

Local Government and Its Relationship with The Central Government In Light of Iraqi Legislations

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Abstracts: Objective: The study deals with the situation in Iraq after 2003, which is a new stage in the political and administrative history of Iraq after the adoption of the federal system and the transition from the centralization system to the administrative decentralization system, which was explicitly stated in the Iraqi constitution of 2005, and the law of irregular governorates in Region No. 22 for the year 2008. Method: the descriptive approach was used in explaining the concept of local governance and local administration and the differences between the two concepts, using the comparative method in defining the competencies of each of the central government and its local units in accordance with the Iraqi constitution of 2005 and comparing that with the law of irregular governorates in the region No. 22 of the year 2008 and its amendments. Results: Because the federal experience in Iraq came as a result of the occupation and its repercussions and not as a result of the maturation of social and political awareness, its legislation was characterized by weakness with regard to the distribution of competencies for both the local administration and the central administration. Also, the Governorates Law No. 22 of 2008 failed to set a general policy for local governments for their establishment, organization, management and the way of distributing their competencies, which led to a conflict between the competencies of each of the local governments and the central government.

Keywords: Local Administration, Central Administration, Constitution of 2005, Law of Governorates that are not organized by law no22 in 2008.

1. INTRODUCTION

Historically, the modern state, since it existed, has adopted the central administrative system as a manner of regulating its political, economic and social aspects. When the state has stabilized and its duties relating to administrative affairs has expanded, we have witnessed a significant transition or shift from centralization to decentralization form of governance system. This transition occurs to ensure that the central government responsibilities devote to more effective political participation and ensure active and meaningful citizens' participation which affect their public lives such as public services, health and education. After 2003, Iraq has entered a new phase of administrative system which is, as we mentioned earlier, transitioning from centralized system to the decentralized political system according to the Transitional Administrative Law (TAL) which crafted by American-led Coalition Provisional Authority (CPA). Furthermore, the Iraq permanent constitution of 2005 has reaffirmed the adoption of the administrative decentralization as one of the structural bases of building new state in Iraq but this constitution left the details of implementing this type of governance to the law that should be enacted later.

In 2008, the Iraq parliament voted on the Law of Governorates not organized into a Region No. 21 of 2008. This law has articulated in more detail the powers of the governorates based on administrative decentralization system. This law has granted the governorates the rights of drawing, legislating their local polices and implementing these policies based on the general directions of central government in Baghdad.

2. PREVIOUS STUDIES: EXAMPLES OF STUDIES

- Alkadiri, Raad . (2020) Federalism and Iraq's constitutional stalemate, Middle East Africa Program, London. As is clear in the title, the study focused on the issue of federalism, power-sharing and sovereignty between the federal government (Baghdad) and the Kurdistan government as the only region in Iraq that takes political decentralization according to what was stated in the 2005 constitution, and the study did not focus on the local administration of the governorates.

- Ala'Aldeen, Dlawer.(2017) Decentralisation in Iraq: Process, Progress and a New Tailor- Made Model, Institute for Middle East Studies, Erbil. The study dealt with decentralization in Iraq after 2003, the comprehensive study and the pregnant role and corruption, and the science of focus in the joint study in the study, and the study in the study on the Nineveh regions, and your interest in this region may be one of the cities most exposed to displacement, killing and extermination.

- FLEET, MIKE. (2019) Decentralization And its Discontents In Iraq, Middle East Institute, London. This study deals with the issue of federalism in Iraq and the relationship of the central government to the province of Kiristan. It also deals with the most important political, administrative and financial obstacles that stand in the way of the implementation of decentralization in Iraq..

The most important questions asked in our study: In each study there are questions that we try to answer. The most important questions that are asked in our study are:

- Is there a difference between local administration and governance?
- Did Iraq adopt the local administration system before 2003, how did the Iraqi legislation deal with that?
- How is the legislation and the public sector in Iraq the local administration system in government after 2003?
- Has Iraq succeeded in implementing the local administration system, which the 2005 constitution was an actual program, or did the laws remain without activation?

2.1. The Framework of the Study

This study has been divided into many parts. These parts are: -

Part 1: - The Concept of Local Administration and Local Governance (Conceptual Framework)

Part 2: - The Legal and Legislative approach of regulating the Local Administration and its relationship with Central government.

Part3: - The Conclusion and the Recommendation

3. THE CONCEPT OF LOCAL ADMINISTRATION AND LOCAL GOVERNANCE (CONCEPTUAL FRAMEWORK)

Historically, the local administration has been known since the dawn of mankind. The fact that the human-being as a social object has associated with its need for the organization. The local administration as a legal concept or a legal phenomenon has disseminated with diffusion of global democratic ideas in the early nineteen century when adopting of this kind of administration has been started. Thus, it seems to us that adopting the local administration system has associated with the efforts of reforming the political systems. Hence, we are going to highlight the concepts of local administration and decentralized administration to understand whether these concepts are interrelated or not.

Section 1: The Local Administration: there is no agreement among the scholars about how we define the local administration. According to the British Model of administration, this difficulty of defining the concept of local administration goes back to the existence of different types of political systems. Accordingly, the local administration can be defined as “a method of organizing the public and private activity of particular ministry or institution or even individual for the sake of accomplishing public services to the community in different parts of the country. It is also aimed to enhance the efficiency and the productivity of these public services by establishing branches and offices that responsible for implementing these desirable activities on the urban and rural level in particular region” (AL-Hassen, 1975, p. 16).

Furthermore, a recent study has defined the local administration as “every local power that has been granted by the state to one of its geographical regions or cities that enjoyed particular level of administrative decentralization or the administrative units that has local meaning in terms of managing and subordinating to the central administration of the state which ensure the efficiency of providing citizens with adequate public services” (Abdul-Aziz, 2009, p. 9). One of the first people to define local administration was the British scholar (Modie Grame), who wrote that the local administration means “an elective council that constituted form a concentrated local units and the people of these units have political responsibility to hold this council, which can be considered as a complementary branch of state institution, accountable” (Rashid, 2017, p. 8). The concept of local administration has been an important concept in many international dictionaries. One of these dictionaries is Oxford. This dictionary, that presents a definition that overlapped between local governance and local administration, defines the latter as “a local government can be defined group of elected individual who they have been elected by the local citizens for particular region. The powers of this local government have transmitted from central government and under its supervision” (Radhi, 2005, p. 11).

Similarly, the Arab jurists specialized in administrative law have the same point of view. For instance, (Fua'd Al-Attar) uses the term local administration to refer to “an approach of distributing the administrative job and profession between central government and elected local institutions and these institutions should practice their power under the supervision and oversight the central government” (Al-Atar, 1955, p. 176).

A precise definition of local administration has provided by (Abdul Razzaq Al-Shekily) who defines it as “group of units and administrative apparatuses whatever its picture and level in the state. It represents the lowest level of the nation-state within a unified and federal state” (Al-Shekily, 2015, p. 15).

While a generally accepted definition of local administration is lacking, we can point out that there are three pillars of local administration which are (Ashur, 1979, p. 483): -

- Divided a unified or federal state into geographical regions.
- The existence of independent local administration apparatuses.
- These apparatuses should have authorized powers and responsibilities and should be practiced legally under the supervision and control of the central government.

Section 2: The Local Governance: - this concept has been considered by many scholars one of the most controversial concept. It has been used interchangeably with local administration in many countries believing that both have the same meaning and if there is a difference between these two concepts, these differences are always marginal and only about the decentralization and independency of local governments. While a generally accepted definition of the local governance is lacking, the United Nation Development Program (UNDP) has defined as “a group of institutions that responsible for meeting the interests and needs of the people. It also allows them to exercise their rights at the local level. Also, achieving the development requires the collaboration between these local governance institutions and civil society organizations and private sector to provide citizens with basic services and achieving transparency and justice”. Thus, The United Nations has identified three pillars of local government:

- Geographical border or frontier within the state where the local governance can exercise its roles.
- An elected local council or body.
- Partial independence from the central government (Radhi, 2005, pp. 7-8).

Consequently, the local governance system can be defined as the “political decentralized system that build on the distribution of powers between three main branches of government (judiciary, legislative, executive) and between the central government and local or regional governments” (Boutros, 1971, pp. 6-7).

The Arab local government experts has defined the term local governance as “a system of government which is positioned in the middle between local and federal administration. The perceived that the society is composed of four analytical systems which are political, social, cultural and economic system” (Ghanem, 1981, p. 43). With regard to the relationship between local administration and local governance, there are three points of views:

1 - supporters of this view believe that there is no difference between local governance and local administration, and both are referring to the local administrative decentralization. Therefore, they define local administration as “the residents of every region are responsible for organizing and managing their local affairs according to their local interests through elected localities that enjoy legal personality and autonomy or independence.” (Al-Mani, 2009, p. 40). The Arab scholars have agreed with this point of view. They argue that the local administration is a stage that precedes local governance. Hence, the countries that have adopted the administrative decentralization begun with local administration by authorizing the provinces and territories the power of exercising some of their powers and then when it succeeded, it will transit to the local governance” (Boutros, 1971, p. 9).

2 - this point of view argues that the lawmakers are responsible for determining the powers and privileges granted to administrative units through the laws and other powers that did not grant it by lawmakers must be exercised by central administration exclusively. These powers must be exercised by the localities freely and under the supervision or oversight of parliament and the federal judiciary.

3- This view claims that the local administration can be seen as one aspect of political decentralization so that its powers are not limited to the administrative function only but exceed the legislative and judicial functions. Therefore, the local governance can be defined as “the process of distributing or dividing the legislative, judiciary and executive powers between central government apparatuses in the capital and the regional governments. This process should be implemented constitutionally and politically” (Hatim, 2009, pp. 117-118).

Topic 2: the constitutional and legal mechanism in regulating the relationship of local administration with the central authority.

Section 1: the constitutional and legal framework for local administrations before 2003.

The system of administrative decentralization is not a modern application in Iraq. Rather, it was previously used in the Ottoman and royal periods when administrative units were called the brigades, as they were at the time a moral personality. The Constitution of Iraq in 1925, which was known as the Basic Law, came to emphasize in Chapter VII of the regulation of the administration of the brigades, as Article (109) stipulated: “The designation of administrative regions, their types, their names, and how to establish and specialize them in Iraq by a special law.” As a result, Law No. (58) of 1927 was issued as a legal mechanism. To regulate the administration of brigades, and according to this law, Iraq was divided into local administrative units called the brigade and subdivided into districts and districts, but it blamed this law for not giving moral administrative units personal and making brigade councils merely advisory councils all subject to the supervision of the Council of Ministers (AL-Hassani, 1948, p. 8).

As for the municipalities, the Municipal Administration Law No. (84) of 1931 was issued in that period, which stipulated that the head and the municipal council submit to the authority of the Prime Minister and strictly monitor it, and this was later over the principle of decentralization. Accordingly, the local councils that were established during that period and that they do not have any administrative and financial independence, subject to the supervision of the central government, we cannot call them decentralization.

However, Law No. (16) of 1945 is the first law that adopted the system of administrative decentralization in Iraq during the royal era and under this law, local administrations known as brigades enjoyed the moral personality and enjoyed financial independence, but this law is blamed for having given the Minister of Interior and the Council of Ministers the right to form Administrative units (Al-Jubouri, 2018, pp. 43-44).

Then came the 1958 revolution, which changed the system from monarchy to republican, as this system dissolved brigade councils and repealed Law No. 16 of 1945. This situation continued until the constitution of 1964, when the principle of administrative decentralization was restored, as stated in Article (83): “The Republic of Iraq is divided into administrative units that are organized and managed according to the law” (Constitution, 1964).

After the year 1968, the name of the brigade was changed to governorates, according to the Governorates Law No. (159) for the year 1969, and it says in the fourth chapter of it, “Every administrative unit shall have a council in

accordance with the provisions of the law.” However, the article excluded the central administrative units that are meant by the governorates (Law t. P., 1969).

Then came the People's Assembly Law No. (5) of 1995, in which the first article stipulated that “Every district, district or governorate of a local people's assembly has a legal personality based in the administrative unit center and is made up of permanent members who are members of local units.” We note that this law enshrined the principle of centralization when it confirmed that members of the People's Assembly are appointed by the President of the Republic (Al-Jubouri, 2018, p. 47).

Through the historical review of the legal mechanism in organizing local administrations from the establishment of the Iraqi state until 2003, it appears to us that the administrative organization of local units has not evolved but is in constant decline, as the introduction of the principle of administrative decentralization was formal as all local units were subject to the control of the central authority Politically and administratively, the actual application of administrative decentralization came after 2003.

Section 2: the constitutional and legal framework for local administrations after 2003.

One of the most important reasons that prompted the political system in Iraq to adopt the principle of administrative decentralization at the internal level is due to the desire to activate the participation of the administrative apparatus of the state in the process of making and implementing public policies in order to provide services to citizens better, and these services include (municipalities and public works, education Health, finance, sports, work and social affairs).

In this study, we deal with the constitutional framework of the 2005 constitution. As for the legal framework, we deal with the law of the state administration for the transitional period 2004, and the law of governorates not organized in the region of 2008.

First: The constitutional framework for organizing the work of local administrations after 2003.

The Iraq constitution of 2005 came on the basis of the State Administration Law for the Transitional Phase issued in 2004, affirming the adoption of the federal system and the principle of administrative decentralization in organizing work and distributing competences between the central and local governments. Article (116) of the constitution states, "The federal system in the Republic of Iraq consists of a capital, regions, decentralized governorates, and local administrations" (Iraq's Constitution of 2005, 2021).

With regard to the competencies of local administrations, it appears that the constitution was based on that on the law of the administration of the Iraqi state for the transitional phase that was put in place by the occupation authority. In federal countries that adopt the federal system, no matter how efficient the legal legislators are in drafting the constitution, it is usually subject to risks and differences arise with Related to the issue of the distribution of powers and powers between the central and regional authorities, and this is what happened when drafting the federal constitution in Iraq.

Through our reading of most of the constitutions of the federal states, we find that the federal constitution and with regard to the distribution of common competencies gives priority to the federal authority at the expense of the local authorities and this is confirmed by logic in order to preserve the unity of the federal state and the safety of its national security (Al-Tamimi, 2013, p. 19). However, the Federal Constitution of Iraq for the year 2005 came to the contrary when Article (115) dealt with the joint competencies between the federal government and the government of regions and governorates, as it gave priority to the governorates, stressing that all the powers not mentioned in the constitution are from the authority of the central authority, which is within the authority of the governorates, where it says "for whatever unless It stipulates in the exclusive powers of the federal authority that it is among the powers of the region and the governorates that are not organized in a region in the event of their dispute (Iraq's Constitution of 2005, 2021).

An important point must be clarified, which is that the legal legislator in this article in which he clarified the joint competences occurred in a big mistake when he organized the regions competencies in the federal system and the irregular governorates in a region according to the principle of administrative decentralization in one constitutional text, because the federal system and the decentralized system The administrator are two systems of different legal nature. As the organization of the federal system is done through the constitution, while the organization of administrative decentralization is done through an ordinary law and as is known the constitution is the highest authority in the country (Hatim, 2009, p. 134). From these two articles, it becomes clear to us that the legislator is a distinction between federalism and administrative decentralization, according to the legal nature of each of them.

With regard to the distribution of the administrative position between the executive authority and local administrations, the constitution distinguished between the decentralized political (federal) system from the administrative decentralization system, as paragraph (1) Article (121) mentioned, "The authorities of the regions have the right to exercise the executive, legislative and legal powers in accordance with the provisions of the constitution ... " (Iraq's Constitution of 2005, 2021).

In federal countries that adopt the principle of administrative decentralization, it consists of a council called the Federation Council that includes the representatives of the regions and governorates and expresses their interests, but the constitutional legislator did not explicitly state the formation of the Federation Council, as stated in the text of Article (65) "A legislative council called the Council The union includes representatives from the regions and governorates that are not organized in a region, and its composition, conditions for membership in it (Iraq's Constitution of 2005, 2021), its functions and everything related to it are regulated by law and enacted by a majority of members of the House of Representatives. Iraqi, there is no justification for making the parliament higher than the Federation Council (Abdullah, pp. 6-7).

Concerning the governorates, Article 122 for Governorates not Incorporated into a Region provides that governorates "... shall be granted broad administrative and financial authorities." The 2005 Constitution also allows for an asymmetrical federal system between the central government and the governorates not incorporated into a region, as per Article 123. This allows governorates to have as much devolution (or as little) as they wish, conditional on the acceptance of both the governorate and federal government. Where disputes are concerned regarding shared power arrangements, Article 115 gives legal supremacy to regional and governorate governments over the federal government in Baghdad. If powers do not specifically fall under the legal mandate of the federal government, the governorates can exercise authority. Article 121 allows regional authorities to override federal laws should those laws fall outside the exclusive jurisdiction of the federal government. Law 21, passed in 2008, was an attempt to decentralize some ministries to the governorates to effectively kickstart the decentralization process. It was revised in 2011, 2013, and again in 2018,¹⁶ but has yet to be fully implemented. To facilitate this process, the Parliament Committee on Regions and Provinces not Incorporated into a Region is empowered by Article (98) of the Bylaws of the Iraqi Council of Representatives to monitor the affairs of those regions and governorates that are not incorporated into a region and to manage the relationship of these governorates with the federal government (FLEET, 2019, p. 4)

As for the financial powers granted to the governorates, it was stated in paragraph (2) of Article (122), "The governorates that were not organized in a region are granted broad administrative and financial powers, enabling them to manage their affairs according to the principle of administrative decentralization and this is regulated by law." Then I confirmed this in paragraph (5) From the same article, I mentioned "the provincial council has an independent financial authority (Iraq's Constitution of 2005, 2021).

Article 121, paragraph (3) affirmed the right of the provinces to receive a fair share of the revenues of the federal outcome, provided that those revenues should be sufficient for the provinces to carry out their burdens and responsibilities (Al-Shammari et al., 2016, p. 35).

As for the supervisory authority of the provincial council, the constitutional legislator did not come up with an explicit provision granting the provincial council any supervisory authority, but the practical reality indicates that administrative functions cannot be performed within the provinces without censorship.

On the other hand, the constitutional legislator erred when the provincial councils were not subject to the control of the federal authority, as article (122/V) "The provincial council is not subject to the control or supervision of any ministry or any entity that is not affiliated with a ministry and has an independent financial system" (Iraq's Constitution of 2005, 2021).

The legislator appears in this text not to adhere to the conditions of administrative decentralization in subjecting the provincial council to the supervision of the central authority in order to maintain the administrative unity of the state (Abdullah, p. 12).

Second: The legal framework for organizing the work of local administrations after 2003.

After 2003, three laws were issued along with the 2005 constitution that outlined the nature of the political system and the relationship between local and central administration in Iraq and those laws began with the Transitional Law of the State Administration, known as the (Bremer Law) issued in 2004, when the political and constitutional void that created it The fall of the political system after the American occupation of Iraq in 2003 that prompted the civilian governor of Iraq (Paul Bremer) to restructure the administration of the Iraqi state through the issuance of the Transitional Administration Law on (8 March 2004), which consists of (60) divided into nine sections.

He declared that the aim of the law is not to concentrate power in the hands of the central government through the distribution of powers and powers between the central government and local governments. This is contrary to what was previously stipulated by the previous Iraqi constitutions, and the law declared Iraq's transformation from a simple, unified state into a federal, federal state (Odeh, 2019, p. 20). As stated in Article (4) of it, "The system of government in Iraq is a federal, federal (federal), democratic and pluralistic system, and powers are divided among the federal government, regional governments, municipalities and local administrations" (Law t. I., 2021).

With regard to the powers of the governorate councils, the powers granted to the governorate councils that are not organized in a law were mentioned in Chapter Eight (Article 52 to Article 57), whereby the law granted the provinces additional powers when it defined the powers of both the central and local governments, confirming that the mechanism of action of those governorates would be on The basis of political and administrative decentralization (Law t. I., 2021).

However, one of the faults of the law is that it lacks a clear vision in the administration of the Iraqi state, which subsequently led to administrative and political chaos that had negative effects on the overall political, economic and social conditions (Ibrahim, 2018, p. 73).

Then came the Coalition Authority Law No. (71) for the year 2004 based on the Law of State Administration for the Transitional Phase, in order to regulate the work of irregular governorates in a region excluding that of the Kurdistan Region, and this law did not differ from the previous law with regard to organizing the work of local administrations, as it came in The fourth paragraph of it, "The system of government in Iraq is a pluralist, federal, democratic republic, in which powers are shared between the federal government, regional governments, governorates, municipalities, and local administrations. Each governorate has the right to form local councils and organize them on the basis of decentralization" (Jihad, 2015, pp. 118-119).

1- Each governorate has the right to form a provincial council, to be funded from the national budget.

2- The regions and governorates are organized on the basis of the principle of decentralization.

3- The governorate councils perform their responsibilities independently of the control or supervision of any ministry.

4- This order set a date for the holding of provincial council elections on the same date as the elections for the National Assembly and no later than 01/31/2005.

5- This command gave the governorate councils the authority to choose and appoint governors and their agents.

6- The governor is the highest civil official in the governorate, and he is responsible before the provincial council, and his role is to be a coordinator, guide, and observer of activities when implementing the decisions of the governorate, and the governor is chosen, removed or replaced according to a system.

7- This matter authorized the formation of sub-regional councils, municipal councils and other local councils.

8- Grant provincial councils political powers by giving them the right to form regions, in addition to giving them legislative powers by issuing regulations.

It seems that the wide powers granted by this law to the governorates and their councils have caused chaos and conflict in the powers and competencies between the central government and local governments, the results of which appeared after the issuance of the 2005 constitution and the irregular governorates law in a region in 2008.

From January 2006, several PCs started drafting legislation to specify the statutory base for local government under the constitution. Representatives from all 18 provinces met in August 2006 and approved a final draft which was later submitted to the CoR. Finally, on February 13, 2008, this became Law No. 21 of GnlR. On 24 September 2008, Law No. 36 on Elections of the Provincial, District, and Subdistrict Councils was also passed by the CoR. The latter was immediately amended by Law No. 44 of 2008 to include minority representation. Interestingly, the entire political establishment in Baghdad supported and expedited the process as a way of incentivising provinces to remain within the unitary set of 15 governorates and preventing them from coalescing and creating new regions, akin to the Kurdistan Region of Iraq (KRI). To facilitate the decentralisation process, monitor the affairs of GnlRs and manage the relationship of these governorates to the federal government, the CoR Committee for GnlRs was empowered to fulfil the task defined by Article 98 of the Iraqi CoR Bylaws. Article 45 of Law No. 21 enforced the creation of the High Commission for Coordinating among the Provinces (HCCP), which was designed to assist and support the central and local governments throughout, the decentralisation process. The HCCP is coordinated by a Cabinet Minister and chaired by the Prime Minister. Its membership includes relevant ministers, governors of GnlRs, and chairs of provincial councils. It is also tasked with transferring various departments and responsibilities from the ministries to the provinces, as well as coordinating among the provinces on local administration and tackling any problem or obstacle faced (Ala'Aldeen, 2020, pp. 11-12)

In 2008, decentralization was legalized for the first time through the Irregular Provincial Law in Region No. (22) for the year 2008, which was amended in ten years three times, the last amendment of which was in April 2018. The law applies to (15) governorates out of (18) governorates, that is, except for the Kurdistan Region. The law defines the characteristics, powers, and powers of local administrations, affirming the work of these local governments in accordance with the principle of administrative decentralization in a manner that does not contradict the Iraqi constitution of 2005.

The law dealt more clearly with determining the powers and powers of the provinces in Iraq, especially when granting actors at the local level more financial and administrative powers, but the actual application of the law came after the occupation of Mosul by the Islamic State. After the elimination of the Islamic State, the central government began to accelerate the implementation of the law for the following reasons (Michell, 2011, p. 21)

The central government can no longer manage services such as education, health, work, etc., centrally, especially with rapid population growth.

- The activation of the central government of the law came after the deteriorating infrastructure in Iraq and to get rid of popular discontent towards local governments in the provinces (Al-Mawlawi, 2019).

For the application of the principle of administrative decentralization, the Irregular Governorates Law in a region recognized the moral personality of the provinces, and this is what was stated in the text of Article (22) "For each administrative unit has personal moral, financial and administrative independence" and the administrative units according to the first article of the law are (the province - the judiciary and the district). From this article, it becomes clear that the moral personality was granted to the administrative unit, and this means that the governor and the provincial council do not have the moral personality and this is what was objected to by the Shure Council, since article (7) which provides for the jurisdiction of the provincial council, and article (31) of the law that states On the competence of the governor, the governor and his council are not granted powers. However, the Iraqi legislator was right when the moral character of the administrative unit was limited only because the governor may be isolated and the provincial council may dissolve and therefore who will represent the administrative unit in this case (Hatim, 2009, p. 303).

With regard to the distribution of administrative positions for local administrations, the provincial law did not depart from what was previously referred to by the constitutional text, as stated in the first paragraph of Article (2) of the law: "The provincial council is the highest legislative and supervisory authority within the administrative boundaries of the governorate that has the right to issue local legislation Within the boundaries of the province to enable it to manage its affairs according to the principle of administrative decentralization in a manner that does not contradict the constitution and federal laws (Law t. I., No22/2008).

It appears that the legal legislator was unsuccessful in drafting this article when he mentioned (local legislation), and also when he mentioned (the highest legislative authority), does he mean the authority to issue laws or just an administrative authority that issues general rules. The legislator intended the administrative authority when he spoke about the jurisdiction of the provincial council and it has the right to issue organizational administrative decisions that do not exceed the governorate and do not violate the country's supreme constitution. Also, the legislator came back to confirm this meaning when he mentioned paragraph (3) of Article (7), where it says, "The provincial council issues local legislation, regulations, and instructions (Michell, 2011, p. 22). As is well known, regulations and instructions are administrative decisions, not laws. On the other hand, if we explain the interpretation of local legislation by laws, this means that the legislator has granted the provincial council legislative and executive powers at the same time, and this principle is contrary to the principle of separation of powers stipulated in the constitution (Hatim, 2009, p. 144).

Also, in spite of the law granting the governorates financial powers such as collecting taxes, fees and wages, this law was not applied due to the objection of the finance officials in the Federal Authority due to the lack of legislation stipulating this and this means that the provinces continue to rely on financial returns and the budget estimated by Baghdad.

The law confirmed the implementation of decentralization at the level of eight federal ministries and granted the governorates technical, administrative and legal powers over the directorates for those ministries, namely (education - health - municipalities - sport and youth - public works - agriculture - construction and housing - work and social affairs) (Al-Mawlawi, 2019).

With regard to the supervisory authority, the legal candidate in the provincial law granted the parliament the power to dissolve the provincial council and dismiss the governor. This is what was mentioned in paragraph (2) Article (20) that "the governorate council and local councils are subject to the supervision of the parliament" (Law t. I., No22/2008), and paragraph (8) of the article (7) Concerning the removal of the governor.

As for the control of the judicial authority, it is by virtue of the original jurisdiction, which will be by the administrative judiciary in all matters related to administrative decisions issued by local bodies, according to the Iraqi judiciary. The law also allowed the governor and the provincial council to object in front of the Federal Supreme Courts about the decision to refer or dismiss them.

As for the executive authority, the law did not give the prime minister any effective legal authority over the governor, and he only allowed him to propose to the House of Representatives, as the executive authority does not

have the authority to dismiss any member of the local administrations nor does it have the power to appoint them (Hatim, 2009, p. 138).

Accordingly, it can be said that the judiciary has a role in monitoring the governorates and holding them accountable in the event of administrative breaches, the control of the legislative authority is similar to non-existence due to political and partisan considerations and this matter weakens the work of the federal legislative authority.

It appears that the constitution of 2005 and the irregular governorates law in a law have failed to define the powers of both the central government and the government of local administrations, which subsequently created political and administrative conflicts and problems, in addition to the issuance of laws that contradict constitutional articles such as Law No. (19) of 2013 which is the amendment The second is for the governorates law, when the governorates are given priority in the event of a dispute or conflict with the federal government (Odeh, 2019, p. 42). Also, differences still persist between each of the central and local governments, despite the existence of a will towards achieving administrative decentralization, and the most important points of disagreement are:

- Senior officials who have the authority to appoint and dismiss them.
- The limits of the financial decentralization of the governorates (Al-Mawlawi, 2019).

THE CONCLUSION AND THE RECOMMENDATION

Through our review of the constitutional and legal mechanism of local administrations and their relationship to the central government, we find that we need a broader understanding of the meaning of decentralization in its three dimensions (political, administrative, and financial) in Iraq by studying others' experiences and comparing them to our experience in order to understand the decentralization that local administrations enjoy within the framework of the law of third-party provinces Regular in the province.

It was clear from the application of the Irregular Governorates Law in Region No. 22 of 2008 that the law failed to set a general policy according to which local governments operate in how they are established, regulate their management, and the way their powers are distributed.

The most important thing that we reached in our study is:

- 1- The lack of clarity in the constitutional and legal texts dealing with the powers of the central government and local governments, and the overlap between the federal concept and the concept of administrative decentralization.
- 2- The political rivalry in the local government and the establishment of many federal ministries to satisfy some political parties leads to a move away from the principle of administrative decentralization, because those ministries will demand powers that are originally within the jurisdiction of the local governments.
- 3- The aim of the central government in establishing local governments is due to the desire of the central government to focus on national issues and leave the files that are specific to the central departments such as services, education and health.
- 4- The qualifications of members of local councils are not at the required level, which caused many problems because their appointment came according to party and state affiliations.
- 5- Poor coordination between the federal and local financial departments.
- 6- Delayed completion of investment projects in local governments due to late routine procedures, administrative corruption, lack of clarity of powers, and delayed budgeting.
- 7- The governorate councils exceeded their administrative and control powers and exercised administrative work belonging to the governor, which sparked conflicts of competence between the governor and governorate councils.

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DOI: <https://doi.org/10.15379/ijmst.v10i4.2137>

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