



# RESEARCH BOOK

information for Middle East and West Asia region countries



BİRLEŞMİŞ KENTLER VE YEREL YÖNETİMLER  
ORTA DOĞU VE BATI ASYA BÖLGE TEŞKİLATI  
UNITED CITIES AND LOCAL GOVERNMENTS  
MIDDLE EAST AND WEST ASIA SECTION  
منظمة المدن المتحدة والحكومات المحلية فرع الشرق الأوسط وغرب آسيا



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## Presentation

A significant bottleneck encountered in the geographical region of UCLG-MEWA in terms of contributing to the development of local democracy and the strengthening of local authorities is the insufficiency of the information about the legal and institutional frameworks delineating the structure and functioning of local authorities in the MEWA countries. In order to overcome this deficiency, albeit to a particular extent, we launched a study in 2010 for gathering information on the local government legislation in the 15 countries located in the MEWA region, to be presented in a comparative format.



The general framework of the study on the local government legislation in the countries located in the MEWA region has been specified as follow: “Background information on the country”, “Sub-national governance & types of local authorities”, “Constitutional provisions on local authorities”, “Legislation concerning local authorities”, “Electoral processes in local authorities & local elections”, “Structure and organs of local authorities”, “Duties and responsibilities of local authorities”, “Financial autonomy & resources of local authorities”, “Central government control/tutelage over local authorities” and “General framework of local autonomy & reform initiatives.”

The findings and the draft report in relation to the study for gathering information on the local government legislation in the 15 countries located in the MEWA region has been presented to the members during the joint meeting of UCLG-MEWA Executive Bureau and Council to be held in Tehran, Iran on 24-25 December 2011, hosted by Tehran Municipality.

In 2012, it was decided to enlarge the study by the addition of 5 countries with common historical and cultural characteristics with the MEWA region.

After all efforts made since the beginning of this important work it is our great pleasure to introduce the first edition of our Research on Local Governments System in the MEWA region. With this publication, United Cities and Local Governments Middle East and West Asia section (UCLG-MEWA) aims to provide readers with a good insight of the situation of local governments in the MEWA region. As we are passing through big changes, started with the so called “Arab Springs” the less we can say is that this job was not an easy task.

With regards to those changes I would like this book to be a first step in making UCLG-MEWA the source of key information and intelligence regarding local government for the MEWA region. With the support of UCLG-MEWA members and partners, UCLG-MEWA Secretariat General will coordinate an interactive platform to provide all information concerning local governments and allow a better understanding of the regional background of local governments.

For the current edition I would like to thank Mr. Hasan Sadun EMREALP, former Deputy Secretary General of UCLG-MEWA for the patient collection of information he made in order to write this book. I would also address many thanks to all our members and partners who participated in helping us providing precisions and corrections; a special thank should also be addressed to UCLG-MEWA staff for its lengthy work in proofreading and updating our research.

**Mehmet DUMAN**

UCLG-MEWA Secretary General



# AFGHANISTAN



# AFGHANISTAN

## Background Information

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Afghanistan, officially the Islamic Republic of Afghanistan, is located in southwestern Asia, bordered on the north by Turkmenistan, Uzbekistan, and Tajikistan; on the east by China and the part of the disputed territory of Jammu and Kashmir controlled by Pakistan; on the south by Pakistan; and on the west by Iran.

Afghanistan is spread over an area of 647,500 sq km, with a population of 31,411,700.<sup>1</sup> The capital and the largest city of the country is Kabul, with a population of 3,289,000<sup>2</sup>.

Between 1980 and 2012 Afghanistan's HDI rose by 1.6% annually from 0.209 to 0.374 today, which gives the country a rank of 175 out of 187 countries with comparable data. The HDI of South Asia as a region increased from 0.357 in 1980 to 0.558 today, placing Afghanistan below the regional average. The HDI trends tell an important story both at the national and regional level and highlight the very large gaps in well-being and life chances that continue to divide our interconnected world.<sup>3</sup>

Situated at the cross-roads of the Middle East, China and central and southern Asia, Afghanistan was once the prosperous hub of one of the world's most important trade routes. However, after nearly three decades of continuous conflict the country emerged in late 2001 as a truly devastated state with its human, physical and institutional infrastructure destroyed or severely damaged.

In post-Taliban Afghanistan, in 2001 the Bonn Agreement established a roadmap for the political transformation of Afghanistan to a legitimate democratic state. A Transitional Administration was established to guide the process. It derived its authority through an Emergency *Loya Jirga*, the first genuinely representative Afghan national meeting in decades. In 2004 Afghanistan adopted its first constitution in 30 years, which laid the political and development foundation for the country. The Constitution defines Afghanistan

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<sup>1</sup> UNDP Development Report (2013)

<sup>2</sup> Afghanistan Statistical Yearbook 2012/13, Central Statistics Office Afghanistan

<sup>3</sup> CIA The World Factbook

as “an Islamic Republic, independent, unitary and indivisible state.” The powers are vested in the legislature, the judiciary, and the executive.<sup>4</sup>

Subsequent to the adoption of the Constitution in 2004, the first democratic elections were held in 2005 for the President, the National Assembly and Provincial Councils were conducted, whereby women were elected to 27 percent of the seats in the National Assembly.

In 2006, the Afghanistan Compact agreed between the Government and international community established goals for state building, setting benchmarks in core sectors of security, governance, and development. To implement its obligations under the Afghanistan Compact, the Government developed the Afghanistan National Development Strategy (ANDS) to clarify existing conditions, establish objectives and define the policies, programs and projects needed to achieve those objectives. The ANDS represents an important milestone in the efforts to rebuilding of Afghanistan which has been underway since 2001.<sup>5</sup>

### **Sub-national governance & types of local authorities**

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Territorially, Afghanistan is divided into 34 provinces (welayat, singular - welayat); Badakhshan, Badghis, Baghlan, Balkh, Bamyán, Daykundi, Farah, Faryab, Ghazni, Ghor, Helmand, Herat, Jowzjan, Kabul, Kandahar, Kapisa, Khost, Kunar, Kunduz, Laghman, Logar, Nangarhar, Nimroz, Nuristan, Paktika, Paktiya, Panjshir, Parwan, Samangan, Sar-e Pul, Takhar, Uruzgan, Wardak, Zabul).<sup>6</sup>

The contemporary Afghan state is divided into 399 districts, approximately 217 municipalities, and roughly 40,020 villages. Although the number of provinces and districts has changed, the basic form of the government predates the 2004 constitution and can be traced to the reign of Abdur Rahman Khan (1880–1901) and the 1923 constitution Afghanistan’s first. The current text is nearly identical to the constitution promulgated in 1964 by Zahir Shah.

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<sup>4</sup> Constitution of Afghanistan (2004)

<sup>5</sup> Afghanistan National Development Strategy (2007)

<sup>6</sup> CIA The World Factbook

The most salient characteristic of the state—inherited from its predecessors—is its extreme centralization. Technically speaking, there are no local governments in Afghanistan except for municipalities, at least not if we define local governments as autonomous corporate entities with some binding decision making power and some discretion over their financial resources. There are provincial and district offices of the central state: Provincial and district-level government in Afghanistan is no more than the aggregation of governors' offices and the provincial and district-level representatives of the country's "line ministries". Provincial governors represent the central state, exercise a vague coordinating and oversight function vis-à-vis the ministries, and have primary control over the police and district governors. District governors represent the provincial administration; maintain the civil registry of births, deaths, and marriages; and also have a vague coordinating and oversight role. Municipalities are the exception because they are expected to be self-sufficient and keep the revenue they generate—usually through a variety of taxes and user fees as a rule; however, their revenues are insufficient for their needs. They receive some support from the central government, but the processes involved are "intrinsically inequitable, inefficient and vulnerable to a politicized allocation process."<sup>7</sup>

According to one source, Kabul is the only municipality to receive fiscal support from the central government. In this context, the sub-national governance structure of Afghanistan consists of the provincial, district, municipal and village levels, as delineated below:

**The provincial level:** Afghanistan is administratively divided into 34 provinces, each headed by a Governor. The provincial government consists of the line departments of the main ministries, the Provincial Governor's Office, the elected Provincial Council, and in some provinces the local offices of other agencies. The ministerial departments have responsibility for service delivery in areas such as policing, health, rural development, and education. Provincial Councils were initially formed via the elections simultaneously held with the elections for the National Assembly in 2005, and have a rather unclear mandate comprising advisory, conflict resolution and oversight roles. Provincial Development Committees are not constitutionally mandated but were established to bring order to the

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<sup>7</sup> National Defense Research Institute, RAND,(2011)

disparate coordination and rudimentary planning activities springing up around the country by 2005, and to create a structure for provincial input into national planning processes.<sup>8</sup>

**The district level:** The provinces are further subdivided into districts, headed by District Governors.<sup>9</sup> Districts are the lowest level of formally recognized government administration in Afghanistan. Their administrative structure reflects that of the province. The District Governor, (*uluswal* or *woleswal*) is a representative of the Ministry of Interior, and formally plays a coordinating role. In most cases, District Governors maintain some kind of semi-formal advisory councils, called *shuras*, or liaise with community leaders where these remain significant figures.

**The municipal level:** Municipal administration is led by mayors, currently appointed by the President. There are 217 municipalities, divided among 34 provincial municipalities, being the centers of each province. Municipalities have functional and service-delivery responsibility mainly for urban services, and revenue collection responsibilities. Larger (provincial) municipalities are divided into urban districts (*nahia*), and have varying representative systems sometimes including neighborhood representatives (*wakil-i-gozar*) held over from pre-war administrative systems. All municipalities, with the exception of Kabul, are overseen by the Independent Directorate of Local Governance (IDLG), established in 2007.<sup>10</sup>

**The village level:** Village communities are largely informal and widely vary across the country. The number of villages in Afghanistan is around 42,000. The National Solidarity Program was launched in 2003 as a local governance initiative aiming to “lay the foundations for the strengthening of community level governance.”<sup>11</sup>

## **Constitutional provisions on local authorities**

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Subsequent to the Constitutional *Loya Jirga* (the meeting of tribal, ethnic and other leaders to determine the new Constitution, held in Kabul in January 2004) the new Constitution of

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<sup>8</sup> Nixon, Hamish (2008)

<sup>9</sup> Nixon, Hamish (2008)

<sup>10</sup> Nixon, Hamish (2008)

<sup>11</sup> National Solidarity Programme (NSP), Operations Manual, Kabul: NSP, 2010.

Afghanistan was adopted in 2004. Provisions in the 2004 Constitution concerning local authorities include the following (in order of Articles):<sup>12</sup>

**Article 84:** “Members of the *Meshrano Jirga*<sup>13</sup> are elected and appointed as follows: 1- From among the members of each provincial council, the respective council elects one person for a period of four years. 2- From among the district councils of each province, the respective councils elect one person for a period of three years. 3- The President from among experts and experienced personalities – including two representatives from the disabled and impaired and two representatives from the *Kochis* – appoints the remaining one-third of the members for a period of five years.”

**Article 137:** “The government, while preserving the principle of centralism, shall – in accordance with the law – delegate certain authorities to local administration units for the purpose of expediting and promoting economic, social, and cultural affairs, and increasing the participation of people in the development of the nation.”

**Article 138:** “In every province a provincial council is to be formed. Members of the provincial council are elected in proportion to the population by free, direct, secret ballot, and general elections by the residents of the province for a period of four years in accordance with the law. The provincial council elects one of its members as Chairman.”

**Article 139:** “The provincial council takes part in securing the developmental targets of the state and improving its affairs in a way stated in the law, and gives advice on important issues falling within the domain of the province. Provincial councils perform their duties in cooperation with the provincial administration.”

**Article 140:** “In order to organize activities involving people and provide them with the opportunity to actively participate in the local administration, councils are set up in districts and villages in accordance with the provisions of the law. Members of these councils are elected by the local people through, free, general, secret and direct elections for a period of three years.”

As reflected in the provisions above, the Constitution of Afghanistan stipulates that the provincial, district and village councils will be formed through free, direct and secret

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<sup>12</sup> Constitution of Afghanistan (2004)

<sup>13</sup> Upper House of the National Assembly

elections. It is further stipulated that the provincial and district councils will then elect two-thirds of the *Meshrano Jirga* (the Upper House of the National Assembly).<sup>14</sup>

## **Legislation concerning local authorities**

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Outside the Constitutional framework, Municipalities are regulated predominantly by the Municipal Law of 2000 (issued under the Taliban), which replaced the previous Municipal Law of 1957.

Although the ongoing efforts toward its revision, the Law of 2000 continues to be essentially intact. The Law has established the Kabul Municipality as an entity with the status of a municipality, provincial municipalities in each of the provincial capitals, and has allowed for the creation of in excess of 180 “rural” municipalities, most of which operate without guidance or regulation with an informal client relationship to a nearby provincial municipality.

The emergence of rural municipalities appears to be related to inadequate and unapplied criteria for their establishment. This factor, as well as the differences between de jure and de facto administration of municipal areas and tensions between the Constitution and the Municipal Law, point to the need for establishing clearer criteria for municipal status and legislation governing the status of different sorts of settlement.<sup>15</sup> To this purpose, the revision of this law has been underway for the past years, but pertinent efforts have been stalled as key decisions, such as the institutional location of provincial governors, continue to be under discussion.

The Afghanistan National Development Strategy, under the heading of “Governance, Public Administration Reform and Human Rights”, encompasses the following goal: **“Independent Directorate of Local Governance (IDLG):** A sub-national governance policy will be developed. People’s participation in sub-national governance will be increased. Provincial Councils will be empowered. Laws on District Councils, Municipal Councils, and Village Councils will be introduced. Regular elections of District Councils, Municipal Councils, Mayors and Village Councils will be held. Public administration will

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<sup>14</sup> Constitution of Afghanistan (2004)

<sup>15</sup> World Bank (2007)

be reformed at the sub-national level and the capacity of the public sector workforce at sub-national level strengthened. Provincial planning and budgeting will be institutionalized.”<sup>16</sup>

The Independent Directorate of Local Governance (IDLG) has been formed in 2007 with responsibility for “supervising” the offices of “Provincial Governors, District Governors, Provincial Councils, and Municipalities except Kabul Municipality”.<sup>17</sup>

In the same manner, the Afghanistan National Development Strategy, under the general heading of “Urban Development”, encompasses the following key component of the urban sector strategy: “**Urban Governance:** The Ministry and Municipalities will be restructured and jointly work to prepare city action strategies and structure plans for Kabul and the 34 major urban areas, with special attention to local area plans for selected, fast growing areas, strengthen urban and municipal governance, finance and management. This involves establishing an enabling environment where stakeholders participate in municipal elections and residents can have a say in policy formulation and the design of implementation activities. This will be done through democratically elected Community Development Councils (CDCs) at the neighborhood level, comprising clusters of households, and Area Development Councils (ADCs) at the sub-urban district level.”<sup>18</sup>

Within the context of the Afghanistan Sub-national Governance Programme (ASGP), the initial drafts of the Provincial Council Law, the District Council Law and the Local Government Law have been prepared in 2010. The Independent Directorate of Local Governance (IDLG) has programmed to finalize these drafts by 2012 and submit them to the relevant authorities.<sup>19</sup>

## **Electoral processes in local authorities & local elections**

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The new Constitution of Afghanistan adopted in 2004 gives men and women equal rights under the law, and sets out electoral roadmap for simultaneous presidential, provincial, and district elections. In line with this roadmap, the first elections under the new Constitution were held in September 2005.

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<sup>16</sup> Afghanistan National Development Strategy, p. 63.

<sup>17</sup> Nixon, Hamish (2008)

<sup>18</sup> Afghanistan National Development Strategy, p. 102.

<sup>19</sup> UNDP (ASGP) Progress Report, p. 33

However, although the Constitution explicitly stipulates that the provincial, district and village councils will be formed through free, direct and secret elections, the elections held in 2005 concurrent with the parliamentary elections were confined only with the Provincial Councils, and thus elections did not encompass the District and Village Councils.

The next elections for the Provincial Councils in all 34 provinces were held on 20 August 2009, also concurrent with the presidential elections.

Each Provincial Council has between nine and 29 members depending on the population of the province. Across the 34 Provincial Councils (*woleyati shuras*) there are 420 members. Members are elected in a single provincial constituency, meaning that all districts may not be represented on a council. The election law states that a quarter of the seats on a Provincial Council should be reserved for women. Each Provincial Council elects a Head, a Deputy and a Secretary for the period of one year.<sup>20</sup>

Since elections had not been held for any of the other bodies called for in the Constitution, the Provincial Councils currently remain to be the only publicly elected bodies at the sub-national level.

As in the case of the Provincial Governors and the District Governors, the Mayors of large municipalities are appointed by the central government. Mr. Hamid Karzai, President of Afghanistan, pledged in his November 2009 inaugural that “mayoral” elections would be held “for the purpose of better city management.” However, municipal elections have not been held to date, and current local elections are not scheduled for the near future.<sup>21</sup>

### **Structure and organs of local authorities**

Article 8 of the Municipal Law of 2000 stipulates that “The Kabul mayor, deputy mayors, heads of departments, administrative council, central departments and district chiefs shall be appointed in accordance with the provisions of law. The municipal administrative council shall comprise the mayor (as chairman), deputy mayors and heads of departments and shall

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<sup>20</sup> World Bank (2007)

<sup>21</sup> Katzman, Kenneth (2010)

be set up based on the recommendations of the municipality and approval by the council of ministers.”<sup>22</sup>

Article 9 extends this framework into other municipalities by stipulating that: “Other municipalities shall be established and shall function in accordance with the approved organizational structure as well as in accordance with the provisions of law.”

At lower levels within the municipalities (particularly Kabul), there are mechanisms for allowing for the expression of voice and determining community needs. Each neighborhood (*gozar*) has a *wakil-i-Gozar* who is appointed and paid by the municipality as their representative. The *wakil-i-Gozar* attends to the local administrative and management requirements of the municipality including registration of births and deaths, registration of land, dispute resolution between neighborhood residents etc. They are also the neighborhoods’ primary link in accessing services including trash collection, donor support, education, health etc., primarily through interaction with the District Office.<sup>23</sup>

## **Duties and responsibilities of local authorities**

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Article 16 of the Municipal Law 2000 stipulates the duties and responsibilities of the Municipalities and district branches, listing 44 clauses thereof. In summary, these include the provision of means of livelihood for the residents, water and sanitation services, urban green spaces, construction and maintenance of roads, provision of social and cultural services, inspection of sanitary conditions, preventing the outbreak of diseases and protecting the bio-environment, allotment of land-plots for the construction of residential houses and commercial sites, expropriate land, undertaking public transportation, controlling prices and measuring appliances, providing assistance in promoting sports and physical training, collecting municipal charges, allocating burying grounds, etc.<sup>24</sup>

In this context, municipalities are responsible for the management of their areas and for the delivery of basic infrastructure and services such as roads, drainage, solid waste collection and disposal, sanitation and so on. In some cases (e.g. networked water supply, power) they play this role together with state utilities, such as the Central Authority for Water Supply

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<sup>22</sup> Municipal Law (2000)

<sup>23</sup> World Bank (2007)

<sup>24</sup> Municipal Law (2000)

and Sanitation, while the Line Ministries deliver the services for which they are responsible (education, health etc.).

Municipalities are meant also to play a coordinating role around service delivery in their areas. However both this role, and the direct service delivery function, is made difficult by a lack of clarity over functional responsibility in law, and the absence of service delivery frameworks. For this reason – and many others (insufficient finance, lack of capacity etc.) – service coverage in municipal areas is low and the quality of service-delivery is poor.<sup>25</sup>

### **Financial autonomy & resources of local authorities**

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Historically, municipalities in Afghanistan have been self-reliant and are meant to finance their activities through own-source revenues. While this has established important autonomy for municipalities, it has also created a number of significant problems.

First, municipalities are subject to unfunded mandates, with existing revenue sources being insufficient to cover the costs of a reasonable level of service delivery within their areas.

Second, the own-source revenue structure itself is very problematic: municipalities have proliferated a wide range of often illegal taxes and user-fees, which are not properly regulated at the centre; land sales, which are intrinsically unsustainable, have comprised a significant share of total income, and revenue administration is very weak (revenue yield thus significantly lags behind revenue potential).

Moreover, notwithstanding the commitment to fiscal “self-sufficiency”, substantial funds are transferred to Kabul municipality, which relies on such transfers for over 40% of its total income. In the absence of any clear, rules-based system for distributing central transfers among municipal entities, this sort of flow is intrinsically inequitable, inefficient and vulnerable to a politicized allocation process.<sup>26</sup>

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<sup>25</sup> World Bank (2007)

<sup>26</sup> World Bank (2007)

## **Central government control/tutelage over local authorities**

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Article 10 of the Municipal Law of 2000 stipulates that: “The organizational structure and budget of the municipality shall be prepared by the mayor, confirmed by the administrative council and after being reviewed by the ministry of finance shall be reflected in the Emirate (State) budget in accordance with the provisions of law and shall be submitted to the council of ministers for completion of formalities.”<sup>27</sup>

As reflected in the respective provisions, the budget of Afghanistan denotes a “unitary” system, whereby the budget is allocated to central government ministries and other central government entities. Elected provincial councils, appointed provincial governors, and district governors do not control their own budgets, although they approve the disbursement of funds by the central entities. There are accounting offices, called *mustofiats*, in each of Afghanistan’s 34 provinces that carry out those disbursements. All revenue is collected by central government entities.<sup>28</sup>

Concerning the general functioning of local authorities, the basic central government control/tutelage over local authorities is exercised by the Independent Directorate for Local Governance (IDLG), which was established through a presidential decree on 30 August 2007 to extend the national government's reach and increase its legitimacy by improving governance at the sub-national level. The IDLG oversees the performance of the governors of the 34 provinces and other local officials, focusing on accountability, transparency and efficient public services.

## **General framework of local autonomy & reform initiatives**

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Reform initiatives in relation to local government has to date been slow and difficult. Although there have been improvements in fiscal and administrative processes, large parts of the country still suffer from weak, ineffective and, in some places, corrupt government. There have been some efforts to extend the reform process out of Kabul and establish reform and capacity-building processes at the sub-national level. However, these have had mixed and generally unsuccessful results. Nonetheless, progress has been made in some areas. In

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<sup>27</sup> Municipal Law (2000)

<sup>28</sup> Katzman, Kenneth (2010)

particular, there have been significant improvements in financial management at the provincial level.<sup>29</sup>

In the summer of 2005 the Secretary General's report to the United Nations Security Council noted that: "While the Government has taken important initiatives to reform civil administration at the central level, reforms below that level have proved more difficult. In particular, insufficient resources have been dedicated to developing effective public administration at the provincial and district levels."<sup>30</sup>

Article 50 of the Constitution of Afghanistan stipulates that: "The state shall adopt necessary measures to create a healthy administration and realize reforms in the administrative system of the country."<sup>31</sup> In line with this provision, the Government of Afghanistan, in collaboration with international donor agencies, has made commitments to promote local governance as the next stage in Afghanistan's political and economic development. A key indicator of this intention came in August 2007 when President Karzai placed the selection process for local leaders (provincial governors and down) in the new Independent Directorate for Local Governance (IDLG), and out of the Ministry of Interior. The IDLG is also in the process of empowering localities to decide on development priorities by forming Community Development Councils (CDC's). Currently, there are about 30,000 CDC's established, and they are eventually to all be elected.<sup>32</sup>

Afghanistan National Development Strategy (ANDS), drawn up for 2008-2013, explicitly recognizes the current weakness of public administration, especially at the sub-national level, and highlights the importance of sub-national governance more broadly for the achievement of political and development goals. It is stipulated in the ANDS under the heading "Sub-National Implementation Structures" that: "At the sub-national level, the following structures are to be established to enhance the link between policy making, planning, and implementation of the PDPs, budgeting and monitoring: The Independent Department for Local Governance (IDLG), under the President's Office, will be responsible for the overall coordination of local governance and all provincial governors will report to it on the progress of the implementation of the ANDS.

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<sup>29</sup> Evans and Osmani (2005)

<sup>30</sup> UN Secretary General's Report (2004)

<sup>31</sup> Lister, Sarah (2005)

<sup>32</sup> Katzman, Kenneth (2010)

At the provincial level, the Provincial Councils, Provincial Development Committees and Provincial Governors will be directly involved in the implementation of the ANDS. The provincial departments of the line ministries will be responsible for implementation of the sub-national projects. At district and community levels the District and Community Development Councils (DDCs, CDCs) will continue to play key role in implementation of the community level projects under the overall leadership of the *Wuluswal*.<sup>33</sup>

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<sup>33</sup> Afghanistan National Development Strategy (2007)

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# AZERBAIJAN



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## Background Information

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Azerbaijan officially the Republic of Azerbaijan (Azerbaijani: *Azərbaycan Respublikası*) is the largest country in the Caucasus region located at the crossroads of Western Asia and Eastern Europe. It is bounded by the Caspian Sea to the east, Russia to the north, Georgia to the northwest, Armenia to the west and Iran to the south. The exclave of Nakhchivan is bounded by Armenia to the north and east, Iran to the south and west, while having a short borderline with Turkey to the northwest.

Azerbaijan has an ancient and historic cultural heritage, including the distinction of being the first Muslim-majority country to have operas, theater and plays. The Azerbaijan Democratic Republic was established in 1918, but was incorporated into the Soviet Union in 1920. Azerbaijan regained independence in 1991. Shortly thereafter, during the Nagorno-Karabakh War, neighboring Armenia occupied Nagorno-Karabakh, its surrounding territories and the enclaves of Karki, Yukhary Askipara, Barkhudarly and Sofulu. The Nagorno-Karabakh Republic emerged in Nagorno-Karabakh after the ceasefire of 1994 and is not diplomatically recognized by any nation. As such, the region, *de facto* independent since the end of the war, is a *de jure* part of Azerbaijan.

Azerbaijan is a unitary constitutional republic. It is one of the six independent Turkic states as well as an active member of the Turkic Council and the TÜRKSÖY community. Azerbaijan has diplomatic relations with 158 countries and holds membership in 38 international organizations. It is one of the founding members of GUAM, the Commonwealth of Independent States (CIS) and Organization for the Prohibition of Chemical Weapons. A member of the United Nations since 1992, Azerbaijan was elected to membership in the newly established Human Rights Council by the United Nations General Assembly on May 9, 2006 (the term of office began on June 19, 2006). The country is also a member of the OSCE, the Council of Europe, and the NATO Partnership for Peace (PfP) program. Azerbaijan is a correspondent at the International Telecommunication Union and member of the Non-Aligned Movement and holds observer status in World Trade Organization.

The Constitution of Azerbaijan does not declare an official religion, and all major political forces in the country are secular nationalist, but the majority of people and some opposition movements adhere to Shia Islam. Relative to other Eastern European and CIS states, Azerbaijan has reached a high level of human development, economic development and literacy, as well as a low rate of unemployment and intentional homicide. On 1 January 2012, the country started a two-year term as a non-permanent member of the United Nations Security Council.

### **Sub-national governance & types of local authorities**

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Political authority in Azerbaijan tends to be centralized in the office of the President. Decentralization reforms have been modest. The current system of local governance in Azerbaijan currently includes both state structures and local self-government. The state exercises political authority at the local level through Local Executive Committees (ExComs), a legacy of the soviet system. The country is divided administratively into 76 rayons, most of which comprise a single small to mid-size city and surrounding rural villages. Each of these rayons (excluding those in occupied Nagorno-Karabagh) is governed by an ExCom, which are organs of the Presidential apparatus. Chairmen of ExComs are appointed by and solely responsible to the President.

The state ministries of the national government are also represented in the regions by local offices. Such local offices are subordinate to both their national Ministry in Baku and the ExCom of the rayon, with some exceptions. The Ministries approve the heads of these offices based on the consent of the ExComs and sometimes based on nominations from ExComs. Their budget is set by the Ministry of Finance and they carry out their activities according to the regulations of their national ministry. Despite such independence, many local officials note that ExCom Chairmen maintain considerable influence over these offices.

Reforms aimed at decentralization in Azerbaijan have had the effect of adding to rather than replacing state institutions of governance at the local level. The most significant reform has been the creation of self-governing municipalities with elected municipal

councils. The legal basis for municipalities in Azerbaijan was specified in the 1995 Constitution, but municipal councils were only established after some delays with elections

in 1999. Over 3,000 municipalities have since been established, ranging from small rural villages to large city districts. They are technically independent of the ExComs that govern the rayons in which they reside. Municipal councils consist of 5 to 19 council members, depending on the population of the municipality, who are elected to five year terms. Each council is led by a chairman elected by the other council members. In many municipalities, only the chairman and the deputy chairman are paid positions. In mid to large municipalities, municipal councils also have a paid executive staff that reports to the council chairman.

Local councils perform the following functions:

- adopt municipal legislation;
- elect the council chairman and deputies;
- establish standing and temporary commissions;
- establish local taxes and duties;
- adopt the local budget and report on budget performance;
- manage and dispose of municipal property;
- adopt and implement programs for social protection and development, local economic development and the local environment.

Despite the creation of municipalities there has been little decentralization of political authority, service responsibilities, or fiscal resources municipal governments. While municipal councils have legal autonomy from state entities, their actual autonomy is openly questioned by local experts. In many regions throughout the country, ExCom chairman have considerable involvement in the affairs of municipalities. Citizen surveys and interviews with NGO representatives tend to support the view that ExCom chairmen typically have far greater political power than municipal councils, often resulting in municipalities being treated as subordinate agencies to the ExComs. In a 2003 survey of Azerbaijanis, 40% said they would approach their ExCom for help with a problem, while only 10% said they would approach their municipal council (Sharma, 2003). The election of municipal council members should have helped to ensure some degree of independent political authority, but the democratic credentials of municipal councils, while stronger than the ExComs, are far from perfect. The most recent municipal elections in 2004 fell short of a number of international standards according to OSCE's Baku office (OSCE, 2004).

Responsibility for nearly all aspects of governance falls, at least nominally, on the ExComs, including implementation of state programs, regional development, and local service responsibilities. Functional responsibilities for much of the service delivery, though, such as education, communal services, and social protection are borne by deconcentrated offices of state ministries or state enterprises. Unlike the ExComs or state ministries, municipal councils do not have any significant responsibilities for providing local services. Rather, municipal councils are expected to fill the gaps in state programs in coordination with the ExComs. In interviews with municipal council chairmen, many noted that they had no obligations on their budget, but chose to set their budget expenditures based on the “needs of the population.” Typically this includes small infrastructure improvements (particularly road repair), city beautification, and small social protection initiatives. Although municipal council members typically stress their autonomy in making decisions on how to spend their funds, many local NGO leaders and other experts argue otherwise, suggesting that ExComs have considerable influence over municipality budget decisions.

Finally, few fiscal resources have been devolved to municipalities. While municipal councils have both independent sources of revenues and the authority to use these resources, most have extremely small budgets relative to local needs. As a result, the activities that they can pursue are limited. In village municipalities, budgets are typically insufficient to support an executive staff. Many municipalities are thus heavily dependent on their state subsidy. As the state subsidy requires negotiations with ExComs, some loss of autonomy of the municipal council is to be expected.

Overall, the system of local governance in Azerbaijan would not lead one to expect high levels of transparency. With limited de facto autonomy from the ExComs, a lack of primary responsibility for service delivery, and small budgets for meeting community needs, there are few incentives for citizens to even demand information from their municipal councilors, and fewer incentives for municipal officials to respond to such appeals.

### **Constitution and local government in Azerbaijan**

The Constitution of Azerbaijan (*Azərbaycan konstitusiyası*) recognises local self-government in Section 4 (which includes Chapter IX on “Municipalities”), which contains provisions on the organisation and scope of responsibility of municipalities and on guarantees of their independence. A separate chapter (Chapter VIII) is devoted to the

Nakhchivan Autonomous Republic and comprises provisions on its constitutional status, its highest authorities and the division of powers between them.

According to Article 124 and Chapter IX of the Constitution, local government is carried out by both local executive authorities and state bodies and municipalities. Local executive bodies are run by chief executives who are appointed and dismissed by the President of Azerbaijan, who also determines the powers of these bodies. Members of municipal councils are directly elected by the citizens, but the chairs of these councils are elected by the council members (indirect election).

According to Article 1 of the Law on the Status of Municipalities “local self-government in the Republic of Azerbaijan is a system of managing the citizens’ activity that grants to its citizens the ability to resolve important local issues independently and freely (...)”. According to the Article 2, municipalities are constituted by bodies that are established by municipalities to deal with local issues within their powers and are not part of the system of state bodies.

The Constitution does not define local self-government and merely refers to it as being “carried out by municipalities”, which are elected bodies (Art. 142(I) and (II)). In particular, it does not regulate local self-government in Section 3 on “State power”, which implies that municipalities are not included among the public authorities exercising state power. It does not define municipalities as institutions forming part of the overall public administration. Accordingly, the relevant provisions do not include the main components of the Charter’s definition of local self-government since they enshrine neither the right of local authorities to regulate and manage local public affairs nor the concept of the interest of the local population.

### **Legislation concerning local authorities**

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The Law on the Status of Municipalities of the Republic of Azerbaijan (Art.1) also defines local self-government as being outside the state organisation system, characterising it as “a system of organising citizen’s activity”, even though the definition refers to the function of local self-government “to resolve important local issues”, and “to implement some state functions”, or to the “interests of the local population” (section 1). However, this law does not ensure that these “important local issues” are resolved by the municipalities by

employing their public powers. At the same time, some elements of the legal status of municipalities look like features of a real institution of state power. For example, municipalities are elected bodies, their internal organisation is determined by law and they have a specific territory that is also approved by law. Moreover, some taxes determined by law are paid to them and, referring more explicitly to their public powers, the constitution allows municipalities to enact local by laws which are “binding on citizens living in” their territory (Art. 150). Nevertheless, as mentioned above, the Law does not recognise local governments as parts of the state, declaring that “municipalities and their bodies shall not be included in the system of state bodies” (Article 14(4)).

While the Law on the Status of Municipalities has a key role in regulating local governments, some 30 other laws relate to their operation, such as the Law on Municipal Services, the “Model Municipal Charter”, and laws on the “Transfer of Assets to Municipalities”, on the “Municipal Territory and Lands”, on the “Basis for the Finances of a Municipality”, on the “Standing and Other Committees of a Municipality”, on the “Status of Municipal Councillors”, etc. There are also other laws that affect the activities of municipalities, such as laws on urban development, the real-estate market, protected natural areas and assets, etc. It should be noted that most of them have not changed much in the past few years.

It should also be noted that some important issues for municipalities are not regulated. For example, the Congress delegation did not find any detailed rules relating to the forms and methods of central government supervision of municipalities, criteria for allocating central government grants to municipalities, the legal guarantee of the right of municipalities and their associations freely to join international associations, etc.

## **Electoral processes in local authorities & local elections**

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Local elections are held according to the Law on Municipal Elections. Although political parties initially proposed a mixed majority and proportional system, it was finally decided to hold elections by a relative majority system in multi-mandate territories. This decision remains somewhat controversial among voters. The first municipal elections in Azerbaijan were held on 12 December 1999. Altogether, local councils were elected in fifty-one cities, eight city districts, 123 settlements and 2409 rural municipalities. Official elections were not

held in Upper Karabakh and the neighboring occupied territories. Instead, internally displaced citizens from these areas took part in the municipal elections in their temporary residences. Although the Armenian community of Upper Karabakh held local elections in 1998, the government of Azerbaijan holds these elections to be illegal and consequently has not recognized the results. Local councils are constituted through free, general, direct and equal elections. All citizens over the age of eighteen are eligible to vote, while those over the age of twenty-one are eligible to run for office. Candidates may be nominated by citizens, registered political parties or voter initiative groups. Although candidates are required to gather voters' signatures in support of their candidature, the number of required signatures is reasonable. Certain groups may not run for office: these include state administration officials, judges, law enforcement officers, religious officials, military officers and convicts.

The number of council members is determined by population according to the following scale: towns of 0 – 500 inhabitants elect 5 council members; 500 – 1,000 inhabitants 7 council members; 1,000 – 5,000 inhabitants 9 council members; 5,000 – 10,000 inhabitants 11 council members; 10,000 – 20,000 inhabitants 13 council members; 20,000 – 50,000 inhabitants 15 council members; 50,000 – 100,000 inhabitants 17 council members; 100,000 – 300,000 inhabitants 19 council members.

The Central Electoral Commission (CEC) of Azerbaijan creates regional electoral commissions to organize elections for all municipalities within that region. These commissions establish polling stations and local electoral commissions in the appropriate municipal territories. Territorial and local electoral commissions are formed of representatives who are nominated by local branches of public associations and political parties or by voter assemblies in the given territory.

Elections are considered valid if over twenty-five percent of registered voters have participated. Upon the closing of the polls, official reports on the election results and statistics are compiled at polling stations and transferred to the regional electoral commissions. Based on local electoral commission reports, the regional electoral commissions must determine the outcome of the elections no later than two days hence. Within twenty days of the election, the CEC announces the results of municipal elections nationwide. The newly elected councils are then certified within five days by the regional electoral commissions. Political parties actively participated in local elections, even though

they were not held according to proportional system. The law allows regional branches of political parties to field a list of candidates according to the number of council seats. Altogether, fifty-one percent of all nominated candidates (about eighteen thousand representatives) and forty-seven percent of elected candidates represent a total of twenty-six political parties. Of the elected candidates representing political parties, seven percent are members of opposition parties.

According to Art. 142(II) of the Constitution, all municipalities have an elected council. The detailed rules of municipal elections are determined by law, namely the Electoral Code of 11 November 2003, which has been amended several times.

Municipal councils are elected in general, direct, free, equal, and secret elections in which as a key rule, all residents who have attained the age of 18 are entitled to vote. Those at least 21 years old and living permanently in the relevant constituency may be elected as a member of the respective local council. The term of office of local councillors is 5 years.

Municipal councillors are elected in multi-mandate constituencies under by a relative majority voting system. The number of councillors depends on the size of the municipality's population and varies from 5 to 19. Altogether, more than 20,000 local councillors are elected in municipal elections.

The first municipal elections were held in December 1999, since when two others have been organised (in 2004 and 2009). The turnout at local elections held in 2009 was about 32%.

## **Structure and organs of local authorities**

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The basic rules on the internal organisational structure of municipalities, as well as on the working methods are enshrined in the Constitution and specified by the Law on the Status of Municipalities. The law on the "Model Municipal Charter" provides municipalities with a template for matters common to all of them to be incorporated in all municipal charters, such as territorial boundaries, municipal councils, standing and other committees, executive bodies and administrative procedures. According to the law, all municipalities have a municipal charter determining their organs and functions and the most important rules of procedure.

The legislative and deliberative body of a municipality is the municipal assembly or council, which consists of elected local councillors. As mentioned above, the number of council members depends on the size of the local population and is defined by the Electoral Code. It varies from 5 (in a place with a population of less than 500 inhabitants) to 19 (in a place with more than 100,000 inhabitants). The term of office of local councillors is 5 years. Although no official data are available on the representation of political parties on local councils, the Congress delegation was told that there was a low level of representation of political parties at local level and the vast majority of councillors were independent (did not belong to any parties). There is no information about the existence of political parties with a local interest.

Although municipal council members may not be municipal employees, this restriction does not apply to working for the offices of the respective municipalities, and some local councillors are frequently employed and paid by the municipality as quasi civil servants of the municipality. Their number was limited by law in 2011.

The council is presided over by the chair, who is elected by the council from among the municipal councillors. Although the Law on the Status of Municipalities enumerates a number of cases in which the chair can be removed from office, it does not specify the dismissal procedure. Paradoxically, while the chair of the council is not referred to as the “mayor” by law, the head of the Baku executive authority is commonly called the “mayor” even though the capital, as pointed out above, does not have its own local government.

Municipalities may establish standing and other committees in order to prepare in advance and review matters within their responsibility, assist the municipal assembly to implement its decisions and supervise the activities of municipal enterprises and organisations. Nevertheless, decisions on some issues are the responsibility of the municipal council, such as important organisational and personnel matters or the imposition of local taxes and levies.

The executive body of a municipality is referred to by law as the “*executive apparatus*”. It consists of the municipality’s executive departments in accordance with the municipal charter and is managed by the chair of the municipal council, who appoints the chief official. Many sources report that the vast majority of municipalities, in particular in rural areas, do not have sufficient well-trained staff capable of preparing and executing the council’s decisions. Even in the municipality of Mardakan, which is in a relatively good financial

position compared to other municipalities, only 4 people are employed full-time at the local government offices, even though the council has 13 elected members.

Activities of municipalities are organised by the following bodies:

- Sittings of a municipality
- Standing committees of a municipality
- Executive staff of a municipality
- General meeting of a municipality

Municipalities themselves decide on the size of standing and other commissions. Standing and other commissions should have among their members at least 3 members of a municipality.

The functional structure of local self-government in Azerbaijan can be categorized according to the division of powers and functions. In terms of the division of powers, the local council approves the structure of an executive apparatus to implement its decisions; this may include commissions or other executive bodies. In general, the executive branch of municipal administration is subordinate to the local council. However, direct day-to-day management performed by the council chairman, who is responsible for composing the executive apparatus. Administrative divisions generally fall along the functional areas of programs adopted by the local council, for instance, programs to address issues of social, economic, or environmental development. Heads of structural divisions carry out management functions according to the municipal charter and local legislation and report to the executive apparatus. Working relationships within administration departments are governed by contracts drawn up according to national labor legislation. The executive office is responsible for accomplishing the following tasks:

- to prepare draft budgets, plans, programs and resolutions to submit to the municipality;
- to implement the mandates and decisions of the municipal council;
- to manage municipal property and other property transferred for municipal use;
- to perform a technical inventory of municipal property;
- other obligations as stipulated by legislation.

Internal control of municipal entities is carried out by the appropriate municipal bodies. Municipalities define the objectives, conditions and regulations governing the activities of municipal entities; regulate prices and rates of their production and services; approve their charters; appoint and dismiss their heads and review reports on their activities. Relations between municipalities and subordinate municipal entities are regulated by civil and labor legislation. Municipal bodies may also monitor other non-municipally managed enterprises operating on municipal territory, but they do not have right to place restrictions upon the economic activities of legal and physical persons, except in cases specified by law. Municipalities establish relations with other legal and physical persons on a contractual basis.

According to article 13 of the Law on Municipal Finance, municipalities also create financial structures to monitor local budget execution and its correspondence to the planned budget. Municipalities may receive financial assets from legislative and executive authorities for this purpose.

### **Duties and responsibilities of local authorities**

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The tasks and functions of municipalities are determined by the Constitution, the Law on the Status of Municipalities and some other legal instruments.

Municipalities may, in theory at least, exercise delegated powers of state administration, assuming that the wording of Art. 144(II) of the Constitution, “additional authorities with legislative and executive powers”, refers to them. When municipalities perform such tasks, “respective financing is required”, which seems, albeit imprecisely, to refer to the requirement of concomitant financing enshrined in Article 9 of the Charter.

One of the areas of municipal administration is social protection. In the case of this range of functions, municipalities may implement local social protection and social development programmes and may provide social assistance for poor people and other individuals in need. Since social service and welfare programmes are also announced and regulated by presidential decrees, municipal programmes have to be adapted accordingly. As most social tasks are implemented and most social welfare services are delivered by the local executive authorities of the state administration, the services provided by the municipalities are only “supplementary” in nature and local social programmes may be aimed only at resolving

social development issues not covered by the state social development programmes. It is explicitly laid down in the Law on the Status of Municipalities that “in implementing local social protection and social development programmes, municipalities must not interfere with the implementation of programmes by the state”. Municipalities do not receive any central government grants or contribution to their own local social service programmes.

The same can be said about the local economic programmes agreed by municipalities. Although these programmes may cover such fields as agriculture, industry, communication and transport, they must not interfere with the extensive activities of state administrative entities.

In some cases, municipalities are involved in the implementation of central development projects, such as certain constructions or the use of water resources. There are some local tasks that are typically fulfilled by municipalities, like the maintenance of local roads (although it is not always clear which roads exactly are “local”) and cemeteries.

The Law on Status of Municipalities empowers municipalities to undertake certain kinds of local services, such as the cleaning of and improvements to the municipal area, the collection, transportation and recycling of waste products or the protection of water, air and land from all types of pollution. Nonetheless, Article 12 of the “Law on manufacturing and residential wastes” and the Article 6 on “Guideline of cleaning the residential areas...” states that it is local state executive bodies which are in charge of the transportation and processing of residential wastes. The same situation exists in the field of running water supply and sewage network. This situation is due to the absent legal mechanisms governing the relations between municipalities and local state executive bodies, as well as the overlapping of responsibilities of the municipalities and the local executive bodies of the state administration. As mentioned above, they both have functions in the fields of waste disposal, water supply management or sewage. Since municipalities must not interfere in matters for which the local executive bodies are responsible, they are at a disadvantage whenever a conflict of responsibilities arises. For example, they can often only carry out residual tasks and functions. Other problems arise from the municipalities’ insufficient financial resources, which prevents them from delivering better services. The lack of proper finance prevents local governments from improving their work in certain areas formally

open for them, such as undertaking local public initiatives in education, healthcare and culture or the maintenance and development of sanitary facilities, etc.

Some powers for municipalities are provided by the Constitution and the relevant laws, including the right to impose local taxes and levies, which is – in theory – the most important.

Surprisingly, it is not clear whether municipalities have regulatory powers or not, and the situation is also ambiguous with regard to the legal-administrative status of municipalities. Although the Constitution empowers municipalities to enact legal instruments that are binding on citizens and legal entities in their territory, these are not listed as statutory instruments forming part of Azerbaijan's legal system.

Local governments may adopt their own municipal code. This code regulates, within the limits of the law, the formation and functions of municipal bodies and their officials, and the principal rules of operation of these bodies.

Municipalities may approve their budget and possess, use and dispose of municipal property. They are entitled, as determined by law, to levy municipal taxes.

## **Financial autonomy & resources of local authorities**

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Local authorities' financial resources shall be commensurate with the responsibilities provided for by the constitution and the law.

Part at least of the financial resources of local authorities shall derive from local taxes and charges of which, within the limits of statute, they have the power to determine the rate.

The financial systems on which resources available to local authorities are based shall be of a sufficiently diversified and buoyant nature to enable them to keep pace as far as practically possible with the real evolution of the cost of carrying out their tasks.

The protection of financially weaker local authorities calls for the institution of financial equalisation procedures or equivalent measures which are designed to correct the effects of the unequal distribution of potential sources of finance and of the financial burden they must

support. Such procedures or measures shall not diminish the discretion local authorities may exercise within their own sphere of responsibility.

Local authorities shall be consulted, in an appropriate manner, on the way in which redistributed resources are to be allocated to them.

As far as possible, grants to local authorities shall not be earmarked for the financing of specific projects. The provision of grants shall not remove the basic freedom of local authorities to exercise policy discretion within their own jurisdiction.

For the purpose of borrowing for capital investment, local authorities shall have access to the national capital market within the limits of the law.

Art. 9 of the Charter provides that local authorities must have adequate financial resources of their own, of which they may dispose freely within the framework of their powers. Financial autonomy is an essential component of the principle of local self-government and for the exercise of a wide range of responsibilities in the field of local public affairs. These elements are cumulative and not alternative, which means that all conditions laid down in this provision of the Charter are mandatory.

Another basic principle requires that local authorities must have sufficient financial resources in proportion to the responsibilities assigned to them by law. However, this requirement seems to be more or less met in Azerbaijan, but only because municipalities have only extremely limited functions.

As all evidence shows, municipalities have only minimal financial resources, which is the main obstacle to their becoming properly involved in local administration in Azerbaijan. In the absence of sufficient revenues, they are not able to play a more significant role in local democracy. It is inconsistent to say, as the delegation was told during the visit that, on the one hand, municipalities are unable to perform more tasks and functions than those that they carry out today and to claim, on the other hand, that they do not need more revenues because they perform only a few tasks.

Parallel to the proposed decentralisation of tasks and functions, the state budget should contribute to their costs to a much greater extent than is currently the case. As large a proportion of these transfers as possible should be allocated as block grants, thus providing

freedom for municipalities to spend them as they wish. It is also an explicit preference of the Charter that the provision of grants should not remove the basic freedom of local authorities to exercise policy discretion within their own jurisdiction. This does not mean that special subsidies allocated for specific purposes cannot have any place in local government finance. Special grants should be earmarked for projects, concrete tasks or public services that the central government wants to support in this targeted way.

Both block and special grants should be distributed in a transparent and predictable way on the basis of clear and unambiguous criteria. The mechanisms for the allocation of state grants and subsidies should be established in co-operation with the national municipal associations in order to take the interests and opinions of local governments into consideration.

The Charter also requires that a proportion of local revenues should come from local taxes, and local governments must be able to determine the rate applicable. Although the latter condition is met in Azerbaijan to the extent that local governments may decide what municipal taxes they impose and what tax rates to apply, the local tax revenues provide such a low income that this right is only formal and insignificant in practice. That said, the fact that local governments can determine the rate of some taxes is not consistent with the Charter if they are not able simultaneously to collect taxes in an appropriate manner.

As mentioned above, tax-collection mechanisms should be improved at municipal level. This requires not only better and more precise legislation but also makes it necessary to provide municipalities with qualified staff and facilities (buildings, information technology, etc.) in order to ensure an efficient tax collection procedure.

As the Charter states, “the protection of financially weaker local authorities calls for the institution of financial equalisation procedures or equivalent measures which are designed to correct the effects of the unequal distribution of potential sources of finance and of the financial burden they must support.” As there is no standardised financial equalisation mechanism for local governments in Azerbaijan, the poorest municipalities are in a detrimental financial situation without any predictable central government budget support. Under these circumstances, they might be in an extremely vulnerable economic position and this could undermine any plausible system of local self-government. Moreover, in the

absence of an effective financial equalisation system regional discrepancies cannot be reduced or mitigated in a transparent way.

Accordingly, in order to comply with this provision of the Charter, the Azerbaijani authorities should immediately begin to establish an effective and well-designed financial equalisation system. This should be based on the principle of solidarity and apply objective criteria for assigning central budget subsidies to the municipalities in need. It is also important that the procedures and measures applied to financial equalisation must not diminish the discretion that municipalities may exercise with regard to their own powers. Even if the revenues from the equalisation fund can be regarded as extraordinary or special subsidies, this characteristic of the local resources must not justify any central government interference with the freedom of municipalities to deal with local public matters, unless a municipality is in financial difficulties of its own making.

As far as additional revenues are concerned, local governments should be given assistance to raise loans as their weak financial potential means they can hardly borrow money on the financial markets. Nonetheless, there are in Council of Europe member states many good practices with regard to the provision of central government support for the financial position of local governments in such a situation, for instance encouraging or setting up municipal development funds or savings banks to provide loans for municipalities.

According to the Charter, local governments must be consulted, in an appropriate manner, on the way in which redistributed resources are to be allocated to them. The Congress delegation concluded that the national associations of municipalities are not involved in the decision-making process relating to local government finance in Azerbaijan, and the Azerbaijani authorities should therefore establish an appropriate procedure for consultation on financial matters as soon as possible

### **Central government control/tutelage over local authorities**

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Some independent sources<sup>34</sup> show that the relationship between the municipalities and the respective local executive authorities can be described as the dominance of the latter or the dependence of the former. Since the local executive authorities of the state administration have a parallel structure with the municipalities, and have much greater capacities in terms

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<sup>34</sup> See report BINA, NGO Alliance for Municipal Development

of personnel, finance and formal powers, they can presumably exercise informal control or influence over local governments.

In reviewing municipal tasks and functions, it seemed that many local public matters are not regulated and managed by the municipalities. In theory, most local public services, such as social welfare, public health, education, housing and town planning, public transport, road maintenance, public utilities, municipal services and environmental protection, are not delivered by them, but by the local (*rayon*) units of state administration. Even when local governments have some functions, such as social benefits or public sanitation, most of these tasks are fulfilled by local organs of the central government. All important issues affecting the life of the local communities are decided by the centralised state administration rather than the elected representatives of these communities. It is really strange that local councils are elected to carry out such a small range of municipal responsibilities.

Some powers for municipalities are provided by the Constitution and the relevant laws, including the right to impose local taxes and levies, which is – in theory – the most important.

Surprisingly, it is not clear whether municipalities have regulatory powers or not, and the situation is also ambiguous with regard to the legal-administrative status of municipalities. Although the Constitution empowers municipalities to enact legal instruments that are binding on citizens and legal entities in their territory, these are not listed as statutory instruments forming part of Azerbaijan's legal system.

## **General framework of local autonomy & reform initiatives**

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Resolution 1305 (2002) of the Parliamentary Assembly on the honouring of obligations and commitments by Azerbaijan already expressed the Assembly's regrets concerning the absence of progress in the development of local self-government in Azerbaijan, calling upon the Azerbaijani authorities "to proceed with adapting their legislation to the principles of the European Charter of Local Self-Government as well as to define and implement a genuine decentralisation strategy"

Recommendation 126 (2003)<sup>1</sup> on local and regional democracy in Azerbaijan drew attention to the need to make considerable efforts to bring the legal definition of local government

into line with the requirements of Articles 2 and 3 of the Charter, making concrete proposals for their implementation;

The Venice Commission, in its Opinion on the Draft Amendments to the Constitution of the Republic of Azerbaijan (CDL-AD(2009)010) stated that the new Article 146(I) of the Constitution “(did) not seem sufficient to ensure that local self-governments will be able to regulate and manage a ’substantial share of public affairs’ under their own responsibility”.

Despite all these conclusions and recommendations made by the Council of Europe, the authorities of Azerbaijan have not revised the relevant provisions of the Constitution and the Law on the Status of Municipalities. In the meetings with the delegation, no indications were provided about their possible intentions or processes to consider and implement recommendations made in 2003.

On 6 June 2012, the President of Azerbaijan had signed a decree on the approval of the regulations concerning local executive authorities which, in their opinion, might undermine the authority of municipalities. This provides local executive authorities with almost all the functions of local government, including those that under other laws would fall within the scope of the powers of municipalities.

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# BAHRAIN



# BAHRAIN

## Background Information

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Bahrain (officially Kingdom of Bahrain) is situated in the middle of the southern coastline of the Arabian Gulf, spreading over an area of 741.4 sq km.<sup>35</sup> The country, with an ancient history dating back to 5,000 years, is an archipelago of thirty-three islands, the largest being the Bahrain Island which contains the capital city and represents approximately 83 per cent of the total area of the Kingdom's islands. Saudi Arabia lies to the west and is connected to Bahrain via the King Fahd Causeway/Bridge, which was completed in 1986. The capital city of the country is Manama.

Bahrain is well-known, primarily for its oil and pearls. With a Human Development Index of 0.796, the country is cited under the category entitled "High Human Development", ranking as the 48<sup>th</sup> out of 186 countries covered by the UNDP Human Development Report of 2013.<sup>36</sup>

Ruled by the Al Khalifa royal family, the current population of Bahrain is, according to UNDP Human Development Report 2013, cited as 1,359,500.<sup>2</sup>

Bahrain obtained independence on 14 August 1971. Its Constitution was ratified on 6 December 1973, with major amendments being issued on 14 February 2002. Pursuant to the Constitution, the system of governance in the Kingdom of Bahrain is constitutional hereditary monarchy, based on the separation between the legislative, executive, and judicial authorities. Concerning the legislative power, the King and the National Council (the *Shura* and Representatives Council) assume the legislative powers. The King also assumes the executive power, along with the Council of Ministers and the ministers. The Legal Courts assume judicial authorities on behalf of the King, and issue the legal provisions in the name of the King and in accordance with the Constitution.<sup>37</sup>

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<sup>35</sup> Kingdom of Bahrain website (2011)

<sup>36</sup> UNDP Human Development Report (2013)

<sup>37</sup> Historical Development of the Constitutional System in Bahrain (2010)

## **Sub-national governance & types of local authorities**

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The government of Bahrain set up the first municipality in the country in Manama as early as July 1919, which is considered to be the first of its kind set up in the Arab countries. The Municipal Council was setup in 1920 as the first administrative body for the municipality.<sup>38</sup>

Pursuant to the Law on the Organization of Governorates No. 17 enacted in 2002 (replacing the Law on the Organization of Governorates No. 16 of 1996), Bahrain is administratively divided into five governorates, namely the Capital (Manama), Muharraq, Northern, Central and Southern Governorates.<sup>39</sup> Each governorate is administered by a Governor appointed by and reporting to the Ministry of Interior. The governorates are an extension of the central government, and do not comprise local authority units.

Whereas Bahrain was formerly split into twelve municipalities, under the political reforms of 2002, five municipal councils were formed corresponding to Bahrain's governorates, namely Manama Municipality, Muharraq Municipality, Middle Area Municipality, North Area Municipality, and South Area Municipality.<sup>40</sup> Each municipality is managed by an appointed Director General under the supervision of 10 elected members.<sup>41</sup>

## **Constitutional provisions on local authorities**

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Subsequent to the declaration of its independence from Britain in 1971, a constituent assembly was formed in Bahrain to prepare the Constitution. The new Constitution was ratified in June 1973 and an election for a National Assembly was held in December 1973, in which voters chose 30 members for the 44 available seats. The remaining 14 seats were allocated to members of the cabinet. This Assembly existed for two years, and was dissolved by the Amir because of political unrest. The Amir's rule continued until 2001 when major political reforms were initiated by the son of the late Amir, when he ascended to the throne.<sup>42</sup>

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<sup>38</sup> Ministry of Municipalities Affairs and Urban Planning website (2011)

<sup>39</sup> Law No. 17 (2002)

<sup>40</sup> Ministry of Municipalities Affairs and Urban Planning website (2011)

<sup>41</sup> UNDP POGAR (2011)

<sup>42</sup> Al Amer, Mohammed (2009)

Through a national referendum in February 2001, an overwhelming 98.4 per cent of the people of Bahrain voted in favor of a National Charter, which introduced constitutional monarchy, with a bicameral legislative system. The new Constitution, ratified on 14 February 2002, decentralizes municipal authority and establishes elected councils for municipal bodies.<sup>43</sup>

The basic framework for local authorities is provided in Article 50 of the 2002 Constitution which stipulates that: “The law shall regulate public institutions and municipal departmental bodies so as to ensure their independence under State direction and supervision. The law shall ensure the municipal departmental bodies can administer and oversee the services that have a local character and are within their area.”<sup>44</sup>

Other provisions in the Constitution that directly address the local authorities are provided under the section entitled “Financial Affairs”, whereby it is stipulated in Article 114 that: “The provisions pertaining to independent public budgets, their appendices, and their final accounts shall be laid down by law, and they shall be subject to the provisions governing the State budget and its final account. The provisions governing the budgets and final accounts of municipalities and local public institutions shall also be laid down by law.”<sup>45</sup>

## **Legislation concerning local authorities**

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As an important milestone in the modern history of Bahrain, the Law on Municipalities, being the first written law in the history of Bahrain, was issued on 20 July 1920. The Law included several rules concerning cleanliness, animal care, and traffic laws (although, as noted, that there were only six cars in Bahrain at that time.) In line with this Law, Bahrain has pioneered amongst the Arab countries by setting up the first modern municipality in Manama in 1920, with a municipality council established for the first time to serve as the main organ of the municipality.<sup>46</sup>

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<sup>43</sup> Al Amer, Mohammed (2009)

<sup>44</sup> Constitution of the Kingdom of Bahrain (2002)

<sup>45</sup> Constitution of the Kingdom of Bahrain (2002)

<sup>46</sup> Historical Development of the Constitutional System in Bahrain (2010)

The Municipalities Act No. 35 of 2001 was promulgated (Official Gazette No. 2508), guaranteeing the right of women to vote and stand as candidates for municipal councils.<sup>47</sup>

The Implementing Regulations in relation to the Municipalities Act No. 35 was issued by the Decree No. 7 of the Prime Minister in 2004.<sup>48</sup>

The Law No. 10 of 1973 regarding the election of the National Council was amended by the Law No. 14 for Exercising Political Rights, enacted in 2002. This Law has granted the right to vote to Bahraini citizens, women as well as men 21 years of age and older.

Another significant law concerning the local authorities is the Law on the Organization of Governorates No. 17 enacted in 2002 (replacing the Law on the Organization of Governorates No. 16 of 1996) that has restructured the provinces in the country.<sup>49</sup>

### **Electoral processes in local authorities & local elections**

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Public participation in Bahrain's history began early in 1924. Bahrain witnessed its first municipality elections which distinctively allowed the participation of women. Public participation in the municipality elections in Bahrain and the participation of women in the election were indeed a great leap and a progressive move in the history of Bahrain, at a time when many countries in the world were denying the women the right to vote.<sup>50</sup>

In line with the pertinent legislation, all Bahraini citizens 21 years or older, both men and women, are entitled to vote and to be elected as members of the board of directors of the municipal council for a renewable 4-year term. Also, non-citizens (Gulf Cooperation Council nationals) who own real estate in Bahrain and are permanent residents are also eligible to vote in the elections.<sup>51</sup>

The first municipal elections under the 2002 Constitution were conducted on 9 May 2002. The country was divided into 5 districts, with each district to provide 10 elected representatives. Voter turnout was notably low (about 52%) in the face of the boycott by

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<sup>47</sup> Embassy website (2011)

<sup>48</sup> Embassy website (2011)

<sup>49</sup> Law No. 17 (2002)

<sup>50</sup> Historical Development of the Constitutional System in Bahrain (2010)

<sup>51</sup> Embassy website (2011)

certain groups. Female candidates, who reportedly constituted around 10% of the candidates, failed to win any seats on the new regional councils.<sup>52</sup>

The second municipal elections in Bahrain were held on 25 November 2006, followed by a second round on 2 December 2006. Voter turnout was around 72%, being considerably higher than the 2002 elections due to the participation of various boycotting groups.<sup>53</sup>

The third municipal elections in Bahrain were held on 23 October 2010, with a second round runoff for some districts on 30 October 2010. The electorate was about 300,000 persons, voting in 40 districts spread throughout five governorates. Voter turnout was about 67% between the two rounds.<sup>54</sup>

## **Financial autonomy & resources of local authorities**

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In line with Article 3 of the Law on the Organization of Governorates No. 17 of 2002, the financial sources of the Governorate consist of the financial transfers that are made by the Government from the respective allocations in the central budget, as well as the gifts and donations to be accepted by the Governor upon the recommendation of the Governorate Coordination Committee in accordance with the conditions and regulations stipulated by the Council of Ministers.<sup>55</sup>

The municipal fees collected by the Ministry of Municipalities Affairs and Urban Planning include the following: Advertisement fees, address fees, building permits, commercial registration fees, certificate fees, car parking fees, nursery plants fees, and road occupation fees.<sup>56</sup>

## **Central government control/tutelage over local authorities**

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On the outset of the independence of Bahrain on 14 of August 1971, a Decree was issued to transform various directorates concerning municipalities and agriculture into the Ministry of Municipality and Agriculture. The Decree No. 16 was issued on 22 August 1973 to set up a

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<sup>52</sup> UNDP POGAR (2011)

<sup>53</sup> UNDP POGAR (2011)

<sup>54</sup> Katzman, Kenneth (2011)

<sup>55</sup> Law No. 17 (2002)

<sup>56</sup> Ministry of Municipalities Affairs and Urban Planning website (2011)

central municipality commission to perform all the tasks and services of the disbanded municipality council for a transitional period of two years. The commission and was made of 28 members appointed by an edict by the Prime Minister, 14 members of which citizens from municipality and 14 members representing the state ministries in connection with the public services. The minister of Municipality and Agriculture chaired the central municipal commission.<sup>57</sup>

Central government control/tutelage over local authorities in Bahrain is primarily exercised by the Ministry of Municipalities Affairs and Urban Planning. Through the Ministry, the central government controls urban management and development issues, with relatively restricted decentralized decision-making.

### **General framework of local autonomy & reform initiatives**

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Shaikh Hamad bin Isa Al Khalifa acceded to the throne in March 1999, after the death of his father Shaikh Isa bin Hamad Al Khalifa, Bahrain's ruler since 1961. He championed a program of democratic reform shortly after his accession. In November 2000, he established a committee to create a blueprint to transform Bahrain from a hereditary emirate to a constitutional monarchy within 2 years. The resulting “National Action Charter”, serving as a Constitution, was presented to the Bahraini public in a referendum in February 2001. In the first comprehensive public vote in Bahrain since the 1970s, 94.8% of voters overwhelmingly endorsed the Charter.

On 14 February 2002, about a year after the referendum endorsing his National Action Charter, Shaikh Hamad pronounced Bahrain a constitutional monarchy and changed his status from Amir to King. He simultaneously announced that the first municipal elections since 1957 would be held in May 2002 and that a bicameral parliament, with a representative lower house, would be reconstituted with parliamentary elections in October 2002. In this context, a bicameral legislative body was established, consisting of an elected (lower) chamber, the *Nuwab* Council, and an appointed consultative (upper) chamber, the *Shura* Council, each consisting of 40 members. Both chambers would serve 4-year terms.

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<sup>57</sup> Ministry of Municipalities Affairs and Urban Planning website (2011)

The new Constitution also gave women the right to participate in Bahrain's political processes both as voters and as candidates.<sup>58</sup>

With regard to local authorities, a nominal municipal system has been in place for several decades, but until 2001 the local administrative bodies enjoyed little autonomy. In an important speech in October 2001, the King of Bahrain promised to establish elected municipal councils to directly express the views of the inhabitants of each governorate.<sup>59</sup>

Under the political reforms of 2002, five municipal councils were formed corresponding to Bahrain's governorates, in line with the promulgation of a new municipal law and a new municipal electoral law enacted on 11 December 2001. The new legislation adopted administrative decentralization, established several municipal councils instead of the single central municipal council, allowed women to vote and run in municipal elections, approved municipal councils sharing with other governmental institutions in proposing draft laws, and setting their own priorities in terms of their projects and activities.<sup>60</sup>

Albeit to a lesser degree, the sweeping wave of the "Arab Spring" had its repercussions also in Bahrain from February 2011 onwards, manifesting itself in the form of a series of demonstrations and protest movements targeting further political and constitutional reforms. As political unrest escalated in March 2011, Bahrain's government invited security assistance from other neighboring Gulf Cooperation Council countries and moved to forcefully end large demonstrations. Subsequent the dwindling of the protest movements and upheavals in the months that followed, the government has formally ended this "state of emergency" on 1 June 2011.<sup>61</sup> Although the outcomes of the 2011 political unrest in Bahrain are difficult to predict, the ongoing reform process is anticipated to accelerate in the upcoming years.

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<sup>58</sup> Website of the Embassy (2011)

<sup>59</sup> UNDP POGAR (2011)

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# EGYPT



# EGYPT

## Background Information

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Egypt, officially the Arab Republic of Egypt, is located northeast Africa and borders the Mediterranean Sea to the north along 995 km, the Red Sea in the east along 1,941 km, Palestine (11 km with Gaza Strip) and Israel in the northeast along 266 km, Libya in the west along 1,115 km and Sudan in the south along 1,280 km. Egypt has a unique geographical position in the world as the country is located at the crossroads of two continents, namely Africa and Asia.

Egypt spreads over an area of 1,001,450 sq km<sup>62</sup>. The current population of the country has reached 82.54 million<sup>63</sup> (2011), of which 43.4% live in urban areas (2010)<sup>64</sup>. The city of Cairo, which is the capital city, is estimated to be around 10.902 million and the city of Alexandria, the second city of the country, around 4.387 million<sup>65</sup>.

With a Human Development Index of 0.640, Egypt is cited under the category entitled “High Human Development”, ranking as the 112<sup>th</sup> out of 187 countries covered by the UNDP Human Development Report of 2012<sup>66</sup>.

Egypt has undergone dramatic political changes since the 2011 revolution toppled the regime of former President Hosni Mubarak. In June 2012, elections were held and Mohamed Morsi won 51.7 percent of the vote. President Morsi, a leading member of the Muslim Brotherhood and the Freedom and Justice Party (FJP), resigned from both organizations and took office on June 30, 2012. A new Constitution was passed in a referendum in December 2012. The Shura Council, Egypt’s upper house of parliament, drafted laws regulating protests and elections which were deemed unconstitutional by the Supreme Constitutional Court. The delayed parliamentary elections were scheduled to be held in October 2013<sup>67</sup> but a military coup occurred on 3<sup>th</sup> of July 2013, suspending the Constitution and retaining the dismissed president Morsi in jail.

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<sup>62</sup> CIA website: <https://www.cia.gov/library/publications/the-world-factbook/geos/eg.html>

<sup>63</sup> World Bank website: <http://data.worldbank.org/country/egypt-arab-republic>

<sup>64</sup> CIA website: <https://www.cia.gov/library/publications/the-world-factbook/geos/eg.html>

<sup>65</sup> CIA website: <https://www.cia.gov/library/publications/the-world-factbook/geos/eg.html>

<sup>66</sup> UNDP Human Development Report (2012) <http://hdrstats.undp.org/fr/pays/profils/EGY.html>

<sup>67</sup> World Bank website: <http://www.worldbank.org/en/country/egypt/overview>

Following the “Arab Spring”, Egypt adopted a new Constitution adopted via referendum in December 2012. According to the Constitution Egypt<sup>68</sup> is a parliamentary representative democracy.

### **Sub-national governance & types of local authorities**

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Egypt’s local government system is largely a centralized hierarchy system with some deconcentrated features. The local administration system in Egypt is more of a local administration and not local governance structure. Although elected local popular councils are present at the different local levels, the hierarchy system within the elected and appointed local councils in addition to the non-defined roles and responsibilities represent the root cause of its ineffectiveness<sup>69</sup>.

Law 43 of 1979 is the law that governs local administration in Egypt. The following modifications increased localities to five levels by adding the hai and markaz (Kism), in addition to the governorate, city and village. Additionally, a council of governors has been created, headed by the Prime Minister and including all governors as well as the Minister responsible for local administration. Nevertheless, it is worth mentioning that the system applied in Egypt is mainly administrative and executive, and has no political functions.

The Shoura Council agreed on several key principles to guide reforms in local governance: a) devolution of authority from the central level to the local is critical; b) Elected Local Popular Councils (LPCs) should be given the full authority and means to supervise Local Executive Council (LEC) performance, including the right to question executive council members and governors, and the right to call for a vote of “no confidence” on such individuals; and c) that decentralization of fiscal and budgetary authorities is critical to improving local administration in Egypt.

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<sup>68</sup> English translation of the Egyptian Constitution of 2012 <http://niviensaleh.info/constitution-egypt-2012-translation/>

<sup>69</sup> TOBBALA Salwa: *Local Governance and Democratization: The Roadmap for a Responsive Accountable Egypt*, Faculty of Economics and Political Science – FEPS Cairo, 2012  
University <http://www.lse.ac.uk/middleEastCentre/research/Collaboration-Projects/collaboration-2011-2012/LSE-Collaboration-with-FEPS/Salwa-Tobbala-Egypt---Democratic-Governance-FEPS-15-10-12.pdf>

Sub-national governance in Egypt essentially operates at the governorates, regions, cities, districts, and villages' levels, and reflects a mix of central and local authorities and functions<sup>70</sup>.

According to the law 43/1979, local communities are enrolled in a five tier-system of local administration as follows:

The twenty-six Governorates are fully urban (Cairo, Suez and Port Said) or combined from urban & rural communities. Until 1991, Alexandria was administratively a fully urban Governorate, then a presidential decree annexed some rural areas to it from Matrouh Governorate, i.e. Borg el Arab Markaz & city and its satellite villages). This distinction is reflected in the lower levels, i.e. fully urban Governorates have no Markaz, since the Markaz is a sort of conglomeration of villages. Moreover, Governorates may be composed of one city, like in the two cases of Cairo and Alexandria. Hence, these one-city-Governorates are solely divided into Districts (i.e. urban neighborhoods). Cairo consists of twenty-three Districts; Alexandria consists of six Districts.

2.) The Markaz includes a capital city of the Markaz, other cities if existing, and a group of villages. It is like center vis-a-vis the constituent villages. Before 1975, the Markaz was essentially an area division for functionally proper management of state activities (e.g. security purposes and registration for military service..). Now, each of the 166 Markazes has an autonomous legal status as a local unit, supervising the lower villages.

3.) The City exists in all Governorates: as a one-city-Governorate, as the capital of a Governorate, the capital of a Markaz, and constituent city in a Markaz. Moreover, a City may be recognized with a special status enacted by a special law, i.e. the City of Luxor, by the law No.9/1989. Cities are divided into Districts if functionally necessary. There are over 200 Cities.

4.) The District is the smallest local unit in urban communities. However, Districts differ from one Governorate to another in terms of size, population and political and economic circumstances. Districts in Cairo and Alexandria come on the higher-ranking Districts in Egypt, i.e. the two are the political and economic capitals respectively. There are 55 Districts

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<sup>70</sup> English translation of the Egyptian Constitution of 2012 <http://niviensaleh.info/constitution-egypt-2012-translation/>

according to the 1988 election statistics. In addition to this, Districts used to be further divided into sub-District neighborhoods called Sheyakha , which served as a smaller area division adequate for efficient service delivery, e.g. vaccination campaigns, public facilities, etc.

5.) The Village is the smallest local unit in rural communities. However, Villages differ from each other in terms of the legal status. There are approximately 4358 villages of which only 920 are village local units; the rest villages are satellite villages. Any village that is not integrated into a Village Local Unit should be included in the jurisdiction of the closer Markaz. Moreover, these satellite villages are further divided into sub-village neighborhoods, called Hessa (portions), e.g. Kafr, Ezba, Nagei ..etc. In every satellite or sub-village, where there is no police station, there should be an Omda. The Minister of Interior since late 1994, appoints mayors. They are mainly responsible for keeping security and resolving social and land conflicts, irrigation matters and the like.

## **Constitutional provisions on local authorities**

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In line with the Constitution of Egypt (adopted in December 2012), public administration in Egypt is shared by central and local authorities. The Chapter 4 of the Constitution, entitled: “The System of Local Administration”, contains the pertinent provisions include the following:

### **FIRST SECTION: THE LOCAL ADMINISTRATIVE DIVISION OF THE STATE**

#### **Article 183**

The state is divided into local administrative units that are legal persons: governorates, regions, cities, districts, and villages. A local unit may contain several villages or districts, and it may establish additional administrative units that are legal persons in their own right. This happens in accordance with the law, the principle of decentralization, and the desire to empower the administrative units to provide good local facilities and services, achieve advancement and realize good governance.

#### **Article 184**

The state guarantees the necessary technical, administrative, and financial assistance to the local units, as well as a fair distribution of facilities, services, and resources. The state, in accordance with the law, is to even out disparities in development and living standards among the units.

#### **Article 185**

The local units support their operations with original and supplementary taxes and fees that are local in nature. In collecting these dues, the units follow the principles and procedures that apply to collecting funds for the state. All happens in accordance with the law.

#### **Article 186**

The law regulates the cooperation among local units on activities of common interest. It also regulates the cooperation between the units and organs of the state.

#### **Article 187**

The law regulates the selection of the governors and the selection of the leaders of the other local administrative units. It also regulates their competencies.

### **SECOND SECTION: THE LOCAL ASSEMBLIES**

#### **Article 188**

Each local unit elects an assembly through universal, secret and direct ballot. The assembly's mandate lasts four years. A candidate for a seat in the local assembly must be at least 21 years of age by the date the registration of candidates opens. The local assembly includes the local representatives of the executive. These representatives have no vote. Every assembly elects its president and his vice president from among its elected members. The law specifies other conditions for candidacy as well as the election procedures.

### **Article 189**

The local assembly deals with all matters that are of concern to the unit it represents. It establishes and directs local facilities, and it conducts economic, social, health-related, and other activities in accordance with the law.

### **Article 190**

Decisions that the local unit reaches on matters within its purview are final. The executive may only interfere in them for the purpose of preventing the assembly from going beyond its purview or to secure the public good or the good of the other local assemblies. In the case of disputes over the competencies of these assemblies, the board for legislation and advisory opinions of the State Council makes a swift ruling, based on the law.

### **Article 191**

Every assembly draws up its own budget and issues a final account, in accordance with the law.

### **Article 192**

The local assemblies may not be dissolved by blanket administrative decree. The law governs the procedure for dissolving a local council and calling for a new election.

## **Legislation concerning local authorities**

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It is stipulated in Articles 185-186-187 of the Constitution that the formation, duties and powers of the local administration shall be regulated by law in accordance with the principle of local administration.

Since 1960 eight laws of local system have been issued, one replacing the other. The main laws are: law 57 of 1971, law 52 of 1975 and the law 43 of 1979. Furthermore, the last law has been amended several times by law 50 of 1981, law 186 of 1981, law 26 of 1982, law 106 of 1987, law 145 of 1988 and law 9 of 1989<sup>71</sup>.

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<sup>71</sup> AL-SAWĪ Ali, “*Governors without governance: the constitutional, legal and administrative frameworks of local government in Egypt*”, presented at the Regional Workshop and Policy Forum organized by The

The law 145 of 1944 adopted a unified system; however, there had been a special legal status recognized for few urban municipalities, like that of Cairo (by the law 98/1950), and Alexandria (by the law 147/1950). Nevertheless, the first comprehensive unified system of local administration was adopted by the law 124/1960. It was a three tier-system including the Mudiryyah (later called the Mohafaza meaning Governorate), the Madina (city) and the Qariya (village). In each unit of these levels there was a local council composed have locally elected and centrally appointed officials. The law 52/1975 created two additional tiers: the Markaz (literally "Center") and the Hay or District (the term District (with a capital D) is used loosely to describe any territorial subdivision of a Governorate, yet, it is conveniently used to mean cities' subdivisions).

All local councils were exclusively elected; while appointed members formed "executive committees" (later turned into "executive councils"). This was the beginning of the so-called "dual, or double chambered- system" in local administration.

The law 43/1979 enacted this system, and changed the names of local councils and executive committees into local popular councils and local executive councils respectively. Despite later amendments, the law 43/1979 is the current legal basis of the local administration system in Egypt.

### **Electoral processes in local authorities & local elections**

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In accordance with the Law No. 43 of 1979 on Local Administrative Structure state, Local Popular Council are elected at all levels, but executive councils are appointed.

Art. 161 of the 1971 Constitution states that local popular councils are formed progressively on the level of administrative units by means of direct suffrage, and that at least half the members of the popular council must be from the working classes and peasant groups. Amended Law No. 43 of 1979 states that members of local popular councils are elected by universal, direct and secret vote. The mandate is for a 4 years period. There has been an individual ballot since 1996, and the election is based on relative majority. The rate of participation in local elections is fairly low<sup>72</sup>.

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Lebanese Center for Policy Studies (LCPS) in preparation for the Fourth Mediterranean Development Forum (MDF4) on "Empowering Local Government Institutions in the MENA Region", Beirut, Lebanon (2002).

<sup>72</sup> Dr. Khaled Zaki, *United Cities and Local Governments, Country Profile: Egypt*, p. 3

The Egyptian political party system is a multi-party system with 21 legally recognized parties. This multi-party system is, however, characterized by the predominance of the government party, the National Democratic Party, which widely dominates legislative and municipal elections. During the April 2002 elections there were 49,522 seats available, and 59,708 candidates, 1,035 of whom were women, put themselves forward. The distribution of candidates from each party was as follows: 70% of the candidates belonging to the national party in power were the sole candidates in their constituencies, and the National Democratic Party gained 97% of the seats.<sup>73</sup>

### **Structure and organs of local authorities**

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Currently, at each subnational level, there is an elected representative organ (Local Popular Council or LPCs) and the centrally appointed executive branch. The local executives are made up of the local head's secretariat (*Diwan*) and deconcentrated offices (called "service directorates") of twelve central government ministries or agencies, sometimes reaching two or more sub-national levels. Three central agencies have directorates at the governorates level only: Transportations and Roads, Property Taxation, Organization and Administration. With the exception of property taxation, these functions involve spillover of benefits and economies of scale. Four agencies have directorates at both the governorate and district levels: Veterinary, Trade, Labor, Youth and Sports. Four agencies are represented at all three levels (governorate, district, and village): Education, Health, Agriculture and Housing. Finally, one agency, Social Affairs, has offices at the governorate and village level but not at the district level.

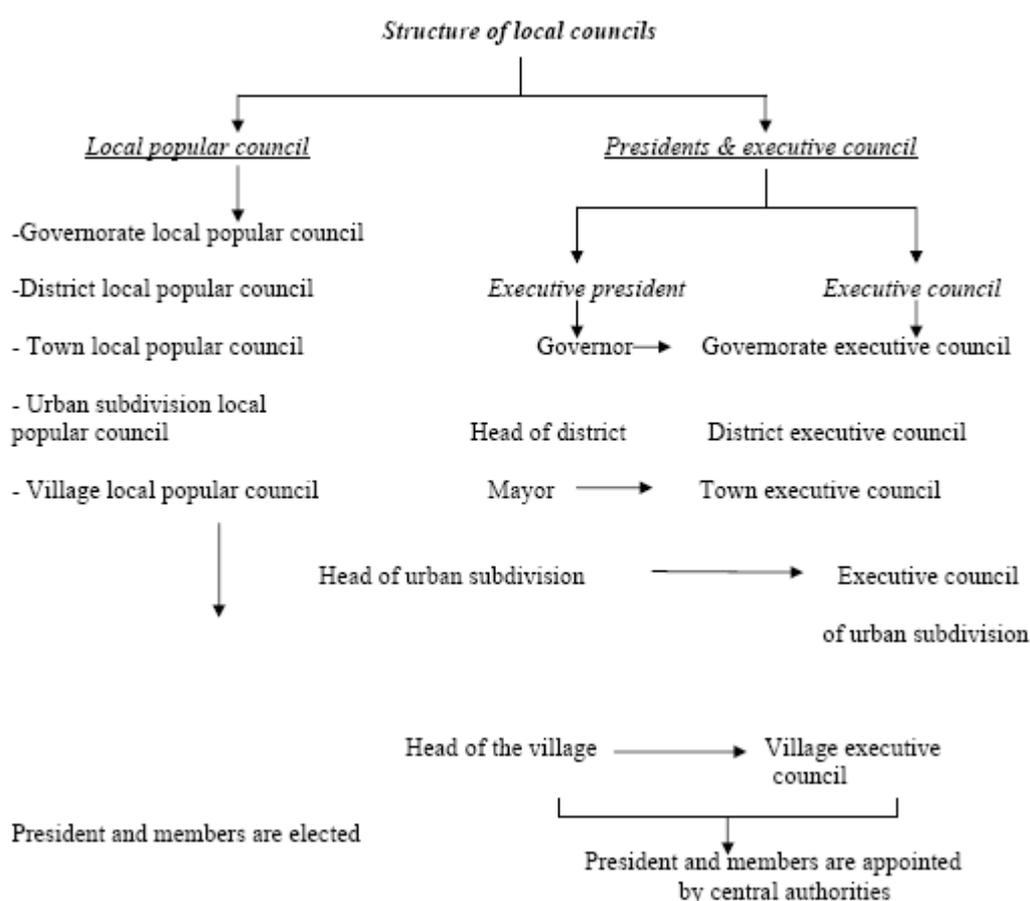
The service directors form a management group called the Local Executive Council (LEC), which replaced previous Soviet-style "executive committees". The LEC is formally chaired by the appointed executive head: the President appoints governors, the Prime Minister appoints mayors, the governors appoint district heads below and so on. However, reportedly this horizontal coordination within the executive branch lacks legal basis and often there is more accountability of service directors along the sectoral hierarchy than to the governor/mayor. Essentially the local executive head (Governor/Mayor) has substantial authority over the finances and personnel only of his own secretariat (*Diwan*), which is

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<sup>73</sup> *Ibidem*

similar to the powers of the service directors over the finances and personnel in their respective sectors<sup>74</sup>.

The following chart below presents the internal organization of local administration<sup>75</sup>:



<sup>74</sup> Martinez-Vazquez Jorge, TIMOFEEV Andrey, *Decentralizing Egypt: Not Just Another Economic Reform*, International Studies Program Working Paper 08-33, Andrew Young School of Policy Studies, December 2008, p.7

<sup>75</sup> Ennarhi (M-M), *L'administration locale entre centralisation et décentralisation*, Librairie El Jalâa El Haditha, 2001, p.217 and s. (in Arabic), cited by Dr. Khaled Zaki in *United Cities and Local Governments, Country Profile: Egypt*, p. 2

## **Duties and responsibilities of local authorities**

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The governorate local popular councils have responsibility for:

- Adopting and ensuring the monitoring of social and economic development projects, as well as approving the annual budget plan and the governorate's project balance sheet. The council also approves projects relating to housing and construction, and proposes town and urban planning projects;
- Approving the creation of services of general interest for the governorate;
- Proposing the creation of free zones or companies using Arab and foreign capital, as well as developing joint projects with other governorates;
- Proposing the implementation of charges and local taxes that give the council the power to modify, terminate or exempt certain subjugated categories, following approval from ministers.

District local popular councils exercise control over the activities of local town and village councils within the district and can approve their decisions. They also have control over various local services covering more than one local unit within the district's framework<sup>76</sup>.

## **Financial autonomy & resources of local authorities**

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Revenue sharing with subnational budgets is done both at the point of collection through redistribution via the grant pool. Law 43 of 1979 (Art 35-as amended by Law 50 of 1981) decrees half of shared revenue from certain taxes be allocated to the governorate budget at the point of collection: the tax on exports and imports, the movable assets tax, and tax on income derived from trade or manufacturing. The remaining fifty percent of the shared revenues are allocated to the common grant pool. According to the law, if activities of a business establishment concentrate in a governorate different from where the business headquarters are located, then the tax revenues from this business are to be shared with former governorate.

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<sup>76</sup> Dr. Khaled Zaki, *United Cities and Local Governments, Country Profile: Egypt*, p. 5

Governorate Popular Councils determine sharing with constituent localities of the following revenue: 25 percent of the land tax and surtax; taxes on motor vehicles and other means of transport licensed by governorate.

Law 43 of 1979 (art 51 and 61) decrees revenue from gambling and entertainment tax and 75 percent of the land tax to be allocated to the budget of towns and villages at the point of collection. In addition, town budgets are to receive revenues from the tax and surtaxes on buildings (with the exception of national surtaxes); betterment levies in connection with public works; taxes on motorized vehicles and other means of transport licensed by the governorate; and revenue from fees out of the list of 11 fees that town councils are authorized to levy. Town council resolutions concerning levies do not take effect until approved by the district popular council and the governor (Art 53). If the town council refuses to make changes proposed by the governor, the matter is referred to the governorate popular council, and if not resolved then to the Cabinet, whose decision is final. Concession for public utilities/services and extraction of natural resources (except oil and mineral resources) can be given only with the approval of the respective popular council (Art 129). The Law refers to executive regulations to provide a menu of methods for the local popular council to choose from. The collection of local taxes and tax arrears is subject to the same rules as for state taxes and duties. Local taxes are collected by the Ministry of Finance to the national treasury and then allocated to the local government unit entitled to this revenue<sup>77</sup>.

The more flexible source of funds is the SDF (Special Development Funds/ or, formally, Local Development and Services Accounts). There are national SDF, like the Joint Revenue Fund at the MLA; and also "sub-national" special funds, which are most vital for the local fiscal autonomy and control of revenues & expenditures. Also, Governorates have their own special funds based on the local administration laws and ministerial decrees.

The law No. 43 of 1979 (article 36), as amended by the law No. 145 of 1988, issued the establishment of a special fund for Housing, Agricultural & Reclamated Lands, and Local Services & Development (SDF). The latter is the most vital source for additional finance at Governorate level. For instance the total 1993-94 budget of the SDF in Alexandria was 8,9 million pounds (more than one fifth of the Governorate's investment resources in the same

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<sup>77</sup> MARTÍNEZ-VAZQUEZ Jorge, TIMOFEEV Andrey, *Decentralizing Egypt: Not Just Another Economic Reform*, International Studies Program Working Paper 08-33, Andrew Young School of Policy Studies, December 2008, p.7

year); whereas that of the SDF in Cairo was 23,2 million pounds (almost a quarter of the total allocated budget of the squatters in the same year).

Main sources of finance for the SDF are governed by the rules and regulations set forth in the MOLA decree No.8 of 1976, which sets the sources of revenues and rates of fees and charges which can be imposed. Services' charges and special fees can be imposed and the Governorate's popular council should approve donations and grants (governmental or non-governmental).

Yet, the major advantage of special funds is that their resources (although classified as a current revenue item in the Governorate's budget) are allocated at sub-national level as a cumulative balance of funds rolled over from prior years, so that the local units can preserve any saved surplus for next year.

A second major advantage of the SDF, from the perspective of motivating management personnel, is that it provides the executing agencies' personnel with an additional source (sometimes 50%) of income, i.e. they supplement their income by incentives they receive for their contribution in the management of the SDF' projects (hence, the concern, or even the rush for being involved in these projects, and making them more sustainable and profit making).

The SDF' resources are used according to a plan approved by the respective Governorate's popular council. One major objective of this SDF is to provide local budgets with supplementary finance to carry out projects of the development plan in case the allocated resources in the budget are not sufficient, especially vital projects and those delivering daily services. That is to say that most of the outflow from the SDF tends to be for further capital expenditures, so as to give the local units access to resources beyond those centrally allocated for local administration purposes by the national budget, and to provide them with a flexible mechanism for using locally-generated funds. The board of the SDF, headed by the Governor, decides about such requests.

One major objective of this Fund is to provide local budgets with supplementary finance in case of need.

SDFs are autonomous from national level, i.e. the board of the Fund, headed by the LU' Chief, decides about its policy. SDF are also decentralized, subject to supervision and control of local popular councils.

According to Prime Minister's decree No. 578 of 1986, governors are authorized with the following: = setting rules of expenditure via SDF at Governorate level and below, = allocating temporary sub-accounts in the SDFs (of the Governorate, Markaz, city and village) for projects financed by community participation, = authorizing sub-accounts in the Governorate's SDF or the city's SDF to finance District's projects, = these sub-accounts will be closed at the end of the projects.

### Fiscal System of Local development

#### Sources of Finance of Local Development

There are two main sources for finance in the existing local system: the major one is governmental subsidies or grants, constituting round 80% of the resources; and the other is additional/ local funding, mainly through Special Funds, of which the Services Development Fund "SDF" is more vital. Financial dynamics in the existing local system can be described as follows:

Lack of funds in the local councils not only makes fund-raising a major concern of these councils but also gives greater power to the executive branch of the system. Local finances represent the major channel through which the government influences the local administration system.

A major source of finance for local units and the Ministry of Local Administration (MOLA) has been the Joint Revenues Account of Governorates (about L.E100 million annually). Half of the amount goes into the budgets of the Governorates where the import-export, movable properties, industrial and commercial taxes were collected. Thus, Cairo, Alexandria, Port Said and Aswan Governorates get together some 30% of the amount. The other half goes to the MOLA, to be used in local developmental projects especially in deprived Governorates. Yet , the Ministry of Finance approves the MOLA's use of money on the condition that the Ministry of Planning gives prior approval for the MOLA's projects. Governorates should submit their proposals for local developmental projects in accordance with the national plan

directives. Thus, it appears that the Ministry of Finance has traditionally discouraged the creation of a budgetary system at the local level that would be independent of the central government's overall plans. However, a great deal depends on the negotiating powers of a governor and the weight of support “he” is receiving from the Minister of Local Administration.

Although, in theory, each popular council is supposed to develop a draft budget outlining the four major categories (wages, salaries, bonuses; current expenditure; investments and capital transfer), the reality is different. A popular council does give a great input to the draft budget that is eventually sent forward to the higher level of administration; but most of these inputs which go beyond the initial guidelines stipulated by the ministerial representatives in the Governorates (i.e. sectorial directorates) are quietly ignored at the central government level.

The central government and line ministries, as well as the governor and Governorate's financial directorate, play important roles in the budgetary process. The more a governor is development-oriented and committed to decentralization, the more he allows for cooperation between local institutions (appointed and elected) and motivates popular council to raise funds locally and to activate community participation, instead of being greatly dependent on or clients of the central government. Yet, the complicated budgetary process also stands in the way of an ambitious and energetic outlook of a governor (making some of them less enthusiastic for recalling for decentralization; others taking politically miscalculated risks and thus facing a critical situation with the central government).

### **Central government control/tutelage over local authorities**

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In summer 1997, the Ministry of Local Administration was dismantled; instead, a Ministry of Rural Development was created. However, the ministerial jurisdiction of local development is still effective; yet it is now in the mandate of the Prime Minister. The “new” minister of Rural Development is a minister of state (i.e. minister without portfolio, who has only a functional/consultative position; with no executive authority on local units)<sup>78</sup>.

In the 1970's, Sadat declared a new policy for democratization and local governance. The law of localities was titled “local governance law”, and Governors were seen as

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<sup>78</sup>AL-SAWĪ Ali, “*Governors without governance: the constitutional, legal and administrative frameworks of local government in Egypt*”, *op. cit.*

representative of the President within their jurisdiction. Yet, this policy was actually ceremonial, and incompatible with the legal/constitutional framework, i.e. the constitution considers local units as only administrative bodies, within the executive branch of government (articles 161- 163).

In general, the local system combines representative and administrative functions, as follows:

Each local unit should be governed through the collaboration of a local popular council and a local executive council. The major function of both is to better implement public policies at local level. This is the way in which the legislator perceived the *raison-d'être* of local administration. According to the constitution, the local units are (regional) organs of the Executive. Hence, the term "local governance" adopted in the law No.43/1979 had been inappropriate, and, therefore later, changed to "local administration" by the law No. 145/1988.

However, the popular councils play a political and cultural role, that is to say, community representation & participation in local affairs.

At least workers & peasants should constitutionally, occupy fifty percent of the seats of the popular councils. A seat in each council was reserved for women's representation until later reallocated (by the law 145/1988) for nonpartisan (i.e. independent) candidates.

This has effectively wiped down women's participation in decision making, so that an overall decline in women's representation in these local councils from 23% in 1979 to only 4% in 1992 has been reported.

Executive councils play two roles: representing the central government and implementing popular councils' recommendations, where not contradictory with public policies. The government appoints chiefs of executive councils as follows:

- \* The President appoints Governors;
- \* The Prime Minister appoints Chiefs of Markazes, Cities and Districts;
- \* The respective Governor appoints Chiefs of Villages.

Local councils are subject to many checks carried out by central authorities, which have the last word in terms of managing local affairs. Local councils also come under jurisdictional control and the People's Assembly. On the other hand, the Governor has considerable trusteeship and powers of control over local councils within the governorate.

Local units fall under a complex control grid, both from outside and inside the administrative system. The external control comes from the center: Governors are appointed by a presidential decree; the parliament issues local administration laws, and its members can attend and discuss any matter in local popular councils; the media, especially the press- and more specifically the opposition's press- has an increasing influence on local units so that Governors are usually alert to what is published about them and their Governorates, and assign some of the personnel to react effectively; the Cabinet issues and regulates services' charges and dissolves local popular councils; the Prime Minister issues the executive regulations of the local administration laws, approves Governorates' bank loans, and substitutes any local unit if its performance is considered unsatisfactory; the Minister of Local Administration monitors the performance of local units and submits a yearly report to the parliament, resolves conflicts among local popular and executive councils, and redistributes the money of the Joint Revenue Fund.

The internal control is reflected in the administrative hierarchy of the local system: higher executive and popular levels control the activities of the lower ones (e.g. approving the decisions, investigating officials, monitoring performance.); there is a system of checks & balances between executive and popular councils (e.g. the latter monitor the activities of the local executives through demanding explanations and raising questions; and the chief executives can veto/ ignore popular councils' recommendations, claiming them to be irrelevant, or being outside the jurisdiction of the local unit).

### **General framework of local autonomy & reform initiatives**

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Egypt has been deeply affected by the *Arab Spring* since 2011. After a transitional period led by the army Egypt knew a democratic period in which the Muslim Brotherhood won both presidential and legislative elections. Facing economical and social difficulties the government was accused of putting back dictatorship by opponents. This situation raised a lot tensions all around the country. After protests and demonstration which paralyzed the

country for weeks army issued an ultimatum to the government asking to open negotiation with demonstrators. On the 3th of July the army made a coup and arrested the principal leaders of the Muslim Brotherhoods including the former President M. Morsi.

In this framework we can make the supposition that decentralization will not know significant improvement before the end of the transitional period which could last for a while due to the current economical and political weakening of the country.

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# IRAN



# IRAN

## Background Information

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Iran, officially the Islamic Republic of Iran, is bordered on the north by Armenia, Azerbaijan and Turkmenistan. As Iran is a littoral state of the Caspian Sea, Kazakhstan and Russia are also Iran's direct neighbors to the north. Iran is bordered on the east by Afghanistan and Pakistan, on the south by the Persian Gulf and the Gulf of Oman, on the west by Iraq and on the northwest by Turkey. The capital city and the country's largest metropolis is Tehran. Iran is home to one of the world's oldest major civilizations. The country is spread over an area of 1,648,195 sq km, with a current population of over 77 million (2012 census).<sup>79</sup>

Iran holds an important position in the world economy, particularly in terms of international energy utilization and networks, mainly by virtue of its large reserves of oil and natural gas. Iran (Islamic Republic of)'s HDI value for 2012 is 0.742—in the high human development category positioning the country at 76 out of 187 countries and territories. Between 1980 and 2012, Iran's HDI value increased from 0.443 to 0.742, an increase of 67 percent or average annual increase of about 1.6 percent. .<sup>80</sup>

It is stipulated in the Constitution that the form of government of Iran is that of an Islamic Republic. The powers are vested in the legislature, the judiciary, and the executive, wherein these powers are independent of each other. The functions of the legislature are exercised through the Islamic Consultative Assembly, consisting of 270 elected representatives. The term of membership in the Assembly is four years. The executive powers are exercised by the President and the ministers. After the office of Leadership, the President is the highest official in the country, acting as the head of the executive, except in matters directly concerned with (the office of) the Leadership. The President is popularly elected for a four-year term. The judiciary is an independent power, whose functions are performed by courts of justice, which are established in accordance with the criteria of Islam.<sup>81</sup>

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<sup>79</sup> Statistical Center of Iran (2011)

<sup>80</sup> UNDP Human Development Report (2013)

<sup>81</sup> Constitution of Iran (1979)

## **Sub-national governance & types of local authorities**

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The present administrative structure of Iran is characterized by its strongly centralized system of control. There are 30 oostans or administrative provinces, further divided into 195 governorships, 5001 divisions, 496 cities and 1581 village-districts.

As stipulated under Chapter VII of the Constitution, the tiers of local government in Iran are: Higher Province Council, Province Council, City Council, District Council, Town Council, and Village Council.

**Higher Province Council:** The Higher Province Council is the highest council of local government in Iran. The members of this council are elected from amongst the members of the Province Council. The Higher Province Council consists of the following members: 2 members from provinces with less than 2,000,000 population; 3 members from provinces with 2,000,000 or more population; and 4 members from the Tehran Province.

**Province Council:** The Province Council is the higher council for the City Councils. The members of the Province Council consist of elected members of the City Councils in that particular province. In its first official session, the City Council elects one of its members to serve as its representative in the respective Province Council. The Province Council therefore consists of a single representative from each City Council in the province. It is stipulated in the pertinent legislation that the minimum number of constituents of any Province Council cannot be less than 5 persons.

**City Council:** The City Council is the higher council for the District and Town Councils. The members of the City Council consist of elected members of the District Councils and Town Councils in that particular city. In its first official session, each District Council and Town Council elects one of its members to serve as its representative in the respective City Council. The City Council therefore consists of a single representative from each District Council and Town Council in the respective city.

**District Council:** The District Council is the higher council for the Village Councils. The members of the District Council consist of elected members of the Village Councils in that particular district. In its first official session, each Village Council elects one of its members to serve as its representative in the respective District Council. The District Council

therefore consists of a single representative from each Village Council in the respective district.

**Town Council:** The Town Council is another important unit of local government in Iran. Currently, there are 919 Town Councils.<sup>82</sup> The number of Town Council members is proportional to the population, ranging from a minimum of 5 to a maximum of 15 members. As a rule, in all Iranian cities, municipalities are under the authority of Town Councils and are monitored by them.

**Village Council:** The Village is the basic administrative unit, whereby the Village Council is the lowest tier of the local government in Iran. Currently, there are 34,776 village councils in the country.<sup>83</sup> The Village Councils assume a dual role, serving as a self-governing local authority unit undertaking a variety of tasks at the local level, as well as carrying out certain functions and duties delegated by the central administration. All Village Councils, regardless of their size and population, have their powers and structures determined by the same legislation, the primary differences between them being the number of their respective council members.<sup>84</sup>

## **Constitutional provisions on local authorities**

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The Constitution of Iran was adopted on 24 October 1979, and became effective on 3 December 1979. The Constitution was amended on 28 July 1989. The Constitution, comprising 177 articles organized under 14 chapters, encompasses a significant number of provisions directly related with local authorities.

Article 7, delineating the decision-making and administrative organs, stipulates that “consultative bodies such as the Islamic Consultative Assembly, the Provincial Councils, and the City, Region, District, and Village Councils and the likes of them are the decision-making and administrative organs of the country.” Under the same article, it is further stipulated that: “The nature of each of these councils, together with the manner of their

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<sup>82</sup> Hossein (2009)

<sup>83</sup> Hossein (2009)

<sup>84</sup> Hossein (2009)

formation, their jurisdiction, and scope of their duties and functions, is determined by the Constitution and laws derived from it.”<sup>85</sup>

Chapter VII of the Constitution, entitled “Public Councils”, provides the basic framework and complementary provisions concerning the local councils in Articles 100-106. These provisions include the following:

Article 100: “In order to expedite social, economic, development, public health, cultural, and educational programs and facilitate other affairs relating to public welfare with the cooperation of the people according to local needs, the administration of each village, division, city, municipality, and province will be supervised by a council to be named the Village, Division, City, Municipality, or Provincial Council. Members of each of these councils will be elected by the people of the locality in question. Qualifications for the eligibility of electors and candidates for these councils, as well as their functions and powers, the mode of election, the jurisdiction of these councils, the hierarchy of their authority, will be determined by law, in such a way as to preserve national unity, territorial integrity, the system of the Islamic Republic, and the sovereignty of the central government.”

Article 101: “In order to prevent discrimination in the preparation of programs for the development and welfare of the provinces, to secure the cooperation of the people, and to arrange for the supervision of coordinated implementation of such programs, a Supreme Council of the Provinces will be formed, composed of representatives of the Provincial Councils. Law will specify the manner in which this council is to be formed and the functions that it is to fulfill.”

Article 102: “The Supreme Council of the Provinces has the right within its jurisdiction to draft bills and to submit them to the Islamic Consultative Assembly, either directly or through the government. These bills must be examined by the Assembly.”

Article 103: “Provincial governors, city governors, divisional governors, and other officials appointed by the government must abide by all decisions taken by the councils within their jurisdiction.”

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<sup>85</sup> Constitution of Iran (1979)

Article 104: “In order to ensure Islamic equity and cooperation in chalking out the programs and to bring about the harmonious progress of all units of production, both industrial and agricultural, councils consisting of the representatives of the workers, peasants, other employees, and managers, will be formed in educational and administrative units, units of service industries, and other units of a like nature, similar councils will be formed, composed of representatives of the members of those units. The mode of the formation of these councils and the scope of their functions and powers, are to be specified by law.”

Article 105: “Decisions taken by the councils must not be contrary to the criteria of Islam and the laws of the country.”

Article 106: “The councils may not be dissolved unless they deviate from their legal duties. The body responsible for determining such deviation, as well as the manner for dissolving the councils and re-forming them, will be specified by law. Should a council have any objection to its dissolution, it has the right to appeal to a competent court, and the court is duty-bound to examine its complaint outside the docket sequence.”<sup>86</sup>

### **Legislation concerning local authorities**

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Whereas the constitutional basis of the local councils are laid down in Chapter 7 (Articles 100-106) of the Constitution, the formation of councils and the election of mayors have been extensively stipulated by Law on Local Councils enacted in 1997-8. This Law, outlining the decentralization policy, has been ratified by the *Majles* (Parliament). The primary objective of the establishment of the councils is described in the Law as follows: “In order to expedite social, economic, development, public health, cultural, and educational programs and facilitate other affairs relating to public welfare with the cooperation of the people according to local needs, the administration of each village, division, city, municipality, and province will be superseded by a council to be named the Village, Division, City, Municipality, or Provincial Council. Members of each of these councils will be elected by the people of the locality in question.”<sup>87</sup>

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<sup>86</sup> Constitution of Iran (1979)

<sup>87</sup> Tajbakhsh, Kian (2000)

## **Electoral processes in local authorities & local elections**

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In Iran all members of the local councils including the City and Village Councils are directly elected by the people. The number of City Council and Village Council members is in proportion with the population of that village and city, which varies between 3 and 15 members. The term of service for elected councilors is 4 years. On the other hand, in line with Article 3 of the Islamic Councils Act of 1996, even after the expiry of its term, the Council continues to function until the first meeting of the succeeding Council.<sup>88</sup>

The Chairman of the City and Village Council is elected by the members of the respective Council from amongst its members. The Secretary of City Council is also elected from among the councilors themselves. As the keeper of records, the Secretary is responsible in the preparation of any official communications and reports related to the Council. The City Council also elects a Treasurer from amongst its members. The Treasurer, coupled with the general tasks related to finance and accounting, is mandated to cooperate with the chairman in setting up the expenses of the City Council and regulating its budget.

In line with the new legislation, the first elections for local councils were held on 8 March of 1998, as a result of which nearly 109 000 councilors were elected to serve in a total of 34,776 urban and rural councils in the country.<sup>89</sup>

The second local elections, held on 28 February 2003, were conducted for 905 city councils and 34,205 village councils, with a total of 210,000 candidates. The local elections, however, were marked by notably low (around 40%) voter turnout.<sup>90</sup>

The third local elections were held on 15 December 2006. More than 233,000 candidates ran for more than 113,000 council seats in cities, towns and villages across the country.<sup>91</sup>

In September 2010 the Iranian parliament passed a new election law on simultaneous presidential and local elections. This new law had two main outcomes. The first outcome of the new law is postponement of the scheduled local elections in the early 2011 for two years.

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<sup>88</sup> Hossein (2009)

<sup>89</sup> Tehran City Council: An Introduction (2011)

<sup>90</sup> Takeyh, Ray (2003)

<sup>91</sup> Tehran City Council: An Introduction (2011)

The second outcome of the election law is that the current members of the local councils keep their seat until June 2013.

The Iranian local elections took place on 14 June 2013 to elect members of the fourth council of the City and Village Councils of Iran. This election was held by a general election with presidential election. The original date of the election was in June 2010 but Parliament of Iran voted to increase age of the councils from 4 to 7 years. The councils will begin their work one month after the election to elect the new mayors. Officials said special inspectors have been charged with monitoring more than 67,000 polling stations nationwide. Over 200,000 candidates have been qualified to run for both city and rural council seats. More than 126,000 seats are up for grab in the elections.

The registration of candidates took place from 15 to 20 April 2013. The Guardian Council announced the final candidates on 16 May 2013. The candidates that failed to enter to the election organised protests for four days.

The councils have 124,700 original members; with the allowance members, it reaches to 207,587 members. This is different than the previous election.

### **Structure and organs of local authorities**

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The City Councils have a term of four years. The size of the Councils ranges between five and eleven depending on population, with Tehran as the national capital having a 15-member council. Other articles stipulate that the elected bodies will have precedence in decision-making over the corresponding appointees of the central government bureaucracy, emphasizing that local democratic institutions should possess a degree of autonomy and that the democratic principle has precedence over other forms of authority.<sup>92</sup>

The mayors are elected for a period of 4 years by the respective Councils from amongst its members. Once elected, the Mayor cannot continue to be a member of the City Council. The election of Mayor in cities with a population of 200,000 and more inhabitants and in the capital cities of provinces capitals is finalized upon the proposal of the respective City Council and the approval of the Minister of Interior Affairs. In other cities the election of

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<sup>92</sup> Tajbakhsh, Kian (2000)

the Mayor is finalized upon the proposal of the respective City Council and the approval of the provincial governor.<sup>93</sup>

Tehran City Council has 15 members who are elected by popular vote during elections. There are 6 alternate members of the Council.<sup>94</sup>

The organs of the City Council include the Administrative Board, Commissions, Supervisory Committees, and Delegations, as delineated below:

- As of 1987, Iran was divided into twenty-four provinces (*ostans*). Each province was subdivided into several counties (*shahrestans*). All of the shahrestans consisted of two or more districts, or (*bakhshs*). The 498 bakhshs were further subdivided into rural sub-districts (*dehestans*). Each dehestan consisted of several villages dispersed over an average area of 1,600 square kilometres.
- Based on these divisions there are local councils for each province, City and village.
- City and Village Councils are local councils which are elected by public vote in all cities and villages throughout Iran. Council members in each city or village are elected by direct public vote to a 4 year term.
- Then each council is responsible of electing the chairman of the council. These local councils and the parliament (*Majlis*) together are handling the decision-making and administrative organs of the state.
- The responsibilities of the local council (or government) are:
  - Supervising the activities of municipalities; studying the social, cultural, educational, health, economic, and welfare requirements of their constituencies.
  - Planning and coordinating national participation in the implementation of social, economic, constructive, cultural, educational and other welfare affairs.

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<sup>93</sup> Tehran City Council: An Introduction (2011)

<sup>94</sup> Tehran City Council: An Introduction (2011)

## **Duties and responsibilities of local authorities**

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The City Councils, being in charge of policy making, monitoring, and coordinating municipal affairs, constitute the basic mechanism of local governance in Iran. In line with the Constitution and pertinent legislation, the City Councils have a broad range of duties and responsibilities that can be grouped under executive, legislative and supervisory functions, encompassing the following:<sup>95</sup>

- The primary executive duty of the Council is the election of the Mayor for a period of four years. As stipulated in the pertinent legislation, the Council shall elect a qualified Mayor immediately after completing its formal procedures of establishment. It is further stipulated that the Mayor, once elected, cannot continue to be a member of the City Council. In province-center cities and in cities with over two hundred thousand inhabitants, the process of the election of the Mayor is finalized upon the proposal of the respective City Council and the approval of the Minister of Interior Affairs, and in other cities, with the proposal of the City Council and the approval of the respective provincial Governor.
- The legislative duties of the Council include the review and approval of the annual program and budget of the municipality; the review and approval of the municipal grants and loans; the review and approval of the statutes for municipal companies and affiliated bodies; approval of standards and criteria in relation to urban development and reconstruction; approval of the rates of taxation for urban services; specification of the user charges for public transportation vehicles; approval of the by-laws of the municipality; enactment of regulations in relation to urban development and pertinent services; and approval of the naming and renaming of streets, parks and other relevant public spaces.
- The supervisory duties of the Council include the good governance of the city and enhancing citizens participation; supervising the proper management of municipal assets the municipal finances; supervising the proper implementation of the decisions of the Council; supervising the implementation of urban development plans; monitoring public works contracts; supervising the general public health; supervising the construction and maintenance of urban facilities; and supervising the delivery of urban services.

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<sup>95</sup> Tehran City Council: An Introduction (2011)

- In Iran, all municipalities undertake more or less the same tasks. On the other hand, the administrative organization of municipalities tends to differ in line with the size and characteristics of cities wherein cities with larger population would have more complex administrative organizations. In this general framework, the main functions of the municipalities include the following:<sup>96</sup>

- **Implementation and Coordination:** Implementing the decisions of the City Council; implementing the decisions of the Higher Council of Urban Development and Architecture; assisting the establishment of “Urban Water Supply and Sewage Disposal Company” of the concerned city; overseeing the reconstruction of houses and old neighborhoods, etc.

- **Monitoring Urban Services:** Monitoring that the general security regulations are complied with; issuing the building construction licenses; impeding the illegal constructions; impeding noisy and unclean activities, etc.

- **Urban Planning:** Preparing Urban Development Plans; reviewing the boundaries of the city and making respective proposals to the City Council; determining the general strategies and urban priorities; issuing real estate documents; adopting the urban development plans prepared by the Ministry of Housing and Urban Development; proposing relevant modifications in the City Comprehensive Plan to the Higher Council of Urban Development and Architecture; providing affordable housing for the low income groups, etc.

- **Financial Planning:** Preparing on an annual basis the municipal budget and proposing it to the City Council; proposing the imposition or cancellation of certain duties and fees for urban services; managing and maintaining public assets; collecting municipal revenues, etc.

- **Public and Urban Services:** Construction and maintenance of roads, streets, parks, sport facilities, and other public places; construction and maintenance of drainage systems; providing cleansing services; constructing solid waste disposal facilities; providing and operating public transportation systems, including the construction of terminals; fire protection services; maintaining burial grounds; constructing motor vehicles technical examination stations; constructing and maintenance of public market-places, etc.

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<sup>96</sup> Hossein (2009)

## **Financial autonomy & resources of local authorities**

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The annual budget of each municipal region is voted on at town and village councils. In line with legislative requirements, resources for local authorities in Iran come from three sources:

- Output from the many public services.
- Output from public lands.
- Local taxes and support from the State.

The main municipal resource still comes from local taxes on products and services in the local area. Tenancy and construction charges also bring a large amount of income to towns. In 2004 they made up around 70% of Tehran town hall's revenue.

Municipal law includes nearly 90 types of charges and taxes implemented at the local level. In practice, most of these never actually generate income for local authorities. Local finances in Iran are just as disorganised when it comes to revenue as they are in terms of expenditure.

Municipal regions can also take out loans. Only the Mayor (The chairman of the local council) can make the decision to take out a loan, yet this decision is passed to the council for prior approval at the Mayor's request.

## **Central government control/tutelage over local authorities**

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Central government control/tutelage over local authorities is primarily exercised by the Organization of the Municipalities and Rural Administration (OMRA), which was established in 1986 to monitor the local authorities.

It is stipulated in Article 1 of the Articles of Association that: "The Organization of the Municipalities and Rural Administration established in Iran according to the contents of the Article 62 of the Municipalities Act and the resolution approved by the cabinet on July 29, 1986, in a bid to coordinate the country's municipalities, training the staffs, monitoring the

activities of the municipalities, and shouldering other responsibilities which are related to the Ministry of Interior.”<sup>97</sup>

It is further stipulated in Article Five that: “The OMRA’s goals are monitoring and controlling the activities of the country’s municipalities in the scope of the Ministry of Interior’s responsibilities and financially as well as technically sponsoring municipalities and related organizations, on executive and managerial level, according to the government policies’ framework.”<sup>98</sup>

Iran’s constitutional provisions on local government rest heavily on the Councils whose sphere of influence in administration and decision making signify their importance as decentralized governance mechanisms rather than being the mere extensions of the central government. In this context, the Constitution ensures that the interference to the autonomous functioning of the Councils only with the cases of extreme legal violations.<sup>99</sup>

In fact, as stipulated in Article 106 of the Constitution, the Councils may not be dissolved except in case of deviation from their legal functions. The authority to determine such deviation, the manner of dissolution of the Councils, as well as their re-establishment are required to be specified by law. The Councils have the right to appeal to the authorized courts for the examination of the claim raised to justify their dissolution.<sup>100</sup>

## **General framework of local autonomy & reform initiatives**

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The highly reported first council elections finally took place on 8th March 1999, and the first councils were able to meet on 29<sup>th</sup> April of that year. This date remains symbolic as “Councils day”, when many council-related demonstrations take place. The second local council elections took place on 28th February 2003 and had a poor turnout rate (49.96%) compared to both the first election (64.42%) and the legislative and presidential elections. Such a lack of interest in an election that really affects the lives of the people can be explained through political issues, such as disappointment linked to the first council mandate, which related to the Tehran council in particular and very quickly plunged into intense political bickering. In the last council elections in December 2006, a total of 109,536

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<sup>97</sup> OMRA: Articles of Association (1986)

<sup>98</sup> OMRA: Articles of Association (1986)

<sup>99</sup> Hossein (2009)

<sup>100</sup> Constitution of Iran (1979)

councillors were elected for 1016 town councils, 31,167 village councils and 522 nomadic councils. The number of female candidates in local elections was very low, despite the fact that candidacies were open to women. In the last election 3% of the candidates were women.

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# IRAQ



الله أكبر



# IRAQ

## Background Information

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Iraq, officially the Republic of Iraq, is bordered by Jordan to the west, Syria to the northwest, Turkey to the north, Iran to the east, and Kuwait and Saudi Arabia to the south. Iraq has a narrow section of coastline measuring 58 km on the northern Persian Gulf. The capital city and the major metropolis in the country, Baghdad is in the centre-east of the country.

Iraq, spread over an area of 438,317 sq km, has a population of 31,858,481 (July 2013 est.). The Iraqi ethnic groups: Arab 75%-80%, Kurdish 15%-20%, Turcoman, Assyrian, or other 5%. The official languages spoken in Iraq are Arabic and Kurdish.<sup>101</sup>

Iraq's largely state-run economy is dominated by the oil sector, which provides more than 90% of government revenue and 80% of foreign exchange earnings. Iraq in 2012 boosted oil exports to a 30-year high of 2.6 million barrels per day.<sup>102</sup>

According to the Human Development Index (HDI), Iraq is cited under the category entitled “Medium Human Development”, ranking as the 131<sup>st</sup> out of 186 countries covered by the UNDP Human Development Report of 2013.<sup>103</sup>

Subsequent to the transfer of sovereignty by the Coalition Provisional Authority led by the USA to the Iraq Interim Government on 28 June 2004, a new constitution was prepared, and approved by referendum held on 15 October 2005. Iraq is defined under the current Constitution as “a single federal, independent and fully sovereign state in which the system of government is republican, representative, parliamentary, and democratic” whereby “Islam is the official religion of the State”. It is further stipulated in the Constitution that: “The federal powers shall consist of the legislative, executive, and judicial powers, and they shall exercise their competencies and tasks on the basis of the principle of separation of powers.”<sup>104</sup> The federal legislative power is exercised by the Council of Representatives,

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<sup>101</sup> CIA The World Factbook (2013)

<sup>102</sup> CIA The World Factbook (2013)

<sup>103</sup> UNDP Human Development Report (2013)

<sup>104</sup> Constitution of Iraq (2005)

whose members are elected for a period of 4 years. The federal executive power is exercised by the President of the Republic and the Council of Ministers. The judicial power is independent.

## **Sub-national governance & types of local authorities**

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In line with Article 116 of the Constitution, “Iraq is made up of a decentralized capital, regions, and governorates, as well as local administrations.”<sup>105</sup> The structure of sub-national governance in Iraq is thus organized at two levels, namely the “regions” and the “governorates not incorporated in a region”.

The country is administratively divided into 18 governorates (*muhafazat*). Governorates are further subdivided into districts (*qada’as*), sub-districts (*nahiyahs*) and villages. Each division has corresponding councils, namely the Governorate Council, Qada’a Council and Nahiya Council (including villages and neighbourhoods). The governorates are administrated by the Governor, qada’as by district officers (*qaimaqam*), nahiyas by sub-district officers (*mudir*), and villages by an alderman (*mukhtar*).<sup>106</sup>

It is stipulated in Article 2 of Law No. 21 entitled “The Law of Governorates Not Incorporated into a Region” that: “The governorate council is the highest legislative and oversight authority within the administrative boundaries of the governorate and shall have the right to issue local legislation within the boundaries of the governorate so that it can carry out its affairs on the basis of the principle of administrative decentralization and in a manner that would not contradict the Constitution and federal laws.”<sup>107</sup>

In line with Article 3 of Law No. 21, the governorate council comprises 25 seats (with the addition of one seat for every 200,000 inhabitants, if the number of the governorate’s inhabitants exceeds 500,000); the *qada’a* council comprises 10 seats (with the addition of one seat for every 50,000 inhabitants); and the *nahiya* council comprises 7 seats (with the addition of one seat for every 25,000 inhabitants.) Members of these councils are elected by direct secret ballot in accordance with the election law for councils. It is stipulated in

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<sup>105</sup> Constitution of Iraq (2005)

<sup>106</sup> Law No 21 as amended by Law No. 15 (2011)

<sup>107</sup> Law No 21 as amended by Law No. 15 (2011)

Article 4 of Law No. 21 that: “The electoral term of the councils shall be four calendar years commencing with its first session.”<sup>108</sup>

It is stipulated in Article 7 that the Governor shall be elected by the governorate council. Article 26 further qualifies this provision by stipulating that: “The governorate council may elect the governor from within or outside the council.” In turn, in Articles 8 and 12, it is stipulated that the *qada’a* administrator shall be elected by the Qada’a Council, and the *nahiya* administrator shall be elected by the Nahiya Council respectively.<sup>109</sup>

The two formal administrative units below the governorate level, namely *qada’as* (districts) and below them the *nahiyas* (sub-districts), have governing local councils. Each *qada’a* and *nahiya* also contains a directorate office called the *beladiya*, functioning under the “Municipal (*Belediya*) Administrative Law” No. 165 of 1964 to deliver services to the inhabitants of the corresponding jurisdiction. As an executive office of the Ministry of Municipalities and Public Works, the *beladiya* is a federal office, yet it is also deemed to be the administrative offices of the *qada’as* and *nahiyas*. This status permits the *beladiya* to control all revenues authorized to be collected and retained by the *qada’as* under the Revenue of Municipalities Law No. 130 of 1963. In this context, *beladiyas* are not typical municipalities, but constitute the executive offices of the Ministry at the sub-national levels, and their operations are critical to the sub-national governance.<sup>110</sup>

In line with the special provisions stipulated in the Constitution for the Baghdad Governorate, for administrative purposes, Baghdad is divided into two distinct entities, namely the Governorate and Amanat, with the boundaries of the Amanat in the interior urban core demarcating the two.<sup>111</sup>

The High Commission for Coordinating among Provinces, consisting of governors from all provinces, has been established as the coordination mechanism of the central government rather than a body associated with local authorities. On the other hand, the Iraqi Local Government Association (ILGA), which consists of Provincial Council members nominated from all 18 provinces, has been established in October 2009 as the nation-wide organization

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<sup>108</sup> Law No 21 as amended by Law No. 15 (2011)

<sup>109</sup> Law No 21 as amended by Law No. 15 (2011)

<sup>110</sup> District Government Field Manual (2007)

<sup>111</sup> District Government Field Manual (2007)

of local authorities. ILGA has increasingly become the representative of common positions before the national government, and the importance of its role was implicitly confirmed in the 2007 Supreme Court advisory opinion that specifically differentiates national and local authorities.<sup>112</sup>

The ILGA and HCCP represent the interests of Provincial Councils and governors, respectively, to the central government, and thus are considered as important institutions for sustainability of the sub-national government interests. Local Governance Program III's work with these organizations according to the Quarter 3 Work Plan was as follows: (1) Institutionalization and core staffing of ILGA Secretariat; (2) Promotion of ILGA and execution of Strategy Plan; (3) Development of Communication Strategy; (4) Assessment of ILGA members' capacities; (5) Development of financial sustainability, transparency, and accountability; and (6) Institutionalization and capacity building of HCCP.<sup>113</sup>

## **Constitutional provisions on local authorities**

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The Constitution of Iraq, ratified on 15 October 2005, encompasses a number of articles that contain significant provisions on local authorities.<sup>114</sup>

In Chapter I entitled "Powers of the Regions", it is stipulated in Article 116 that: "The federal system in the Republic of Iraq is made up of a decentralized capital, regions, and governorates, as well as local administrations."

In Article 120 it is stipulated that: "Each region shall adopt a constitution of its own that defines the structure of powers of the region, its authorities, and the mechanisms for exercising such authorities, provided that it does not contradict this Constitution."

In Article 121 it is stipulated that: "Regions and governorates shall be allocated an equitable share of the national revenues sufficient to discharge their responsibilities and duties, but having regard to their resources, needs, and the percentage of their population."

In Chapter II entitled "Governorates not incorporated in a region", it is stipulated in Article 122 that: "First: The governorates shall be made up of a number of districts, sub-districts,

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<sup>112</sup> ILGP (2007 and 2010)

<sup>113</sup> Iraq Local Governance Program (2011)

<sup>114</sup> Constitution of Iraq (2005)

and villages. Second: Governorates that are not incorporated in a region shall be granted broad administrative and financial authorities to enable them to manage their affairs in accordance with the principle of decentralized administration, and this shall be regulated by law. Third: The governor, who is elected by the Governorate Council, is deemed the highest executive official in the governorate to practice his powers authorized by the Council. Fourth: A law shall regulate the election of the Governorate Council, the governor, and their powers. Fifth: The Governorate Council shall not be subject to the control or supervision of any ministry or any institution not linked to a ministry. The Governorate Council shall have independent finances.”

It is stipulated in Article 123 that: “Powers exercised by the federal government can be delegated to the governorates or vice versa, with the consent of both governments, and this shall be regulated by law.”

The Constitution has brought specific provisions for the administration of the capital city, Baghdad. It is stipulated in Article 124 entitled “The Capital” that: “First: Baghdad in its municipal borders is the capital of the Republic of Iraq and shall constitute, in its administrative borders, the governorate of Baghdad. Second: This shall be regulated by a law. Third: The capital may not merge with a region.”

## **Legislation concerning local authorities**

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The Constitution of Iraq does not identify the governance institutions below the level of the governorate. In this context, the main legislative framework concerning local authorities is provided by Law No. 21 enacted in 2008 entitled “The Law of Governorates Not Incorporated into a Region”. Law No. 21 was subsequently amended by Law No. 15, endorsed on 16 February 2010.<sup>115</sup>

Until Law No. 21 came into force, the basic framework for sub-national governance was provided by “Order No. 71 on Local Governmental Powers”, enacted by the Coalition Provisional Authority on 6 April 2004. Although Order No. 71 had limited impact particularly in the face of the widespread challenge of its legitimacy, it nevertheless

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<sup>115</sup> Iraq Local Governance Program (2011)

established the formal contours of sub-national governance, and paved the way for the new legislation.<sup>116</sup>

Law No. 21 entitled “The Law of Governorates Not Incorporated into a Region” was enacted on 1 June 2008; however, it did not begin to be implemented until late spring 2009, after provincial elections had been held and some disputes surrounding their outcome had been settled.<sup>117</sup>

Other pertinent legislation include, among others, “Municipality Revenues Law” No. 130 of 1963; “Municipal Administrative Law” No. 165 of 1964; “Decentralization Law” No. 159 of 1969; “Law of Popular Councils” No. 25 of 1995; and “Law on the Election of Provincial Councils” No 36/44 of 2008.<sup>118</sup>

It is stipulated in Article 53 of Law No. 21 that: “References to the formation and competencies of the municipal councils in the Law of the Municipalities Administration No. 165 of 1964 shall be abrogated.” On the other hand, the rest of the Law of the Municipalities Administration No. 165 remains in effect, other than the indicated section on the formation and competencies of the municipal councils.<sup>119</sup>

## **Electoral processes in local authorities & local elections**

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It is stipulated in Article 5 of the Constitution that: “The law is sovereign. The people are the source of authority and legitimacy, which they shall exercise in a direct, general, secret ballot and through their constitutional institutions.”<sup>120</sup>

In this context, subsequent to the ratification of the Constitution of Iraq in 2005, the first provincial elections took place across Iraq in December 2005. For the first time, provincial councils were composed of elected rather than appointed members.

On 24 September 2008, the Iraqi Presidential Council signed the amended Law on the Election of Provincial Councils, resulting in the modification of Article 24 of the Law on the

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<sup>116</sup> District Government Field Manual (2007)

<sup>117</sup> Iraq Local Governance Program (2011)

<sup>118</sup> Iraq Local Governance Program (2011)

<sup>119</sup> Iraq Local Governance Program (2011)

<sup>120</sup> Constitution of Iraq (2005)

basis that this article has contradicted with Article 140 of the Iraqi Constitution, which allows Kurds to return to Kirkuk after having been forced to leave the city during the 1970s and 1980s. The revised Law also includes provisions for regulating the electoral process and election campaigns in all of the Iraqi provinces, except the city of Kirkuk. Article 2 of the revised Law authorizes the Iraqi Independent High Electoral Commission to establish provincial, district, and precinct-level election bodies. Moreover, the Law enhances women's political participation; Article 11 establishes a quota of 25% of the seats to be set aside for Iraqi women in the provincial councils. The Provincial Election Law, as amended, also paves the way for provincial representation for Sunni Muslims, who boycotted the regional elections in 2005.<sup>121</sup>

The second provincial elections were held on 31 January 2009, which were the first elections since the passage of the Law on the Election of Provincial Councils, Law No. 21 of 2008.

Although there have been two rounds of elections for provincial councils and two rounds of national elections since the adoption of the 2005 Constitution, elections for district or sub-district councils were not held to date. This is in spite of a separation of provincial and sub-provincial council elections into two stages by Article 6 of the Law on the Election of Provincial and Local Councils of 24 September 2008 which stipulates that: “Provincial council elections shall be held in the first stage, and district and sub-district council elections shall be held in a second stage within six months after the date of holding the first-stage elections.” Because provincial council elections were held in January 2009, district and sub-district council elections should have been held by August of the same year, but they were subsequently postponed, and elections for councils below the provincial level are not scheduled to be held in the near future.<sup>122</sup>

## **Structure and organs of local authorities**

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It is stipulated in Article 8 of Law No. 21 that: “Local administration includes *nahiya* and *beladiya* councils; heads of local administration units include *qaimaqams* and *mudirs*.”<sup>123</sup> In this context, the main organs of local authorities consist of the local councils as the primary

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<sup>121</sup> Law Library of Congress: Website (2011)

<sup>122</sup> Iraq Local Governance Program (2011)

<sup>123</sup> Law No 21 as amended by Law No. 15 (2011)

decision-making bodies, and the heads of the corresponding local authorities undertaking executive functions.

In line with Article 3 of Law No. 21, the base number for each Governorate Council is 25 seats, with an additional seat being added for every 200,000 inhabitants that exceed the base of 500,000. The Councils elect a chairperson and a deputy by an absolute majority of the members at its first session.

In particular, the Baghdad Governorate Council formally came into existence after the nationwide elections for governorate councils held on 30 January 2005. The Baghdad Governorate Council took over from the Baghdad City Council, which was established in February 2004 by the Coalition Provisional Authority, and subsequently dissolved when the new council was established. The Baghdad Governorate Council consists of 51 members and a chairperson elected from amongst the council members.<sup>124</sup>

With regard to the local councils, the *qada'a* council comprises 10 seats, with the addition of one seat for every 50,000 inhabitants, and the *nahiya* council comprises 7 seats, with the addition of one seat for every 25,000 inhabitants. These councils are the main decision-making organs of *qada'as* and *nahiyas* respectively.

It is stipulated in Article 23 of Law No. 21 that: “The governor and the *qada'a* and *nahiya* administrators are the highest executive employees in their respective administrative units.”<sup>125</sup>

## **Duties and responsibilities of local authorities**

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The basic framework of the duties and responsibilities of local authorities is drawn in Article 22 of Law No. 21 which stipulates that: “Each administrative unit shall have a juridical character and financial and administrative independence. In the performance of its functions, it may: First: Collect taxes, duties, and fees in accordance with the federal laws. Second: Exercise the competencies granted to it in accordance with the Constitution. Third: Fulfil the

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<sup>124</sup> District Government Field Manual (2007)

<sup>125</sup> Law No 21 as amended by Law No. 15 (2011)

duties and functions it is entrusted with in accordance with the laws and in a manner that will not contradict the Constitution.”<sup>126</sup>

In line with Article 7 of Law No. 21, the competencies of the Governorate Council include the issuing of “local laws, instructions, bylaws, and regulations to organize the administrative and financial affairs so that it can conduct its affairs based upon the principle of administrative decentralization in a manner that does not contradict the provisions of the Constitution and federal laws.”<sup>127</sup> On the other hand, the authority of provincial councils to issue such legislation has been restricted in practice. In September 2009, for instance, the Shura Council (the deliberative body within the Ministry of Justice, established by Law 65 of 1979, to resolve disputes of a constitutional nature between governmental entities) concluded that provincial councils had no authority to legislate because Article 12 of Law 21 only obligated them to publish their opinions and decisions in a provincial gazette. In a similar manner, in June 2010, the legal committee of the Council of Ministers provided the opinion that the provincial councils had not been given the authority to issue legislation, pursuant to Article 61 of the Iraqi Constitution.<sup>128</sup>

Other competencies of the Governorate Council include the preparation of the Council budget; approving the governorate draft general budget plan referred to the Council by the Governor, and transferring the funds between its chapters; monitoring the activities of the local executive authority to ensure good performance; electing the Governor and his two deputies; approving the local security plans submitted by the security agencies in the governorate; approving administrative changes to the *qada’as*, *nahiyas*, and villages in terms of merger, creation and renaming; issuing a gazette wherein the Council’s decisions and orders shall be published; approving a bylaw for the Council; and identifying the governorate’s priorities in all fields and outline its policies and strategic development plans.<sup>129</sup>

Pursuant to Article 31 of Law No. 21, the duties and responsibilities of the Governor include, among others, the following: Drafting the general budget of the governorate and submitting the budget to the Governorate Council; executing the decisions of the

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<sup>126</sup> Law No 21 as amended by Law No. 15 (2011)

<sup>127</sup> Law No 21 as amended by Law No. 15 (2011)

<sup>128</sup> Iraq Local Governance Program (2011)

<sup>129</sup> Law No 21 as amended by Law No. 15 (2011)

Governorate Council; executing federal general policy within the boundaries of the governorate; monitoring the public facilities in the governorate; establishing universities, colleges, and institutes in the governorate in coordination with the relevant ministry; and appointing local employees in the governorate.<sup>130</sup>

The competencies of local councils (in *qada'as* and *nahiyas*) include, in addition to the election of their respective administrator, the following: Monitoring the work of the local administration in the respective local authority; forwarding the necessary recommendations to the higher local council, as appropriate; preparing the draft budget of the council; approving the budget plans of the local administration and referring them to the higher local council, as appropriate; approving the local security plan; presenting scientific studies and research for the development of the respective local authority; cooperating and consulting with other councils so as to ensure the welfare of the community; and drafting the by-laws of the respective council.<sup>131</sup>

The duties and responsibilities of the *qada'a* and *nahiya* administrators include, among others, the execution of the decisions of the respective local councils; supervising and inspecting the public offices and their employees in their areas of jurisdiction; ordering the police to investigate the crimes that take place within their boundaries, and presenting the investigation reports to the relevant courts; maintaining security and order and protect citizen's rights, lives, and property; preserving the rights and public property and collecting the revenues in accordance with the law; preparing the draft budget and submitting it to their respective local councils.<sup>132</sup>

There are three authorities in charge of the water utility management in Iraq. The Ministry of Municipalities and Public Works covers 15 governorates of Iraq, the Ministry of Municipalities and Tourism covers the 3 Northern Iraq governorates, and the Mayoralty of Baghdad is in charge of the capital city. These three authorities are responsible for water supply and distribution, wastewater collection and treatment, and municipal services.<sup>133</sup>

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<sup>130</sup> Law No 21 as amended by Law No. 15 (2011)

<sup>131</sup> Law No 21 as amended by Law No. 15 (2011)

<sup>132</sup> Law No 21 as amended by Law No. 15 (2011)

<sup>133</sup> ACWUA (2010)

## Financial autonomy & resources of local authorities

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The 2005 Constitution mandated that federal revenues be distributed fairly among provinces. In line with this provision, the budgeting practices in Iraq mainly involving the federal government telling the provinces what revenue sharing they could expect to receive started to change gradually after mid-2000s. Currently, provincial leaders openly discuss with the federal government the budget process and amounts to be allocated to their respective provinces.<sup>134</sup>

It is stipulated in Article 44 of Law No. 21 enacted in 2008 that the financial resources of the governorates shall consist of the budget transfers to the governorate from the federal government, revenues generated from the governorate services and investment projects, proceeds from taxes, duties, and local fines, donations, and proceeds from the sale and lease of public movable and immovable assets.<sup>135</sup>

Although the Constitution reinstates the financial autonomy of the governorate administration, no mention is made of the financial situation of the next level of administrative units. The *qada'as* and *nahiyas* remain subject to the authority of the governorate councils with respect to finances. Neither the *beladiya* nor the local council authorities collect charges or fees for services. The user fees are collected by the offices and facilities of the federal ministries that organize the provision of services in *qada'as* and *nahiyas*.<sup>136</sup>

The General Directorate of Municipalities attached to the Ministry of Municipalities and Public Works is responsible for the distribution of the budget of the Ministry among the local authorities, depending on the area that they serve and the deficit between their revenues and expenditures.<sup>137</sup>

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<sup>134</sup> Iraq Local Governance Program (2008)

<sup>135</sup> Law No 21 as amended by Law No. 15 (2011)

<sup>136</sup> District Government Field Manual (2007)

<sup>137</sup> District Government Field Manual (2007)

## **Central government control/tutelage over local authorities**

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Central government control/tutelage over local authorities in Iraq is primarily exercised by the Ministry of Municipalities and Public Works, and particularly the General Directorate of Municipalities established under the Ministry. Although the Presidency Council attempted in January 2010 via Law No. 20 to dissolve the Ministry of Municipalities and Public Works, and transfer its staff, property, budget, and responsibilities to provincial governors, the Supreme Court declared this law to be unconstitutional in July 2010, and thereby allowed the Ministry to sustain its position.<sup>138</sup>

At the provincial level, the predominant role with regard to the control/tutelage over local authorities is played by the Governorates by virtue of the broad financial and administrative authorities granted by the Constitution that would enable them to manage their affairs in accordance with the “principle of decentralized administration.”<sup>139</sup>

Pursuant to Article 31 of Law No. 21, the Governor is entitled to challenge and object to the decisions of the governorate council or the local councils in certain cases delineated in the pertinent legislation. Furthermore, it is stipulated in Article 39 that the *qada’a* and *nahiya* administrators shall function under the guidance and supervision of the respective Governor.<sup>140</sup>

## **General framework of local autonomy & reform initiatives**

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Article 116 of the Constitution describes the regions and provinces as being “decentralized”, but Article 122 qualifies the kind of decentralization as “administrative”. It is further stipulated in Article 122 that the national government could alter or expand the authorities of the provincial councils, change their jurisdiction, and ultimately change the character of the decentralization they enjoy by changing the law. Such changes notably accelerated in 2010. On 25 January 2010, the Presidency Council approved Law 20 of 2010 that purported to devolve the Ministry of Municipalities and Public Works, and transfer its staff, property, budget, and responsibilities to provincial governors. Then on 16 February 2010 the Presidency Council likewise approved Law 18 of 2010 that purported to dissociate the social affairs responsibilities of the Ministry of Labor and Social Affairs, and transfer them to the governors as well. On the other hand, on 14 June of the same year, the Supreme Court

<sup>138</sup> Iraq Local Governance Program (2011)

<sup>139</sup> Constitution of Iraq (2005)

<sup>140</sup> Law No 21 as amended by Law No. 15 (2011)

“froze” further implementation of Laws 18 and 20, and on 15 July 2010, declared both laws to be unconstitutional.<sup>141</sup>

On the following pages, the text of Law 21 of 2008, entitled the Law of Governorates not Incorporated into a Region, as Amended by Law 15 of 2010, is reproduced. Relying on the original Arabic text, this footnoted version of Law 21 updates and replaces a prior publication entitled Law of Governorates not Incorporated into a Region: An Annotated Text. Published in July 2008, that pocket-sized edition anticipated how the law would (or ought to) be implemented. Although, by its own terms, Law 21 was then “in force,” it did not begin to be implemented until late spring 2009, after provincial elections had been held and some disputes surrounding their outcome had been settled.<sup>142</sup>

Once the law began to be implemented, differing opinions emerged as to how it should be interpreted. Because governorate (provincial) and lower level councils are not organized under a Ministry of Local Government as is common in neighboring Arab countries (and the Minister of State for Provincial Affairs lacks rule-making authority), these differences are not capable of being resolved via administrative regulations. Instead, the provincial (governorate) councils have largely been left alone, to interpret as well as they could those laws that are binding on them.<sup>143</sup>

Of course, the laws binding on them include more than just the Constitution of 2005 and Law 21 itself, and this document includes a Table of Authorities and relevant citations to some of that other law applicable to the provinces. The footnotes in this volume, therefore, strive to show how the law is being interpreted with reference to the Constitution and other applicable law, as well as actual practice. The notes attempt to be neutral and to avoid advocacy of how the law should be interpreted; instead, they explain how a footnoted word, phrase, or paragraph has come to be understood after almost two years of implementation.

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The Law of Governorates itself applies to only 14 of Iraq’s 18 provinces. The Iraqi Constitution of 2005 recognized three provinces in the north of the country as being

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<sup>141</sup> Iraq Local Governance Program (2011)

<sup>142</sup> Law of Governorates not Incorporated Into a Region (2011)

<sup>143</sup> Law of Governorates not Incorporated Into a Region (2011)

<sup>144</sup> Law of Governorates not Incorporated Into a Region (2011)

incorporated into the Kurdistan Regional Government (KRG). Law 21 has, therefore, never applied to those three provinces. It also does not presently apply to Kirkuk (Ta'meem) province because of an unresolved constitutional question of whether all or part of that province will be incorporated into the KRG.

The text of Law 21 and its amendment in Law 15 was originally written in Arabic. The English translation used here is the official translation of the U.S. Embassy in Iraq.<sup>145</sup>

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<sup>145</sup> Law of Governorates not Incorporated Into a Region (2011)

# JORDAN



# JORDAN

## Background Information

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Jordan, officially the Hashemite Kingdom of Jordan, is a relatively small country with few natural resources, but it continues to play a pivotal role in the turbulent politics of the Middle East. Unlike many of the states in the region Jordan has no significant oil resources of its own. The resources of the country are basically composed of phosphates and agricultural produce, and its economy currently depends largely on the service sector and tourism.<sup>146</sup>

Jordan is spread over an area of 89,213 sq km, with a current population of 6,187,200<sup>147</sup> (for 2010). The country is located in the northwest of Saudi Arabia, south of Syria, southwest of Iraq, and east of Israel and the West Bank. Jordan has access to the Red Sea via the port city of Aqaba, located at the northern end of the Gulf of Aqaba. The capital city of the country is Amman, with a population of 2.2 million (constituting 34% of total population)<sup>148</sup>.

With a Human Development Index of 0,7<sup>149</sup> Jordan is cited under the category entitled “High Human Development”, ranking as the 100<sup>th</sup> <sup>150</sup> out of 187 countries covered by the UNDP Human Development Report of 2013.<sup>151</sup>

Jordan is a constitutional monarchy with representative government. The reigning monarch is the head of state, the chief executive and the commander-in-chief of the armed forces. The King exercises his executive authority through the prime minister and the Council of Ministers, or cabinet. The cabinet, meanwhile, is responsible before the elected House of Deputies which, along with the House of Notables (Senate), constitutes the legislative branch of the government. The judicial branch is an independent branch of the government.

<sup>152</sup> Jordan’s constitution guarantees the independence of the judicial branch, clearly stating

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<sup>146</sup> BBC News website (2011)

<sup>147</sup> UNDP Human Development Report (2013)

<sup>148</sup> Estimation for 2010. Embassy of Jordan in Washington website:

<http://jordanembassyus.org/page/quick-facts>

<sup>149</sup> UNDP Human Development Report website (2012):

<http://hdrstats.undp.org/fr/pays/profils/JOR.html>

<sup>150</sup> *Ibid.*

<sup>151</sup> UNDP Human Development Report (2001)

<sup>152</sup> Embassy of Jordan website (2011)

that judges are “subject to no authority but that of the law.” While the king must approve the appointment and dismissal of judges, in practice these are supervised by the Higher Judicial Council, which forms independent decisions regarding the periodic recommendations submitted to it by the Ministry of Justice.<sup>153</sup>

## **Sub-national governance & types of local authorities**

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Jordan is divided into twelve (12) regional governorates (*muhafazat*), each of which is divided into smaller administrative sub-regions. Each governorate is headed by a Governor, who is appointed by the Council of Ministers upon the recommendation of the Minister of Interior. The district government acts as the executive organ for carrying out cabinet decisions on the local level. These district governments are thus essentially an extension of the central government, and are supervised by the Ministry of the Interior.<sup>154</sup>

The Governorates are subdivided into districts (*liwa*), sub-districts (*Qda*) and chief town (*Nahia*). The latter are managed by civil servants of the Ministry of Interior (Manager of Liwa, *Qa'imaqam* and Chief Town manager), whose task is to coordinate and supervise, under the authority of the Governor, the services of other ministries at the locality.<sup>155</sup>

The municipalities constitute the basic unit of local administration in Jordan. Until the year 2000, the local government system encompassed three types of local institutions: (a) the municipalities which managed the cities and the relatively important, in terms of number of inhabitants, localities which had, in theory, their autonomy, their own legal personality and their own budget; (b) the Village Councils which managed the small villages of the rural areas and which had, in comparison to the municipalities, less autonomy and less financial resources; and (c) Joint Services Councils, which grouped several municipalities and Village Councils in the same district in order to carry out common projects or services. The municipal reforms that took place in 2000 and 2001 resulted in the dissolution of the Village Councils and in the merging of municipalities, whereby their numbers were significantly reduced.<sup>156</sup>

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<sup>153</sup> <http://www.kinghussein.gov.jo/government4.html>

<sup>154</sup> General Analysis of the Municipal Sector (2005)

<sup>155</sup> General Analysis of the Municipal Sector (2005)

<sup>156</sup> General Analysis of the Municipal Sector (2005)

Currently, in contrast to the appointed governors, mayors are elected, along with municipal council members. In the case of Amman, on the other hand, the Mayor and half of the Council members of the Greater Amman Municipality are appointed by the government, and the other half elected.<sup>157</sup>

Elected municipal councils, headed by a mayor, are established for towns and cities of over 2,500 inhabitants. The mayor is a full-time position while council members serve on a part-time basis. The councils vary in size from 6 to 11 members, depending on the population of the municipality. All elected positions are for 4-year terms.

In terms of the number of municipalities in the country, there were 260 municipalities (including Amman) by the time of the municipal elections held on 11 July 1995<sup>158</sup>. New municipalities were established in due course, and the number of municipalities reached 328 at the beginning of the new century. In 2001 however, subsequent to the merger process under the municipal reforms, the number of Municipalities were reduced to 99<sup>159</sup>. The last municipal elections, that took place on July 31, 2007, were carried out in 93 municipalities under the new municipal law adopted in 2007<sup>160</sup>.

The Ministry of Municipalities also gradually merged the village councils until it finally dissolved them definitively in 2000, either through grouping them or by integrating them into municipal structures. The merger process also resulted in the disappearance of several Joint Service Councils, which were reduced from 38 to 20<sup>161</sup>.

The municipalities are classified, not hierarchically but from the legislative point of view, into four categories, which determine, inter alia, the resources allocated to them by the central government and the allowances received by the members of Town Councils:<sup>162</sup>

- The first category groups the centers of the Governorates as well as all other cities having more than 100,000 inhabitants. The municipalities of this category are

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<sup>157</sup> Embassy of Jordan website (2011)

<sup>158</sup> NDI (1995)

<sup>159</sup> General Analysis of the Municipal Sector (2005)

<sup>160</sup> UCLG Website Jordan Country profile: [http://www.cities-localgovernments.org/gold/Upload/country\\_profile/Jordan.pdf](http://www.cities-localgovernments.org/gold/Upload/country_profile/Jordan.pdf)

<sup>161</sup> General Analysis of the Municipal Sector (2005)

<sup>162</sup> General Analysis of the Municipal Sector (2005)

merely 11 since there are a limited number of cities in Jordan whose population exceed 100,000 inhabitants;

- The second category groups the municipalities which have the function of center of district or which have a population more than 15,000 inhabitants;
- The third category is that of the municipalities which are the centers of sub-districts (*Qda*) or whose population is between 5,000 and 15,000 inhabitants;
- The fourth category encompasses all other municipalities.

### **Constitutional provisions on local authorities**

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The Constitution of the Hashemite Kingdom of Jordan was adopted in 1952, with a number of revisions being made in subsequent years. The primary provisions in relation to local authorities are laid down in Article 121 of the Constitution, which stipulates that: “Municipal and local council affairs shall be administered by municipal or local councils in accordance with special laws.”<sup>163</sup>

In order to complete and strengthen the process of Jordanian reconstruction, a Royal Commission was charged it with the task of drawing up a National Charter which would lay the foundations and define the methods of national public activity. The Charter was also intended to establish general guidelines on the exercise of political pluralism, to be accomplished on the basis of the constant tenets of the Constitution. The National Charter was adopted in December 1990.

The fundamental concepts and principles that constitute the pillars of the National Charter also encompass the local authorities, as stipulated under the heading “Rationale and Aims” as follows: “Respect for human rights, strengthening of democratic practices, guaranteeing a continued balance in development and achieving administrative efficiency in the Kingdom are fundamental national goals. They require a constant effort to promote a unified administrative system for the Jordanian state and to ensure that local councils become answerable to central authority for supervision and guidance purposes. They also require a strengthening of the social, political and economic structures of the state through supporting the concept of local administration in the various districts and governorates in such a manner

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<sup>163</sup> Constitution of Jordan (1952)

as to provide practical opportunities for the people to exercise self-government, enable continued close coordination between governmental and popular bodies and lead to better democratic practices through responsible participation within a framework of balanced rights and obligations.”<sup>164</sup>

## **Legislation concerning local authorities**

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Since the establishment of the Jordanian State in 1921 and the first constitution of 1928, the legal framework concerning the municipalities was modified on several occasions. Currently, it is the Law of the Municipalities, No. 29 of 1955, which continues to constitute the legal base for the definition of the territory, the functions and the authority of the municipalities and their councils.<sup>165</sup>

However, a number of amendments were made to this law in subsequent years, including the major revisions made in 1983, 1994, 2002, and the latest in February 2007. The prominent amendments of the 2007 law include the definition of the municipality as a civil organization with financial independence simultaneously performing a services and developmental role. The amendment also reduces the age of the voter from 19 to 18 years with the aim of expanding the base of popular participation. Furthermore, the law allocates 20% of the seats of the municipal council for women so as to give women the opportunity to become active and effective in popular decision making.<sup>166</sup>

In terms of other relevant legislation, the Law of Town and Village Planning of 1966 draws up the basic framework of the responsibilities of the Municipality in city planning, by making it a shared responsibility with the Committee of District Planning, and especially with the Ministry of Municipal Affairs. Thus, the Town Council keeps the responsibility for the preparation of the Urban Development Plan but must have it approved by the Committee of District Planning and especially by the High Council of Planning of the Ministry, which is also granted the authority to arbitrate any disagreement between the Committee of District Planning and the Municipality.<sup>167</sup>

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<sup>164</sup> National Charter of Jordan (1990)

<sup>165</sup> General Analysis of the Municipal Sector (2005)

<sup>166</sup> ACHRS (2007)

<sup>167</sup> General Analysis of the Municipal Sector (2005)

## **Electoral processes in local authorities & local elections**

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**Municipal Councils are elected by local residents for a 4-year term.** However, in cases of legal disputes or lack of a quorum, the Governor can appoint a Municipal Council for an extendable two-year term. In the case of Amman, on the other hand, the Mayor and half of the Council members of the Greater Amman Municipality are appointed by the government, whereas the other half is elected.<sup>168</sup>

A major revision was made in the Municipal Election Law of 1955 by the Parliament of Jordan in July 1994. The revised law contains a number of significant changes, including the following: Mayors are to be directly elected, except for Amman; political parties are allowed to present candidates; elections for all 260 municipal councils are to be held on the date of elections; and half of the 40-member Amman Council is to be elected, instead of all members being appointed by the government until that date. In this context, the municipal elections held on 11 July 1995 represented an important step in the development of the system of local authorities in Jordan, as the indicated provisions of the revised law were realized for the first time.<sup>169</sup>

Similarly, the 2007 municipal elections in Jordan constituted another important step, as the provisions of the new Law on Municipalities enacted in 2007 that guarantees at least 20% of the elected positions to women and lowers the voting age from 19 to 18 were implemented for the first time. The pertinent amendments provided a unique opportunity to increase political pluralism and advance citizen participation, in particular that of women and youth.

During the municipal elections held on 31 July 2007, there were a total of 1,905,013 voters who registered their names to vote in the municipal elections. Since Jordan has reduced the number of municipalities in 2001 from 328 to 94, the elections were conducted in 349 electoral constituencies. A total of 2,706 candidates submitted applications for mayors and members of municipal councils. Final results indicated that 20 women were elected through the ballot box, while 195 were granted seats as part of the 20% quota for women provided for in the revised Law<sup>170</sup>.

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<sup>168</sup> Embassy of Jordan website (2011)

<sup>169</sup> NDI (1995)

<sup>170</sup> ACHRS (2007)

As in past elections, the Municipality of Greater Amman was exempt from the full election; only half of the 68-member Council was elected, while the other half of the Council, along with the Mayor, was appointed by the King of Jordan.

## **Structure and organs of local authorities**

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The Law of 1955 defines the Municipality as being “a financially independent national institution”, having a “legal personality” and an administrative autonomy, which is managed by a Town Council composed of the Mayor (*Rais Al-baladiyah*) and 6 to 11 councilors.<sup>171</sup>

The organs of the municipality consist of the Municipal Council, the Mayor and the Manager.

In mid 2001, Central government adopted new structural organization of municipal councils through merging some municipalities to enhance their capabilities. The new formation method of municipal organs consisted of appointed mayors and half elected, half appointed municipal councils.

Based upon the Law on Municipalities dated 1983 which calls for the appointment of professional local administrators for the implementation of the decisions of the Municipal Council, City Managers have been appointed to the major cities of Jordan. City Managers are appointed jointly by the Mayor and the Governor of the respective province, subject to approval by the Ministry of Municipal and Rural Affairs and the Environment.<sup>172</sup>

## **Duties and responsibilities of local authorities**

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According to Article 41 of the Law on Municipalities of 1955, the municipality is in charge of exerting 39 functions, which vary from city planning to hygiene and public health. These functions cover multiple fields, including the following:<sup>173</sup>

- Planning and urban management: town-planning, construction, and maintenance of roads; laying out and maintenance of spaces and public places such as parks and gardens; organization of traffic and transport and laying out of car parks;

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<sup>171</sup> General Analysis of the Municipal Sector (2005)

<sup>172</sup> NDI (1995)

<sup>173</sup> General Analysis of the Municipal Sector (2005)

construction and organization of markets, commercial and industrial activities, and of services and places for their exercise; control of advertising boards and signs; construction of cemeteries; delivery of building permits;

- Supply of urban services: water, electricity, sewage networks, collection of household refuse;
- Hygiene and Public Health: putting in place and control of establishments of health and care; construction and monitoring of slaughter-houses; medical and sanitary control, in particular for trade and foodstuffs, and taking measures necessary to maintain public health and to prevent the risks and epidemics;
- Education, culture and sport: construction and control of educational, cultural, and sportive institutions and amenities;
- Assistance to victims of fires and other disasters, and construction of residences for the old people;
- Public Safety: prevention of fires, civil defense; ordering the demolition of buildings presenting risks;
- In the field of regulations: to prescribe, with the agreement of the Government, regulations allowing to exert its functions and responsibilities and to collect local taxes;
- In the field of advisory services: the municipality must be consulted if one of its functions is taken over by the Government.

On the other hand, subsequent to the amendment of the Law on Municipalities in 1995, a number of major responsibilities delineated above were taken from the municipalities and transferred to various central government agencies. In this context, the domain of services provided by the municipalities does not currently include water, sewerage, public transport, primary education, health, and fire protection. These services are undertaken by relevant ministries, whereby the Ministry of Interior is responsible for fire protection, the Ministry of Education for primary education, the Ministry of Water and Irrigation provides water and

sewerage services, the Ministry of Transportation is responsible for operating public buses, and electricity is delivered by the Jordanian Electricity Authority.<sup>174</sup>

Mayors supervise the day-to-day affairs of towns and cities.

In addition, there are no clear laws and legislations that pinpoint exactly the roles of the municipalities and the roles of the central government via the governors. The confusion of the laws and the isolations are evident in the case of Jordan (See Zubai, 2006).<sup>175</sup>

The City Managers are responsible for implementing the decisions of the Council and preparing municipal budgets. The City Managers can attend Council meetings, without voting rights. Additionally, they are responsible for supervising municipal revenue collection.<sup>176</sup>

### **Financial autonomy & resources of local authorities**

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Jordan remains among the most centralized countries from the fiscal point of view in what concerns public expenditure. In comparison to other countries, the municipal expenditure in Jordan is among the lowest in the world, comprising only 5.4% of public expenditure and 2.5% of the GDP (as of in 2003).<sup>177</sup>

The municipal expenditures and resources remain very low by international standards particularly in the provinces. Low municipal revenues and expenditure are accompanied by a notable inequality between the municipalities. This inequality manifests itself primarily between the Great Municipality of Amman and all of the other Jordanian municipalities. There is also a pronounced inequality of the municipal expenditure and revenues among the cities and the regions. This gap is accentuated in the municipalities of the small localities, which were merged with others.<sup>178</sup>

The Jordanian municipalities have several types of revenues, which could be grouped in the following two categories:

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<sup>174</sup> Taamneh, Mohammad (2005)

<sup>175</sup> UCLG Website Jordan Country profile: [http://www.cities-localgovernments.org/gold/Upload/country\\_profile/Jordan.pdf](http://www.cities-localgovernments.org/gold/Upload/country_profile/Jordan.pdf)

<sup>176</sup> NDI (1995)

<sup>177</sup> General Analysis of the Municipal Sector (2005)

<sup>178</sup> General Analysis of the Municipal Sector (2005)

- The first category encompasses the revenues collected and transferred to the municipalities by the Government: These include the taxes and fees collected by the Government and shared with the municipalities. These revenues, generally designated by the term “Fuel tax”, constitute today the most important source of revenue for the majority of municipalities. Another major source of revenue under this category is the Land and Building Tax, which is a local tax on the property. This tax is generally collected by the Ministry of Finance on behalf of the municipalities and is transferred to the localities of origin.
- The second category encompasses the revenues collected by the municipalities. These may be grouped in two sub-categories, consisting of: (a) Royalties, rights, charges and donations collected by the municipalities, such as job licensing, building and construction licensing, revenues from planning and development, fees (on the sale of fruits and vegetables, coffee shops and restaurants, slaughter-houses, commercial and advertising sign boards, etc.), revenues from garbage collection, etc; and (b) Revenues from municipal projects, which generate income, such as rental revenues and revenues from goods and services projects, coupled with grants and contributions.<sup>179</sup>

Except for Amman which generates its own entire budget, municipalities receive a significant portion of their budget from the central government. The majority of the municipalities therefore emerge as being increasingly dependent on governmental transfer and having an increasingly lesser margin of autonomy concerning their financial resources. Moreover, many of the municipalities continue to run a permanent debt with the City and Village Development Bank of Jordan.<sup>180</sup>

### **Central government control/tutelage over local authorities**

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In spite of the principle of autonomy of the municipal institution and in spite of the will for decentralization affirmed by the Government from the end of the 1980s, the municipalities

<sup>179</sup> General Analysis of the Municipal Sector (2005)

<sup>180</sup> NDI (1995)

are today deprived of their political and institutional autonomy and are still under the authority and the control of the Government.<sup>181</sup>

The primary central government control/tutelage over local authorities is exercised by the Ministry of Municipal and Rural Affairs and the Environment. The Local Council Department of the Ministry reviews and approves all major decisions of the local council, including municipal hiring, municipal employee salaries, building of roads and other basic public works, among others.<sup>182</sup>

In addition, grievances against mayors are also appealed to the Ministry of Municipal and Rural Affairs and the Environment.<sup>183</sup>

The strong position of the Ministry vis-à-vis the local council is further reinforced, as the appointed City Manager, who works alongside with the Mayor, and is responsible for the day-to-day administration and management of the municipality, reports to the Ministry instead of the Mayor.<sup>184</sup>

## **General framework of local autonomy & reform initiatives**

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Jordan has developed and pursued a comprehensive model for development, encompassing three distinct yet interlinked components. The first component is a political reform program, which enhances public participation in decision making at all levels and one that consolidates democratic practices. The second component aims at developing an external environment, which is more conducive to domestic development, replacing belligerence with coexistence, and apathy with cooperation. The third is an economic reform program which aims at liberalizing and modernizing the economy, making it more competitive at the regional and international levels and integrating it into the world economy.<sup>185</sup>

When King Abdullah II ascended to the throne in 1999, he set forth an agenda for political reform and has committed himself to ushering in a new era of broader political participation. A national Agenda committee was formed in February 2005 to set guidelines for political,

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<sup>181</sup> General Analysis of the Municipal Sector (2005)

<sup>182</sup> NDI (1995)

<sup>183</sup> Website of King Hussein (2011)

<sup>184</sup> UCLG GOLD Country Profile of Jordan (2007)

<sup>185</sup> Embassy of Jordan website (2011)

economic, and social reform in Jordan for the next 10 years. Also in early 2005, the king formed a royal commission on the regions tasked with devising a plan for decentralization of the country's political system, with a view towards transferring responsibility for planning, spending, and service delivery from the parliament and central ministries to directly elected local councils.<sup>186</sup>

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<sup>186</sup> CEIP & FRIDE (2011)

# KUWAIT

## Background Information

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Kuwait, officially the State of Kuwait, lies at the north-west corner of the Arabian Gulf. To the north and the west, it shares a border with Iraq 240 km, to the south and south-west it shares a border with Saudi Arabia 222 km, and on the east it has a coastline on the Arabian Gulf.

The country is spread over an area of 17,818 sq km, with a population of 2,695,316 (July 2013 est.). It's capital and the primary metropolitan center is the Kuwait City, with a population around 1.3 million<sup>187</sup>.

Since ancient times, Kuwait has served as the gateway to the Middle East because of its geographical location. After the discovery of oil, a nation of fishermen and traders has transformed within a few decades into one of the richest nations in the world. Kuwait's Human Development Index (HDI) value for 2012 is 0.790 in the high human development category positioning the country at 54 out of 187 countries and territories. Between 1980 and 2012, Kuwait's HDI value increased from 0.695 to 0.790, an increase of 14 percent or average annual increase of about 0.4 percent.<sup>188</sup>

The State of Kuwait is a hereditary Emirate and follows a democratic system of governance. Article 6 of the Constitution stipulates that: "The system of Government in Kuwait shall be democratic, under which sovereignty resides in the people, the source of all powers." The system of government is based on the separation of powers. Legislative power is vested in the Emir and the Assembly. Executive power is vested in the Emir, as the head of state, and in the cabinet. Judicial power is vested in the courts, which exercise it in the name of the Emir within the limits of the constitution. The Emir appoints the prime minister and two deputy prime ministers. The Council of Ministers is appointed by the prime minister and approved by the Emir. The National Assembly has the authority to withdraw confidence from ministers and the cabinet, although individual members of the National Assembly may not interfere with the work of either the judicial or the executive power.

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<sup>187</sup> CIA, The World Factbook (2013)

<sup>188</sup> UNDP HDI Report 2013

## **Sub-national governance & types of local authorities**

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The system of sub-national governance in Kuwait consists of 6 Governorates and 1 Municipal Council.

In 1961 an Emirate decree was issued to administratively divide the country into three Governorates (*muhafazat*), namely The Capital, Hawalli and Ahmadi. In 1979, the fourth Governorate, Al Jahra, was established, followed by Farwaniya in 1988, and subsequently Mubarak Al Kabir was established in 1999. In this framework, currently Kuwait is divided into six Governorates.<sup>189</sup>

The Governorates exist largely as administrative units for the central government. The Governor is appointed by means of a decree for a period of four years, which can be extended according to the Prime Minister's decision. The Governor is considered a representative of the executive authority, and contributes to supervising the execution of the state's public policy.<sup>190</sup>

In parallel with the 6 Governorates, the city of Kuwait is organized as a Municipality, with service branches in several areas.

The Kuwait Municipal Council was established in 1932. Over the past decade, the national government has assumed some functions previously controlled by Kuwait Municipality, but the Council still retains important responsibilities.<sup>191</sup>

The Kuwait Municipal Council is composed of 16 (sixteen) members, of whom 10 (ten) are elected and 6 (six) are appointed by the Emir. The Council encompasses a number of sub-committees that undertake respective administrative responsibilities and oversees the delivery of urban services.<sup>192</sup>

The elected as well as the appointed members of the Kuwait Municipal Council serve for a period of 4 years.<sup>193</sup>

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<sup>189</sup> Website of the Ministry of Information (2011)

<sup>190</sup> CEIP & FRIDE (2011)

<sup>191</sup> UNDP POGAR (2011)

<sup>192</sup> CEIP & FRIDE (2011)

<sup>193</sup> Website of the Ministry of Information (2011)

## **Constitutional provisions on local authorities**

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Kuwait is a constitutional monarchy. In 1962, an elected Constituent Assembly drew up the Constitution of Kuwait, which authorizes the ruling family to choose an Emir, who is the chief executive and can proclaim legislation by decree. Kuwait is governed by this Constitution, which established a National Assembly. The Constitution came into force on 29 January 1963 when the first Kuwaiti National Assembly convened.<sup>194</sup>

The basic framework for local authorities is provided in Article 133 of the Constitution which stipulates that: “Law shall regulate general and municipal self-governing bodies in such a way as to ensure their independence under the direction and supervision of the Government.”<sup>195</sup>

## **Legislation concerning local authorities**

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The basic legislation in Kuwait concerning the local authorities includes, among others, the following

- Law No. 35 of 1962 on the election of members of the National Assembly;
- Decree No. 75 of 1962 on the election of members of the Municipal Council;
- Law No. of 2005 in relation to the amendment of the Election Law No. 35 of 1962 (allowing women to vote and run for political office);
- Law No. 5 of 2005 on the Kuwait Municipality

The government has prepared a draft law to dissolve the Municipal Council and replace it with separate entities established in each governorate. It was declared by government officials that the draft law will be submitted to the Cabinet before the beginning of the New Year. Officials added that the government had wanted to prepare the outline of the draft law prior to the previous Municipal Council's election, but could not to do so owing to time constraints. Accordingly, officials highlighted that the Cabinet's legal committee has already passed the draft law, which was hailed by decision makers who believe that the current structure of the Council has proven burdensome for the Municipality. Furthermore,

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<sup>194</sup> UNDP POGAR (2011)

<sup>195</sup> Constitution (1963)

they explained that the new councils would operate within the jurisdiction of the respective governorates, supervised by the minister of state for municipal affairs and monitored by the governor

## **Electoral processes in local authorities & local elections**

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The right to vote is extended to all Kuwaitis over the age of 21 and to all those who have held Kuwaiti citizenship for at least thirty years. The Parliament of Kuwait approved an amendment to the Municipal Council Law on 16 May 2005 that gives women full political rights including electoral rights for municipal elections.<sup>196</sup>

In the municipal elections that took place on 2 June 2005, a total of 54 candidates competed for 10 Municipal Council seats in 10 different electoral constituencies. Participation rate was rather low, not exceeding 50% of eligible voters. The remaining 6 members of the Municipal Council were appointed by the Emir of Kuwait. For the first time in Kuwait's history, the Emir appointed in June 2005 two women to the Municipal Council.<sup>197</sup>

## **Structure and organs of local authorities**

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The Kuwait Municipal Council, composed of 16 (sixteen) members of whom 10 (ten) are elected and 6 (six) are appointed by the Emir, serves for a period of 4 (four) years.

As stipulated in Article 3 of the Law No. 5 of 2005 on the Kuwait Municipality, the Council elects from among its members a President and a Deputy President, to serve for the term of the Council.<sup>198</sup>

In line with Article 4, the Council constitutes a number of sub-committees to undertake respective administrative responsibilities and to oversee the delivery of urban services. Members of the Council are not entitled to take part in more than two sub-committees.<sup>199</sup>

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<sup>196</sup> UNDP POGAR (2011)

<sup>197</sup> UNDP POGAR (2011)

<sup>198</sup> Law No. 5 on the Kuwait Municipality (2005)

<sup>199</sup> Law No. 5 on the Kuwait Municipality (2005)

Kuwait's Municipal Council was established in 1932. Over the past seventy years, the national government has assumed some functions previously controlled by Kuwait's municipality, but the Council still retains several important responsibilities.

In addition to the Kuwait municipality, Kuwait has five governorates: Al Ahmadi, Al Farwaniyah, Al 'Asimah, Al Jahra', and Hawalli, but they exist largely as administrative units for the central government.

“Kuwait Municipality is an independent body with legal personality and based in Kuwait City and the Minister, controls municipal affairs.”

Each governorate is headed by a governor, to direct the governorate affairs and the province council should assist him in this duty. There is a branch in each province which provides municipal services to its whole residents. Duties of this branch should be determined by decree of the related minister.

The nation of Kuwait stands out among the Gulf States for its elected municipal authorities that control the administration of a number of public services. Fiscally, however, the government remains highly centralized with an inefficient bureaucracy. Kuwait also has five governorates, but they exist largely as administrative units for the central government. Due to the small size of Kuwait, decentralization is not a pressing issue, nor a policy directive.

## **Duties and responsibilities of local authorities**

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The basic framework of the duties and responsibilities of the Kuwait Municipality is drawn up by the Law No. 5 of 2005 on the Kuwait Municipality. It is stipulated in Article 2 that “the Municipality shall work in general towards the progress of urbanization, bringing into view of the Islamic Arab-Kuwaiti features, the safeguarding of the architectural heritage and its presentation in a renovated form, and the provision of the municipality services to the population.”<sup>200</sup>

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<sup>200</sup> Law No. 5 on the Kuwait Municipality (2005)

It is further stipulated in Article 2 that the Municipality “shall specially undertake the endorsement of structural plans, land surveys, organization of cities, villages and suburbs, regions and islands, and their beautification. It shall also undertake the safeguarding of the public health through the assurance of the foodstuffs safety, the safekeeping of public comfort, of cleanliness, of the safety of the environment and its protection.”<sup>201</sup>

In this context, in line with the pertinent legislation, the Kuwait Municipality provides a wide variety of public services, including the construction and maintenance of roads, urban planning and development control, water and sanitation, solid waste collection and disposal, and food and restaurant inspection, coupled with far-reaching executive powers in commercial licensing, health and safety at work, land acquisition, urban organization and planning, approval of infrastructural projects, and the issuing of building licenses.<sup>202</sup>

In fact, the Kuwait Municipality is the primary public entity responsible for the planning and monitoring of many of the urban development activities of Kuwait, as indicated in the national development plan 2009-2013.<sup>203</sup>

### **Financial autonomy & resources of local authorities**

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The Kuwait Municipality controls the administration of a number of public services (roads, urban planning, sanitation etc.) but it has little fiscal autonomy.<sup>204</sup>

### **Central government control/tutelage over local authorities**

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The competent minister may delegate to the Director General of Kuwaiti Municipality in the provision for orders of exchange within the budget and signing of checks and securities on financial matters, in accordance with the provisions of Law Decree No. 31 of 1978 referred to.

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<sup>201</sup> Law No. 5 on the Kuwait Municipality (2005)

<sup>202</sup> UNDP POGAR (2011)

<sup>203</sup> Improving Municipal Services in Kuwait (2010)

<sup>204</sup> CEIP & FRIDE (2011)

According to the rules gifts or donations accepted by the province should be approved by the Council of Ministers.

The governor has Minister's power in the financial and administrative affairs of the provincial council and in accordance with the applicable legislation in this regard.

## **General framework of local autonomy & reform initiatives**

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Kuwait stands out among the Gulf States for its elected municipal authorities that manage a significant number of public services. Both administratively and fiscally, however, the system of governance remains highly centralized wherein the five governorates continue to exist largely as administrative units for the central government. Due to the small size of Kuwait, decentralization is not a pressing issue, nor a policy directive.<sup>205</sup>

While Kuwait's constitution enshrines the hereditary monarchy, there has been progress over the past two decades in extending the franchise for the National Assembly and other elected positions (such as the Kuwait City municipal council). The extent of the franchise has been an indicator of Kuwait's political liberalization. The government has expanded the electorate gradually, first by extending the franchise to sons of naturalized Kuwaitis and Kuwaitis naturalized for at least 20 (as opposed to 30) years. The long deadlock on female suffrage began to break in May 2004, after the government submitted to the Assembly a bill to give women the right to vote and run. On 16 May 2005, the Assembly adopted the government bill to allow women to vote and run for political office, which was effective as of the 2006 National Assembly elections.<sup>206</sup>

Kuwait has been troubled domestically for at least five years, but it has not faced the mass popular unrest that other governments throughout the Middle East have faced in 2011. In March 2009, the domestic disputes led to the second constitutional dissolution of the National Assembly in one year, setting up new parliamentary elections on 16 May 2009. The new Assembly included four women, the first to be elected to the Assembly in Kuwait since women were given the vote in 2005.<sup>207</sup>

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<sup>205</sup> UNDP POGAR (2011)

<sup>206</sup> Katzman, Kenneth (2011)

<sup>207</sup> Katzman, Kenneth (2011)

The Government of Kuwait, as reflected in the five-year National Strategic Development Plan (2010 to 2014), acknowledges that in order to maintain economic growth and social stability, it should create a capable and efficient public administration and an effective system of governance. Plans for improving management and performance of ministries and public agencies are given high priority in the Government Action Plan, and several projects have been planned to achieve this goal. Such projects include a recent initiative of the Government to improve the municipal services in Kuwait.<sup>208</sup>

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<sup>208</sup> UNDP Kuwait (2011)

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# LEBANON



# LEBANON

## Background Information on the Country

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Lebanon, officially the Republic of Lebanon, is a small, mountainous country located on the eastern shore of the Mediterranean Sea. It is bordered by Syria to the north and east, and Israel to the south. Lebanon's location at the crossroads of the Mediterranean Basin and the Arabian hinterland has dictated its rich history, and shaped a cultural identity of religious and ethnic diversity.

Lebanon is spread over an area of 10,452 sq km<sup>209</sup>, with a current population of 4.425 million.<sup>210</sup> The capital and largest city of the country is Beirut. Lebanon is ranked amongst the upper middle income group countries according to the World Bank data of year 2012.<sup>211</sup>

Lebanon is a parliamentary democratic republic governed by the Constitution of 23 May 1926 with the latest amendment in 1990 August 21. Since its independence in 1943, Lebanon has adopted a confessional political system based on the distribution of the political power proportionately amongst the religious communities – Christians and Muslims.<sup>212</sup>

Between 1975 and 1990, Lebanon endured a 15-year civil war, which officially ended with the signing of the Ta'if Agreement in 1989.<sup>213</sup>

In line with its Constitution, the political system in Lebanon is established on the principle of separation, balance, and cooperation amongst the various branches of Government. Legislative power is vested in a single body, the Chamber of Deputies. The Chamber of Deputies is composed of elected members, with the distribution of seats made according to the principles of the equal representation between Christians and Muslims, proportional representation among the confessional groups within each religious community, and proportional representation among geographic regions. The President of the Republic, who is the head of the state, is elected by the Chamber of Deputies. Executive power is entrusted

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<sup>209</sup> Website of the Embassy of Lebanon (2011)

<sup>210</sup> World Bank, 2012

<sup>211</sup> Website of the World Bank, Lebanon profile (2012)

<sup>212</sup> Profile of Lebanon (2010)

<sup>213</sup> Profile of Lebanon (2010)

to the Council of Ministers. The Prime Minister is the Head of Government. Judicial power is independent, and exercised by the tribunals of various levels and jurisdictions.<sup>214</sup>

## **Local authorities within the overall administrative structuring of the country**

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Lebanon is divided into six governorates (*mohafazat*): Beirut, North Lebanon, Mount Lebanon, South Lebanon, Bekaa, and Nabatiyah. Each governorate is administered by a Governor (*Muhafiz*) appointed by the Council of Ministers upon a proposal from the Ministry of the Interior and Municipalities.<sup>215</sup>

The governorates are further subdivided into districts (*qadat*), each of which is presided over by a District Commissioner (*Kaemakam*).<sup>216</sup>

The governorates and their subdivisions, although enjoying a significant part of local competencies, function as the representatives of the central government at the locality. The local authorities, on the other hand, are represented by the municipalities and their unions.

It is stipulated in Article 1 of the Municipal Act of 1977 that: “The municipality is a local administration exercising, within the scope of its territory, the powers entrusted thereto by the law. The municipality shall hereby enjoy legal personality as well as financial and administrative independence.” Building upon this definition, it is further stipulated in Article 2 that “a municipality is established in each town, village or group of villages.”<sup>217</sup>

In this context, municipalities are established in communities with at least 500 inhabitants. The municipalities elect their own councils, which in turn elect mayors and vice mayors. According to the figures issued by the Ministry of Interior and Municipalities in February 2011, the number of municipalities in Lebanon has reached 945.<sup>218</sup>

The Municipal Act of 1977 also encompasses provisions (under Chapter 7) in relation to the establishment and functioning of the unions of municipalities. It is stipulated in Article 114 that: “The Union of Municipalities shall consist of several municipalities, enjoy legal

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<sup>214</sup> Constitution of Lebanon (1926)

<sup>215</sup> CEIP & FRIDE (2011)

<sup>216</sup> CEIP & FRIDE (2011)

<sup>217</sup> Municipal Act (1977)

<sup>218</sup> Republic of Lebanon (2011)

personality as well as financial independence and exercise the powers entrusted thereto by this law.”<sup>219</sup> According to the figures issued by the Ministry of Interior and Municipalities in February 2009, currently there are 42 unions, which are distributed across the five governorates (*mohafazat*) in the following way: 11 are in Mount Lebanon, 11 in North Lebanon, 5 in Nabatiyeh, 5 in South Lebanon, and 10 in Bekaa. In total 600 out of 945 municipalities are represented in the Union.<sup>220</sup>

The Villages, on the other hand, constitute another significant layer of sub-national governance in the country. The Village Head (*Mokhtar*) is elected on the basis of general and direct vote in every village or district. However, located somewhere between the central and local government, the *Mokhtar* appears to be the representative of the central government on the one hand since he/she carries out certain central government functions under the authority of the District Commissioner such as the granting of certificates and attestations, whereas on the other hand, in those villages where a Municipal Council does not exist, the *Mokhtar* acts as the mayor.<sup>221</sup>

### **Constitutional provisions on local authorities**

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The Constitution of Lebanon was adopted on 23 May 1926. A number of modifications were made in the Constitution in subsequent years, whereby the most recent amendments were promulgated on 21 August 1990, particularly to comply with the provisions of the Ta’if Accord of National Reconciliation, which was negotiated in Ta’if, Saudi Arabia in September 1989 to end the civil war in Lebanon, and approved by the Lebanese Parliament on 4 November 1989.

The Ta’if Accord of National Reconciliation encompasses a special section entitled “Administrative Decentralization”. It is stipulated under this section that “The State of Lebanon shall be a single and united state with a strong central authority. The powers of the governors and district administrative officers shall be expanded and all state administrations

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<sup>219</sup> Municipal Act (1977)

<sup>220</sup> Republic of Lebanon (2011)

<sup>221</sup> Profile of Lebanon (2010)

shall be represented in the administrative provinces at the highest level possible so as to facilitate serving the citizens and meeting their needs locally.”<sup>222</sup>

With regard to local authorities, it is further stipulated in the Ta’if Accord that: “Expanded administrative decentralization shall be adopted at the level of the smaller administrative units through the election of a council, headed by the district officer, in every district, to ensure local participation. A comprehensive and unified development plan capable of developing the 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.”<sup>223</sup>

The Constitution of Lebanon, consisting of 102 Articles, does not include any specific provisions concerning local authorities.

### **Legislation concerning local authorities**

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The basic law concerning local authorities in Lebanon is the Municipal Act No. 118, enacted on 30 June 1977 (replacing the Municipal Act No. 29 of 1963) with the latest amendments on 8 October 2008. The Municipal Act No. 118 is more commonly referred to as Decree-law 118/1977.<sup>224</sup>

The Municipal Act of 1977 includes comprehensive provisions in relation to different aspects of local authorities, including the definitions and establishment of municipalities, their governing bodies, composition of the Municipal Council and the election of its members, functioning of the Municipal Council and its competences, administrative control over the decisions of the Municipal Council, the executive authority, administrative organization, municipal finance and other relevant provisions, as well as provisions in relation to the Union of Municipalities.<sup>225</sup>

In 2011 Ministry of Interior and Municipalities issued list of important recommendations for improvement of municipal finance that requires 52 amendments to be made regarding Decree-law 118/1977. Therefore Ministry of Interior and Municipalities strongly

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<sup>222</sup> Ta’if Accord (1989)

<sup>223</sup> Ta’if Accord (1989)

<sup>224</sup> Municipal Act (1977)

<sup>225</sup> Municipal Act (1977)

recommends that a new Municipal Act and a new Municipal Fees and Taxes are drafted. The period of suggested recommendations to be implemented towards municipal finance improvement is between 1 and 2 years length.<sup>226</sup>

In terms of other relevant legislation, particularly with regard to local finances, large Lebanese municipalities apply the Public Accounting Act by virtue of decrees to be implemented; whereas most of the municipalities apply Decree 5595 dated 22 September 1982 (Accounting Principles for Municipalities & Municipal Unions Decree), which determines the principles of accounting for municipalities and unions of municipalities that are not subject to the Public Accounting Act. This decree is similar to the Public Accounting Act to a large extent.<sup>227</sup> In regard with recommendations provided by the Ministry of Interior and Municipalities towards improvement of municipal finance, there are 7 amendments suggested to be made in Decree 5595/1982 in upcoming years.<sup>228</sup>

## **Methods of election/appointment of local authority representatives & local elections**

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In contrast with the legislative elections, the municipal elections do not distribute the positions of municipal counselors on a confessional basis. The municipal elections are a one round majority-based pluri-nominal elections whereby the candidates who receive the majority of votes are elected for a renewable term of six years. However, on a practical level the practice of “electoral lists” prevails and voters are required to vote for the entire list that was concocted in the bargain between political leaders.<sup>229</sup>

The members of the Municipal Council are elected on the basis of general and direct vote, for a renewable term of 6 years. On the other hand, the Mayor, who holds the executive power, is not directly elected by popular vote. Instead, the Municipal Council elects from among its members a President (Mayor) and a Vice-President by secret ballot for the term period of the Municipal Council. After three years of such election, the Municipal Council

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<sup>226</sup> Municipal Finance Studies Program (2011)

<sup>227</sup> UNDP (2011)

<sup>228</sup> Municipal Finance Studies Program (2011)

<sup>229</sup> Profile of Lebanon (2010)

is entitled to withdraw its confidence from one or both of them, and to elect a new President (Mayor) and/or Vice-President.<sup>230</sup>

Municipal elections, taking place in 1963, were suspended for 35 years due to political upheaval and the civil war, until new municipal elections were finally held in 1998. These elections encompassed broad political participation by most political parties. Citizens were allowed to vote across religious lines for closed-party lists with proportional representation for the different confessional communities. The balloting, which took place over four weeks in May and June 1998, resulted in the election of 7,662 representatives to 700 Municipal Councils.<sup>231</sup> (A complementary round of municipal elections took place in 2001 in the newly liberated areas of South Lebanon after the Israeli withdrawal in May 2000.)<sup>232</sup>

Pursuant to the Law, elections are held in every six years. In this context, subsequent to the 1998 elections, the next local elections were held in May 2004, to elect 15,300 municipal councilors and neighborhood heads (*mukhtars*). Voter turnout was notably low, reaching only 20% of the voters in Beirut, and it was not much higher in Tripoli. The voter turnout was relatively higher only in Mount Lebanon and in the South.<sup>233</sup>

The most recent local elections took place in May 2010 in four rounds. The first round was held in Mount Lebanon, the second in Beirut and the Bekaa, the third in South Lebanon and the fourth in North Lebanon. Elections could not be held in a limited number of municipalities for reasons relating to withdrawal of candidates or to decisions made by the government for special reasons.

The number of registered voters was 3,311,000 and the participation rate was around 74% for the 4 rounds. The total number of candidates in all four provinces was 24,000 (males and females) who competed for 11,424 municipal council seats. Women comprised 6.5% of total candidates. In the elections for neighborhood heads (*mukhtars*) there were 6,053 candidates who competed for 2,578 seats.<sup>234</sup> A complementary round of municipal elections took place in 3 March 2013 in 17 villages and towns of Mount Lebanon, the Bekaa, and

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<sup>230</sup> Profile of Lebanon (2010)

<sup>231</sup> UNDP POGAR (2011)

<sup>232</sup> UNDP POGAR (2011)

<sup>233</sup> UNDP POGAR (2011)

<sup>234</sup> UNDP POGAR (2011)

North and South Lebanon to replace outgoing councils dissolved due to resignations and disagreements.<sup>235</sup>

Main laws regulating local elections are Municipal Act (Decree-law 118/1977), Law No. 665/1997, Parliamentary Elections Law (Law No. 25/2008) and Mukhtars Law.<sup>236</sup>

## **Structure and organs of local authorities**

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It is stipulated in Article 7 of the Municipal Act of 1977 that: “The municipal body shall consist of a decision-making authority and an executive authority.”<sup>237</sup>

The decision-making authority is the Municipal Council, consisting of members elected on the basis of general and direct vote, with a mandate of 6 years. The Municipal Council comprises between 9 to 21 members, determined on the basis of the number of registered residents in the respective municipality, with the exception of the municipalities of Beirut and Tripoli which have 24 members.<sup>238</sup>

It is stipulated in Article 67 of the Municipal Act of 1977 that: “The executive authority in the municipality shall vest in the President of the Municipal Council, and in Beirut municipality it shall vest in the Governor (*Mohafez*).”<sup>239</sup>

The Mayor, serving as the President of the Municipal Council, is the executive authority in the municipality. Whereas the members of the Municipal Council are elected by direct and popular vote, the Mayor is not directly elected. In line with the Municipal Act of 1977, the Municipal Council elects among its members a President (Mayor) and a Vice-President by secret ballot for the term period of the Municipal Council. After three years of the President’s and his Vice-president’s election, the Municipal Council is entitled to withdraw confidence from one or both of them.<sup>240</sup>

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<sup>235</sup> The Daily Star (2013)

<sup>236</sup> Ministry of Interior and Municipalities (2013)

<sup>237</sup> Municipal Act (1977)

<sup>238</sup> Municipal Act (1977)

<sup>239</sup> Municipal Act (1977)

<sup>240</sup> Municipal Act (1977)

## **Duties and responsibilities of local authorities**

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According to Article 47 of the Municipal Act of 1977, the mandate of the Municipal Council includes the full spectrum of local public services and “each work of public character of interest in the municipal area that falls within the scope of the Municipal Council’s competence.”<sup>241</sup>

The competencies of the Municipal Council are enumerated in Articles 49 and 50 of the Law of 1977. Municipalities are empowered to manage credits in order to implement local projects, accept donations; conduct public works, embellish the city, manage water and sanitary networks, undertake lighting, road traffic, the establishment of green areas, the construction of markets and sports fields, public toilets, museums, hospitals, dispensaries, underground shelters, municipal libraries, public housing, organizing transportation, assisting the most vulnerable and the handicapped, helping clubs and NGOs and participating in all sanitary, sports, social and cultural events.<sup>242</sup>

The Law of 1977 also enables the municipalities to monitor the activities of public institutions affiliated to the central government operating within the municipal boundaries by means of reports to be submitted by the respective municipality to the relevant public authority.<sup>243</sup>

In practice, however, in the face of administrative and financial bottlenecks, the role of municipalities has increasingly been limited in due course to the provision of infrastructure services such as solid waste collection, road maintenance, canals and public lightening. Thus, currently the central government exercises the majority of powers and responsibilities that are assigned to the municipalities by pertinent legislation, particularly in relation to planning, transport, education, social services, public hygiene services, water resource management and distribution, energy and economic development.<sup>244</sup>

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<sup>241</sup> Municipal Act (1977)

<sup>242</sup> Municipal Act (1977)

<sup>243</sup> Municipal Act (1977)

<sup>244</sup> Profile of Lebanon (2010)

## **Financial resources of local authorities / framework of financial autonomy**

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In line with Article 86 of the Municipal Act of 1977, the municipal finances consist of the following.<sup>245</sup>

- Fees collected directly from tax payers: These include the fees imposed on rental value, maintenance of canals and sidewalks, occupying public land, publicity, slaughterhouses, meeting centers and specific categories of enterprises, construction permits, touristic sites etc.
- Fees collected by the State, the independent services or the public institutions on behalf of the municipalities and distributed directly to each municipality: These include 10% of the sums collected by electricity, telephone and water national companies. The sums collected by public administrations must be directly transferred to municipalities as a percentage of the sums collected within the municipal boundaries. However, municipalities have no control over the funds that are collected and have no sanctions to ensure their duly transfer, which obliges them to recourse to every concerned Ministry in order to seek the approval necessary for obtaining their part.
- Fees collected by the State on behalf of all municipalities: The Government collects 13 different types of taxes on behalf of all municipalities and deposits the same in the “Independent Municipal Fund”. Taxes deposited at this Fund are redistributed to municipalities and to their unions after deduction of the expenses pertaining to salaries and to the cost of services provided by the Directorate General of Municipalities at the Ministry of Interior and Municipalities. In practice, numerous problems are encountered by the municipalities in the operation of the Fund. For example, a significant portion of the Fund is utilized by the Government to finance major development projects without the prior consent of the concerned municipalities and even without informing them.
- Other income, including financial aids and loans, revenues of municipal properties, fines, donations and contributions.

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<sup>245</sup> Profile of Lebanon (2010)

It is stipulated in Articles 95 and 96 of the Municipal Act that the finances of Beirut and other municipalities, as well as municipality unions, shall be subject to the authority of the financial observer called the General Controller, who shall be administratively connected to the Ministry of Interior and Municipalities for all the period of his office.<sup>246</sup>

In summary, although the Municipal Act of 1977 has provided a broad framework of competencies and revenue sources for the municipalities, many of the services and the income base have been eroded in due course and overtaken by the central government. The municipalities became increasingly dependent upon the intervention of the central government, particularly in terms of local finances, which severely hampered their capacities to play a leading role in local development and governance.<sup>247</sup>

Nevertheless, in 2011 Ministry of Interior and Municipalities prepared the First Municipal Infrastructure Project in order to provide a roadmap to policy makers on how to strengthen and modernize municipal finance in Lebanon. There are 15 main recommendations proposed towards improvement of municipal finance which requires 52 amendments to be made in Decree-law 118/1977. Main objectives of the First Municipal Infrastructure Project are these:<sup>248</sup>

- Strengthening the municipal finance framework whose specific objectives are to: a) increase the transparency of municipal financial operations; b) increase the accountability of municipalities to the community and to the central government; and c) increase the efficiency of financial operations.
- Improving the independent municipal fund whose specific objectives are to: a) make the Independent Municipal Fund more independent; b) enhance the revenues and ensure the financial stability of the IMF; c) increase the reliability and timeliness of payments from the Fund to municipalities; d) make the amount paid to each municipality more predictable from one year to the next; e) encourage the most equitable distribution of Fund resources possible; and f) develop the capacity to implement and maintain the restructured IMF over the long term.

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<sup>246</sup> Municipal Act (1977)

<sup>247</sup> Profile of Lebanon (2010)

<sup>248</sup> Municipal Finance Studies Program (2011)

- Modernizing the municipal property tax whose specific objectives are to: a) enhance the financial autonomy of municipalities through increased own-source revenue generation; b) improve the efficiency of revenue mobilization from municipal rental value based fees; c) encourage the most equitable possible approach to municipal property fees.

## **Central government control/tutelage over local authorities**

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There are several levels and types of central government control/tutelage imposed on the exercise of the functions entrusted to the Municipal Council, encompassing administrative, financial, control of the Civil Service Board, the General Inspection, the Ministry of Public Works, the Directorate General of Urbanism, the Ministry of Environment etc.<sup>249</sup>

The primary means of central government control/tutelage over local authorities is depicted under Section 2 entitled “Administrative Control over Municipal Council’s Decisions” of the Municipal Act of 1977.

Under this Section, it is stipulated in Article 56 that: “The following authorities shall exercise administrative control over the Municipal Council’s decisions: (a) The District Commissioner (*Kaemakam*); (b) The Governor (*Mohafez*); (c) The Minister of Interior.” It is further stipulated under the same Article that: “The Administrative control over the decisions of Beirut Municipal Council shall be solely exercised by the Minister of Interior.”<sup>250</sup>

Article 57 continues with this framework by asserting that: “The Minister of Interior shall be entitled to entrust the Director General of the Ministry of Interior, in whole or in part, with the powers granted thereto by virtue of the provisions of this law.”<sup>251</sup>

In practice, the municipal councils often wait for the approval of the Central Administrative Control Authority prior to implementing the decision in order to maintain sound relations with the central administrations, on which they largely depend. Moreover, this control includes several decisions that contradict the Municipal Law. The decisions taken by the

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<sup>249</sup> Profile of Lebanon (2010)

<sup>250</sup> Municipal Act (1977)

<sup>251</sup> Municipal Act (1977)

Cabinet include a discretionary and arbitrary control against Municipal Councils. For example, the law stipulates that municipalities can accept donations upon the decision of the Council, at the exception of conditional donations. However today, any donation should be submitted, prior to its acceptance, to the Council of Ministers for approval. Another example of such discretionary control is the interdiction addressed to municipal counselors to participate in conferences or trainings abroad without the prior approval of the Ministry of Foreign Affairs, the Ministry of Interior and Municipalities and the Council of Ministers, even if the Municipality does not incur any cost.<sup>252</sup>

### **General framework in relation to local autonomy and reform initiatives**

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Historically, Lebanon was characterized by strong local governments and a commitment to decentralization. However, during the 1975-1990 civil war, municipal governments lost much of their power and independence as decision-making became centralized and many public services were eliminated or privatized. The Ta'if Accord of National Reconciliation, signed in 1989 to end the civil war, has made decentralization a high priority for the Lebanese government.<sup>253</sup>

Although the Ta'if Accord targeted to strengthen the municipalities and promote administrative decentralization, the actual implementation of the respective provisions has not been the priority of successive governments.<sup>254</sup>

Since a resurgence of hostilities in 2006, when Israel launched a major military campaign against the Lebanon-based Hezbollah group, the country has struggled to regain the stability it enjoyed after the 1975-1990 civil war.<sup>255</sup>

In this context, despite the fact that the municipalities have elected councils and that they are granted considerable financial autonomy by the Municipal Act of 1977, municipalities continue to have notably little power.<sup>256</sup>

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<sup>252</sup> Profile of Lebanon (2010)

<sup>253</sup> UNDP POGAR (2011)

<sup>254</sup> UNDP POGAR (2011)

<sup>255</sup> BBC News website (2011)

<sup>256</sup> CEIP & FRIDE (2011)

On the other hand, political support within the central government for decentralization has started to increase in recent years. Political leaders provide a notably stronger support to decentralization efforts to streamline the central government and improve both efficiency and accountability at all levels, although implementation remains uncertain given the rather unsuitable political climate in Lebanon.

As an important step in this respect, the Lebanese President, in his inaugural speech at the International Seminar on Decentralization in the Middle East held in Tripoli on 17 October 2009, underlined the need for a “real decentralization that gives the municipal council a full-fledged financial and administrative autonomy, [...] an active and efficient decentralization which reinvigorates the regions and provides for broad-based local participation [...] one that creates job opportunities and development projects.”<sup>257</sup>

In line with this initiative, the Minister of Interior and Municipalities, entrusted with the preparation of a draft law on administrative decentralization, has launched a debate on this issue by publishing one hundred questions on different aspects of the topic of administrative decentralization, to be addressed and discussed by the municipalities, NGOs, experts and other relevant stakeholders.<sup>258</sup>

In this context, under the umbrella of the Program for the Support of Lebanese Municipalities, a series of seminars focusing on different aspects of the ongoing decentralization efforts in Lebanon, primarily aimed at elaborating upon and answering the questions of Lebanese local authorities in relation to the recent decentralization initiatives of the Ministry of Interior and Municipalities were conducted during the course of 2010 and the first half of 2011. As the concluding event of these series, a thematic Workshop on Administrative Decentralization was held in Zouk Mikael in Lebanon on 10-11 June 2011.<sup>259</sup>

After years of research and knowledge accumulation, the first moment for real change towards administrative decentralization came in the summer of 2012, when the Parliamentary Committee for Defence and Municipalities called upon decentralization

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<sup>257</sup> Program for the Support of Lebanese Municipalities (2011)

<sup>258</sup> Program for the Support of Lebanese Municipalities (2011)

<sup>259</sup> Representatives of UCLG-MEWA and Istanbul Metropolitan Municipality have participated in, and contributed to this Workshop.

experts to provide a roadmap for municipal finance reform. More recently there was a Decentralization Committee established by former Prime Minister Najib Mikati to draft a decentralization law but its work has not yet been delivered.<sup>260</sup>

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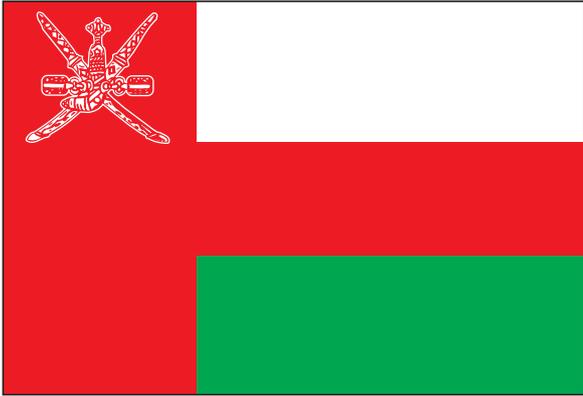
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# OMAN



# OMAN

## Background Information

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Oman, officially the Sultanate of Oman, is located in the southeastern corner of the Arabian Peninsula. It is bordered by the United Arab Emirates on the northwest, Saudi Arabia on the west and Yemen on the southwest. The coast is formed by the Arabian Sea on the southeast and the Gulf of Oman on the northeast. The capital city, Muscat, is the country's largest metropolitan area.

Oman, with a rich historical and cultural heritage, is spread over an area of about 309,500 sq km, with a current population of 2,904,000 (2013 estimate).<sup>261</sup>

The most important mineral resource and the main income source of the country is oil, although Oman's known reserves are relatively modest compared to its neighbors Saudi Arabia and the United Arab Emirates.

With a Human Development Index of 0.731, the country is cited under the category entitled "High Human Development", ranking as the 84<sup>th</sup> out of 186 countries covered by the UNDP Human Development Report of 2013.<sup>1</sup>

Oman's Basic Law of the State, enacted in 1996, defines the system of government in the country as a "hereditary sultanate", with two advisory bodies. The sultan is the head of state, and, although he also acts as the prime minister, he is entitled to appoint another person to this post if he chooses. The sultan is assisted by a Council of Ministers, the body entrusted with implementing general State policies. The Basic Law of 1996 paved the way for the establishment of the bicameral Oman Council, which consists of the Council of State (*Majlis al-Dawlah*) as the upper chamber (with 71 seats, whose members appointed by the sultan) and the Consultative Council (*Majlis al-Shura*) as the lower chamber (with 84 seats, whose members are elected by popular vote to serve four-year terms). On the basis of the separation of powers, judicial power is independent and vested in the Courts of Law.<sup>262</sup>

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<sup>261</sup> UNDP Human Development Report (2013)

<sup>262</sup> Basic Law (1996)

## **Sub-national governance & types of local authorities**

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Oman is divided into eleven administrative regions or governorates<sup>263</sup>: Each of these is subdivided into smaller districts or provinces (*wilayats*).<sup>264</sup> Altogether, Oman is divided into 61 provinces presided over by appointed executives (*Walis*) responsible for coordinating government activities in their area. In the three Governorates of Muscat, Dhofar and Musandam, a total of 15 *Walis* report to the respective Governor. The Governors of Muscat and Dhofar are also Ministers of State. In the 44 provinces located in the other five regions of the Sultanate, the *Walis* report to the Ministry of Interior.<sup>265</sup>

Formal decentralization of government exists with the division of the nation into municipalities, but in practice these sub-units have limited autonomy. Oman has 43 municipalities, 14 municipal sections, and 23 rural cleaning units.<sup>266</sup>

## **Constitutional provisions on local authorities**

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The Basic Law of the State, promulgated on 6 November 1996 via Royal Decree No. 101/96, constitutes Oman's first written constitutional text. The Basic Law, comprising 81 articles, lays down a legal framework of reference in relation to the functions of the different authorities and the separation of their powers. It also affords safeguards to guarantee the freedom, dignity and rights of the individual. This document sets out Oman's system of government and the guiding principles behind the state's policies and also details public rights and duties. It contains specific principles covering the Head of State, the Council of Ministers and the judiciary.<sup>267</sup>

The Basic Law, on the other hand, does not contain any specific provisions concerning sub-national governance in general or local authorities in particular.

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<sup>263</sup> Central Intelligence Agency (CIA 2013)

<sup>264</sup> UNDESA (2004)

<sup>265</sup> CEIP & FRIDE (2007)

<sup>266</sup> UNDP POGAR (2011)

<sup>267</sup> Basic Law (1996)

## **Legislation concerning local authorities**

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The basic framework for local authorities has been drawn up a number Royal Decrees enacted by the Sultan of Oman. These include, among others, the following:

- Royal Decree No. 6/91 enacted in 1991 regarding the approval of the administrative division of the Sultanate;
- Royal Decree No. 8/92 enacted in 1992 pertaining specifically to the establishment and functioning of the Muscat Municipality;
- Royal Decree No. 47/98 enacted in 1998 for issuing the Law of Finance; and
- Royal Decree No. 18/99 enacted in 1999 on the Organization Structure of the Ministry of Regional Municipalities and Environment.<sup>268</sup>

Coupled with these Royal Decrees, the basic legislation concerning local authorities is the “Law Regulating the Regional Municipalities” issued by the Royal Decree No. 87/86, enacted in 1986. This Law has been subsequently amended by the Royal Decree No. 96/2000 with the same title of the “Law Regulating the Regional Municipalities”, enacted in the year 2000.<sup>269</sup>

## **Electoral processes in local authorities & local elections**

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National elections are held in every four years for the members of the Consultative (*Shura*) Council, and all nationals, men and women, aged 21 and above, are eligible to vote and stand as candidates. *Wilayats*, or districts, with a population of more than 30,000 elect two members, while those with fewer citizens choose one.

Elections for the *Shura* Council were held on 4 October 2003, with the participation of 509 candidates, 15 of whom were women. The following elections were held on 27 October 2007, with the participation of 631 candidates, 21 of whom were women.<sup>270</sup> The last elections were held on 28 October 2011 for the 7<sup>th</sup> term 2011-2015.<sup>271</sup>

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<sup>268</sup> Website of the Ministry of Regional Municipalities and Environment (2011)

<sup>269</sup> Law Regulating the Regional Municipalities (2000)

<sup>270</sup> CEIP & FRIDE (2007)

<sup>271</sup> Consultative Council website

Oman, however, does not hold municipal or any other local elections.<sup>272</sup>

## **Structure and organs of local authorities**

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The Municipal Council is the legislative body of the municipality and is responsible for framing the policies, budget, proposals for taxes and other sources of revenue. The deliberations and actions of the Municipal Council have legal backing. The Municipal Council of Muscat, Oman's capital, consists of the Chairman of the Municipality as *ex-officio* Chairman of the Council and 27 members, 11 of whom represent various government ministries and agencies.<sup>273</sup>

It is stipulated in Article 15 of the Law Regulating the Regional Municipalities that the municipalities shall be comprised of the Municipal Council, the Director, and municipal offices and departments, as described below:<sup>274</sup>

The Municipal Council, established in each region, is headed by the Governor (*Wali*) as an *ex-officio* member, and consists of the Director of the Municipality and a number of representatives from designated ministries. The Council also encompasses between 3 to 5 members representing the local residents in the province (*Wilayat*) who are selected by the Ministry of Interior according to the population of the respective province.

In line with Article 18 of the Law Regulating the Regional Municipalities, the Directors of the Municipalities are appointed, and their respective duties are specified by a decision issued by the Minister of Interior.<sup>275</sup>

## **Duties and responsibilities of local authorities**

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The detailed framework of the duties and responsibilities of the municipalities are delineated under Article 13 of the Law Regulating the Regional Municipalities. It is stipulated in this Article that the municipalities, “without prejudice to the responsibilities of other Ministries and Government Bodies”, are responsible to provide the following public services:

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<sup>272</sup> CEIP & FRIDE (2007)

<sup>273</sup> UNDP POGAR (2011)

<sup>274</sup> Law Regulating the Regional Municipalities (2000)

<sup>275</sup> Law Regulating the Regional Municipalities (2000)

- Maintain the cleanness of the area, pest and rodents control and undertake the necessary measures to maintain public health.
- Development and beautification of the area and maintain its beauty and cultural elements.
- Establishment and maintenance of public facilities such as internal roads, public squares, parks, children's playgrounds and recreational parks, public toilets and public sheds and car parks and any other municipal facilities.
- Public lighting of all public spaces, such as internal roads, streets, markets, parks and playgrounds, public toilets, etc. and any other municipal facilities.
- Organizing, naming and numbering of neighborhoods, streets, roads and alleys and public squares.
- Undertake the necessary measures to remove encroachments and maintain State public and private property.
- Issue construction, renovation and demolition of ramshackle buildings permits and follow up the implementation of provisions applied in this respect.
- Regulating and monitoring buildings and other related civil works such as drilling for cables, transfer of soil and mountains rubble and labeling.
- Undertake the necessary measures for the discharge of rain water and provide and maintain wastewater systems.
- Establishment, maintenance and monitoring wastewater stations, water and carry out necessary inspection to check water safety.
- Issue permits and stipulate health requirements for commercial, occupational and industrial shops, hotel apartments, guesthouses, restaurants, cafes and shops, and determine working hours for the above mentioned places.
- Monitor cleanness and regulate foodstuff markets, safety and quality of food and combat fraud.
- Establishment of slaughter houses and organization and monitoring of slaughter places for camels, cows, sheep and poultry.

- Regulating detention of stray or neglected animals and inform the Ministry of Agriculture and Fisheries of any smuggled animals.
- Regulating cars parking and taxis prices and placing distinctive signs.
- Fencing of cemeteries and preserve its sanctity.
- Regulating and controlling advertisements and signboards and issue licenses in this respect.
- Undertake all necessary procedures to preserve the environment and nature.
- Organization of recreational festivals, sports, cultural and social seminars at the municipal level in coordination with the concerned bodies.
- Establishment of projects with financial revenue to support the income of the Municipality.
- Undertake any other duties entrusted to Municipalities by a decision from the Ministers Council.<sup>276</sup>

Within the framework delineated above for municipalities, the Ministry of Regional Municipalities and Environment, in accordance with the Royal Decree No. 55/2006, has the overall responsibility for the provision of water and municipal services to communities within the regions of the Sultanate in addition to the establishment of the basic facilities and infrastructure aimed at improving living conditions. In the municipal sector, the Ministry is responsible for the provision of services including public sanitation and health control toward sustaining a healthy population in a healthy residential environment. It also contributes towards ensuring responsible physical development through the issuance of municipal permits for projects, in addition to installing of vital public facilities, especially roads and street lighting. The Ministry plays a leading role in the development and beautification of towns and cities. In the water resources sector, the Ministry undertakes the management of water resources, and ensures their rational utilization and conservation.<sup>277</sup>

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<sup>276</sup> Law Regulating the Regional Municipalities (2000)

<sup>277</sup> Website of the Ministry of Regional Municipalities and Environment (2011)

## **Financial autonomy & resources of local authorities**

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In line with Article 22 of the Law Regulating the Regional Municipalities, the revenues of municipalities consist of the following:

- State funds allocated from the general budget;
- taxes and fees stipulated in pertinent laws and regulations;
- revenues from municipal assets and properties;
- revenues from services rendered by the municipalities;
- income from trade exhibitions held in regions;
- investments returns from projects undertaken by the municipalities;
- fines; and
- income from recreational projects.<sup>278</sup>

The municipalities submit tax proposals to the Ministry of Regional Municipalities and Environment, which approves local taxes and allocates federal funds to the municipalities as necessary.<sup>279</sup>

## **Central government control/tutelage over local authorities**

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Pursuant to the Law of the Municipalities enacted in 1949, the municipalities of Oman have been overseen by the Ministry of Regional Municipalities, Environment and Water Resources. Although the Ministry was granted additional responsibilities for the environment and water respectively in 1991 and 2001, a decree was issued on 9 September 2007 concerning the establishment of the “Ministry of Environment and Climatic Affairs” whose main function is to confine the impact of natural disasters, whereby the responsibilities of the previous Ministry were transferred to this new Ministry.<sup>280</sup>

It is stipulated in Article 3 of the Decree No. 96/2000 that: “Administrative division of the regions of municipalities, setting up of municipalities or offices attached to them and

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<sup>278</sup> Law Regulating the Regional Municipalities (2000)

<sup>279</sup> UNDP POGAR (2011)

<sup>280</sup> UNDP POGAR (2011)

canceling, incorporating, naming and changing boundaries of existing municipalities shall be by decision of the Minister (of Regional Municipalities) in coordination with the Ministry of Interior.”<sup>281</sup>

It is further stipulated in Article 6 of the Decree No. 96/2000 that: “The Minister has the authority to supervise, direct, control and follow up works of the Directorates General, Municipalities following it and committees. He has the authority to cancel, amend or stop decisions and procedures issued by the Directorates which contradict with the provisions of laws in force or those against the public interest.”<sup>282</sup>

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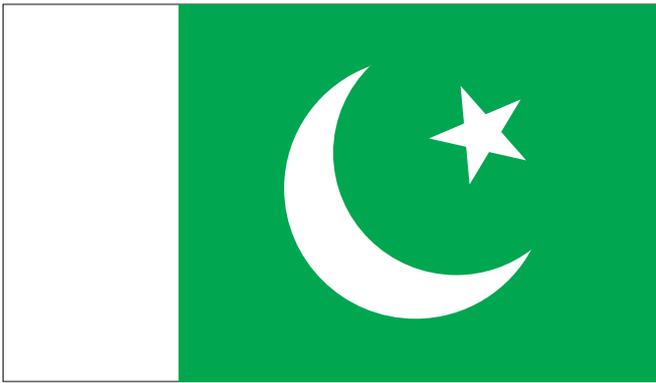
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<sup>281</sup> Law Regulating the Regional Municipalities (2000)

<sup>282</sup> Law Regulating the Regional Municipalities (2000)

# PAKISTAN



# PAKISTAN

## Background Information on the Country

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Pakistan, literally the “Land of the Pure”, is officially named the Islamic Republic of Pakistan. It is bordered by India to the east, China in the northeast, Afghanistan to the north and west and Iran to the southwest. It is separated by Tajikistan by Afghanistan’s narrow Wakhan Corridor in the North and possesses in the south a 1,046 km (650mi) of coastline along the Arabian Sea and the Gulf of Oman.

Spread over an area of 796 095 km<sup>2</sup> (307 374 sp mi)<sup>283</sup>, Pakistan gathered 180 440 005<sup>284</sup> people on its territory, making it the 6<sup>th</sup> most populous country in the World. The population comprises several ethnic groups. As of 2009, the Punjabi population dominates with 78.7 million (44.15%), followed by 27.2 million (15.42%) Pashtuns, 24.8 million (14.1%) Sindhis, 14.8 million (10.53%) Seraikis, 13.3 million (7.57%) Muhajirs and 6.3 million (3.57%) Balochs. The remaining 11.1 million (4.66%) belong to various ethnic minorities.<sup>285</sup>

Pakistan is the second most populous Muslim-majority country and has the second largest Shi'a population in the world.<sup>286</sup> About 97% of Pakistanis are Muslim. The majority are Sunni, with an estimated 5–20% Shi'a. A further 2.3% are Ahmadis, who are officially considered non-Muslims by virtue of a 1974 constitutional amendment. There are also several Quraniyoon communities.

After Islam, Hinduism and Christianity are the largest religions in the country, each with 2,800,000 (1.6%) adherents in 2005.<sup>287</sup> They are followed by the Bahá'í Faith, which has a following of 30,000, then Sikhism, Buddhism and Parsis, each claiming 20,000 adherents, and a very small community of Jains. Christians make up 1.6% of Pakistan's population,

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<sup>283</sup> "Excludes data for Pakistani territories of Kashmir; Azad Kashmir (13,297 km<sup>2</sup> or 5,134 sq mi) and Gilgit–Baltistan (72,520 km<sup>2</sup> or 28,000 sq mi). Including these territories would produce an area figure of 881,912 km<sup>2</sup> (340,508 sq mi)." / "Pakistan statistics". Geohive. Retrieved 2013-04-20.

<sup>284</sup> "Pakistan Census". Retrieved 2013-04-20. <http://www.census.gov.pk/Statistics.php>

<sup>285</sup> Ian S. Livingston; Micheal O'Hanlon (29 November 2011). "Pakistan Index" (PDF). Brookings. P.13. retrieved 25 December 2011.

<sup>286</sup> Tracy Miller, ed. (October 2009). "Mapping the Global Muslim Population: A Report on the Size and Distribution of the World's Muslim Population". Pew Research Center. Retrieved 9 June 2010.

<sup>287</sup> "Country Profile: Pakistan" (PDF). Library of Congress. 2005. pp. 2, 3, 6, 8. Retrieved 28 December 2011

about 2.8 million people out of a total population. They are the second-largest religious minority community in Pakistan.

Pakistan is a rapidly developing country and is one of the Next Eleven countries that, along with the BRICs, have a high potential to become the world's largest economies in the 21<sup>st</sup> century. Its economy is semi-industrialized and has changed from a mainly agricultural to a strong service base. According to 2012 estimations, its GDP totalizes 231 billion USD<sup>288</sup> which puts it at the 43<sup>th</sup> rank in the world<sup>289</sup>.

A regional and middle power,<sup>290</sup> the country has the seventh largest standing armed forces in the world and is also a nuclear power as well as a declared nuclear weapons state, being the only nation in the Muslim world, and the second in South Asia, to have that status.

On 14 August 1947, Pakistan became an independent country. The President of the Muslim League, Mohammed Ali Jinnah, became the new nation's first Governor-General, and the Secretary General of the Muslim League, Nawabzada Liaquat Ali Khan became the first Prime Minister. From 1947 to 1956, Pakistan was a dominion in the Commonwealth of Nations under two monarchs. In 1947, King George VI relinquished the title of Emperor of India and became King of Pakistan. He retained that title until his death on 6 February 1952, after which Queen Elizabeth II became Queen of Pakistan. She retained that title until Pakistan became an Islamic and Parliamentary republic in 1956, but civilian rule was stalled by a military coup led by the Army Commander-in-Chief, General Ayub Khan. The country experienced exceptional growth until a second war with India took place in 1965 and led to economic downfall and internal instability. Ayub Khan's successor, General Yahya Khan (President from 1969 to 1971), had to deal with a devastating cyclone which caused 500,000 deaths in East Pakistan.

In 1970, Pakistan held its first democratic elections since independence, that were meant to mark a transition from military rule to democracy, but after the East Pakistani Awami League won, Yahya Khan and the ruling elite in West Pakistan refused to hand over power. There was civil unrest in the East, and the Pakistan Army launched a military operation on

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<sup>288</sup> The Economist. 2012-11-21. Retrieved 2013-04-20.

<sup>289</sup> According to different sources such as: World Bank, CIA World Factbook or the United Nations

<sup>290</sup> Barry Buzan (2004). *The United States and the great powers: world politics in the twenty-first century*. Polity. pp. 71, 99. ISBN 978-0-7456-3374-9. Retrieved 27 December 2011.

25 March 1971, aiming to regain control of the province. The genocide carried out during this operation led to a declaration of independence and to the waging of a war of liberation by the Bengali Mukti Bahini forces in East Pakistan, with support from India. However, in West Pakistan the conflict was described as a Civil War as opposed to War of Liberation.

Independent estimates of civilian deaths during this period range from 300,000 to 3 million. Attacks on Indian military bases by the Pakistan Air Force in December 1971 sparked the Indo-Pakistani War of 1971, which ended with the formal secession of East Pakistan as the independent state of Bangladesh.

With Pakistan's defeat in the war, Yahya Khan was replaced by Zulfikar Ali Bhutto as Chief Martial Law Administrator. Civilian rule resumed from 1972 to 1977. During this period Pakistan began to build nuclear weapons; the country's first atomic power plant was inaugurated in 1972. Civilian rule ended with a military coup in 1977, and in 1979 General Zia-ul-Haq became the third military president. Military government lasted until 1988, during which Pakistan became one of the fastest-growing economies in South Asia. Zia consolidated nuclear development and increased Islamization of the state. During this period, Pakistan helped to subsidise and distribute US resources to factions of the Mujahideen movement against the 1979 Soviet invasion of Afghanistan.

Zia died in a plane crash in 1988, and Benazir Bhutto, daughter of Zulfikar Ali Bhutto, was elected as the first female Prime Minister of Pakistan. She was followed by Nawaz Sharif, and over the next decade the two leaders fought for power, alternating in office while the country's situation worsened; economic indicators fell sharply, in contrast to the 1980s. This period is marked by political instability, misgovernance and corruption.

Musharraf ruled Pakistan as head of state from 1999 to 2001 and as President from 2001 to 2008, a period of extensive economic reform and Pakistan's involvement in the US-led war on terrorism. On 15 November 2007, Pakistan's National Assembly became the first to complete its full five-year term, and new elections were called. After the assassination of Benazir Bhutto in December 2007, her Pakistan People Party (PPP) won the largest number of seats in the 2008 elections, and party member Yousaf Raza Gillani was sworn in as Prime Minister. Musharraf resigned from the presidency on 18 August 2008 when threatened with

impeachment, and was succeeded by Asif Ali Zardari. Gillani was disqualified from membership of parliament and as prime minister by the Supreme Court of Pakistan in June 2012.

The Pakistani general election of 2013 saw the Pakistan Muslim League achieve a majority, following which Nawaz Sharif became elected as the Prime Minister of Pakistan, returning to the post for the third time after fourteen years, in a democratic transition.

Pakistan has territorial conflict with India in the region of Kashmir, the most northwesterly part of the country. The two countries have fought at least three wars over Kashmir and several skirmishes over the Siachen Glacier. India claims the entire state of Jammu and Kashmir and administers approximately 45.1% of the region, including most of Jammu, the Kashmir Valley, Ladakh, and the Siachen Glacier, on the basis of the Instrument of Accession, a legal agreement with Kashmir's leaders executed by Maharaja Hari Singh. India's claim is contested by Pakistan, which controls approximately 38.2% of Kashmir, consisting of Azad Kashmir and the northern areas of Gilgit and Baltistan.

Pakistan's position is that the people of Jammu and Kashmir have the right to determine their future through impartial elections as mandated by the United Nations.<sup>291</sup> India has stated that it believes that Kashmir is an integral part of India, referring to the 1972 Simla Agreement and to the fact that elections take place regularly. Certain Kashmiri independence groups believe that Kashmir should be independent of both India and Pakistan.<sup>292</sup>

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<sup>291</sup> Talat Masood (2006). "Pakistan's Kashmir Policy" (PDF). Central Asia-Caucasus Institute & Silk Road Studies Program. p. 1. Retrieved 19 December 2011

<sup>292</sup> "Freedom in the World 2009 – Kashmir (India)". UNHCR. 16 July 2009. Retrieved 1 May 2010.

## Local authorities within the overall administrative structuring of the country

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Pakistan is a federation of four provinces: Punjab, Sindh, Balochistan and North-West Frontier (including the federally administered tribal areas) as illustrated on the map below. The Government exercises jurisdiction in the northwest parts of the disputed Kashmir Region, organized into the separated political entities Azad Kashmir and Northern Areas (also called Gilgit-Baltistan). The *Gilgit-Baltistan Empowerment and Self-Governance Order of 2009* assigned a province-like status to the latter, giving it self-government.



*Pakistan Subnational Governments*



This new system provides a three-tier system of local government: districts government, tehsil administration and union administration, with an elected body at each tier (zila council, tehsil council and union council). These points will be detailed in “Structure and organs of local authorities” parts of this chapter.

## **Constitutional provisions on local authorities**

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Local governments suffer from the fact that their existence is not constitutionally ordained and they are a mere extension of the provincial government. In the Constitution, the allocations of the functions of the federal and provincial governments are clearly specified whereas the existence of local government is not formally embodied in the Constitution. Moreover, financial, technical, and bureaucratic constraints plus limited revenue (merely 5% of revenue generated by the government) cause the poor and almost non-existent local government for most of the time.

## **Legislation concerning local authorities**

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From 14<sup>th</sup> August 2001, the *Local Government Ordinance* has been effective in the Sind/Balochistan/North-West Frontier/Punjab (SBNP) regions. As stipulated in the ordinance, it aims to reconstruct and regulate the local governments:

“Whereas it is expedient to devolve political power and decentralize administrative and financial authority to accountable local governments for good governance, effective delivery of services and transparent decision making through institutionalized participation of the people at grass root level;

And whereas under Article 4 of the Provisional Constitution (Amendment) Order No.9 of 1999, as amended by the Chief Executive Order No.11 of 2000, the Governor of a Province may issue and promulgate and Ordinance;

And whereas the Provincial Assembly of the Province of the Sind/Balochistan/North-West Frontier/Punjab (SBNP) is dissolved, and the Governor is satisfied that circumstances exist which render it necessary to take immediate action;

Now, therefore, in exercise of the aforesaid powers and all other powers enabling him in that behalf, the Governor of the SBNP Province is pleased to make and promulgate the SBNP Local Government Ordinance, 2001.”

## **Electoral processes in local authorities & local elections**

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Ordinance of 2001, Chapter XVII states that members of Union Council including Union Nazim and Naib Union Nazim shall be elected through elections which are based on adult franchise and on the basis of separate electorate. Chapter XVII also states that all members of Union Councils notified as returned candidates in the elections held under this Ordinance shall be deemed to be members of the Electoral College.

Regarding authority for local government elections, Ordinance of 2001, states that the local government elections under this Ordinance shall be conducted by the Chief Election Commissioner in pursuance of the Local Government Elections Order 2000 (Order No. 8 of 2000). The elections to the local governments shall be held every three year so as to enable their installation on the 14th day of August of the year in which elections are held.

Ordinance of 2001 states that local government elections shall be held on non party basis. Electoral rolls of Ordinance of 2011 states that a person shall be entitled to be enrolled as a voter if he is a citizen of Pakistan, who is not less than eighteen years of age on the first day of January of the year in which an election is to be held and if he/she fulfills such other conditions as the Chief Election Commissioner may specify. The term of office of a local government shall be four years commencing on the 14th day of August of the year in which elections are held. Local government, notwithstanding the expiry of its term of office, shall continue to hold office until the successor local government assumes office.

## **Structure and organs of local authorities**

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The Districts of Pakistan form the third tier of government in Pakistan, ranking as subdivisions of the provinces of Pakistan. Prior to August 2000, the provinces contained administrative units called divisions which contained districts as the fourth level of

government. In August 2000, the divisions were abolished as an administrative tier, and the provinces are now directly divided into districts. There were 106 districts prior to 2001.

Districts are further subdivided into tehsils which may contain villages or municipalities. There are over five thousand local governments in Pakistan. Since 2001, these have been led by democratically elected local councils, each headed by a Nazim (the word means "supervisor" in Urdu, but is sometimes translated as "mayor"). Women have been allotted a minimum of 33% seats in these councils; there is no upper limit to the number of women in these councils.

The new System provided a three-tier Local Government structure:

- The District Government
- The Tehsil Government
- The Union Administration

### **The District Government**

The District Government consisted of the Zila Nazim and District Administration. The District Administration consisted of district offices including sub-offices at Tehsil level, who were to be responsible to the District Nazim assisted by the District Coordination Officer. The District Coordination Officer was appointed by the Provincial Government and was the coordinating head of the District Administration. The Zila Nazim was accountable to the people through the elected members of the Zila Council. A Zila Council consisted of all Union Nazims in the District, which consisted of members elected on the reserved seats. These seats were reserved for women, peasants, workers, and minority community. The Zila Council had its Secretariat under the Naib Zila Nazim and had a separate budget allocation. Adequate checks and balances were introduced in the System.

The new System also efficiently addressed the specific needs and problems of large cities. The District Government was responsible to the people and the Provincial Government for improvement of governance and delivery of services.

### **Tehsil Administration**

The middle tier, the Tehsil, had Tehsil Municipal Administration headed by the Tehsil Nazim. Tehsil Municipal Administration consisted of a Tehsil Nazim, Tehsil Municipal Officer, Tehsil Officers, Chief Officers and other officials of the Local Council Service and officials of the offices entrusted to the Tehsil Municipal Administration. The Tehsil Municipal Administration was entrusted with the functions of administration, finances, and management of the offices of Local Government and Rural Development, and numerous other subjects at the regional, Divisional, District, Tehsil and lower levels.

### **Union Administration**

The lowest tier, the Union Administration was a corporate body covering the rural as well as urban areas across the whole District. It consisted of Union Nazim, Naib Union Nazim and three Union Secretaries and other auxiliary staff. The Union Nazim was the head of the Union Administration and the Naib Union Nazim acted as deputy to the Union Nazim during his temporary absence. The Union Secretaries coordinated and facilitated in community development, functioning of the Union Committees and delivery of municipal services under the supervision of Union Nazim.

### **Duties and responsibilities of local authorities**

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According to the Ordinance of 2001, the duties and responsibilities are as follows:

**“The Zila Nazim.-** (1) The Zila Nazim shall head the District Government and perform such functions and exercise such powers as have been assigned to him under this Ordinance and be assisted by the District Coordination Officer.

(2) The Zila Nazim shall ensure that the business of the District Government is carried out in accordance with the provisions of this Ordinance and other laws for the time being in force.

**Functions and powers of the Zila Nazim.-** (1) The functions and powers of the Zila Nazim shall be to-

(a) provide vision for the district-wide development, leadership and direction for efficient functioning of the District Government;

- (b) develop with the assistance of the District Administration strategies and timeframe for accomplishment of the relevant goals approved by the Zila Council;
- (c) perform functions relating to law and order in the district;
- (d) ensure implementation of the functions decentralised to the District Government;
- (e) oversee formulation and execution of the annual development plan, delivery of services and functioning of the District Government;
- (f) present proposal to the Zila Council for approval of budget for District Government, Zila Council and intra-district fiscal transfers;
- (g) maintain administrative and financial discipline in the District Government;
- (h) present tax proposals to the Zila Council;
- (i) present report on the performance of the District Government in person to the Zila Council at least twice a year;
- (j) preside over the meetings of the Zila Mushawarat Committee;
- (k) take charge, organise and prepare for relief activities in disasters or natural calamities;
- (l) authorise officers of the District Government to sign documents on its behalf;
- (m) initiate inspections of Tehsil Municipal Administration, Town Municipal Administration and Union Administration in the district pursuant to section 135;
- (n) establish and supervise the working of the Internal Audit Office;
- (o) issue executive orders to the District Coordination Officer and Executive District Officers for discharge of the functions decentralised to the District Government;
- (p) to represent District Government on public and ceremonial occasions; and
- (q) perform any other function as may be assigned to him by the Government.

**Tehsil Nazim.-** (1) The Tehsil Nazim shall head the Tehsil Municipal Administration and shall exercise such functions and powers as have been assigned to him under this Ordinance.

(2) The Tehsil Nazim shall be assisted by Tehsil Municipal Officer.

(3) The Tehsil Nazim shall be responsible to ensure that the business of the Tehsil Municipal Administration is carried out in accordance with the provisions of this Ordinance and the laws relating to the municipal services for the time being in force.

**Functions of Tehsil Nazim.-** The functions of Tehsil Nazim shall be-

- (a) to provide vision and direction for efficient functioning of the municipal administration;
- (b) to formulate strategies for development of municipal infrastructure and improvement of delivery of the municipal services of the tehsil;
- (c) to oversee formulation and implementation of long term and annual municipal development programmes;
- (d) to oversee the delivery of services by the Tehsil Municipal Administration and implementation of the laws governing the municipal services;
- (e) to present the budget proposal to the Tehsil Council for approval;
- (f) to present a report in person on the performance to the Tehsil Council at least once in six months;
- (g) to supervise the utilisation of the funds allocated to the Tehsil Municipal Administration and to ensure their proper accounting;
- (i) to establish and supervise the working of the Internal Audit Office; and
- (j) to represent Tehsil Municipal Administration on public and ceremonial occasions.

**Functions of Union Nazim.-** A Union Nazim shall-

- (a) provide leadership for Union-wide development and preparation of budget and the annual development plan;
- (b) organise the management of inter-villages municipal infrastructure;
- (c) assist the Tehsil Municipal Administration in spatial planning process;
- (d) constitute Musalihat Anjuman;
- (e) dispose of the business of Union Administration; and
- (f) report to the concerned authorities in respect of-
  - (i) encroachment on State and local government property and violation of land use and building laws, rules and bye-laws.
  - (ii) sale and trade of dangerous and offensive articles;

- (iii) environmental and health hazards;
  - (iv) adulteration of articles of food; and
  - (v) breach of public watercourses,
- within the area of the union.

## **Financial resources of local authorities / framework of financial autonomy**

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According to the Chapter XII of the Ordinance, establishment of Funds and Public Accounts is set as follows: first of all, there shall be established a District Fund, a Tehsil Local Fund, a Town Local Fund and a Union Local Fund as the case may be for each respective Local Government. Second, all revenues received by a Local Government shall form part of the respective Local Government Fund, which also includes money transferred by another Local Government under this Ordinance; grants made to or monies received by a Local Government from the Government or other sources; the proceeds of taxes or charges levied by a Local Government under this Ordinance; rents and profits payable or accruing to a Local Government from immovable property vested in or controlled or managed by it; proceeds or any other profits howsoever known or called from bank accounts, investments or commercial enterprises of a Local Government; gifts, grants or contributions to a Local Government by individuals or institutions; income accruing from markets or fairs regulated by a Local Government; fines paid with respect to offences under this Ordinance or by-laws or under any other law for the time being in force in which provision is made for the fines to be credited to the Funds established under this Ordinance; proceeds from other sources of income which are placed at the disposal of a Local Government under directions of the Government; and all money transferred to a Local Government by the Government. Third, all other money including receipts accruing from trusts administered or managed by a Local Government; refundable deposits received by a Local Government; and deferred liabilities; shall be credited to the Public Account of the respective Local Government.

Ordinance of 2001 under the section of Budget Preparation states that the annual budget for each Local Government shall contain estimates of grants-in-aid from the Government; amounts available in the respective Fund; receipts for the next year; and expenditures to be

incurred for the next year. Each District Government, Tehsil (Town) Municipal Administration and Union Administration shall reappropriate budgetary provisions in accordance with the reappropriation powers delegated to them by the respective Council: Provided that at the end of a financial year a full statement of all reappropriations made shall be submitted to the Council. Before the commencement of a financial year each Local Government shall, for its Fund, prepare in the prescribed manner, a budget for that year.

Approval of Budget goes in following order: 1) when a Local Government assumes office for the first time, it may within ten weeks, present to the respective Council a budget for the remaining part of the financial year for approval; 2) the Budget of a Local Government shall, on presentation before the Council, be referred to the Finance Committee of the Council for detailed scrutiny and recommendation to the Council; 3) the budget of a Local Government shall be approved by simple majority of the total membership of the respective Council. A budget cannot be approved if the sums required to meet estimated expenditures exceed the estimated receipts and if the constraints specified in Section 119 have not been complied with. The budget shall be prepared, approved and authenticated by the Government for the full year.

In accordance with Ordinance of 2001, a Council may levy taxes, fees, rates, rents, tolls, charge, surcharges and levies specified in the Second Schedule. All taxes, levied under this Ordinance shall be collected as prescribed. The Property Tax shall be collected by the District Government (provided further that the District Government shall retain ten percent of the total proceeds of the Property Tax). Ordinance of 2001 also states that no Local Government shall incur any debt and also no money of the Local Government shall be invested in securities other than those floated or approved by the Federal Government or Provincial Government.

Ordinance of 2001 also stipulates the process of establishment of Provincial Finance Commission. In accordance with the Ordinance of 2001, the Governor shall forthwith constitute a Provincial Finance Commission for the Province referred to as the Finance Commission. The functions, duties and powers of the Finance Commission shall be to make recommendations to the Governor for a formula for distribution of resources including distribution between the Government and the Local Governments out of the proceeds of the

Provincial Consolidated Fund into a Provincial Retained Amount and a Provincial Allocable Amount respectively; b) the making of grants in aid by the Government to the Local Governments from the Provincial Retained Amount; and c) any other matter relating to finance for and of the Local Government referred to the Finance Commission by the Governor, or the Government, or by a Local Government.

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# PALESTINE



# PALESTINE

## Background Information

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Palestine, referred to by the United Nations and international legal bodies as the “Occupied Palestinian Territory”, comprise the West Bank and the Gaza Strip, the territories currently occupied by Israel. The Palestinian National Authority regards East Jerusalem as part of the West Bank, and consequently a part of the Palestinian territories, while Israel regards it as part of Israel as a result of its annexation in 1980. The United Nations Security Council declared (via Resolution No. 478) the annexation of the East Jerusalem by Israel “null and void” and required that it be rescinded, stating that it was a violation of international law.<sup>293</sup>

The eastern limit of the West Bank is the border with Jordan. The southern limit of the Gaza Strip is the border with Egypt. The natural geographic boundaries for the West Bank and the Gaza Strip are the Jordan River and the Mediterranean Sea, respectively. The West Bank is spread over an area of 5,671 sq km, with a population of 4,039,200 (in 2010). The smaller Gaza Strip, spread over an area of 360 sq km, has a population of 1,857,369 (2007 census). In this context, the total land area of Palestine is 6,031 sq km, with a total population of 5,878,416.<sup>294</sup>

The Basic Law of Palestine establishes the Palestinian National Authority on the three pillars of the legislative, executive and judicial branches, based upon the principle of separation of powers. The Basic Law stipulates that “the governing system in Palestine shall be a democratic parliamentary system, based upon political and party pluralism.”<sup>295</sup> The legislative power is exercised by the Palestinian Legislative Council (*Majlis al-Tashri'i*), comprising 88 popularly elected members. The President, the highest-ranking political position (equivalent to head of state) in the Palestinian National Authority, is also elected by general elections. The Council of Ministers assists the President in the performance of the President’s duties and exercise of powers. The Prime Minister is not popularly elected, but appointed by the President. The Judiciary branch is independent, and assumed by the different types and level of courts, as stipulated in the Basic Law.

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<sup>293</sup> UN Security Council Resolution No. 478 (1980)

<sup>294</sup> Website of Palestinian Central Bureau of Statistics (2011)

<sup>295</sup> Basic Law of Palestine (2002)

Following the signing of the Oslo Accords in 1993, portions of these territories have been governed by the Palestinian Authority. Fundamental human rights are frequently violated in the Occupied Palestinian Territory, and such violations have intensified since the outbreak of the Al-Aqsa *intifada* on 29 September 2000. Recently, in the absence of a horizon for a political settlement with Israel, differences between the Palestinian organizations notably Fatah and Hamas have widened, culminating in the collapse of the national unity government and the subsequent clashes between these two groups, resulting in Hamas's takeover of Gaza in June 2007. President Mahmoud Abbas subsequently formed a parallel government in Ramallah and, since then, each group has claimed the sole right to represent the Palestinian people.<sup>296</sup>

### **Sub-national governance & types of local authorities**

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After the signing of the Oslo Accords in 1993, the Palestinian territories of the West Bank and Gaza Strip were divided into three areas, whereby "Area A" refers to the area under Palestinian National Authority security and civilian control, "Area B" refers to the area under Palestinian civilian and Israeli security control, and "Area C" refers to the area under full Israeli control such as settlements.

Palestine is administratively divided into sixteen (16) governorates, with eleven (11) in West Bank and five (5) in Gaza. These encompass in the West Bank the governorates of Jenin, Tubas, Tulkarm, Nablus, Qalqilya, Salfit, Ramallah and Al-Bireh, Jericho, Jerusalem, Bethlehem and Hebron; and in the Gaza Strip the governorates of North Gaza, Gaza, Deir al-Balah, Khan Yunis and Rafah.

There are several levels of local governments in Palestine, but elections are conducted only for "local councils", which are equivalent to city and village councils. Other levels of local government include governorates, joint services councils, project committees and refugee camps, but voters do not vote for these institutions. The postponed 2010 local elections are due to be held for over 3,300 seats in a total of 327 local councils as follows: Municipal Councils (95 in the West Bank, and 25 in Gaza); Neighborhood (*Mahalla*) Councils (12 in the West Bank); Village Councils (195 in the West Bank). Local governance units in the Palestinian Territories are fragmented and the sizes of the local districts vary from a

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<sup>296</sup> UN Arab Human Development Report, 2009, p. 170.

population of 1,000 to almost 600,000. There are over 200 local councils with a population of less than 5,000<sup>297</sup>, all of these local councils are located in West Bank.

Over 115 local districts in the West Bank have populations under 1,000 residents. Instead of merging them with the larger districts, the Ministry of Local Government has classified them as “project committees” and excluded them from elections.<sup>298</sup>

The Association of Palestinian Local Authorities (APLA), being active since 1997, was formally established by presidential decree in 2002 to take an advocacy role and represent the interests of the municipalities and village councils in dealing with the MoLG and other central line agencies.

The diagnostic report for the local governance system in Palestine prepared under the auspices of the Palestine Ministry of Local Government recognized the important role of APLA as a vehicle for dialogue between local and central government bodies, and highlighted the need for APLA to play a significant role in the implementation of any reform initiatives in the local governance sector.<sup>299</sup>

## **Constitutional provisions on local authorities**

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The Palestinian Basic Law, intended to function as a temporary constitution for the Palestinian Authority until the establishment of an independent state and a permanent constitution for Palestine can be achieved, was passed by the Palestinian Legislative Council in 1997 and ratified in 2002. It has subsequently been amended twice; in 2003 the political system was changed to introduce a prime minister, and in 2005 it was amended to conform to the new Election Law.

The Basic Law encompasses specific provisions on local authorities, particularly via Article 85 entitled “Local Administration”. It is stipulated in Article 85 that:

- “1. The law shall organize the country into local administrative units, which shall enjoy juridical personality. Each unit shall have a council elected directly, as prescribed by law.

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<sup>297</sup> IFES (2010)

<sup>298</sup> IFES (2010)

<sup>299</sup> Local Governance Support Program (2009)

- 2. The law shall specify the areas of responsibility of the local administrative units, their financial resources, their relations with the central authority and their role in the preparation and implementation of development plans. The law shall specify the aspects of oversight over these units and their various activities.
- 3. Demographic, geographic, economic and political parameters shall be taken into consideration at the time of defining the administrative divisions so as to preserve the territorial unity of the homeland and the interests of the communities therein.<sup>300</sup>

### **Legislation concerning local authorities**

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Local authorities in Palestine currently function under the Local Government Law No. 1 enacted in 1997, which states the aspects of formation, management and financing as well as the responsibilities of the elected local authorities mayors and members.<sup>301</sup>

Another significant law concerning local authorities is Law No. 5 entitled “Law on the Election of Local Councils”, enacted 1996. This Law was subsequently amended in 2004 via Law No. 10, and further amended in 2005 via Law No. 12.

In terms of local finances, the Financial By-laws of the Palestinian Authority (in particular, Articles 6 to 12) enacted in April 1999, and the Decision No. 120 of 2003 regarding Municipalities Fund are of significant importance.<sup>302</sup>

The diagnostic report for the local governance system in Palestine prepared under the auspices of the Palestine Ministry of Local Government has drawn attention to the rather vague and unclear legislative framework concerning local authorities, underlining that a unified vocabulary to reflect the system of local governance in Palestine has not been adequately defined. As reflected in the pertinent report, while the Basic Law of 1997 refers to “Local Administration”, other legislative instruments use terms such as “Local Authorities”, “Local Councils” and “Local Government Units”.<sup>303</sup>

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<sup>300</sup> Basic Law of Palestine (2002)

<sup>301</sup> Sabri (2009)

<sup>302</sup> Palestine Ministry of Local Government (June 2008)

<sup>303</sup> Local Governance Support Program (2009)

## **Electoral processes in local authorities & local elections**

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Local elections are conducted under Law No. 5 of 1996 entitled “Election of Local Councils Law” (with 2004 and 2005 amendments). The 2005 amendments introduced a proportional system of representation with a closed list system. This means that instead of voting for individual candidates, voters will vote for a list of candidates (electoral list). The ranking of the candidates on the list is set during the list registration period for the candidates, and it is not subject to voters’ preferences. Voters can vote only for one list. Only lists that win more than 8% of total votes will be eligible to receive seats in the local council.<sup>304</sup>

The first municipal elections since 3 decades were held to elect members of local councils in Palestine between December 2004 and December 2005. The elections were approved by President of the Palestinian National Authority, and were administered by the Higher Committee for Local Elections, a body established under the authority of the Ministry of Local Government.

The first round of elections was held in two parts; the first part on 23 December 2004 in the West Bank (in 26 districts), and the second on 27 January 2005 (in 10 districts) in the Gaza Strip. The second round of elections for local councils was held on 5 May 2005 in the West Bank (76 districts) and Gaza (8 districts), and on 19 May 2005 in the West Bank district of Al-Ram. The participation rate was 84% of eligible voters. The third phase of municipal elections took place on 29 September 2005, covering 104 villages in the West Bank. Elections were supposed to take place in 132 electoral districts, but a number of them were postponed due to Israel’s withdrawal from Gaza Strip in the same month. The participation rate was 81% of eligible voters. The fourth phase of municipal elections took place on 15 December 2005, covering 42 cities and villages in the West Bank and Gaza strip. However, the fifth and last phase of municipal elections to be held in 60 cities and villages, including Gaza city and Hebron, could not be held.<sup>305</sup>

As the 2004 local elections were compelled to be held in four stages (and on six different dates) because of operational and political challenges, and that they were not finalized since the elections in a significant number of councils were postponed indefinitely, the next municipal elections were characterized by an ambiguity, coupled with numerous other

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<sup>304</sup> IFES (2010)

<sup>305</sup> UNDP POGAR (2011)

problems. The term of local councils is limited to four (4) years, and because the elections were held on different dates, the terms of local councils did not expire at the same time. However, since the law provides the possibility of scheduling elections earlier than the expiration of the 4-year term, but not later than one month after the expiration, the next local elections should have been conducted by 23 January 2009.<sup>306</sup>

Acknowledging the expiration of the local councils' term, the Council of Ministers changed the status of all of the councils into "caretaker councils". Subsequently, in February 2010, the Council of Ministers called for local elections to be held in the West Bank and Gaza on 17 July 2010.<sup>307</sup>

The Hamas administration has rejected elections without national reconciliation and has prevented the conduct of presidential, legislative and local elections in Gaza. Additionally, the Central Election Council opposed the conducting of the scheduled January 2010 presidential and legislative elections for the West Bank only, stating that the pertinent legislation does not allow for "partial" elections. Subsequently, in May 2010 the Council of Ministers has postponed the local elections to an indefinite future until the "conclusion of pertinent administrative and technical preparations".<sup>308</sup>

## **Duties and responsibilities of local authorities**

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Although not part of the local governance system, the Governors have a key role in planning, coordinating, implementing and monitoring services in their contexts which sometime overlap with the functions of local authorities. Pursuant to the Presidential Decree of 2003, the framework of duties of Governors include the implementation of legislation, the preservation of general security, order and freedoms, etc., as well as ensuring economic, physical infrastructure growth and social development in the governorate, and implementing public works to provide local services that benefit citizens in terms of health, education, culture, social affairs, construction, development, etc.<sup>309</sup>

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<sup>306</sup> IFES (2010)

<sup>307</sup> IFES (2010)

<sup>308</sup> IFES (2010)

<sup>309</sup> Local Governance Support Program (2009)

The particular duties and responsibilities of local authorities stipulated in Law No. 1 of 1997 include the following: Town planning and road construction; building licensing and control; water supply, construction and management; electricity supply, construction and management; sewage management, construction and control; public markets management; licensing of trades and businesses; public health; collection and disposal of solid waste; public entertainment control; public parks; cultural and sport activities; public transport (land and sea); control of open markets; weights and measures control; advertisement control; building demolition; control of beggars; cemeteries; and hotel operation control, as well as local budgets and personnel; and management of assets.<sup>310</sup> Electricity supply, construction and management is not the responsibility of the municipalities in the Gaza Strip since 1998.

The majority of the Palestinian Municipalities and many Village Councils own electricity and water networks and supply these utilities services to their area. Some municipalities undertake functions not specified in the law, such as emergency services and school construction and maintenance.<sup>311</sup>

## **Financial autonomy & resources of local authorities**

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The most important sources of revenue for local authorities in Palestine are building fees, followed by revenues from utilities, internal revenues collected from imposed taxes and fees for municipal services such as solid waste collection and disposal, and rental income from municipal assets.<sup>312</sup>

Fiscally, local authorities are fairly decentralized, wherein fund transfers from the central government account for less than one-fifth of total revenues in general. The Ministry of Finance collects national taxes, including occupation tax, transport tax and property tax, and transfers a proportion of these taxes to local authorities. The Ministry of Local Government approves new taxes and fees and changes to tax and fee levels proposed by the local authority units. The local authority units, namely the municipalities and village councils on

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<sup>310</sup> Local Governance Support Program (2009)

<sup>311</sup> Local Governance Support Program (2009)

<sup>312</sup> Local Governance Support Program (2009)

the other hand, are entitled to collect some local taxes, and set and collect fees for licenses and municipal services.<sup>313</sup>

Four types of local taxes exist in the West Bank, consisting of property tax and education tax based on property valuations, and craft licenses and business licenses collected from commercial entities. Education tax is only imposed in the West Bank and is collected locally. This tax has a separate budget and is managed by a special committee to supervise its spending for educational purposes. Three different types of taxes are imposed on residents of village council areas, including rural property tax, poll tax and business licenses. In Gaza, two local taxes are imposed on residents of municipalities, consisting of property tax and business licenses. Unlike in the West Bank where property tax is assessed and collected centrally by the Ministry of Finance, which then pays 90% back to the municipality, in Gaza the municipalities define and collect property and occupation tax locally.<sup>314</sup>

In addition to local taxes, local authorities impose fees related to the provision of services, including building fees. Local fees are generally set either as fixed fees for a specific service (such as solid waste collection fees or license fees) or based on levels of consumption (such as electricity or water used).<sup>315</sup>

Considerable progress has been made in Palestine in recent years in strengthening financial management systems in local authorities. A large number of regulations, standards, procedures, manual and forms have been developed covering essential aspects of the financial management of local authorities. However, these initiatives have not yet led to the creation of a unified financial management system for local authorities.<sup>316</sup>

In recent years, following the Hamas takeover in the Gaza strip, the blockade, obstructing all communication with the outside world for whatever purpose, inducing the collapse of most industrial and agricultural activity in the area, disrupted essential infrastructure and services through frequent and long power shortages, and further damaged water quality. In particular, the Israeli attacks in December 2008 and January 2009 in Gaza created massive

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<sup>313</sup> Local Governance Support Program (2009)

<sup>314</sup> Local Governance Support Program (2009)

<sup>315</sup> Local Governance Support Program (2009)

<sup>316</sup> Local Governance Support Program (2009)

infrastructural damage alongside violence-related humanitarian issues.<sup>317</sup> These damages have had a profound effect on municipal service delivery and have further weakened the municipal resource base.

### **Central government control/tutelage over local authorities**

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Central government control/tutelage over local authorities in Palestine is exercised primarily by the Ministry of Local Government. In addition, the Governor represents the central authority and has significant powers in vital areas, including security, municipal and village councils and supervision of all government agencies in the district. Under such an arrangement, municipalities and councils, in addition to the Local Government Directorate in the locality, find themselves subject to a dual form of control exercised by both the Ministry and the Governor.

Amendments made to the Local Authority Law No. 1 of 1997 via Decree No. 9 enacted in 2008 significantly increased the control/tutelage powers of the Ministry. The most important change made by this amendment is the introduction of a new article which gives the Council of Ministers, upon the recommendation of the Minister of Local Government, the right to dissolve a local council if the council fails to fulfill its mandate as defined by the 1997 Law, and if the term of the council has come to an end. This Article also empowers the Minister of Local Government to appoint a committee to undertake the responsibilities of the dissolved councils for a period of one year, during which elections are to be held. The same article also allows the Minister to dismiss the heads of local councils (Mayors), subject to the approval of the Council of Ministers, in which case the members of that council shall elect a new Mayor among them.<sup>318</sup>

It is stipulated in Article 4 of the same Decree that the salaries of heads of local authorities and the rewards of local councils shall be governed by a regulation to be issued by the Minister.<sup>319</sup>

Article 5 of the Decree vests in the Minister the right to form a control and inspection committee in order to oversee all administrative, legal, financial and regulatory procedures

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<sup>317</sup> UNDP Arab Human Development Report (2009)

<sup>318</sup> Local Governance Support Program (2009)

<sup>319</sup> Local Governance Support Program (2009)

to ensure that they are compatible with law and regulations. The Minister is empowered to take the necessary measures in order to correct any infringement or encroaching of the law.<sup>320</sup>

## **General framework of local autonomy & reform initiatives**

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Since the Oslo Accords, the concept of decentralization has received popular support both among the populace and in the Palestinian Authority government. The Palestinian Authority has worked to develop a framework for political decentralization, though implementation has been difficult.

One of the developments which had a significant impact on local governance is the construction of the Separation Wall by the Israeli Government, isolating approximately 13% of the West Bank from the rest of the Palestinian territories. The Separation Wall has deprived local communities of access to resources vital to their survival such as water, farming land, and crops, and caused damage to the infrastructure (roads, water networks, and others) which represents a financial and operational loss to those communities and the entities governing them. In doing so the wall has created a big hurdle for the development of a comprehensive strategic plan for implementing a local governance reform agenda, since it has placed physical, legal, and political restrictions on local authorities, and put pressure on them to shift their attention from local development to mitigation and resistance to it.<sup>321</sup>

Another significant contextual change occurred in 2006 as elections brought Hamas to power in the Palestinian Legislative Council and in a number of local authorities including some of the major municipalities in the West Bank and Gaza which resulted in, among others, many main donors and supporters to either freeze financial and technical support to the Palestinian government or to redirect activities and funds to non-Hamas-led local councils and other bodies. These shifts had a severe effect on the budding reform agenda for local government, calling into question government commitment to reform, unevenly distributing initiatives to support institutional reform and capacity building, and creating

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<sup>320</sup> Local Governance Support Program (2009)

<sup>321</sup> Local Governance Support Program (2009)

further coordination difficulties as resources were shifted for reasons of political and diplomatic expediency.<sup>322</sup>

Despite these bottlenecks, significant steps were taken to pave the way for local governance reform in Palestine. Major programs to support local government reform, recently conducted in partnership with the Ministry of Local Government include, among others, “Local Governance Support Program” (implemented in 2005-2009 with the support of UNDP), “Local Democratic Reform Program” (implemented in 2005-2009 with the support of USAID), “Program for the Improvement of the Local Governance System in Palestine” (implemented in 2005-2009 with the support of JICA), “Local Government Capacity Building Program” (implemented in 2005-2006 with the support of the World Bank), “Local Infrastructure and Capacity Building Program” (implemented in 2005-2009 with the support of BTC), “Local Governance and Civil Society Development Program” (implemented in 2007-2010 with the support of GTZ)<sup>323</sup> and Municipal Development Program (MDP) administrated by Municipal Development and Lending Fund (MDLF) implemented since 2010 with the support of various donors including World Bank, KFW, AFD, SIDA, DANIDA, BTC, GTZ).

In June 2008, the Ministry of Local Government issued a report entitled “The Future of Local Governments in Palestine”. The major objective of the plan is to reduce the number of local authorities to around one hundred at the level of municipality or regional council. The report identifies examples of possible amalgamation in Hebron and Jericho Governorates and in Gaza. In 2009 the Amalgamation Task Force within the Ministry produced a proposal entitled “Municipal Restructuring, Policy Framework and Implementation Strategy for the Amalgamation of Local Councils in Palestine”. Activities currently continue, with a special focus on the development of standardized guidelines to govern amalgamation processes.<sup>324</sup>

Furthermore, in November 2008 the President’s Office (Governorates division) supported the development of a “National Strategy for the Palestinian Local Administration”. The report diagnosed the status of strategic issues in the current system of local governance with regards to issues such as decentralization, distribution of authorities, the legal environment,

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<sup>322</sup> Local Governance Support Program (2009)

<sup>323</sup> Local Governance Support Program (2009)

<sup>324</sup> Palestine Ministry of Local Government (June 2008)

participation, and transparency and accountability. This study identified the strategic vision for this sector as “a system of administration which is efficient, grounded in the principles of good governance and compatible with the policies and inclinations of the Palestinian Authority.” Following the development of the strategy, a national committee of 22 members and a smaller committee of 5 were established to develop recommendations for taking the agenda forward. A decision to adopt the local administration reform is still pending.<sup>325</sup>

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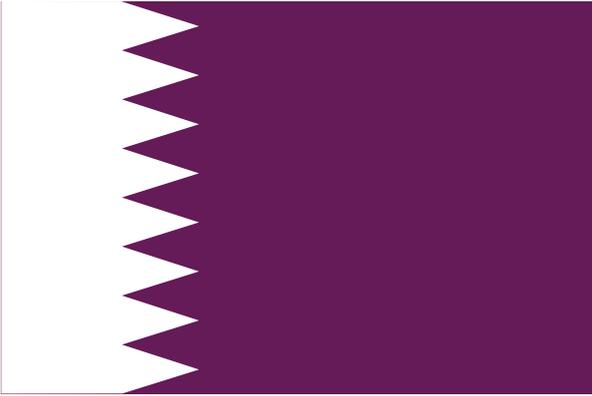
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<sup>325</sup> Local Governance Support Program (2009)

# QATAR



# QATAR

## Background Information

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Qatar is located in the Southern Arabian Gulf, surrounded by Saudi Arabia, Bahrain, the United Arab Emirates and Iran. The country is situated midway along the western coast of the Arabian Gulf. It is spread over an area of approximately 11,437 sq km on a low-lying limestone peninsula, projecting northward about 160 kilometers into the Gulf. The coastline is 550 kilometers long and bounds the country to the west, north and east.<sup>326</sup>

Qatar has a current population of 1,696,563 (according to latest census of 2010)<sup>327</sup>. The capital city of the country is Doha, which accommodates more than half of the population in the country.

Qatar has the world's largest per capita production and proven reserves of both oil and natural gas. With a Human Development Index of 0.834, Qatar is cited under the category entitled "Very High Human Development", ranking as the 36<sup>th</sup> out of 187 countries covered by the UNDP Human Development Report of 2013.<sup>328</sup>

Qatar declared its independence in 1971. As delineated in its 2003 Constitution, Qatar is an independent sovereign Arab State. The rule of the State is hereditary in the family of Al Thani. Its religion is Islam and Shari'a law is the main source of its legislations. The system of government is based on the separation of powers. The Legislative Authority is vested in *Al-Shoura* Council, which consists of 45 members, 30 of whom to be popularly elected and 15 of whom to be appointed by the Emir. The term of the Council is 4 calendar years, commencing from the date of the first meeting. The Executive Authority is vested in the Emir, who is assisted by the Council of Ministers in discharging his functions and exercising his powers. The Constitution also lays down that the judicial authority shall be independent and it shall be vested in courts of different types and grades.<sup>329</sup>

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<sup>326</sup> Qatar Embassy: website (2011)

<sup>327</sup> Qatar Statistics Authority: website (2011)

<sup>328</sup> UNDP Human Development Report (2013)

<sup>329</sup> Constitution of Qatar (2003)

## **Sub-national governance & types of local authorities**

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The history of municipalities in Qatar goes back to the 1960s when the Municipality of Qatar, the oldest municipality in the State, was established by the law No. 11 enacted in 1963. Through a revision made in this law in the same year, the name of the Municipality of Qatar was changed as Doha Municipality in May 1963.<sup>330</sup> The Ministry of Municipalities and Urban Planning was established in 1972 as a government body responsible for supervising the functions of municipalities.

In line with the Decree No 4 issued in 1963, members of the Municipal Council were previously being appointed, based on the nomination of the Minister of Municipalities and Urban Planning. The first joint meeting of Municipal Councils in the country was held in 1983. During this meeting it was jointly decided to form a central municipal council that would replace the numerous municipal councils.<sup>331</sup> Based upon this decision, legislative measures were introduced via Decree No 17 issued in 1998 by the Emir of Qatar for the formation of a nation-wide Municipal Council by direct and popular elections. Pursuant to the new legislation, the Central Municipal Council was established in 1999 as a single, nation-wide municipal body with elected members.

The Central Municipal Council is currently comprised of 29 members elected from districts representing 230 constituencies spreading over the State of Qatar. The membership term in the Central Municipal Council is 4 years.<sup>332</sup>

Before 2004 Qatar was divided into 10 administrative districts, namely Doha (Ad Dawhah), Al Ghuwayriyah, Al Jumayliyah, Al Khawr, Al Wakrah, Al Rayyan, Jarayan al Batinah, Madinat ash Shamal, Umm Sa'id and Umm Salal, each district corresponding to a municipality.<sup>333</sup> As a result of the restructuring of these administrative divisions, since 2004, Qatar has 7 municipalities, namely Doha, Al Rayyan, Umm Salal, and Al Khor & Dhekra, Al Wakrah, Al Daayen and Al Shamal.<sup>334</sup>

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<sup>330</sup> Ministry of Municipalities and Urban Planning: website (2011)

<sup>331</sup> Ministry of Foreign Affairs: website (2011)

<sup>332</sup> Qatar Embassy: website (2011)

<sup>333</sup> UNDP POGAR (2011)

<sup>334</sup> Ministry of Municipalities and Urban Planning: website (2011)

## **Constitutional provisions on local authorities**

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Qatar's constitution has passed through transitional stages starting in 1970 when the first provisional system of governance was enacted. This system was revised in 1972 after the national independence and amended to address the requirements and responsibilities of the new stage. A special decree was issued by the Emir in 1999 stipulating the formation of a drafting committee of the permanent constitution.

The Permanent Constitution of the Qatar was adopted by a public referendum on 29 April 2003. The Constitution, comprising 150 articles, lays down the basic framework in relation to legislative, executive and judiciary organs and the separation of their powers. It also provides the guiding principles of the society, as well as the basic rights and freedoms.

The Constitution, on the other hand, does not contain any specific provisions concerning sub-national governance in general or local authorities in particular.<sup>335</sup>

## **Legislation concerning local authorities**

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In terms of the legislation concerning local authorities in Qatar, the Emirate Decree No 4, enacted in 1963, organized for the first time the election and appointment of the members of the Municipal Council.

The Law No 11, also enacted in 1963, followed the provisions of the Decree No. 4. The Law stipulated that the Municipal Council shall be formed by a Decree and that the appointment of the members shall be based on the nomination of the Minister of Municipalities and Urban Planning.<sup>336</sup>

The legal framework for the establishment of the Central Municipal Council was brought forward by the Law No 12 issued in 1998. This law was subsequently reinforced by the Decree No 17 issued in 1998 by the Emir of Qatar which laid down the provisions in relation to the election of the members of the Central Municipal Council.<sup>337</sup>

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<sup>335</sup> Constitution of Qatar (2003)

<sup>336</sup> Qatar Embassy: website (2011)

<sup>337</sup> Qatar Embassy: website (2011)

In terms of other legislation concerning local authorities, pertinent laws on the Ministry of Municipalities and Urban Planning are of particular importance. The establishment of the first Ministry of Municipal Affairs in Qatar goes back to the year 1972 through the issuing of the Law No. 24 which specified the duties of the Ministry and its departments. These duties were amended in 1990 after the incorporation of agricultural affairs under this Ministry and thereby restructuring it under the name of “the Ministry of Municipal Affairs and Agriculture”. Additional duties were incorporated by merging this Ministry with the Ministry of Public Works by Law No. 20 enacted in 1993, and thereby changing its name as “the Ministry of Municipal Affairs and Urban Planning”. On the other hand, subsequent to the establishment of the Public Works Authority, as well as the Urban Planning and Development Authority, both in 2004, the respective functions were excluded from the scope of the Ministry by Law No. 23 enacted in 2005, and consequently the duties of the Ministry were once again confined to municipal affairs and agriculture, although retaining its name.<sup>338</sup>

### **Electoral processes in local authorities & local elections**

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The first democratic municipal elections in Qatar were held on 8 March 1999 to elect the members of the Central Municipal Council. During the election 248 candidates including six women contested the 4-year renewable term of 29 seats.

The 1999 municipal elections are of particular importance in terms of the exercise of democratic practices in Qatar, since the voting age was lowered to 18, which expanded the scope of participation in the elections, and women were allowed to participate as voters and candidates for the first time.<sup>339</sup>

The second elections for the Central Municipal Council were held on 7 April 2003, whereby 78 candidates, including three women, contested for 29 seats. One woman was elected to the Council. The participation rate in the elections was 32% of total eligible voters.<sup>340</sup>

The third elections to the Central Municipal Council in Qatar took place on 1 April 2007 whereby 125 candidates, again including 3 women, contested for 29 seats. Once again, one

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<sup>338</sup> Ministry of Municipalities and Urban Planning: website (2011)

<sup>339</sup> Qatar Embassy: website (2011)

<sup>340</sup> UNDP POGAR (2011)

woman was re-elected to the Council. The participation rate in the elections was 51% of total eligible voters.<sup>341</sup>

The fourth and most recent elections to the Central Municipal Council in Qatar took place on 10 May 2011 whereby a total of 101 candidates, including four women, contested for 29 council seats which represent the entire country in the election where 32,000 people are eligible to cast ballots.<sup>342</sup>

## **Structure and organs of local authorities**

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The Central Municipal Council was created in 1999 to serve as a single, nationwide municipal body.

The Central Municipal Council, consisting of 29 members, issues its resolutions by plurality of votes. Under the supervision of its Chairman, the Council forms a Secretariat General and appoints a Secretary General. The Secretary General is responsible for preparing the draft agenda of the meetings of the Council and submitting thereof to the Chairman, recording the minutes of the meetings and the Council's recommendations and submitting thereof to the Minister of Municipalities and Urban Planning.<sup>343</sup>

The municipalities, on the other hand, function under the management of the Director, who is appointed by the Minister of Municipal Affairs and Agriculture via issuing a respective ministerial resolution. The Director is responsible for managing the administrative units of the Municipality, which include in general a special unit for the preservation of the special Gulf architectural tradition, technical units responsible for supervising municipal projects and maintaining the Municipality's facilities, and legal units responsible for providing legal opinion on pertinent issues and prepare responses thereof, as well as for reviewing municipal contracts and agreements.<sup>344</sup>

In this context, although varying from one municipality to another, the main departments of municipalities include, in general, the following:

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<sup>341</sup> CEIP & FRIDE (2011)

<sup>342</sup> Al Arabia News (2011)

<sup>343</sup> Qatar Embassy: website (2011)

<sup>344</sup> Ministry of Municipalities and Urban Planning: website (2011)

- Administrative Affairs Department;
- Financial Affairs Department;
- Organization, Construction Licenses, and Municipality Projects Department;
- Commercial Licenses and Advertisements Department;
- Pests and Rodents Fighting Department;
- General Cleanness and Sewage Department;
- Food Control Department;
- Cemeteries Services Department;
- Land Control Department;
- Public Gardens Department; and
- Technical Support Department.<sup>345</sup>

### **Duties and responsibilities of local authorities**

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The general framework of the duties and responsibilities of the municipalities in Qatar include the following:

- Suggesting to the Ministry of Municipalities and Urban Planning new policies, programs, plans and budgets for the development of the municipality, and improving its public facilities;
- solid waste collection and disposal;
- implementing general cleanness projects;
- maintaining gardens and parks;
- issuing building, maintenance, and demolition licenses and supervising constructions;
- undertaking food control and sanitation measures;
- issuing permits for advertisements;

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<sup>345</sup> Ministry of Municipalities and Urban Planning: website (2011)

- undertaking cemetery services;
- supervising industrial zones;
- maintaining public roads and sidewalks;
- managing warehouses;
- controlling markets and commercial shops;
- providing animal shelters;
- suggesting the creation of public water closets; and
- collecting municipal fees and revenues in coordination with the Administrative and Financial Affairs Department within the Ministry of Municipalities and Urban Planning.<sup>346</sup>

The Central Municipal Council has no executive powers. The Council cooperates with the Ministry of Municipalities and Urban Planning in improving the standard of services of importance to citizens such infrastructure projects. The Council is responsible for supervising the implementation of laws and resolutions concerning the Ministry. Although exercising no formal authority over policy, the Council provides consultation and advice to the Ministry.<sup>347</sup>

### **Financial autonomy & resources of local authorities**

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The municipal revenues include the fees related to carrying out trade activities, building and demolition licenses, insurances and fines, leases, insecticide spraying, and drainage water draining. All municipal revenues are transferred to the unified bank account of the State.<sup>348</sup>

### **Central government control/tutelage over local authorities**

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The central government control/tutelage over the municipalities in Qatar is exercised mainly by the Ministry of Municipalities and Urban Planning, which was established in 1972 as a government body responsible for supervising the functions of municipalities. The Ministry

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<sup>346</sup> Ministry of Municipalities and Urban Planning: website (2011)

<sup>347</sup> UNDP POGAR (2011)

<sup>348</sup> Ministry of Municipalities and Urban Planning: website (2011)

is part of the cabinet, with the Minister appointed by the Emir. The Ministry oversees administration of planning, development, road maintenance, agriculture, food safety, public services, and the environment. An assistant secretary of municipal affairs coordinates the 7 municipalities of Qatar.<sup>349</sup>

On the other hand, the Central Municipal Council is established as an independent entity. The Ministry of Municipalities and Urban Planning has no authority to interfere with its functions. The roles of the Ministry and the Council complement each other. The role of the Council is still one of advisory and monitoring. The Council has the right to discuss all matters and problems, and its agenda is not confined to what is raised by the Ministry. The Council decides upon its own work program and budget, without external interference. The Ministry, on the other hand, approves the recommendations of the Council.<sup>350</sup>

## **General framework of local autonomy & reform initiatives**

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Qatari authorities have effectively utilized the series of national and municipal elections as components of the country's gradual transition toward greater democratic participation. In April 1998, the business community leaders participated in an election for a national Chamber of Commerce, selecting 17 members from a slate of 41 candidates. The Central Municipal Council elections of March 1999 marked the first time a Persian Gulf country had enfranchised all of its male and female citizens in a nationwide election. The national elections for the Municipal Council's new term in April 2003 resulted in the first electoral victory for a Qatari female candidate. The following elections in April 2007 signified a growing interest in participation as manifested in the highest voter turnout to date.<sup>351</sup>

In terms of the 45-member Advisory Council (*Majlis Al Shura*) of which two-thirds being directly elected and one-third being appointed by the emir, a special electoral law for new Advisory Council elections was passed in May 2008. Although national elections for the new Advisory Council have been delayed and a target date has not been set, administrative preparations continue, and women will have the right to vote in the elections and to run for

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<sup>349</sup> Ministry of Municipalities and Urban Planning: website (2011)

<sup>350</sup> Qatar Embassy: website (2011)

<sup>351</sup> Blanchard (2011)

office. The Advisory Council would have oversight authority over the Council of Ministers and would be able to propose legislation and review budgets.<sup>352</sup>

Coupled with these developments, the recent reform efforts toward restructuring the administrative and political apparatus of the country continue, with a particular focus on creating wider avenues of public participation in national decision-making. The reforms also aim at bolstering the role of people in managing public affairs hand in hand with deepening the *Shura* (consultation) approach and consolidating the principles of freedom.<sup>353</sup>

The Qatar “National Vision Program 2030” was launched on 28 October 2008, with the objective of developing a national strategy for development. Building upon this initiative targeting the development of a national strategy by involving all the stakeholders, the Qatar National Development Strategy for 2011-2016 was finalized and launched in May 2011 by the Qatar General Secretariat for Development Planning.<sup>354</sup> The National Development Strategy is envisaged to give a further push to the ongoing reform efforts.

Qatar, being influenced by the repercussions of the “Arab Spring” to a notably lesser extent than other countries in the Middle East, has taken an open, flexible approach to recent regional unrest, highlighting its own modest reform efforts to date as broadly reflective of popular demands for effective, transparent government.<sup>355</sup>

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<sup>352</sup> Blanchard (2011)

<sup>353</sup> Al Amer, Mohammed (2009)

<sup>354</sup> Qatar General Secretariat for Development Planning (2011)

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# SAUDI ARABIA



# SAUDI ARABIA

## Background Information

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Saudi Arabia, officially the Kingdom of Saudi Arabia, is located in the central portion of the Arabian Peninsula. Saudi Arabia is bordered by Jordan on the northwest, Iraq on the north and northeast, Kuwait, Qatar, Bahrain (connected by the King Fahd Causeway) and the United Arab Emirates on the east, Oman on the southeast, and Yemen on the south. The Persian Gulf lies to the northeast and the Red Sea to its west.

The country is spread over an area of approximately 2,150,000 sq km, with a current population of 26,939,583 (July 2013 est.), including 5,576,076 non-nationals.<sup>356</sup> Its capital city is Riyadh.

Saudi Arabia has an oil-based economy with strong government controls over major economic activities. It possesses about 17% of the world's proven petroleum reserves, ranks as the largest exporter of petroleum, and plays a leading role in OPEC. The petroleum sector accounts for roughly 80% of budget revenues, 45% of GDP, and 90% of export earnings.<sup>357</sup> The Human Development Index (HDI), Saudi Arabia is cited under the category entitled "High Human Development", ranking as the 57<sup>th</sup> out of 186 countries covered by the UNDP Human Development Report of 2013.<sup>358</sup>

The King of Saudi Arabia is both head of state and the head of government, but decisions are to a large extent made on the basis of consultation among the senior princes, with the King functioning as the ultimate arbiter. The Basic Law (a charter serving as the Constitution) adopted in 1992 stipulates that Saudi Arabia is a monarchy, and that the Qur'an is the constitution of the country, which is governed on the basis of Islamic law (*Shari'a*). Legislation is by resolution of the Council of Ministers, and the Consultative (or *Shura*) Council ratified by royal decree, and must be compatible with the *Shari'a*. Justice is administered according to *Shari'a* by a system of religious courts. The national Consultative

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<sup>356</sup> CIA The World Factbook (2013)

<sup>357</sup> CIA The World Factbook (2013)

<sup>358</sup> UNDP Human Development Report (2013)

Council, which composed of 150 members appointed by the King for a period of four years, to serve in advisory role.<sup>359</sup>

## **Sub-National Governance & Types of Local Authorities**

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The sub-national government system was significantly restructured in March 1992 via the establishment of an administrative system that divided the country into 13 provinces (*mintaqat*), each ruled by an Emir with the rank of minister. It is stipulated in Article 3 of the Law of the Provinces enacted in 1992 that: “Administratively, every province shall consist of a number of governorates (of “class A” or class B”), districts and centers (of “class A” or “class B”). Full consideration shall be given to the factors of demography, geography, security, environment and communications. The organization of a governorate shall be carried out according to a Royal Decree upon the recommendation of the Interior Minister. Establishment of an affiliation of districts and centres shall take effect upon the Interior Minister's decision, as proposed by the emir of the province.”<sup>360</sup>

The governorates are administered by Governors, and districts by Directors, in line with the classification above. In this context, as stipulated in Article 10 of the Law, every “Class A” governorate shall have a governor (with a rank not less than Grade 14) to be appointed by an order issued by the Prime Minister upon the recommendation of the Minister of Interior. Every “Class B” governorate shall have a governor (with a rank not less than Grade 12) to be appointed by the Minister of Interior upon the recommendation of the emir of the province. Every “Class A” district shall have a Director (with a rank of not less than Grade 8) to be appointed by the Minister of Interior upon the recommendation of the Governor. Every “Class B” district shall have a Director (with a rank of not less than Grade 5) to be appointed by the emir of the province.<sup>361</sup>

In line with Article 15 of the Law, the Governor is assisted by the Council of the Province. The Council, chaired by the emir of the respective province, is composed of the heads of the province’s government departments and a minimum of ten men of knowledge, expertise and specialization to be appointed from among the inhabitants by an order issued by the Prime

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<sup>359</sup> Basic Law of Saudi Arabia (1992)

<sup>360</sup> Law of the Provinces (1992)

<sup>361</sup> Law of the Provinces (1992)

Minister after their nomination by the emir of the province and the approval by the Interior Minister<sup>362</sup> - Their terms of office shall be four years and shall be renewable.<sup>363</sup>

The provincial government oversees the local offices of the central government and municipal officials. The classification of local units is reviewed every three years. As of 2005 local elections there were 178 municipalities in the county.<sup>364</sup> The second elections, in Saudi Arabia's history, took place in 2011 for half the seats in the kingdom's 285 municipal councils, while the other half were appointed by the government.<sup>365</sup>

### **Constitutional provisions on local authorities**

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The Basic Law adopted in 1992 declares that the Qur'an is the constitution of Saudi Arabia, and therefore, this Law serves as a charter, and not as a formal constitution. The Basic Law, divided into nine chapters consisting of 83 articles, lays down the basic framework for the exercise and division of powers, human rights, economic principles, financial affairs and other competencies and provisions in relation to the governance of the country.

The Basic Law, on the other hand, does not encompass any provisions that specifically address local authorities.<sup>366</sup>

### **Legislation concerning local authorities**

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Whereas the supervision of the municipalities was granted to a deputy ministry in the Ministry of Interior in 1963, the Ministry of Municipal and Rural Affairs was established by the Royal Decree No. A/276 enacted in 1975, which currently supervises the various units of local government. Subsequently, the ruling concerning municipalities and villages was issued by a Royal Decree in 1977.<sup>367</sup>

The main legislative framework concerning local authorities, on the other hand, is drawn by the “Law of the Provinces” enacted in 1992. This Law, consisting of 40 articles,

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<sup>362</sup> Law of the Provinces (1992)

<sup>363</sup> Law of the Provinces (Amended by the Royal Decree No. A/21, dated 16/09/1993)

<sup>364</sup> UNDP POGAR (2011)

<sup>365</sup> The official website of Saudi Arabia government (2013)

<sup>366</sup> Basic Law of Saudi Arabia (1992)

<sup>367</sup> UNDP POGAR (2011)

encompasses the basic provisions concerning the administration of the provinces and districts, including the Council of the Province, and other aspects in relation to the sub-national governance and types of local authorities in the country.<sup>368</sup>

### **Electoral processes in local authorities & local elections**

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There are no recognized political parties in Saudi Arabia, and thus national elections have not been held to date. On the other hand, the Council of Ministers decided in October 2003 “to broaden the participation of citizens in administrating local affairs by means of elections, and to revitalize Saudi Arabia’s municipal councils in conformity with the ruling concerning municipalities and villages issued by Royal Decree in 1977, and to ensure that one half of the members of all municipal councils would henceforth be elected.”<sup>369</sup>

In this context, the first local elections were held in 2005. Seventy percent of an electorate of 330,000 registered male voters participated in the elections. During the elections half of the members of 178 municipal councils were elected, wherein the other half were appointed by the government following the elections. The second municipal elections, scheduled to be held in October 2009, were postponed by two years by the government “to expand participation of citizens in management of local affairs”. The second municipal elections, scheduled to be held on 23 April 2011, were further postponed to September 2011 by the Decree of the Minister of Municipalities and Rural Affairs.<sup>370</sup>

During the second municipal elections, Saudi authorities have banned women from voting or registering as candidates. On 26 September 2011, Saudi King Abdullah announced that the nation's women will gain the right to vote and run as candidates in local elections to be held in 2015 in a major advancement for the rights of women in the deeply conservative kingdom.<sup>371</sup>

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<sup>368</sup> Law of the Provinces (1992)

<sup>369</sup> UNDP POGAR (2011)

<sup>370</sup> UNDP POGAR (2011)

<sup>371</sup> Islam Today (2013)

## **Structure and organs of local authorities**

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Every Municipal Council consists of 14 members, 7 of whom are elected and 7 are appointed by the government. The President of the Municipal Council (the Mayor) is not elected directly (or indirectly by the members of the Council from amongst their members), but he is appointed by the government, and reports to the Ministry Municipalities and Rural Affairs.<sup>372</sup>

## **Duties and responsibilities of local authorities**

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In line with Article 7 of the Law of the Provinces, the duties and responsibilities of the Emir of each province include, among others, the following:

- Maintain security, order and stability, and take necessary measures in accordance with this Law and other laws and regulations,
- Implement rulings of the courts upon acquiring their final dispositions,
- Guarantee human rights and freedom, refrain from any action which affects such rights and freedom except within the limits provided by the Sharia and the Law,
- Work for social and economic development and public works of the province,
- Work for the development and improvement of public services in the province,
- Administer governorates, districts and centers, and supervise governors, directors and districts and heads of centers, and ascertain their capabilities to perform assigned duties,
- Protect State property and assets and prevent their usurpation,
- Supervise governmental institutions and their employees in the province and ensure proper performance of their work in honesty and loyalty with consideration of their affiliation with various ministries and service,

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<sup>372</sup> UNDP POGAR (2011)

- Have direct contact with ministers and head of agencies to discuss affairs of the province and improve the performance of affiliated institutions and to advise the Interior Minister accordingly,
- Submit annual reports to the Interior Minister on the efficiency of public services and other affairs of the province as defined by the executive provisions in this Law.<sup>373</sup>

It is stipulated in Article 13 of the Law that the Governors shall manage their governorates within their limits of powers as provided in Article 7. They shall supervise the work of subordinate directors and heads of centers, and ascertain their ability to perform their duties. They shall provide the Emir of the province with periodic reports about the efficiency of public services and other affairs of their governorates, as defined by the Executive Regulations of this Law.<sup>374</sup>

In line with Article 23 of the Law on Provinces, the duties and responsibilities of the Council of Province include the following:

- Consideration of whatever might improve the standard of services in the province, in particular defining needs of the province and proposing their inclusion in the State's Development Plan;
- Defining useful projects and putting them in an order of priority, and proposing their endorsement in the annual budget of the State;
- Studying urban plans for villages and towns of the province, and following up the implementation of all allocations to the province from the development plan and the budget; and
- Coordinating the implementation of all allocations to the province from the development plan and the budget.<sup>375</sup>

## **Financial autonomy & resources of local authorities**

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The Ministry of Municipal and Rural Affairs issued a Decision on 29 September 2007, granting Municipal Councils the power to closely monitor the performance of municipal

<sup>373</sup> Law of the Provinces (Amended by the Royal Decree No. A/21, dated 16/09/1993)

<sup>374</sup> Law of the Provinces (Amended by the Royal Decree No. A/21, dated 16/09/1993)

<sup>375</sup> Law of the Provinces (1992)

employees in various sectors, including the sale of government land, land certificates, development projects, operations and maintenance projects, collection of revenues and municipal investments. The Decision gave Municipal Councils the right to receive a quarterly report from the municipalities concerning land sales; the right to receive the complete documents pertaining to any such sale; the right to question municipal executives about the financial administration of development projects; the right to investigate or review the conditions of signed contracts and determine their appropriateness; the right to review the terms of investment licenses granted to local and other investors. This administrative Decision enhances the supervisory and monitoring role of municipal councils and asserts the principle of transparency and efficiency.<sup>376</sup>

There is no fiscal separation between the budgets of the central government and municipalities. The necessary funding for municipal services and water authorities is allocated by the government. The local taxes collected by the municipalities are transferred to the Ministry of Municipal and Rural Affairs. The Ministry, in turn, returns a portion of the money for general expenditures, while utilizing the rest for its own operations.<sup>377</sup>

### **Central government control/tutelage over local authorities**

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Central government control/tutelage over local authorities is exercised primarily by the Ministry of Municipal and Rural Affairs, established in 1975, which oversees all areas of municipal governance. The Ministry controls municipal administration, city and town planning, and the development and maintenance of infrastructure such as roads and sanitation. The Ministry has also has jurisdiction over the Municipal Councils.<sup>378</sup>

Some of the larger provinces are divided into districts and sub-districts. The district and sub-district governments are subject to the authority of the provincial government.<sup>379</sup>

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<sup>376</sup> UNDP POGAR (2011)

<sup>377</sup> UNDP POGAR (2011)

<sup>378</sup> UNDP POGAR (2011)

<sup>379</sup> United Nations Public Administration Network (2013)

## **General framework of local autonomy & reform initiatives**

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The second local elections were announced by the Minister of Municipal and Rural Affairs to be held in September 2011. The municipal election process will incorporate some reforms to the previous electoral system. These changes encompass, among others, the following:

- Introducing the one vote system, which allows voters to cast their votes for a single candidate from an electoral list;
- Increasing the number of the municipal councils across the country from 179 to 258;
- Extending the term for municipal councilors from 4 to 6 years.

In addition to these reform initiatives, the Ministry of Municipal and Rural Affairs clearly identified the mission and objectives of the Municipality Councils. Accordingly, the Ministry provided voters with a deeper understanding of the roles and tasks of the Municipality Council. In particular, members of the Councils are responsible for setting forth a solid building regulation and creating a future urban strategy.<sup>380</sup>

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<sup>380</sup> Ministry for Municipal and Rural Affairs: website (2011)

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# SYRIA



# SYRIA

## Background Information

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Syria, officially the Syrian Arab Republic, is a country bordering Lebanon and the Mediterranean Sea to the West, Turkey to the north, Iraq to the east, Jordan to the south, and Israel to the southwest.

Syria is spread over an area of 185,180 sq km, with a population of 22,457,336 (July 2013 est.).<sup>381</sup> The capital city of the country is Damascus, and its largest city is Aleppo, both cities characterized by rich historical and cultural heritage.

Syria is a middle-income country with an economy primarily based on agriculture, oil, industry, and tourism. With a Human Development Index, Syria is cited under the category entitled “Medium Human Development”, ranking as the 116<sup>th</sup> out of 186 countries covered by the UNDP Human Development Report of 2013.<sup>382</sup>

After gaining its independence from the French Mandate in 1946, Syria became a secular parliamentary republic, with executive powers in the hands of the President, and the standing Parliament, or People’s Assembly. The Constitution of 1973 defines Syria as a “democratic, popular, socialist, and sovereign state”, with Islam recognized as majority religion. The Constitution stipulates that the people are the ultimate source of national sovereignty. Power is divided into the executive, legislative, and judicial branches. The President of the Republic has executive as well as some legislative powers. Legislative authority, however, is entrusted mainly to the People's Assembly.<sup>383</sup> Presidential elections take place every 7 years, while Parliament’s 250 seats are contested every 4 years. Syria abides by its Constitution which specifies the particular functions of each branch of the government with the Supreme Constitutional Court at its base. Members of the court include a chief justice and four justices who are appointed for a period of four years by Presidential decree.<sup>384</sup>

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<sup>381</sup> CIA The World Factbook (2013)

<sup>382</sup> UNDP Human Development Report (2013)

<sup>383</sup> UNDESA (2004)

<sup>384</sup> Website of Syrian Embassy (2011)

## Sub-national governance & types of local authorities

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Syria is divided into 14 governorates (*muhafazat*), each headed by a Governor. The Governors are appointed by presidential decree upon the recommendation of the Ministry of Interior, and report directly to the President. The Governors, assisted by elected Governorate Councils, control provincial government offices, as well as the local offices of ministries and state-owned enterprises.

The provinces are subdivided into, in descending order of authority, districts (*manatiq*), sub-districts (*nawahi*), and villages. Locally elected administrative councils administer these local authorities, though in practice they remain highly dependent on central leadership.<sup>385</sup>

Corresponding to these administrative divisions under the 14 governorates, Syria has the following levels of local authorities:

- 11 governorate-center cities (3 governorates not having central cities);
- 96 other urban districts qualified as cities (over 20,000 inhabitants);
- 248 towns (between 10,000 and 20,000 inhabitants);
- 207 villages with legal identities (between 5,000 and 10,000 inhabitants).

In this context, the total number of local authority units (having legal personalities and elected councils) in Syria is 562. These regional and local authorities have a total of 9,687 elected council members (as of 2007 elections).<sup>386</sup>

In addition to the above-mentioned local units, there are various other local units identified by the pertinent legislation which do not have elected councils or legal personalities. These include the quarters in cities and towns (administered by quarter committees), villages with less than 10,000 inhabitants (administered by village heads), farm settlements attached to villages (with less than 500 inhabitants), and administrative divisions of the governorates that do not have the status of local authority units.<sup>387</sup>

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<sup>385</sup> UNDESA (2004)

<sup>386</sup> Syria MAM Project (2003) & UNDP POGAR (2011)

<sup>387</sup> Syria MAM Project (2003)

## **Constitutional provisions on local authorities**

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The Constitution of the Syrian Arab Republic, consisting of 156 articles, was adopted on 13 March 1973.

The basic provisions on local authorities are provided in the Constitution under Part 3 entitled “The Local People's Councils”. Within the context of two complementary articles brought under this section, it is stipulated in Article 129 entitled “Councils” that: “The Local People's Councils are bodies which exercise their powers within the administrative units in accordance with the law. The administrative units are defined in accordance with the provisions of the law.”<sup>388</sup>

These provisions are complemented by Article 130 entitled “Powers” which stipulates that: “The law defines the powers of the Local People’s Councils, the method of electing and forming them, the rights and duties of their members, and all relevant regulations.”<sup>389</sup>

## **Legislation concerning local authorities**

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Key laws and regulations defining the regional and local authorities in Syria include the following:<sup>390</sup>

- Municipal Act (No. 172/1956);
- Law on Local Administrations (No. 15/1971; amended by Law No. 61/1974);
- By-law on Implementing the Law on Local Administrations (Decree No. 2297/1971);
- Law on the Election of Local Councils (No. 91/1971);
- By-law on Implementing Law on the Election of Local Councils (Decree No. 21-D-5/1971);
- Law for Funding Administrative Units (No. 1/1994);
- Law on Local Administration Units Finance System (No. 481/2007).

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<sup>388</sup> Constitution of Syria (1973)

<sup>389</sup> Constitution of Syria (1973)

<sup>390</sup> Syria MAM Project (2003) & Syrian-German Development Cooperation (2009)

## **Electoral processes in local authorities & local elections**

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The local elections system in Syria is regulated by the Law on the Election of Local Councils No. 91 enacted in 1971, coupled with the By-law on Implementing Law on the Election of Local Councils, issued by Decree No. 21 in 1971.

In line with the pertinent legislation, every citizen over 18 years of age (except those who serve in the army) is eligible to vote in local elections. Candidacy for competing in the local elections is open for citizens over 23 years of age. It is stipulated that local elections shall take place every four years.<sup>391</sup>

The elections cover the Governorate Councils, as well as the councils of other local authority units. The posts of the Governor and the Mayor are not voted. The Governor is appointed by the central government. The Mayor, on the other hand, is subsequently elected by the City Council from amongst its members. The election of the Mayor by the respective Council is finalized upon endorsement by the President for cities, and by the Ministry of Local Administrations and Environment for towns and villages.<sup>392</sup>

In the local elections held in June 2003, around 7.2 million citizens hold voting cards, wherein there were a total of 23,870 candidates for the council seats. Elections were held for a total of 8,558 council seats, distributed as follows: 1,224 seats for the Governorate Councils (14 governorates); 2,318 seats for City Councils (107 cities); 2,930 seats for Town Councils (248 towns), and 2,088 seats for Village Councils (207 villages).<sup>393</sup>

In line with the 4-year period stipulated in the pertinent legislation in relation to local elections, the most recent local elections in Syria took place on 26 and 27 August 2007. Around 8 million citizens hold voting cards, wherein there were a total of 32,058 candidates for the council seats. Elections were held for a total of 9,687 council seats, distributed as follows: 1,262 seats for the Governorate Councils (14 governorates); 2,942 seats for City Councils (107 cities); 3,133 seats for Town Councils (248 towns), and 2,350 seats for Village Councils (207 villages).<sup>394</sup>

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<sup>391</sup> UNDP POGAR (2011)

<sup>392</sup> UCLG GOLD II (2010)

<sup>393</sup> Syria MAM Project (2003)

<sup>394</sup> UNDP POGAR (2011)

## Structure and organs of local authorities

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Local councils are the primary decision-making organs of local authorities. The number of local council members per council depends on the level of local administration and on the number of inhabitants and various other factors in each area, within the following limits:

- Governorate Councils are composed of 30-100 members;
- City Councils are composed of 20-50 members;
- Towns and Village Councils are composed of 10-25 members.

In governorates and cities the Ministry of Local Administrations and Environment decides upon the specific number of members in respective councils, and in towns and villages the Governor decides upon the specific number of members in respective councils, within the upper and lower limits specified above for different levels of local administrations.<sup>395</sup>

Each local council has an Executive Bureau, consisting of both elected and appointed members, that implements the decisions of the Council. Depending on the population of the respective local authority, the Executive Bureau may encompass 6-10 members in the governorates, 4-8 members in cities and towns, and 2-4 members in villages.<sup>396</sup>

In governorates the Council is chaired by the Governor, who represents the central executive authority in the governorate. The Governor also chairs the respective Executive Bureau. As the highest appointed representative of the central government in the province, the Governor controls provincial government offices, as well as the local offices of ministries and state-owned enterprises.<sup>397</sup>

In cities and towns the respective local councils are chaired by the Mayor, who is elected by the council from amongst its members. The Mayor also serves as the head of the respective Executive Bureau.

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<sup>395</sup> Syria MAM Project (2003)

<sup>396</sup> Syria MAM Project (2003)

<sup>397</sup> UN DESA (2004)

## **Duties and responsibilities of local authorities**

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The basic framework in relation to the duties and responsibilities of local authorities is drawn up by the Law on Local Administrations (No. 15/1971, as amended by Law No. 61/1974).

In this context, the duties and responsibilities of the Governorate Councils include, among others, the following:<sup>398</sup>

- To lead and direct the administrative bodies affiliated to or under the jurisdiction of the governorate;
- To lead and direct the activities of lower level councils (City Councils, Town Councils and Village Councils, respectively);
- To approve the economic and social plans of the institutions and sectors within the jurisdiction of the governorate;
- To supervise the projects of the public sector in general, including public-private partnerships;
- To set the rules for and supervise the management of governorate property;
- To set the rules for the administration of the tasks delegated to the governorate;
- To set rules for and regulate all pertinent issues that is not exclusively in the jurisdiction of central authorities.

The Law also provides the governorates with basic responsibilities in the following fields:

- Industry (production, projects, loans, etc.);
- Agriculture (production, marketing, land improvements, irrigation, livestock, machinery, forestry, etc.);
- Supply (consumption, supply, price control, etc.);
- Culture and education (school buildings and facilities, historical and cultural heritage, curricula, libraries, tourism, fairs, etc.);
- Social domain (youth, sports, leisure, elderly, homeless, orphans, etc.);

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<sup>398</sup> Syria MAM Project (2003)

- Urban services (water, electricity, sewerage, transport, health, housing, etc.);
- Security and order (law enforcement, security, disaster mitigation, etc.)<sup>399</sup>

In line with the pertinent legislation, the duties and responsibilities of the City and Town Councils include, among others, the following:<sup>400</sup>

- To lead and direct the bodies affiliated to the city or town;
- To approve the municipal services such as roads, lighting, parks, sewerage, markets, parking, etc.;
- To undertake in the respective city or town the duties of the Governorate Council related to social, educational, cultural, health and economic affairs, and to approve the necessary plans;
- To establish and develop water and transportation services in the respective city or town;
- To agree on general urban planning of the respective city or town;
- To approve the construction plans of public buildings and housing units, as well as cooperative societies;
- To approve rules related to public health and public security;
- To ensure the protection of historical and cultural heritage;
- To ensure the organization of traffic, and public transport in the respective city or town;
- To ensure the delivery of other municipal services, including the removal and renovation of collapsing building, the lighting of streets and public places, cemetery services, fire fighting, flood protection, cleanliness, youth clubs, sports facilities, theaters and libraries, etc.;
- To set rules for and regulate all pertinent issues that are not exclusively in the jurisdiction of central authorities and the governorate;
- To approve the budget plan, and to submit it for ratification to higher authorities.

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<sup>399</sup> Syria MAM Project (2003)

<sup>400</sup> Syria MAM Project (2003)

With regard to water services in particular, responsibilities are shared between the local authorities and the Ministry of Housing and Construction, which has specialized departments on drinking water and wastewater issues.<sup>401</sup>

## **Financial autonomy & resources of local authorities**

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Pursuant to the Law No. 1 of 1994 regulating local duties and other income sources, the duties and fees levied by local authorities include the following: Additional fee on electricity consumption (20 percent of the sale value of electricity), building and repair licenses, construction fines (illegal buildings and parts of buildings), rent registration, sprits license (shops, restaurants, hotels, paid monthly), auction sales, street paving, cleaning (imposed on residential properties, paid annually), services (imposed on shops, restaurants and private hospitals), sales on streets, advertising, slaughtering, occupying public land, damages to public property, etc.<sup>402</sup>

Another major and crucial source of income for the local authorities is comprised by the shares from nationally-collected taxes, including the income tax (10 percent share), corporate tax (10 percent share), real estate tax (7.5 percent share), vehicle registration tax (5 percent share) and fuel consumption tax (1 percent share), as well as shares from import and customs duties.<sup>403</sup>

The local authority shares allocated from national taxes are centrally collected, and subsequently transferred from the general budget by the Ministry of Finance to the Ministry of Local Administrations and Environment, which distributes these shares on the basis of the number of registered inhabitants in each local authority. The Ministry distributes these tax shares between the provinces and cities, wherein the Governors further distribute them between the towns and villages.<sup>404</sup>

In general, the fiscal autonomy of local authorities in Syria is considered to be notably limited, whereby the pertinent legislation allows minor local discretion. There are no exclusively local taxes, but only the indicated fees and user charges are collected. On the

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<sup>401</sup> Syria MAM Project (2003)

<sup>402</sup> Syria MAM Project (2003) & Syrian-German Development Cooperation (2009)

<sup>403</sup> Syria MAM Project (2003) & Syrian-German Development Cooperation (2009)

<sup>404</sup> Syria MAM Project (2003)

other hand, fees for services are determined not by the Municipal Council, but by the Government. The legislation however, allows some band-width of fees wherein the discretion of the Municipal Council is limited with the centrally-specified minimum and maximum amount of fees.<sup>405</sup>

### **Central government control/tutelage over local authorities**

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Central government control/tutelage over local authorities in Syria is primarily exercised by the Ministry of Local Administrations and Environment. The role of the Ministry of Local Administrations has been defined in the legislative Decree No. 69/1973, whereas the role of the Ministry of Environment was defined in the legislative Decree No. 11/1991.<sup>406</sup>

### **General framework of local autonomy & reform initiatives**

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Syria has recently opened up to new initiatives by all means and at various levels. Its readiness for development directives, willingness for elaborating local development plans in an inclusive participatory manner, openness to exchange of expertise and benefit from the international advanced experiences has been clearly stated by the Government Officials at both the ministries and governorate level have found their reflections in the Tenth Five-Year Plan (2006-2010), which derived its policy guidelines and objectives from a span of 20 years of strategic outlook.<sup>407</sup>

Chapter 1 of the Plan affirms the political will and determination to take all the necessary structural changes in order to achieve a modernized and democratic Syrian society during the coming two decades. Chapter 3 provides more tangible development goals that spread over a period of ten years, including improved governance mechanisms and better public administration machinery, as well as fair distribution of resources to local authorities.<sup>408</sup>

Chapter 25 of the Plan draws particular attention to “Decentralization and Local Development” to consolidate the development goals. In this context, the Plan provides for local development planning, at the Governorate level, and down to the village level.

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<sup>405</sup> Syrian-German Development Cooperation (2009)

<sup>406</sup> Syria MAM Project (2003)

<sup>407</sup> State Planning Commission (2008)

<sup>408</sup> State Planning Commission (2008)

Decentralization process is envisaged to be comprehensive, which is a medium to long-term endeavor, entailing mechanisms for efficient budget management at the local level for sharing of responsibilities between local communities and the central Government for financing and implementation of services.<sup>409</sup>

Moreover, the recently established Regional Planning Commission works to improve planning and monitoring on the local level through local development and planning tools and mechanisms for local implementation.<sup>410</sup>

In addition, the international agreement signed in Damascus on 23 December 2009 between the governments of Syria and Turkey to launch a joint program to improve the local government system in Syria was recently ratified and activated in May 2011. This agreement, entitled the “Cooperation Agreement between the Ministry of Interior of the Republic of Turkey and the Ministry of Local Administrations of the Syrian Arab Republic”, is anticipated to pave the way for the local authorities in Syria to benefit from the recent reform initiatives and the experience of local authorities in Turkey.<sup>411</sup>

The sweeping wave of the “Arab Spring” had major repercussions in Syria from February 2011 onwards, manifesting itself in the form of a series of demonstrations and protest movements targeting political and constitutional reforms. As political unrest escalated in May 2011, the government moved to forcefully end large demonstrations. The protest movements and upheavals, however, continued in the months that followed. Although the outcomes of the 2011 political unrest in Syria are difficult to predict, the ongoing reform process is anticipated to accelerate in the upcoming years.

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<sup>409</sup> ART SYRIA Annual Report (2010)

<sup>410</sup> ART SYRIA Annual Report (2010)

<sup>411</sup> *Turkish Official Gazette* (5 July 2011)

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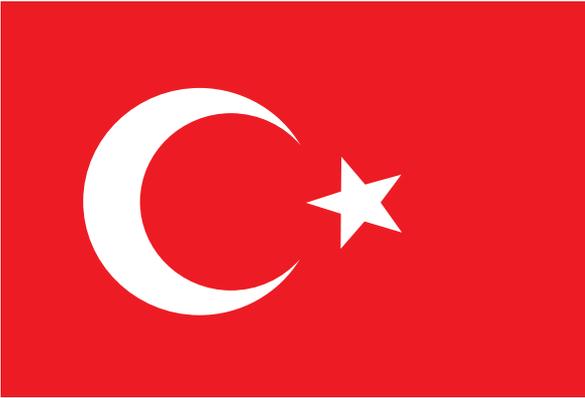
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# TURKEY



# TURKEY

## Background Information

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Turkey, officially the Republic of Turkey, stretches across the Anatolian peninsula in western Asia and Thrace in the Balkan region of southeastern Europe. Turkey has a unique geographical position in the world as the country is located at the crossroads of two continents, namely Europe and Asia.

Turkey, with an ancient and outstanding cultural heritage, spreads over an area of 814,578 sq km. The current population of the country has reached 75,627,384 (as of 2012), of which 76.30% live in urban areas.<sup>412</sup>

With a Human Development Index of 0,722, Turkey is cited under the category entitled “High Human Development”, ranking as the 90<sup>th</sup> out of 187 countries covered by the UNDP Human Development Report of 2013.<sup>413</sup>

Turkey is a parliamentary representative democracy. Turkey's Constitution governs the legal framework of the country, setting out the main principles of government and establishing Turkey as a unitary centralized state. The President of the Republic is the head of state and has a largely ceremonial role. Executive power is exercised by the Prime Minister and the Council of Ministers which make up the government, while the legislative power is vested in the Grand National Assembly of Turkey. The judiciary is independent of the executive and the legislature, and the Constitutional Court is charged with ruling on the conformity of laws and decrees with the constitution.

## Sub-national governance & types of local authorities

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Sub-national governance in Turkey essentially operates at the provincial, district, municipal and village levels, and reflects a mix of central and local authorities and functions.

The country is administratively divided into 81 provinces. Each province is administered by a Governor, appointed by the Council of Ministers and functions as an agent of the central

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<sup>412</sup> TÜİK (2013)

<sup>413</sup> UNDP Human Development Report (2013)

government through the Ministry of Internal Affairs. The provinces are further divided into districts, each administered by a Sub-Governor functioning under the Governor of the province. Currently, there are 957 districts in Turkey.<sup>414</sup>

Parallel to this administrative organization of the central government, there is a system of local governance encompassing three main types of local authorities, namely the Special Provincial Administrations, Municipalities and Villages. In due course, the Metropolitan Municipalities and the unions of local authorities have been included in this context.

In this general framework, provincial administrations (encompassing the provinces and districts) implement the decisions of the central government, and operate on the basis of the principle of “deconcentration”, whereas local authorities, established as democratic public entities, carry out local public services at the provincial, municipal and village levels, and operate on the basis of the principle of “decentralization”.

The different types of local authorities in Turkey encompass the following:

**Special Provincial Administrations:** In line with the pertinent legislation, in the case of the establishment of a province, a Special Provincial Administration is also automatically established for the respective province. Thus, corresponding to the total number of provinces, there are currently 81 Special Provincial Administrations in the country. Number of Special Provincial Administrations will be reduced to 52, as per the 5216 numbered new Law on Metropolitan Cities. Special Provincial Administrations are local authority units operating as public entities within the geographical coverage of the respective provinces. They are granted with (occasionally overlapping) powers and responsibilities outside, as well as within the boundaries of the municipalities located in their respective provinces.

**Municipalities:** Under the present intergovernmental framework the basic urban administrative units are the municipalities, whose jurisdiction is limited to urban areas and to settlements with more than 5,000 inhabitants (before 2005 this threshold was 2,000 inhabitants). As the local bodies with the largest and most clearly defined scope of authority, municipalities have increasingly become the key actors in local governance. Currently, there are 2,950 municipalities in the country. Despite the recent efforts of the central government to reduce the number of municipalities by merging and/or amalgamating

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<sup>414</sup> TÜİK (2011)

those under the specified urban threshold of 5,000 inhabitants, many of these municipalities managed to retain their status by virtue of the court decision and thus, these village-sized settlements continue to constitute the outright majority of the municipalities in the country. According to a new law adopted in 2014 the number of municipalities will be reduced to 1395.

**Villages:** Being historically the oldest and most widespread type of local authorities, villages are settlements with less than 5,000 inhabitants (before 2005 this threshold was 2,000 inhabitants). Currently, there are more than 34,000 villages in Turkey. Each is governed by a popularly elected elder known as the *muhtar* and a council whose members are also elected by all adult village residents. The *muhtar*, as the area's chief executive, not only represents the village and oversees the provision of local services, but also acts as the central government representative for the locality.

A corresponding structure exists in urban neighborhoods (*mahalle*) wherein each neighborhood elects its own *muhtar*, though this individual lacks the executive power of his/her rural equivalent and operates within a very limited framework. Unlike villages, urban neighborhoods do not have a legal personality, and although they are administrated by elected heads, they are not part of the local government system, but an extension of the central government at the locality.

**Metropolitan Municipalities:** The Metropolitan (“Greater City”) Municipalities were introduced in mid-1980s, starting with the largest 3 cities in the country (namely, Istanbul, Ankara and Izmir) and gradually being extended to other relatively large cities. Currently, there are 30 Metropolitan Municipalities in the country. The Metropolitan Municipality model is a democratically-structured two-tier system, consisting of the metropolitan municipality and (at least 3) district municipalities. Rather than establishing a strictly hierarchical functioning between the two tiers, the district municipalities are granted with the same status as any other municipality outside the metropolitan framework, whereas the upper tier of the model have been equipped to serve as an “umbrella” over the districts, undertaking major and cross-cutting urban services, as well as coordination and planning functions for the whole metropolitan area.

**Unions of Local Authorities:** In line with the pertinent legislation, municipalities and other local authorities are entitled to establish municipal or local government unions in order to

undertake common services and to encourage cooperative activities amongst them. The unions enjoy the authority, powers and rights of municipalities and other local authorities. Operating on a “voluntary” basis, such unions may focus on a specific joint service (such as the operation of sanitary landfills, treatment plants, etc.), seek to establish a country-wide network on a specific topic (such as the “Union of Historical Cities”) or operate on the basis of a specific province or a geographical regional for advocacy or similar purposes. The country-wide network of municipalities, established in mid-1940s with the status of an NGO (“Association”), was converted in 2002 into the Union of Municipalities of Turkey, established as a public body which represents all municipalities (on the basis of “compulsory” membership brought by the pertinent legislation in 2005) in the country.

### **Constitutional provisions on local authorities**

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In line with the Constitution of Turkey (adopted in 1982, with a number of revisions being made in subsequent years), public administration in Turkey is shared by central and local authorities. The pertinent provisions include the following:

Article 123 of the Constitution entitled “Integral Unity and Public Legal Personality of the Administration” stipulates that: “The administration forms a whole with regard to its structure and functions, and shall be regulated by law. The organization and functions of the administration are based on the principles of centralization and local administration. Public corporate bodies shall be established only by law, or by the authority expressly granted by law.”<sup>415</sup>

Article 126, entitled “Central Administration”, stipulates that: “In terms of central administrative structure, Turkey is divided into provinces on the basis of geographical situation and economic conditions, and public service requirements; provinces are further divided into lower levels of administrative districts. The administration of the provinces is based on the principle of devolution of wider powers.”

Article 127 entitled “Local Administrations”, draws up the basic framework of local government in Turkey. Local authorities are defined as “public corporate entities established to meet the common local needs of the inhabitants of provinces, municipal districts and villages, whose decision-making organs are elected by the electorate as described in law,

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<sup>415</sup> Constitution of the Republic of Turkey

and whose principles of structure are also determined by law.” In this framework, the Constitutional basis of the three main types of local authorities, namely the Special Provincial Administrations, Municipalities and Villages, are laid down.

Article 127, also stipulating that “Special administrative arrangements may be introduced by law for larger urban centers”, paved the way for the establishment of Metropolitan Municipalities in large cities of the country.

Furthermore, the Constitutional basis of the unions of municipalities in Turkey are also laid down in Article 127 via the following provisions: “The formation of local administrative bodies into a union with the permission of the Council of Ministers for the purpose of performing specific public services; and the functions, powers, financial and security arrangements of these unions, and their reciprocal ties and relations with the central administration, shall be regulated by law. These administrative bodies shall be allocated financial resources in proportion to their functions.”

### **Legislation concerning local authorities**

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It is stipulated in Article 127 of the Constitution entitled “Local Administrations” that: “The formation, duties and powers of the local administration shall be regulated by law in accordance with the principle of local administration.” In this context, the legislation concerning local authorities includes the following:

**Special Provincial Administrations:** The initial legislative arrangements in relation to the Special Provincial Administrations were made during the Ottoman period via the Act of Provinces dated 1864, and the provinces were granted with “special” areas of jurisdiction via the renewed Temporary Act of Provinces issued in 1913. This “temporary” Act has continued under the new Republic to become one of the most long-lasting legislative arrangements, as it remained intact apart from minor revisions until the turn of the new millennium. Within the context of the series of laws concerning different types of local authorities issued during the mid-2000s, the Law on Special Provincial Administrations, No. 5302 was enacted in March 2005, replacing the previous law. Besides, some new regulations for the Special Provincial Administrations are included in the new Law on Metropolitan Cities, ratified on 12<sup>th</sup> of November, 2012.

**Municipalities:** The Law on Municipalities No. 1580 dated 1930 has been one of the basic laws enacted by the new Republic, providing a comprehensive legal and regulatory framework for municipalities. By virtue of granting the municipalities broad authority in ensuring the health, well-being and welfare of citizens and providing an extensive framework of service provision, the Law managed to remain primarily intact for three-quarters of a century. Yet, in the face of major socio-economic and technological developments, coupled with substantial changes in local public requirements and expectations since the 1930s, many of the provisions of the Law became obsolete or unable to meet the rapidly changing needs of the urban settlements. In this context, the Law on Municipalities, No. 5393 was enacted in July 2005, replacing the previous law. Besides, some new regulations for the Special Provincial Administrations are included in the new Law on Metropolitan Cities, ratified on 12<sup>th</sup> of November, 2012. Boundaries of the district municipalities are re-defined as the “territorial boundaries of these districts”. Legal entities of the villages and township municipalities located within the territorial boundaries of the districts under the provinces which have metropolitan municipalities have been removed. The villages whose legal entities have been removed have been amalgamated with the municipalities of the districts that they are located in. The municipalities whose legal entities have been removed have been amalgamated with the municipalities of the districts they are located in, as a single neighborhood, under the name of the former town municipality. Municipalities and villages whose legal entities have been removed shall inform the relevant district municipalities about their current personnel, movable and immovable properties, construction equipments and other vehicles and all the receivables and payables to the public institutions and organizations within 1 month as of 6/12/2012. The notifications shall be made to the relevant province municipality in localities where no district municipality has been formed yet, and approvals shall be made by such province municipalities. No personnel recruitment shall be made by the municipalities and villages whose legal entities have been removed, including those who shall be recruited through personnel transfer, except for those whose announcements were made before 6/12/2012; and no service provision contract shall be concluded by those municipalities and villages, in a way that it covers periods which end after the aforementioned date, or extends the scope of the service provision and number of personnel. Personnel, movable and immovable properties, rights, receivables and payables of the municipalities and villages whose legal entities have been removed shall be transferred to the relevant ministries, metropolitan municipalities, subsidiaries or district

municipalities, as per the decision of the transfer, liquidation and allotment commission. The transfer procedures are put into practice as of the first general local elections. Until the organization procedure is completed, all kinds of works and procedures pertaining to the central administration in the newly created districts and the administrative cases and all the works and procedures regarding such cases shall be executed in accordance with the existing affiliate status. Until the district administration councils are created in the newly founded districts, the administration councils of the provinces and districts which they previously operated under are authorized and in charge. The local administration unions consisting of municipalities, special provincial administrations and villages or whose goals shall become void as of the date on which this Law will enter into force shall be liquidated as per their bylaws, before the first general local elections. Such unions may not hire new personnel, acquire movable and immovable properties, sell their movable and immovable properties, conclude contracts and enter into debts with regards to service procurement, as of 6/12/2012.<sup>416</sup>

**Metropolitan Municipalities:** Based upon Article 127 of the Constitution stipulating that “Special administrative arrangements may be introduced by law for larger urban centers”, the Metropolitan Municipality model was established in 1984 via the Law on Metropolitan Cities, No. 3030. After two decades of implementation, this Law was replaced in July 2004 by the Law on Metropolitan Municipalities, No. 5216. (After a year of implementation, a number of revisions were made in this new Law via the Law No. 5390, dated July 2005.) As underlined in Article 10 of the Law on Metropolitan Municipalities, the municipalities operating under the metropolitan framework are also subject to the provisions of the Law on Municipalities, No. 5393. Thus, the primary legislation concerning the Metropolitan Municipalities also encompassed the Law on Municipalities, No. 5393 along with the Law on Metropolitan Municipalities, No. 5216. Then a new Law on the Metropolitan Municipalities, No.6360 occurred in 2012 which raised the number of metropolitan municipalities to 30 from 16 was passed. According to this new law; definition of Metropolitan Municipality has been changed as: “a public legal entity, boundaries of which are the civil provincial boundaries and which ensure coordination among the district municipalities within its boundaries; fulfilling its duties and responsibilities assigned to them by means of law and enjoying their authority through administrative and financial

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<sup>416</sup> [www.dpb.gov.tr](http://www.dpb.gov.tr)

autonomy, and the decision making body of which are elected by their constituency”; boundaries of the metropolitan municipalities have been expanded as the civil boundaries of the relevant provinces, and the metropolitan municipalities have assumed new tasks and powers within this framework. It was ensured by law, that the provincial municipalities of provinces with more than 750.000 population may be converted into metropolitan municipalities; and the criteria regarding the physical settlement status and economic development level have been removed.

Sub-districts and sub-district organizations of the provinces with metropolitan municipalities have been removed. The condition that the new townships to be founded in provinces with metropolitan municipalities should not be less than 50.000 have been modified as 20.000. It has been stipulated that no neighborhood with less than 500 population may be founded. Construction, maintenance and renovation of sanctuaries have been included among the duties and responsibilities of municipalities. Furthermore, powers and duties such as opening guesthouses for women and children, providing aids in kind and financial aids and organizing sports competitions to promote sports have been stipulated for the metropolitan municipalities and municipalities with more than 100.000 population. Structures of the Provincial Councils under the Special Provincial Administration have been amended to be consisting of “three members to be elected annually by the secretary general and the general provincial council, headed by the Governor, out of its own members two members to be elected annually among the heads of departments. In provinces with metropolitan municipalities, Investment Monitoring and Coordination Departments have been established, under the Governor. Investment monitoring and coordination departments may create disaster relief, emergency call, investment monitoring, guidance and inspection, strategy and coordination and administrative directorates. These departments are managed by the governor or a deputy governor to be assigned by the governor. Coordination, inspection and monitoring of all kinds of aids and supports to be provided by the central government and implementation of them in cases of emergency shall be carried out by the investment monitoring and coordination department.

112 emergency call centers have been established under the investment monitoring and coordination departments in metropolitan municipalities and under governorates in other provinces.

**Villages:** The initial legislative arrangements in relation to the villages were made during the Ottoman period via the Act of Provinces dated 1864. During the establishment of the Republic of Turkey in 1923, one of the first and priority areas of issuing new legislation has been on the villages. In this respect, the Law on Villages No. 442 was enacted in 1924. This law was also intended to be renewed along with the series of laws concerning different types of local authorities, all enacted during the mid-2000s. However, the revisions could not be finalized in due time, and therefore this Law dating back to 1924 remains to be the only basic law concerning the local authorities in Turkey that has not been replaced within the context of the local government reform initiatives conducted during the first decade of the new millennium. However, the legal entities of the municipalities whose population is under 2.000, according to the 2011 census have been removed and converted into villages as of the first general local elections, as per the 6360 numbered Law on New Metropolitan Municipalities, passed on 12 November 2012. Provisions on conversion of province municipalities into metropolitan municipalities, removal of the special provincial administrations, legal entities of municipalities and villages, expansion of the boundaries of the metropolitan cities as the civil boundaries of the province and founding district municipalities shall be implemented in the next general local elections and such elections shall be held in accordance with the new status of such places. Provisions on founding new districts entered into force on 6/12/2012. All the personnel, all kinds of movable and immovable properties, rights, receivables and payables of the municipalities whose population is less than 2.000 and legal entities were have been removed shall be transferred to the special provincial administrations. However, the immovable properties and tools and equipments needed by those municipalities which have been converted into villages shall remain in the relevant legal entities of the village, as per the decision of the commission. It is also stipulated that governors and mayors of metropolitan cities shall be able to obtain diplomatic passports. A Transfer, Liquidation and Allotment Commission shall be created under a deputy governor, with the participation of representatives of the organizations and institutions to be deemed appropriate by the governor, to execute transfer, liquidation and allotment procedures<sup>417</sup>.

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<sup>417</sup> [www.dpb.gov.tr](http://www.dpb.gov.tr)

**Unions of Local Authorities:** Legislation concerning the unions of local authorities was primarily incorporated within the Law on Municipalities No. 1580 enacted in 1930, as a separate section within this Law. As part of the series of laws on local authorities enacted in mid-2000s, the Law on Unions of Local Authorities, No. 5355 was enacted in June 2005 as a separate law, signifying the growing importance of this model of coordination and cooperation between local authorities in the country.

### **Electoral processes in local authorities & local elections**

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Article 67 the Constitution draws up the basic framework for the electoral processes in general, which also encompasses the local authorities. Article 127 of the Constitution entitled “Local Administrations” builds upon the provisions in relation the election of local decision-making organs, stipulating that: “The elections for local administrations shall be held every five years in accordance with the principles set forth in Article 67. However, general or by-elections for local administrative bodies or for members thereof, which are to be held within a year before or after the general or by-elections for deputies, shall be held simultaneously with the general or by-elections for deputies.”

In line with the pertinent legislation, local elections are held every 5 years, the last election being held on 29 March 2009. The elections are held for the members of the Provincial General Councils, the Mayors of Metropolitan Municipalities, the Mayors of Municipalities, members of the Municipal Councils, and the heads of Villages, as delineated below:

**Special Provincial Administrations:** The members of the Provincial General Council, the main decision-making body of the Special Provincial Administration, are popularly elected. The Special Provincial Administrations do not have an elected leader corresponding to the Mayors in the municipalities, but as a point of ongoing debate, these elected bodies are chaired by Governor, the highest appointed representative of the central government at the locality. The number of Provincial General Council members is a minimum of 2 in the smallest districts (below a population of 25,000), gradually increasing in accordance with the population of the districts. In the most recent local elections of March 2009, the

candidates competed for a total of over 3,281 available seats in the Provincial General Councils in 81 provinces.<sup>418</sup>

**Municipalities:** The Mayor and the members of the Municipal Council are popularly elected. Mayors stand for election either independently or as candidates of political parties; once elected, however, they are obliged to resign from any administrative posts held within their parties. The number of Municipal Council members, varying in accordance with the size of the municipalities, ranges between 9 in the smallest to 55 in the largest municipalities (excluding the Metropolitan Councils).<sup>419</sup> In the most recent local elections of March 2009, the candidates competed for a total of 32,392 available seats in the Municipal Councils around the country.<sup>420</sup>

**Metropolitan Municipalities:** The election system for Metropolitan Municipalities is different from regular municipalities. The Mayor of the Metropolitan Municipality is directly elected by popular vote during the elections, in the same manner as the mayors all other municipalities. On the other hand, the members of the Metropolitan Council are not directly, but indirectly elected. Elections are held only for the members of the Councils and Mayors of District Municipalities. The Metropolitan Council consists of one-fifth of the members of District Councils (receiving the highest number of votes in their contexts) and the Mayors of District Municipalities (*ex officio* members), chaired by the Mayor of the Metropolitan Municipality.

**Villages:** The heads of Villages (*muhtars*) are popularly elected by the villagers who are eligible to vote. In addition, the members of an Elderly Committee, ranging between 4 to 6 persons (8 to 12 persons, including substitutes) according to the population of the village are also elected during the elections.

The *muhtars* for urban neighborhoods are also elected during the elections along with the governing organs of local authorities, but they are not considered as part of the local government system. On the other hand, in the recent legislation (in particular, in the Law on Municipalities, No. 5393 enacted in 2005) connections are being established for the first time between the municipalities and urban neighborhood administrations.

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<sup>418</sup> Mahalli İdareler Genel Müdürlüğü, İl Genel Meclisi Seçimleri Sonucu (2009)

<sup>419</sup> Seçim Kanunu No. 2972 (1984)

<sup>420</sup> Mahalli İdareler Genel Müdürlüğü, Belediye Meclisi Üyeliği Seçimleri Sonucu (2009)

## **Structure and organs of local authorities**

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**Special Provincial Administrations:** The governing organs of Special Provincial Administrations consist of the General Provincial Council, the Provincial Executive Committee and the Governor.

The General Provincial Council, consisting of elected representatives at the provincial level, is the main decision-making organ the Special Provincial Administration. The meetings of the General Provincial Council are chaired by the President of the Council who is elected by the Council from amongst its members.

The Provincial Executive Committee, chaired by the Governor, consists of 5 members who are elected by the General Provincial Council from amongst its members to serve on an annual basis, as well as 5 other members who are appointed by the Governor from amongst the directors of departments (one of them being the director of the finance department), also to serve for a year.

The Governor is the head of the Special Provincial Administration, and the representative of its legal personality. Thus, under the new legislation concerning Special Provincial Administrations, the predominant role of the Governor as the highest appointed representative of the central government at the locality continues, albeit to a lessened degree over the elected Provincial Council.

The administrative structure of the Special Provincial Administration is managed by a Secretary General, who is appointed as a civil servant and reports to the Governor. The Secretary General chairs the meetings of the Provincial Executive Committee in the absence of the Governor.

**Municipalities:** The governing organs of municipalities consist of the Municipal Council, the Mayor and the Municipal Executive Committee.

The Municipal Council, consisting of elected representatives at the municipal level, is the main decision-making organ the municipality. The Council decides upon all major issues concerning the municipality, including strategic plans, investment and implementation programs, the budget, development plans, municipal assets, levels of user charges and fees, concessions and privatization, municipal cadres and issuing by-laws, among others.

The Municipal Executive Committee, chaired by the Mayor, consists of both elected and appointed members, its total number being 7 in larger municipalities (province centers and/or over 100,000 population) or 5 in smaller municipalities. In larger municipalities the Municipal Council elects 3 persons from amongst its members to serve on an annual basis, with 3 persons appointed by the Mayor from amongst the directors of departments, whereas in smaller municipalities 2 persons are elected and 2 persons appointed, coupled with the Mayor.

The Mayor, elected by popular vote, is head of the municipality, and the representative of its legal personality. Turkey is characterized by a strong mayor system. The present system undermines the role of the Municipal Council. The Mayor chairs the Council meetings, and prepares the agenda. Thus, the Council, as the main decision-making body, cannot exercise an effective control over the Mayor, who is responsible for executive functions.

**Metropolitan Municipalities:** District municipalities under the metropolitan structure and non-metropolitan municipalities have the same status under the law, regardless of their size, and their principal administrative bodies are essentially the same. However, metropolitan municipalities have a different structure designed to meet the unique requirements of these large-scale urban settlements.

The Metropolitan Council, the main decision-making body of the metropolitan area, is composed of the Metropolitan Mayor, the District Mayors and one-fifth of the District Municipal Councilors (receiving the highest number of votes in their contexts). The President of the Metropolitan Council is the Metropolitan Mayor. The Metropolitan Council decides upon all major issues concerning the metropolitan area, including the strategic plans, annual targets, investment programs and the budget; large-scale development plans and monitoring the plan implementations of district municipalities, urban rehabilitation programs, transportation master plan and services, major road networks, urban information systems, protection of the environment, water and sanitation networks and services, solid waste plans and sanitary landfills, terminals and parking spaces, major social and cultural facilities, cultural heritage and disaster preparedness, among others.

The Metropolitan Executive Committee, chaired by the Metropolitan Mayor, is an executive and decision-making body consisting of 5 members who are elected by the Metropolitan Council from amongst its members to serve on an annual basis, as well as 5 other members

who are appointed by the Mayor from amongst the directors of departments (one of them being the Secretary General and another the director of the finance department), also to serve for a year.

The Metropolitan Mayor, directly elected by the local populace for a term of five years, is the chief executive and coordinator of the metropolitan area, and represents the legal personality of the metropolitan municipality. The strong mayor system in the country has also found its reflection in the legislation concerning metropolitan municipalities. Alongside chairing and preparing the agenda of the Council, the Metropolitan Mayor has a veto power over all decisions taken by the Council, which may only be overruled by a majority vote (previously, two-thirds majority was required).

The Secretary General is appointed by the Ministry of Internal Affairs, upon the recommendation of the Metropolitan Mayor. Functioning in a manner similar to the system of “City Manager” adopted by many countries around the world, the overall administration of the metropolitan municipality is undertaken by the Secretary General and his/her deputies, under the supervision of the Metropolitan Mayor.

**Villages:** The organs of villages consist of the Village Association, the Village Head (*muhtar*) and the Elderly Committee. The Village Association consists of the villagers eligible to vote, and thereby entitled to elect the *Muhtar* and the members of the Elderly Committee. The *Muhtar* is the representative of the legal personality of the village, and chairs the Elderly Committee. The *Muhtar*, considered to be a civil servant, has a dual role in performing functions concerning the central government, as well as concerning the respective village.

## **Duties and responsibilities of local authorities**

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**Special Provincial Administrations:** The Law No. 5302 enacted in February 2005, replacing the Temporary Act of Provinces issued in 1913 which remained intact apart from minor revisions, has paved the way for the transfer of most ministerial functions at the central level (in areas such as health, environment, tourism, culture and social assistance) to the Special Provincial Administrations, thereby converting them into important and strong units of local government.

Pursuant to the new legislation, the Special Provincial Administrations are provided with duties and responsibilities within the boundaries of the province, as well as outside the municipal boundaries. In this framework, within the boundaries of the province, their duties and responsibilities encompass the environmental plan of the province, youth and sports, health, agriculture, commerce and trade, public works and housing, combating erosion and deforestation, culture and arts, tourism, social services, poverty alleviation, foster homes for the children, construction and maintenance of primary education facilities, etc. In addition, outside the boundaries of the municipalities, their duties and responsibilities encompass public works and settlements, roads, water and sanitation, solid waste, protection of the environment, emergency aid and rescue, support to forestation, parks and gardens, etc.

Legal entities of the “Special Provincial Administrations” have been terminated in provinces which have been converted into metropolitan municipalities as per the 5216 numbered New Law on Metropolitan Municipalities, passed on 12 November 2012. Number of Special Provincial Administrations have been reduced from 65 to 52. It has been stipulated that, the powers, duties and responsibilities of the former special provincial administrations have been transferred to the relevant ministries, their subsidiaries or related institutions, their provincial organizations, metropolitan municipalities, subsidiaries, district municipalities and governorates<sup>421</sup>.

**Municipalities:** The framework of duties and responsibilities of municipalities, enlarged and restructured by the new Law on Municipalities No. 5393 enacted in July 2005, encompass urban and land-use planning and development control, urban infrastructure including water and sanitation services and public transport, roads and drainage, geographical and urban information systems, environmental protection, solid waste collection and disposal, fire protection, emergency aid and rescue, inter-city traffic, cemetery services, urban greening, parks and other recreational facilities, housing, culture and arts, tourism, youth and sports, social services, consumer protection, development of the local economy, etc. The relatively large municipalities (over 50,000 population) are required to provide and operate shelter homes for women and their children. The municipalities are granted with additional duties and responsibilities in the areas of education (restricted with the provision of facilities), health facilities, and the preservation of historical and cultural heritage, among others.

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<sup>421</sup> [www.dpb.gov.tr](http://www.dpb.gov.tr)

Article 14 of the Law on Municipalities delineating the duties and responsibilities of the municipalities also encompass the provision that: “The municipality undertakes or ensures the delivery of other duties and services of a common and local nature that are not exclusively assigned by laws to another public body or institution.” This provision apparently grants a “general competence” to the municipalities”, in line with Article 4, Paragraph 2 of the European Charter of Local Self-Government.<sup>422</sup> Furthermore, under the same article, it is stipulated that: “The municipal services are provided at the closest proximity to the citizens, and with the most appropriate methods thereof.” This provision signifies an explicit commitment to the principle of “subsidiarity” in local governance, also in line with Article 4, Paragraph 3 of the European Charter of Local Self-Government.<sup>423</sup>

**Metropolitan Municipalities:** The District Municipalities are responsible for all municipal functions delineated in the Law on Municipalities No. 5393, and which are not specifically allocated to the Metropolitan Municipality. The specific duties and responsibilities of the Metropolitan Municipalities, on the other hand, encompass the following, among others: At the metropolitan level, preparation of the strategic plans, annual targets, investment programs and the budget; preparation and implementation of master plans, and overseeing their implementation by district municipalities; preparation and implementation of transportation master plans, including the construction and maintenance of major road networks and the provision of public transportation services; establishment of geographical and urban information systems; protection of the environment, including water basins; preparation and implementation of the metropolitan solid waste management plans, including the construction and maintenance of sanitary landfill sites; the provision of water and sanitation networks and services, including dams and treatment plants, as well as a broad spectrum of other services and functions, including disaster preparedness, urban renewal and rehabilitation, preservation of historical and cultural heritage, major social and cultural facilities, fire protection, emergency aid and rescue, inter-city traffic, cemetery services, urban greening, parks and other recreational facilities, terminals and parking spaces, youth and sports, consumer protection, fees and charges for urban services, development of the local economy, and coordination of district municipal services, among others.

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<sup>422</sup> European Charter of Local Self-Government (1985)

<sup>423</sup> European Charter of Local Self-Government (1985)

Metropolitan municipalities are entitled by a special law (Law No. 2560) to establish semi-autonomous public bodies to undertake their water and sewerage services.

**Villages:** Due to their relatively small sizes, the duties and responsibilities of the Villages are very limited in comparison with other types of local authorities. The Law on Villages No. 442 enacted in 1924 in early days of the Republic identifies two main sets of duties, namely “compulsory” and “voluntary” respectively.<sup>424</sup> The compulsory duties include, among others, provision of potable water, drainage, sanitation, maintenance of wells, cleansing, solid waste disposal, construction of main roads within the village and maintenance of public roads within its boundaries, construction of the village square, provision of village meeting room and guesthouse, forestation, mutually protecting crops, social solidarity, etc.

The voluntary duties, on the other hand, include the painting of walls, upgrading the quality of roads, maintenance of the cemetery, building market places and laundry facilities, procuring agricultural machinery to be commonly used, promoting relevant handicrafts in the village, procuring books, jointly building the demolished houses of the poor, building electrical facilities, etc. It is stipulated in the Law that the Village Association may decide by a majority to convert a voluntary duty into a compulsory one, which failure of compliance is subject to penalty.

## **Financial autonomy & resources of local authorities**

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**Special Provincial Administrations:** The basic legal framework for the revenues of Special Provincial Administrations is provided in Article 42 of the Law on Special Provincial Administrations (No. 5302, enacted in February 2005). Their revenue sources include allocations by the central government, including the shares from national tax revenues, financial assistance by central government, taxes, fees and contributions to infrastructural investments stipulated in pertinent legislation specifically for these authorities, income from sale, rental or other forms of income from properties and assets, revenues from entrepreneurial activities, pertinent user charges to be specified by the Provincial Council, income from penalties, loans and grants, and other income.

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<sup>424</sup> Law on Villages (1924)

Pursuant to the Law on Shares to be given to the Special Provincial Administrations and Municipalities from General Budget Tax Revenues (No. 5779, enacted in July 2008), the Special Provincial Administrations receive 1.15% of national tax revenues, distributed on the basis of the population of the provinces.<sup>425</sup> They also receive appropriations from the central budget for the construction of school buildings, rural roads, village potable water and sanitation systems, reforestation programs and other infrastructure projects.

**Municipalities:** The Municipal Revenues Law (No. 2464 of 1981) provides the basic legal framework for municipal revenues, including taxes, fees, charges, contributions, and other revenues.<sup>426</sup> Tax rates are laid down by this law within a spectrum of maximum and minimum levels. Although the tax rates are not subject to municipal intervention, the municipal councils are entitled to vary these rates within the specified limits. In this context, taxing powers, in the strict sense, lie with the central government, wherein municipalities are empowered to collect rather than impose the respective national and local taxes. The municipalities, on the other hand, are entitled to levy fees and user charges for certain local services.

Revenue sources of the municipalities in Turkey can be grouped under two main headings: (a) Allocations by the central government, including the shares from national tax revenues, financial assistance by central government, loans and grants; and (b) Locally-generated revenues, including local taxes, fees and user charges, contributions to infrastructural investments, income from municipal assets, revenues from entrepreneurial activities, and other income.

Pursuant to the Law on Shares to be given to the Special Provincial Administrations and Municipalities from General Budget Tax Revenues (No. 5779, enacted in July 2008), the non-metropolitan municipalities receive 2.85% and the metropolitan districts receive 2.50% of national tax revenues, distributed on the basis of the population of the municipalities.<sup>427</sup>

Until the first half of 1980s local authorities faced chronic revenue shortages in general. Municipal budget deficits were largely financed by the non-payment of social security taxes on local employee incomes and through moratoriums on municipal debts. Since the early

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<sup>425</sup> Law on Shares from National Tax Revenues (2008)

<sup>426</sup> Law on Municipal Revenues (1981)

<sup>427</sup> Law on Shares from National Tax Revenues (2008)

1980s however, various steps have been taken to improve the resource base of local authorities. Through a series of tax laws and related government decisions, municipal shares of national tax revenues were increased, new sources of local revenue (such as real estate taxes) were introduced, and municipal taxation and fee systems were rationalized. Moreover, substantial extra-budgetary funds were generated to support local projects and initiatives.

**Metropolitan Municipalities:** The basic legal framework for the revenues of Metropolitan Municipalities is provided in Article 23 of the Law on Metropolitan Municipalities (No. 5216, enacted in July 2004). Their revenue sources include a designated percentage of the allocations from general tax revenues transferred to the district municipalities by the central government, a certain percentage (%5, subject to variation by the Ministry of Finance) of the taxes collected each month by the central tax authorities within that province, municipal fees and charges in relation to social, cultural, sports, entertainment and recreation facilities, taxes charged for sign posts and advertisements, income from the operation of parking areas, contributions to infrastructural investments for roads, water and sewerage (provided that the respective services are provided by the Metropolitan Municipality), income from penalties, financial assistance by public institutions, surplus from the activities of subsidiary establishments, shares from the income generated by the economic enterprises attached to the Metropolitan Municipality, income from assets and properties, fees, grants, and other income. The district municipalities on the other hand, are subject to the same financial provisions as non-metropolitan municipalities.

**Villages:** Village authorities have very limited resources and a notably small power base in comparison with other types of local authorities. Apart from in-kind contributions realized through joint and voluntary community service delivery by the villagers, the locally generated income in Villages is negligible, and therefore they rely heavily upon the financial support of the central government. The recent legislation, aiming to decentralize the central government service delivery mechanisms to the Villages, enabled the Special Provincial Administrations to assume increased powers and resources in terms of providing the pertinent services to the Villages. In addition, in a limited number of provinces where the boundaries of the Metropolitan Municipality were expanded to coincide with the boundaries of the province, Villages started to receive their essential services under the metropolitan framework.

## **Central government control/tutelage over local authorities**

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The control/tutelage of the central government over local authorities is primarily rooted in Article 127 of the Constitution, which stipulates that: “The procedures dealing with objections to the acquisition by elected organs of local government or their status as an organ, and their loss of such status, shall be resolved by the judiciary. However, as a provisional measure, the Minister of Internal Affairs may remove from office those organs of local administration or their members against whom investigation or prosecution has been initiated on grounds of offences related to their duties, pending judgment. The central administration has the power of administrative trusteeship over the local governments in the framework of principles and procedures set forth by law with the objective of ensuring the functioning of local services in conformity with the principle of the integral unity of the administration, securing uniform public service, safeguarding the public interest and meeting local needs, in an appropriate manner.”

Powers of tutelage over local government, maintained by the Ministry of Internal Affairs, are vested in the Directorate of Local Authorities established within the Ministry. The Directorate monitors municipal budgets, staffing, and is also responsible for other aspects of local governance particularly concerning administrative tutelage.

At the provincial level, the central government control is exercised by the governors, and by the sub-governors in the districts.

In terms of the Special Provincial Administration, the role of the Governor is of particular importance. The Governor is not a representative of a legal personality in his/her capacity as the highest appointed agent of the central government, since the provinces (as an administrative division) do not have the status of a public entity. On the other hand, Special Provincial Administration, as a local authority unit, has the status of a public entity (with legal personality). In this context, the Governor, by virtue of this dual role as the designated representative of this local authority, not only chairs the elected Provincial Council, but also exercises *de facto* control over the Council as an agent of the central government.

The recent legislation concerning the municipalities has significantly “softened” the administrative tutelage and control of the central government, albeit further advances remain to be made in this respect. The responsibilities and power domains of central and local

authorities often overlap. Although the central government has delegated some of its authority to municipalities, various functions that should be carried out by local authorities are retained by the central authorities. At present, the administrative tutelage and control of the central government over local authorities is challenged primarily in terms of the Municipalities, whereas the predominant role of the Governors over Special Provincial Administrations as well as over the Village authorities are generally conceived as a “natural” and “necessary” intervention.

### **General framework of local autonomy & reform initiatives**

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Over the past couple of decades there has been a trend towards the gradual empowerment of municipalities. As significant steps taken in this respect, a series of laws were enacted during the early 1980s to increase the revenue bases of the municipalities. These were followed by other laws to empower the municipalities, particularly in coping with the informal and illegal developments in urban areas, and protecting the environment. As of mid-1980s the powers in relation to urban development planning, previously retained by the central government ministries, were transferred to the municipalities, followed by the granting of the powers to collect property taxes and the introduction of an environmental cleansing tax for solid waste disposal. By the late 1990s the popular demand for local government reform initiatives has coincided with the priority agenda of the central government.

A draft bill on public administration reform, based heavily on decentralization and empowerment of local authorities, was prepared by the Government in early 2000s and passed in the Grand National Assembly. However, the Law was subsequently annulled by the Constitutional Court due to its incompliance with the provisions of the Constitution pertaining to the centralistic characteristics of the state. This Law was therefore suspended indefinitely. On the other hand, a series of new laws on local authorities, encompassing the Law on Metropolitan Municipalities, the Law on Municipalities, the Law on Special Provincial Administrations and the Law on Unions of Local Authorities were enacted in 2004-2005, bearing the significant yet “acceptable” aspects of the public administration reform.

These laws, stipulating that local services not specifically assigned to other institutions will be carried out by local authorities, paved the way for the transfer some public functions relating to health, culture, tourism, rural infrastructure development, youth and sports, and social services to local authorities. As importantly, these laws call for the realization of the principles of “good governance” (transparency, accountability, participation, effectiveness and responsiveness) to facilitate the establishment of a truly democratic system of local governance in Turkey.

In line with the global trend, the Law on Municipalities enacted in 2005 elevated the urban threshold of becoming a municipality from 2,000 to 5,000 population, seeking to reduce the number of municipalities with a view towards establishing a local government system consisting of fewer yet stronger and more competent local authorities. Pursuant to this provision, a new law was enacted in 2008 (Law No. 5747) that sought to abolish and/or amalgamate the notably small and weak municipalities with populations below the new threshold (whose numbers amounted to nearly 900), whereby the total number of municipalities in the country would be significantly reduced prior to the local elections of 29 March 2009. However, as in the case of the public administration reform law, this Law was also annulled by the Constitutional Court, as a result of which the outright majority of the abolished municipalities managed to get back their public personalities by court decision, and managed to take part in the local elections. As a result of the interruption of this reform initiative, the overall local government framework in the country continues to be overwhelmed by a large group of municipalities with relatively weak financial and managerial capacities, which essentially display the characteristics of village-type settlements.

In general, despite the growing support for local self-government and the delegation of authority to provincial and municipal administrations over the past couple of decades, the centralistic tendencies in public administration remains highly intact in Turkey.

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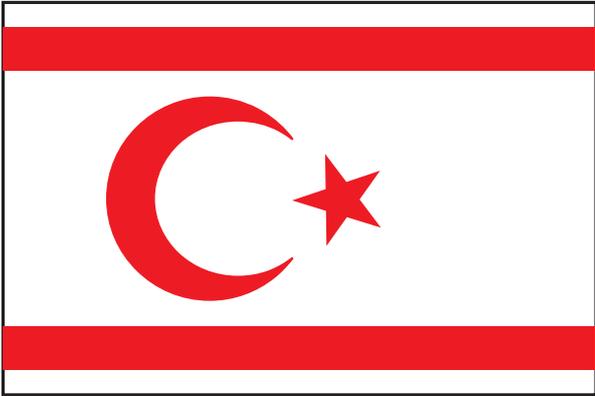
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# TURKISH REPUBLIC OF NORTHERN CYPRUS



# TURKISH REPUBLIC OF NORTHERN CYPRUS

## Background Information

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The Island of Cyprus is the third biggest island in the Mediterranean after Sicily and Sardinia and is located 65 km south of Turkey. Turkish Republic of Northern Cyprus (TRNC) is a self-declared state that comprises the northeastern part of the island of Cyprus. Turkey is currently the only state which recognizes TRNC. In various other countries, the TRNC has unofficial representative offices which serve as de facto consulates. In North Nicosia (the Turkish Cypriot administered northern half), both the British High Commissioner to Cyprus and the United States Ambassador to Cyprus have their formal residences, though since these residences had been in use since before 1963, it is not indicative of formal recognition of the TRNC by the United Kingdom or United States. Additionally representative offices in Northern Cyprus are maintained by Australia, France, Germany and the European Union.

Northern Cyprus extends from the tip of the Karpass Peninsula in the north east, westward to Morphou Bay and Cape Erenköy and southward to the village of Akıncılar. A buffer zone under the control of the United Nations stretches between Northern Cyprus and the rest of the island and divides Nicosia (Nicosia), the island's largest city and capital of both states. Northern Cyprus spreads over an area of 3355 sq km. The current population of the country has reached 294.906 (as of 2011).

Northern Cyprus has a republican regime with semi presidential system. The President of the Republic is the head of state and the Prime Minister is the head of the government. Northern Cyprus has a multi-party system. Executive power is exercised by the Prime Minister. The legislative power is exercised by the Prime Minister along with the TRNC Assembly of Republic.

The parliament of the TRNC, the Assembly of the Republic has 50 members, elected for a five-year term by mitigated proportional representation. A party must cross the election threshold (5% of the total vote) to get any seats in parliament. The TRNC parliament is composed of 50 members, chosen from five electoral districts; Nicosia, Famagusta, Kyrenia, Guzelyurt and Iskele.

In TRNC parliamentary elections, voters vote for individual candidates. There are two ways of voting. Voters can either vote for a party, which in effect is voting for every member candidate from that party in that elections district once. The voter can further prioritize the member in this kind of voting. Or alternatively the voter may not choose a party but would vote for different member candidates from different parties. In this kind of mixed voting, a person cannot choose more than the number of members from that district. The judiciary is independent of the executive and the legislature.

### **Sub-national governance & types of local authorities**

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Sub-national governance in Northern Cyprus essentially operates at the district, municipal and village levels. This structure reflects a mix of central and local authorities and functions.

The country is administratively divided into 5 **districts**; Nicosia, Famagusta, Kyrenia, Guzelyurt and Iskele.<sup>428</sup> Nicosia is the capital of the Northern Cyprus. Each district is ruled by the district governor who represents the national government. District governor enables the communication with the national government and is the main coordinator of the activities conducted by Ministers within their district. The district governors present their reports to the Ministry of Interior. In each district there is also a deputy district governor and sufficient number of administrative staff.

There are 28 **municipalities** in the country. “It is obligatory to establish municipalities in settlement units with populations of 5001 or more. In order to establish a municipality in a settlement unit consisting of one or more than one villages, the population in the latest census must be more than 2000 (two thousand) and the center of the new township must be at least 5000 (five thousand) meters away from the centers of other townships.<sup>429</sup> Creation of new townships shall be referred to plebiscite.<sup>430</sup>

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<sup>428</sup> Law on Civil Administration and Divisions, Article: 3, 1998

<sup>429</sup> Law on Municipalities, Article: 6 / 1-2

<sup>430</sup> Law on Municipalities, Article:7

There are 187 **villages** in Northern Cyprus. The distribution of the villages in each district is as follows:

Nicosia	30
Famagusta	42
Kyrenia	42
Guzelyurt	30
Iskele	43

Villages are governed by a *Muhtar* and the Board of Aldermen consisting of 4 councilors elected for a 4-year term. The Muhtar, who is the head of the Board of Aldermen is also the head of the village. The Muhtar is in charge of informing the district governor on all the issues which are relevant to his/her village and which are of public interest. Furthermore, the Muhtar inspects the police officers in its area, approves the documents which require his/her signature, registers births and deaths, and fulfils the other duties assigned by the district governor.<sup>431</sup>

Local government structure in the Turkish Republic of Northern Cyprus is generally managed in two branches: Municipal Councils and Village Boards of Aldermen. They are separate organs with no hierarchical relations between, responsible for managing their local affairs. While Municipal Councils assume the duty of local government in regions, towns and some large villages, the Village Boards of Aldermen forms the local structures in the remaining villages.

Mayors, Muhtars, Members of Municipal Councils and Village Boards of Aldermen are elected based on equal and secret ballot. Therefore, involvement of the central government on the local governments are limited to technical and administrative assistance and inspection.<sup>432</sup>

Purpose of creation of the **Union of Cypriot Turkish Municipalities** is; “to bring the inter-municipal relations, cooperation and coordination to an effective institutional structure and to form a union with public legal entity status, to which all the municipalities will be natural

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<sup>431</sup> Law on Village and Neighborhood Councils of Aldermen, Article: 8

<sup>432</sup><http://web.archive.org/web/20101115073413/http://www.trncinfo.com/tanitmadairesi/2002/turkce/kktchakkinda/kktchakkinda.htm#12>

members. All the municipalities within the borders of Turkish Republic of Northern Cyprus are full members of the Union. Head office of the Union is in Nicosia.’’<sup>433</sup>

## **Constitutional provisions on local authorities**

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‘‘Local governments are the public legal entities which are established in order to meet the local needs of the populations of regions, municipalities or villages and neighborhoods, whose founding principles are determined by law and governing bodies are formed through elections. The authorities of the local governments, related to their establishment and duties are regulated by law, as per the local governance principle’’<sup>434</sup>

In terms of the central government, the country ‘‘is divided into regions determined by law, in accordance with the geographical and financial conditions and the requirements of public service.’’<sup>435</sup>

## **Legislation concerning local authorities**

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Foundation, duties and powers of the Local authorities are regulated in accordance with the local governance principle, as per the Article 119 of the Constitution. In this context, the laws related to the local governments are as follows:

**Municipalities:** The Law on Municipalities which was passed by the General Assembly of the Turkish Republic of Northern Cyprus on 13 August 1995 went through some amendments. (33/2001, 2/2003, 9/2006, 40/2007, 14/2008, 2/2009, 91/2009 ve 3 /2013)

**Unions of Local Authorities:** 28 municipalities in TRNC gathered in 1983 and established the Union of Cypriot Turkish Municipalities, based on Article 159 of the 15/1980 numbered Law on Municipalities. Purpose the Union is; to bring the inter-municipal relations, cooperation and coordination to an effective institutional structure and to form a union with public legal entity status, to which all the municipalities will be natural members; and to regulate the legal status of this union.

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<sup>433</sup> Law on Union of Cypriot Municipalities, Article: 3, 4, 5

<sup>434</sup> TRNC Constitution, Article:119

<sup>435</sup> TRNC Constitution , Article: 116

**Villages:** The 43/2009 numbered Law on Village and Neighborhood Boards of Aldermen has gone through some amendments to manage the villages and neighborhoods and to keep the registries in an organized manner regulate the elections of the muhtars and boards of aldermen, their duties, powers and rights and the relevant fees and penalties. (25/2010 and 9/2012)

## **Electoral processes in local authorities & local elections**

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Article 69 the Constitution draws up the basic framework for the electoral processes in general, which also encompasses the local authorities. Clause 3 of Article 119 of the Constitution reads: “Elections for the local authority bodies are carried out every 4 years in accordance with the principles of Article 68.”

Article 39 of the Law on Municipalities provide information on the elections to be held in the new municipalities to be established: “Elections of the new municipalities to be established within an electoral period shall be held as per the rules of the Article 8 of this Law and their tenure expire with the tenure of the other Municipal Councils. Elections are held to determine the mayors, members of the municipal councils and muhtars.

**Municipalities:** Municipal Councils are the general decision making body of the Municipalities. Municipal Councils consist of members who are publicly elected for a 4-year term, as per the principles stipulated in the Law on Elections and Plebiscites. A municipal staff member and a member of the Municipal Council cannot be the same person within the boundaries of the same Municipality. However, this does not rule out candidacy of a municipal staff member in local elections. Municipal Council is the top council where the local issues related to the local populations are resolved within the framework of the duties and powers bestowed upon the Municipality. Number of members of a Municipal Council is determined by the Supreme Election Committee.

## **Structure and organs of local authorities**

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Administrative structure of Turkish Republic of Northern Cyprus is a two-tier system. Districts are the first-level administrative units and sub-districts are the second-level administrative units. TRNC consists totally of five districts and twelve sub-districts.

The first legal regulations about the administrative organization of the country was made in 1980, with the Law on Civil Administration and Divisions. TRNC was divided into three districts and seven sub-districts, as per the aforementioned law, with no sub-districts in Kyrenia.

The administrative organization was reorganized in 1998. TRNC was divided into five districts, namely, Nicosia, Famagusta, Kyrenia, Guzelyurt and Iskele districts, as per the new legal regulations. Guzelyurt and Iskele, which were sub-districts between 1980-1998 were upgraded to the district status. Furthermore, Değirmenlik, Camlibel, Yeni Erenköy and Akdogan attained the sub-district status. Kyrenia district was divided into two sub-districts as, Kyrenia (center) and Camlibel. Today, 28 municipalities are active in TRNC, 5 of which are district municipalities. The term “city” refers to townships with 5001 or more population, as per the 51/1995 numbered Law on Municipalities. However, district centers are considered as cities regardless of their populations.

District governors are defined as the “highest civil and administrative chief in the district” by the law. They represent the state and the government in the district.

Sub-districts are governed by sub-district supervisors, under the district governorates.

District administrations are under the Ministry of Internal Affairs (as of February 2012, under the Ministry of Internal Affairs and Local Authorities).

**Municipalities:** The governing organs of municipalities consist of the Municipal Council and the Mayor.<sup>436</sup>

The municipal council, consisting of elected representatives at the municipal level, is the main decision-making organ of the municipality. The council has the following responsibilities: the budget, strategic plans, preparing legislation and regulations, hiring the municipal staff, investment and implementation programs, sister-city programs among others.

The mayor elected by popular vote, is the head of the municipality and the representative of its legal personality.<sup>437</sup> The mayor chairs the council meetings.<sup>438</sup> The mayor has the

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<sup>436</sup> Law on Municipalities, Article: 37

<sup>437</sup> Law on Municipalities, Article: 52

following responsibilities: to inform the community about law, legislation and legislations; to implement the municipal council outcomes, follow up the activities conducted by municipal staff, enable the effectiveness of municipal services.<sup>439</sup>

Villages: Villages are governed by a *Muhtar* and the Board of Aldermen consisting of 4 councilors elected for a 4-year term. The Muhtar, who is the head of the Board of Aldermen is also the head of the village. The Muhtar is in charge of informing the district governor on all the issues which are relevant to his/her village and which are of public interest. Furthermore, the Muhtar inspects the police officers in its area, approves the documents which require his/her signature, registers births and deaths, and fulfils the other duties assigned by the district governor.

### **Duties and responsibilities of local authorities**

**Municipalities** bear the duty to meet the common local needs in terms of development of the township and wellbeing, welfare and happiness of the township people, via a modern understanding and democratic attitude. Such duties may be summarized under the following headings: Health and Social Aid, Public Works, Economy and Working Life, Security, Education, Culture and Tourism, Agriculture and Transportation.

Duties and powers of the **district governors** as per the law are as follows:

- “ To perform public services in the district in an effective manner and to ensure cooperation and coordination among the regional institutions of various ministries;
- To coordinate the works of all the official and semi-official institutions in the district;
- To ensure that strong cooperation ties are established between the government bodies and local institution bodies;
- To inspect the works of the regional institution bodies, to process the budget and personnel works as per the governing laws;

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<sup>438</sup> Law on Municipalities, Article: 53

<sup>439</sup> Law on Municipalities, Article: 61

To take the necessary measures in cooperation with the security forces, to ensure peace, security and personal immunity within the boundaries of the district;

To regulate and inspect the general management and course of the district. ”

District management is executed by the district governorate center organizations, district coordination board, district security boards and district governorate sub-district organizations. District governorate center organizations contain three units, which are; Office of the Vice District Governor, Local Organization Bodies Unit and Population, Identity, Passport and Military Service Unit. District coordination boards ensure cooperation and coordination between the official and semi-official organizations, and oversee the execution of the current projects. District security boards are charged with observing the security status of the district. Boards consist of District Security Director, the responsible commander of the Security Forces Command in the district and Civil Defense District Director.

**Local Government Associations;** Creation of the Union of Cypriot Turkish Municipalities has been an important step in institutionalizing and strengthening the municipalities in Turkish Republic of Northern Cyprus. Tasks of the union is as follows: to advocate and develop the common interests of the municipalities; to work for developing the legal and institutional structure of municipalities; to provide common views and submit proposals on the legal and administrative regulations which are related to the municipalities; to operate in all kinds of infrastructure, housing, planning, public wellbeing, public health and protection of consumers, solutions of environmental problems, tourism, culture, education and art services and other local issues, in order to perform one or several of the tasks assigned to the Municipalities by law, to establish and operate the necessary facilities, to accept and organize the investments and aids to be provided by the member local authorities, to be involved in other financial activities, to establish and operate companies and partnerships with the public institutions or their affiliates and/or local authorities, to create circulating capitals, to procure vehicles, devices and construction equipments from the domestic and foreign markets and to establish common machinery pool; to provide training and carry out research on municipalism; to establish committees and form organizations to provide consultancy to the municipalities on various fields of

municipalism and to perform the aforementioned tasks.

Duties and powers of Muhtars, who are the most competent local administrator in villages are as follows: the Muhtar protects peace in the village or neighborhood s/he was elected. S/he is responsible for helping the officials in collecting the public revenues and other public tasks. S/he publishes the declarations, announcements and other official documents to be sent by the District Governorate, in a way that everyone in the village and neighborhood may easily see. Muhtar is also the population Comptroller of the relevant village or neighborhood. S/he performs the duties assigned by the Law on Birth and Death Registers, in cooperation with the Department for Population Registry Affairs and Chief Comptroller of Population.

### **Financial autonomy & resources of local authorities**

**Municipalities:** The basic legal framework for the revenues of the municipalities is provided in Article 77 of the Municipal Law.

Revenues of Municipalities: Revenues provided to the municipalities under the titles of tax, duty, charge, and the like; allocations out of the central government revenues; net revenues of the institutions, facilities and circulating capital institutions; revenues to be supplied by the municipalities out of their initiatives and endeavors in the legal field, conditioned or unconditioned aids of state or public institutions; all kinds of conditioned or unconditioned donations and loans and debts; revenues arising out of renting, selling or utilizing the movable and immovable properties of the Municipality in other ways; property taxes collected out of the immovable properties within the boundaries of the Municipality; fines and tax fines.

Union of Local Authorities: Revenues of the Union as per the Article 22 of the Law on Union of Cyprus Municipalities prepared by the General Assembly of Turkish Republic of Northern Cyprus are as follows:

Membership fees to be paid by the member municipalities; each municipality shall pay 0.75% of the amount allocated by the central government annually for the municipalities as per the Law on Municipalities, within the first 6 months of the relevant year, to the Union of Municipalities as membership fee. Each municipality shall pay 0.75 of the equity capital it collected in the previous year, within the last 6 months of the relevant year, to the Union of

Municipalities as membership fee. These fees are deducted out of the central government revenues allocated for the municipalities by the relevant Ministry, and transferred to the Union, as per the request of the Union.

Donations; costs for the publications, shows, entertainments, lotteries and festivals to be organized by the Union; revenues to be provided at the facilities to be established by the municipalities and out of all the purchases and sales made to meet the needs of the municipalities.

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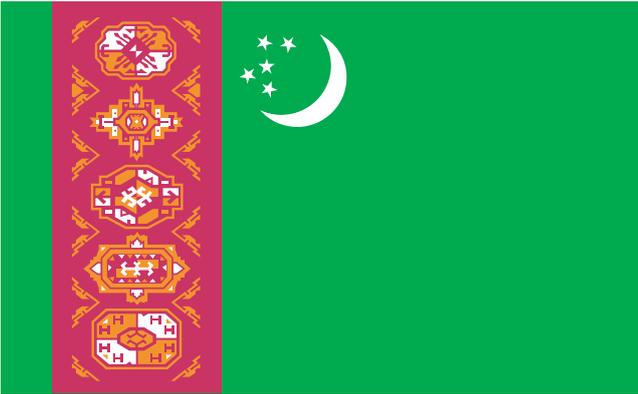
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# TURKMENISTAN



# TURKMENISTAN

## Background Information

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Turkmenistan is a landlocked country in Central Asia, bordering the Caspian Sea to the west, Iran and Afghanistan to the south, Uzbekistan to the north-east, and Kazakhstan to the north-west. It is the southernmost republic of the Commonwealth of Independent States (CIS), the loose federation created at the end of 1991 by most of the post-Soviet states.

Its longest border is with the Caspian Sea (1,786 km). The other borders are with Iran (to the south, 992 km), Afghanistan (to the south, 744 km), Uzbekistan (to the north and east, 1,621 km) and Kazakhstan (to the north, 379 km). Turkmenistan is slightly larger than California in territory, occupying 488,100 sq km. By area Turkmenistan ranks fourth among the former Soviet republics, after Russia, Kazakhstan, and Ukraine. The country's greatest extent from west to east is 1,100 km, and its greatest north-to-south distance is 650 km.

With a Human Development Index of 0,698, Turkmenistan is cited under the category entitled “Medium Human Development”, ranking as the 102<sup>nd</sup> out of 187 countries covered by the UNDP Human Development Report of 2013<sup>440</sup>. Turkmenistan has a population of 5,169,700 inhabitants and a GDP of 33,678,947,368 USD<sup>441</sup>.

According to the Constitution, Turkmenistan is a democratic secular state operating under the rule of law whose government takes the form of a presidential republic. Turkmenistan possesses supreme and plenary power in its own territory and independently implements its domestic and foreign policies. The sovereignty and territory of Turkmenistan are united and indivisible. The government defends the independence and territorial integrity of Turkmenistan, as well as the constitutional order, and ensures legality and legal order.

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<sup>440</sup> UNDP Human Development Report (2013)

<sup>441</sup> World Bank website: <http://www.worldbank.org/en/country/turkmenistan>

## **Sub-national governance & types of local authorities**

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The basis of local self-government in Turkmenistan is formed according to the Constitution by local councils (“gengeshi”). They have deep historic roots. However, only starting from declaration of independence the new system of state power has been developed reflecting national traditions of the Turkmen people. Turkmenistan has a unitary system of government composing: 1) the central government, 2) 5 velayats (regions), 3) 67 etraps (districts) and 4) more than 600 Gengeshi (village councils). According to existing legislation, Local Self-Governance Bodies (Gengeshi) only exist at the lower tier level (village); while the State Administrations Regional and District levels report directly to Central Government. The present functions of Gengeshi are of extremely narrow scope of own (and separate) services delivered exclusively by the Gengesh level and include mostly purely organizational-administrative functions (such as approval of the budget) or coordination of the activities of various entities (such as “co-ordination of functioning of cultural institutions”) or participation in the provision of functions delivered by various levels.

At present, the local self-governments are not direct providers of services to the local citizens, but play a role in monitoring the delivery of these services by central ministries located at the intermediate level (district) and attempt to resolve citizen complaints about services with the delivering authority.

The public finance system is centralized and its specific feature is low role of taxes in the financing of state expenditures. Instead, spending is financed by revenues from state-owned enterprises (the national economy is predominantly state owned).

UNDP Turkmenistan has been involved in the area of local governance since 2007 with the aim to improve service provision at local level. The support has been provided to local selfgovernments (Gengeshi) in capacity building to perform the assigned functions effectively through training on participatory planning and budgeting, community mobilization and social partnerships, civic education and community empowerment. At the policy level, the project has triggered a dialogue on the underlying principles of local governance and brought to the agenda the issues related to legal separation of authorities and responsibilities among central, regional and local governments and self-governance bodies, and financial and economic independence of local self-governance bodies.

## **Constitutional provisions on local authorities**

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The basis of local self-government in Turkmenistan is formed according to the Constitution by local councils (“gengeshi”). They have deep historic roots. However, only starting from declaration of independence the new system of state power has been developed reflecting national traditions of the Turkmen people. With the elections of “gengeshi”, which revived the old standing traditions, the new system of local self-government has been formed. The powers of these organs are specified by the Constitution and the Law “On Gengeshi”. Members of “gengeshi” exercise their powers gratuitously. They are obliged to maintain close links with electors, regularly inform them about execution of plans and programs of economic, social and cultural development of their territories, to take part in organization and control of execution of decisions of “gengeshi”, study public opinion, needs and demands of population, make proposals to “gengeshi”.

## **Structure and organs of local authorities**

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Structure and organs of local authorities are definite in the Constitution as follow:

**Article 85:** The local meetings and organs of territorial civic self-government form a system of local self-government. The local meetings are representative organs of popular power on the territory of towns, villages, and settlements. They are elected directly by citizens for a term of five years and are not administratively subordinate to each other.

**Article 86:** the jurisdiction of local meetings is:

- 1) Determining the basic directions of economic, social, and cultural development of their areas;
- 2) Approving the local budget and the report of its utilization;
- 3) Establishing local taxes and tariffs and the manner of their collection;
- 4) Determining measures for the rational use of natural resources and for nature protection;
- 5) Other issues ascribed to the jurisdiction of local meetings by law. Without transgressing their authority, local meetings adopt decisions which must be adhered to in their areas.

**Article 87:** A local meeting elects a Chief from within its ranks who manages the work of the local meeting and is subordinate to the local meeting.

**Article 88:** Persons elected to local meeting meet their obligations without compensation. The manner of activity of local meetings and other organs of civic self-government are determined by law.

## **Duties and responsibilities of local authorities**

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Duties and responsibilities of local authorities include:

- Approving expenses for funding the secretariat of the gengesh.
- Reviewing reports about the work of the archin and memorandums of members of the gengesh on the discharge of their obligations.
- Passing a resolution on holding of a local referendum.
- Defining key areas of the economic, social and cultural development of its territory;
- Approving the local budget and budget implementation report.
- Imposing local taxes and charges and determine their collection procedure;
- Setting rebates on payments to own budget.
- Defining measures to rationally use natural resources and protect the natural environment.
- Initiating requests to alter the boundaries, status or names of residential and administrative territorial units, decide on proprietary and legal issues arising thereof.
- Deciding on the issue of submission to the hyakimlik of the etrap of the proposal on the necessity to develop the local territory;
- Improving the infrastructure of places of collective farming and gardening, recreational areas and beaches;
- Exercising control over the implementation of construction regulations and observance of the requirements with regard to dependability and aesthetics during individual housing construction;
- Organising construction and maintenance of roads, bridges of local importance, objects and facilities for public utilities (water pipes, gas pipes, sewerage, energy supply and heating, water reservoirs, wells, saunas, etc.) out of funds from the local budget and the population; to coordinate works with the relevant institutions to

- ensure an uninterrupted functioning of electricity, gas supply networks and means of communication;
- Organising work for improving the infrastructure and promoting green landscaping in the city, settlement and villages of the gengeshlik, to undertake measures to protect green zones;
  - Exercising control over the sanitary condition of populated units, sources of water supply, residencies, public trade and catering companies, schools and other public and cultural institutions and the nearby territories; to maintain in due condition monuments and cemeteries;
  - Jointly with the local police to organise activities geared at combating crime and drugs, maintaining public order, respecting rights, freedoms and legally-protected interests of citizens, clarifying legislation to the population, organising activities for prevention of law-breaking and promoting active participation of local elders in public condemnation of law-breakers;
  - Coordinating activities of cultural institutions located in its territory, to undertake measures to expand their network, to promote indigenous arts and folklore; to assist in holding mass events related to state holidays and memorable dates;
  - Undertaking measures to ensure appropriate functioning of schools, pre-schools institutions in the territory within its jurisdiction; to assist in fostering ties between schools and the manufacturing industry, to organise spiritual, moral and patriotic education of the youth, educational and vocational training of the youth, to organise the cultural leisure and recreation of children;
  - Undertaking measures towards admission of children left without parental care to boarding schools and orphanages and promoting their adoption by families of citizens, to conduct activities to prevent neglect for the under-aged, to prepare proposals and the relevant materials for appointing guardians and trustees, to assist in exercising control over fulfilment of their duties;
  - Undertaking measures to organise the work of health care institutions in providing health care services to the population, to provide for the conduct of activities geared at protection of maternity and childhood, to assist in conducting sanitary, prevention, and anti-epidemic activities;
  - Promoting conditions for creating new jobs by way of assistance to the development of people's arts and crafts, foundation of small enterprises for processing farm

- produce, rendering methodological, organisational and other support to daykhans for them to conclude agreements with local organisational units of agricultural joint-stock companies;
- Exercising control over the implementation of the regulations for trade in public places;
  - Deciding on other issues assigned to the powers of gengeshes by the legislative acts of Turkmenistan.

### **Financial autonomy & resources of local authorities**

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Multilevel system of state governance is reflected in multilevel budget structure. In their turn, local budgets include provincial, regional and city budgets.

The formation of local budgets and management of finances are regulated by laws. Since the first years of independence local authorities have received rule-making powers. The guarantees of efficiency, responsibility, predictability and justice require clear distribution of responsibility for expenditures of means and division of taxes between different levels of budgetary system. The main sources of revenues of local budgets are tax revenues which are composed of local taxes and tax shares. Local state authorities of Turkmenistan do not have sufficient independence in budget and tax spheres. The tax rates and the basis for taxation are established by central organs on all taxes, including local. It is possible to distinguish the following specific features in the formation of revenues in Turkmenistan:

- 1- Own sources of revenues (local taxes) form an insignificant share of local budgets.
- 2- Local state organs are not independent in budget and tax spheres.
- 3- Granting of independence to local government is impeded by insufficient development of institutional mechanisms, especially on local level.

A significant part of local revenues is formed by transfers from higher budgets. Moreover, it has a tendency to grow. The distribution of expenditure powers between different levels of the budget system depends on demographic situation, geographic factors and the degree of development of institutional mechanisms. One may note the

following specific features in the distribution of expenditure powers inherent to Turkmenistan.

- 1- The responsibility for financing social sphere is more and more shifting to the local level; it comprises the dominating share in the total sum of expenditures.
- 2- In the sphere of social protection central bodies are responsible for establishment social guarantees by law; meanwhile local organs are responsible for distribution of social aid.
- 3- Powers of capital expenditures are still in the province of central authorities, though there is a tendency to transfer them to local level.

### **Central government control/tutelage over local authorities**

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In Turkmenistan heads of executive power of regional level are appointed by the President. The development of local government in Turkmenistan is based on a number of fundamental principles. One of these democratic principles is the protection of the right to local self-government. The other principle is the mechanism of checks and balances between legislative, executive and judicial organs. Hierarchical structure of executive power means that higher organs may revise decisions of lower organs and efficiently control their activities with a help of different means including distribution of financial resources. Intensive role of local bodies in the management of state affairs prevents excessive accumulation of power on one level. The aforesaid principles require that levels of government shall not be subordinated to each other and that they shall act as separate autonomous organizations. At the present state of development this is especially important for regional and city levels of government.

In Turkmenistan prevails hierarchical centralization in organization of executive power. Regional levels of local governance have indisputable priority over district and the latter ones over city (of district subordination) levels and organs of local self-government.

In the implementation of their administrative functions local government bodies are usually subordinated to higher organs. The main part of managerial decisions on provision of public services is exercised according to the principle of vertical

subordination (national ministry –department of a region – department or office in district or city government).

Relations between different levels are regulated by constitutions and other laws on local administrations, bodies of citizen's self-government and so on. It would be appropriate to note that bodies of citizen's self-government which have been established during the transition period were very closely linked to organs of local administration and actually functioned as administrative units of state bodies.

### **General framework of local autonomy & reform initiatives**

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The main factors which influence the development of democratic local government could be noted as follows:

Local executive and representative bodies are not separated: they are headed by the same persons. At the transition stage it is extremely important to have strong officials responsible for the provision of state services in appropriate territories.

The position of a chairman of representative body has many implications. Minimal role consists in just conduct of sessions and representation of local councils before population. To a large extent it is a ceremonial role. Nevertheless, it permits local councils to establish relations with broader circles of population because the election of chairmen of local councils does not depend on a political choice. It is expected that accumulation of powers will permit to act more consistently in implementation of reforms. But at the same time there is a danger that the opinion of minority will not be adequately taken into account and that the leadership of local councils will be prevented from political decisions. This may result in conflicts even when chairmen of local councils play ceremonial role. This problem has to be solved by law.

An efficient mechanism of public control over activities of state bodies with accountability of officials to population is still missing. The role of local authorities should be strengthened along with enlarging their openness and transparency and with establishing of mechanisms of their accountability to local population. The reinforcement of the role of local self-

government must bodies rest upon growing initiative of population and direct elections of these organs.

There is still remaining problems in elaborating strategic documents and improvement of normative basis for development of local administration and self-government. The complicated task of complex reform of state and public management in a stage of transition makes it difficult to elaborate strategic trends of further development of local administrations and local self-government.

Training staff for local administrations and bodies of local self-government is a priority task for Turkmenistan. For its solution it is necessary to support the State efforts by active role of non-governmental organizations and centres of education and professional training and international organizations.

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# UNITED ARAB EMIRATES



# UNITED ARAB EMIRATES

## Background Information

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The United Arab Emirates (UAE) is a constitutional federation of seven emirates, namely Abu Dhabi, Dubai, Sharjah, Ajman, Umm al-Qaiwain, Ras al-Khaimah and Fujairah. The federation was formally established on 2 December 1971.<sup>442</sup>

The UAE is spread over an area of 83,600 sq km along the south-eastern tip of the Arabian Peninsula. Qatar lies to the west, Saudi Arabia to the south and west, and Oman to the north and east. The capital and the largest city of the federation, Abu Dhabi, is located in the emirate of the same name. The booming oil industry has attracted a large influx of foreign workers who, together with expatriates, now make up more than three quarters of the current population, which amounts to 7,511,700 inhabitants (2010)<sup>443</sup>.

With a Human Development Index of 0.818, the UAE is cited under the category entitled “Very High Human Development”, ranking as the 41<sup>st</sup> out of 186 countries covered by the UNDP Human Development Report of 2013.<sup>444</sup>

The UAE is a federation with specific areas of authority constitutionally assigned to the UAE Federal Government and other powers reserved for member emirates. The national constitution delineates a division of power between the federal government and the governments of each emirate. The central government is responsible for foreign policy, defense, education, public health, the communications infrastructure, and immigration and territorial issues. Powers not given to the federal government are reserved in the constitution for the individual states of the UAE.<sup>445</sup>

The federal system of government includes the Supreme Council, comprising the rulers of the seven emirates, the Council of Ministers (Cabinet), a parliamentary body in the form of the Federal National Council (FNC) and the Federal Supreme Court.<sup>446</sup>

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<sup>442</sup> Emirates website (2011)

<sup>443</sup> UNDP Human Development Report (2013)

<sup>444</sup> UNDP Human Development Report (2013)

<sup>445</sup> UNDP POGAR (2011)

<sup>446</sup> UAE Interact website (2011)

## Sub-national governance & types of local authorities

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Corresponding to the federal institutions, local authorities have been constituted in the seven emirates. Varying in size, they have evolved along with the country's growth. However, their mechanisms differ from emirate to emirate, depending on factors such as population, area, and degree of development.

The largest and most populous emirate, Abu Dhabi, has its own central governing organ, the Executive Council, chaired by the Crown Prince, under which there are a number of separate departments, equivalent to ministries. A number of autonomous agencies also exist with specified areas of jurisdiction, including the Abu Dhabi Environmental Agency, Tourism Authority, Authority for Culture and Heritage, and Health Authority. The main cities of the emirate, Abu Dhabi and Al Ain, are administered by municipalities, each of which has a nominated Municipal Council. Abu Dhabi also has a National Consultative Council, with 60 members selected from among the emirate's main tribes and families.<sup>447</sup>

Furthermore, in Abu Dhabi, the Department of Municipal Affairs was established in 2007 as a regulatory body for overseeing and supervising the three administratively independent municipalities, namely the Municipality of Abu Dhabi City, Al Ain Municipality and Western Region Municipality.<sup>448</sup>

The Dubai Executive Council, established in 2003, has similar functions for the UAE's second-largest emirate. Sharjah and Ajman also have Executive Councils. In addition to an Executive Council, Sharjah has developed its own Consultative Council. Sharjah, with three enclaves on the country's east coast, has also adopted the practice of devolving some authority on a local basis, with branches of the *Sharjah Emiri Diwan* (Court), headed by deputy chairmen, in both Kalba and Khor Fakkan. A similar pattern of municipalities, departments and autonomous agencies can be found in each of the other emirates.

In smaller or more remote settlements, the ruler of each emirate may choose a local representative, an emir or *wali*, to act as a conduit through which the concerns of inhabitants may be directed to government. In most cases, these are the leading local figures, whose

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<sup>447</sup> UAE Interact website (2011)

<sup>448</sup> Department of Municipal Affairs: website (2011)

authority emanates both from the consensus of their community and the confidence placed in them by the ruler.<sup>449</sup>

## **Constitutional provisions on local authorities**

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The Constitution of the UAE provides a legal and political framework for the operation of the UAE as a federation of seven emirates. The Constitution came into effect on 2 December 1971, and subsequent to its amendment by the Federal National Council and the Federal Supreme Council, it was permanently accepted in May 1996. The Constitution is written in 10 parts and has 151 Articles.

The Constitution of the UAE, on the other hand, does not include any specific provisions concerning local authorities in the emirates.<sup>450</sup>

## **Legislation concerning local authorities**

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The Abu Dhabi Municipality was established in 1962 as the “Department of Abu Dhabi Municipality and Town Planning”. In 1969, a royal decree was issued to appoint the first municipal board, with the task of providing services to the public and ensure proper planning of the developing city. With the ongoing growth of the Emirate, it was decided in 2005 to reorganize the Municipality and the administrative divisions in the city in order to create a streamlined administration and to provide a higher standard of service.<sup>451</sup>

Subsequently, a series of laws were enacted separately for the three administratively independent municipalities in the Emirate, as follows:

- Law No. 10 of 2006 Regarding Western Region Municipality and Municipal Council in the Emirate of Abu Dhabi;
- Law No. 10 of 2007 Regarding Abu Dhabi Municipality and Municipal Council in the Emirate of Abu Dhabi; and
- Law No. 11 of 2007 Regarding Al Ain Municipality and Municipal Council in the Emirate of Abu Dhabi, respectively.

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<sup>449</sup> UAE Interact website (2011)

<sup>450</sup> Constitution of the United Arab Emirates (1996)

<sup>451</sup> Municipality of Abu Dhabi: website (2011)

Furthermore, through the Law No. 9 of 2007 Regarding the Establishment of Municipal Affairs Department issued in May 2007, the Department of Municipal Affairs was established as an umbrella body overseeing the three administratively independent municipalities, namely the Municipality of Abu Dhabi City, Al Ain Municipality and Western Region Municipality.<sup>452</sup>

## **Electoral processes in local authorities & local elections**

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The members of the Municipal Council are elected from the UAE nationals. The duration of the Council membership is 2 calendar years.

In the first elections, in 2006, 6,595 people, 1,162 of them women, voted to elect half the Council's members.

The number of Emiratis allowed to vote in the 24 September 2011 elections for the Federal National Council will jump to 80,000 from fewer than 7,000 in the 2006 election, the first one held in the UAE. Half the members of the 40-seat council will be chosen by voters and half appointed by the rulers of the seven emirates.

## **Structure and organs of local authorities**

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The organization structure of the Department of Municipal Affairs, established in 2007 via Law No. 9 for achieving the general policies of Abu Dhabi Government by way of supervision and control over the municipal councils in Abu Dhabi Emirate, encompasses the following divisions:

- Local Governance, responsible for the municipal regulations, strategic support, Municipal Council's management and customer complaints.
- Municipal Support, responsible for municipal operations support, inter-department coordination, and training.
- Property Registrar, responsible for handling complex property requests and transactions, and managing the Property Registrar database.

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<sup>452</sup> Department of Municipal Affairs: website (2011)

- Support Services, responsible for providing administrative and legal support to the Department.<sup>453</sup>

In line with Article 7 of the Law No. 10 of 2007 Regarding Abu Dhabi Municipality and Municipal Council in the Emirate of Abu Dhabi (and pursuant to similar legislation concerning other municipalities in the Emirate), the Municipality is run by an administrative body headed by the Director General of Municipality, with a number of departments established by the approval of the Municipal Council. The Director General is appointed by the Council, for a renewable term of 2 years.<sup>454</sup>

“The (western) region shall have a Municipal Council consisting of 16 members including the head to be selected from the region citizens with recognized efficiency, experience and good reputation.” (Law No. 10, 2006).

### **Duties and responsibilities of local authorities**

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In line with Article 2 of Law No. 9 enacted in 2007, the duties and responsibilities of the Municipal Affairs Department, empowered with the supervision and control of the municipal councils in Abu Dhabi emirate, include among others, the following:

- Proposing the draft laws and regulations related to the municipalities, including their internal regulations;
- proposing the establishment of new municipalities;
- proposing changes in the boundaries of municipalities;
- proposing the amendment of charges for services rendered by the municipalities;
- distributing the fees income between the Department and municipalities;
- ensuring the compliance of municipal policies with the general policies of the emirate;
- evaluating the annual progress and other reports submitted by the municipalities;
- ensuring the coordination between the municipalities;

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<sup>453</sup> Department of Municipal Affairs: website (2011)

<sup>454</sup> Abu Dhabi Law No. 10 of 2007

- representing the emirate in the conferences, forums concerned in the municipal affairs; and
- reviewing the draft strategic plans as well as the budgets of municipalities.<sup>455</sup>

The Municipal Councils in Abu Dhabi are mandated with developing the standards of service delivery in their respective contexts, including the activation of the roles of civil society organizations in developing the services and infrastructure of their regions. The Municipal Councils, in particular, are empowered to prepare internal rules and regulations; to approve the plans, projects and budgets provided by the municipal committees; to appoint the members of permanent committees, to define their roles, and to monitor their performance; to define the mandates and duties of the administrative employees; and to monitor and control the status of the implementation of plan decisions and municipal projects.<sup>456</sup>

In a similar manner, in the other major emirate, the Dubai Municipality provides municipal services to a diverse population in Dubai. Its work includes urban planning and supervision of construction, environmental protection and improvement, conservation of public parks, regulating and ensuring international quality standards in construction and building materials, food and consumable items, professional services in laboratory certification and accreditation. Dubai Municipality is also instrumental in maintaining the architectural heritage of the emirate through many projects that aim at reviving and maintaining cultural landmarks of Dubai.<sup>457</sup>

## **Financial autonomy & resources of local authorities**

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In line with Article 6 of the Law No. 10 of 2007 Regarding Abu Dhabi Municipality and Municipal Council in the Emirate of Abu Dhabi (and pursuant to similar legislation concerning other municipalities in the Emirate), the resources of the municipality consist of the following:

- Annual allocations determined by Abu Dhabi Government;
- properties and movables that are transferred to the Municipality;

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<sup>455</sup> Abu Dhabi Law No. 9 of 2007

<sup>456</sup> Abu Dhabi Law No. 9 of 2007

<sup>457</sup> Dubai Municipality: website (2011)

- approved licenses and services fees related to the disposal returns or the concluded contracts;
- returns of its properties or movable funds or disposals thereof with any way of the legal disposal after approval of the Executive Council as for the properties funds;
- returns arising of the management of its assets in a direct way or by third parties; and
- donations, contributions, gifts of all kinds approved by the Council.<sup>458</sup>

## **Central government control/tutelage over local authorities**

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The degree of local governance varies in accordance with the size of the emirate and the size of the local community. In Abu Dhabi, the largest emirate, there is a parallel government to the federal structure including a consultative council and public administration. The city of Abu Dhabi is divided into two municipalities that provide a variety of services including water, electricity, public works, finance, and customs. The municipality of Al-Ain within the emirate of Abu Dhabi also has a strong local government. In rural areas, the smaller and less developed emirates, the federal government tends to take a larger role in the provision of public services.<sup>459</sup>

The relationship between the federal and local systems of government continues to evolve. As the smaller emirates have benefitted from education, for example, they have also been able to recruit personnel to local government services that were once handled on their behalf by federal institutions. These new systems of government have not, however, replaced the traditional forms that coexist alongside. The key driver behind such developments remains performance and efficiency in the delivery of services to citizens and the expatriate population residing in the UAE.<sup>460</sup>

## **General framework of local autonomy & reform initiatives**

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In line with the UAE's rapid socio-economic developments, major steps have been taken, both at the federal and local levels, to reform the political system in the UAE in order to make it more responsive to the needs of the country's population and to ensure that it is

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<sup>458</sup> Abu Dhabi Law No. 10 of 2007

<sup>459</sup> UNDP POGAR (2011)

<sup>460</sup> UAE Interact website (2011)

better equipped to cope with the challenges of development. This process has been directed at a federal level by the President, and guided at an executive level by the Prime Minister and Ruler of Dubai. Similar programs have been launched at the local level in the individual emirates of the federation. Elections to the Federal National Council and the launch of the UAE Government Strategy in 2007 were important developments in the reform process.<sup>461</sup>

A key focus of the UAE Government Strategy is to create synergy between federal and local governments. Other areas of focus include revitalizing the regulatory and policy-making roles of the ministries and improving their decision-making mechanisms, increasing the efficiency of governmental bodies and upgrading their services in accordance with the needs of the people, as well as reviewing and upgrading existing legislation.<sup>462</sup>

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<sup>461</sup> UAE Interact website (2011)

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# YEMEN



# YEMEN

## Background Information

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Yemen, officially the Republic of Yemen, is located in the southwest of the Arabian Peninsula in Southwest Asia. It is bordered by Saudi Arabia to the north, the Red Sea to the west, and Oman to the east. To the south lie the Arabian Sea and the Gulf of Aden.

Yemen has a land area of 555,000 sq km and a population of approximately 24 million (as of 2010).<sup>463</sup> Its capital and largest city is Sana'a. Yemen's territory includes over 200 islands.

Yemen has a long history, stretching back over 3,000 years. Yemen was divided into two countries, namely the Yemen Arab Republic (North Yemen) and the People's Democratic Republic of Yemen (South Yemen), which ultimately unified in 1990 after decades of conflict and tension. Despite widespread poverty and illiteracy, tribal influences that limit the central government's authority in certain parts of the country and other drawbacks, Yemen has managed to take notable steps toward improving its political rights and civil liberties during the two decades that elapsed since unification. In combining the different political and legal systems of two formerly independent countries, Yemen has developed a significant, though still incomplete, body of legislation guaranteeing many internationally accepted political rights and civil liberties.

The country however, continues to face the challenges of serious economic problems, including widespread poverty. Yemen is one of the poorest countries in the Arab region. In the turn of the century, with a Human Development Index of 0.468, Yemen was ranked as the 133<sup>rd</sup> out of 162 countries covered by the UNDP Human Development Report of 2001, being cited under the category entitled "Low Human Development".<sup>464</sup> About a decade later, with a Human Development Index of 0.458, Yemen continues to be ranked as the 160<sup>th</sup> out of 186 countries covered by the UNDP Human Development Report of 2013.<sup>465</sup>

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<sup>463</sup> Yemen Ministry of Tourism website (2011)

<sup>464</sup> UNDP Human Development Report (2001)

<sup>465</sup> UNDP Human Development Report (2013)

## Sub-national governance & types of local authorities

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Yemen is administratively divided into 21 governorates, including the capital city of Sana'a which has a special administrative status comparable to a governorate, but has been structured as a municipality. Within each governorate, municipal regions are divided into areas (*Mantaka*). Non-municipal regions are divided into districts (*Mudiriyah*). Currently, there are 333 districts in the country. Citizens of each district and each area elect one representative to the national parliament. While there is no official central government administrative structure below the district, there are several additional administrative subdivisions: sub-districts (*Uzlah/Markez*), villages, and hamlets (*Mahalla*).<sup>466</sup> Currently, there are over 2,200 sub-districts, and over 37,000 villages.<sup>467</sup>

The current system of local governance in Yemen is comprised of an appointed executive unit at the governorate level, and an appointed executive unit and an elected local council in each district. The executive units are generally comprised of representatives of the ministries of finance, planning, public works and local authority and are paid civil servants. Local councilors are directly elected by their communities and are unpaid volunteers. The governor, who is indirectly elected by the local councils in each governorate, reports to the Ministry of Local Administration. Directors for each district are appointed by the governor with the approval of the same ministry. Each director is, by mandate, accountable to the governor and is responsible for oversight of the elected local council and the appointed executive unit in his assigned district. Each local council elects a chairman for the council and chairmen for each of three committees: planning and financial development, social affairs, and services. The local council chairman reports to the appointed director in the district. The local council committee chairmen report to the local council chairman.<sup>468</sup>

Currently, for the 21 Governorates (including the capital city of Sana'a) and 333 districts, there are 5,600 local councilors. The number of councilors varies according to the population of the district. In this context, there are 18 local councilors per district if population is below 35,000; 20 local councilors per district if population is 35,000-75,000;

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<sup>466</sup> UNDESA Yemen Country Profile (2004)

<sup>467</sup> IDEA & HRITC (2009), p. 34

<sup>468</sup> NDI (2010), p. 4

26 local councilors per district if population is 75,000-150,000 and 30 local councilors per district if population exceeds 150,000.<sup>469</sup>

## **Constitutional provisions on local authorities**

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A constitution unifying north and south Yemen was drafted in May 1990 and ratified by popular referendum on 16 May 1991. The Constitution was amended in 1994. As delineated in its Constitution, “the Republic of Yemen is an Arab, Islamic and independent sovereign state.”<sup>470</sup> The Constitution provides for free, multiparty elections of members to the legislative and executive branches.

A new constitutional amendment ratified on 20 February 2001 created a bicameral legislature consisting of a *Shura* Council (111 seats; members appointed by the president) and a House of Representatives (301 seats; members elected by popular vote to serve six-year terms).<sup>471</sup>

Article 4 of the revised Constitution stipulates that: “The people of Yemen are the possessor and the source of power, which they exercise directly through public referendums and elections, or indirectly through the legislative, executive and judicial authorities, as well as through elected local councils.”<sup>472</sup>

The revised Constitution, under the heading entitled “The Third Branch: Bodies of Local Authority”, provides four consecutive articles on local authorities encompassing the following provisions:

It is stipulated in 143 that: “The territory of the Republic of Yemen is divided into administrative Units. The law shall identify their number, borders, divisions and the objective criteria for the administrative divisions. Also the law shall show the way for nominating, electing and selecting their chairpersons, and shall specify their functions and duties within their areas.”

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<sup>469</sup> NDI (2010), p. 4

<sup>470</sup> Constitution of Yemen (Revised, 1994)

<sup>471</sup> UNDESA Yemen Country Profile (2004)

<sup>472</sup> Constitution of Yemen (Revised, 1994)

It is stipulated in Article 144 that: “The administrative districts enjoy a nominal personality and shall have councils which must be freely and fairly elected, both at the local and governorate level, which shall exercise their functions within the borders of the administrative area. They shall propose programmes, plans and investment budgets for the administrative district as well as supervise, monitor and audit the agencies of the local authority according to law. The law shall specify the means for nomination and election of the local authority, its administration and financial resources, the rights and duties of its members, its role in the execution of development plans and programs and all other rules, through considering the adoption of the principle of administrative and financial decentralization as the foundation of local administration system.”

It is stipulated in Article 145 that: “All the administrative units and the local councils are an inseparable part of the power of the state. The governors shall be responsible before the President of the Republic and the Council of Ministers, whose decisions are obligatory to the districts and councils which must execute them in all cases. The law defines the methods of control over the actions of the local councils.”

Finally, it is stipulated in Article 146 that: “The state shall encourage and sponsor the local cooperative administrations as they are one of the most important means of local development”<sup>473</sup>

## **Legislation concerning local authorities**

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The Yemen Parliament has approved the Local Authority Law (no.4/2000) on 10 February 2000. The Law provides a clear and comprehensive legislative framework for decentralization based on the following principles: (a) broadened popular participation through elected local councils; (b) financial decentralization; (c) decentralization of administrative and services delivery functions.<sup>474</sup>

The Local Authority Law stipulates the creation of local bodies on the basis of financial and administrative decentralization. This step is close to the limited decentralization which combines appointments to some of the local authority's bodies and the elections of the majority of the members of such an authority. This law calls for the expansion of public

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<sup>473</sup> Constitution of Yemen (Revised, 1994)

<sup>474</sup> UNDP DLDSP Program Document (2003), p. 6

participation in the decision-making process and the management of local affairs, especially in social, economic and cultural development. This is to be achieved through the establishment of local councils combining the two methods of appointments and elections. The local councils enjoy full powers for proposing programs, plans and investment budgets for fields within the scope of the local administrative unit. Councils are also responsible for the implementation process of the development plans and programs.<sup>475</sup>

The Local Authority law No. 4 for 2000 was amended in April 2008 by the Law No. 18, which introduces a number of revised or new provisions in relation to the election of governors of the provinces.<sup>476</sup>

### **Electoral processes in local authorities & local elections**

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Yemen has a two-tier local government structure, with 21 governorates and 333 districts. Councils are elected at both levels, although central government also appoints governors and chairpersons of district councils who hold significant levels of power within local government.

Local elections are held every four years pursuant to Article 13 of the Local Authority Law No. 4 of 2000, which was amended to 3 years by Law No. 25 of 2002. According to pertinent legislation, parliamentary elections are held every six years and the presidential elections are held every seven years. However, the first local councils' term was extended to six years (2001-2006). Subsequently the term of the local councils, elected in the year 2006, has been extended to an additional four years in order to coincide with the parliamentary elections of 2009.<sup>477</sup> On the other hand, parliamentary elections scheduled for April 2009 were postponed until 2011 by a parliamentary vote extending the members' term in office to 8 years.

Local elections were held for the first time across all of Yemen in February 2001. The elections included 26,832 candidates for 6,614 district municipal council seats and over

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<sup>475</sup> IDEA & HRITC (2009), p. 5

<sup>476</sup> Law No. 18 for 2008

<sup>477</sup> IDEA & HRITC (2009), p. 31

2,500 candidates for 418 provincial municipal council seats. These officials were elected to serve a transitional term as the first elected municipal representatives in Yemen's history.<sup>478</sup>

The 2006 local council elections witnessed 1612 candidates compete for the seats of the local councils at the governorate level that reach at 431 seats, and 18,901 candidates compete for 6,896 seats of the local councils at the district level.

For the 20 September 2006 elections, there were an estimated 7,000 council seats being contested. Each governorate council had between 15 and 30 councilors, and each district council between 18 and 30 councilors, depending on the size of its population. Councilors at both levels were directly elected from over 5,600 separate constituencies on a 'first-past-the-post' election method in a single round. While most constituencies elected one councilor, around 820 of the council constituencies had "multiple-member" constituencies of between two and 12 councilors each. The number of councilors per constituency was not prescribed by the Elections Law but, rather, was determined in proportion to the size of the estimated population.<sup>479</sup>

Yemen conducted its first ever elections of the governors of its provinces on 17 May 2008. The governors were elected, not by popular vote, but indirectly by 7,484 members of local councils at the provincial and district levels.<sup>480</sup>

## **Structure and organs of local authorities**

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The district local council has a chairperson and a secretary-general; the latter is elected from among the elected members while the first is appointed by a decree issued by the Prime Minister on the basis of a nomination by the Minister of Local Administration – a non-elected chairman for an elected council. Relations between the chairman and the secretary general are governed by rules defined by the Local Authorities Law of 2000 which also outlines the responsibilities of both the local council and the responsibilities of the chairman. The Law makes it clear that the chairman of the local council exercises tasks and responsibilities under the oversight of the local council. The chairman is accountable to the

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<sup>478</sup> UNDESA Yemen Country Profile (2004), p. 9

<sup>479</sup> EU Report (2006)

<sup>480</sup> UNDP POGAR (2011)

local council for the exercise of tasks and responsibilities pursuant to the respective provisions of the Local Authorities Law.<sup>481</sup>

Pursuant to the Local Authorities Law of 2000, local councilors are structured in committees, three of which are permanent (Planning and Budgeting, Services Delivery and Social Affairs). They are headed by the secretary general elected among the councilors. The Secretary and the Heads of the Permanent Committees, together with the nominated District Director, who is also the Council's Chairman, form the "District Management Committee" (DMC), a smaller operational body responsible for continuous oversight of the implementation of the Council's policies and directives. Nominated Local Administration Staff include the District Director himself and sector departments' staff. The District Director and the heads of the sector departments, together with the Council's Secretary General, form the "District Executive Office" (DEO), the body heading the local executive and coordinating all its activities.<sup>482</sup>

## **Duties and responsibilities of local authorities**

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At the governorate, the governor (an appointee of the President) is the highest political authority of the state. His/her mandate is to ensure public safety and the security of the state, and to coordinate economic development with technical ministry branch offices that are represented in the governorate. While governors are affiliated with the Ministry of Local Administration, their rank is comparable to that of a minister. The governor is supported by a deputy governor and an office that is staffed through the Ministry of Local Administration.<sup>483</sup>

A comprehensive description of the role of elected local councilors can be found in the Local Authority Law of 2000. Local councilors are responsible for the following: 1) Proposing economic and social development plans for their district; 2) Monitoring the work of the appointed executive unit in their district; 3) Proposing annual plans and budgets; 4) Examining information to determine development priorities for their district; 5) Reviewing the source, amount and type of district revenues collected and distributed; 6) Reviewing security conditions in their district; 7) Promoting investment in their district; and 8)

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<sup>481</sup> IDEA & HRITC (2009), p. 44

<sup>482</sup> UNDP DLDSP Program Document (2003), p. 7

<sup>483</sup> UNDESA Yemen Country Profile (2004)

Reviewing the supply of basic commodities and services in their district and proposing solutions to shortages.<sup>484</sup>

According to the Local Authority Law of 2000, considerable responsibilities for infrastructure development and services delivery should be handed down to local councils and their administrations. These include responsibility for water supply and sanitation, rural electricity, rural roads, education, health, agriculture development, and municipal services. In time, local councils are expected to take an active role in two critical, if less conventional, areas of local public sector responsibility: the protection of the environment and management of natural resources, and the promotion of local economic development.<sup>485</sup>

### **Financial autonomy & resources of local authorities**

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The Local Authority Law of 2000 seeks to fiscally decentralize the Government of Yemen by increasing local budgetary autonomy. Before 1999, fiscal allocations were tightly controlled by the central government, creating delays in local development projects. Most local revenues, raised through taxes and fees, were transferred to the capital of Sana'a, with virtually all of local budgets coming from fund transfers from the national government. The new law provides that local authorities will keep revenues collected at the local level. Portions of monies collected by the central government will be distributed to municipalities based on population density.<sup>486</sup>

The Local Authority Law of 2000 restructures the distribution of budgetary resources between the local and central government. The law consolidates local authority for planning, development, and administration into one elected body: the municipal council. It also provides for a yearly national conference to be convened by the Prime Minister to review the status of national decentralization.<sup>487</sup>

As far as the finances of the local authority are concerned, steps for preparing local budgets and plans are regulated by the Local Authority Law of 2000, the law's executive regulations, the financial regulation of the local authority and amendments. Article 129 of the Law and

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<sup>484</sup> NDI (2010), p. 5

<sup>485</sup> UNDP DLDS Program Document (2003), p. 7

<sup>486</sup> UNDESA Yemen Country Profile (2004), p. 9

<sup>487</sup> UNDP POGAR (2011)

Article 246 of the regulations stipulate that each administrative unit should have its own annual plan and budget including all resources to be collected and spending for the fiscal year. The article outlines the steps for preparing the proposed budget of the administrative unit.<sup>488</sup>

In this context, financial arrangements to support decentralization are stipulated in the Local Authority Law of 2000. As the local administration staff in Yemen belongs to the national civil service, their salaries and associated costs are covered by central budget. On the other hand, as a substantial and gradually growing element of local development expenditures is meant to be financed with resources accruing to local authorities, the Law foresees four instruments of local authorities financing including (i) local (Districts only) taxes and fees and (ii) joint (District and Governorate) taxes and fees, as well as (iii) purpose-specific fiscal transfers (from established sectoral Funds) and (iv) general-purpose, fiscal transfers.<sup>489</sup>

### **Central government control/tutelage over local authorities**

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The governor, who is indirectly elected by the local councils in each governorate, reports to the Ministry of Local Administration. Directors for each district are appointed by the governor with the approval of the same ministry. Thus, coupled with its other relevant powers and responsibilities, the Ministry of Local Administration plays a key role in exercising central government control/tutelage over local authorities. Although there are ongoing efforts towards granting local councils and local executive organs broader powers to be able to manage local affairs effectively and to strengthen local governance, the central government tutelage in Yemen in general is not regarded to be “heavy”, particularly in the face of the decentralization framework drawn up the Constitution.

Local development plans currently come from the central government. They contain information about the economic, social, health and education goals for the country but are not specific to individual local district development needs.<sup>490</sup>

The Governors have the power to monitor implementation of recruitment policies for the staff of local administration units within the respective provinces. Local councils are

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<sup>488</sup> IDEA & HRITC (2009), p. 24

<sup>489</sup> UNDP DLDSP Program Document (2003), p. 7

<sup>490</sup> NDI (2010), p. 8

responsible only for monitoring the sound implementation of recruitment policies, while the actual hiring is done by the office of the Ministry of Civil Service and Insurance at the governorate level. In this context the powers to hire, fire or promote the administrative staff in the local authority is not vested in the local council, but such powers fall under the responsibility of the Ministry of Civil Service and Insurance at the governorate level and its offices.<sup>491</sup>

## **General framework of local autonomy & reform initiatives**

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The Local Authorities Law No. 4 of 2000 devolved major policymaking, planning, implementation and service delivery responsibilities to local governments.

A number of evaluations, in particular by United Nations agencies that focused on the unfolding of the decentralization process in Yemen in the first couple of years of the new millennium concluded that while the Local Authority Law provides a good framework for improving local governance in Yemen, much remains to be done to implement its fiscal and administrative dimensions and to make decentralization work on the ground.<sup>492</sup> Initially, implementation of decentralization was not commensurate with the provision of law for several reasons including lack of resources, continued control by the central line ministries through their branch offices, and weak capacity at the local level.

In order to accelerate the decentralization process and to overcome the bottlenecks in implementing the provisions of the Local Authority Law, a multi-donor supported “Decentralization and Local Development Support Program (DLDSP)”<sup>493</sup> has been launched, along with other similar initiatives by the Government. In this context, particularly after the second half of 2000s, there has been increasing momentum in support of greater decentralization. In particular, the Ministry of Local Administration (MOLA) has completed a decentralization strategy, and proposed revisions to the Law allowing for greater fiscal and political decentralization, and for the first time in Yemen, the Governors were elected in May 2008.

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<sup>491</sup> IDEA & HRITC (2009), p. 45

<sup>492</sup> UNDP DLDSP Program Document (2003)

<sup>493</sup> UNDP DLDSP Program Document (2003)

The Government of Yemen has identified “Decentralization and Local Governance” as one of its priority areas under the United Nations Development Assistance Framework (UNDAF) for the period 2007-2011.<sup>494</sup> In this context, efforts continue towards revising and harmonizing the legal and regulatory framework of decentralization reforms, which is envisaged to include the necessary amendments to the Law 4/2000 and its regulations, and the harmonization of related legislation (some 85 Laws may need to be revised to align them with the provisions of Law 4/2000).<sup>495</sup>

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<sup>494</sup> UN UNDAF for Yemen (2006)

<sup>495</sup> Kassim (2006)

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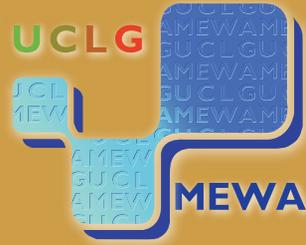












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