

Analyzing the Expected Democratic Impact of the Governing Legal Framework for Local Administration in Jordan- 2014

Proposed decentralization law & municipal law for 2014

By

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Analyzing the expected democratic impact of the draft of decentralization law – 2014

Analysis Key

This analysis assesses the expected impact of the articles and paragraphs of the proposed draft law on the functioning of democratic development based on the following principles:

- 1- International standards of decentralization, local administration, democratic elections, represented in international contractual obligations of the Jordanian State and internationally recognized guidelines relevant to this area, such as the European Charter of Local Self-Government.
- 2- Best practices around the world in the fields of participatory democracy, development of local administrations, and development of public participation in local governance.
- 3- Opinions of experts in the fields of local administration and electoral reform, as well as feedback gathered from heads and members of the municipalities through a series of workshops, conferences, and focus group sessions held by the project during the past three months.
- 4- Local contexts and developmental needs, with a focus on requirements of the electoral reform and the development and social environment in the country.

Regarding classifications for this law, this analysis used five classifications to evaluate the impact of specific articles on the development of a democratic environment in Jordan:



Significant democratic advance

Important democratic progress:

The article contained in the draft is expected to make a transformative impact or able to make a quantum leap in Jordan's democratic development in a positive way.



Limited democratic advance

Limited democratic progress:

The article could achieve a positive impact on the line of democratic development in Jordan, but its impact is limited and could be improved if certain recommendations are taken into consideration.



Limited democratic back-step

Limited democratic decline:

The article is expected to have a negative impact on progress line of democratic development in Jordan, but its impact is limited, and could be avoided if certain recommendations are taken into consideration.



severe democratic back-step

Sharp democratic decline:

The article is expected to cause a sharp democratic decline, or sustainable negative impact if retained.



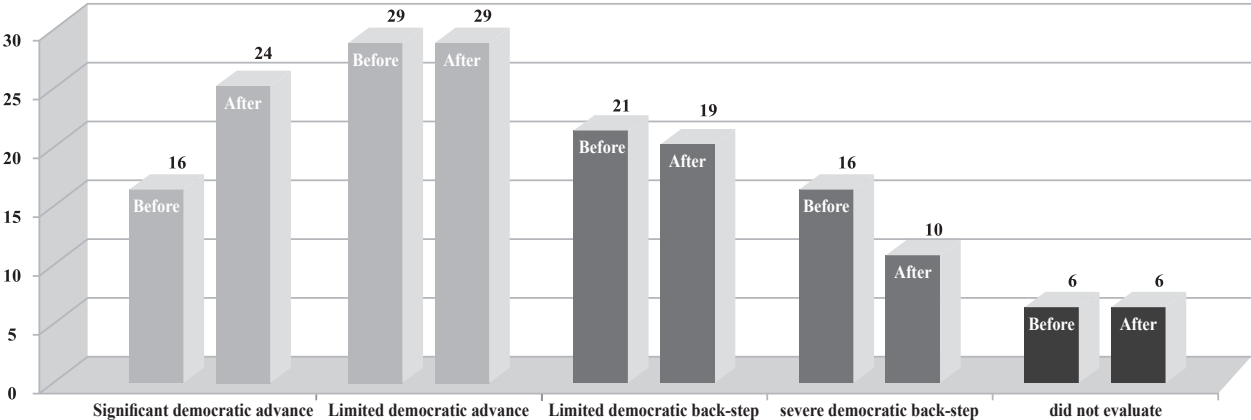
did not evaluate

Did not evaluate:

The article does not have major implications for democratic development in Jordan, or it does not have a clearly identifiable effect.

This analysis is an efforts done by Al- Hayat Center team to support the peaceful democratic transformation in Jordan, where it has to be objective and under the scientific standards based on the mentioned classifications above, so based on that Al- Hayat Center hopes that legislative authority take the recommendations into consideration, since it did not represent the team ideas but represent the ideas of experts, head and members of the councils and the local activists.

Summary Analysis



Graph comparing the democratic impact of the Draft Governorate Council Law prior and post- assignment of the Independent Electoral Administration Authority for elections

Article 1



Significant democratic advance

This Law is named: The Law of Provincial Councils 2014 and is effective as of the moment it is promulgated in the official Gazette.



Retreating of the decision to adopt the legislation as a law rather than a bylaw reflects a democratic progress. The constitutional channels to enact, amend and cancel laws characterizes a system closer to representative democracy, since laws are obligated to pass through parliament, thereby reaching a higher level of representativeness to public needs and aspirations.

Article 2



did not evaluate

The Ministry: Ministry of Interior.

The Minister: Ministry of Interior.

The High Commission: The committee formed in accordance with the provisions of this law.

Central Committee: The committee formed in every Governorate according to the provisions of this law.

Voting Committee: The committee formed in every constituency in accordance with the provisions of this law.

The Council: Municipal Council

Executive Council: The council of the governorate with provisions in accordance with this law.

The Governor: The Mayor, District Administrator, Director of the Judiciary as in accordance with the provisions in the formulated system.

Administrative body: The independent election commission.

The Department: The Civil Status and Passports Department and its affiliated directorates and offices in the governorates.

Jordanian: The person holding the Jordanian nationality as under the provisions of the Jordanian Nationality Law which is in force.

Voter: Every Jordanian has the right to vote for council members as stipulated in the provisions of this law.

Elector: Every constituent exercising his right to vote as stipulated in this law.

Candidate: The constituent whose request for candidacy for council elections has been accepted as per the provisions stipulated in this law.

Constituency/electoral district: Every part of the governorate has a specified number of seats awarded to it as per the provisions in this law and the regulations issued thereunder.



Sub- election district: Every part of the constituency has one or more polling and counting centers appointed to it.

Polling and counting Center: The place designated by the Chairman of the Electoral District Committee for said Committee to conduct polling and counting procedures.

Electoral District Committee: The Committee formed in every electoral district as per the provisions of this law.

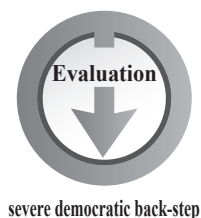
The ID Card: The identification document issued by the department.

Resident : The Jordanian whose habitual residence is within a specific electoral district.



This article was not subject to evaluation since it contained regulatory definitions have not seen as the expected direct impact on the functioning of democratic development in Jordan.

Article 3/A



A- The Governor is Chairman of the Public Administration in his municipality, and the highest effective power therein. He leads all governmental employees within the governorate. Additionally, powers and tasks shall be conferred to him as per the following legislation:

1. Command the official bodies in the governorate, and supervise their functioning.
2. Coordination between the council and municipalities in the governorate, as well as the ministries and official and public institutions.
3. Supervision over developmental plans, gubernatorial services, and annual budget preparation.
4. Adopt necessary mechanisms to ensure implementation of Council decisions and their referral to the competent authority.
5. Implement State general policies, and for authorities to adopt and follow-up on the State's departments and institutions execution and implementation of laws, systems, instructions, communications, and official guidance in the governorates. This is to be done in coordination with the relevant authorities.
6. Work to provide the best possible services to citizens, in cooperation with the Council.
7. The right to attend Council sessions.
8. Work with the Council and Executive Council to provide an appropriate climate to encourage investment into the governorate, and provide the requirements for economic and social development. Work to adopt the necessary tools to achieve this development in cooperation with the relevant authorities.
9. Preservation of state property, work to develop it and improve its utilization, and implement measures and procedures to ensure this.



10. Convene periodic meetings of the Councils and Committees which he chairs, and adopt the necessary mechanisms to implement the decisions and votes made by them.
11. Adopting the necessary mechanisms to preserve the health, public safety, and the environment; to form oversight committees to inspect and warrant the temporary closure of premises and facilities, and to impose fines; and to preserve such items while irregularities are referred to the competent court.
12. Take all necessary measures in case of emergency and coordinate the efforts of all concerned authorities.
13. Carry out any powers or duties assigned by the Cabinet, Prime Minister, or concerned Minister, or his authorized representative.



This article constitutes a decline with a negative profound impact on the functioning of democratic development, as it gives the central government which is represented by the Governor the presidency of the general administration at the local level, despite establishing a local elected council at the same level.

This constitutes excessive governmental dominance of the authorities over the elected councils (governorates councils), weakening the capabilities of those departments to achieve the needs and aspirations of their constituents. The third article of the European Charter of Local Self-Government indicates that elected councils should have eligibility to lead public administrations and executive agencies accountable to them and not vice versa. Some paragraphs of this article increase governmental supervision of the elected councils, for instance the second paragraph, which entrusts the task of coordination between the governorates council and the municipalities to the mayor, while the third paragraph gives him the right to supervise preparation of annual budgets.



It is necessary to give the chairperson of the governorate council the right to lead the public administration at the local level, as it would enable the chairperson to represent the needs and aspirations of the residents of his province.

Article 3/B



Limited democratic advance

Official Administrative Directors in the Governorates are required to follow the instructions issued by the Governor and are considered responsible to the Governor in the implementation of their duties.



Evaluation (Limited democratic progress): The heads of the general departments in the governorate should be committed to the instructions issued by the governor and responsible to implement those duties.



The law should give the right of direct accountability to the elected governorate councils on the performance of the heads of the general departments and executive apparatus, just as it gave that accountability to the governor.

Article 4/A



Significant democratic advance

A council named the Executive Council is formed in every governorate, to be chaired by the Governor and its members consisting of the following:

1. Administrative judges chairing the neighborhoods and districts in the governorate.
2. Directors of departments and concerned government office directors.
3. Directors of development zones and industrial cities in the governorate.
4. Three municipal executive directors of the governorate, to be nominated by

the Minister of Municipal Affairs.



This article constitutes important progress since it collects the executive apparatus under the umbrella of one council, giving it a higher capacity for coordination and greater ability to take a participatory approach to serving the needs of development at the local level.

This was a positive step toward bringing the administration closer to the citizens, as it enhances the practice of delegating powers from the central government to local governments, in line with best practices of the executive services.

Article 4/B



Limited democratic advance

The Executive Council will convene upon invitation by its chairman at least once every month, with attendance of the director of the directorate or relevant office when discussing or studying any topic concerning him, and is a member for this purpose.



It's a positive step that the executive council is obliged to meet at least once a month, however this article did not address the right of citizens and the members of governorate municipal councils to attend executive councils meetings.



The law must give the right to citizens, members of governorates and municipal councils to attend executive council meetings and to clarify the mechanisms of delivering feedback on the performance of the council by the local community.

Article 4/C



Limited democratic back-step

The Assistant Governor for Developmental Affairs will chair the Executive Council in case of absence of the Council chairman.



This article represents a limited democratic decline where it gave the presidency of the Executive council to the assistant governor for development affairs in the absence of the council chairperson. The assistant is not a member of the council, although it is apparent that the council should not be chaired by a non-member person, due to the fact that the members of the council are the most experienced with the relevant issues on both performance and management levels.

Article 4/D



There will be a Development Unit in the Governorate General Secretariat for the Executive Council. The Executive Council chairman will appoint a Secretary from amongst its members to the Council who is to be invited to its meetings and take the minutes of the meeting, its decisions, votes, and recommendations in special register signed by the Executive Council chairman and present members.



Appointing the developmental unit in the governorates to support the executive council secretariat is a step with positive signs, However this paragraph in its detailed mechanism for documenting the minutes of meetings and the recommendations of the council did not mention how people can access this documentation and how it can be publicly provided to the citizens.



The law must appoint a clear mechanism to electronically publish the executive councils meeting documents and outputs and the details of its performance.

Article 4/E



Limited democratic back-step

The Council chairman may invite the representative of any party providing public services or the public interest to attend Executive Council meetings to discuss any issue beneficial or of public interest to the governorate.



This article appears to make executive councils meetings closed by default, only including those who receive invitations from the head of the executive council. However, the standards of transparency indicate that meetings should be open to the local community and those who are interested in attending the meetings of the council, excepting that sessions which require to be closed within clear guidelines.



The law should give the right to the citizens to attend the executive council meetings, then clarify the specific conditions of closed meetings.

Article 4/F



Limited democratic back-step

The Council chairman has the right to attend Council sessions to discuss any issue relating to gubernatorial affairs.

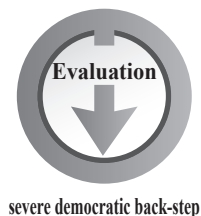


This article forms a positive step by giving the right to the head of the executive council to attend the governorate council meetings to achieve the needed participative cooperation between both of the executive and the governorate council. However, it did not give the right to the head of the governorate council to attend the executive council meetings, although giving the right to the head of the executive council to attend the governorate meetings devotes the closed characteristic on the meeting then the performance of the governorate council.



This article must be changed to be open to the public to attend the meetings, and clarify the regulations of the closed meetings.

Article 5



severe democratic back-step

The Executive Council fulfills the following tasks and duties:

A- Preparation of necessary draft strategic and operational plans relating to the governorate, ensuring their coherence with national strategies and plans, and their referral to the Council to take the appropriate decision.

B- Preparation of the draft governorate budget within the confines set by the Ministry of Finance/General Budget Department and its referral to the Council.

C- Set out the foundations to ensure proper functioning of executive and administrative agencies in the governorate.

D- Make recommendations invest in the territory of the Treasury and referring it to the Council.

E- Preparation of work progress reports regarding projects and services, and its referral to the Council.

F- Adopt the necessary measures to implement decisions and recommendations issues by the Council or any of the governmental executive directorates in the governorate which fall within their competence.

G- Coordination with the competent official and public bodies and institutions in plans and programs undertaken by them.

H- Review of public cases in the governorate, researching issues related to public services, consideration of any proposals submitted by any member, and adopting the necessary decisions regarding them.

I- Forming any necessary committee to execute its purview, determined by its formation decree.

J- Study and research whatever is forwarded to it by the governor or Council.



This article constitutes a deep democratic decline, specifically when read alongside with the eighth article of the draft of law which identified the elected governorate council tasks. It entrusts strategic planning and preparing the governorate budget tasks to the executive council, in addition to confining the task of the elected council to “adopting” or “discussing” any issues referred to the council from the executive council on the developmental level, in addition to “suggesting” developmental projects to the governor.



It's necessary to enhance the authority of the elected governorate council and its position relative to the executive council by giving it the right to prepare governorates' budgets and the long term strategic plans, in addition to the mechanisms which may be used by the governorate council to keep the executive council accountable.

Article 6/A



Significant democratic advance

Every governorate shall have a council called the Governorate Council.



Creating elected local councils is a progressive act in the democratic development of the Jordanian state, as it raises the capacity of local councils to express citizen's hopes and needs, enhances decentralization, and gives the chance to the municipal authorities to have a closer body to the citizens than the central government.

Article 6/B



Limited democratic back-step

Voters determine the amount of council members in accordance with the regulations of Electoral Directorates. The seats allocated to each of them are issued in the provisions of this law.



Lessons from international best practices indicate that the division of the electoral constituencies and allocating the representative seats are very important both to the electoral systems and the tasks of the elected councils. The division of the constituency and allocation of seats should be decided by the legislature.



The law should contain a clear mechanism for the division of electoral constituencies and the allocation of seats for each of them. It is possible to do this through an appendix draft law passed by the parliament, such as the parliamentary electoral law.

Article 6/C



severe democratic back-step

The Cabinet will specify, upon the recommendation of the Minister, no more than 25% of the amount of elected council members.



This article constitutes indicates a serious lack of political will to give elected councils the right to administrate public affairs on the local level, and supports the central government's domination over the performance of the elected councils.



The governorate councils must be completely elected to be able to represent citizens' needs and their developmental hopes.

Article 7



Limited democratic advance

The term of the council is to be four years, commencing from the date following the announcement of winners' names in the official Gazette. Its powers will end upon the finishing of this term or if it is dissolved as per the provisions of this law.

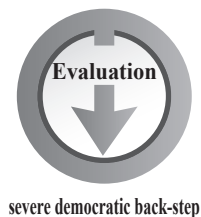


This article constitutes significant democratic progress since the duration of the councils administration (4 years) is enough to achieve the stability of the governorate councils to study the societal affairs and set the long term strategic plans. However, “dissolving the council” according to law will be considered an illegal act against democratic representation which will be mentioned by our comments in the first part of the (34) article of this draft.



The law should prohibit any premature dissolving of the elected councils without judicial order.

Article 8



The Council will carry out the following tasks:

A- Approve necessary draft strategic and operational plans relating to the governorate referred to it by the Executive Council, and ensuring its implementation.

B- Approve the draft governorate budget within the confines set by the Ministry of Finance/General Budget Department referred to it by the Executive Council, in preparation for its inclusion in the General Budget, in accordance with the procedures for State General Budget preparation.

C- Study the needs of the governorate regarding developmental and service projects referred to it by the Executive Council, and determining its priorities.

D- Approve service and investment projects submitted to it by the Executive Council, after perfecting the necessary procedures in accordance with the applicable laws.

E- Discuss reports on plan, project, and program implementation which the official directorates in the governorate are to implement, provided they are not inconsistent with the work of the competent government watchdogs.

F- Propose development projects for the general benefit of the governorate, and referring them to the Governor to take the appropriate action.

G- Confer recommendations and proposals to the relevant parties to ensure improvement in the performance of official departments and public institutions working within the governorate to ensure better service provision.

H- Express opinions regarding topics the Governor seeks consultation for.

I- Propose the establishment of investment projects, and participate in joint projects with other governorates with approval from the relevant parties.

J- Follow-up and monitoring the implementation of assigned tasks in accordance with this Article, based on the work progress reports referred to it by the Executive Council.

K- Ratification of municipal annual budgets within its competence, and approval of capital projects for all municipalities within the governorate.

L- Determine the areas falling within the Governorate boundaries suffering from a deficiency in services and development, or some emergency problems, and propose solutions with the relevant authorities.

M- Any member of the Executive Council has the right to discuss subjects falling within their expertise and listed on the Council's agenda.

N- Forming any necessary committee to execute its purview, determined by its formation decree.



This article limits the tasks of the elected councils to “approve”, “study” or “discuss” all documents sent to them by the executive council such as strategic plans or budgets, and it does not give them the right to prepare those plans and budgets; it only gives them power to reject budgets and developmental plans or approve them. The best democratic practices typically imply that the elected administration should take the primary role in preparing budgets and plans. At

the same time, the most prominent point did not mention the mechanism of accountability which is practiced by the elected councils on the executive ones, which might be considered a step against democratic practices.



The law must give the power of preparing the developmental plans to the elected governorate councils and set a clear and effective mechanism to practice accountability principles on the appointed executive councils.

Article 9/A



Significant democratic advance

The Governor invites the Council to convene its first meeting within a period not exceeding thirty days from the date of election results being announced in the official Gazette. The oldest member will chair the session where the members are to elect its chairman, the vice chairman, and the chairman's aid from amongst its members by way of direct secret ballot.



This article reflects the good practices of the best international democratic standards, specifically with regards to the direct secret voting as a mechanism for electing the head of the governorate councils and his/ her vice and assistant.

Article 9/B



The position of Governorate Council chairman, vice-chairman, and its aid are considered to be won by the person receiving the majority of votes from the attending council members. If there are an equal amount of votes for two candidates or more, a draw takes place between them as appropriate.



Despite the positive progress of the last paragraph, using lottery as a tool to select the winner from the members who got the same votes is not preferable in a democratic context.



It's possible to hold more than one electoral round or a re-election between those who got the same number of votes.

Article 9/C



Limited democratic advance

The vice-chairman exercises the powers of the chairman in the case of the latter's absence. The chairman has delegated his assistant or delegate any of his powers in writing and with specific authorization.



This article was positive in that it delegates the power of the head of the governorate council, but it did not specify the relative tasks of the head, vice or the assistant, nor did it specify their powers. Also, it did not mention the mechanism of the relationship between the head and the council.



The powers of the head or the vice or even the assistant must be clarified legally, in addition to the mechanism of overseeing their performance by the council.

Article 10/A



Significant democratic advance

The Council convenes its session by invitation from its chairman or vice-chairman in the event of the prior's absence. He appends a number of employees allocated to him in the Governorate Annual Budget, sufficient to sustain his work. The chairman is paymaster as the Council is subject to the scrutiny of the Audit Bureau.



The subjection of the governorate council to the audit bureau is important democratic progress that would increase financial integrity and enhance the transparency of expenditure.



The executive council must be subjected to the audit bureau like the governorate council.

Article 10/B



Limited democratic back-step

Provisions and procedures for the roles of the Council, its term, and a Business Management Council, formation of committees, and the term of chairmanship are determined in the regulations issued for this end.



This article constitutes a democratic decline, as the sessions of the council and the mechanism of formatting and administrating committees and identifying the duration of the council's presidency are essential details, which should be released by the parliament and go into constitutional channels, making them stronger than regulations.



The law should mention a clear declaration of the sessions and its duration, tasks and the presidency duration.

Article 11/A



Significant democratic advance

A Council member loses his membership in case of any of the following provisions:

1. If any of the conditions of membership stipulated in this Law are forfeited.
2. If he worked in a case against the Council as a lawyer, expert, or agent; or became a beneficiary in any of the developmental, investment, or service projects which the Council has approved.



This article considered as an important positive point, since it denies the membership of the council to participate in any case of conflict of interest.

Article 11/B



Limited democratic advance

A Council member loses his membership by Council decree if he was absent during three consecutive sessions without a legitimate excuse deemed acceptable by the Council.



This part is a positive point, but the law must clarify the mechanism of making the decision in the council.



This decision-making process should be clarified by law in the governorate council (Direct vote, committee recommendations etc...).

Article 11/C



Limited democratic advance

If the member submits his resignation to the Council in writing, where his membership is ceased from the date of its submission.



This part is a positive point, but the law must clarify the steps for carrying this out.



The law should clarify the mechanism of taking decisions inside the governor council such as (direct voting, committee recommendation etc...).

Article 11/D



If a vacancy occurs for a member's position in any of the cases stipulated in this Article, the Council chairman shall inform the Governor within a timeframe not exceeding seven days. He will inform the Minister within seven days of the seat vacancy opening up, and appoint a candidate to succeed its membership in accordance with the provisions in Article 12 of this Law, and it will be published in the official Gazette.



This article represents a good progress in the right direction. However, the law needs to clarify the decision-making mechanism within the council to be applied uniformly.



The law has to clarify the decision-making mechanism within the governoral council (direct election, committee recommendations, etc.)

Article 12



Limited democratic advance

If an elected member's position in the Council becomes vacant as a result of resignation, death, or forfeiture of membership; the candidate receiving the next most amount of votes in his constituency will succeed him, provided they still retain the terms of membership. If there is no other candidate in accordance with the stipulations of this Paragraph, the Cabinet will appoint one from amongst the names of the voters in this district, upon recommendation by the Minister, to fill the vacancy. He is required to meet the conditions of membership and

continue the acquired membership under this Paragraph until the end of the Council term.



That the article identifies the steps for filling the vacant seats is a democratic step, however the article imposes a non democratic mechanism to fill the vacant seats, according to the cabinet appointment.



This article should be faithfully implemented. All members should be elected, but in case of a vacancy of a candidate who won by acclamation, people will be responsible to re-elect another one on the constituency level.

Article 13



severe democratic back-step

If a dispute arises between the Council and the Executive Council regarding any matter concerning the Governorate, the Minister may, upon recommendation by the Governor, refer the dispute to the Cabinet for a decision. The decision of the Cabinet is definitive and enforceable.



This article is considered an infraction of the democratic hierarchical system between the executive appointed council and the elected governorate council. It mandates governmental domination on the performance of the elected local powers by giving it the right to manage any kind of conflicts between the two councils to the cabinet instead of giving this to the elected council.



Law should give the higher authority to the elected governorate council, and the executive council should be controlled by the governorate one.

Article 14/A



Limited democratic back-step

The Cabinet may issue a decree, upon recommendation from the Minister, to conduct elections for the Governorate Councils, and will determine the voting date. This decree is published in the official Gazette.



Although the law determinate the timelines for holding the elections of governorate council in a good way, it does not give the authority to the Independent elections Commission (IEC) to call for elections and identify the holding date of elections. Obviously, there is a constitutional equivocacy issue in the second paragraph from the article number (67) of the Jordanian constitution on the right of the IEC to manage local elections, based on this, the constitutional court must be asked to clarify this issue.



Elections administration has to be transmitted to the IEC in addition to identifying the date of election, in case there is found any constitutional equivocacy we will recommend to ask the constitutional court about it.

Article 14/B



Notwithstanding the provisions of Paragraph A of this article, the Cabinet may issue a decree, upon recommendation from the Minister, to appoint a special day for the voting to take place for some of the constituencies outside the determined date, in accordance with the provisions of this Paragraph. This if election integrity or public interest requires it.



Flexibility in this article forms a positive development in the way of serving the public safety. On the other hand, it does not specify ceilings for the deadlines for the dates between the voting days in case it varies. Moreover, it does not require the postponement of the council sessions until the completion of all members and the end of all the voting days.



The law should specify a reasonable time intervals between voting days if needed, and require that the Council cannot be in session until the completion of members after the end of the last day of the specified voting days, except in the case that the election could not be held because of compelling circumstances for a long time.

Article 14/C



Limited democratic back-step

The Minister, during the six months prior to the ending of the Council's term, prescribes the adoption of the necessary measures for the election of the following Council.



Despite that the law imposes the “Supreme Committee for overseeing the governorate council elections,” this article refers responsibility for the elections to the minister as a person but not to the IEC.



Managing the pre-governorate councils election period should be entrusted to the IEC, but if there are any constitutional restrictions, they could be entrusted to the supreme committee, the creation of which is mentioned in the law.

Article 14/D



Significant democratic advance

If the elections cannot be held until after the end of the Council's term, the Cabinet shall, upon recommendation from the Minister, extend the term of the previous Council until election time.



In case of the postponement elections this article prevents the presence of an elected administration.

Article 15/A



Limited democratic advance

Every Jordanian 18 years of age on the first day of the first month of the election year has the right to vote for Council members if he is registered in one of the final electoral tables.



The requirement of registration considered as a good guarantee for the imposition of electoral procedures, but that the calculation of the voter age from the beginning of the elections year limits justice, as most of voters become 18 age during the electoral year and just before one day of voting, this imbalance worsens when local elections are held in the late months of the year.



The mechanism of calculating the age of voters should be modified to be connected with the elections day, since the best democratic practices mention that calculating voter age could be 60 to 90 days before the Election Day.

Article 15/B



Limited democratic back-step

Prohibited from practicing their right to vote are:

1. Those sentenced to bankruptcy and not having regained legal consideration.
2. Those who are insane or mentally ill.
3. Those interdicted for himself or any other reason and whose quarantine has not been lifted.
4. Those convicted for a misdemeanor involving moral turpitude, or a felony not covered by a general amnesty or did not want to be considered



This article prevents those persons who did “unethical” crimes from exercising their voting rights at the local level, but these crimes are not specified in international legislations and there are no standards of identifying them, which may send non-standard classifications against these persons and prevent them unfairly to have their own rights in voting.



Law should identify “unethical” crimes in a clear constructive way, based on specific standards.

Article 15/C



C- The Courts are to supply the departments with all authoritative rulings issued relating to those interdicted or bankrupt, so as for their full names and national numbers to be included when the provisions of this law are implemented, at the beginning of the months of January and July of each year or such other date as determined by the High Committee.



This paragraph represents good democratic progress, since updating the voters schedule twice a year is consistent with best practices, in addition to giving the right to courts to provide requests to the constituency with its peremptory provisions out of this timeline. Obviously, it make the constituency flexible, on the other hand, the supreme committee should not do this task instead of the IEC.



The IEC should manage the whole process of elections.

Article 15/D



Limited democratic advance

The department is to take the necessary measures to remove the names of the deceased from its lists, to ensure non-inclusion on the electoral tables.



It's very important to delete the names of dead people from the electoral lists, especially, with the public suspicions that the IDs of dead people will be used in the wrong way, when manipulating elections. In the meanwhile the timeframe, of deleting these names is not clear.



To be clear law should identify specific dates to delete the dead people names from the constituency lists to guarantee a high percentage of transparency.

Article 16/A



Limited democratic advance

The department shall prepare the tables of the names of residents with the right to vote in all of its electoral districts to obtain an ID card for each of them on the basis of their national number.



Preparing lists in reference to the national numbers is a good point toward democracy, however, requiring the issue of voters IDs before preparing the lists could prevent some new voters to exercise their rights in voting.



It's better if the law will not require eligible lists to those with issued IDs, but limits the names which are mentioned to the lists of the persons who are qualified legally to vote whether they have IDs or not.

Article 16/B



Limited democratic advance

The Minister will request the department to send the voters tables to the chairmen of the electoral departments.

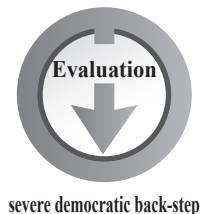


Delivering the basic lists to the heads of constituencies before editing or appealing is a positive point, which enables these lists to be made available to public through specific frames to the local communities. However, delivering the lists to the minister is a procedure against the elected authority.



All the administrative affairs should be related to IEC.

Article 16/C



The tables are preliminary measures, and anybody has the right to object to them. The competent authority will decide on these objections, the necessary timeframes to do so, and become final under the regulations issued for this purpose.



We consider this article a sharp democratic decline, since the procedures of presenting the primary lists and the right of objection in addition to the competent authority to decide on the objections and timeframes are important parts in any electoral legislation. All these mechanisms should go into the same constitutional channels of drafting laws directly, not as a system prepared by the executive authority.



Law should contain all the details related to the objection on the voters list, and the availability of litigation in this regard in two phases.

Article 16/D



Limited democratic back-step

The Court of First Instance is competent to consider appeals submitted to it regarding the voter's tables, in accordance with the procedures and timeframe set forth in the regulations issued for this purpose. Its verdict will be final and not subject to appeal by any means.

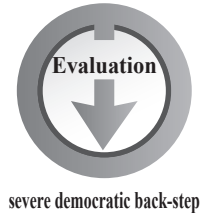


Referring the task of reviewing the objections on the voters list to the primary court is a positive point which enhances justice in the electoral process, but making the appeal for only one time is a non-preferable practice.



Law should allow the right of appealing concerning the voters list and the litigation on two levels, in order to be consistent with international best practices.

Article 17



In the Ministry, a committee is to be formed entitled “The High Committee for Governorate Council Elections Oversight”, chaired by the Minister and its members consisting of the following:

A- One judge from the Court of Cassation, appointed by the chairman of the Judicial Council and vice-chairman.

B- One commissioner, appointed by the chairman of the Commissioners Council

C- Secretary General of the Ministry of Interior.

D- General Director of the Department of Civil Status and Passports.

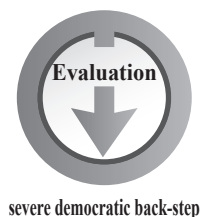


This article is a dangerous democratic decline affecting democratic reform in Jordan negatively, since the minister of interior is heading the election process despite of establishing the IEC. This is a step toward losing the confidence of people in the election process, so there is no doubt that entrusting the administration of the governorate councils election to IEC is a constitutional ambiguity. We can ask the constitutional court to clarify it, then request for a constitutional amendment if necessary.



IEC should manage the whole process of the governorate councils by law.

Article 18



The High Committee will carry out the following tasks and duties:

- A- Preparation of the electoral process budget and its referral to the Cabinet for approval.
- B- Nomination of the chairmen and members of the Central Committees and Electoral Department Committees.
- C- Formation of the necessary committees for the electoral process.
- D- Approve the schedules for the processes of voters- and candidate list preparation.
- E- Identification of places and methods of displaying voters' lists and candidate names.
- F- Adoption of Committee specifications for the ballot boxes and official seals, voting and counting, and electoral processes and models.
- G- Adoption of the final voters' tables.
- H- Adoption of a security plan to ensure the safety of the election process.
- I- Lay the foundations of the adoption of candidate representatives in the polling station, counting, and representatives of civil society and the media, and any local and international observers to observe the election process and monitor it.
- J- Consider any issue that presents itself related to the election process, and adopt decisions and take appropriate action.
- K- Adopt the final electoral results.



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IEC should manage the whole process of the governorate councils by law.

Article 19/A



severe democratic back-step

The High Committee will convene upon invitation by its chairman or his deputy in his absence, as the need arises. The Committee will take its decisions with a three vote majority.

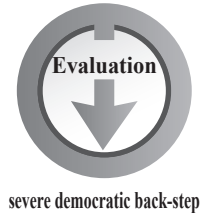


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IEC should manage the whole process of the governorate councils by law.

Article 19/B



For the High Committee Secretariat, the Minister will appoint one of the administrative judges as its Secretary, and the necessary number of staff is as follows:

1. Record the meeting invitations, keep a special record of its decisions, and follow-up on their implementation.
2. Management of the main working room will be in the Ministry for the purposes of electoral processes.
3. Issue permits to civil society organization representatives, the media, and any local or international observers to observe the election process and monitor it in accordance with the policy adopted for this purpose.
4. Prepare the necessary reports and refer them to the High Committee.
5. Any other tasks assigned by the Minister or the High Committee.

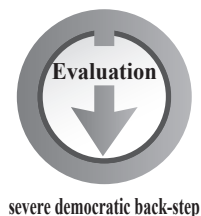


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IEC should manage the whole process of the governorate councils by law.

Article 20/A



A- Formation of a Central Committee in each governorate, by way or a decree from the High Committee. It is to be led by the Governor, and the following members:

1. Chairman of the Court of First Instance appointed by the chairman of the Judicial Council and deputy to the chairman.
2. Director of Education in the Governorate, appointed by Minister of Education.
3. Director of the Department of Civil Status and Passports in the Governorate.

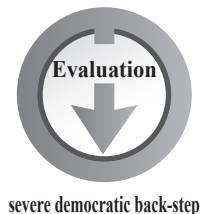


This paragraph establishes the dominance of the executive authority over the governorate councils with regards to the electoral process, stipulating the formation of the central committees headed by the governors and the membership of two executives members from three.



IEC should exclusively manage the whole process of the governorate councils by law, including the formation of the central committees.

Article 20/B



B- The chairmen of the central committees and its members, prior to assuming its work before the High Committee to declare the following: “I swear to God Almighty that I will perform the assigned tasks honestly, with integrity, and neutrally.”



This paragraph identifies the responsibility of the central committees in the front of the supreme committee under the umbrella of creating IEC. As we mentioned in the last paragraph, entrusting the election’s administration to that committee is a sharp democratic decline.



IEC should exclusively manage the whole process of the governorate councils by law.

Article 20/C



Limited democratic back-step

The Central Committee will assume the following duties and tasks:

1. Recommend to the High Committee the names of chairmen and members of the Electoral Department Committee.
2. Open an operations room for management of the electoral process in the Governorate.
3. Receive applications for candidacy and decide on them.
4. Supervise the electoral process and follow-up on all electorates in the Governorate.
5. Work to implement policy, measures, and plans which the High Committee has approved.
6. Announce the initial electoral results to the members of the Governorate Council, where after a copy of the final voting records is referred to the electorate and High Committee.
7. Retention of the working papers and accessories regarding the electoral process, received by the Electoral Committee in the Governorate, for a period of no less than six months at the Governorate Center.
8. Retain, in the Governorate Center, two copies of the final voting records for all electorates in the Governorate until the end of the Council's term.
9. Any other task assigned to it by the Minister or the High Committee.



This paragraph clarified the central committee's tasks very clearly, in reference to the international standards and the best electoral practices, including an overflowing electoral authority, and on the other hand, specifying that the central committees is still connected with the supreme committee despite creating IEC.



IEC should, exclusively manage the whole process of the governorate councils by law.

Article 21/A



Limited democratic back-step

By decree from the High Committee, upon recommendation from the Central Committee, an Electoral Committee is formed for every electorate, and a chairman and its members are appointed to it in its formation decision.



Formation of sub electoral committees according to the recommendations of the governorate central committees is a new mechanism which takes into consideration the local socio- cultural contexts, but at the same time, the sub and the central committees are connected with the supreme committee instead of the IEC, representing a democratic decline.



IEC should, exclusively manage the whole process of the governorate councils by law.

Article 21/B



The chairmen of the electoral committees and its members, prior to assuming its work to declare the following before the Central Committee: “I swear to God Almighty that I will perform the assigned tasks honestly, with integrity, and neutrally.”



The oath in this section is a democratic element, taking into account the most important elements of managing electoral processes, such as integrity and neutrality.



The law should guarantee a clear mechanism to avoid conflict of interests among the electoral committees during managing elections.

Article 21/C



Limited democratic back-step

The Electoral Committee will assume the following duties and tasks:

1. Receiving the voters' tables from the constituencies and displaying them.
2. Open and prepare an operations room for management of the electoral process in the electorate.
3. Divide the constituency into electoral sub-regions, and determine the polling and counting stations within, and prepare the boxes for each station.
4. Form polling and counting committees and any other support committee.
5. Supply the polling and counting committees with pre-requisites for the electoral process.
6. Granting of permits for the candidate representatives to monitor the voting and counting process.
7. Extend the voting time no longer than two hours, with approval from the Central Committee.
8. Announce the initial voting results in the constituency, and refer three copies of the final voting results to the constituency's Central Committee.
9. Provide the Central Committee with all papers, accessories, and records relating to the electoral process.
10. Any other task assigned to it by the Central Committee.



This article identified the entrusted tasks to the election committees, which is a positive step, but it only specifies general titles instead of specific mechanisms. For example, this article entrusted the task of forming voting and counting committees, without clarifying the formation mechanism or training. This should be referred to a system specified by law under the umbrella of the executive authority such as most of the important details.



The law should include the mechanism of sorting and voting formation in addition to the mentioned details in the paragraph B from the article number 32 instead of consider through a system

Article 22/A



Significant democratic advance

Members of the Council are elected secretly and directly.



Secret and direct vote is the one of the best ways to ensure democratic practice, furthermore, this article can provide a strong basis legally enforce the confidentiality of voting and the managing of free elections.

Article 22/B



severe democratic back-step

Every voter has a single vote.



This paragraph is the most dangerous democratic declines in this draft of law since it repeats the experience of the single non- transferrable vote (SNTV), which is the same electoral system that led to the representation imbalances during the elections of the lower council on the national level.I It should be mentioned that this system is used in five countries in the world including Yemen, Afghanistan, and Jordan.



It is necessary to adopt a more proportional electoral system to ensure fairer representation for voters on the governorate level, and to enhance systematic and collective work.

Article 23



Limited democratic advance

The voter is not allowed to use his right to vote more than once.



This article supports electoral integrity, but it does not clarify the tools of preventing re- voting or impersonating, on the other hand it does not clarify the mechanisms of voting and avoiding impersonating.



Law should clarify at least these frameworks which relate to the voting mechanism, such as adopting documents to determine the voter's identity and the tool of avoiding re-voting and impersonating, and where it is possible using ink like the lower council elections.

Article 24/A



Significant democratic advance

Applicants wanting to be candidate for Council member are required the following:

1. To have been a Jordanian for at least ten years.
2. To be registered in the final voting table in his constituency.
3. To be twenty-five years old on the day of elections.
4. Must be legally competent.
5. Must not have been sentenced for bankruptcy and not regained legal consideration.
6. Cannot have been incarcerated for a period of more than one year, and not covered by legal amnesty.
7. May not have material benefit or contracts with the government, official public institutions, municipalities, or companies owned or controlled by the government or any official public institution in the Governorate – whether this contract is direct or indirect, with the exception of leases of land and property, and more than ten people are contributors to it.
8. Cannot be a member of any political organization, party, or non-Jordanian political organization.
9. Must have obtained at least the first University degree (Bachelor).
10. Cannot be mentally ill or insane.
11. Cannot be interdicted nor an interdiction be raised against him.



This article includes a good indicators of guarantees to achieve efficiency and to avoid conflict of interests. In addition, the requirement of having the first university degree is consistent with most of recommendations made by the stakeholders through the feedback collected by the RASED team. In addition that the candidate is registered as a voter in the same constituency which he/ she is expected to be MP in it, this is a reforming step. (Obviously, this imbalance of being candidate in constituency and voting in a different one is mentioned in the parliamentary election law.)

Article 24/B



severe democratic back-step

Appointed members of the Council are required to fulfill the criteria set forth in Paragraph A of this Article.



Appointing some members in the elected councils in addition to the appointed executive council is an indicator of domination by the central government over the local administration.



The governorate council should be completely elected.

Article 25



Limited democratic advance

It is not possible for any of the below mentioned to be Council member candidates, except if the resignation was accepted before the nomination deadline.

A- Members of Parliament

B- Ministers, employees in the ministry, governmental departments, institutions, and official public bodies whose salaries are paid from the national treasury, public funds or its subsidiaries, or its subject to supervision.

C- The Mayor of Amman and members of the Council Secretariat and its employees.

D- Chairmen of municipal councils, its members, and its employees.

E- Employees of Arab, national, and international bodies.



This article mentioned extra stipulations for of avoiding conflict of interests, preferably it should identify a further timeline from the date of candidacy.



It is possible to stipulate atime period that is required to separate between the date of candidacy and acceptance the resignation (for example, 30- 60 days), to provide a high standard of avoiding conflicts of interest specifically for the officials and those who are involved with in the electoral administration, since the beginning of the process proceeds the time of candidacy which misuse powers.

Article 26/A



Limited democratic advance

Candidacy for council member starts on the date the Minister has determined, which is to be thirty days prior to Election Day at least, and will continue for three days during official working hours, including official holidays. Any applications for candidacy submitted after the end of this time will not be accepted.



It's necessary that the day of candidacy should be announced 3 days before the Election Day to advertise.



IEC should, exclusively manage the whole process of the governorate councils by law.

Article 26/B



Limited democratic back-step

Candidacy for council member cannot occur in more than one constituency.



There is no international standards to impose a specific electoral system, moreover, electoral systems are being developed due to the local contexts and the developmental needs. In addition to this, most international studies clarify that whenever the context of candidacy is narrowed on the local or national levels the imbalance in the voting behavior commensurate with the degree of his/ her relation to the candidate to be more closer to the personal interests than the public interests.



RASED would like to see the law becoming more relative and wider regarding candidacy and voting more that the classifications on the constituency level. The system could include the electoral lists on the governorate level.

Article 26/C



Limited democratic back-step

The Court of First Instance located within the constituency is specialized with the consideration of appeals filed regarding candidacy applications. Its decision will be final and with no possibility for appeal by any means.



Referring appeals of the candidacy applications to the judicial apparatus is a good point, but giving the peremptory characteristic for the court decision with the first step of litigation limits the electoral justice.



Law should guarantee the right of litigation into two levels concerning applications appeal.

Article 26/D



Limited democratic back-step

The procedures for candidacy application are determines, as is the necessary timeframe to consider them. They are presented until the acquisition becomes final, and any other matter regarding this appeal under legislation issued for this purpose.



Candidacy applications, their deadlines, and the right of the appeal procedures are an important part of the electoral process and should go into the same legislative steps of law itself instead of being considered regulations done by the executive authority.



The law should include the general characteristics for the candidacy procedure and the appeal timelines.

Article 27



Limited democratic back-step

Anyone wishing to nominate themselves for membership of the council is to pay the sum of 250 dinars to the Ministry of Finance or any of its departments, restricting the unrecoverable revenue of the Treasury.



The candidacy fees are acceptable, but appointing these fees as non-refundable money without any exceptions for those who have applications rejected reduce the electoral justice. Also the article did not contain any financial guarantees to remove electoral advertisements after elections, which leads to the same ambiguity during the candidacy duration for the 17 council's election, where some municipalities required to provide financial guarantees to remove the advertisements while other did not, which reduced the electoral justice.



Any candidate who got a rejection should be able take his/ her fees back, and the law should clarify the mechanism of giving financial guarantees to remove advertisement.

Article 28/A



Limited democratic advance

Any candidate in the constituency can withdraw his nomination by submitting a written request to the Central Committee up to seven days prior to Election Day.



The seven days are considered enough time to withdraw the candidacy, but in the meanwhile this article does not mention removing the advertisement as a condition to withdraw the candidacy, which leads to wasted votes.



RASED would like to see that this article modified to include mandatory removal of the advertisements before submitting the withdraw.

Article 28/B



Limited democratic advance

The Central Committee is to announce the withdrawal of any candidate name to the constituency in two local daily newspapers or any other way the High Committee deems appropriate.



Announcement of the withdrawal in the newspapers is a good indicator to avoid losing votes. This should occur alongside removing withdrawer candidate advertisements.



Removing advertisements is very important condition to applications withdraw.

Article 29



Limited democratic advance

If it becomes clear that the amount of candidates is equal to the amount of seats of the constituency, the Ministry, upon recommendation from the Central Committee, will announce the winning of those candidates by acclamation.



Winning by acclamation is customary, but this entrusts tasks of announcing the winning candidate to the Interior Minister, again promoting governmental domination over the administration of the electoral.



IEC should manage the whole process of elections.

Article 30



Significant democratic advance

The calls, objections, and appeals submitted in accordance with the provisions of this law and regulations issued under this law, as well as decisions issued as its consequence exempt the committees, bodies, and courts from any fees and stamps, including agency fees for lawyers.



This article is a democratic significant advance because it enhances electoral justice and the rule of law.

Article 31/A



Limited democratic advance

Electoral campaigning is free in accordance with the provisions of this law and the regulations issued under it. In accordance with this law, campaigning is permitted from the date of candidacy and is to stop at the end of the last day prior the determined elections.



This article mentioned a very important point which is free electoral advertisements. Unfortunately, it does not specify a “silent vote” day, which is one of the best democratic practices and aims to enhance voting freely while reducing violent actions related to the societal electoral practices.



RASED recommends a “silent day” where advertisements are not allowed and it might be held one day before elections.

Article 31/B



Limited democratic back-step

The provisions, rules and regulations related to campaigning are determined under the rules to be issued in accordance with the provisions of this law.

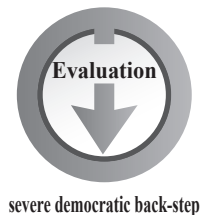


This article did not identify the mechanism of organizing the electoral advertisement. Like specifying the maximum expenditures on the advertisements, this is essential to enhance justice and prevent buying of votes.



Law should identify the general features of electoral advertisement and its cost.

Article 32/A



The Electoral Committee, at least twenty-five days prior to elections will issue a decree determining the voting and counting stations in the constituencies, the amount of ballot boxes in every center. The decree will be published in at least two local daily newspapers, and in any other place deemed appropriate.



This article is the most severe democratic back- steps, especially when the duration of identifying electoral centers (1 day) is not enough to send electoral information to the voters (their own centers to vote) which lead to the reduction of voting. Also, it's not clear if it will be one voting center or not, so as a result of this we expect that infractions such as impersonation and buying votes will increase.



Voting centers must be identified clearly in accordance to the voter's place of residence where people can vote which lead to enhancing electoral integrity and transparency and witnessing infractions accurately, in addition to make the process of organizing elections easy then raise the number of voters. On the other hand, they should announce the places of electoral centers before a while to raise awareness concerning elections and advocate people to vote.

Article 32/B



Limited democratic back-step

The set procedures determine the chairmen and members of the voting and counting committees and voting procedures of the illiterate and disabled, counting of ballots and the correct, invalid, and canceled votes. The procedures also determine the threshold which, if exceeded, annuls election results in that ballot box. In addition to the mechanisms of annulling and documentation of voting and counting records, announcing the results, packaging the ballot papers, and transferring them and other regulations and procedures regarding those processes in accordance with the

regulations which will be published in accordance with the provisions of this law.

Entrance to the voting and counting centers without authorization to enter these centers is prohibited under the provisions of this law. The chairman of the voting and of the counting committee are to demand the public security eject the offender from the center immediately.



Most of the parts in this article are very essential components in the electoral process, especially those who related to the appointing of voting and counting directors and train them, in addition to the disable and illiterate people, in the meanwhile it has a side effect on the quality of the electoral process, also it entrusted to the executive authority by law.



All the details which affect the quality of elections substantively should go through the same constitutional channels of law.

Article 32/C



Limited democratic advance

According to the provision of this law access to polling station is not allowed for unauthorised persons. The chairman of the polling and counting committee may request security forces to evacuate any offender immediately.



The stipulations of the article are very important to secure the electoral process and public order during the voting process. However, the Article does not prevent security personnel from accessing the polling station without being requested to do so by the chairman of the polling station, as is the case in Parliamentary Election Law, and a number of international best practices.



The Article has to include a clear provision preventing security forces from accessing the polling station without explicit request by the chairman of the polling station. This is paramount for a civilised electoral process and to enhance public confidence in election outcomes.

Article 33/A



Limited democratic advance

Voters or candidates have the right to present a challenge to the Court of First Instance, competent in the electoral results of the Governorate Council in its constituency. This can be done within fifteen days from the date of result publication in the official Gazette, stating the reasons for appeal.



Giving the right to submit judicial appeals regarding the electoral process outputs is a positive step, but confining it to the constituency candidates limits the usefulness of audits for the electoral output. For example, this article prevents the CSOs and local observers to submit judicial appeals even if they have evidences.



It is important that the law provides the right of judicial appeal accurately based on the outputs of the electoral process for the CSOs and observers.

Article 33/B



Limited democratic back-step

The Court of First Instance which is located within the constituency is competent to consider filed appeals regarding the validity of electoral results in that constituency. The Court issues its ruling either by response to the appeal or its acceptance. In this case, the winner's name is announced within a period not exceeding thirty days from the date of appeal submission. The decision regarding the appeal will be definitive, and the Court is to inform the Council of this decision immediately after its issuance.



This article is a democratic back- step giving final peremptory status on the decisions of the primary courts. It does not give them the right to litigation on one level. It also did not require the convening of holding its meeting when deciding the membership veracity of its members, which may constitute a representative flaws in their performance.



The law should give the right of litigation concerning appeals on two stages, also meetings and electing the head should postponed until dealing with appeals to avoid flaws.

Article 33/C



Limited democratic back-step

The work carried out by the member whose membership is revoked by the work prior to annulment is considered valid.



Giving the rights of cancelling the elections on the constituency level to the government is a good point, but it did not specify a timeline to held elections also it did not require to make by elections.



It is necessary to require that the postponement of the election of the President of the Council and of the pending appeals, in order to avoid any defect representative.

Article 33/D



Limited democratic advance

If, as a result of its consideration of the submitted appeal, it appears to the Court of First Instance that the electoral procedures in the constituency from which the appeal stemmed is not consistent with the provisions of the law, it will issue a decree annulling the elections of that constituency. The Court will inform the Minister of its decision.



Giving the right to court to cancel elections in the constituency level is an advance democratic point but it did not specify a timeline to held elections also it did not require to make by elections.



This article should be modified to identify a timeline to make by elections after cancelling it.

Article 34/A



severe democratic back-step

The Cabinet, upon recommendation by the Minister, will dissolve the Council prior to its term's end and appoint a temporary committee. The call for new elections is to occur within three months, if the remaining length of the term exceeds one year.



This article constitutes the most severe Democratic back- step in this law, as it give the right of dissolving councils to the executive authority, which demonstrates the excessive dominance which represent the central government on the elected councils, in addition to the infraction the international standard, which refers to the responsibility of the executive in front of elected councils and not vice versa.



Law should prevent dissolving elected councils except the court order.

Article 34/B



Limited democratic advance

The term of the elected Council, in accordance with the provisions of Paragraph A of this Article, is to be four years.



The stipulated term of four years is a solid amount of time to ensure a good degree of administrative stability, enabling higher efficiency in strategic planning and implementation of developmental practices. However, granting the Council of Ministers the right to prematurely dissolve the councils limits the effectiveness of this paragraph.



It is imperative the law prevent the dissolving of elected councils or termination of membership of any of its members, except by court orders issued under the permanent legal justification.

Article 35



Limited democratic back-step

If it appears to the High Committee that a flaw occurred in the voting or counting process in any of the voting or counting stations, that could influence the initial electoral results in the constituency; it is to cancel the elections in the concerned constituency, and repeat the voting, counting, or both. This is to occur immediately and as deemed appropriate by the Committee.



Paragraph D, Article 33 of this same law stipulates the court with the authority to annul the results of the election at the level of the constituency, granting the same body authority to manage electoral interference is unjustifiable. Additionally, it gives the administration the right to determine the time of election and procedures for re-counting votes without a set framework or controls. Legally, this represents a democratic decline as it opens the door to profound administrative imbalances in the municipal councils.



Possibility to also grant appeals to the constituency, thus the decision invalidating the election at the level of the department is attributed to one party, more efficient in the consideration of issues relating to electoral and judicial breaches. Additionally, there is the need to identify controls and timeframes for re-counting votes.

Article 36



Significant democratic advance

Every person committing any of the below mentioned acts is punishable by imprisonment for a period no less than six months and no longer than two years, or by a fine of no less than two hundred and fifty and no more than one thousand dinars, or both penalties.

A- Enters the polling or counting station on election day holding a gun or any other weapon, licensed or not, posing a threat to public safety and security.

B- Refuses to leave the polling or counting station upon request from the chairman of the voting and counting committee.

C- Claims to be illiterate or unable to read and write when in fact they are not.

D- Violates provisions, policies, or regulations regarding campaigning.

E- Is in unlawful possessions of another person's identity card, or seized, damaged, or concealed it.

F- Committed identity theft for the purpose of voting.

G- Used the right to vote more than once.

H- Affects the freedom to vote, or hinders the electoral process in any way.

I- Tampers with any of the ballot boxes, voter lists, ballot papers, or steals or damages any of the aforementioned, does not place their ballot in the ballot box, or carries out any actions with the intention of harming election safety and secrecy procedures.

J- Influences or delays the electoral process or subjects any of those responsible for its conduction to misconduct.



This article stipulates effective deterrents to curb electoral crimes as well as penalties which commensurate to the impact of the crime on electoral outcomes. Additionally, it includes the majority of crimes associated with each electoral stage, such as buying of votes, seizing of identity cards, and breaching security.

Article 37



Significant democratic advance

If any member of the committees appointed by this law or the regulations issued thereunder assigned with the preparation, organization, or ratification of electoral lists, the polling and counting in the election process, or any other employee or user of the institutions established for the purpose of the process, or its supervision as per the provisions of this law and its regulations issued thereunder commits any of the below violations, he/she shall be sentenced to imprisonment for a period not less than one year and not more than three years.

- A- Intentionally lists the name of a person not eligible to vote as per the Articles of this law in any of the voter's lists, or intentionally deletes or omits to list the name of an eligible voter to register under the provisions of this law.
- B- Knowingly issues a false statement in the application for candidacy or the announcement of such, in the data contained therein, the date of submission or in any record organized under this law, or in the objection submitted on the voters' lists or in another document regulated by this law.
- C- Unrightfully seizes or conceals any election-related document, or commits any type of fraud to them.
- D- Delays, without a legitimate reason, the set voting start time, or stopping before the scheduled time as prescribed in this law without justification, or slow down the procedures with intention to hamper or delay them.
- E- Does not open the ballot box prior to the election process in front of the attendees either candidates or agents, to make sure the box is empty.
- F- Reads the ballot paper content erroneously and in contradiction to its content.
- G- Refrains from carrying out any of the provisions stipulated in this law, or the regulations issued thereunder relating to the election process and its procedures, including voting and counting procedures, or violate them with the intention of altering voting results.



This article imposes genuine guarantees to avoid violation of electoral mechanisms and procedures as set forth by electoral administration officials. As characterized by inclusiveness, it covers most violations to be carried out by administration officials specifically responsible for conducting municipal elections.

Article 38



Significant democratic advance

Any person committing any of the below mentioned acts will be punishable by hard labor for a period of no less than three years and not more than seven.

A- Directly or indirectly give, loan, or promise a financial reward or benefit, or any other incentive to sway voting a particular way, refrain from voting entirely, or influence others to do so.

B- Directly or indirectly request or demand a financial reward, loan, or benefit, or any other incentive for himself or others to sway voting a particular way , refrain from voting entirely, or influence others to do so.



This article serves as a toughening of punishments, specifically on those committing voting fraud [buying of votes], and trading of political funds during the various stages of the electoral process. This promotes freedom of voting for the voters according to the electoral reform needs in Jordan.

Article 39



Significant democratic advance

Whoever attempts to or seizes a ballot box, either prior or post counting of the votes it contains, will be penalized with hard labor for a term of no less than five and not exceeding ten years, or with a fine or no less than one thousand and no more than five thousand dinars.



This article emphasizes the punishments on practices of direct manipulation associated with violence, such as seizing the ballot box. This will act as deterrent for committing any electoral crimes, especially in those areas which experienced similar situations in the last parliamentary elections.

Article 40



Significant democratic advance

Any violation of the provisions of this law, unless specified, will be penalized with imprisonment for no less than three months and not exceeding one year, or with a fine of no less than two hundred and no more than five hundred dinars, or with both penalties.



This article adds the quality of universality of law regarding the punishments imposed on perpetrators of electoral crimes, and as is the case in any electoral legislation this cannot account for all electoral crimes or violations of the electoral process. Yet this article covered any textual deficiencies which may have been contained in this law with respect to this notch.

Article 41/A



did not evaluate

Nothing in this law precludes the application of any more severe penalty stipulated in any other enforced law.



This Paragraph is not subject to evaluation due to its regulatory nature which does not have direct impact on local democratic reform.

Article 41/B



Limited democratic advance

Any partner, instigator, or intervener in any of the crimes listed in this law will be penalized with the same punishment as the offender.



Criminalization of partnership in or incitement to committing electoral crimes is an important step; however use of the term “intervener” does not give a clear indication of its definition. This could lead to unjustified punishments on those who did not commit electoral crimes.



Removal of the term “intervener” from the Paragraph, and limitation of punishment of electoral crimes to its partners and instigators.



Article 42



Significant democratic advance

The statute of limitations for all election crimes stipulated in this law is five years after the announcement of the final election results.



By stipulating the statute of limitations for all election crimes at five years, any prolonging of the Council's term by way of elections ensures a higher degree of rule of law and works on the feasibility of criminalizing the misuse of power by winning candidates and their associates as election crimes.

Article 43



did not evaluate

For the purposes of applying the provisions of this law the chairmen of the Central Committees and its members, the chairmen of the Electoral Committees and its members, and the chairmen of the Voting and Counting Committees, are considered members of the Judicial Police. This is in accordance with the provisions prescribed in the Code of Criminal Procedures enforced and adjusted as such any of the offenses committed against the provisions of this law.



Opinions amongst experts and stakeholders on the potential impact of granting the status of Judicial Police to the Presidents of the Central Committees and its members, the chairmen of the Electoral Committees and its members, and the chairmen of the Voting and Counting Committee varied. Some pointed out this is a larger imposition on the legal framework, whereas others noted their view that it is an exaggerated granting of authority which may be misused by unauthorized or unqualified individuals.



Article 44



did not evaluate

The Cabinet will issue the necessary regulations for the implementation of this law, including a system for determining the bonuses of Council members.



This Article is not subject to evaluation due to its regulatory nature which does not have direct impact on local democratic reform.

Article 45



did not evaluate

The Minister is to issue the necessary instructions for the implementation of this law.



This Article is not subject to evaluation due to its regulatory nature which does not have direct impact on local democratic reform.

Article 46



did not evaluate

The Prime Minister and the Minister are responsible for the implementation of the provisions of this law.



This Article is not subject to evaluation due to its regulatory nature which does not have direct impact on local democratic reform.



Analysis of proposed democratic impact For the draft of municipal law- 2014

Introduction:

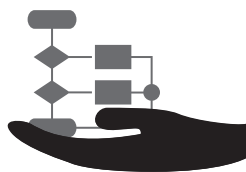
This analysis aims to highlight the most prominent features of the municipal draft law 2014, hopefully it's expected to be forwarded to the Parliament during this year, where This document focuses on the expected impact of the articles of this law on democratic development at the local level, through a comparative study of the content of the draft alongside with international standards and best practices in the field of local governance and participatory democracy.

The mentioned articles in this analysis have been divided into five parts represent the five basic elements of democracy, in accordance to the opinion of local and international experts who were consulted during the preparation period, and those parts are:



1- The representative ability of local governance:

It is the part of the democratic representation formation at the local level, and the division of councils, in addition to the details of the electoral process in all its stages in terms of the procedures and guarantee of avoiding electoral violations and conflicts of interest among the electoral administration.



2- The administrative independence of local governance:

This part related to the administrative structure of the municipal councils and the degree of administrative autonomy from the central government in terms of polarization, employment and capacity building, in addition to the administrative decision-making mechanisms in the municipal councils.



3- The financial independence of local governance:

This part connected to the mechanisms of resources allocation and expenses and preparing budgets at the municipal level, in addition to managing domestic investment and build economic partnerships.



4- The tasks and the action mechanisms of the local governance:

This part related to the entrusted tasks to the municipal council legally, and the harmony of these tasks with the international role of local governance in addition to the implementing mechanism, achievements follow up and accountability on the local level.



5- Participatory approach and engaging local communities:

This part talks about the engagement of citizens in the decision-making process at the local level, especially with regard to identifying expenses priorities, strategic planning and social accountability on the performance of the municipal councils.

This analysis is a primer efforts done by Al- Hayat Center team in cooperation with local and international experts, in addition to the international local governance documents, such as the European charter of local governance, However, it's an effort able to modify, through feedback for all concerned people, such as heads and members of municipal councils, as well as civil society organizations and chambers of industry and commerce, political parties, feminist groups and local communities.



1- The representative ability of local governance::

It is the part of the democratic representation formation at the local level, and the division of councils, in addition to the details of the electoral process in all its stages in terms of the procedures and guarantee of avoiding electoral violations and conflicts of interest among the electoral administration.

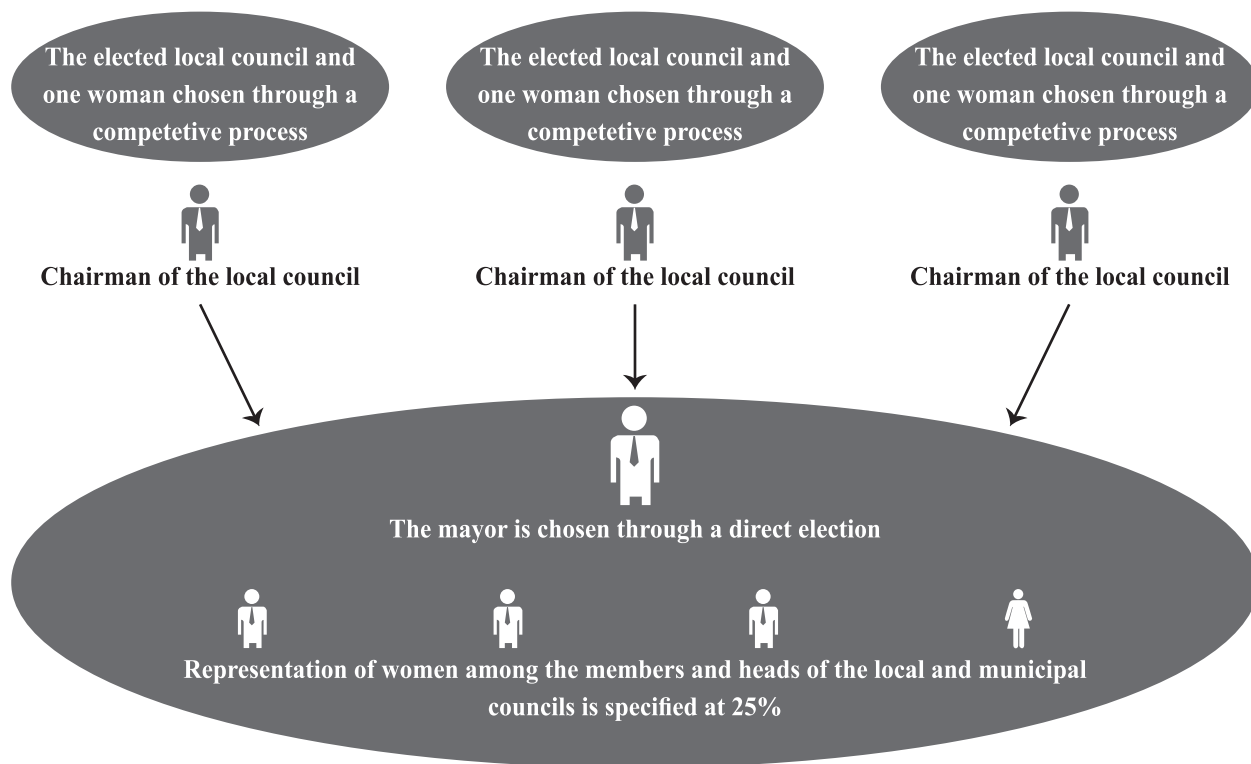
A- The form of the democratic representation:

Paragraph B from the third article of the draft municipal law identified the form of democratic representation on the local level, it mentioned that:

1. With the exception of the Aqaba Special Economic Zoning Authority (ASEZA), Petra Tourism Developmental Authority, and development zones, a municipal council is established by the municipal administration. This council is comprised of a chairman, and a number of members representing heads of local. The amount of members shall not be less than 7, including the chairman. In case the required number is not reachable, the Minister can complete the required number with members of local councils so as for them to be members in the municipal council. This is done taking the population of each local council into consideration when identifying their representatives in the municipal council.
2. The chairman of the council is elected directly according to the provisions of this law, with the exception of GAM which is administered by a board whose amount of members is determined by the Cabinet. Two-thirds of its members are to be elected directly according to the provisions of this law, and the remaining third is to be appointed from the GAM members by decree from the Cabinet based on a recommendation from the Minister.

3. The Cabinet divides the GAM into local councils. The Cabinet determines their quantity and their member amount with the condition that this number is not less than three, including the chairperson. The member with the highest number of votes shall be the chairman.
4. The region of the Municipality can be divided into local councils by decree of the Minister published in the official Gazette. Their amount is determined, and the number of members voting within it is not to be less than five members. The member with the highest number of votes shall be the chairman, provided that the population of any local council shall not be less than 3000 with regards to official statistics issued by the Department of Statistics.
5. The Cabinet appoints the mayor of Amman from the members of the municipal board members based on recommendation by the Minister.

And to consider this article, we find that the new structure of democratic representation in the local administration has become e levels, the local councils which is the smallest councils in terms of the population representation, and the second is the municipal councils which formed the membership of the heads of local councils within the area of the municipality, and is headed by the municipal council of elected directly by the voters of the local councils that comprise the municipal area.



For the third level, its include the governorate council in accordance to the local councils law, however this council is elected, but the government has the right to appoint 25% of its members, and is paralleled by an executive council at the local level, moreover the prospective structure of local governance has violation such as the absence of clear standards of division constituencies, and it's representation strength on the local level, In addition to the democratic distortion which lead to uneven number of people in each local council, coincided with the unification of representative strength of the local councils in the municipal council (council members are the heads of local councils), where it is

unreasonable that a local council inhabited by 10 thousand people represented by one member in the meanwhile, the council inhabited by 3 thousand people is also represented by another one member.

Also that there are many experts mentioned that the exception of Amman Municipality and the authority of Al- Aqaba Special Economic Region Authority and Petra tourism developmental authority of what applies to the rest of the areas in the proposed legal framework, will reduce dramatically justice representative in the local administrations of those areas, and therefore will remain a separated distance between local policies and local development needs. At the end of this, law did not mention any points related to the representation of religious, ethnic groups except women.

B- The elections of local councils and the precedence of the municipality:

- Women representation:

The first paragraph of the third article identified one seat for women from all seats, in addition to the those women who will face public competition, and the paragraph B from the same article identified minimum (25%) of the seats will be taken by these women who are members in the local councils which relate to the municipal council and who got the higher numbers of votes, moreover, the minimum percentage of women representation is accepted. Consequently local administration should work participatory with CSOs to empower women in the local level to be competitors for the local councils through long term strategies.

- Constituency:

The first paragraph of the article number 14 mentioned that:

- A. The Cabinet shall decide to entrust supervision of the electoral process for municipal and local councils.
2. The commission shall adopt its representative in each municipal region. One person may be a representative of more than one municipal region. The representatives are nominated from the following categories a. Judges from the court of First Instance or the Magistrate Court, named by the President of the Judicial Council upon the commission request.

b. Officers from the state departments or official or public institutions, named by the Prime Minister upon the commission request.

1. The heads of election and their assistants shall empower the commission and its representatives to be informed of all the municipality election process proceedings and of all its stages, and shall provide them with any information or documents they request for this purpose.

2. The commission may provide the Minister with any comments or recommendations they reach through supervising the election process.

3. After announcing the final results of the municipal elections, the commission shall provide the Prime Minister with a detailed report of the electoral process in all its stages.

The role limitation of the independent commission to oversee the electoral process and give recommendations for improvement is a severe democratic back- step, but the royal directives came after the publication of this draft to correct the imbalance and assigned the task of electoral administration to the independent commission for elections.

- Voting right:

Paragraph A from the article 20 mentioned:

Every Jordanian turning eighteen years old before the day on which the department provides the names of municipalities and affiliated local councils, regions and neighborhoods and subsidiaries, has the right to elect municipal and local council chairmen and members, if registered in the final voters' lists In this context international best practices mention that counting the age of voters 60- 90 days before the polling day, also the paragraph B from the same article prevented those sentenced to bankruptcy and not having regained legal consideration, interdicted for himself or any other reason

and whose quarantine has not been lifted and those who are insane or mentally ill.

- **Candidacy right:**

According to the article number 23:

Anyone whose name is included in the voter's lists may run for candidacy as local council chairman or member if the following qualifications are fulfilled:

- A. Over twenty five years old before the appointed day of submitting the candidacy application.
- B. For membership in the local municipal council, a candidate has to at least hold the General Secondary School Certificate.
- C. Cannot be officers or employees of any ministry, governmental department, or public or municipal institution, unless they resign one month before the candidacy starts. For those running for chairman of the municipal council, the municipal attorney shall terminate the employment contract during this period.
- D. Cannot be Member of Parliament.
- E. Not convicted of any capital crime or misdemeanor offending the honors.
- F. Cannot be fraudulent or bankrupt.
- G. Completed the procedures stated in Article 22 of this law.
- H. Must have clearance from the municipality upon applying for candidacy.
- I. Those running for council chairman are required to have obtained a minimum of first university degree for first and second category municipalities, and the General Secondary School Certificate for third category municipalities.

Most of experts see that these conditions of candidacy is accepted democratically, and considered as a good guarantee of avoiding conflict of interests and the qualified administration.



2- The administrative independence of local governance:

This part related to the administrative structure of the municipal councils In addition to the administrative decision-making mechanisms in the municipal councils. Meditating the given powers to local and municipal councils in this draft law regarding the internal administrative affairs, we can see the severe imbalances in some cases which lead to the excessive governmental control

on the structure of each of the two councils administration.

1. The executive director has the following powers and responsibilities in accordance to the 7 article:

- a. Considered the director of municipal staff responsible for monitoring and ensuring the smooth running of their work.
- b. Implementation of council decisions under the supervision of the chairman and follow up on contract implementation.
- c. Preparation of council session draft agendas, he has the right to attend sessions and participate in discussions without the right to vote.
- d. Supervising the maintenance and preservation of municipal property and funds.
- e. Follow up the implementation of the annual plan through the municipal departments.
- f. Preparation of draft annual budget, the annual and quarterly report, and the final account and submit them to the chairman on time.
- g. Monitor the collection of municipal money and follow up, authorize expenditures and issuance of money orders in accordance with the decisions issued under the provisions of this law.
- h. Responsible to the council for all tasks assigned to him.
- i. Commitment to ratified budget items.
- j. Rehabilitate and train the municipality cadre to promote technical and administrative proficiency with the aim of providing optimum services to members of local society.

In addition, one of the most dangerous democratic back- steps in this draft is keeping the right of the central government to dissolve elected council without any court order or clear controls at any time, as paragraph (a) of article (14) indicated that it could dissolving the local or municipal council before the end of the electoral duration then appointing a committee serves as the municipal council for not more than one year till making the new elections, based on cabinet's decision with a recommendation from the minister.



3- The financial independence of local governance:

This part connected to the mechanisms of resources allocation and expenses and preparing budgets at the municipal level, in addition to managing domestic investment and build economic partnerships.

Law gave municipalities the same exemptions which has gave it to the government, thereby enhancing the efficiency of its financial capacity to achieve their developmental objectives, which helps municipalities to reduce the cost of developmental projects. Except that the content of the law in some points is not connected with the article, where the draft allowed the municipal councils to borrow, but it required the approval of the minister to the lender and the purpose for which will be spent for in addition to the amount of benefits and the payment mechanism which make extra challenges in the front of local projects.

The law mentioned that the necessary steps to manage the municipal fund and local council and maintain it, also bookkeeping, bank account issues and the annual budget, and then anything related to the financial system which has to be set by the minister under the supervision of the cabinet, but the transparent situation specify that local councils must prepare their financial regulations away from the central government.

The law gives authority to the municipal council to approve license to the investment projects, on the other hand the council asked to take a decision on the application during a month of presenting it to the municipal council, and then in case the council did not approve it, automatically, it will be transferred to the cabinet, obviously, law gives no definitive status on the Council's decision or refer conflict to the court, but to all bodies of the central government which represented by the minister.

Article 44 reinforced the governmental domination on the investments, since it mentioned that it's necessary to get minister's approval regarding any developmental coalition between two municipalities.

Positively, law gives the municipalities financial audits to the audit bureau to enhance integrity, also this law gives the task of municipal money investment through facilitating investment work, encourage economic activities practice competition to achieve the good use of resources.

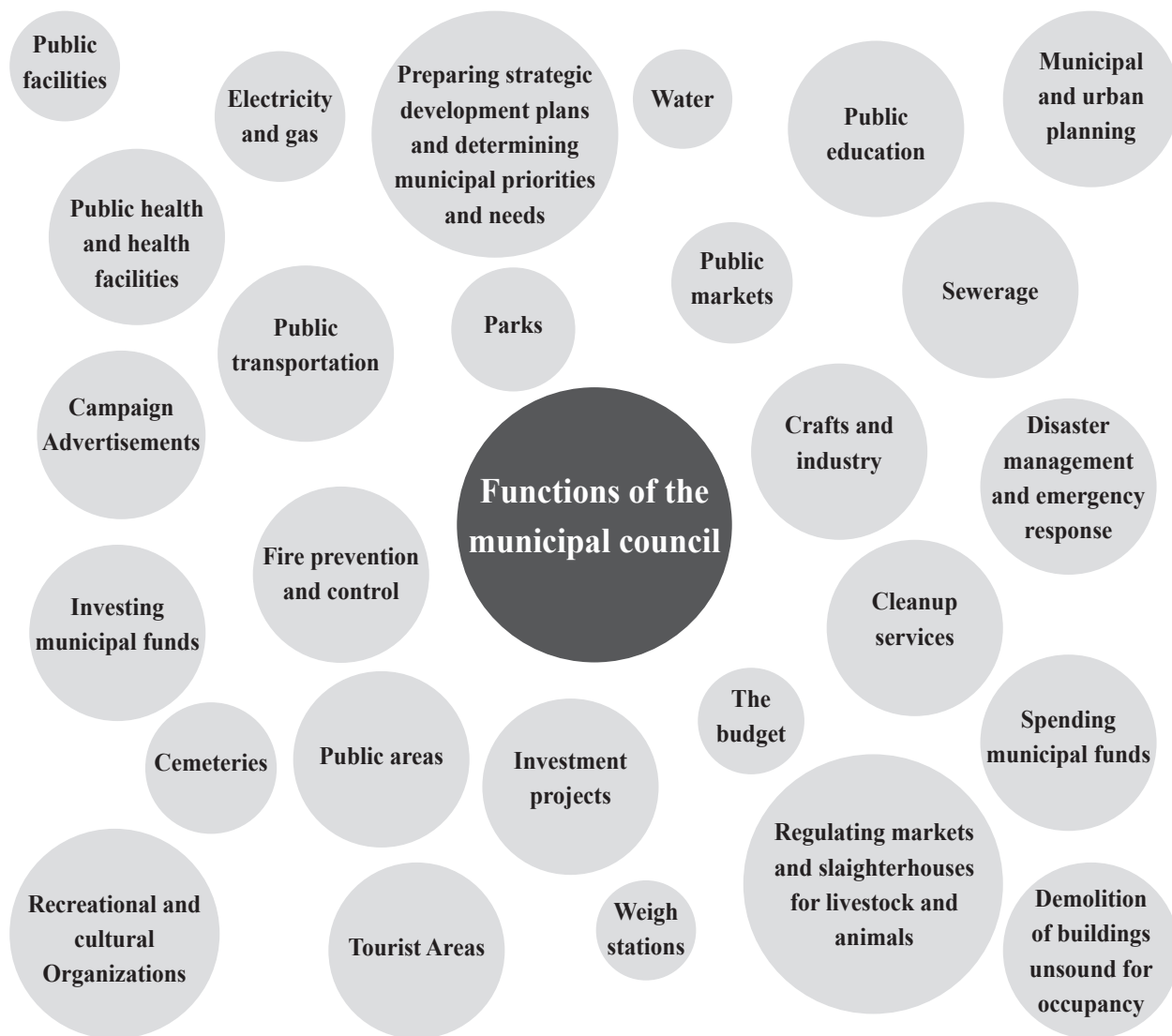


4- The tasks and the action mechanisms of the local governance:

This part related to the entrusted tasks to the municipal council legally, and the harmony of these tasks with the international role of local governance in addition to the implementing mechanism, achievements follow up and accountability on the local level.

This draft of law tries to make the municipal council tasks wider such as the coordination of school education, but these tasks did not include another important tasks like the university education or healthcare services or security cooperation on the municipal level.

The following diagram clarify the municipalities' tasks:





5- Participatory approach and engaging local communities:

This part talks about the engagement of citizens in the decision-making process at the local level, especially with regard to identifying expenses priorities, strategic planning and social accountability on the performance of the municipal councils.

Despite law stipulated consulting the local community concerning mix, separate or create municipalities, however it did not mention any mechanism to institutionalize this participatory ideas in taking decision, on the other hand this draft did not mention a prospective mechanism to consult local community to identify expenses priorities or the developmental hopes, construction policies and infrastructure maintenance.