



Analyzing the Obstacles to the Realization of Citizens' Participation in the Context of City Council Elections Law (Case Study: Tehran City Council)

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Abstract

The necessity of citizen's participation in the process of cities' spatial development is obvious. Having the necessary infrastructure to achieve this goal is one of the important challenges for policymakers in urban communities. Requirements for the rights of citizens and residents in the process of city development have been predicted in Iran's city council election laws which go back to about 100 years ago, at the time of the Constitutional Revolution in Iran. In the current century, the election law of the city councils and villages has undergone some changes and has developed over time. With all these developments and reforms in the city councils' law, there is still a large gap between the voters (citizens) and the candidates (city council members). The main objective of this research is to analyze the barriers to realization of citizens' participation in the context of city council election law in the city of Tehran and to propose a solution to eliminate these obstacles and realizing the participation of citizens in the true sense. In this research and in order to achieve the specified objective in the case study of Tehran, descriptive- analytical methodology using logical reasoning techniques were used to analyze the organization, duties and selection of Islamic councils' law. The results of the analysis of the laws and the study of resources show that the gap between citizens and the urban management (municipal administration) is the absence of citizens' constitutional demands realization mechanism and lack of city council and municipality performance evaluation process by citizens in different districts of Tehran.

Keyword: *citizen, city council, community involvement, municipal administration, Tehran.*

1. Introduction

Election phenomenon in different periods of time is an opportunity to review citizens' legal arbitration, compared to previous performances by elected representatives in providing legal rights of citizens. An election event is the most appropriate way of balancing and regulating the behavior and performance of officials and expressing the legitimate demands of the people. Effective election makes society go towards balance and improvement without any disturbance and additional costs. In this respect, Islamic Council Election is a very important opportunity where the legal demands and legitimate rights of citizens are presented through active participation in the election. City and Village Councils are local councils which are elected by the public's vote in all cities and villages throughout Iran. Council members in each city or village are elected by direct public vote to a 4-year term. According to article 7 of the Iranian Constitution, these local councils together with the Majlis (Parliament) are "decision-making and administrative organs of the State". The councils are in charge of electing mayors, supervising the activities of municipalities; studying social, cultural, educational,

and other welfare affairs. The Islamic City Council of Tehran is the elected council that presides over the city of Tehran, elects the Mayor of Tehran, and decides over the budget of the Municipality of Tehran. When citizens want to participate in choosing their representative in Tehran and its suburbs, they face a general obscurity and darkness. How can we expect voters make a right choice in an election where they don't have enough information about ideas, political and social posturing and the intellectual engagement of candidates.

2. Methodology

This research is an applied research, the data for which have been collected from laws, documentary and library studies. In order to achieve the specified objective in the case study of Tehran, descriptive- analytical methodology using logical reasoning techniques were used to analyze the organization, duties and selection of Islamic councils' law. This study will be conducted in four steps:

1- First to make clear the trend of social development, the importance of citizen's participation will be studied through studying the scientific resources and legal context.

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2- To evaluate the context of realization of citizens' participation in the process of urban development, contexts and existing legal structures which influence the opinions and demands of the citizens will be discussed by emphasizing on city council election law and its capacity and insufficiency.

3- To evaluate the possibility and implementation of citizen participation in the process of urban development of Tehran, Tehran City Council election process is discussed by introducing the demographic and spatial divisions of Tehran.

4- To define the obstacles and capacities of existing laws evaluating the logical trends, the consequences of the way of elections and the formation of the main institutions of Tehran Urban Management (city council and mayor) are evaluated.

The case study of Tehran urban management will reveal our logics for explaining the structural and legal insufficiency of the realization of citizens' participation in urban development and urban management electoral process to frame specific proposals to achieve real participation of citizens in the context of strengthening the law.

3. Literature review

For the last twenty years, the concept of citizen participation and local democracy has largely been used in the local government discourse. These concepts are heavily related to the rights of citizens and democratic governance. Citizens' participation is a desired and necessary part of community development and should be encompassed in any policy formulation process. According to the ACPD (2006), participation means taking part as an individual and as a community in decision making at each step of the development process [1]. Broad base of participation in local government forms the foundation of working democracy. Electoral process is one of many ways in which individual citizens may express their views at the local level [1]. Elections, which are considered to be the central element of democratic local governance, provide the most straightforward channel for the exercise of citizens' right of voice. In democratic theory, elections are assumed to legitimize local authority and provide elected representatives with a mandate for action. They also serve as key means to ensure public accountability. Accountability could be attained through voting incumbents out of office or demanding regular accounts of actions and policies [2].

1.3. City council election in Iran

The concept of councils, or Shura, first emerged in Iranian political discourse during the Constitutional Revolution of 1906. As part of the call for democratic reform, the constitutionalists demanded the establishment of representative institutions for administering local and national affairs. Articles 91 to 93 of the Supplementary Fundamental Laws of 1907 set

out the conditions for the creation of local councils with the power to supervise matters affecting public welfare. The adoption of the 1966 municipalities' law extended the supervisory powers of the city councils considerably. Most notably, the city councils, among other functions, were granted the right to determine urban tax rates, scrutinize municipal income and expenditure, appoint and dismiss mayors, and supervise urban development projects. After the 1979 Islamic Revolution, all city councils were dissolved; however, the notion of localized urban management was adopted into the new Constitution of the Islamic Republic. Article 100 sets out the provisions pertaining to the formation and functions of Islamic councils on five administrative levels of village, rural district, city, county and province. The constitution is explicit in stating: "The councils are to undertake their duties with consideration for national unity and integrity of the country." (Constitution law Art.100) In 1982, Majlis ratified the Law on the Government Organization of the Islamic Councils, which sets out provisions on the power and functions of the local councils. The task of drafting the election law was deferred to the Ministry of Interior; between 1983 and 1996, the Ministry submitted several draft legislations to the Majlis, but each draft was either rejected by the deputies or vetoed by the Guardian Council. Finally, in 1996, the Majlis and the Guardian Council ratified the rules and regulations governing the elections and organization of the Islamic councils. For the first time in the history of Iran, on 26 February 1999, the elections for City and Village Councils of Iran were held to elect some 200,000 seats. These elections saw great levels of public participation and civic engagement and an important opportunity for citizens to play an active part in the management of their municipalities at a local level [3]. In February 2003, the second time local elections had taken place since being introduced in 1999, 905 city councils and 34,205 village councils were up for election. Also, the third and fourth elections had taken place in 2006 and 2013. The fourth election was held by a general election along with the presidential election. The original date of the election was on June 2010, but Parliament of Iran voted to increase the councils' term of service from 4 to 7 years so from that date onwards city and village council and presidential elections are held at a same date [4]. Figure 2 shows the timeline of the election in Iran. district. While both the constitution and the law provide for five councils on administrative levels, the electorate only directly elects city and village councilors. The district, county and provincial councils are established as a result of internal elections. For example, a district council is comprised of five councilors elected from amongst the village councilors under the district's jurisdiction [4].

2.3. Legislative framework

In Iran, there are four elected institutions permitted under the constitution, and according to Article 6, "the

affairs of the state shall be managed by relying on public opinion, and through elections such as the election of the president, the representatives of the Islamic Consultative Assembly, and the members of the local councils or through referendum” (Constitution law Art.6). The Constitution of the Islamic Republic of Iran, as promulgated in 1979 and amended in 1989, and five electoral laws provide the legal framework for governing elections. Beyond the constitution, these five electoral laws provide for the legal framework governing election administration and supervision in Iran:

- The Law on Presidential Elections;
- The Law on Islamic Consultative Assembly Elections;
- The Law on the Organization, Functions and Elections of Islamic Councils and Mayors (includes the parts relating to participation in the city development process);
- The Law on the Guardian Council’s Supervision of the Presidential Elections of the Islamic Republic of Iran;
- The Law on the Guardian Council’s Supervision of the Elections of Islamic Consultative Assembly [5].

3.3. Participation and councils in the Context of Law in Iran

Article 7 of the Constitution clearly stipulates that the State Islamic Councils are among the decision-making and administrative organs. Although they have their own functions in terms of organizational and administrative decisions, from the standpoint of the constitutional and sovereignty rights, these organs are at par with other governmental key organs. Moreover, the Constitution also respects the people's right to participate to ensure that local programs are being implemented. Article 100 of the Constitution states that: With a view to expediting the speedy implementation of social, economic, development, health, cultural, and educational plans and other welfare affairs, the management of the affairs of each village, district, city, town or province shall be carried out with the cooperation of the people and with due consideration to the local needs, under the supervision of a Council known as Village, District, City, Town or Provincial Council whose members shall be elected by the people of the same locality. The qualifications of the electors and candidates, their functions and authorities, the manner of election and supervision by the said Councils and their hierarchy shall be laid down by law, with due consideration to the principles of national unity, territorial integrity, system of the Islamic Republic and allegiance to the Central Government [5].

4. Discussion and analysis based on the case study

1.4. Introduction of Tehran

Tehran Province covers an area of 18,814 square kilometers and is located to the north of the central plateau of Iran. There are 13 counties in the province [4].

Tehran is the largest city and the capital of Iran and Tehran Province. According to the last official census conducted in 2016, the population of Tehran was 8,693,706 persons. The city has an area of 730 square kilometers. It is Iran's largest city and urban area, and the largest city in Western Asia. The City of Tehran is divided into 22 municipal districts, each with its own administrative center. 20 of the 22 municipal districts are located in Tehran County's Central District, while the districts 1 and 20 are respectively located in Shemiranat and Ray counties [6].

2.4. Tehran City Council

Tehran's City Council is a council consisting of 21 representatives who are elected by the citizens of Tehran, Shemiranat and Ray, to decide on matters relating to Tehran Municipality. In the first three periods (1999-2013), Tehran city council had 15 members and six alternate members, but in the fourth round (2013-2017) this number increased to 31 members and 12 alternate members. Thing to note is that the number of representatives in Tehran has changed one more time in June 2016. The number has been reduced to 21 representatives by the Guardian Council for the recent election in 2017 [7].

3.4. Analysis of Organization, Functions and Elections of Islamic Councils and Mayors Law

The law of Islamic councils is one of the most ambiguous laws of Iran, which has undergone many reforms in the course of time. The last law passed back in 1996, and since then, many amendments have been made to its materials. The law on the elections of the local councils passed by the legislature in 1996 consists of five chapters covering topics such as the organization of councils, the conduct of elections, the powers and functions of the councils and procedures for investigating council-related violations. Article 1 defines the function and purpose of the local councils as “responsible for promoting social, economic, development, public health, cultural, and educational programs according to local needs.” The law sets out the term of council membership as four years and provides population-based conditions for the composition of councils at the village, district, city, county, and provincial levels. Chapter 2 of the law provides the electoral provisions for the city and village council elections. By law, council members are elected based on the principles of universal, equal, direct and secret ballot. The electoral system for the local council elections is based on a plurality system, and voters have as many votes as the number of councilor positions in their respective electoral district. Candidates with the highest votes in their constituency are elected as councilors. The establishment of Islamic councils, in particular the Islamic City Councils, which is one of the main pillars of the formation of local civil society and which can contribute to the realization of local

citizenship and participatory urban governance, is really important. Hence, the rational expectation of the legal basis of the affairs of Islamic councils is that citizenship has a special place in this law.

The content analysis of this law contains exploratory points some of which are mentioned below:

- The law does not apply the term citizen. Common terms have been used to illustrate the position of individuals and members of the local community in the system of Islamic councils of the city: people, the general public, electors and elected people, people in the constituency, the individual, and so on.

- Popular participation in the Islamic city council system is limited to participation in elections and participation in planned participation by urban Islamic councils in various urban affairs. Altogether, the law provides for legal elaboration in such a way that there is no proper mechanism for determining the duties and rights of citizens in Islamic city councils.

- According to the amendment of May 9th, 2016 of Islamic councils' law, in Article 7, the number of members of the city council for the Tehran constituency, which according to the Addendum of April 16th, 2013 includes Tajrish, Tehran, and Ray, are considered 21 main members. In this vast geographical area and with

this massive population, which is constantly expanding due to false policies, what is called the election and citizen participation is virtually meaningless. When a citizen in Tehran wants to participate in the selection of his elected representatives, he faces a general ambiguity and pure darkness. How can one expect from this type of election that voters make a right choice where they only look at the image of a number of people forming a list, without their right to know the political and social positions and attitudes of the candidates?

- According to the Amendment of June 23rd, 2010 of the Law on the Consolidation of Elections of the Fourth Islamic Councils, with the 11th presidential election of 2009, by increasing the length of the third period of the Islamic Councils, since 2013, elections of Islamic councils of the city and village will be held simultaneously with the presidential election. What can be criticized here is that the coincidence of these two elections can lead the election of the city councils to go in shadows. In a metropolis like Tehran, where the importance of city council elections is very high, this does not result in real competition and citizen participation does not really take place.

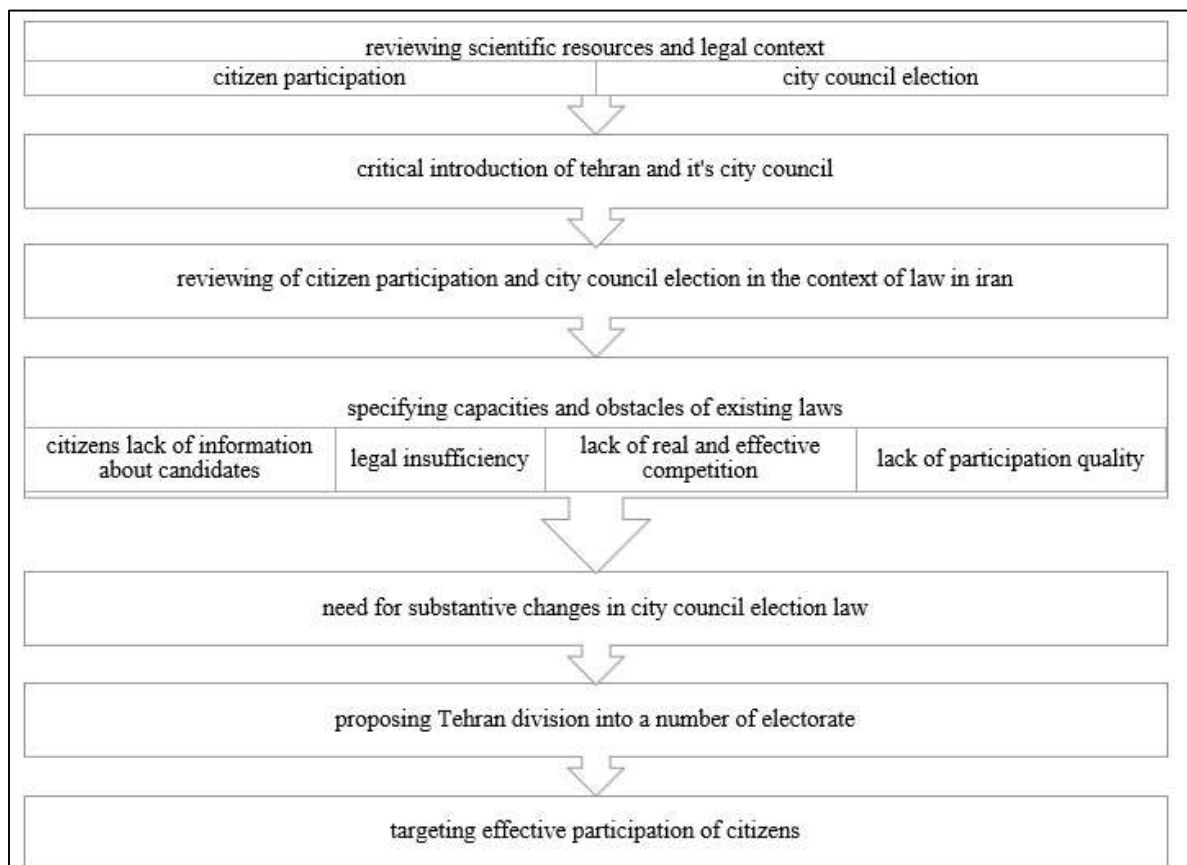


Figure 1: main steps of article (by Authors)

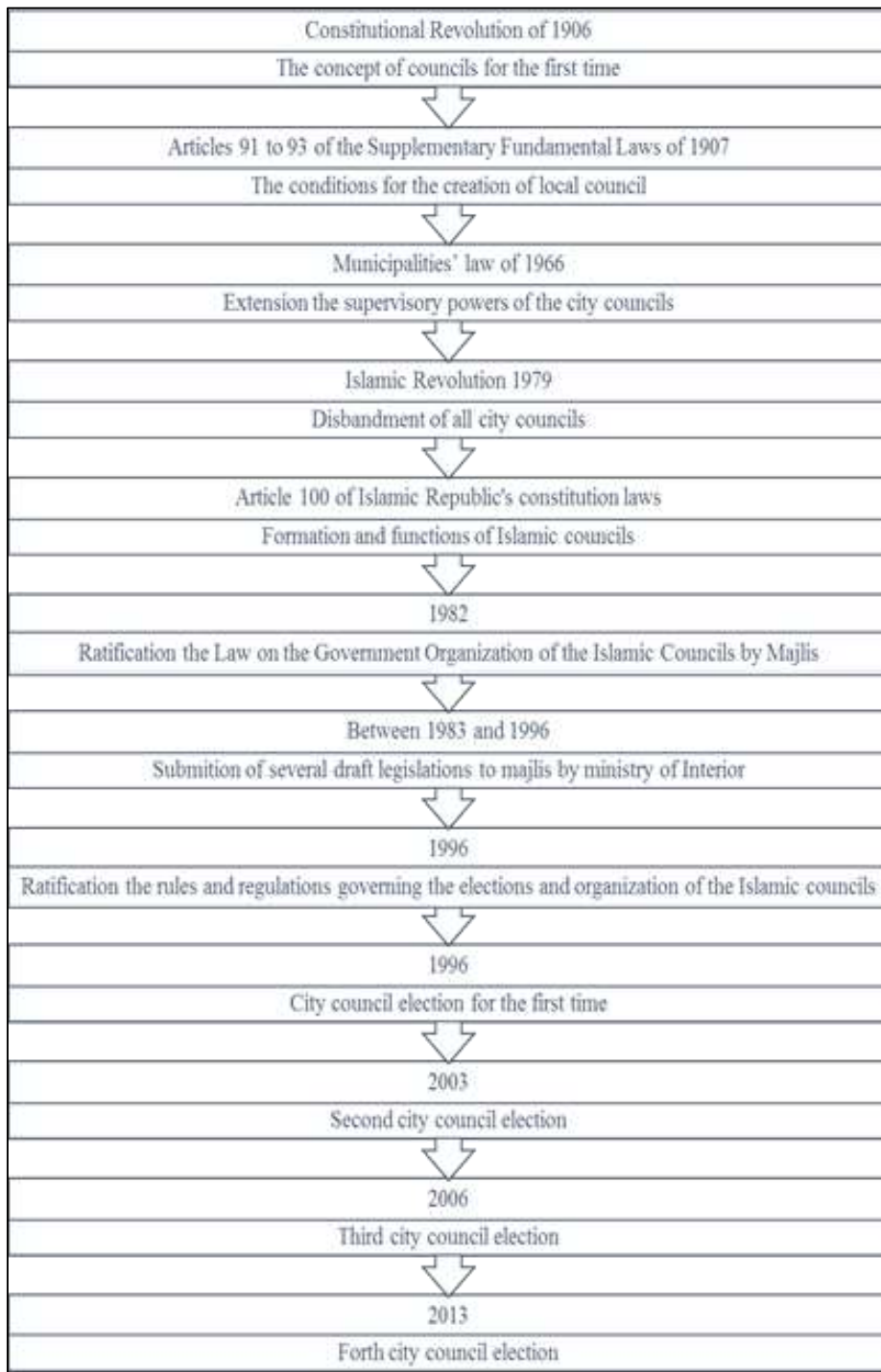


Figure 1: The Timeline of the City Council Election in Iran (by authors)

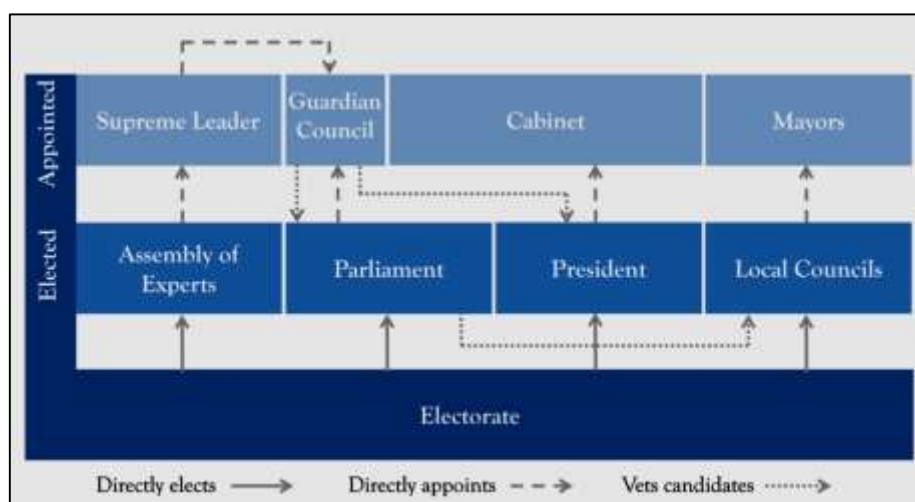


Figure 2: Political system in Iran (Alem, 2011, p.12)

Table 1: Iran Constitutional Law Regarding Participation and City Council (by Authors)

Constitution law	Description of Law
Art.6	In the Islamic Republic of Iran, the affairs of the country must be administered on the basis of public opinion expressed by the means of elections, including the election of the President, the representatives of the Islamic Consultative Assembly, and the members of councils, or by means of referenda in matters specified in other articles of this Constitution.
Art.7	In accordance with the command of the Qur'an contained in the verse and consultative bodies - such as the Islamic Consultative Assembly, the Provincial Councils, and the City, Region, District, and Village Councils and the likes of them - are the decision-making and administrative organs of the country. The nature of each of these councils, together with the manner of their formation, their jurisdiction, and scope of their duties and functions, is determined by the Constitution and laws derived from it.
Art.100	In order to expedite social, economic, development, public health, cultural, and educational programs and facilitate other affairs relating to public welfare with the cooperation of the people according to local needs, the administration of each village, division, city, municipality, and province will be supervised by a council to be named the Village, Division, City, Municipality, or Provincial Council. Members of each of these councils will be elected by the people of the locality in question. Qualifications for the eligibility of electors and candidates for these councils, as well as their functions and powers, the mode of election, the jurisdiction of these councils, the hierarchy of their authority, will be determined by law, in such a way as to preserve national unity, territorial integrity, the system of the Islamic Republic, and the sovereignty of the central government.
Art.101	In order to prevent discrimination in the preparation of programs for the development and welfare of the provinces, to secure the cooperation of the people, and to arrange for the supervision of coordinated implementation of such programs, a Supreme Council of the Provinces will be formed, composed of representatives of the Provincial Councils. Law will specify the manner in which this council is to be formed and the functions that it is to fulfil.
Art.102	The Supreme Council of the Provinces has the right within its jurisdiction, to draft bills and to submit them to the Islamic Consultative Assembly, either directly or through the government. These bills must be examined by the Assembly.
Art.103	Provincial governors, city governors, divisional governors, and other officials appointed by the government must abide by all decisions taken by the councils within their jurisdiction.
Art.104	In order to ensure Islamic equity and cooperation in chalking out the programs and to bring about the harmonious progress of all units of production, both industrial and agricultural, councils consisting of the representatives of the workers, peasants, other employees, and managers, will be formed in educational and administrative units, units of service industries, and other units of a like nature, similar councils will be formed, composed of representatives of the members of those units. The mode of the formation of these councils and the scope of their functions and powers are to be specified by law.
Art.105	Decisions taken by the councils must not be contrary to the criteria of Islam and the laws of the country.
Art.106	The councils may not be dissolved unless they deviate from their legal duties. The body responsible for determining such deviation, as well as the manner for dissolving the councils and re-forming them, will be specified by law. Should a council have any objection to its dissolution, it has the right to appeal to a competent court, and the court is duty-bound to examine its complaint outside the docket sequence.

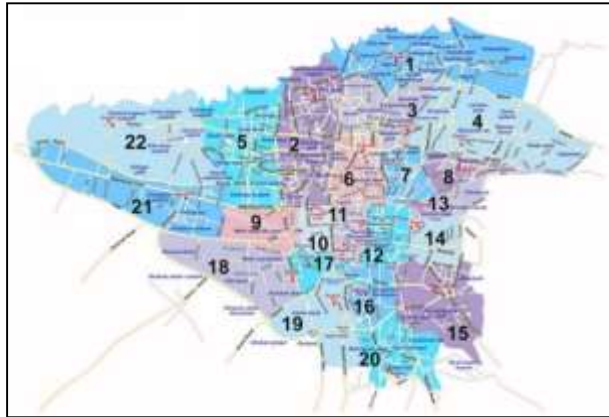


Figure 3: Map of Tehran

5. Results and Conclusion

According to the research, the current election platform does not create the possibility of real and equal competition for different groups of people because of the following reasons:

- As the economy is governmental and the private sector cannot compete with state economy, socio-political competition suffers the same problem from different directions. Basically, the access to facilities, legal resources and positions for rival groups is in no way equal. Who can compete with the public sector, including municipalities with their vast financial resources or the state sector with its rich resources?

- One cannot imagine that based on which information citizens are going to choose 21 persons from hundreds of candidates on Election Day. As time passes, necessity of fundamental and substantive reform of the election law will be felt more. After the Islamic revolution electoral laws have experienced the most interpretation and completion in the past four decades. But these changes are mainly procedural and include changing the voting age or the number of city council members. Unfortunately, the content of the law has been neglected in order to achieve the real and effective competition and participation quality in the elections [8].

It seems that in order to achieve real participation of citizens, Tehran should be divided into a number of electorate, so people can easily vote for their representative in each electorate. This division also exists in practice. Tehran Municipality is divided into 22 districts, each with a separate area. Police stations, departments of education and many government offices also have their own divisions. In addition, candidates are able to campaign in a small and reasonable scope and have close relationship with their constituents and can establish dialogue. The positive outcome of the Tehran division into electorate is that a real competition among candidates will form and people can effectively participate in the elections. Also the nominees, who, in

this healthy process, win an absolute majority of voters' vote, feel responsible for people as their clients during their incumbency and will be accountable for their suggestions and objections. Revising the content of city council election law will implement regionalization of elections in different parts of the city. Therefore, by revising the content of the law:

- Zoning the major cities and holding elections at the level of regions results in increasing the awareness of candidates and consciousness of voters about the history and prepared plans of candidates.

- Advertising costs and the ways to provide them are carefully controlled and instead of capital and money domination in giving direction to public opinion, knowledge and plans of candidates will shape the public opinion.

- Advertising time is set according to the actual needs and based on a schedule, so the candidates will be able to share their plans with voters in a specified region and with ordinary facilities. Also, voters will have the opportunity to review backgrounds, performance, claims and plans of all candidates in their regions to make the best choice.

- Using public facilities, including forums, mass media etc., will be fairly distributed in regions.

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