



Governance and the Pandemic

Questionnaire #1: Whose Jurisdiction? Law in Books and in Action

Libya

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Question #1: Current Measures

What are the current public health measures in place in response to the pandemic?

"The country is de facto divided between two governments contesting legitimacy, one in the West and another in the East."

To date ([18 October 2020](#)), the confirmed cases are 48,790, 725 death and 26,889 recovered. Most of the cases are confirmed in the West of the country.

As to the responses, the country is de facto divided between two governments contesting legitimacy, one in the West and another in the East. Since confirming the first case in March, both have taken various measures in response to the pandemic: closing schools and universities, stopping international and national flights, shutting borders, closing mosques, and imposing total and partial curfew. Enforcing these measures has, however, proven difficult. In the East, there was a plan to impose a total curfew, but cancelled. [The government in the West imposed total curfew](#) for 5 days in August and partial one afterwards. Many people working

in the private sector protested against curfew; they, of course, have to provide for their families, and the governments introduced no supporting programmes. In an attempt to enforce its measures, the [government in the West imposed penalties](#) for violating the measures it introduced, e.g., fining shops LYD 500 (about \$312) for admitting customers not wearing masks, and the same for not observing the curfew. The [Prosecutor General also issued a circular](#) warning against violations such as denying admission to Covid-19 patients by public and private health facilities and not observing curfew, and requiring public prosecutors to ensure compliance with law and relevant government measures. The governments have also ceased some of the measures. [Mosques](#) have been reopened provided that social distancing and other measures are observed.

Question #2: Constitutional Setup

What is the body with jurisdiction over public health in the country according to its constitution?

Libya does not have a constitution; only an interim constitutional declaration issued in 2011, which is silent on the issue. The body that has jurisdiction over public health is, according to Law No. 106/1973 on Health, the ministry of health. Within the ministry, there is a national centre for disease control entrusted with taking measures to combat infectious diseases including COVID-19. This centre is

located in Tripoli, in the West, prior to the political bifurcation. There is no equivalent centre within the rival Eastern ministry of health. Still, while the centre is leading the efforts in the West, the leader of the Libyan National Army (LNA) in the East, Khalifa Haftar, issued a [decision](#) to form a high committee for combating COVID-19 pandemic headed by the Chief of General Staff. Amongst the members are the ministries of health and interior.

Question #3: Debate over Measures?

Has there been any debate over the measures taken?

Yes, people are divided. Many do not trust the governments and blame them for the rapid increase of the pandemic. A [lawsuit](#) has been filed against the government for allowing into the country without quarantine infected people. Such accusations have become bitter when reports on [corruption](#) in dispensing huge budgets allocated to combat the pandemic. According to the Central Bank figures, an amount of [LYD 847 million](#) (around \$529 million) was allocated. The government in the East was reported to [spend LYD 284 million in 10 days](#). Yet, several officials within the high committee for combating COVID-19 pandemic including its [head](#) and the minister of [health](#) blamed the public for this rapid increase. People, according to them, do not observe the required measures such as social distancing especially in weddings and funerals. Whether there should be a total lockdown is also a question. There are those who think the partial curfew is not enough; for hours people are allowed to go for work and other activities, and it is hardly the case that they observe precautionary measures such as social distancing; only a total lockdown will prevent that. There are others, especially, those working in the private sector, who object to any total curfew.

Question #4: Conflicting Claims over Jurisdiction?

Has the pandemic generated any conflicting claims over jurisdiction on matters of public health?

As previously mentioned, the main conflict is between the two governments. Still, there has been an interesting development concerning the role of municipalities, especially in the West of the country. According to Law 59/2012 on local administration, municipalities are

supposed to be responsible for health services within their borders; this law, however, has not largely been implemented yet. Besides, combating pandemics falls, according to this law, within the jurisdiction of the national authorities. Still, seeing the measures taken by the national authorities as late or insufficient, some [municipalities](#) took it in their own hands to introduce measures such as forming their own committees to combat the pandemic, imposing curfew and closing borders. When the government in Tripoli decided to allocate an emergency budget for municipalities to combat the pandemic, the amount allocated (around 53 million dollar), was seen as insufficient. The mayor of the centre of Tripoli municipality complained also about the requirement attached to this allocation; the money must be used to provide medical equipment such as ventilators for quarantine facilities or centres. This is the task of the national authorities not the municipalities, according to him. Municipalities need the money to raise awareness and help provide citizens with their needs so they do not have to leave their homes. At the end, he, and other mayors, rejected the budget, and some established their own special funds and asked for donations. In the East, [municipalities](#) took some measures such closing borders, public markets and cafes. Forming their own special committees to combat the pandemic or issuing any directives to this effect became, however, prohibited as per a [decision](#) by the head of the high committee for combating COVID-19 pandemic.

Question #5: Overall Governance Debate

Has the pandemic generated a discussion over other governance arrangements in the country?

Given the political bifurcation, the discussion, albeit modest, is mainly focusing on ending the division and forming a unified government so as to allow for truly 'national' efforts to combat the pandemic.

There are signs that such calls might be answered. A more than year-long fight over the capital ended in June this year, and intensive efforts to end the divide and form a national accord government have since been made. Hopefully, they will succeed.

Suliman Ibrahim. 19 October 2020.