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Research Title

The Structure of Syrian Decentralization: Towards Sound Governance of its Spatial and Electoral Dimensions

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introduction

Decentralization occupies a significant place within the agendas of Syrian political forces, amid profound divisions surrounding the concept. On one side, the ruling authority remains committed to administrative decentralization as framed by its legal frameworks. On the other, the opposition presents ambiguous visions, many of which converge with the authority's approach, while some advocate for geographic federalism as a more suitable solution to the crisis in Syria[1].

A segment of experts attributes the intensity of this disagreement to the repercussions of the war, which has deepened developmental disparities due to the varying levels of destruction across regions. This reality poses significant challenges to achieving balanced development. Furthermore, the conflict has led to the loss of governmental control over key areas, where alternative administrative structures have emerged, supported by regional and international actors[2].

The growing interest of Syrian political forces in the idea of decentralization can also be linked to its critical role in mitigating civil conflicts. Decentralization offers meaningful opportunities for power-sharing among different groups, including conflicting parties, thus contributing to conflict resolution[3].

Decentralization practices have proliferated significantly since the 1980s as an effective strategy in the fields of development[4]. According to its proponents, the quantitative expansion of state functions and responsibilities on one hand, and the qualitative expansion of citizens' rights on the other — resulting from the diversity of local needs and the central

[1] Samira Al-Masalmeh, The Syrian Kurds in the Marketplace of Terminology: Decentralization and Federalism, Al-Araby Al-Jadeed, 21-02-2022.
The Syrian Kurds in the Marketplace of Terminology

[2] Ziad Ghosn, Decentralization in the Paths of the Solution: What Kind of Development Do Syrians Want?, Al-Akhbar Newspaper, 17-01-2023.
Decentralization in the Paths of the Solution: What Kind of Development Do Syrians Want?

[3] Mohammad Khaled Al-Shaker, Constitution Building and the Levels of Decentralized Governance: Legal Protection for the Principle of Deconcentration of Power, published on November 26, 2018, Syrian Observatory for Human Rights.

[4] Mostafa Al-Nimr, Decentralization in Governance: Concepts and Models, October 16, 2017, Egyptian Institute for Studies.

government's inability to accurately plan for local communities[5] – have created the need to dismantle the concentration of functional responsibilities in the hands of the central government and transfer them to institutions within the regions[6].

Accordingly, decentralization in its various forms is based on the idea of transferring or delegating certain powers and responsibilities from the national level to the local level. The degree of decentralization is linked to the extent of this transfer of powers: the more financial authority granted to local units – such as the right to self-financing and expenditure – the deeper the financial dimension of decentralization becomes. Likewise, the more administrative authority granted to these units, the deeper the administrative dimension of decentralization becomes.

The depth of these dimensions is also determined by the legal document that enshrines them; decentralization is deeper and more firmly established when its requirements are constitutionally codified, and weaker when the governing document occupies a lower position in the hierarchy of state legislation[7]. Generally, the depth of administrative and financial decentralization varies from one country to another, and it may even vary between regions within the same country when what is known as asymmetric decentralization is applied.

Decentralization, beyond these two dimensions related to the distribution of powers, is also built upon two additional dimensions that are essential for its existence and for the establishment of its institutions:

The Spatial Dimension, which refers to the recognition and formation of local units as defined geographical entities.

[5] Mohammad Abdel Wahab Samir, Decentralization and Local Governance Between Theory and Practice, Center for Public Administration Studies and Consultations, Faculty of Economics and Political Science, Cairo University, 2009, pp. 39–40.

[6] International Institute for Democracy and Electoral Assistance, Decentralization in Unitary States: Constitutional Frameworks for the Middle East and North Africa, Center for Constitutional Transitions, International Institute for Democracy and Electoral Assistance, United Nations Development Programme, 2014, p. 29.

[7] Kahina Shatari, The Evolution of Administrative Decentralization: France and Algeria as a Model, article published in Journal of Jil for Studies and International Relations, Issue No. 13, dated 13-01-2018.

The Electoral Dimension, which concerns the mechanisms by which the local institutions of these units are constituted.

Some scholars group these two dimensions under the term "the structure of decentralization."[8] The reason behind this terminology likely lies in the fact that these two dimensions constitute the foundational infrastructure upon which any decentralization system—whether successful or failed, independent from or subordinate to the central authority—is built. They encompass the fundamental principles that regulate the formation of local units and their affiliated institutions.

Therefore, to establish an effective and sustainable decentralized system, it is essential to begin by governing the requirements of these two dimensions in a manner that shields the processes of forming local units and institutions from the influence of the narrow interests of the dominant forces within central institutions.

Research Significance

Given the significance of decentralization as one of the proposed solutions for Syria, coupled with the sharp division among Syrian political forces regarding this concept, and considering that determining the levels of administrative and financial decentralization—as well as governing their requirements with soundness—are inherently linked to the ultimate shape of the political settlement in Syria, which itself requires in-depth economic and social studies that are difficult to conduct under the current state of division, the importance of this research lies in examining the governance mechanisms adopted by other states to establish a robust structure for their decentralized systems. Such mechanisms aim to insulate issues related to the formation of local units and their institutions from the fluctuations of political interests at the center, while ensuring a balance between the independence of these units and the requirements of national interest, thus laying the foundation for the success of the broader centralized system in its various dimensions.

[8] International Institute for Democracy and Electoral Assistance, Decentralization in Unitary States: Constitutional Frameworks for the Middle East and North Africa, previously cited reference, p. 40

Main Research Question

What mechanisms should be enshrined in the Syrian legal framework to construct the structure of decentralization on sound foundations, safeguarding its spatial and electoral dimensions from the risks of politicization and insulating their requirements from the narrow interests of the dominant forces within central institutions?

Sub-Questions

1. What are the shortcomings of the Syrian legal framework that have rendered the spatial dimension of decentralization subordinate to the center? And what mechanisms can be enshrined to establish a profound spatial dimension for Syrian decentralization?
2. What are the deficiencies within the Syrian legal framework that have stripped the electoral dimension of decentralization of its essential role in enhancing the independence of local entities and promoting the right to political participation?
3. What mechanisms are necessary to strengthen the role of the electoral dimension within Syrian decentralization?

Research Methodology

To answer these questions, the study will follow a descriptive-analytical methodology by examining the official legal framework governing decentralization in Syria, as well as the framework regulating the right to political participation. This includes analyzing its deficiencies and comparing them with the practices of certain successful states in this field, with the aim of drawing on their experiences to propose options for sound governance of the structural dimensions of decentralization.

Returning to the Syrian legal texts governing decentralization, it becomes clear that Law No. (107) of the year (2011) and the Constitution of (2012) recognized democratic decentralization as a system under which the state is administered. However, they established Syrian decentralization on a fragile structure that threatened its effectiveness and stability, as they enshrined a set of provisions that reinforced the central authority's absolute dominance over its spatial dimension (First). On the other hand, although both texts recognized elections as a primary means for forming local institutions, they—together with the legal texts governing elections and the formation of political parties—

stripped the electoral dimension of Syrian decentralization of its depth and undermined the expected advantages and opportunities (Second).

First: The Spatial Dimension of Syrian Decentralization

Decentralization is founded on the idea of recognizing the existence of local units responsible for meeting the needs of the population within a specific region of the state. This is based on the assumption that such needs are better addressed when the units responsible for them are composed of local residents, who are more familiar with their own needs than the central authority[9]. Alternatively, in federal states, the constituent states may have demanded recognition of a certain degree of autonomy from the federal authorities of the state[10]. In cases other than federal unions, the recognition of local units entails their formation and the delineation of their existence within a defined geographical space. This is what some refer to as the spatial dimension of decentralization, which encompasses two fundamental issues.

1: The recognition of local units, their creation, and the delineation of their boundaries are also influenced by a significant and consequential issue, namely the authority to amend these boundaries.

The depth of this dimension varies according to its legal basis, if enshrined in the constitution, decentralization is considered strong; if regulated by law, it is moderate; and if established by an administrative decision, it is weak[11]. On another level, the depth of this dimension is linked to how the existence of units is stipulated: if the text specifies the units by name, the spatial dimension is strong; if it refrains from naming the units but sets criteria for their establishment, decentralization is moderate; and if it merely acknowledges the existence of administrative divisions without specifying criteria for their creation, decentralization is weak. In reference to the Syrian legal system, it has established a weak spatial dimension for decentralization, as the constitution acknowledges decentralization in general terms, granting the legislator broad powers in organizing this recognition.

[9] Sara Barkeis and Marwan Muasher, Decentralization in Tunisia: Strengthening Regions and Empowering the People, Carnegie Center, June 11, 2018.

[10] International Institute for Democracy and Electoral Assistance, Federalism, May 2015, p. 3.

[11] Kahina Chetari, previously cited reference.

2: The constitutional and ordinary legislators have not established sufficient criteria to safeguard the spatial dimension of Syrian decentralization from the influence of the political will of central authorities.

1- Recognition of Local Units in the Syrian Legal Framework:

(a) Law No. 107 of 2011 and the 2012 Constitution recognized local units, but in a limited manner that allows the legislator to alter administrative divisions at will and without constraint.
(b) They also permit the legislator to name and rename all local units without any binding criteria, which—alongside certain constitutional provisions and the omission of specific rights—may raise concerns about the implementation of discriminatory policies against the inhabitants of certain units. This appears to reflect an implicit refusal to acknowledge the identity and heritage of certain regions.

a. The Deficiency in the Recognition of Local Units under the Syrian Legal Framework

Law No. 107, which regulates local administration in Syria, recognizes local units and divides the country into administrative units possessing legal personality: governorates, cities, towns, and municipalities[12]. The 2012 Constitution subsequently acknowledged local units in a concise manner, leaving the legislator with absolute authority to operationalize this recognition. Generally, several models can be distinguished concerning constitutional recognition of local units. In federal constitutions, regions or states are typically named explicitly in the constitution, while the matter of administrative division within these regions is usually left to the constitutional or legal systems of the regions themselves, although some countries have given constitutional status to such divisions[13]. In contrast, the constitutions of unitary states vary in their approaches: some omit any reference to administrative divisions or even to a decentralized system, leaving the matter to administrative law[14]; others enshrine decentralization within their constitutional texts, either in general terms or in detail.

[12] Article 7 of Law No. 107 of 2011.

[13] George Anderson, An Introduction to Federalism: What is Federalism? And How Does It Succeed Around the World?, Forum of Federations, Canada, 2007, p. 15.

[14] Kamel Leila, Political Systems: State and Government, Dar Al-Fikr Al-Arabi, 1971, p. 155.

As a general approach, the constitution may implicitly recognize local units by declaring adherence to decentralization as a system through which the state is administered, while leaving the determination and delineation of administrative divisions to ordinary legislation. For example, the Constitution of Portugal stipulates that Portugal is a unitary state that organizes and functions in a manner that respects the autonomy of the islands and the principles of devolution, self-governance, and democratic decentralization for public affairs administration[15]. Similarly, a constitution may recognize that the state is composed of independent local units, delegating the regulation of such recognition to ordinary law, as the Syrian Constitution has done[16].

In the detailed approach, some constitutions explicitly stipulate the types of administrative divisions, while others mention regions with specific cultural or geographic characteristics by name. For example, the Spanish Constitution guarantees and recognizes the right to self-government for ethnic groups and regions[17], and it outlines the types of divisions that constitute the state: municipalities, provinces, and autonomous communities[18]. In its regulation of the formation of the Senate—composed of representatives elected by provinces, islands, and other groups—the Constitution names both major and minor islands and certain other groups explicitly[19]. The Italian Constitution follows a similar path: it obliges the state to recognize and support local administrations, to ensure the implementation of decentralization in public services, and to align its legislative principles and methods with the requirements of self-government and decentralization[20]. It also specifies the administrative divisions of the state: municipalities, provinces, metropolitan cities, and regions[21], naming certain areas and granting them special conditions of autonomy[22].

[15]Article 6, Constitution of Portugal of 1976, as amended in 2005.
[16]Article 130, Constitution of Syria of 2012.
[17]Article 2, Constitution of Spain of 1978.
[18]Article 137, Constitution of Spain of 1978.
[19]Article 69, Constitution of Spain of 1978.
[20]Article 5, Constitution of Italy of 1947.
[21]Article 14, Constitution of Italy of 1947.
[22]Article 16, Constitution of Italy of 1947.

This detailed approach helps protect local units and their right to self-administration against central authority, but it is rigid due to the difficulty of constitutional amendment. In contrast, the general approach is more flexible, allowing for changes in the status of units without the need to amend the constitution. This flexibility is suitable for Syria today, given the conditions of displacement and migration, and the absence of accurate data regarding resources. However, such flexibility is insufficient to ensure the continuity of these units, as their constitutional status remains subject to the will of the parliamentary majority in the central legislature.

Therefore, it would be preferable—particularly to shield the formation of local units from narrow political interests—to limit the power of Parliament in this regard by constitutionally enshrining certain administrative levels, without necessarily naming them, while adding a provision that allows for the creation of additional levels when necessary. This would ensure operational flexibility in response to social and economic changes. In Spain, for instance, while the Constitution enshrines certain types of local divisions, it also allows municipalities in archipelagos to form non-provincial groupings. It permits islands to establish special forms of administration—such as island councils or municipal councils[23]—and allows adjacent provinces sharing historical, cultural, and economic characteristics to form autonomous communities within constitutionally established frameworks.[24]

In a related context, it may be beneficial to name in the constitution certain areas with special historical, developmental, or cultural conditions, or even those that, due to the realities of the Syrian conflict, have been beyond central control. Doing so would provide reassurance and reduce their fears of renewed central dominance and authoritarian practices. Additionally, it is essential to establish criteria and conditions to govern the process of creating and delineating units, in order to protect them from politicization—an issue that will be addressed in the following section.

b. The Absence of Recognition for the Ethnic Identities of Local Unit Inhabitants

One of the key anticipated benefits of implementing decentralization lies in its ability to enhance equal citizenship by enabling the full and equal participation of all individuals in

[23]Article 141, Constitution of Spain of 1978.

[24]Article 143, Constitution of Spain of 1978.

decisions that affect their lives. Accordingly, any form of discrimination constitutes an obstacle to the realization of citizenship and the activation of political participation at both national and local levels, and it forms a basis for potential conflicts. Therefore, those seeking to build a state grounded in citizenship must eliminate all discriminatory provisions from the state's legal framework and, further, institutionalize affirmative measures in favor of groups that have historically suffered from discrimination, as a means of remedying the effects of past exclusionary policies and preventing their recurrence.

In Syria, some argue that the Arab-centric identity of post-independence constitutions has served as a cover enabling the marginalization of non-Arab ethnic groups—particularly the Kurds. Many Kurds were deprived of citizenship under Decree No. 93 of 1962. Likewise, the Arab Belt project of 1974 relocated thousands of Arab families from the governorates of Raqqa and Aleppo to villages whose lands belonged to Kurds and had been expropriated under agrarian reform laws since 1958. This was accompanied by several decrees that restricted Kurdish ownership of real estate in border areas[25]. Regardless of whether these policies are viewed as discriminatory by certain groups or as serving the public interest—as the authorities claim—discrimination against non-Arab ethnicities is clearly manifested in two primary issues: the prohibition of their right to speak and learn in their own languages, and the Arabization of place names with non-Arab origins. It is the latter issue that concerns us here, given its implications for identity and belonging, and its role in deepening political polarization.

The Arabization of areas names by post-independence Syrian authorities has had serious and negative consequences for identity and affiliation. Many Aramaic names, for example, held ancient religious and mythological significance and constituted an important part of the collective consciousness of local communities in Syria. Imposing top-down changes to these names has adversely affected individuals' connection to and sense of belonging in their localities[26]. Similarly, the Arabization of Kurdish place names—alongside other discriminatory practices—reinforced Kurdish perceptions that the authorities sought to

[25] Azad Ahmad Ali, The (Arab) Belt in the Syrian Jazira, Kolan Media, 24 June 2015.

[26] Researcher Hassan Younes calls for halting Arabization and reviews the history of place name changes in Syria, as reported by Snack Syrian, 11 September 2019.

erase their historical presence in Syria[27]. According to one interviewee: "Our village has existed for two hundred years, but they changed the names of Kurdish villages in Kurdish regions to Arabic ones in order to later claim they are Arab villages, to distance us from our Kurdish identity, and to prevent the use of our language[28]."

In response, and following the withdrawal of government forces from Kurdish-majority areas in 2012, the Kurdish population declared a temporary autonomous administration to manage local affairs and institutions in the regions of Jazira, Afrin, and Kobani. The administration later announced a federal system and undertook a series of measures, most notably introducing the Kurdish language into school curricula and restoring original Kurdish place names. According to the autonomous administration, this process aims to preserve cultural and historical identity, not to erase anyone else's. As one leader explained, "Villages with an Arab majority retained their original names, but we also wrote them phonetically in Kurdish on the same signs as the Arabic names, because they are original names and because 'it is not our policy to impose Kurdish names".[29]

Nonetheless, some individuals objected to these policies, viewing them as a continuation of the Syrian regime's practices and a prelude to political and social erasure in the region. [30] Beyond the contentious Kurdish issue, the Syrian government's renaming of certain areas has also provoked opposition from Arab opposition groups. According to Quds Press, residents of Yarmouk Camp interpreted the change of the camp's name to "Yarmouk Street" as an attempt to erase its identity. Similarly, some viewed the government's plan to designate the cities of Douma and Harasta as the new center of Rural Damascus Province under the name al-Fayhaa as a form of punishment against Douma and Eastern Ghouta, which were strongholds of the revolution against the regime. [31]

[27]Syrians for Truth and Justice, Discrimination Based on Ethnic Origin in the Syrian Constitution, 1 December 2020.

[28] After the Regime Arabized Them... Kurds Reclaim the Original Names of Their Regions and Feel Proud, An-Nahar Newspaper, 23 October 2016.

[29]Mohammad Abdul Sattar Ibrahim, Afrin Canton Changes Village and Street Names to Kurdish, Syria Direct, 25 May 2016.

[30]Abdul Razzaq Al-Nabhan, Kurdish Names for Towns and Villages in Qamishli, Syria, Arabi 21, 7 September 2015.

[31]Tariq Suleiman, The Most Recent is Douma: Assad Militia Changes the Names of 4 Cities and Towns in Damascus and its Countryside, Orient News, 21 April 2023.

Regardless of the political controversies surrounding the renaming of regions, and considering the significance of this issue in shaping both national and local identity—and its potential role in mitigating ongoing conflicts between them—the Syrian legal framework must regulate this matter in order to remove it from the arena of political and identity-based struggles. A review of the legal system reveals that Law No. 107 of 2011 grants the authority to name new local units to the central government: this authority is exercised through a decree issued by the Prime Minister (based on the recommendation of the Minister of Local Administration in the case of cities), or by the minister (based on the proposal of the executive office of the provincial council in the case of towns and municipalities). As for governorates, their naming requires a law passed by Parliament[32]. However, the law does not address the renaming of existing units. Likewise, the 2012 Constitution makes no mention of the naming or renaming of administrative divisions.

On another front, while the Constitution affirms the equality of all Syrians in rights and duties and prohibits discrimination on the basis of gender, origin, language, religion, or belief[33], it still contains—according to some—provisions that reinforce the dominance of Arab ethnicity over others. Examples include its declaration that the Syrian people, in all their components, are part of the Arab nation, and the designation of Arabic as the official language of the country, without any explicit recognition of the languages of other ethnic groups[34].

In light of the discriminatory policies experienced by non-Arab ethnic groups under previous constitutions—and considering the Constitution's silence on the regulation of renaming authority and the use of non-Arabic languages—it is understandable that these groups fear potential future discriminatory policies. Such fears are further justified following a protracted civil war that fragmented the country and deepened subnational identities. Therefore, it is advisable to undertake a constitutional review of these provisions to establish explicit constitutional recognition of the various ethnic groups that constitute the Syrian people and their cultural rights, including the right to use their languages and to participate in choosing the names of the regions they inhabit. This would serve to

[32]Article 9 of Law No. 107 of 2011.

[33]Article 33, Constitution of Syria (2012).

[34]Syrians for Truth and Justice, previously cited source.

alleviate both real and perceived historical grievances and to strengthen their sense of belonging to the state.

The Spanish Constitution offers a valuable and instructive model in this regard. While Spain is established as a single, indivisible state, the Constitution also recognizes the right to autonomy for the various ethnic groups and regions with shared historical, cultural, and economic characteristics[35], or that constitute a historical entity[36]. It allows them to raise their own flags alongside the Spanish flag on public buildings and during official regional occasions[37]. On the linguistic front, while the Constitution designates Castilian as the official language of the state and requires all Spaniards to know it, it also recognizes other Spanish languages as official within their respective autonomous communities, according to their statutes[38]. In its efforts to preserve the subnational identities of Spaniards, the Constitution also allows them to acquire the nationalities of Latin American countries—or other nations with special historical or current ties to Spain—without losing their Spanish nationality, even if those countries do not offer reciprocal treatment to Spanish citizens[39]. Regarding the naming of autonomous communities, the Constitution requires that their statutes—the legal instruments that govern each community—include a designation that best reflects their historical identity[40].

The reference to these constitutional provisions is not intended as a call for their wholesale adoption—such matters must be determined according to the particular circumstances and capacities of each state—but rather to underscore that protecting the cultural rights of constituent groups and ensuring equality in political participation at both national and local levels is not only a first step toward strengthening their affiliation with the nation-state. It also removes the legal basis for any claims to secession under the doctrine of "remedial secession," which the international community has increasingly invoked in applying the right to self-determination[41]. This stands in contrast to forced assimilation

[35]Article 2, Constitution of Spain (1978).

[36]Article 143, Constitution of Spain (1978).

[37]Article 4, Constitution of Spain (1978).

[38]Article 3, Constitution of Spain (1978).

[39]Article 11, Constitution of Spain (1978).

[40]Article 147, Constitution of Spain (1978)

[41]Yassine Ben Omar, The Right to Self-Determination and the Right to Secession in Contemporary International Law, Journal of Legal and Political Sciences, Issue No. 12, January 2016, p. 216.

policies adopted by some states, which have only served to deepen divisions, fuel separatist movements, invite external interference, and inevitably lead to widespread human rights violations.

2- Central Dominance over the Formation, Existence, and Boundaries of Local Units in Syria

Establishing a strong spatial dimension for decentralization requires removing the processes of creating local units and delineating their boundaries from the influence of political forces concentrated at the center. This can be achieved by instituting objective standards and procedural safeguards that regulate these matters and shield them from politicization. Ideally, such standards should be enshrined in the constitution. For instance, the Namibian Constitution relies solely on geographic criteria for the formation of local units and establishes a boundary commission responsible for demarcation. In contrast, Indonesian law mandates the consideration of demographic, functional, and identity-related factors in the establishment of regions[42].

In the Syrian context, the Constitution does not include any substantive or procedural standards to govern the legislator's decisions regarding the creation, delineation, or modification of local units. Consequently, the formation or reconfiguration of these units remains subject to the will of the central legislature[43]. This central dominance is further reinforced by Law No. 107 of 2011, which regulates decentralization in Syria. The law consolidates central authority over the spatial dimension of decentralization by adopting limited criteria for the creation and demarcation of certain local units (a) and by granting the central government absolute authority to amend their boundaries (b).

[42]International IDEA (International Institute for Democracy and Electoral Assistance), Decentralization in Unitary States: Constitutional Frameworks for the Middle East and North Africa, previously cited, p. 41.

[43]Article 130, Constitution of Syria (2012).

a. The Deficiency of Legal and Procedural Standards Governing the Establishment of Local Units in Syria

Countries adopt a range of criteria—individually or in combination—for the establishment of their local units. Among these is the democratic criterion, which considers the will of the population in areas subject to local governance. Others include the efficiency and economic considerations criterion, and the identity-based criterion, whereby units are formed based on cultural, ethnic, religious, linguistic, or historical attributes[44]. Some states have also adopted the military criterion, a temporary measure used to create a unified front in border regions during times of war[45].

In Syria, the law adopts only one criterion for the establishment of local units—population density—with the exception of governorates[46]. According to Law No. 107, a municipality is defined as any population cluster or group of clusters with a population between 5,000 and 10,000; a town includes between 10,001 and 50,000; and a city has more than 50,000 inhabitants. A governorate is defined as a geographical area that may comprise multiple cities, towns, municipalities, and farms—or, in some cases, a single city. Procedurally, the formation of these units is authorized by a decree from the Prime Minister (based on the recommendation of the Minister of Local Administration for cities) and by the minister (based on a proposal from the executive office of the governorate council for towns and municipalities). The creation of governorates, however, requires a law passed by Parliament[47].

Although the legislator acted appropriately in establishing a population-based criterion to prevent political exploitation of unit formation, the law significantly undermines the spatial dimension of Syrian decentralization due to several key shortcomings. The first is that population density alone is insufficient to establish sustainable, viable, and socially acceptable local units. Especially amid rapid population growth—particularly in underdeveloped areas—this could result in the formation of small and inefficient units

[44]The International Institute for Democracy and Electoral Assistance, Decentralization in Unitary States: Constitutional Frameworks for the Middle East and North Africa, p. 40.

[45]Abbas Ghali Dawood and Ben Amour, Khaled Mohammed, The Green Mountain Region in Libya: A Study in Administrative Geography, Al-Ustath Journal, Issue No. 203, 2012, pp. 1584–1618, p. 1592.

[46]Article 1 of Law No. 107 of 2011.

[47] Article 9 of Law No. 107 of 2011.

jeopardizing their sustainability and the quality of services provided. Larger local governments with fewer units tend to deliver services more efficiently due to economies of scale and smoother coordination. By contrast, smaller units often allocate a disproportionate share of their resources to administrative costs at the expense of public services[48].

This limitation is even more pronounced in present-day Syria, given the massive displacement, refugee flows, and the widespread destruction of infrastructure caused by the war. A population-based criterion in such a context may lead to the formation of highly unequal units in terms of population size and capacity.

The second major shortcoming is the absence of clear criteria for establishing governorates, rendering this authority vulnerable to the interests of political actors in Parliament. This vulnerability was evident under the previous local administration law. Some observers believe, for instance, that one motivation behind the establishment of Tartous Governorate in 1966 was the desire to create a governorate with an Alawite majority after the annexation of the Sanjak of Alexandretta[49].

For all these reasons, establishing new criteria—ideally enshrined in the constitution—for the formation of Syrian local units is both crucial and challenging. While it is preferable to adopt a variety of criteria that support the transition process and reflect intended reforms, this may prove difficult in transitional contexts, especially those marked by deep social divisions. Consequently, it may be more practical to rely on existing administrative infrastructure, as it typically provides stability and is less contentious, given people's familiarity with it. However, this approach risks perpetuating ethnically motivated policies from the past and reinforcing regional disparities[50].

Experiences from other countries that have grappled with this tension offer several solutions. Some have recognized existing boundaries while establishing mechanisms to allow for future adjustments in service of broader reform. In India, for example, amid disagreements among members of the Constituent Assembly, the existing boundaries of

[48] International Institute for Democracy and Electoral Assistance (International IDEA), Decentralization in Unitary States: Constitutional Frameworks for the Middle East and North Africa Region, previously cited, p. 40.

[49] Al-Zoubi et al., previously cited, p. 31.

[50]International Institute for Democracy and Electoral Assistance (International IDEA), Decentralization in Unitary States: Constitutional Frameworks for the Middle East and North Africa, previously cited, pp. 41–42.

regions were preserved. Yet, the constitution granted Parliament the authority to alter state boundaries after consulting with their legislative authorities—without being bound by their opinions. Parliament later used this power to align boundaries more closely with cultural and linguistic considerations, addressing prior unrest[51].

Similarly, the Spanish Constitution strengthened the role of local units. It allowed adjacent provinces sharing common historical, cultural, or economic characteristics—as well as islands and provinces forming historical entities—to establish autonomous communities, exercising their constitutionally guaranteed right to self-government[52].

Flexible constitutional provisions like these may offer a practical path forward during transitional phases. However, they require political consensus or a decision to undertake constitutional review. In the absence of agreement—and if zones of influence and control remain unchanged—it may be appropriate to follow the example of West Germany's constitutional legislator. After World War II, Germany was divided into two states: East Germany (under Soviet influence) and West Germany (comprising three zones of influence). West Germany established a new constitutional system, but due to the division, the foundational document adopted during the constitutional process was not named a "constitution" but was instead referred to as the Basic Law[53]—a provisional constitution intended to be reconsidered upon German reunification[54].

Nonetheless, the provisional nature of the Basic Law was limited to its geographical scope and did not extend to its ideological foundation. The text contained fixed and unamendable provisions. This was evident in Articles 23, 146, and 143. Article 23 stipulated that the constitution would come into force in the rest of Germany once those territories joined the German Union. Article 146 provided that the Basic Law would become valid for the entire German people upon reunification, at which point Germany would have

[51]International Institute for Democracy and Electoral Assistance (International IDEA), Federalism, May 2015, p. 14.

[52]Article 143, Constitution of Spain, 1978.

[53]Bonilla, Carmela Di Caro, Scotti Rita, Valentina. Assessing Constitutional Transition Processes from the Perspective of European Foundational Processes in the Post-World War II Period, pp. 30–62, Yearbook of the Arab Association of Constitutional Law, 2015–2016, pp. 51–52.

[54]Suleiman, Issam. Parliamentary Systems Between Theory and Practice, Al-Halabi Legal Publications – Beirut, 2020, p. 193.

achieved unity and freedom[55]. Article 143 affirmed the permanence of the text and its rigidity regarding the form of the state, its democratic federal system, and the guarantee of human rights, explicitly prohibiting the amendment of the first twenty articles addressing these matters[56].

Finally, Law No. 107 is also criticized for granting the central government authority over the formation and boundary demarcation of local units. These powers are exercised through decrees by the Prime Minister (based on the proposal of the Minister of Local Administration for cities) and by the minister (based on proposals from the executive office of the governorate council for smaller units). In the case of governorates, this authority lies with Parliament[57]. While this approach is common in many countries, it poses particular risks in Syria due to the lack of substantive criteria for forming local units and the absence of standards for the creation of governorates.

It is therefore essential to define these criteria precisely to ensure procedural transparency and to prevent the politicization of local governance. One promising approach is the establishment of an independent commission to ensure the integrity of the boundary-drawing process for new administrative units. For instance, in South Africa, a Municipal Demarcation Board was created in 1998 by legislation that outlined the Board's responsibilities, operating procedures, and mechanisms for appeal. Similarly, the Namibian Constitution established a boundary commission and mandated that demarcation be carried out in accordance with constitutionally defined criteria[58].

b. The Absence of Criteria for Modifying the Boundaries of Local Units in Syria

States may find it necessary to adjust their administrative divisions—partially or entirely—due to changes in economic activity, urban development, labor markets, or demographic imbalances, in order to maintain the fundamental purpose of administrative divisions[59]

[55] Bonilla & Scotti, op. cit., p. 52.

[56] Issam Suleiman, op. cit., p. 195.

[57]Article 9 of Law No. 107 of 2011.

[58]International Institute for Democracy and Electoral Assistance (International IDEA), Decentralization in Unitary States: Constitutional Frameworks for the Middle East and North Africa Region, op. cit., p. 43.

[59]Abbas Ghali Dawood and Khalid Mohammed Ben Amour, op. cit., pp. 1591–1592.

enabling regions to manage their own affairs. However, such modifications may also serve the narrow interests of central elites. In Uganda, for instance, between 1991 and 2010, authorities modified administrative boundaries to create new units as political rewards for individuals who supported the president's electoral victories, disregarding efficiency and economic considerations[60].

In Syria, some observers argue that the boundaries of Latakia Governorate were altered in 1966 to establish Tartous Governorate as a majority-Alawite region, following the annexation of the Sanjak of Alexandretta, and amid disputes between military and civilian leadership from the coastal region over local loyalties[61]. Regardless of the accuracy of this interpretation, , it is critical to acknowledge the danger of granting the central government unchecked authority over boundary changes. Legal and constitutional safeguards are needed to prevent the politicization of this process. However, both the previous and current Syrian legal frameworks on decentralization have failed to impose such safeguards. Law No. 107 grants the central government the authority to alter the boundaries of local units using the same procedures as their formation—through a decree issued by the Prime Minister (based on a proposal from the Minister of Local Administration for cities) or by the minister (based on a proposal from the executive office of the governorate council for smaller units). In the case of governorates, such changes require a law issued by Parliament[62]. Neither the law nor the Constitution imposes any constraints on this authority, calling into question the effectiveness and independence of Syrian decentralization.

Broadly, constitutional and legal frameworks in other countries classify constraints on boundary modification into two categories: substantive (normative) constraints and procedural constraints.

Substantive constraints refer to the criteria defined by the legislator in the law or constitution, which authorities responsible for boundary modification must consider. These include criteria such as means of communication, geographical landmarks, population density, demographic trends, historical and cultural ties, infrastructure economic feasibility,

[60]International Institute for Democracy and Electoral Assistance (IDEA), Decentralization in Unitary States: Constitutional Frameworks for the Middle East and North Africa, previously cited, p. 46.

[61]Al-Zoubi et al., previously cited, p. 3 1.

[62]Article 9 of Law No. 107 of 2011.

and the opinions of local residents. Some legal systems prohibit boundary changes that would negatively affect existing or new units—such as reducing population size, income, or land area below the thresholds required for the creation of a unit[63]. These criteria vary across countries depending on their unique contexts and the objectives of their decentralization policies.

Procedural constraints, on the other hand, concern the steps required to implement a boundary change. These procedures vary. Some relate to the proposal stage, while others pertain to the approval of the proposed change.

Regarding the proposal process—though the right to propose changes is usually restricted to the executive or legislative branches—some constitutions and laws require approval from an independent committee unaffiliated with either branch. This is a valuable safeguard that helps ensure the creation of sustainable units and prevents partisan manipulation[64].

As for the approval stage, procedures differ from one country to another. In most federal states, modifying the boundaries of constituent regions requires their consent—either through a referendum of the local population, approval by regional legislatures, or a qualified majority in the upper house of parliament[65]. In unitary states, authority often rests with the national legislature following a proposal from the executive. While this approach has advantages—since the central government is better positioned to assess whether newly created local governments can implement national policies and manage broader implications—it is risky in countries ruled by a single party or where the executive is drawn from a parliamentary majority[66]. In such contexts, it may be preferable for the proposal to originate from an independent committee, thereby reducing the dominance of any particular party or majority. Additionally, requiring a supermajority to pass boundary change laws can prevent any single bloc from monopolizing the process.

[63]International Institute for Democracy and Electoral Assistance (IDEA), Decentralization in Unitary States: Constitutional Frameworks for the Middle East and North Africa, previously cited, p. 44.

[64]International Institute for Democracy and Electoral Assistance (IDEA), Decentralization in Unitary States: Constitutional Frameworks for the Middle East and North Africa, previously cited, p. 45.

[65]George Anderson, previously cited reference, p. 18.

[66]International Institute for Democracy and Electoral Assistance (IDEA), Decentralization in Unitary States: Constitutional Frameworks for the Middle East and North Africa, previously cited, p. 45-46.

Some countries go further by requiring approval from affected populations via referendum. Ghana's constitution, for instance, distinguishes between the thresholds needed for boundary modification and for mergers. It requires 80% approval from voters—provided that at least 50% participate—for any boundary modification, while a merger needs 60% approval from eligible voters in each area involved. This approach offers important advantages: it grants affected populations the final say and ensures legitimacy by reflecting public sentiment. However, it carries significant risks in undemocratic or deeply divided societies, where voting may reflect sectarian interests rather than the public good or the developmental goals of decentralization. For this reason, referenda are best avoided in the early stages of transition or paired with independent committee recommendations, as Ghana's constitution does. There, the President—on the advice of the Council of State—may appoint a commission to assess the necessity of the change. If deemed necessary, the commission recommends a referendum in the affected area[67].
As an alternative to referenda, and to ensure that local units accept the changes, it may be appropriate to require approval from their elected councils. In Malaysia, the national legislature may propose local boundary changes, but these must be ratified by the legislative councils of the affected regions by a simple majority[68]. Involving local institutions in the drafting of such proposals may also prove beneficial, as their insights may help reconcile the preferences of residents with the broader objectives of the decentralization project.

Second: The Electoral Dimension of Decentralization in Syria

The electoral dimension of decentralization refers to the method by which members of institutions within local units—such as local councils and executive offices in the Syrian context—are selected. When officials in local units are elected directly by the population, decentralization is considered strong. If they are appointed with the approval of the central authority, decentralization is moderate; and when officials are appointed directly

[67]International Institute for Democracy and Electoral Assistance (IDEA), Decentralization in Unitary States: Constitutional Frameworks for the Middle East and North Africa, previously cited, p. 45.
[68]International Institute for Democracy and Electoral Assistance (IDEA), Decentralization in Unitary States: Constitutional Frameworks for the Middle East and North Africa, previously cited, p. 45.

by the central government, decentralization is weak[69].Enhancing the electoral dimension is of critical importance for states seeking to build democratic citizenship—particularly those that have experienced civil conflicts which have deepened internal divisions. Properly designed elections can promote political participation, foster the formation of inclusive governance structures where diverse groups can coexist peacefully, and enable marginalized regions, minorities, or conflict-affected groups to express themselves from within the system. This, in turn, supports national stability and strengthens allegiance to the state[70].

Electoral decentralization also contributes to the development of political life by empowering local actors and cultivating their relationships with constituents. It may generate a new political class outside the framework of dominant central parties and open avenues for women and youth to enter the political sphere through local governance[71].

Moreover, this dimension significantly impacts the independence of local units, and consequently the effectiveness of both the administrative and fiscal dimensions of decentralization. According to prevailing legal doctrine, the greater the number of elected members in local bodies, the more independent those bodies are from the central authority. Regardless of whether this view is universally accurate, it remains the most widely held and established position. Elections are widely regarded as one of the most essential mechanisms for realizing democracy and activating political participation. Due to its significance, some scholars consider elections to be a foundational pillar of regional administrative decentralization[72].

In the Syrian case, the legal framework—namely Law No. 107 of 2011 and the 2012 Constitution—has institutionalized a limited electoral dimension, enabling the central government to maintain control over the formation of local institutions (1). This central dominance is further reinforced by the Electoral Law and the Political Parties Law, both of which suffer from deficiencies and impose constraints that hinder genuine and effective political participation (2).

[69]Kahina Chater, previously cited reference.

[70]Mohammad Khaled Al-Shaker, Constitution Building and Levels of Decentralized Governance: The Legal Protection of the Principle of Deconcentration of Power, published on 26/11/2018, Syrian Observatory for Human Rights.

[71]Sara Barkaes and Marwan Muasher, previously cited reference.

[72]Abdullah Talba, Local Administration Curriculum, Damascus University, 1989–1990, pp. 92–93.

1. Central Dominance over the Electoral Dimension of Decentralization under the Existing Legal Framework

On a formal level, the Syrian legislator, through Law No. 107 of 2011, appeared to establish a robust electoral dimension for Syrian decentralization by designating elections as the means for selecting the vast majority of members and presidents of both legislative and executive bodies of local administrations. This framework could have ensured the independence of these units. However, the law simultaneously imposes significant limitations that undermine this potential: (a) it reserves certain sensitive positions within these councils for appointment by the central executive authority, and (b) it establishes a stringent administrative guardianship system that effectively strips this electoral dimension of its primary purpose—ensuring the independence of local councils from central dominance.

a. The Impact of the Formation Method of Local Institutions on the Electoral Dimension of Decentralization in Syria

Local administration or local governance institutions consist of three components:

- A popular component, which forms the local councils and is elected by the residents of local units.
- An administrative component, composed of professionally qualified staff who are appointed and not elected.
- An executive component, which oversees administrative functions and the decisions of local councils. This may consist of an individual or a body, and may be appointed or elected—either directly or indirectly[73].

Generally, the formation of local legislative and executive councils follows the following methods:

- In the first method, both the legislative authority and the executive authority are directly elected.

[73]Abdullah Talba, previously cited reference, pp. 92–93.

- In the second method, the legislative authority is directly elected, and the executive authority is appointed by the elected legislative body—or, in rare cases, by the central government.
- In the third method, the legislative authority is directly elected, while the executive authority is indirectly elected by the legislative council.
- Finally, in some countries, local governance is composed of a single directly elected body that exercises both legislative and executive powers.

In Syria, local administrative units are formed through a hybrid method that combines direct and indirect election with appointment. Local councils are elected by general, secret, and direct voting[74]. These councils then, according to procedures defined in the law, elect their presidents and internal structures stipulated by law[75]. The executive councils of these units are formed through a mixed method of indirect election and appointment. Local councils elect the members of executive offices, and the president of the local council in cities[76], towns, and municipalities serves as the head of its executive council[77]. At the governorate level, however, the executive council is headed by a governor who is not elected but appointed by the executive authority and serves as its representative[78].

Accordingly, the Syrian legislator formally established a significant electoral dimension to decentralization, by stipulating a method that transfers to local units the authority to select most of their representatives through direct and indirect election. This could have built a deep electoral dimension ensuring the independence, effectiveness, and legitimacy of local administration institutions in Syria—had the law granted the few appointed members tools that guarantee their independence from the authority that appointed them, as will be discussed below.

[74]Article 12 of Law No. 107 of 2011.

[75]Articles 19, 20, and 21 of Law No. 107 of 2011.

[76]Article 21 of Law No. 107 of 2011.

[77]Articles 70 and 71 of Law No. 107 of 2011.

[78]Articles 29, 39, and 41 of Law No. 107 of 2011.

The legislator was wise to adopt a hybrid method for forming executive councils that combines indirect election with appointment, as this is a suitable approach for the Syrian context. Comparative experiences show a number of risks associated with the direct election of executive officials, such as the adoption of populist policies by officials seeking to appease voters[79]. Additionally, in countries emerging from dictatorship or conflict, direct elections may lead to the rise of subnational forces or militia members. It would likely weaken the representation of women and other marginalized groups[80] due to factors such as the dominant role of tribes and families in political life[81]—particularly in developing countries.

This concern is reflected in the composition of the Syrian People's Assembly following the 2016 elections, which brought in many tribal leaders, warlords, and commanders of military and security militias[82]. While these elections were largely ceremonial and controlled by security agencies, the outcome reflects the regime's understanding of social dynamics and the central role of these groups. Thus, it is expected that these actors will gain even greater influence in any real direct elections, making indirect elections the most appropriate option in Syria.

As for appointments (as previously noted), Law No. 107 imposes on the structure of these units a number of key positions filled by the central executive authority:

- The governor, who heads the executive council of the governorate, is appointed by presidential decree[83].
- The secretary-general of the governorate is appointed by a decision of the Prime Minister based on a proposal by the Minister of Local Administration[84].

[79]International Institute for Democracy and Electoral Assistance (IDEA), Decentralization in Unitary States: Constitutional Frameworks for the Middle East and North Africa Region, previously cited reference, pp. 47–56.

[80]Ibrahim Hajji, "How Can Women's Participation in Local Councils Be Increased?" Ida2at, March 5, 2022.

[81]Mohamed Abdel Hadi, Opportunities and Challenges... Decentralization and the Formation of Local Female Elites, Arab Center for Research and Studies, April 30, 2019.

[82]Ziad Awad and Agnes Favier, Elections in Wartime: The Syrian People's Assembly (2016–2020), April 30, 2020, pp. 26–27.

[83]Articles 29, 39, and 41 of Law No. 107 of 2011.

[84]Article 58 of Law No. 107 of 2011.

- The city and town directors are appointed by the Minister[85].
- The municipal director—a non-mandatory position—may be appointed in some municipalities by the High Council upon a proposal by the Minister[86].

In reality, the key issue with appointed positions centers around the governor, since he leads the executive council of the governorate—the backbone and central hub of Syrian decentralization.

Although the method of appointment is undemocratic and limits the independence of the appointee, it may nonetheless be useful in strengthening central oversight over local activities, aligning national and local interests, and protecting human rights—particularly women's rights—from the conservatism of some elected local councils. Comparative experience shows that weak central oversight of local governments can result in discriminatory practices. For example, in India, a constitutional amendment mandated 30% representation of women in local councils, yet some municipalities adopted rules that disqualified women with more than two children from participation or set low quorum thresholds that enabled men to make decisions without women[87].

However, to ensure that such oversight through appointments is effective and not politicized to serve the interests of dominant actors in central institutions, it is necessary to provide guarantees that ensure the independence of appointed officials after assuming office. This is a common legal safeguard in judicial appointments: judges are appointed by the executive or legislative authority without compromising their independence[88].

[85]Articles 70 and 71 of Law No. 107 of 2011.

[86]Article 72 of Law No. 107 of 2011.

[87]Democracy in the Face of Change: A Guide to Enhancing Women's Participation in Political Life, National Democratic Institute, Arabic edition, 2012, p. 101.

[88]Najib Ahmed Mohammed Al-Kabti, Decentralization Between Local Governance and Local Administration, Journal of Legal Research, University of Misrata, Faculty of Law – Libya, Vol. 5, No. 1, 31 October 2017.

This is precisely where Syrian law is deficient. Law No. 107 grants the President the exclusive power to appoint and dismiss governors—an absolute power exercised without restriction[89]. This renders the most critical position in Syrian decentralization entirely subordinate to the President's will and places decentralization itself at the mercy of presidential authority.

Therefore, if the appointment of governors is to continue, it is imperative to protect the independence of this sensitive position from the influence of the appointing authority. For example, dismissal powers could be assigned to another body and made subject to judicial oversight.

It is also important not to grant appointment authority to a single individual—whether the President or the Prime Minister. Instead, appointments should be made jointly by both, or by one with the countersignature of the other. Building a democratic system requires balancing powers between the legislative and executive branches, and between the two branches of the executive in dual systems—as in Syria's mixed system. One of the key indicators of such balance is the requirement that both the President and Prime Minister sign all major decisions affecting the executive branch, such as senior appointments and the formulation of domestic and foreign policies. This, of course, must be accompanied by judicial oversight over both executive authorities[90].

b. The Negative Impacts of Administrative Guardianship on Membership in Local Unit Institutions

In connection with membership, Law No. 107 grants the executive authority critical tools enabling it to exercise prior oversight over the internal operations of local institutions. Among these tools is the requirement that certain key decisions issued by these units in managing their internal affairs must be approved by the executive authority. For example

[89]Articles 29, 39, and 41 of Law No. 107 of 2011.

[90]Sujit Choudhry et al., The Semi-Presidential System as a Means of Power Sharing: Constitutional Reform after the Arab Spring, published by the Centre for Constitutional Transitions and the International Institute for Democracy and Electoral Assistance (International IDEA), 2014, p. 112.

the law requires that the internal regulations of local councils be issued by decree from the Minister of Local Administration[91]. The same applies to executive councils, which cannot commence their functions until their formation and division of responsibilities are approved by the minister[92]—with no legal provisions limiting the discretionary powers of the minister in this regard. This increases the likelihood of executive interference in shaping executive councils.

The same applies to decisions by local councils to withdraw confidence from their executive councils or one of their members; such decisions also require the minister's approval. The minister may reject approval and return the decision to the issuing council. If the disagreement persists, the matter is referred to the State Council's advisory chamber (General Assembly) for resolution[93]. While this mechanism is theoretically acceptable—since it places the decision in the hands of the judiciary—it depends heavily on the independence and impartiality of the judiciary, which remains questionable in Syria.

In a related context, the law gives the executive—not the judiciary—the authority to decide disputes between a council and a member whose membership it has revoked. A dismissed member may appeal the decision to the Council of Ministers (for members of governorate councils and councils of provincial capitals) or to the minister (for all other local councils). The decisions issued by these bodies are final[94], granting the central executive authority significant power to intervene in the composition of elected councils, potentially ruling in favor of allies and undermining the independence of these councils in managing their internal affairs and holding members accountable for misconduct or dereliction of duty.

In reality, the prior oversight mechanisms granted to the executive authority—known as administrative guardianship—which require executive approval of certain local council decisions and allow for their annulment, place the executive not only as a partner to local groups in managing their affairs, but also in a position of dominance over the elected councils. Accordingly, it would be preferable to follow the example of modern

[91]Article 26 of Law No. 107 of 2011.

[92]Article 29 of Law No. 107 of 2011.

[93]Articles 115 and 116 of Law No. 107 of 2011.

[94]Article 124 of Law No. 107 of 2011.

democracies, which eliminate administrative guardianship and replace it with judicial oversight. Under such systems, decisions made by local bodies enter into force upon publication or notification, and the state representative must resort to the judiciary to request annulment of any decision deemed unlawful. Preferably, the right to initiate annulment proceedings should not be limited to state representatives but also extended to individuals and legal entities, either directly or through the state representative upon request[95].

Finally, the most serious threat to the independence—and indeed the viability—of local units lies in the power granted to the President of the Republic to dissolve local councils at all levels and call for new elections within ninety days[96]. This power may be classified under emergency intervention mechanisms, which, in some legal systems, allow central authorities to replace local councils that are unable to fulfill their obligations, particularly in exceptional circumstances. It is akin to the authority to dissolve parliament found in many parliamentary and mixed systems. Therefore, this power cannot be deemed inherently undemocratic, especially since the law does not authorize the central government to assume the powers of dissolved councils, but rather obliges the President to defer to the public by organizing new elections to reconstitute the councils. In this light, the mechanism may be viewed as democratic and even necessary in certain exceptional circumstances.

However, the real problem lies in the unrestricted discretionary nature of this presidential authority, which is not bound by specific conditions or criteria. This renders the entire decentralization system subject to the political interests of the President. To make constructive use of this mechanism, its application must be restricted to clearly defined circumstances, ideally codified in the Constitution. Moreover, the dissolution procedure should not be monopolized by the President alone. Instead, it could require the approval of the Council of Ministers or Parliament, with members of the affected council granted the right to legally challenge whether the extraordinary circumstances that justified dissolution actually occurred.

[95]Kahina Chater, previously cited reference.

[96]Article 122 of Law No. 107 of 2011.

In Italy, for example, the government may dissolve a regional council only in two cases: if it commits unlawful acts that violate the constitution or law, or if it becomes inoperable due to the absence of a governing majority. However, this process requires high-level intervention: it must be discussed in the Council of Ministers, a report must be issued by a mixed parliamentary committee composed of members from both chambers (whose opinion is consultative), and the dissolution must be justified in a decree issued by the President of the Republic. Importantly, the dissolution does not transfer the council's powers to the state; instead, a special committee is appointed to organize elections within three months[97].

Accordingly, while Law No. 107 of 2011 adopted elections as the mechanism for selecting most members of both local and executive councils across Syria's local units, it undermined the purpose of such elections—namely, ensuring the independence of local bodies—through several mechanisms. These include the imposition of centrally appointed members—most notably the governor, who is fully subordinate to the President, appointed and dismissed at the President's sole discretion. Moreover, the law established a strict system of administrative guardianship that allows the executive branch to control the formation and operation of local councils. Most critically, it grants the President the authority to dissolve these councils and call early elections.

All of this has significantly weakened decentralization in Syria in general—and its electoral dimension in particular. The 2012 Constitution further enabled the legislature to weaken the electoral dimension even more. While the Constitution requires that administrative units have councils elected by general, secret, direct, and equal suffrage, the text contains two significant gaps:

1. It does not specify whether this electoral requirement applies only to local councils or also to executive councils.
2. It grants the legislature the power to determine how the heads of these councils are chosen—either by election or appointment[98].

[97]Mohammed Nabih, Advanced Regionalization Between Decentralization and Deconcentration (The Legal and Accounting Aspect), self-published, first edition, 2019, p. 92.

[98]Article 131, Constitution of Syria (2012).

This opens the door for ordinary legislation to roll back Law No. 107, which mandated that all heads of local councils—except for executive council heads at the governorate level (governors)—be selected through elections. It also allows the legislature to abandon the method of indirect election for executive councils and replace it with full appointment.

2. The Negative Impact of the Legal Framework on Political Participation in Local Governance

The electoral dimension of decentralization is considered the most significant in terms of realizing active citizenship. When effectively regulated, it can activate the right to free and equal political participation, which constitutes the essence and foundation of a democratic citizenship-based state. Political participation in its formal sense refers to engagement in the exercise of political authority—particularly in the form of direct participation, meaning individuals take part in all decisions, procedures, and laws related to public life, either directly or through elected representatives. This includes holding office, party membership, candidacy, and voting in elections[1]. While political participation is linked to all fundamental rights and freedoms, it is particularly dependent on electoral and political party laws.

In the Syrian context, the legal framework governing local elections has fallen short of enabling the political participation of vulnerable groups at the local level and has, in fact, strengthened the Ba'ath Party's dominance over local governance (A). This dominance has been further entrenched by the legal framework that governs political life and party organization in Syria (B).

a. Deficiencies in the Legal Framework for Local Elections in Syria

The electoral dimension of decentralization in Syria is grounded in Article 131 of the Constitution, which mandates that administrative units must have councils elected by general, secret, direct, and equal suffrage, while delegating to the law the authority to determine whether the heads of these councils are to be elected or appointed[100].

[99]Khidr Saleh, Samia, Political Participation and Democracy: Theoretical Trends That Contribute to Understanding the Reality Around Us, Arab Books Publications, 2005, p. 32

[100]Article 131, Constitution of Syria (2012).

Legally, the electoral process for local councils is governed by Legislative Decree No. 5 of 2014. While the framework formally upholds direct and equal elections as the sole method for forming local councils, it fails to ensure meaningful political participation due to two primary reasons:

First, the legal framework reinforces the Ba'ath Party's control over local election outcomes. The electoral law mandates a 50% quota for workers and peasants. While this might appear to favor lower-income groups, in practice it facilitates Ba'ath Party dominance over local units, given the party's long-standing control over professional unions and syndicates[101].

Second, neither the Constitution, the Electoral Law, nor Law No. 107 include any provisions to guarantee representation of marginalized groups, such as women and youth, in local councils. This omission stands in stark contrast to international anti-discrimination standards and the legislative trends of other Arab Spring countries.

In Egypt, for example, the Constitution mandates affirmative measures to ensure representation of workers, peasants, women, and other marginalized groups. Though it delegates regulation of local elections to the legislature, it requires that 25% of seats be allocated to individuals under 35, 25% to women, and at least 50% to workers and peasants, with appropriate representation for Christians and persons with disabilities included within that share[102].

Tunisia's electoral law also mandates gender parity in local and regional councils, requiring alternating male and female candidates on each electoral list and equal numbers of male and female list leaders for parties running multiple lists[103]. This legal reform led to measurable improvements in women's representation in the first democratic municipal elections held on May 6, 2018: women made up 49% of all candidates, and 47% of female candidates were elected[104].

[101]Information Unit, On Centralization and Decentralization in Syria: Between Theory and Practice, Omran Center for Strategic Studies, Fourth Annual Report, 2018, pp. 162–170.

[102]Article 180, Constitution of Egypt (2014).

[103]Sara Barkaïs and Marwan Muasher, previously cited reference.

[104]Decentralization and Female Representation in Tunisia: The First Female Mayor of Tunis, September 23, 2019, publisher unknown, Tadamun Publications.

By contrast, in Syria's 2022 municipal elections, women represented only 18.8% of all candidates[105], and only 11% of those elected were women[106]—even though the Ba'ath Party instructed its branches to support female candidates[107].

Thus, to ensure genuine, effective, and equal political participation, a quota system must be institutionalized to guarantee the representation of marginalized and underrepresented groups in all decision-making positions—both nationally and locally.

b. The Political Party Legal Framework as an Obstacle to Party Formation

Political parties are a political and social necessity for the establishment of a democratic political system, given their central role in enabling political participation and the peaceful expression of the popular will[108]. They provide institutional channels through which citizens can engage in policymaking and influence decision-makers[109]. Accordingly, most states enshrine in their constitutions and laws the right to form, promote, and join political parties.

The 2012 Syrian Constitution follows this approach. It abolished the single-party system—previously enshrined in Article 8 of the 1973 Constitution, which designated the ruling Ba'ath Party as the leader of state and society—and recognized the principle of political pluralism and the role of political parties in national political life. However, this recognition was conditioned on parties being licensed and respecting the principles of national sovereignty and democracy. Parties are prohibited from being founded on religious, sectarian, tribal, regional, or class bases, or on any form of discrimination based on gender, origin, ethnicity, or color[110].

[105]Monitoring and Research Department, National Building Movement, Local Development Governance in Syria During the Recovery Phase: Local Approaches, National Building Movement – Syria, 2022, p. 24.

[106]Previously cited reference, p. 41.

[107]Ziad Awad and Agnes Favier, previously cited reference, p. 11.

[108]Imad Daman Dhabih, "Legal Guarantees for the Protection of the Right to Form Political Parties under Organic Law 12-4 Concerning Political Parties," Al-Baheth Journal for Academic Studies, 2016, p. 406.

[109]Mohamed Adel Othman, Foundations of the Concept of Political Participation, Arab Democratic Center for Economic and Political Strategic Studies, 2016.

[110]Article 8, Constitution of Syria (2012).

The Constitution delegated to the law the responsibility of regulating the provisions and procedures for party formation within these parameters.

The legal framework governing political parties in Syria remains based on Legislative Decree No. 100 of 2011, which predates the current Constitution but adopts the same restrictions on party formation. Overall, the criteria and conditions imposed by this decree —later constitutionally reinforced in 2012—have weakened political pluralism and, consequently, political participation at both national and local levels. These restrictions stem from two main reasons:

Firstly, the requirement for licensing has made party formation—and political activity in general—dependent on the discretion of the central executive authority. The law prohibits any group from engaging in political activity prior to registration, as outlined in its provisions[111]. The authority to approve party registration is granted to a committee dominated by the executive, chaired by the Minister of Interior and composed of four additional members: three appointed by the President of the Republic, and one judge nominated by the President of the Court of Cassation[112].

Furthermore, the law requires that party founders enjoy full political and civil rights and have no convictions for felonies or "disgraceful" misdemeanors—a term whose definition is left to a decree issued by the Minister of Justice[113]. This provision could exclude a significant number of opposition figures who were convicted for political reasons in unfair trials.

Additionally, the law stipulates that a political party must have a minimum of 1,000 members, with these members registered in the civil registry in at least half of Syria's governorates. In each governorate, members must constitute no less than 5% of the party's total membership[114]. How can a group that is not permitted to engage in political activity without prior registration reasonably be expected to meet such requirements?

[111]Article 6 of Legislative Decree No. 100 of 2011.

[112]Article 7 of Legislative Decree No. 100 of 2011.

[113]Article 8 of Legislative Decree No. 100 of 2011.

[114]Article 12 of Legislative Decree No. 100 of 2011.

Second, the law adopts a blanket ban on parties founded on religious, sectarian, tribal, or regional bases[115]—a restriction that was later reaffirmed in the Constitution[116]. While such prohibitions aim to promote an open and inclusive political environment, they fall short of addressing the realities of Syria today—as is the case in many countries that have experienced dictatorship or violent conflict. In such contexts, a large number of new parties typically emerge, often organized around specific ethnic, religious, or sectarian groups. These parties may represent historically marginalized communities and seek to redress long-standing grievances, frequently achieving significant public support[117].

For example, according to some observers, there are currently 99 Kurdish political entities in northeastern Syria that describe themselves as political parties[118]. Comparative international experiences show that states adopt different approaches in dealing with such realities—ranging from total prohibition to full acceptance, with many opting for intermediate solutions that allow such parties while imposing mechanisms to encourage their openness and cooperation with broader national interests.

The absolute ban approach adopted by Syria, like many Asian and African countries, is criticized from several angles. From a principled perspective, this approach contradicts human rights, particularly freedom of belief and assembly. According to some, it entails a conceptual fallacy, as what makes a party ethnic is not its nature or the fact that its voters belong to a specific group, but rather that it does not address people outside this group[119]. Practically, experiences show how easy it is to circumvent this ban; some parties may change their names that reflect sectarian traits and formally include members from diverse components—as the Muslim Brotherhood in Egypt did when it formed the Freedom and Justice Party and included some Copts in its membership[120].

[115]Article 5 of Legislative Decree No. 100 of 2011.

[116]Article 8, Constitution of Syria (2012).

[117]Francesca Binda et al., Transition to Democracy: Key Choices in the Democratic Transition Process in Iraq, International Institute for Democracy and Electoral Assistance (International IDEA), 2005, p. 16.

[118]99 Kurdish Parties in Syria," Al-Alam Channel, June 2020

[119]Francesca Binda et al., previously cited reference, p. 16.

[120]Khalil Al-Anani, The Justice and Freedom Party: The Muslim Brotherhood's Concern for Autonomy, Sada Website, June 1, 2011.

More dangerously, such a ban may push party members to operate secretly or even resort to violence, as happened in Iraq when the de-Baathification law and political exclusion drove some groups and parties to take up arms against the government, with some later joining ISIS[121].

Another criticism applicable to the Syrian case is that the legal and constitutional texts banning sectarian or discriminatory parties based on origin or race could be interpreted as prohibiting the formation of parties based on ethnic grounds. If this interpretation is correct (noting that the law enshrining this ban was issued during the validity of the 1973 Constitution, which established the Arab Socialist Ba'ath Party as the leader of the state and society), then we are facing an unconstitutional and discriminatory law against non-Arab parties. Even after the abolition of Ba'ath Party dominance under the 2012 Constitution, suspicions of discrimination persist due to the continued licensing of the Arab Ba'ath Party, despite the ban on nationalist parties—if, indeed, the aforementioned texts are interpreted as banning nationalist (ethnic-based) parties.

In general, the absolute ban on parties proves inadequate for developing political and partisan life in Syria, particularly under the current state of fragmentation. However, rejecting this ban and desiring to activate political life in Syria should not lead us to accept sectarian parties without any controls or procedures to monitor and develop them. In some countries, fully open party formation has led to negative outcomes, such as increased subnational polarization and a lack of motivation among such parties to evolve or expand their focus beyond sectarian issues, reinforcing factionalism and social division.

To address the problems caused by both extremes, some countries have adopted a third approach, allowing free party formation but restricting it with a set of standards and constraints to ensure party behavior aligns with constitutional rights and to encourage openness and moderation. For example, the German constitution guarantees the right to freely form parties but imposes severe penalties if party programs, goals, or actions conflict with the constitution or the democratic constitutional system, assigning the task of determining such conflicts to the Constitutional Court [122]. Although this provision was

[121]Nader Diab, Political Exclusion in Egypt, Qasr Al-Ru'ya, Legal Agenda, December 4, 2013.

[122]Article 21 of the Basic Law of Germany and Article 236 of the Constitution of South Africa.

initially heavily criticized by some democracy advocates [123], it helped reconcile two essential issues: the need for political parties and the necessity of preventing racist parties. South Africa followed the same approach as Germany[124].

Similarly, Indonesia pursued a different path to ensure the openness and moderation of ethnic parties and to reduce party fragmentation. After returning to democracy in 1999, and amid a proliferation of parties—including regional parties—and concerns over separatist movements, especially following East Timor's independence, Indonesia equipped its party system with mechanisms aimed at reducing the number of parties, building national parties, and containing separatist parties without banning them outright.

To reduce sectarianism and promote national party membership, all parties seeking to participate in elections had to prove they had branches in half of the provinces and branches in more than half of the municipalities or districts in each province. In other words, Indonesia did not require geographic spread as a condition for party recognition, but as a condition for participation in parliamentary elections. In contrast, Syria adopted this mechanism as a condition for licensing the party itself.

Additionally, to reduce the number of parties and mitigate fragmentation, Indonesia required parties that failed to obtain at least 2% of legislative seats or 3% in both houses to merge with other parties. This mechanism successfully halved the number of parties in subsequent elections, most of which had broad representation and national agendas. The parties that complied generally had national demands and leadership. Despite social divisions, political competition came to be viewed as occurring between broadly representative groups and centrist parties with national visions. All this helped reinforce democracy in Indonesia[125].

Accordingly, returning to Syria, the legal framework governing political parties has hindered the development of a free and equal political and party life in the country.

[123]Zuhair Shukr, General Theory of Constitutional Judiciary, Part One, Dar Bilal – Beirut, 2nd edition, 2014, p. 8.

[124]Article 236, Constitution of South Africa.

[125]Francesca Binda et al., previously cited reference, pp. 20–21.

Together with the electoral framework, it has entrenched the Ba'ath Party's dominance over political life at both national and local levels. This was evident in the results of the 2022 local elections, in which Ba'ath Party candidates won 88% of the seats[126].Therefore, to revive a genuine political life that contributes to conflict resolution and shifts competition to peaceful political arenas, and to ensure the inclusion—or at least the political engagement—of the many parties and movements that emerged during the war, it is essential to reform these laws to guarantee free party formation while also establishing mechanisms to monitor their behavior and encourage their openness and evolution.

[126]Monitoring and Research Department, National Building Movement, previously cited reference, p. 40.

Conclusion:

The legal framework governing decentralization in Syria has established a decentralization system built on a fragile foundation—both in terms of its spatial and electoral dimensions.

Regarding the spatial dimension, the legal texts made the existence of local units, their termination, and everything in between—such as the demarcation of their boundaries, their modification, and their naming—entirely subject to the will of the central government in general and the executive authority in particular.

As for the electoral dimension, its benefits—namely, making elections the primary mechanism for choosing the vast majority of members of local institutions—were undermined by several provisions. Some of these are enshrined in Law No. 107, which made the governor (appointed and dismissed at the absolute discretion of the President) the backbone of Syrian decentralization. This law also tied the formation of local and executive councils, the accountability of their members, and their dismissal to the approval of the executive authority. Other limitations are rooted in the Political Parties Law, which made the existence of political parties dependent on the will of the executive authority, as it linked their establishment to obtaining a license from a committee in which four out of five members are appointed by this authority. The licensing process was further surrounded by vague and restrictive conditions that give the center wide discretion in approving applications. Additionally, the Electoral Law imposed a quota allocating 50% of local council seats to workers and farmers—a provision that could favor the Ba'ath Party due to its longstanding control over trade unions.

Then came the 2012 Constitution, granting the legislature the authority to retreat from some of the progressive elements of Law No. 107 by allowing it to determine how local executive councils are formed and how their presidents are selected—whether through appointment or election. This was a step back from the law's prior provision, under which these memberships—except for governors—were to be filled through elections.

Accordingly, the Syrian legal framework, reinforced by the 2012 Constitution, has constructed a weak foundation for decentralization in Syria—one that is difficult to build upon to establish a decentralized system capable of reassuring the various Syrian regions,

which have long suffered from marginalization and unequal development. It is, therefore difficult to achieve the intended goals of decentralization, even if localities are granted broad administrative and financial powers, since their existence, continuity, and institutional structures remain subject to the interests of central political elites.

Given the widespread belief among most Syrian political actors in decentralization as a solution to the country's stalemate, and considering the opportunity presented by the international community through its inclusion of constitutional reform within the political solution framework, it is highly beneficial to work toward enshrining clear and flexible constitutional provisions. These provisions should lay the foundation for a robust democratic decentralization system in Syria—one that reassures local actors across all regions, guarantees their rights to participate in shaping local decision-making, and is capable of adapting to the changes and developments the country may witness after the conflict ends.

This study has addressed a set of mechanisms adopted by several divided or post-conflict countries to lay the foundations of their decentralized systems. These include mechanisms aimed at strengthening the spatial dimension of decentralization, such as constitutionally affirming the principle of decentralization, and establishing administrative divisions in a flexible manner that allows for the creation of additional divisions to meet the evolving needs of the state and its localities. Other measures included setting clear criteria for the creation of new local units, the demarcation and modification of their boundaries, and the naming of such units, with the aim of depoliticizing these issues and insulating them from political and cultural tensions.

The study also examined mechanisms aimed at enhancing the electoral dimension of decentralization, particularly those designed to promote free and equal public participation in local governance. These included the imposition of quota systems to ensure the representation of marginalized groups, as well as the development of flexible legal systems that allow various parties—including regional ones—to participate in local elections and governance, while also ensuring their moderation and openness.

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