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Lebanon and Syria

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*Decentralising Lebanon
- Utopia or a feasible
next step?*

The **Lebanon Papers**

10.2020
beirut.fnst.org

Firstly,

Lebanon is currently experiencing one of the most difficult times in history as the country is wrestling with a dire economic situation, a global pandemic and political instability.

The Lebanon Papers series therefore aims to offer an overview on the current situation in Lebanon and provide possible solutions for a better future.

Its purpose is to prevent disinformation by ensuring sound reporting while explaining the challenges as simple as possible for the information to be accessible to as many people as possible. The paper series consist of well-founded reports on different topics using political, economic and judicial perspectives in order to achieve a comprehensive coverage. The second issue of the series addresses decentralisation as a possible solution for achieving better governance structures in Lebanon.

We hope that you will enjoy reading our paper series and are looking forward to any feedback that you might have.



Kristof Kleemann

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Meet the Author

I am a graduate lawyer specialised in International, European law and Human Rights. After completing my legal studies at the Ludwig-Maximilian-Universität in Munich I moved to Beirut in order to gain work experience in the region. Currently I am doing my LL.M. in public international law remotely at Utrecht University. During my studies in Munich I gained work experiences, both in law firms such as Freshfields or Beiten Burkhardt, as well as through an internship in a foundation in Bogotá. Cultural exchange, languages and the interaction of traditions and history of each country in the respective legal system, have always fascinated me. I am particularly interested in the question of how best to consolidate the principles of the rule of law. However, it is not only legal aspects that need to be considered, but also the interplay between politics, religion and society,

October 17th 2020 marks the anniversary of the ثورة (thaura) – Civil Unrest. One year of revolting against the political establishment in place, one year of hope that change is possible, one year full of patience and revolt trying to cope with the challenges day by day. Reforms of the current Lebanese system of government are now more important than ever. As the Lebanese currency continues to devalue, food prices continue to increase, petrol and medicines become more and more scarce, the frustration of the population rises and a thin line between resignation and rebellion looms. But for how long can the current political stalemate actually be sustained?

In our last Issue of the Lebanon Papers, several possible approaches to reform were raised – one of them: The Decentralisation of the government.

Decentralisation has become a common tool for many countries around the world to strengthen democratic, social and economic principles. It has proven to be an efficient method to achieve and develop these principles.

So how could the central government in Beirut be decentralised? Would it actually decrease corruption and lead towards a more accountable and transparent state, or would it have the contrary effect?



What is Decentralisation?

Decentralisation in its general term can be defined as the transfer of authority from a central government to a subnational entity. Decentralisation does not follow the objective of replacing the central government in charge. On the contrary it establishes complementary roles for national and subnational actors to reach the desired outcome. Going further, the process of decentralisation is complex as the level of decentralising authority can vary in area, design and implementation. There is not one universal recipe on how the government should transfer power to subnational entities. Therefore, decentralisation can be political, as well as administrative and fiscal. Most of the times decentralisation processes are not limited to only one of the mentioned categories but aim to implement the devolvement of powers for all these different types simultaneously.¹



Political Decentralisation

Political decentralisation aims to strengthen the *participation and representation of citizens*, to *change the structure of government* by transferring power and authority to subnational units, and to form *power sharing institutions* through federalism or autonomous regions.²

Administrative Decentralisation

Concentrates on shifting social services, such as: education, health, social welfare, to the subnational units. This can be achieved by *deconcentrating state structures and bureaucracies* away from the centre, *delegating the authority and responsibility of the central government* towards semi-autonomous actors, and *decentralising cooperation of government agencies* that perform related functions.

Fiscal Decentralisation

Follows two objectives. On the one hand, to increase the income of sub-national governments through grants and tax-raising powers, while granting them more autonomy, so the sub-national governments have the freedom to decide upon their expenses.³

¹Boko S.H., *Decentralization: Definitions, Theories and Debate, In: Decentralization and Reform of Afrca.* Springer, Boston, MA (2002)

²Kamel, E., *Decentralising Government – What you need to know, Democracy Reporting International.* Briefing Paper 87, June 2017, p.5

³Kamel, E., *Decentralising Government – What you need to know, Democracy Reporting International.* Briefing Paper 87, June 2017, p.6

There are different levels of implementation regarding the three decentralisation areas.

There are different levels of implementation regarding the three decentralisation areas. Deconcentration, Delegation and Devolution. The main difference between these forms of decentralisation is the level of accountability shifted towards the sub-national entities.

Deconcentration, Delegation and Devolution.

Deconcentration, the weakest form of decentralisation solely transfers responsibilities for certain services by establishing field offices of national departments and transferring authority, through an administrative decree. Authority and responsibility are therefore moved from one level of the central government to another, without transmitting power to the local levels. Consequently, the sub-national units stay accountable to the central government.

However, **Delegation** shifts an intermediate amount of accountability towards the local units. These subnational units become semi-autonomous, while the accountability is mainly leading back up to the delegating authority.



Devolution entails the highest degree of decentralisation. It empowers sub-national government authority with decision-making, finance and management. Within the territorial boundaries each sub-national government has the freedom to decide upon its areas of authority and perform public functions.⁴

⁴Kamel, E., *Decentralising Government – What you need to know, Democracy Reporting International*. Briefing Paper 87, June 2017, p.6,7

The potential benefits that can be achieved through decentralisation are:

- Transparency, due to sub-national units local and regional control increases
- Accountability, because of local responsibility
- Public participation through the establishment of local institutions, while strengthening local solutions
- Efficiency, due to the local know-how concrete problem solving can be achieved
- And protection of local interests

Nevertheless, these benefits are not guaranteed whenever a country decides decentralising its government and frequently the lack of investment in general infrastructure such as public transportation, energy, digitalisation is obvious. In order to be able to delegate powers, the system in place needs to be working effectively. Building on this, decentralisation as a form of government can be implemented efficiently in the desired form, provided the government is open to change and to a new distribution of power.

Regarding the current situation in Lebanon, mere change might be the most important benefit. If new political leadership cannot arise due to closed system, shifting from centralised to decentralised power might be the key. But competent people are needed to fill the new roles. Otherwise the effect of change will not occur.



Decentralisation of the Lebanese government is not a new trend that arose in recent years. Already at the end of the civil war in 1989, decentralisation was foreseen in the Taef Accord as one of the possible reform approaches. Although the Taef Agreement was followed by an amendment of the constitution in 1990 which mainly enshrined the content of the Accord, the decentralisation of its administration was not incorporated into the new constitution. Nevertheless according to the agreement the power of the governors and district administrative officers should have been expanded, and all state administration should have been represented in administrative provinces at the highest level possible aiming to serve the citizens, meeting their needs locally. Simultaneously administrative decentralization should have been adopted at the level of the smaller administrative units such as district and smaller units, “through the election of a council, headed by the district officer, in every district, to ensure local participation”⁵

Hence, the current system in place is coined by a territorial decentralisation with a dominant central government on top and municipalities, including federations of municipalities as the decentralised body.

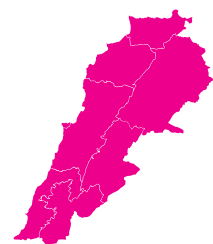
Up until now its implementation is still awaited.

However, the municipalities are not able to cope with their duties such as: to collect and dispose rubbish and deliver basic public services e.g. health care, community safety, town planning and development, mobility and public transport. The main challenges the local authorities are facing are of political, financial and administrative nature. The municipalities do not have the necessary financial resources to carry out their basic tasks. As a result, their position is extremely weak compared to the central government. In addition, the number of municipalities throughout the country lies around 1000. This proliferation leads to fragmentation rather than to an efficient division of labour and worsens the already weak position of local authorities. Due to this starting position, the municipalities are continuously dependent on the central government, not

only due to the lack of resources but the centralised approval. Meaning, that each municipality is obliged to get the final approval regarding financial aspects, as well as the whole outline of any local project they want to implement. The scarce financial resources also lead to extreme under-occupancy within the local authorities. Furthermore, the recruitment process for civil servants can take up to three years, which has a negative impact on operations and staff workload. Bureaucracy and the legal framework in place do not exactly help to counteract the current challenges. Although a certain degree of territorial decentralisation is already existent, it has so far been doomed to failure. This is due to the enormous overburdening of the municipalities, contradictory laws and lack of accountability. Municipalities are too attached to and controlled by the central government, and thus do not have the possibility to fully exploit the autonomy guaranteed to them by law.

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Central Government



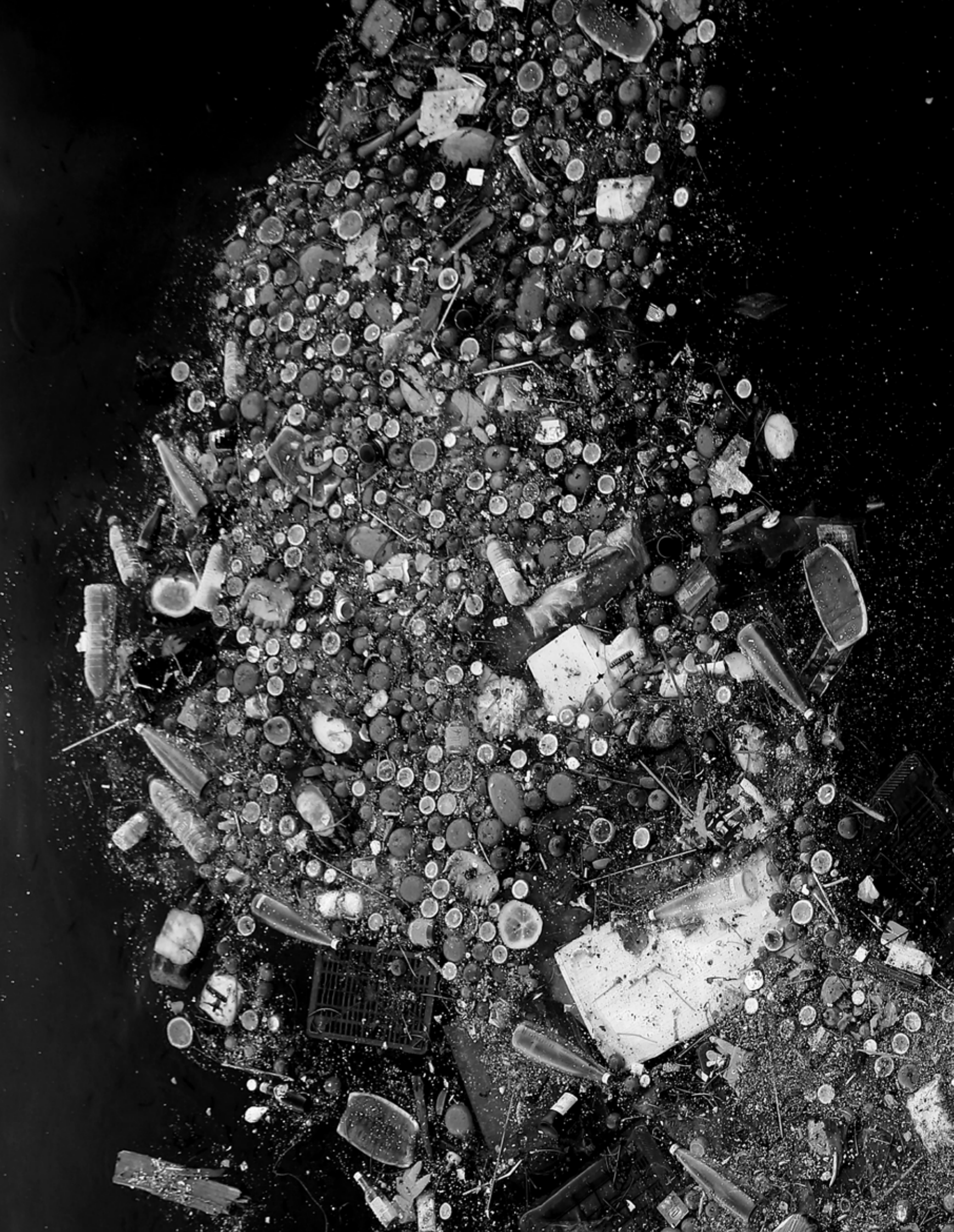
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Governorates



1,108

Municipalities



Since 1990 there have been several attempts by politicians and civil society actors to implement the decentralisation foreseen in the Taef Accord.

The latest draft law was presented by Ziyad Baroud in 2014, which is still in front of the parliamentary commission and has not been voted yet.

André Sleiman – country representative of Democracy Reporting International (DRI) – pointed out, that the previous draft laws concerning decentralisation before 2014 were all hybrid between deconcentration and decentralisation, meaning that a central government official would be appointed at the head of a so called decentralised council. Therefore, these draft laws were rather undermining the concept than reforming the government system towards a more decentralised one.

Hence, Ziyad Baroud’s draft law was a game changer because it came from a committee of technocrats, people who do not have a political agenda, Mr. Sleiman continued. Ziyad Baroud, former minister of Interior and Municipalities, presided the commission that was asked to write the draft law. In 2012 the government formed a special commission aiming to write a new decentralisation act. In 2014, Ziyad Baroud explained. But after the submission it was neither discussed in parliament nor was it on the agenda. It was not until 2016, that the draft law was submitted as a proposal in parliament, he continued.

In brief, the administrative decentralisation draft law entails the establishment of a third level, between the Governorate and the Municipalities – namely the Kadaa, or District. It foresees the division of Lebanon in 33 regions, each District with its own regional council. At the same time elections based on proportional representation should be guaranteed and transparency improved through the implementation of an e-government. Furthermore through institutionalised participation mechanisms the civic oversight at the local level could be enhanced and lastly promotion of Public–Private Partnership in local governance, the adoption of a gender quota in the electoral law and a sustainable fiscal and financial system should be realised.⁶

“Today we have a comprehensive draft law, but I cannot say it is the perfect one. Perfection is not how this works. But I can say that it is complete. It is a comprehensive draft law, where we tackle all aspects of decentralisation. We have something concrete in our hands. All we need now is the political will to vote this law”, Ziyad Baroud stated.



⁵Taif Accord, III. Other Reforms, A. Administrative Decentralism https://www.un.int/lebanon/sites/www.un.int/files/Lebanon/the_tauf_agreement_english_version_.pdf, viewed 18.10.2020, 15:48

⁶The Special Committee on Administrative Decentralization, Administrative Decentralisation Report and Draft Law, 2014

Despite having a complete draft law at the government's disposal, which has been under consideration for the past six years, no reforms have yet taken place. While it should not be forgotten that the outline has changed considerably since 2016, the urge and need for reforms has remained the same, if not become more necessary.

Everybody has a positive stand towards decentralisation, but that is just talk, André Sleiman explained. Every ministry statement and government statement has mentioned decentralisation, even the main political forces support it. But what is actually visible, is the opposite. He continued: "We see more centralisation, we see that the administrative and financial autonomy of municipalities are even more curtailed and more controlled and more undermined by the central government decisions and beyond, which evidences a central government mindset, which is more and more drawn to centralisation, rather than decentralisation."

The happenings in Lebanon throughout the past year did not help but slow down the approval of the draft law. Simultaneously the political establishment in power and their fear of undermining the central government by implementing a decentralised system is still prevailing.

So how could reforms be achieved?

Mireille Najm-ChecAllah, lawyer and teacher of constitutional law at Université Saint-Joseph de Beirut, explained that in order to achieve a well-functioning decentralised system, a strong, structured and central state is crucial. Rather than talking about decentralisation at the current stage, the focus should be on how to reinforce the state and its institutions, including the judiciary. This means making the central administration more transparent and effective, as well as providing the justice system with proper financial means in order to become more independent and efficient. Otherwise decentralisation could have the contrary effect and increase corruption as well as end up being more divisive than inclusive. If a well-functioning central government is non-existent, the risk of shifting corruption on a local level would increase, she continued. Therefore, after promoting and improving principles of good governance within the central administration, deconcentration of the governmental system, could be considered as a first step, which later on could be followed by decentralising the institutions. While always being aware that strengthening the state should be the priority at this stage, before decentralising it.

In order to achieve effective and proper change decentralisation will be necessary, but at this current stage not yet feasible. There is a need to restore trust in the political work and decentralisation plays an important role within this process. It can provide strong leadership and control, enable rapid and easy participation of the citizens and the likelihood of developing effective solutions, coined to the needs of the people on the ground increases. Moreover, the central government should not fear to lose power or to be replaced.

As explained above, decentralisation aims to complement the central government rather than replacing it. At the same time strengthening the state can be part of the decentralisation process. The judicial system, as well as basic needs, such as healthcare, education are regulated on a central level. This is where decentralisation has its limits.

Moreover, it should not be overlooked, that decentralised structures are already in place.





Lastly,

Revolution – usually defined by a movement against the centre, against the central regime in power. Over the past years, we have witnessed how the Lebanese citizens have organised themselves. Starting with the protest movement, that commenced on October 17th 2019, followed by measures during the Covid-19 Crisis in March 2020, and most recently the reconstruction measures after the explosion in the beginning of August 2020. Where the central government repeatedly fails to carry out its actual duty, society takes action and does so effectively and efficiently. Neighbourhood assistance such as Nation Station, that were established out of necessity not only to distribute food but to take stock of the current needs. These are already existent decentralised structures. The challenge now, is to establish the link between the political system and the local administration. That could be achieved through state support. The government could assist regional structures through providing e.g. premises, private entrepreneurial platforms, and databases.

Flexibility and openness to new ideas are the key. “When it comes to decentralisation, all approaches are just theoretical until now. No one has done it before. Therefore, we need to experiment”, Mohammad Serhan, Field Coordinator of the National Bloc said.

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