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# THE ADMINISTRATIVE DECENTRALIZATION SYSTEM AND ITS IMPACT ON THE EFFECTIVENESS OF THE RIGHT TO EDUCATION

RAFEA SEDEEQ YASEEN

COLLEGE OF LAW, UNIVERSITY OF MOSUL, IRAQ.

EMAIL: rafihamooka@gmail.com

RAFAL HASSAN HAMED

PRESIDENCY OF THE UNIVERSITY OF MOSUL, IRAQ.

EMAIL: rafal.hhm2017@uomosul.edu.iq

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## ABSTRACT

The core idea of this research centers on administrative decentralization in distributing educational responsibilities between the central government—which is responsible for achieving national educational objectives based on solid foundations for state-building—and the local administrations, which are tasked with ensuring individuals enjoy their right to education within specific geographical boundaries.

This approach involves equitable distribution of resources, capabilities, and functional responsibilities, enhancing the efficiency of educational administration and offering greater flexibility in addressing field challenges. Therefore, effective coordination between both sides becomes a strategic necessity to guarantee the right to education as a fundamental right contributing to the development of an educated and advanced society.

It is worth noting that administrative decentralization means transferring decision-making authority to local bodies elected by local citizens, and it is more prevalent in federal states. The Iraqi constitution adopted the principle of decentralization in governmental administration, marking a significant shift in the political system's development. The constitution granted substantial autonomy and broad powers to regions and governorates not organized into a region—powers they had not previously experienced.

This autonomy stems from the fact that provincial councils are not appointed by central authorities but are elected through direct elections and are directly accountable to voters. However, despite the allocation of powers to the regions, the central government, and the councils of governorates not organized into a region, there remains some ambiguity in determining their respective jurisdictions due to conflicting texts, political interests, and constitutional authorities.

**Keywords:** Administrative Decentralization, Right to Education, Local Governance, Iraqi Constitution, Jurisdictional Ambiguity

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## INTRODUCTION

The right to education occupies a vital place in human life. Education begins at birth and encompasses several stages, starting with the family, nursery, primary and secondary education, followed by university studies. It also includes technical and vocational education as well as informal learning. The concept aims to provide equal opportunities for all to access quality education that contributes to the development of both the individual and society. Nations are built through education, and neither Iraq nor any other country can achieve sound public policies or economic and social stability without it.

The right to education has been defined as ensuring the full development of an individual's mental faculties and the acquisition of knowledge and moral values. It goes beyond basic literacy and numeracy to include the individual's full adaptation to social life<sup>(1)</sup>.

Decentralization refers to the distribution of administrative functions between the central government in the capital and the elected local bodies, so that in the exercise of their administrative function these bodies are under the supervision and control of the central government, and therefore the subject of

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<sup>(1)</sup> Mohamed Bashir Al-Shafei, *Human Rights Protection Law*, 6th Edition, Al-Maaref Publishing Foundation, Alexandria, 2009, p. 242.

administrative decentralization is often associated with the theory of local administration and the system of public institutions<sup>(2)</sup>.

Administrative decentralization is based on the distribution of administrative competencies between the central government and local bodies, i.e. the creation of a number of public administrative persons besides the state, specialized in its management by councils consisting of members elected by the people at the municipal and state levels, the essence of administrative decentralization is not related to the weakening of the central authority, but to the strengthening of local authorities, and the final outcome is not just the redistribution of government powers, but an increase in government powers as a whole.

#### **First: The importance of research**

The human right to education and the system of administrative decentralization are key tools to ensure the human right to education and achieve sustainable development, as they contribute to providing equal opportunities for all to access and benefit from education, thus achieving progress and prosperity in societies.

#### **II. The research problem**

Lack of effective coordination between the central and local authorities levels to ensure equitable distribution of resources and contribute to improving the quality of education and reducing educational gaps between different regions. The existence of challenges related to overlapping powers or weak administrative capacities at the local level, which requires strengthening cooperation and capacity-building mechanisms to ensure the achievement of national educational goals in an integrated and comprehensive manner.

#### **III. Study Methodology**

The study relied on the inductive scientific method of constitutional and legal texts and identified aspects related to the relationship between administrative decentralization and its impact on the human right to education and the analytical method based on the analysis of legal texts related to the subject.

#### **IV. Structure of the study**

The research was divided into two requirements. The first requirement dealt with the exclusive competence of central bodies and their relationship to the right to education, which was divided into four branches, the first section dealt with the development of educational policies and strategies, and the second branch included the issuance of laws and regulations, while the third branch will include financing education and distributing budgets in the education process, and the fourth section will explain the supervision and control of educational institutions. The second requirement defined the competencies of local authorities with the right to education, which was divided into three branches, the first of which deals with the management of local schools and educational institutions, in the second it will include the development and management of educational infrastructure, and in the third we will show the promotion of community participation.

##### **1. The exclusive competence of central bodies and their relationship to the right to education**

The 2005 Constitution stipulated that Iraq is a federal state <sup>(3)</sup>, so the administrative system is decentralized and under the provisions of the Constitution in force, the Kurdistan Region has become politically and administratively decentralized because it has a legislative, executive and judicial authority and has decentralized administrative powers enjoyed by provincial councils, where each governorate has a provincial council or governor elected by the Council and has financial and administrative independence subject to the control of the regional central authority.

The rest of the governorates that are not organized into regions in Iraq also enjoy a decentralized administrative system, under which they enjoy administrative autonomy, and the province is represented by an elected council, a governor elected by this council and an independent budget under the Iraqi Constitution in force<sup>(4)</sup>.

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<sup>(2)</sup> Ahmed Abdel Zahra Kazem Al-Fatlawi, *The Decentralized System and its Applications*, 1st Edition, Zain Human Rights Publications, Lebanon, 2013, p. 33.

<sup>(3)</sup> Article 1 The Republic of Iraq is one independent federal state with full sovereignty. The system of government is representative, parliamentary and democratic, and this constitution guarantees the unity of Iraq from the constitution. Article 117 of the constitution, first item: "This constitution is considered upon its entry into force the Kurdistan region and its existing authorities regionally "federally"

<sup>(4)</sup> Article 122/V of the 2005 Constitution stipulates the following: The provincial council is not subject to the control or supervision of any ministry or any entity not associated with a ministry, and has independent finances.

The Law on Governorates Not Organized in a Region was issued under No. 21 of 2008, and the regions and governorates were granted sovereign powers<sup>(5)</sup> and this has a clear contradiction in the mechanism of work and diplomatic representation, which is supposed to be the competence of the federal central government, and there are also many contradictions.<sup>(6)</sup>

The province is the basic regional unit and is established based on the decision of the political authority and the Constitution of Iraq of 2005 divided the province into a number of districts, districts and villages<sup>(7)</sup>

The law on governorates that are not organized in the Iraqi region was approved in force with the aim of clarifying the competencies and powers of the provinces in a manner commensurate with political and administrative decentralization, and in this context the provinces were granted administrative and political powers.

The determination of the exclusive and common competence of both central bodies and local governments is an essential factor in influencing the enhancement of the effectiveness of the right to education and ensuring the achievement of its objectives.

It refers to the powers and tasks that are granted only to government agencies or central institutions responsible for managing and organizing the educational process at the national or regional level without allowing local or private bodies to interfere in it, and this competence varies from one country to another according to the political and administrative system followed centralized or decentralized.

The Constitution of Iraq does not provide for the limitation of the competence of education to the central authorities, but the Council of Ministers and the Ministry of Education play a major role in the educational process in Iraq beyond aspects<sup>(8)</sup>.

### **Section I Development of educational policies and strategies**

The educational public policy is a set of legal rules, decisions and controls that regulate educational work and determine the educational process and its trends and effects on society in order to achieve a new vision for its children adapted to the data of global scientific progress, and is usually issued by the higher authorities in the executive authority, provided that these decisions and controls are applicable and appropriate for work and the educational environment, and may be in the form of legislation or plans of generality and stability and include major directives for the movement of the educational system<sup>(9)</sup>

Optional Protocol to the Convention on the Elimination

The principles and decisions and the subsequent actions are implemented as a general plan to guide decisions related to the means of achieving the goals, and the educational public policy is characterized by being dynamic, flexible, applicable, has its own explanatory and guiding function and is built in the light of clear agreed goals, thus drawing plans, procedures and ways to achieve them<sup>(10)</sup>. To deal with them with the simplest and lowest costs by developing appropriate and strategic plans and allocating the necessary resources to achieve these goals.

Since the eighties of the twentieth century, the educational public policy in Iraq has suffered from great and clear neglect as a result of the entry of the political system into the labyrinths of absurd wars that

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<sup>(5)</sup> The first paragraph of article 121, which provides as follows: The authorities of the regions shall have the right to exercise legislative, executive and judicial powers in accordance with the provisions of this Constitution, with the exception of the exclusive competences of the federal authorities, as well as paragraph IV of the same article, which stipulates the following: Regional and provincial offices shall be established in embassies and diplomatic missions to follow up on cultural, social and development affairs.

<sup>(6)</sup> First, article 110 of the Constitution stipulates the following: drawing up foreign policy, diplomatic representation, negotiation, signing and concluding international treaties and agreements, borrowing policies, and drawing up sovereign foreign economic and trade policy.

<sup>(7)</sup> Article 122/I, which stipulates the following: Governorates consist of a number of districts, districts and villages.

<sup>(8)</sup> Iman Hamoud Suleiman, Constitutional Protection of the Right to Education in Iraq, Journal of the College of Law and Political Science, No. 24, Diyala University, Iraq, 2024, p. 249.

<sup>(9)</sup> Yassin Al-Atwani and others, The Educational System in Iraq, The Duality of Scholarship and Militarization, 1st Edition, Dar Al-Kitab Al-Arabi, Baghdad, 2013, p. 133.

<sup>(10)</sup> Manar Muhammad Al-Baghdadi, Educational Policy in Developing and Developed Countries, 1st Edition, Modern University Office, 2009, p. 16.

have introduced the country into an unstable and confusing security reality at the expense of the public educational service sectors in society.<sup>(11)</sup>

The central body in Iraq, represented by the Ministry of Education, plays a crucial role in the development of educational policies and strategies aimed at building an integrated educational system that keeps pace with global developments and meets the needs of Iraqi society.<sup>(12)</sup> The Iraqi Constitution provides for the formulation of general educational and educational policy in consultation with the regions and governorates that are not organized in the region<sup>(13)</sup>.

The process of developing educational policies begins by defining a clear vision and strategic goals in line with the country's development plans, as education in Iraq is seen as the cornerstone in building future generations, and for this the state seeks to enhance education opportunities for all, especially in light of the difficult circumstances that the country has gone through from conflicts and economic challenges, and central policies seek to make education accessible to every Iraqi child with a focus on compulsory education, ensuring the continuation of students in different stages and reducing the rates of School dropouts remain a challenge in some areas.

#### **First: Educational curriculum:**

The utmost importance lies in attracting the student to learn and develop curricula in order to keep pace with what is imposed by the needs of the labor market and the requirements of society, and the form is important in terms of printing, paper and colors with the useful practical content, that is, that the phase and progress of curricula are in line with the development and progress of societies<sup>(14)</sup>, and to improve education and the environment, curricula must be developed to serve peace and tolerance and emphasize integration and continuity in all stages and classes of study explicitly or implicitly, taking into account the cultural rights of all Nationalities.

Not involving teachers, teachers and subject professors in training courses on the intended curricula leads to a gap between them and the subject, and therefore this will be reflected on the recipient, which is the student because communication and training on modern curricula enables the teacher and the teacher to succeed in presenting the material correctly, these curricula may lead to a negative impact on students and students alike, as they do not lead to the development of their own abilities, the development of their behavior and the innovation of skills in them, and the result may be their deviation towards adverse habits and behaviors. Such as cheating, evasion of attendance or leaving school, and the curricula in Iraq were characterized by the following:<sup>(15)</sup>

1. The new curriculum, due to its difficulty, may force students to leave and drop out instead of achieving the main goal of developing self-abilities, talents and scientific competencies in the service of them, the educational process and society alike.
2. These curricula may be a direct or indirect cause of breaking the psyche of students instead of encouraging them to have self-confidence, boldness, tranquility and others.
3. Many important aspects of students are neglected by these curricula, such as public speaking, persuasion and self-defense.
4. Many important social aspects related to the learning environment such as cooperation, social interaction, communication and problem solving related to the learning environment have been neglected.
5. It seems that the new curricula helped to overlook an important and basic aspect of the education process is the mental abilities and thinking skills of students and their focus on the process of memorizing and receiving information and storing it by the teacher or teacher without going through an attempt to discuss and analyze it and take advantage of the importance of the information given to them and this makes them turn into just a tool to receive information and turn them into so-called banking education, which is limited to memorizing information, remembering and resending it when requested from him, and thus the educational process will lose the desired basis, This, in turn, will contribute to their intellectual rigidity, their lack of acceptance of it and their unwillingness to understand it.<sup>(16)</sup>

<sup>(11)</sup> Economic and Social Commission for Western Asia (ESCWA), Towards Integrated Social Policies in the Arab States: A Framework and Comparative Analysis, United Nations, New York, 2005, p. 49.

<sup>(12)</sup> Batoul Abdul-Jabbar Hussein Al-Tamimi, Constitutional Guarantees of the Right to Education in Iraq, PhD thesis, Al-Nahrain University, College of Law, Iraq, 2015, p. 39.

<sup>(13)</sup> Article 114/VI of the Constitution of the Republic of Iraq 2005.

<sup>(14)</sup> Noman Atallah Al-Hiti, Human Rights in International and Constitutional Conventions and Islamic Law, op. cit., p. 80.

<sup>(15)</sup> Adnan Yassin Mustafa, Social Diversity and Development, Structural Problem and Methodological Approaches, 1st Edition, Dar Amjad for Publishing and Distribution, Amman, Jordan, 2016, p. 56.

<sup>(16)</sup> National Report for Human Development in Iraq, 1st Edition, 2014, p. 26

Educational supervision is essential in education, but it has lost its importance by limiting itself to inspection, accountability and control rather than being a help <sup>(17)</sup>.

The Central Authority is working to develop balanced educational content that combines the preservation of national identity and openness to modern science and technology, and the introduction of new materials related to artificial intelligence, programming and digital skills is an important step towards linking education to the labor market and preparing students for the requirements of the digital age.

The Ministry of Education has not benefited from the international schools to which licences have been granted to operate in Iraq and from their curricula and methods of teaching their students, which differ significantly from the method of indoctrination and memorization applied in public schools.

Therefore, we suggest that the Ministry of Education in Iraq require that a certain percentage of our school be integrated to teach subjects such as Arabic in international schools in order to develop curricula.

## II. Teachers

The teacher is the most important pillar in the educational process, so attention must be paid to preparing him and upgrading his efficiency, and developing his abilities, skills and knowledge through continuous training and providing the appropriate atmosphere for him in the classroom, laboratory or office, and giving him the appropriate incentives.

The teacher is the most influential element in the quality of the educational system, as it is their responsibility to implement educational policies and translate them into educational practices in the classroom. The Iraqi Constitution of 2005 attached great importance to education as a guaranteed right, stipulating in article 34 (I) that "education is a fundamental factor for the progress of society and is guaranteed by the State". The role of teachers is at the heart of this commitment. Under the umbrella of the administrative decentralization system, responsibility for managing teachers' affairs was distributed between the federal authority and the governorates, ensuring that Balance between standardization and ensuring efficient performance at the local level.

The Ministry of Education, as the federal entity, is responsible for formulating public policies related to teachers, such as criteria for appointment, conditions for promotions, educational training, and the basis for granting job ranks, based on Article 114 of the Constitution, which gives the federal government the competence to formulate general educational policy, and the Ministry also determines national standards for professional competence to ensure the quality of education at the national level. On the other hand, the amended Law No. 21 of 2008 on Governorates Not Organized in the Region empowered the governorates with broad executive powers, as the General Directorates of Education in the governorates manage teachers administratively and professionally, including distribution, supervision, attendance and discipline, and raising employment needs according to local realities.

Attention to the rehabilitation of teaching staff is one of the essential axes of educational policies, as the central body realizes that the quality of education depends largely on the competence of teachers, so work is being done to implement advanced training programmes aimed at developing teaching skills, introducing teachers to the latest educational methods and integrating technology into education <sup>(18)</sup>.

The digital transformation in education is one of the important strategic directions adopted by the state, where the central authorities are working to introduce e-learning and develop educational platforms that help deliver knowledge to students throughout the country, especially in areas that suffer from weak educational infrastructure, and this strategy comes within the framework of a broader vision aimed at making technology an essential part of the educational process, which contributes to improving the quality of learning and provides students with better opportunities to acquire knowledge in ways Recent <sup>(19)</sup>.

Despite the great efforts made by the state in improving education, there are many challenges facing the implementation of educational policies in Iraq, the most prominent of which is the weakness of the infrastructure of schools, as some educational institutions are still in need of rehabilitation due to the damage caused by wars and unrest. The lack of funding is a major obstacle to the implementation of

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<sup>(17)</sup> Article 18 of the amended Law of the Ministry of Education No. 22 of 2011, the Ministry shall develop plans and curricula for the various stages and types of education, develop them and follow up on their implementation, and provide the means and methods required by them, methodological textbooks, assistance, teachers' guides and educational techniques.

Fahd<sup>(18)</sup> Abu Amira, Training needs for teachers: types, how to identify them and their benefits, article published on 9-12-2023, at the following link <https://zamn.app/blog/>, visit date 1-3-2025.

Khaled<sup>(19)</sup> Samir, The difference between digital education and e-learning from 8 aspects, article published on 2-2-2024, at the following link, <https://zamn.app/blog/>, visit date 1-3-2025.



many ambitious plans. The educational system needs huge investments to ensure the modernization of schools, the provision of educational tools and the improvement of the level of services provided. For students.

Despite these challenges, Iraq continues to work on developing its educational policies by strengthening cooperation with international institutions and benefiting from successful experiences globally. The state also seeks to expand the role of the private sector in supporting education and encouraging investments in orbit, which contributes to relieving pressure on government institutions and supports improving the quality of education in general. Education in Iraq remains a pivotal issue in the development process. The central authority plays a major role in shaping the features of this sector and developing strategies that it aims to create an educated generation capable of creativity, innovation and contribution to building a more prosperous future for the country<sup>(20)</sup>.

The general policy for education is formulated by the Federal Government, represented by the Ministry of Education, on the basis of Article 114 of the Constitution, which gives the Federal Authority the power to formulate general educational policy, including strategic directions for education, national infrastructure specifications, and technical standards for educational<sup>(21)</sup> institutions. In this context, standards related to educational buildings – such as the number of classes, sanitary conditions, and safety requirements – as well as the integration of educational technologies and libraries within institutions, are among the criteria. National set by the Ministry to ensure the achievement of minimum quality and educational justice among the governorates.

Equipping them with modern technologies, establishing laboratories, playgrounds and service facilities, in addition to managing school libraries and providing them with educational<sup>(22)</sup> materials.

Educational buildings, technologies, facilities and libraries are elements that fall within the framework of national policies and standards established by the Federal Government, while the authority for operational planning, day-to-day management and financial allocations of those elements belong to the provincial Governments, reflecting a functional complementarity between the Centre and the parties in the management of the educational process in Iraq<sup>(23)</sup>.

### III. Students

They are the future of the nation and the outputs that we aspire to be at the best level and they are the basis of the educational process, for which this great edifice of education was established, and students are the focus of the educational process and the basis for the existence of the educational system, and the state has the duty - under the Iraqi Constitution of 2005 - to provide an educational environment that guarantees them opportunities for fair and quality education. Article 34/II of the Constitution stipulates that "basic education is compulsory and guaranteed by the State", placing students at the centre of attention in terms of public policies, legislation and executive programmes.

In light of the implementation of the administrative decentralization system, student welfare has become a multi-level responsibility, starting with the Ministry of Education as the federal authority responsible for formulating public policies for education in accordance with Article 110 of the Constitution, and extending to local governments, which are responsible for implementing these policies and providing direct educational services to students within their administrative scope.

Under the amended Governorates Irregular in the Region Law No. 21 of 2008, the governorates were delegated broad powers to manage educational institutions, including aspects related to student affairs, such as distributing them to schools, providing school supplies, supporting extracurricular activities, providing health and social services, and caring for people with special needs. Local governments are also empowered to develop support programs for students who are in distress or in need, in accordance with their development plans and social specificities, while respecting the national standards set by the Ministry of Education.

Attention to students within the decentralized system enhances the ability of the governorates to respond immediately to their educational, psychological, and social needs, and allows for the development of innovative local programs that fit the actual reality of learners, while federal policies guarantee parity, justice, and minimum educational rights for all students across the country.

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<sup>(20)</sup> Nibras Mahmoud Karim, The Impact of the Principle of Equality on the Right to Education, Journal of the College of Law and Political Science, First Issue, Part Two, Diyala University, Iraq, 2022, p. 544.

<sup>(21)</sup> Article 114 of the 2005 Constitution.

<sup>(22)</sup> Article 7 of the Governorates Act No. 21 of 2008.

<sup>(23)</sup> Noman Atallah Al-Hiti, Human Rights in International and Constitutional Conventions and Islamic Law, op. cit., p. 75.

In order to develop the physical educational environment towards meeting the requirements of <sup>(24)</sup>...:

1. Expanding the construction of new classrooms to expand the construction of schools and reduce the number of students in one class by no more than 24 students, as the crowded classroom affects the student's educational achievement.
2. Overlapping the administration with classes Isolation of the school administration from the site of events of students and teachers away from the classroom is undesirable.
3. Security and safety is one of the most important rules, if not the main pillar, to provide a safe environment for students, teachers and school administration for each of them to perform his duty and obligations in the best way, and therefore requires the Ministry of Education to develop plans and studies to reach a school community that applies school safety instructions and guidelines and achieve the principle of personal safety by paying attention to the design of the school and the distribution of spaces in proportion to the number of students in addition to the stairs and main corridors, and this calls for the formation of a committee for occupational health and safety in all A school that specializes in researching working conditions and causes of accidents and setting conditions and precautions to prevent their recurrence in the future.
4. Paying attention to the psychological need of learners when designing and creating the educational environment: <sup>(25)</sup>including:
  - A- The need to adapt the school building to students' ages and motor characteristics
  - B- The need for a design that encourages students to spontaneous education, as the student can learn a lot without feeling it through his presence in a rich environment full of knowledge and science such as mapping that includes general geographical, economic, scientific and other information about each continent or country in it , as well as the presence of green spaces to motivate them to love learning, wandering and benefiting from the components of nature to develop their mental abilities.
  - C- Providing halls that gather students instead of gathering them at the school walls or the entrance, where opportunities for cooperation and positive interaction increase for them, and contribute to reducing unpleasant behavior among them.

## Section II Promulgation of laws and regulations

The process of issuing laws and regulations in the education sector by the central Government in Iraq is one of the main pillars that ensure the organization of the educational process, the definition of the responsibilities of educational institutions and the control of quality standards at various academic levels.<sup>(26)</sup>Through the amended Law No. 22 of 2011 of the Ministry of Education, this law clarifies the structure and powers of the Ministry of Education and stipulates that the Ministry is responsible for preparing the general educational policy in Iraq, as well as issuing internal regulations and instructions for the Department of Public Education<sup>(27)</sup>.

Legislation and regulations are issued in response to the rapid developments in the field of education and to meet the challenges that may hinder the progress of this vital sector. Regulations and laws determine the organizational structure of educational institutions and lay the foundations through which licenses are granted to schools, whether governmental or private, with an emphasis on the need for these institutions to adhere to national standards to ensure the provision of high-quality education. between the various parties to achieve the desired educational objectives<sup>(28)</sup>.

The law of the Ministry of Education in Iraq is the basic reference on which educational policies are based, as it determines the rights and duties of students and teachers and sets the legal framework for compulsory education in the basic school stages, and legislation is concerned with developing mechanisms to evaluate the quality of educational institutions through the establishment of supervisory bodies responsible for following up the performance of schools and universities and ensuring their application of educational standards. These regulations also set out examination and certification policies and mechanisms for the recognition of educational qualifications, both inside and outside Iraq, thus

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<sup>(24)</sup> Marwan Abdullah Abboud Al-Jubouri, *The Right to Education within the Framework of the Constitution of the Republic of Iraq of 2005*, op. cit., p. 117.

<sup>(25)</sup> Marwan Abdullah Abboud al-Jubouri, *ibid.*, p. 118.

<sup>(26)</sup> Murtada Ali Hussein, *Constitutional and Legal Organization of Social Rights in Iraq*, Master's Thesis, University of Baghdad, 2016, p. 75.

<sup>(27)</sup> Article 3/II of the amended Act No. 22 of 2011 of the Ministry of Education, which provides as follows: Preparation of integrated educational plans within the framework of the established educational philosophy and follow-up of their implementation after their approval.

<sup>(28)</sup> Eid Ahmad Al-Husban, *The Right to Education in Contemporary Constitutional Systems*, op. cit., p. 367.

ensuring the compatibility of the Iraqi educational system with international standards and enhancing the opportunities of its graduates in the global labour market<sup>(29)</sup>.

In light of the challenges faced by Iraq, such as the changing economic and security conditions, legislation and regulations play a crucial role in ensuring the stability of the educational process and protecting it from the negative effects of the surrounding circumstances, and therefore the competent authorities are constantly working to review and update laws and regulations in line with modern developments, whether at the local or international level, and academic bodies and experts are involved in the process of drafting legislation to ensure that it is appropriate to the actual needs of the educational system and able to achieve Desired goals.

Through these legislations, the central government in Iraq seeks to build a solid educational system based on the principles of justice, quality and continuous development, which enhances the country's ability to graduate generations qualified to contribute to development and achieve a more stable and prosperous future. The question is, is it permissible to enact regulatory legislation on education by provincial councils?

A political system in Iraq based on administrative decentralization and granting the Iraqi constitution and the provinces have a real legal personality <sup>(30)</sup> and are managed by provincial councils and are independent of the central government, and education is a joint competence between the central and local government. The provincial council is not subject to the control or supervision of any ministry or any entity not associated with a ministry and has an independent financial liability. In this paragraph, the legislator recognized provincial councils as legal persons as well as giving them an independent financial liability. <sup>The(31)</sup> Optional Protocol to the Convention on the Elimination

The Provincial Governorates Act granted the provincial council legislative authority <sup>(32)</sup> and then affirmed its competence to issue local legislation, instructions and regulations to regulate administrative and financial affairs so as to enable it to manage its affairs in accordance with the principle of decentralization and in a manner that does not conflict with the Constitution and federal laws<sup>(33)</sup>.

The legislator has granted the provincial councils legislative powers broader than the financial and administrative powers granted by the constitution to them, but the Iraqi constitution in force has defined the powers of local councils in accordance with the principle of regional administrative decentralization, which is one of the duties of the executive bodies and not political, and the existence of articles gives provincial councils legislative powers, but the administrative jurisprudence saw that provincial councils cannot issue local legislation nor issue regulations because the regulations and their issuance are exclusively for the Council of Ministers . <sup>(34)</sup>

The constitutional legislator has limited legislation to the central government and granted legislative powers to the provincial council at the local levels and then limited a session to the issuance of legislation, and accordingly, in order to remove ambiguity, we propose a text in the law of governorates not organized in the region No. 21 of 2008 includes granting the authority to provincial councils to propose bills or vote on them, there is no authority for the governor to propose laws or voting on them, which is the closest to determining public needs, especially with regard to the educational process and the citizen's right to education

### **Section III Financing of education and distribution of budgets in the education process**

The central government is the one who finances the education sector and distributes the budgets allocated to it to ensure the continuity of the educational process and develop it in accordance with national plans. Education is one of the vital sectors that require sustainable funding, as the budgets allocated to it directly affect the quality of the educational infrastructure for curricula, teachers' wages and various educational activities. In light of the economic challenges facing the country, the financing of education is subject to many considerations related to the available financial capabilities, national priorities and the extent of capacity. to strike a balance between providing quality education and sustaining government spending.<sup>(35)</sup>

<sup>(29)</sup> Hamid Hanoun, Human Rights, op. cit., p. 96.

<sup>(30)</sup> Article 116 of the 2005 Constitution of Iraq.

<sup>(31)</sup> Article 122, paragraph V, of the Constitution of Iraq in force.

<sup>Clause(32)</sup> I of Article 2 of the Governorates Law is not organized in the region No. 21 of 2008, as amended.

<sup>(33)</sup> Paragraph 3, article 7 of the Governorates Law is not organized in the region No. 21 of 2008, as amended.

<sup>(34)</sup> Article 80, section III, of the Constitution of Iraq.

<sup>(35)</sup> Bassam Mustafa Al-Omari, Financing Higher Education and its Economics – A Contemporary View, 1st Edition, Dar Wael for Publishing and Distribution, Amman, 2014, p. 46.



The financing of education in Iraq depends mainly on the general budget of the State<sup>(36)</sup> where a certain proportion of the national budget is allocated to the educational sector and these allocations are distributed among the Ministry of Education, which oversees basic and secondary education, according to a range of factors, including the number of students and teachers, the need to build new schools, the costs of curriculum development and the requirements for the operation of various educational institutions.

A large share of the budget is also directed to the salaries of teachers and administrative staff, as this aspect is considered one of the most consuming expenditure items for government funding in the education sector. In addition, funds are allocated to support the development of infrastructure such as building and equipping schools and universities, maintaining educational facilities, providing study supplies and modern educational aids. One of the main challenges is the ability to meet the needs of all educational areas, especially in remote governorates that suffer from a lack of schools or poor services. educational<sup>(37)</sup>.

With regard to the distribution of budgets, the central Government is working to allocate resources in accordance with a well-thought-out plan that ensures justice between the various regions, giving priority to governorates that suffer from a shortage of schools or that have been affected by conflicts and conflicts. In addition to government funding, the State seeks to diversify the sources of financing education by strengthening partnerships with the private sector and encouraging investment in private education and private universities in order to reduce pressure on the government budget<sup>(38)</sup>.

In general, financing education in Iraq is a complex process that requires a delicate balance between providing adequate financial resources and ensuring their efficient and fair distribution, which contributes to improving the quality of education and enabling future generations to obtain educational opportunities that meet their aspirations and help them build a better future for themselves and the country.

The provincial councils may collect local taxes, collect funds and enact special laws imposing fees and fines to enable them to manage their affairs in accordance with the principle of administrative decentralization and with the powers and competences granted by the Constitution in order to manage their affairs and provide services to the general public<sup>(39)</sup>.

The provincial council in Najaf inquired about the extent of the provincial council's authority to impose and collect taxes and spending, and the court replied as follows that the province has the authority to impose and spend local taxes and to enact laws on the imposition, collection and expenditure of fees and fines in order to enable it to manage its affairs in accordance with the principle of administrative decentralization<sup>(40)</sup>. But in fact, the system of administrative centralization prevails over the organizational structure in Iraq, as taxes are transferred to the Ministry of Finance, as well as fees, which are direct revenues to the state treasury, and the texts remain disabled and not applied.

#### **Section IV Supervision and Control of Educational Institutions**

The central body in Iraq plays a pivotal role in supervising and controlling educational institutions to ensure the achievement of quality standards, improve educational performance and control the conduct of the educational process in accordance with the laws and regulations adopted.<sup>(41)</sup>

The supervision process is to monitor the extent of the commitment of educational institutions to the prescribed curricula and the level of performance of teaching staff and the application of administrative systems that ensure a suitable educational environment for students and for this the competent bodies organize periodic visits to schools where educational performance is evaluated and access to teaching

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<sup>(36)</sup> Article 32 of the Ministry of Education Law No. 22 of 2011, as amended, consists of the Ministry's resources as follows:

First: What is allocated to it within the general budget of the State.

Grants, donations, endowments and bequests for the purposes of building, developing, expanding, renovating or providing supplies from within the Republic of Iraq, but if they are from outside them, with the approval of the Council of Ministers.

<sup>(37)</sup> Ahmed Khader Hussein, *Financing Higher Education in the Light of International Experiences*, Al-Bayan Center for Studies and Planning, 2022, p. 9.

<sup>(38)</sup> Ali Al-Zubaidi et al., *Education, Higher Education and Poverty in Iraq*, a study prepared for the project to develop a poverty alleviation strategy, 2018, p. 63.

<sup>(39)</sup> Article 115 of the Governorates Law is not organized in Region No. 21 of 2008, as amended.

<sup>(40)</sup> Federal Court, No. 16, 2008, 12/11/2008.

<sup>(41)</sup> Faleh Al-Quraishi, *Private Education in Iraq, Reality and Future Prospects*, Al-Multaqa Magazine, Afaq Foundation for Studies and Research, vol. 18, 2010, p. 105.

mechanisms and the availability of educational supplies and ensure the application of laws that regulate the conduct of the educational process is also followed up on the commitment of educational institutions to admission and registration policies and the extent to which they accommodate students and their keenness to provide an educational environment Amna contributes to the development of students' skills and enhances their scientific abilities.

As for the control, it includes ensuring the implementation of programs and curricula in accordance with the established educational plans, adhering to academic standards in examinations and assessments, and controlling any violations that may affect the quality of education. Quality of education<sup>(42)</sup>.

In its supervision of educational institutions, the central government relies on a set of tools, including the formation of supervisory committees, the preparation of periodic reports on the performance of schools, the implementation of comprehensive evaluation programs to measure the level of academic achievement and the effectiveness of educational programs.

Although the central Government is making great efforts in supervision and control, there are challenges facing this process, most notably the large number of educational institutions, which makes it difficult to follow up all schools accurately, especially in remote areas or those suffering from difficult security conditions. <sup>(43)</sup>.

## **2. The competence of local authorities in the right to education**

The exclusive competence of decentralized bodies in education refers to some of the powers granted to local authorities or local education councils to manage and organize the educational process within their geographical scope without direct intervention from the central government and the extent of this competence depends on the level of decentralization in the state, which may be administrative, financial or political and one of the most important areas of exclusive competence of decentralized bodies in education, **so we will divide this requirement into three branches, we address The first will include the management of local schools and educational institutions, the second will include the development and management of educational infrastructure, and the third will show the promotion of community participation.**

### **Section I Administration of local schools and educational institutions**

Decentralized bodies in Iraq play a pivotal role in the management of local schools and educational institutions, making them a key element in enhancing the effectiveness of the right to education, as decentralization of education management allows a greater ability to meet local needs by granting direct powers to provincial directorates of education and local councils, which helps improve educational services and ensure that they reach all groups more efficiently.

These bodies rely on a comprehensive management of various aspects related to schools and educational institutions, starting from administrative and organizational supervision to the development of executive plans that suit the conditions of each region. Through their role in the operation and management of schools, these bodies contribute to creating an appropriate educational environment that ensures the enrollment of all children in education and reduces school dropout rates, especially in areas that suffer from economic or social challenges. New schools or the expansion and renovation of existing ones with a view to accommodating the growing number of students and ensuring a safe and appropriate learning environment<sup>(44)</sup>.

The role of decentralized bodies also includes the provision of teaching staff and the distribution of teachers to schools according to the needs of each region in order to achieve a balance between demand and supply and reduce the shortage in some areas, especially those that suffer from a small number of teachers.

Because decentralized bodies are closest to the local community, they have the ability to interact directly with parents and students and provide more effective solutions to problems that may hinder the educational process. Adaptation that enhances the quality of education and ensures its effectiveness.

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<sup>(42)</sup> Eid Ahmad Al-Husban, *The Right to Education in Contemporary Constitutional Systems*, op. cit., p. 368.

<sup>(43)</sup> Iman Hamoud Suleiman, *Constitutional Protection of the Right to Education in Iraq*, op. cit., p. 250.

<sup>(44)</sup> Hadeer Kazim, *Decentralization in Educational Administration*, article published on 23-7-2019, at the following link <https://www.maktabtk.com/blog/post/1145/>, visit date 5-3-2025.

The association of the directorates of education with the ministry immediately after the third amendment to the law of the governorates is not organized in a region, where the appointment and dismissal of the directors general of education and their direct association with the federal ministry is counted. <sup>(45)</sup>

But the amendment does not negate the supervisory role of the governorates are not organized in a region on the conduct of the educational process in the province in order to achieve a public interest, since the beginning of the formation of provincial councils have witnessed cooperation between them in order to complete some projects away from the authority of the federal government, especially after 2005 It can be concluded that local authorities have become more financially flexible after opening full accounting units independent of the central administration and have become able to spend on the governorate and the exercise of management and financing and the implementation of policies development plans in addition to To strengthen the methods of detecting financial and administrative corruption, as well as to follow up the implementation of local budgets for the service departments of the governorate, and programs have been implemented to accelerate reconstruction and development of regions in accordance with the provisions of the Federal Budget Law No. 1 of 2006.

The adoption of the principle of administrative and financial decentralization led the local government and the governor to form several units to implement decentralization, as well as monitoring the completed projects to build schools and financing these projects with a current account funded by the Ministry of Finance, in addition to appointing temporary employees in schools Governorate contracts, granting bonuses and considering compensation, as well as monitoring the implementation of school reconstruction projects and determining the percentage of fees. Experts and executing companies and the purchase of all supplies to make projects completed, and control all educational activities to ensure the proper performance of their duties.

The role of decentralized bodies is increasing in importance in light of exceptional circumstances, where they are responsible for taking quick action within the continuation of the educational process in emergency situations such as security crises or natural disasters, by finding educational alternatives, rehabilitating damaged schools and providing psychological and social support to affected students. Decentralization makes it possible to allocate budgets according to the priorities of each region, ensuring optimal use of resources and achieving better results on the ground <sup>(46)</sup>.

These efforts reflect the vital role of decentralized bodies in ensuring the effectiveness of the right to education, as they allow a more flexible and responsive approach to the needs of different regions and help build a more equitable and sustainable education system.

## **Section II Development and management of educational infrastructure**

Decentralized bodies in Iraq are an essential part in the development and management of educational infrastructure, which enhances the effectiveness of the right to education and contributes to ensuring access to education for all groups and regions. These bodies are working to improve and expand the infrastructure of educational institutions, as they are concerned with the establishment of new schools in areas that suffer from a shortage of educational institutions as well as Rehabilitation and maintenance of existing schools that may be old or damaged, thus ensuring a safe and appropriate learning environment for students and taking the role of decentralized bodies into account the specific environmental, economic or social needs and circumstances of each region <sup>(47)</sup>.

In rural and remote areas, where challenges abound related to the lack of adequate schools or poor educational services, these bodies are working to build new schools and provide them with the necessary facilities such as equipped classrooms and places for sports activities, in addition to providing libraries and educational laboratories that contribute to raising the level of education. Improving the quality of education as a good learning environment plays a crucial role in motivating students and increasing their educational achievement.

Decentralized bodies are also interested in the development of technology in schools through the introduction of modern teaching aids such as computers, smart tablets and the Internet, which help in improving teaching methods and interaction between students and teachers <sup>(48)</sup>.

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<sup>(45)</sup> The provisions of Article 12 of the Third Amendment Law to the Governorates Law are not organized in Region No. 10 of 2018, which repealed the text of Article 1 of the first item of Article 45.

<sup>(46)</sup> Intisar Shalal Mard, Central Control of Regional Administrative Decentralized Bodies Administrative Oversight, published on 11-11-2022, at the following link <https://mail.almerja.com/reading.php?idm=188512>, visit date 6-3-2025.

<sup>(47)</sup> Ali Al-Zubaidi et al., Education, Higher Education and Poverty in Iraq, op. cit., p. 65.

<sup>(48)</sup> Faleh Al-Quraishi, Private Education in Iraq, Reality and Future Prospects, op. cit., p. 125.

Although decentralized bodies have great flexibility in making decisions on infrastructure development, they face significant challenges related to funding, as financial resources are often limited and it is difficult to secure adequate funding for all projects. Proper planning and careful prioritization can ensure that available resources are maximized and the involvement of the local community in the planning and implementation process contributes to meeting the needs of the region more accurately and effectively. Finally, the role of decentralized bodies in the development and management of educational infrastructure is a key pillar for the full realization of the right to education, as it ensures the provision of appropriate educational environments and achieves justice in the distribution of educational opportunities among the various regions of Iraq.

### **Section III: Strengthening community participation**

Through the geographical and national proximity of these decentralized bodies, they can play an important role in activating the relationship between educational institutions and local communities, which contributes to improving the educational process and providing an educational environment that meets the needs of students more accurately and effectively, and the importance of this participation is to enhance cooperation between schools and the local community, as this cooperation includes a wide range of activities and initiatives aimed at To improve the quality of education Initially, parents and students have the opportunity to participate in educational policy decisions, whether at the school level or at the wider local level, thus contributing to decisions in line with the needs of the community<sup>(49)</sup>.

Decentralized bodies seek to involve parents and the local community in developing curricula and organizing extracurricular educational activities, as they contribute to building a joint educational culture between the school and the community, where parents are encouraged to participate in the educational process through periodic meetings with teachers and administrators, which enhances their understanding of the importance of education and motivates them to support their children academically, and decentralized bodies contribute to encouraging communities to participate in the development of educational infrastructure. Additional facilities to assist in the development of the educational process, whether through voluntary initiatives or through support for projects implemented by decentralized bodies, and this participation also reinforces the community's sense of shared responsibility in supporting education, making them active partners in the development of the educational system<sup>(50)</sup>.

Promoting this participation also helps to address some of the challenges that may face the educational process at a certain level, for example, there may be a need to adapt study programs to suit specific local cultures and needs through cooperation with the local community. Decentralized bodies can modify study programs or provide activities that enhance students' interaction with their local environment.

Through their community participation, decentralized bodies enhance the ability to address school dropout problems, where the community can be most aware of the social and economic reasons that drive some students to drop out of school through cooperation with parents and communities.<sup>(51)</sup>

Enhancing community participation in education is not limited to improving the educational process itself, but also includes building a strong civil society aware of the importance of education by activating this participation that contributes to creating an inclusive and equitable educational environment, which enhances the effectiveness of the right to education and ensures that education is accessible and appropriate for all members of society.

## **CONCLUSION**

Decentralization, in its theoretical form, opens the way for educational practices closer to the reality of local communities and contributes to a better response to different development needs, but its application in Iraq is still plagued by many stumbles, as complex administrative procedures, poor coordination between different levels of management and a shortage of local competencies

1- The law on governorates not organized in the Iraqi region in force grants the provinces administrative and political powers.

2- The determination of the exclusive and common competence of both central bodies and local governments is an essential factor in influencing the enhancement of the effectiveness of the right to education and ensuring the achievement of its objectives.

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<sup>(49)</sup> Mohamed Sadiq Ismail, Total Quality Management in Education, Arab Group for Training and Publishing, Cairo, 2014, p. 96.

<sup>(50)</sup> Waiting for Saad Hamad, The Legal Nature of Protecting the Right to Education in Safe Schools, Maysan Journal for Academic Studies, Vol. 22, No. 47, Iraq, 2023, p. 42.

<sup>(51)</sup> Muhammad Sadiq Ismail, Total Quality Management in Education, previous reference, p. 100.

3- The Ministry of Education has not benefited from the international schools to which licences have been granted to operate in Iraq and from their curricula and methods of teaching their students, which differ significantly from the method of indoctrination and memorization applied in public schools.

4- In light of the implementation of the administrative decentralization system, student welfare has become a multi-level responsibility, starting with the Ministry of Education as the federal authority responsible for formulating public policies for education in accordance with Article 110 of the Constitution, and extending to local governments, which are responsible for implementing these policies and providing direct educational services to students within their administrative scope.

5- In fact, the system of administrative centralization prevails over the organizational structure in Iraq, as taxes imposed on the private education sector are transferred to the Ministry of Finance, as well as fees, which are direct revenues to the state treasury, and the texts remain disabled and not applied.

## RECOMMENDATIONS

1- Throwing teachers, teachers and subject professors with training courses on the intended curricula leads to a gap between them and the subject, and therefore this will be reflected on the recipient, which is the student because communication and training on modern curricula enables the teacher and teacher to succeed in presenting the material correctly, these curricula may lead to a negative impact on students and students alike, as they do not lead to the development of their own abilities, the development of their behavior and the innovation of skills in them, and the result may be their deviation towards adverse habits and behaviors such as cheating and evasion From working or leaving school.

2- We suggest that the Ministry of Education in Iraq require that a certain percentage of our school be integrated to teach subjects such as Arabic in international schools in order to develop the curriculum.

3- Developing its educational policies by strengthening cooperation with international institutions and benefiting from successful experiences globally and the government's endeavor to expand the role of the private sector in supporting education and encouraging investments in schools, which contributes to relieving pressure on government institutions and supports improving the quality of education in general and education remains.

4- Work on developing balanced educational content that combines preserving national identity and openness to modern science and technology, and introducing new materials related to artificial intelligence, programming and digital skills as an important step towards linking education to the labor market,

5- Preparing students for the requirements of the digital age Efforts are also being made to reform teaching methods so that education becomes more interactive away from traditional methods that rely on memorization and indoctrination.

6- The constitutional legislator limited legislation to the central government and granted legislative powers to the provincial council at the local levels and then limited a session to the issuance of legislation, and accordingly, in order to remove ambiguity, we propose a text in the law of governorates that are not organized in the region No. 21 of 2008 that includes granting the authority to provincial councils to propose or vote on draft laws, as there is no authority for the governor to propose Laws or voting on them, which is the closest to determining public needs, especially with regard to the educational process and the citizen's right to education.

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