concerned States, local resistance factions, regional powers and the international military coalition formed specifically for that purpose.

b) Disadvantages of the narrow version of administrative decentralization

The limited space for non-expanded administrative decentralization in Lebanon currently has several disadvantages, mainly: the State’s general disinterest in municipalities and their unions, the central authority’s use oftentimes of some of the municipalities’ funds and revenues of the independent municipal fund or its lack of provision of all their resources, the low rate of transfer from the central government to the municipalities and municipal unions and the low rate of local spending compared to the overall central spending and to spending in other countries. All this negligence has resulted in negative development and social, economic and political repercussions, not just locally, but also nationally. Therefore, expanding administrative decentralization in Lebanon³⁰ is important.

c) Advantages of expanded administrative decentralization

The expansion of administrative decentralization has several advantages³¹ on multiple levels, which is an evident idea in comparative law³², including but not limited to facilitating the provision of services to
citizens and people in general and meeting their needs locally; communicating amongst each other and with the public administration; cementing the feeling of belonging to the local community, especially through fostering the role of youth, minorities and women; reducing administrative bureaucracy and routine work; boosting local representation, social justice, partnership and engagement in local governance; ensuring opportunities to achieve the right to access information; developing the performance of public administration; enhancing the capacities of local administrations; guaranteeing coordination between decentralized authorities and the official central institutions, especially ministries; and consolidating the human resources’ (employees) capacities and competences in the public administration.

In addition to the abovementioned advantages, expanding decentralization boosts transparency, accountability and liability, knowing that these goals are at the heart of the demands of the Lebanese popular uprising that broke out on Oct. 17, 2019 against the ruling class with all its components. The uprising objected to the rampant corruption, the bad economic and living conditions and the absence of a serious plan and actual reformative public policies to address the unsettling financial crisis that has been taking its toll on the country since months. Notably, the uprising per se was decentralized. The protests and sit-in squares were not limited to the capital’s downtown area, with Lebanese people flocking to it from other cities, as it was the case in massive protests on national occasions in the past. This time, protests filled numerous Lebanese cities and towns. Citizens even moved from one area to another to protest in cities and villages other than the ones they hail from or live in to directly communicate with their fellow rebels and share personal experiences with them.

Expanded administrative decentralization also contributes to boosting economic success chances, like in the US, India and Belgium, and promoting the cultural, social and urban growth of society. Moreover, it develops the different rural areas and cities equally, as per the Lebanese Constitution, since decentralization...
is a unified and comprehensive development plan that aims at optimally providing resources to all regions, in the hope of achieving sustainable development. The desired demand helps curb the migration of rural folk to cities and the overcrowding in Beirut specifically, and it also contributes to solving the local housing crisis.

Expanded administrative decentralization increases the chances of political and democratic success, as it prevents, for instance, a competent minister from using the rights of municipalities financially as a “political tool” that (s)he threatens with, whenever the need arises. The expansion of administrative decentralization also prevents members of parliament from offering public services to citizens as though they were personal interests and partisan or sectarian favors, although they are fundamental rights.

Expanded administrative decentralization also contributes to bolstering public safety and stability, improving public spaces, developing infrastructure, organizing transportation, curbing traffic bottlenecks and improving the suffering public transport sector. It also helps elevate the sectors of education and teaching, hospitals and nutrition, and contributes to rationalizing the management of environmental issues, especially waste. If the Lebanese legislator designs an administrative decentralization law, which places national affiliation above all sectarian and confessional considerations, the legislator would be helping reduce sectarianism and confessionalism, which Lebanon still suffers from, and overcome these two vices, even if in the middle or long run.

**KEY PROJECTS AND PROPOSALS FOR ADMINISTRATIVE DECENTRALIZATION IN لبنان**

The scope of this paper does not allow to explore the administrative division that was in force in the past and shortly after Lebanon’s independence in 1943; when the State of Greater Lebanon was established in 1920; and even before that, under the two district officers’ system between 1842 and 1861; during the

34 About the advantages of administrative decentralization especially in terms of achieving development, see: [www.lebarmy.gov.lb](http://www.lebarmy.gov.lb), وصفات فرنسية، الأساسية الإدارية والإنتاج المتوازن، مجلة الدفاع الوطني اللبناني، العدد 40، نيسان 2002، and publications of the Democracy Reporting International in Lebanon in Arabic and English, specifically those published in 2017 ([www.democracy-reporting.org](http://www.democracy-reporting.org)).

35 See Section 5 below herein.

36 Georges Corm, La participation citoyenne au niveau local passage obligé pour une participation nationale, dans: L’Observatoire de la fonction publique et de la bonne gouvernance de l’USJ-Beyrouth, et Konrad Adenauer Stiftung, op.cit. and جمعية الادارية والإنتاجية، ممثلة برئيسها المحامي فادي بركات في المؤتمر الصحفي "إطلاق أعمال الجمعية وتطلعاتها" في 12/12/2012، في مؤسسة عصام فارس، لبنان.
mutasarrifate era between 1861 and 1914, or under the French Mandate between 1920 and 1943. It is noteworthy that the first local council was established in the capital Beirut in 1833, but its functions were limited to guarding, lighting and cleaning. Then, a municipal council was established in Deir el-Qamar (Chouf) in 1864, and municipalities later multiplied, notably after the country’s independence.

This paper explores key projects and proposals of administrative decentralization in Lebanon in modern history and in the present.

a) Modern history

During the first and middle parts of the 20th century, more interest was attributed to administrative decentralization, especially in the days of President Fouad Chehab in 1959, according to a French study that divided Lebanon into 20 administrative units, and even before that, under President Emile Eddeh. In our modern times, since peace was restored in Lebanon in 1990, projects and draft laws have been proposed regarding administrative decentralization in the following chronological order:

In 1995, late MP Auguste Bakhos proposed a draft law to amend the administrative organization law. In 1997, the sub-committee of the Administration and Justice Committee put together a draft law related to administrative organization and decentralization. In 1999, the government of PM Salim al-Hoss presented a draft law and referred it to parliament as per decree no. 1066. In 2001, the Minister of Interior and Municipalities Elias al-Murr presented a draft law about administrative organization and decentralization. In 2007, MP Robert Ghanem, head of the parliamentary committee for law modernization, presented a draft law about administrative decentralization.

b) Status quo

The preamble of the Lebanese Constitution states that “Lebanon is a final homeland for all its citizens. It is unified in its territory, people and institutions,” and that “the Lebanese territory is one for all Lebanese.

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38 For studies about the history of establishment of the Lebanese State, in general, see: جامعّة سيّدة اللويزة والمركز العربي لتطوير حكم القانون والنزاهة، مذكور سابقًا، لا سيما ورقة الأب بولس نعمان، ص 98 – 111.
39 موسي حبيبة وسامر فواز، مذكور أعلاه، ص 11.
40 Georges Corm et Ziyad Baroud, dans : L’Observatoire de la fonction publique et de la bonne gouvernance de l’USJ-Beyrouth, et Konrad Adenauer Stiftung, op.cit.
41 جمعية اللا مركزية والإثم، مذكور أعلاه.
Every Lebanese shall have the right to live in any part thereof and to enjoy the rule of law wherever (s)he resides. There shall be no segregation of the people on the basis of any type of belonging, and no fragmentation, partition or settlement of non-Lebanese in Lebanon.

Article 1 of the Constitution states that “Lebanon is an independent, indivisible and sovereign State.” Article 3 states that “the boundaries of administrative areas may not be modified except by law.” Reference shall be made here to the Legislative Decree no. 116, dated 12/6/1959 related to administrative organization.

The aforementioned National Accord Document stipulated several reforms including administrative decentralization and set forth verbatim:

“1- The State of Lebanon shall be a single and united state with a strong central authority.
2- The prerogatives of the Governors and district administrative officers shall be expanded and all State administrations shall be represented in the administrative provinces at the highest level possible so as to facilitate serving the citizens and meeting their needs locally.
3- The administrative division shall be reconsidered in a manner that emphasizes national fusion while preserving coexistence and unity of the soil, people, and institutions.
4- Expanded administrative decentralization shall be adopted at the level of the smaller administrative units (district and smaller units) through the election of a council for every district, headed by the district officer to ensure local participation.
5- A comprehensive and unified development plan capable of developing the Lebanese provinces economically and socially shall be adopted and the resources of the municipalities, unified municipalities, and municipal unions shall be reinforced with the necessary financial resources.”

On 7/11/2012, the Prime Minister issued decision 166/2012, as per which a committee to prepare an administrative decentralization bill was formed. In 2014, the said committee put together a bill, which the parliamentary sub-committee’s draft law currently derives from. The said ad hoc sub-committee for

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42 What is meant here mainly is the settlement of Palestinian refugees in Lebanon.
43 Spearheaded by former Minister of Interior and Municipalities Attorney Ziyad Baroud.
administrative decentralization emanates from the joint parliamentary committees. During the two past years, it was amending the bill in order to ratify it as a draft law\textsuperscript{44}.

Just like the ministerial statements issued by the successive Lebanese governments since the Taif Agreement, the ministerial statement of the current outgoing caretaker Lebanese government (following the current revolution/uprising) that was read out on Feb. 12, 2019 stipulated the expansion of administrative decentralization. In one of its clauses, the statement declared verbatim: “The government shall commit to continuing cooperation with the parliament to resume work on ratifying the administrative decentralization law.”\textsuperscript{45}

According to relevant laws and regulations in force, the Lebanese Republic is a unitary state that follows deconcentration and decentralization, and its government is based in the capital Beirut. The Lebanese territories are divided into nine governorates that are themselves divided into districts, except for Beirut. Municipalities cannot be considered part of the divisions within the districts, and they are not part of deconcentration either. Along with the municipality unions, they constitute the only form of administrative decentralization so far\textsuperscript{46}.

\textsuperscript{44} What is mentioned in this paper does not express in any way the opinion of any member of parliament in the mentioned sub-committee or the opinion of the latter which was still researching, examining and discussing the content of the draft law under preparation. The parliamentary committees’ sessions, their work, minutes, discussions and voting are all confidential (unless the committee decides otherwise). For more information about the work of the ad hoc sub-committee, see: \url{https://www.lp.gov.lb/ViewContentRecords.aspx?id=1121}.

\textsuperscript{45} Between Feb. 12 and 16, 2019, the Lebanese parliament tackled administrative decentralization during the discussion of the aforementioned ministerial statement. For example, MP Samir al-Jisr (the parliamentary Future Movement) said that the ministerial statement outlined a roadmap to address problems through proposed reforms regarding the CEDRE\textsuperscript{*} conference, which he supports. He noted that “the statement has some gaps, since the administrative decentralization project requires support to ratify it and enforce it. The Lebanese people want this project to be an introduction to equitable development.” He asserted that “equitable development is based on fair spending, and development aims to serve humans and provide them with a bundle of services.” MP Ziad Hawat (representing the parliamentary Lebanese Forces’ bloc), for instance, said, “The government has reiterated in its ministerial statement its pledge to ratify the administrative decentralization law. We demand that Joubeil (Byblos) be included on the map of development and projects, including infrastructural and development projects, as former PM Saad ElHariri had promised us. We have several demands in this regard.”

*CEDRE: (Conférence économique pour le développement du Liban par les réformes et avec les entreprises), which France hosted in Paris on April 6, 2018, to support the Lebanese economy.

\textsuperscript{46} For a statistical study about how to implement decentralization in Lebanon effectively, see: مركز اللبناني للدراسات، حول اللامركزية الإدارية في لبنان، كتيب، 2014.
KEY FEATURES OF THE ADMINISTRATIVE DECENTRALIZATION DRAFT LAW UNDER DISCUSSION

According to the draft law that the ad hoc parliamentary sub-committee is currently working on, administrative decentralization shall be expanded at the level of municipalities and districts as decentralized units led by elected local councils and having a legal capacity as well as both administrative and financial independence, in addition to enjoying wide privileges. Local councils shall include municipal councils, District Councils and Beirut’s own city council since it is the capital and has a special standing, provided that diversity, plurality and participation of all social components are maintained, and Lebanon is divided administratively into governorates.

As per the draft law, municipal unions shall be dissolved, and cooperation shall be limited to certain municipalities only i.e. intercommunality, when need be.

The draft law aims at promoting the single and unitary state with a strong central authority stipulated in the National Accord Document, provided it is represented in the country’s regions according to the deconcentration system.

In its preliminary version that is still under study and discussion within the sub-committee, the draft law sets forth that the electoral bodies in the cities and villages of the district shall elect the General Assembly of the District Council, which in turn elects the District Board. The General Assembly is formed of representatives whose number ranges according to the number of people registered in the city or village and the number of district inhabitants who previously asked to be registered. The General Assembly

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authorizes some decisions of the board and puts them to a vote of confidence, in addition to forming advisory committees. The District Board, which manages the district’s affairs within its scope, is composed of 12 members, including the board director and his deputy. The board has executive tasks, and its functions are general in nature or serve public interest. It issues regulations and offers recommendations of public interest, as well as remarks and proposals.

In a nutshell, the District Council is formed of the General Assembly and the District Board. Regarding deconcentration, the Governor, according to the draft law, is the link between the regions and the center. Sub-prefectures and their apparatuses, as well as the function of district officer are eliminated, in violation of the related provisions in the National Accord Document, and the prerogatives of the district officer (an appointed employee) are transferred to the District Council (elected).

Given the particularity of the capital, which is a melting pot for all citizens of different backgrounds, the draft law, in principle, notes the establishment of the Beirut City Council, provided it includes a General Assembly and a board of directors. As per the preliminary version of the draft law, Beirut shall be considered one constituency in principle. The General Assembly of the Beirut City Council shall be elected by the electoral bodies and formed of 72 members, provided that 6 of them are reserved for Beirut’s 12 historical neighborhoods. Those six include 5 representatives of the registered people, and one representative of the residents. The Beirut City Council shall have a special situation and shall be elected directly by the electoral bodies, unlike in other districts where the General Assembly elects the board of directors. Thus, the local authority, without exception, in the capital would be based on public elections. The Beirut city Governor would be the representative of the central authority in the Beirut City Council.

Moreover, the draft law boosts transparency and limits auditing; constraining it to post-audit rather than pre-audit. A Decentralized Fund shall replace the currently applicable Independent Municipal Fund. The members of its board of trustees shall be elected, and it shall work according to systematic rules and distribution criteria based on aforementioned objective indices that cater to the importance of equitable development and encouragement of local growth. The draft law sees to the establishment of: the Ministry of Local Governance (the current Ministry of Interior and Municipalities shall become the Ministry of

48 Compare: Special Committee on Administrative Decentralization (Lebanon), Report and Draft Bill for administrative decentralization, 2014.
Interior only), the partnership apparatus between the District Councils and the private sector, a disciplinary committee for the District Councils, the statistics apparatus, the local governance apparatus, the information technology apparatus and the traffic safety apparatus.

The draft law invokes many recommendations and remarks that cannot be detailed here, but below are some of them briefly.

NOTES AND RECOMMENDATIONS ABOUT THE ADMINISTRATIVE DECENTRALIZATION DRAFT LAW

Below are some notes and recommendations that can be proposed regarding the administrative decentralization draft law:

One of the technical and logistic difficulties in local elections is the absence of a detailed housing map and official census of registered inhabitants and of residents (as well as houses)\(^{49}\), and in general, the lack of digital data and official statistics. It is important not to undermine the role of the Independent National Elections’ Commission to ensure transparent and democratic elections. It is also necessary to reduce the age of candidacy for the membership of the General Assembly of the District Council to 18 years to promote youth participation and representation, in line with the spirit of the law in other issues and articles. On those same grounds, we believe it is necessary to remove the university degree requirement for accepting candidacy to the membership of the board.

The financial aspect is another main hurdle delaying the ratification of the draft law. On the one hand, ensuring the minimum financial independence by boosting financial resources that local authorities need in their work is necessary to empower them to best perform their tasks. On the other hand, the financial burdens to meet local needs are huge. For that reason, the legislator has to be cautious before ratifying the provisions of a decentralized fund to avoid problematics like those related to the bitter experience of the Independent Municipal Fund that is currently still in force. Undoubtedly, stopping squandering and fighting corruption, which are the demands of the current revolution, are among the foolproof ways to

\(^{49}\)نجوى يعقوب ولارا بدر،، العدد 2، نيسان 2012، SIF،، في لبنان، إدارة الإحصاء المركزى، خصائص السكان والمساكن في لواء بدر، SIF.
overcome this obstacle. Evidently, reform and integrity are linked to decentralization, and the opposite is true. These two demands constitute a virtuous circle.

In fact, financial decentralization, which is under consideration, brings up thorny issues in the Lebanese experience, such as the composition of those finances and their sources, the management of funds of the prospective decentralized fund, the rules and principles of accountability, the financial control of local administrations and the role of the Court of Audit. Other issues include how to design and manage transfer systems and settlement payments, as well as decisive factors that should be taken into account when dealing with financial and institutional effects that might arise from the desired reforms on the state treasury and taxpayers. Regarding partnership provisions between the District Councils and the private sector, ideally and unlike the draft law, private partners should be limited to national rather than foreign entities. This recommendation aims to increase the chances of Lebanese companies or company conglomerates, except for exclusively specific cases like lack of competition, specialization or competence among Lebanese companies or conglomerates in the relevant sector or field.

The draft law also necessitates activating the role of civil society organizations and engaging them with decentralized authorities, as the two are complementary in achieving public interest. Those organizations shall have an advisory, non-binding opinion, solely for the purpose of deliberations and listening to community needs and practical proposals regarding sector-specific or certain issues, like urban planning, environment, health, culture, women’s rights, children’s rights, youth, the rights of people with special needs, social research, etc. This activates the role of local councils and boosts their effectiveness. The enhancement of the electronic and modern aspect of administrative “paperwork” is also required to facilitate it in the era of mechanization, globalization and e-governments. Lebanon largely lacks this aspect, and the draft law tasks the government with putting a plan to address this gap.

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50 On these topics, see: هادي الديك، بلديات لبنان بين الرقابة والتوجيه، المجموعة الطباعية، ط. 2، 2017.
51 مندلي الشباب الاقتصادي، ص. 65-66.
52 Compare to the status quo. For instance in 2011, a department dubbed the “municipal observatory” was created in Lebanon as part of the cadre of the Directorate General of Local Administrations and Councils in the Ministry of Interior and Municipalities, as per decree no. 6481, issued on Oct. 8, 2011. It aimed at assessing the performance of municipalities to develop them through following up on the work of local authorities and extracting numbers, data and inclinations. But the said observatory was not effectively implemented, and anyway as conceived by the said text, it lacks independence and transparency as well as competence in the development field. Besides, it does not include any civil society representatives. See:
53 المؤتمر الدولي للطباعة، اللامركزية الدارية الموسعة: إنماء متوازن أم أزمة جديدة؟ حزيران 2019، لبنان.

https://mail.legal-agenda.com
An article should be added to the draft law, indicating that the expanded administrative decentralization system is based on the principle of delegation of power\textsuperscript{54} to achieve public interest, whereby elected local councils are given the widest possible scope of prerogatives as per the provisions of the said law and other applicable laws that do not contradict the provisions thereof. It is also hoped that the proposed administrative organization will not need to, as much as possible, cater to the nature and requirements of the sectarian political system and the particularity of the composition of the “Lebanese formula” at the expense of the ultimate constitutional goal of overcoming sectarianism. Decentralization should serve this end, not the contrary. Through legislation, the legislator shall improve the community situation, rather than wait for the community to improve in order to mirror it legislatively. In any case, the demands of the current popular revolution indicate the emergence of a popular awakening to reform the Lebanese system in general.

The topic of administrative decentralization triggers talk about other necessary reforms that are also important and delicate, like the situation of stateless\textsuperscript{55} people who, despite being “original” residents of a certain city or village in the district, remain deprived of their right to citizenship since dozens of years, and consequently, of their right to vote and participate in local representation and governance. This also applies to the children and husband of a Lebanese woman married to a non-Lebanese\textsuperscript{56}. However, each of these issues deserves a separate law and a legislative workshop.

**Overview of the Housing Crisis**

Going back to the abovementioned advantages of administrative decentralization\textsuperscript{57}, it could be said that the latter contributes to resolving the housing crisis, and this idea will be further elaborated in the current


\textsuperscript{55} For a new book about this topic, see:

\textsuperscript{56} Ghadir El Alayli, Le droit de la femme libanaise d’accorder sa nationalité à ses enfants, HBDT, juin 2015.

\textsuperscript{57} In the first part of this paper, specifically in paragraph (C) and in footnote 38.
This issue is among the main advantages resulting from decentralization, and it is pivotal, especially amid the deteriorating and fragile situation in Lebanon, economically, financially and socially.

In fact, Lebanon has been facing several crises for years, and they have piled up, one after the other, and recently erupted with the popular revolution. The bad public policies adopted by the Lebanese state can be considered one of the main problems, as the state slackened in performing its social role and function, thus leading the country to the brink of a social explosion. These policies are evident especially in the housing issue, knowing that such a sensitive social crisis cannot be addressed in separate texts, like the “new” rent law, or by solving the housing loans’ problem only. A more comprehensive way of approaching the matter is needed.

The Lebanese Constitution explicitly guarantees the right of property, as it clearly states in its Preamble that “the economic system is free and ensures private initiative and the right of private property.” In Art. 15, it states that “rights of ownership shall be protected by law. No one's property may be expropriated except for reasons of public utility, in the cases established by law and after fair compensation has been paid beforehand.” The right to suitable housing is also guaranteed in international charters and treaties that the Constitution refers to and that have become part of it. These are two complementary rights that should not conflict or clash, as in the case of the ratification of the exceptional rent laws and the “new” rent law, which works on liberalizing the former gradually.

The Lebanese legislator’s decisions over the years in terms of housing, especially regarding old rents, have bred a lot of social hatred and tensions. Meanwhile, the State’s main function should be promoting social harmony and instilling social justice, solidarity and synergy.

Many ideas and proposals were made and published to solve the housing crisis in Lebanon, but the best solution, in our opinion, is to continue acting to avoid what awaits Lebanese society in a few years, when “the old tenants” will be on the streets. This is an exact socio-legal problematic, and to achieve the right balance between the relevant basic rights, the State should fully assume its responsibilities. This can be done through devising a comprehensive and integrated housing plan that includes public policies.

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59 It was mentioned during the discussion of the new rent law (at the time) by MP Nadim Gemayel (The Phalangist parliamentary bloc).
stemming from good governance and wise management to face the housing crisis in all its aspects and dimensions (social, legal, developmental, reconstructive, administrative, urban planning, transportation, financial and banking incentives and facilities). The housing problem must be addressed, especially amid the escalating crisis given the worsening Syrian displacement to Lebanon (in addition to the Palestinian refugees and camps and the Iraqis, among others), and in the wake of the deteriorating financial and economic situation in the country since the end of 2019.

In comparative law, there are relevant notions like “reasonable housing” (in India, for example) and “adequate housing” (in Europe, for instance). These principles oblige the state to provide protection and safety for society based on certain criteria, especially in terms of covering all related circumstances. The latter include the situation of the elderly, people with special needs and children, including orphans, the vulnerable and families with women as breadwinners (India), and ensuring the right to public housing (USA).

Several recommendations can be made in this regard, such as restructuring financial support offered by the Banque du Liban (BDL) to buy housing property, reviewing the tax system (two key demands of the current revolution), activating urban organization and planning, amending or at least preventing the violation or circumvention of the law on foreign acquisition of real estate in rem rights in Lebanon. We also recommend launching suitable, decent and motivating housing projects/public housing to social categories that are mostly in need, including low-income individuals, youth and elderly, provided the housing units are ready at the time of “forced displacement” or even “homelessness” of “old tenants”. The projects or units should also ensure the organization of slums and the achievement of equitable development, all the while promoting the role of local authorities, urging sects and associations to provide lands (especially communal lands “mousha’” and endowments “awqaf”) to build the desired housing compounds, and facilitate access of low-income individuals to affordable housing.

Decree no. 8198, dated 24/5/2012 (draft bill) must be ratified in order to amend law no. 767, dated Nov. 11, 2006 and related to rent-to-own leasing targeting low-income individuals specifically and ensuring

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60. لم كرمات، النقاش الاستراتيجي اثباتا لحق السكن، 7/5/2012، العدد الرابع من مجلة المفكرة القانونية.

housing units at low prices. This has become a pressing and necessary need, given the tough economic, financial, banking and social situation in Lebanon and the recent rise in unemployment. The aforementioned draft bill aims at giving incentives (in which the State, the private sector and banks participate) to the investor selling a housing unit to a low-income tenant specifically through rent-to-own lease, notably by exempting the tenant from several charges.

It is also pressing to issue implementation decrees for the Construction Law and Rent-to-Own Lease, which defines a rent-to-own lease as a lease that grants the tenant the right to own the leased premises in exchange for a fee agreed upon when concluding the lease, after deducting the paid installments in rent from the total price. The duration of the rent-to-own lease shall not exceed 30 years, and the tenant cannot use his/her right to buy the leased premises before five years at least have passed from the lease. During the 30 years or upon their completion, the tenant shall have the right of choice to transfer the lease into ownership.

If the competent authorities continue to ignore the legitimate public rights and recommendations about consecrating the right to housing, on the one hand, and protecting the right to property ownership, on the other, vertical social confrontations and divisions might aggravate and threaten the Lebanese civil and social fabric. It is noteworthy that the last provision of the “Proposed Preliminary Reform Measures to Face the Crisis” paper issued by the economic meeting held in the Presidential Palace in Baabda on Sept. 2, 2019 had underlined, under the clause of social policy that aims at providing protection for all social groups, the importance of putting a housing policy based on the right to housing, and not limited to encouraging ownership.

The aforementioned recommendations about the housing crisis have voluntarily gone beyond the main topic and scope of this paper. Once again, expanded administrative decentralization is enough to contribute to ensuring provision of the right to housing practically, as per the local needs and reality of each region. However, even under the current applicable Lebanese laws, hence under the limited administrative decentralization, the municipal council handles the establishment of public housing, provided this step is ratified by the Governor. The municipal council can manage the housing units

62 ناصر كساب، جوزيف زغيب، أنطوان كرم، ندوة حول قانون الإيجارات بين المفهوم والحسنات والسيئات، 6 أيار 2014، مركز الدراسات الحقوقية للعالم العربي.
personally or through an intermediary, or can contribute to or help in executing them, according to the provisions of the Municipalities’ Law. The latter will be tackled in the last section of this paper.

**BETWEEN EXPANDING ADMINISTRATIVE DECENTRALIZATION AND REFORMING THE MUNICIPALITIES’ LAW**

The ad hoc parliamentary sub-committee was seeking to adopt the administrative decentralization law proposal before the end of 2019 by achieving a national consensus on such a “development project” that would unite the parliamentary blocs representing the various political forces. This is regardless of these forces’ views on political matters in their narrow sense. The sub-committee wanted the demand for expanded administrative decentralization to override secondary differences, let alone considerations related to factions and parties. In fact, it expressed its will to achieve local interests and the general national interest.

However, this deadline will inevitably be extended for two reasons: First, sub-committee members representing parliamentary blocs have yet to agree on several contentious terms. Chief among these is the financial aspect of the decentralization and the peculiar status of the capital, Beirut. Second, they have yet to reach an agreement on the political, security and logistic levels due to the outbreak of the popular revolution. Of note, the Parliament’s General Assembly has been unable to meet for over a month due to street pressure, and the parliamentary committees’ priority is currently the draft laws that the revolutionaries are demanding as a way out of the financial and political crises plaguing the country.

Pending the approval of the administrative decentralization law, the Lebanese legislation will seemingly lack any ambitious, comprehensive and integrated plan, vision, or approach to expand or reform administrative decentralization. In recent times, a proposal study with more “modest” objectives emerged with the only aim of specifically amending the Municipalities’ Law (Legislative Decree No. 118 dated 30/6/1977 amended in a bid to modernize and reform it and fill its gaps, more than 40 years later. As of the date of writing these lines, this proposal is the one likely to be completed (first) in the future (and not the proposal

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63 Articles 49-50 and 61 of the Lebanese Municipalities’ Law.

to expand decentralization), even though the political and security events since mid-October 2019 have been hindering work on both until further notice.

Since mid-2019, the Parliamentary Sub-Committee for the Modernization of the Municipalities’ Law, emanating from the Parliamentary Committee for National Defense, Interior and Municipalities, has been working on discussing three draft laws to approve one overarching draft law that would address the most prominent difficulties encountered by municipalities in performing their administrative, logistic and financial duties. Lebanon suffers from a huge aggregation of 1058 municipalities spread over the total surface area of the country i.e. 10452 km². This number increases in a record manner compared to other countries in the world. Such proliferation calls for the need to control this phenomenon and to develop the municipal resources financially and humanly. The solution lies in adopting a policy of stimulating municipal mergers to ensure the sustainability of local authorities and enable them to carry out their development tasks.

This also calls for a discussion of a set of recommendations in order for the sub-committee to adopt the most important standard conditions for the establishment of municipalities. These should ensure the latter’s sustainability by securing a minimum amount of expected revenues based on the financial sources stipulated in the law. Also, municipalities shall be able to fill basic jobs based on the expected financial resources, and to efficiently provide public services. The sub-committee must review the mechanism for establishing municipalities and defining their administrative scope. There is a special need for the law to determine this mechanism as consisting of a reasoned decision issued by the competent minister confirming the foregoing. The sub-committee must work according to the best criteria for annexing, merging and separating municipalities, notably based on their geographical continuity and while proving greater ability to employ and to provide public services, as well as financial sustainability based on the financial resources noted in the law.

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65 What is mentioned in this paper does not express in any way the opinion of any member of parliament in the mentioned sub-committee or the opinion of the latter which is still researching, examining and discussing the content of the draft law under preparation. For more about the work of this sub-committee, see: https://www.lp.gov.lb/ViewContentRecords.aspx?id=2157

66 أندرو سليمان، من أجل سلطات محلية أكثر استدامة: في ضوء الدمج البلدي ودور التخطيط المركزي للشؤون المحلية في لبنان، 2019، غير منشور بعد.

67 توصيات المنظمة الدولية للتقرير عن الديمقراطية لتحديث قانون البلديات، 2019، غير منشورة.
The sub-committee shall take into consideration the most urgent recommendations related to the incentives that could be adopted to join and merge municipalities. These include financial incentives through the Independent Municipal Fund and tax exemptions. The increasing number of municipalities in Lebanon is a negative phenomenon due to the unsustainability of their components. This is taking place amid the lack of any debate among legal experts and in comparative law about the necessity of merging poorly performing municipalities, as is the case in Lebanon. In many countries of the world, including Arab countries such as Jordan and Algeria, the policy of municipal integration plays an increasing role in local governance and decentralization. The merger policy is based on the inclusion of municipalities as well as adjacent and homogeneous localities in a single municipality capable of providing better services while having a highly efficient administrative, financial and technical apparatus capable of facing challenges.

It is true that the integration policy faces difficulties in some countries, such as France which, despite its efforts to apply integration, opted for boosting coordination and cooperation mechanisms between local groups namely intercommunality. However, it is also true that the policy of integration is inevitably a trend in most developed countries, such as Japan, Canada, the United States of America, and many others.

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68 André Suleiman, من أجل سلطات محلية أكثر استدامة، سالف ذكره.
69 محمود عودة أبو فارس وأيمن عودة المعانيع، أثر دمج البلديات في الأردن على فعاليتها الإدارية والمالية من وجهة نظر رؤساء المجالس فيها، دراسة ميدانية. The Hashemite Kingdom of Jordan - Ministry of Tourism and Antiquities; The World Bank; Third Tourism Development Project, Secondary cities revitalization study Analysis of the municipal sector, Annex B, see page 6 among many others.

70 Fusions municipales.

71 د.م.د. فياض، المركز اللبناني للدراسات، تجربة العمل البلدي في لبنان: الإنجازات والوقائع والتحديات، لا تاريخ، ص 34.

72 محمود عودة أبو فارس وأيمن عودة المعانيع، سابق ذكره، ص 31.


European countries such as Portugal, Austria, the Netherlands, Belgium, Germany, Britain, Denmark, Norway, Sweden, Iceland, Finland, and other countries of the Organization for Economic Cooperation and Development. A comparison between the number of municipalities before and after the merger in a number of these countries indicates that merger policies have come to fruition. According to the best relevant international practices, merger policies are mainly based on the need to achieve economies of scale and rationalize domestic spending by mobilizing financial and human resources as well as eliminating duplicate administrative expenditures.

This comes in the hopes that the primary purpose of the legislative workshop in Lebanon would be to improve the public services provided by the municipalities to be of high quality and effectiveness, as well as to promote local development in a balanced, sustainable and democratic manner based on the general local interest. This is a natural and constitutional right guaranteed to human beings to entrench their right to decent living without any discrimination, preference or exception, especially when it comes to medicine, health, housing, learning, work, environment, security and safety.

The legislative draft amendment is supposed to facilitate and accelerate municipal work to bypass administrative bureaucracy, the accumulation and delay of transactions and the unjustified lack of good coordination. The suggested amendment should also aim to address difficulties encountered by municipalities while carrying out their administrative and logistical tasks. Meanwhile, it must seek to strengthen the capacities of municipalities and devote their sustainability, especially in terms of financial and human resources. In fact, the latter are expected to be compatible with the size of the responsibilities entrusted to municipalities in order for these to be able to achieve their goals in response to local needs and requirements, notably at the development level. The legal amendment should also aim to activate accountability and enhance transparency in municipal work. The Municipalities’ Law will hopefully be integrated with the administrative decentralization draft law, which is also under preparation. This requires

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78 Tuukka Saarimaa and Janne Tukiainen, Politics in Coalition Formation of Local Governments, Spatial Economics Research Centre, Discussion Paper 102, March 2012, pages 2, 9-10, 26. (See also p.5).
81 Idem, pages 27-34.
82 حلف "الإدارة بمحلاها"، شرعة اللازمكية الإدارية، وهو حلف تأسس عام 2016 ويبين عدد من المنظمات اللبنانية والدولية، ويستيق ذكره في تفويض حق الحصول على الخدمات العامة.
coordination and communication between the chairperson and members of each of the two ad hoc parliamentary sub-committees, given that these two laws are closely related to each other.
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