The Local Administration Elections Held by the Syrian Regime are Illegitimate and do not Represent the Will or Uphold the Rights of the Syrian People

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The Syrian Network for Human Rights (SNHR), founded in June 2011, is a non-governmental, independent group that is considered a primary source for the OHCHR on all death toll-related analyses in Syria.
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First: Introduction:

On Sunday, September 18, 2022, areas of Syria under the Syrian regime’s sole control witnessed regime-run elections for local administration councils; these were held in implementation of the requirements of Presidential Decree No. 216 of 2022, and in implementation of the provisions of the Local Administration Law promulgated by an earlier Legislative Decree and its amendment No. 107 of 2011, as well as based on the provisions of the General Elections Law and its amendments No. 5 of 2014.

According to the state-run Syrian Arab News Agency (SANA), “the number of electoral centres reached 7,348, distributed across all regions, cities and towns”, with 59,498 candidates competing for 19,086 seats, within 1,470 administrative units distributed over 14 governorates, 158 cities, 572 towns and 726 municipalities. The Syrian regime celebrated these elections, with the Syrian regime’s foreign minister referring to them in his speech to the United Nations General Assembly.

This report attempts to prove the illegality and illegitimacy of these elections, in violating a huge number of principles of electoral laws and international human rights law, since they took place in light of the Syrian regime’s continued perpetration of a massive number of violations in regime-controlled areas, including arbitrary arrest, torture, and enforced disappearances, which amount to crimes against humanity. These elections were also held in a specific area of Syria, regardless of the facts that many governorates are outside the Syrian regime’s control and that more than half of the Syrian people are displaced, as either IDPs or refugees, in addition to other important factors that challenge the legitimacy of the electoral process, which is why we take exception to referring to them as ‘elections’.

Report Methodology:

This report adopts a complex analytical approach based mainly on legal analysis. The report relied on use of a methodology that combines analysis of the Syrian regime’s 2012 constitution, in accordance with the requirements of constitutional law, international treaties and covenants, international human rights law, and international humanitarian law, in order to examine the constitutionality of Syrian laws, as well as the extent to which the constitution and Syrian laws conform to the basic principles of any free and democratic electoral process.
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The report also examines the laws governing the Supreme Constitutional Court as a judicial oversight body that exercises pre- and post-legislative control over laws, which paved the way for the study of electoral laws in Syria, such as the General Elections Law\(^2\) No. 5 of 2014, as the law that frames all electoral processes. Through adopting an approach of ‘legal analysis’ we sought to deconstruct its contents, to understand its pillars and to remove the ambiguity contained in its articles, mainly related to the achievement of free and fair elections, under the central authoritarianism imposed on all types of elections. Moreover, the report determines the limits and powers of the Supreme Committee for Local Administration Elections and shows the most important contradictions inherent in the legal texts and how far these are removed from the reality in Syria.

The report also adopts the legal analysis’ approach in order to analyse the contents of Legislative Decree 107 of 2011\(^3\), which is the basis of the ‘Local Administration Law’. The report also analysed the articles, mainly those related to independence, as well as to decentralization, showing the existence of enormous contradictions in the legal texts. These contradictions mainly aim at impeding the existence of any independent action, whether administrative or financial. It also shows the absence of any real will on the regime’s part to create administrative decentralization in Syria under the presence of a centralized system that dominates the political scene.

The report also seeks to analyse the contents of Law No./8/of 2016\(^4\), related to the ‘General Elections Law’, which concludes that the law provides no real addition that aspires to create free and fair elections. The report adopts a comparative approach in order to compare the extent to which the Syrian situation conforms with the stipulations of international laws, in terms of free, fair and democratic elections.

The Syrian Network for Human Rights (SNHR) has followed a field observation and investigative approach in monitoring the conduct of local administration elections in order to consider the extent to which reality conforms to the legal provisions governing the electoral process during the local administration elections.

Fadel Abdul Ghani, Director of the Syrian Network for Human Rights, said:

The local administration elections conducted by the Syrian regime violate the most basic principles of human rights in candidacy and freedom of choice, as they lack independence, and the lists of candidates are imposed by the power of the security services, the vast majority of whom are members of the Baath Party, the party that has ruled Syria for more than fifty years in favor of authoritarian rule; these are illegitimate elections similar to the presidential and parliamentary elections, not representing the will and rights of the Syrian people.

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\(^2\) General Elections Law - Law 5 of 2014, Syrian People’s Assembly.
\(^3\) Legislative Decree 107 of 2011 Law on Local Administration, Syrian People’s Assembly.
\(^4\) Law 8 of 2016 amending the General Elections Law No. 5 of 2014, Syrian People’s Assembly.
Second: The Syrian Regime’s Sole Interest in Holding Local Elections is to Provide a Façade, of Legitimacy, No Matter How Transparently False:

The Syrian regime gives importance to these elections in its attempt to confirm the idea of its continuing presence by exercising constitutional functions and conducting elections in a timely manner, in an effort to validate the concept of its victory in the eyes of its supporters. The Syrian regime has created 26 new administrative units whose administrations will be included in the elections, allowing the regime to offer more positions to its loyalists, despite being aware that these new administrative units provide no benefit to citizens.

In addition, the Syrian regime will use the elected members of the local administration to manage local development and reconstruction projects, using powers granted to them by laws, such as Local Administration Decree No. 107 of 2011 and Law 105 of 2018, which are so extensive that they will be allowed to formulate the reconstruction projects that the Syrian regime intends to carry out; these members will be granted these powers in this process because both Decree 66 of 2012 and Law 10 of 2018 give members of the local administration many discretionary powers, such as deciding on the landlords for properties to be expropriated by the regime, studying objections and receiving ownership confirmation documents from the landlords of houses and properties, and even forming committees authorized to determine the value of land and to decide on granting alternative housing. In this context these elected members have the power to control and apply the policies of the central authority; thus, through these elections, the Syrian regime will turn the city and town councils into tools to implement demolition plans, decide on planning issues, issue new regulatory schemes and implement real estate laws aimed at carrying out demographic change.

Third: Six Key Factors Which Delegitimize the Local Administration Elections in Syrian Regime Areas:

The Syrian Network for Human Rights bases our legal description of the illegality of the local administration elections held by the Syrian regime on six key factors, while noting that many other factors further challenge the legitimacy of these elections. These six key reasons are:

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1 Law No. 10 of 2018 on the permissibility of establishing one or more organizational zones within the general organizational plan of administrative units by decree upon the proposal of the Minister of Local Administration and Environment and amending some articles of Legislative Decree No. 66 of 2012, the Syrian People’s Assembly.
A: Local administration elections are based on an illegitimately drawn up constitution:

The Syrian regime, like all dictatorial regimes, drafted its Constitution of 2012 as an essentially fictitious document which has nothing to do with the principles of constitutional law. On October 15, 2011, the President of the Syrian regime issued Presidential Decree No. 33 in which he ordered the formation of a committee to draft a new constitution. In light of the security services’ control of the various branches of political authority in Syria, the committee consisted of 28 members, headed by Mazhar al-Anbari, the same regime official who presided over the constitution drafted by the president’s father in 1973. All the committee’s members were Syrian regime loyalist unelected by the Syrian people. The constitution was not put forward for public debate, with a rubber stamp referendum held to provide either full acceptance or rejection. The referendum took place while Syria was going through an internal armed conflict, meaning that millions of Syrians could not or did not want to participate in the referendum on a constitution drafted by the Syrian regime. In addition, hundreds of thousands of voters were wanted by the security services, being actively pursued by them, or had already been arbitrarily detained and forcibly disappeared.

The greatest proof of the illegitimacy of this Constitution is that it gives the President of the Republic enormous powers that make him an autocrat worse than the absolute rulers of the Middle Ages; he is granted absolute judicial and legislative powers, enabling him to unilaterally dissolve the parliament, pass legislation in its period of dissolution, appoint judges of the Supreme Constitutional Court, and other serious constitutional violations.

B: Absence of Supreme Constitutional Court oversight of local administration elections:

The Syrian regime fully controls the Supreme Constitutional Court. Article 141 of the Constitution of 2012, which stipulates the formation of the Supreme Constitutional Court, states that the Supreme Constitutional Court consists of at least seven members, one of whom shall be a president, and all of whom are designated through a decree issued by the President of the Republic. Despite this, Supreme Constitutional Court Law No. (7) of 2014 stipulates that the number of the court’s members is eleven nominated via a decree by the President of the Republic, with members serving for a renewable term of four years. This domination by the President of the Republic over the Supreme Constitutional Court embodies the absolute rule of the individual and undermines the principle of the independence of the judiciary and the separation of powers, a factor which has had a significant negative impact on the elections of the local administration in two respects:

- Pre-Legislative Control: One of the roles of the Supreme Constitutional Court under usual conditions is to exercise pre-control over the laws governing the electoral process in Syria, and to ensure their conformity with the Constitution and with the values of democracy, justice and transparency, which are absent in the legislation related to elections in Syria as we will detail further.

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6 Presidential Decree 31 of 2011 Formation of the National Committee for the Preparation of a Draft Constitution for the Syrian Arab Republic, the Syrian People’s Assembly.
8 Law 7 of 2014 Law of the Supreme Constitutional Court, Syrian People’s Assembly.
- **Post-Legislative Control:** Post-Control is intended to receive objections and appeals related to elections, and to validate their constitutionality, as well as to consider the transparency of electoral practice, and to guarantee the non-interference of the Executive Authority, which cannot be achieved by virtue of the fact that the members of the Supreme Constitutional Court are appointed by the Executive Authority. All these factors mean that they are unable to democratically apply the constitutional values aimed at diverting the Executive Authority from exercising control of the electoral process in order to ensure a democratic climate that ensures proper counting of votes.

**C: Lack of independence of the High Electoral Commission:**
We previously elaborated on this subject in an extensive report on the Syrian regime’s dominance of the Parliament through the Baath Party since 1970 until now, which allows the regime to legislate whatever laws it wants, including the General Elections Law (Law 5 of 2014) which granted the Supreme Electoral Commission authority to be the primary supervisor of all types of elections held in Syria; however, according to the operative part (Article 2) of Law 5 of 2014, it is impossible for the Supreme Electoral Commission to be independent or objective in any of its functions regarding elections, including its supervisory exercise of the integrity of elections, because this commission is, in fact, a body operating under the Executive Authority’s control due to the mechanism followed in its appointment. The head of the Syrian regime dominates it by controlling the appointment of its members; Decree No. 131, issued by the head of the Syrian regime on May 22, 2022, stipulates the formation of the Supreme Judicial Elections Committee, which consists of seven original judges and seven reserve judges. The decree shows its lack of independence, because appointing its members, determining their remuneration and promotion, removing them or initiating public proceedings against them is the prerogative of the head of the Executive Authority and the Minister of Justice, in his capacity as Deputy Chairman of the Supreme Judicial Council. Therefore, the committee cannot practice its role as a supervisor of the elections, whether presidential or related to local administration elections.

**D: Manipulation of the electorate, candidates and winners, the vast majority of whom are from the ruling Baath Party:**
According to UNHCR, at least 6.6 million Syrian citizens are currently refugees and 6.7 million others are displaced; according to the Syrian Network for Human Rights’ data, since March 2011 up to the current day, the Syrian regime has killed at least 200,478 civilians, with at least 96,000 more Syrian citizens forcibly disappeared. The regime does not update the data of those who were killed or forcibly disappeared within its civil registry department; therefore, these citizens’ names are not present on the electoral registry. In addition, the regime does not consult the millions of displaced people and refugees, but rather fabricates numbers for the Syrian population and for those on the electoral registry. There are no electoral rolls listing voters’ names either nationally or regionally within Syria. We have documented how the Syrian regime manipulates the figures regarding the forcibly disappeared and those killed in its detention centres before issuing death certificates for them through the civil registry departments without even informing their families. As a result, there is no real existence of an electoral register, nor is there an actual register of voters.

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9 The Supreme Judicial Committee for Elections emerged from Law No. 5, Syria’s first general election law to be implemented under the 2012 constitution.
10 Article 2 of Law 5 of 2014 which states that this law “aims to: regulate the election of the President of the Republic. Organizing the election of members of the People’s Assembly. Organizing the election of members of local boards of directors. Organization of the popular referendum. Ensure the right of voters to freely choose their representatives, the integrity and integrity of electoral processes, the right of candidates to monitor them, and the punishment of those who voluntarily tamper with. Define the controls for the financing and organization of electoral processes. Organizing electoral campaigning.”
12 Article 8, paragraphs 2 and 3, of the General Elections Law No. 5 of 2014, are also paragraphs 2 and 3.
In contrast to the Syrian citizens killed or forcibly disappeared by the Syrian regime, we have observed hundreds of Iranians being given Syrian citizenship. The process of giving citizenship to Iranians occurs in Syria without any governing legal framework. Those granted citizenship include extremist Iranian fighters who fought alongside the Syrian regime and were involved in perpetrating war crimes and crimes against humanity.

As for the candidates, the vast majority of these are members of the ruling Baath Party, while the regime’s security services control the lists of candidates, which are considered a form of compensation by the regime to its loyalists; this is similar to what we indicated earlier in detail regarding candidates for membership of the Parliament.

We have noticed the supervision of the electoral process by members of the security services and members of the Baath Party, meaning that we have seen no popular turnout or interest in these elections because the results are pre-decided in the same way as the presidential and parliamentary elections.

**E: The elections are held under threats and terror by the security services in only part of the Syrian territory:**

The power of the security services still prevents any free exercise of electoral choice, as the essence of a genuine electoral process is based on freedom of choice, which is almost non-existent in Syria with the presence of security services best known for their barbaric practices against Syrian citizens through kidnappings, fatal torture, and enforced disappearance for many years. Some of these violations have reached the level of crimes against humanity according to the International Independent Commission of Inquiry on Syria. In order for any government employee or university student not to feel threatened, they resort to the safest option in electing candidates affiliated with the Syrian regime.

In addition, these elections did not take place in all regions of Syria, but only in those areas controlled by the Syrian regime, which lacks the legitimacy of sovereignty and the legitimacy of the laws applied. The legal rule is comprehensive and general: one of the meanings of generality is that its application is to everyone and in all regions of Syria, a condition which is absent in light of the internal armed conflict, and which has led to control of Syrian territory being distributed among different parties. No free elections can be held on all Syrian territory before a political solution is implemented that moves Syria towards a democratic system.
F: The Syrian regime is a highly centralized one that does not give autonomy and decentralization to local administrations:

Talk of local administration in Syria is actually referring to an ineffectual bureaucratic apparatus due to the authoritarianism imposed by the Syrian regime on the Syrian people, which deprives them of their most basic rights related to the services provided by the administration that embodies one of the state’s units. The ineffectuality of the Syrian administration is evidence of the sagging Syrian state due to the tyrannical nature of the regime’s agencies. Despite the regime’s claim that it intends to establish decentralization within the local administration system, the reality confirms something else entirely. The local administration system in Syria is predominantly centralized in nature, which demonstrates the centrality of power in the Syrian regime’s hands; this hinders any sound practice within the local administration units in Syria and provides the role assigned to them. In order for any local administration to perform its roles effectively, it needs at least two things:

**Independence:** It is not possible to talk about an effective local administration without talking about achieving effective independence within its units; independence here means that the local administration units should be independent of the influence of the Executive Authority, so that they can exercise their proper roles in the process of meeting the needs of Syrians, which vary according to the different regions and circumstances. Full autonomy from the Executive Authority allows these authorities the possibility to exercise the ability to issue decisions that are effective on a local level, without the need to refer to the central authority in Damascus in order to decide on the matter, a feature that distinguishes all democracies in their dealings with local administrations and local politics, which is absent in Syria. The management of local affairs associated with local administration is a reflection of the overall tyrannical rule over all political affairs exercised by the Syrian regime, in which all the basic decisions are made by the regime head and the ruling minority surrounding him, which contradicts any form of independence.

The Syrian regime deprives its local administrative units of autonomy, which is manifested in two basic aspects. The first is the administrative part, because the governorate, city, town, or municipality does not enjoy administrative independence while the institutions of the central executive apparatus have vast and decisive powers and influence that prevent the local administration units (governorate, city, town, municipality) from enjoying the required administrative independence.

The second aspect of independence is financial independence, which means that the local administration units (governorate, city, township, municipality) must have a sufficient budget to cover their own needs related to meeting the needs and services of citizens within the local administration units. In general, it is difficult to distinguish between the budget of the concerned ministries and the budget of the local administrations, and the reality is that some ministries of the executive branch of the Syrian regime extract a part of their budget from the budget of the local administration units.
Decentralization: The organs of the Syrian regime are unable to achieve the decentralization they claim to exercise according to the operative part of Article 2 of Legislative Decree 107 of 2011 Local Administration Law, while the decentralization of powers and responsibilities cannot be achieved, given the absence of any democracy ensured by autocratic nature of political power in Syria, which is reflected on the smaller political units. The absence of any democratic and peaceful rotation of the office of the President of the Republic and the limitation of this position to one family for more than fifty years prevents the completion of the legal personality and financial and administrative independence of the administrative units required to institute any meaningful administrative or political decentralization. The Syrian regime’s talk of a national plan for decentralization that aims at transferring the competencies of the central authority to the local authority is not confirmed by the powers enjoyed by the local administration units that are content with bureaucratic application of the orders issued by the central authority of the Syrian regime.

Despite the Syrian regime’s talk of its national plan for decentralization, as well as the need for Syrians to consolidate decentralization as part of a new social contract in light of the fact that its national institutions are suffering from fragility comparable to collapse, and the existence of challenges to the unity of its territory, decentralization can only be achieved after achieving a real political transition that saves Syria from the scourge of power that feeds from “centralization.” Authoritarianism is the political face of centralization, and it is not possible to talk about decentralization in light of the hegemony of the Syrian regime, which is highly centralized and bases its power on the authority of the security services.

The law issued by the regime claimed that it would provide a platform that would allow local administrative units to enjoy real powers, so that they could “perform their competencies and tasks in the development of the administrative unit economically, socially, culturally and on the urban level.” In fact, this is something that has no impact on the situation. Rather, the competencies of the governorates and local administrative units are very limited and do not reflect what is stated in Article 30 of Legislative Decree 107 of 2011, regarding the Local Administration Law. We cannot find any impact on sustainable development, which this law linked to the decentralization that local administrative units enjoy. Rather, the reality confirms that citizens living in regime-controlled areas suffer from arbitrary practices by the current authorities acting on the instructions of the central authority. This cannot happen without abuse of power, where the governorate councils do not have the ability to plan or ability to follow up implementation.
Again, although this law adopts decentralization, which is a prerequisite for development, the dominance of the Minister of Local Administration over all local administrations robs it of its content due to the guardianship of the President of the Republic and the Minister of Local Administration, because the Minister and the President of the Republic are the only figures authorized to form the executive offices in the provinces and cities and to distribute the work among the members. This means the president or minister have the authority to dismiss one or more members of the executive offices of cities and towns. This can be seen through the decision of the Minister of Local Administration and Environment, Hussein Makhlouf, No. 1452/S, and the issuance of the Ministry of Local Administration decision No. 1450/S, as well as the presidential decree which included the names of the members of the provincial councils who won the local administration elections of 2022. The President of the Republic interfered with the work of local councils by issuing decrees 162 and 163 of 2022 ordering the dissolution of the councils of the city of Salamiya in19 Hama and the city council of El Jadida in Latakia, which were elected and had legitimacy20.

Fourth: Conclusions and Recommendations:

Conclusions

• It is impossible for nearly half of the Syrian people, displaced and refugees, or for the hundreds of thousands of people wanted and forcibly disappeared by the security services to participate in the elections, meaning that the right to participate in them is not available, in violation of article 21 of the Universal Declaration of Human Rights and article 25 of the International Covenant on Civil and Political Rights21.

• The Syrian regime has developed a constitution that gave its president enormous powers, through which he controls the judiciary, the legislature, and the Supreme Constitutional Court, meaning there is no independence for the Supreme Electoral Committee.

• The Syrian regime issues falsified statistics on Syria’s population, refuses to register Syrian citizens killed under shelling or torture in civil registry departments, does not publish electoral register lists, and can therefore decide on the percentage of participants it wants of those participating in the elections.

• The dominance of the Syrian regime’s security services over the election process imposes lists of candidates loyal to the Syrian regime and affiliated with the Baath Party in the vast majority of cases as a form of compensation for regime loyalists.

• For all the reasons given in the report, these violations are fraudulent and lack legitimacy, as is the case with presidential and parliamentary elections.

• Since the Assad family seized power in Syria, the local administration has been only one of the tools of power used, and the tool for the distribution of interests between the leaders of the Baath Party and the security services, as the local administration organs do not represent local communities, nor do they enjoy either independence or decentralization, under the central dominance of the Syrian regime over various state institutions.

• Without a political transition to democracy, free, independent and fair elections cannot be achieved.

19 “President al-Assad issues decree containing the names of the members of the provincial councils who won the local administration elections,” Syrian Arab News Agency, 2/ October/ 2022

20 Syrian President issues decree dissolving peaceful city council, Al-Alam TV, June 20, 2022

21 Article 25 of the International Covenant on Civil and Political Rights states that Every citizen shall, without any of the distinctions mentioned in article 2, have the following rights, which he must have the opportunity to enjoy without unreasonable restrictions: (a) to participate in the conduct of public affairs, either directly or by freely chosen representatives, (b) to be elected and elected, in genuine elections held periodically by universal suffrage and on an equal basis among voters and by secret ballot, ensuring the free expression of the will of the electorate. (c) To be made available, on a generally equal footing with others, the opportunity to hold public office in his country.”
Recommendations

To the UN Security Council:
• Take serious steps to implement Security Council resolution 2245 establishing a transitional governing body, and achieve a political transition that ensures free and democratic presidential, parliamentary and local elections.

To the international community:
• Reject these elections as illegitimate.
• Make real efforts to achieve the process of democratic political transition.

To the International Envoy to Syria:
• The Syrian regime continues to hold presidential, parliamentary, and local elections without any regard for the negotiating process, and the international envoy should take a clear position on the paralysis of the political transition.