



The Activities of Local Authorities in the Development of Economic Activity of the Population in the Republic of Iraq

Evgeny B. Sultanov^{1*}, Jaafar Haser Abdulrida^{1,2}

¹ Faculty of Law, Kazan Federal University, Kazan, Russia

² Al-basrah University, Republic of Iraq

Received: 13/09/2019

Accepted: 23/11/2019

Published: 20/12/2019

Abstract

The existence and development of municipal legal relations is not possible in the absence of an economic basis, although legislation does not directly require this. The exercise of municipal authority on the one hand, the closest proximity to the source of power (the population of the municipality), and with the other standing position compared with other levels of government. These conditions, combined with the extinct elements (including legal consciousness) of the command economy, predetermine the understanding of local self-government as a “subordinate” (dependent) level of power. And, as a result, financial, and economic inequality. Whereas the very nature of local self-government implies significant economic independence. One of the main problems facing the municipalities in Iraq is the lack or shortage of municipal property and the inefficient management of the municipal economy. Therefore, it is very important to correctly determine the co-financial and economic foundations of local self-government, as well as a clear legal consolidation of all their elements and mechanisms of interaction between them.

Keywords: Proactive budgeting, Local government, Economic fundamentals, Municipal property, Iraqi lawmaker, Local government

1 Introduction

The effectiveness of local self-government is largely determined by the material and financial resources available to municipalities and constituting in their entirety the economic basis of local self-government. Only if there is an appropriate financial and material base, local self-government bodies can effectively carry out local management and solve problems associated with ensuring the livelihoods of the population at the local level. As an institution of municipal law, the economic basis of local self-government is a set of legal norms that consolidate and regulate social relations related to the formation and management of municipal property, funds from local budgets, as well as the exercise of property rights of municipalities (1, 16).

The financial and economic foundations of local governments in Iraq are formulated in accordance with Law No. 21 of 2008 on the Provinces and Law No. 13 of 2006 on Investments, where they should have been regulated by the Financial Management Act and other federal laws, however, the political problems that arose in Iraq did not allow for voting and approval in the Iraqi parliament, despite the bill

being presented to the Iraqi Council of Representatives since 2009. To date, not a single federal law has been issued regulating the procedure for granting local executive authorities their executive powers without applying to federal authorities or transferring municipal powers and property, in accordance with the grounds for the formation of municipal systems, despite the provisions of article 106 of the Iraqi Constitution formation of a body for the fair distribution of federal revenues. The concept and elements of the economic basis of local self-government are analyzed in the context of various laws on local self-government. Law enforcement practice, statistical information of the Ministry of Justice and the Ministry of Finance of Iraq are also being studied (2, 15).

The lack of legislation results in insufficient financial and economic support for municipalities. The current situation has led to many unresolved problems at the provincial and municipal levels, including problems related to: municipal ownership of land, the formation of local budgets and the creation of a stable regulatory framework necessary for the economic activities of municipalities (3, 12).

2 Methods

The methodological basis of the research is constituted by the general scientific dialectic methods of cognition, scientific methods of analysis and scientific forecasting,

Corresponding author: Evgeny B. Sultanov, Kazan Federal University. Email: Syltanov2007@yandex.ru.

synthesis and deduction, systemic methods, as well as special methods of studying legal phenomena - historical-legal, comparative-legal, structural-functional, etc.

3 Results and Discussion

One of the main problems facing municipalities in Iraq is the lack or shortage of municipal property and the inefficient management of the municipal economy, contrary to the amendments to the Provinces Act in 2008 and the adoption of the Investments Act in 2006, which provides for Provincial Investment Authority needed to solve these problems (4).

However, the formation of local economic foundations in Iraq continues to depend on civil, commercial, and tax laws.

Since 1958, the preparation of economic activity programs in local areas was carried out by adopting and implementing the so-called rural and economic development programs, supplemented in 1970 by local municipal programs; these programs represented tremendous efforts to restore rural areas but the funding mechanism was characterized by excessive centralization (5, 19). Municipal development plans relate to sectors that affect the daily lives of citizens, such as water supply, sanitation, medical centers and others, and thus complement the investments provided by government bodies. We also note that the Iraqi legislator has provided local governments with the role of an engine in economic development, but since 2003, municipalities have become more independent in managing their own financial resources, while remaining in the care of the province.

In 2013, the Provincial Law was amended and supplemented, and a provincial coordinating body was formed, which took over the transfer of powers from the Federal Ministry to provincial municipalities, and health, education and agriculture were transferred to municipalities in all provinces, part of the financial resources allocated to local authorities at the expense of federal taxes and fees, to the extent established by law. However, it was not put into practice, so the existing texts and rules did not find actual application.

Laws issued in 1958 marked the beginning of the opening of opportunities for local authorities to intervene in the economic sphere, and the first law that allowed local authorities to intervene in the economic sphere was Law No. 159 of 1969. The legal nature of the implementation of economic activity by local authorities is exercised through the creation of state institutions specifically designed for this role, regulated by legislation relating to these bodies, which, of course, is based on an important constitutional principle. The Iraqi legislator enshrines the right of local authorities to intervene in the economic sphere in accordance with the 2005 Constitution, which is provided for in Articles 22 and 28, which provide external funding from the government and enshrine economic choices guaranteed by municipal law and the Provincial Law of 1969 and 2008.

The role of local communities in economic development is to improve the lives of citizens, as well as counteract the economic and financial crises that they may face when participating in this economic sphere in this economic environment, which is formed and accompanied by a legal aspect in exercising their right to develop the economy and investments.

The legislator allowed the provinces to create public institutions of an administrative and economic nature in agreement with the federal authorities.

Subsequently, the foundations of a public economic institution were clarified, which is confirmed by the Law on Trade in Iraq and the Law on Companies, which was amended and supplemented by Order No. 21 of 1997 concerning the organization, functioning, and privatization of public economic institutions (6,20,21,22).

The legislative authority of Iraq did not prevent the municipality from creating commercial and industrial institutions but vested the federal authorities with this jurisdiction in coordination with the provinces and regions, which is provided for by the provisions of Section 7 of the Provincial Law. In accordance with the above text, municipalities in cooperation with state bodies have the right to create public institutions that are legal entities and bear financial responsibility in taking into account their interests, institutions may be industrial and cultural in nature. The legislator is obliged to balance his income and expenses, and also to take into account the opinion of state authorities before creating such institutions.

We also find that the legislator authorized the municipality to pursue public interests of a technical nature, to carry out this activity it is allowed to manage in the form of direct operation or as a public institution on the basis of concession or granting rights (11, 17, 18). If the Iraqi legislator does not determine the body responsible for creating the state institution at the municipal level, then it is the elected council or mayor, and the term "municipality" is used. Article 51 of municipal law No. 165 provides that the municipality considers municipal interests in the production of building materials, industrial, consumer, commercial or residential products. The local council has the right to create local economic institutions in accordance with Section 7 of the Provincial Law, which, however, does not mention the need to create a balance between the revenues and expenses of the institution, so the organization of this process is based on regulatory documents.

However, we believe that the Ministry of Municipalities and local authorities are committed to the development of municipalities by exempting some of the services provided daily, such as the household waste disposal process, entrusting data and other operations to the private sector so that to burden the municipality with human, material and financial difficulties and in return receiving quality services from private institutions and institutions of this type, and we support this trend. Since 2003, the Iraqi economy clearly shifted from a directed economy to a free economy based on the clear provisions of Articles 25 and 26 of the 2005 Constitution of the Republic of Iraq. Article 25 of the Constitution states: "The state guarantees the reform of the Iraqi economy in accordance with modern economic requirements, so as to ensure the full investment of its resources, diversification of sources, promotion and development of the private sector". In addition, article 26 of the Constitution states that "the state encourages investment in various sectors of the economy, which is regulated by law".

These constitutional provisions aimed at encouraging the private sector were adopted and enacted by revising Law No. 13 of 2006 on Investments, in addition to certain relevant legislative acts, such as the Law on Competition and Prevention of the Monopoly, Law on protection of the domestic product" etc (8, 14). The main purpose of investment law legislation is to promote and develop the process of economic development in local areas, to provide technical and scientific experience, develop human resources and create jobs for Iraqis. This economic growth is achieved by encouraging investments in various sectors in accordance with local priorities, developing existing municipal projects at various economic levels and providing incentives and loans to investors in order to ensure their long-term commitment to the country's economic development. However, the most notable achievement of this law is the removal of restrictions on non-Iraqi citizens in order to allow them to carry out their investment and trade activities in Iraq. This was achieved by providing each investor with the opportunity to invest in various sectors. In accordance with the principle of administrative decentralization and the promotion of domestic and international investment, the National Investment Authority and investment authorities in all the provinces of Iraq have been established under the Iraq Investment Law.

The main purpose of their creation was to facilitate the process of obtaining all necessary permits in the process of obtaining an investment license and to contribute to the creation of sustainable and successful investment projects. It should be noted that the Law on Investments approved investment projects worth more than \$250 million by order of the Council of Ministers, regardless of which investment authority grants the license (Article 7/B of the Law on Investments). It should also be noted that Article 4/II of the Investment Regulation No.2 of 2009 defines the projects included in the terms of reference of the National Investment Directorate, namely strategic investment projects in addition to federal projects, and in addition, projects within the competence investment authorities in the provinces. In accordance with Law No. 13 of 2006 on Investments, the National Investment Authority and investment authorities in the provinces were formed, the law allows regions and provinces that are not part of the regions to form investment bodies in local regions authorized to grant investment licenses and carry out investment planning in coordination with the National (Federal) Investment Agency (9, 13).

It is impossible to implement an investment program outside a region or province, whatever the nature (national or local), local authorities are the first goal of the investment process, as they interact and coordinate with ministries of other sectors and investment agencies, such as the National Agency on tourism development, the Ministry of Agriculture, as well as a committee to assist in the search and promotion of investments and property control. The committee is headed by the governor, and also includes the chairman of the municipal council for the investment project and executive directors in the provinces (10).

It should be noted that despite the powers granted to the governor in the field of investment promotion until 2006 and the majority of investment projects that went through the

above-mentioned national institutions that contributed to the development of investments at the local level, in fact, the administrative and technical procedures carried out in the promotion process are slow projects, which prompted Iraqi lawmakers to resolve this issue through the provisions of the first amendment to the Law on Investments and the second amendment to Law No. 21 of 2008 on Provinces, where the governor was authorized to decide on the granting of concession licenses for land owned by the state for the implementation of investment projects. And then the Iraqi lawmaker distinguished the local council, which contributes to the support and promotion of domestic investment by some of its powers, including (7).

- Preparation of plans and identification of industrial zones and areas of activity.
- Promotion of investment financing in the province.
- Consultations with economists in order to ensure proper conditions for domestic investment.

Local governments should support and encourage private enterprises established by private individuals in local areas, for example, in industry, trade, and construction. Such activities may be prohibited by law in order to preserve sufficient funds necessary for the creation of similar projects but they benefit the population in small municipalities (11).

In accordance with Federal Law No. 11 of 2010 on the Protection of Agricultural Production, local governments, based on the interests of the local population, must carry out special measures to implement production projects in their territories in the light industry, such as the creation of dairy factories, fish lakes, seafood processing, and preparation of anything that can be considered the main raw material in the field of agricultural production.

It should be noted that the local authorities in Iraqi Kurdistan, in accordance with Article 2 of the Law of the Ministry of Trade and Industry of Kurdistan No. 9 of 2010, carry out economic and commercial activities by taking measures guaranteeing the protection of consumer rights and preparing the legislation necessary to protect them in coordination with federal authorities in relation to price control in domestic markets, regulation of the competitive and antitrust environment and other harmful business practices, and performing control over the activities of foreign companies.

4 Summary

We have identified the following main problems in order to improve the efficiency of local administrations:

1. Municipalities do not have real independence for the optimal fulfillment of their tasks, as well as the large volume of tasks and powers performed by them.
2. Despite the large size of ownership of municipalities, they do not have sufficient incentives for the effective management of this property.
3. Municipalities are officially a form of local government but they do not actually rely on the local community, its economic and social potential, and are mainly under the control of the federal authorities.

These obstacles negatively affected the activities of municipalities, especially in the field of investments, the creation of housing projects, the creation of favorable

conditions for small and medium-sized businesses, and the removal of administrative barriers. Despite the existence of a housing fund in all the provinces of Iraq, this, however, did not contribute to the necessary solution to the housing problem in the municipalities, due to the complex procedures and requirements for obtaining loans for the construction of residential buildings.

In our opinion, the development and creation of an economic basis for local authorities in Iraq in order to fulfill their tasks related to the local population can be carried out using various mechanisms, such as increasing revenues in local budgets and determining the cost ratio in accordance with the population density criterion in municipalities and the amount of financial resources of each province, in accordance with the Iraqi Constitution of 2005 and Federal Law No. 21 of 2008 on Provinces that are not part of the regions. The unification of commercial and civil legislation, as well as the taxation of economic activity, should be carried out in accordance with the law on the economic and financial foundations of local authorities in Iraq.

5 Conclusions

The recent experience in Iraq after 2005 indicates the emergence of many financial problems associated with administrative experience and unstable working conditions, and local authorities, as a rule, are unable to perform their duties in the best way. However, in general, evaluating the activities of local authorities after 2005, we can talk about the difference from their activities in the last decade, when the possibilities of self-government were far from their use to the full extent. Therefore, it is necessary to adopt legislation aimed at ensuring the economic and social development of local areas, and in order to strengthen the economic potential of local authorities and solve their problems, enact legislation related to the transfer of powers to provinces.

6 Acknowledgments

The work is performed according to the Russian Government Program of Competitive Growth of Kazan Federal University.

References

- Kutafin OE, & Fadeev VI. Municipal law of the Russian Federation: textbook. M. 2008.
- Shugrina ES. Economic basis of local government: legal analysis and enforcement. 2018;2(3).
- Al-Sharifi MK. Local Administration and its Application in Iraq. Baghdad. 2013.
- Al-Khalayle MA. Local funding for local units in Iraq. Basra. 2009.
- A decentralized system and its application in Iraq. Baghdad. 2010.
- Iraq Chronicle No.: 3689: dated: September 29. 1997.
- Federal Law No. 21 of 2008, Article 2. "On Provinces".
- Iraq Chronicle, Journal of Law, No. 5, Basra, dated: March 17. 2007.
- Kalil VB. Actual issues of state administration. Textbook. Iman. P.F. - Baghdad: Justitsinform. 2013.
- Hassan AH. Investment and financing of local government in Iraq. Journal of Law, Basra. 2011;5.
- Federal Law No. 11 of March 13, "On the protection of agricultural products". 2010.
- Sharif HJ. Local government activities in agriculture, Palm Research Center. University of Basra. 2009;125-126.
- Ameen AM, Ahmed MF, Hafez MAA. The Impact of Management Accounting and How It Can Be Implemented into the Organizational Culture. Dutch Journal of Finance and Management. 2018;2(1):02.
- Fujo MH, Dida MA. Centralized Admission System for Advanced Level Private Schools: Case of Kilimanjaro Region, Tanzania. Journal of Information Systems Engineering & Management. 2019;4(1).
- Saidi SS, Siew NM. Assessing Students' Understanding of the Measures of Central Tendency and Attitude towards Statistics in Rural Secondary Schools. International Electronic Journal of Mathematics Education. 2019;14(1):73-86. <https://doi.org/10.12973/iejme/3968>.
- Baykalova ED, Artyna MK, Dorzhu NS, Ochur TK, Mongush DS. Morphological interference in the process of mastering English speech in conditions of interaction of Tuvan, Russian and English as a foreign language. Opción. 2018;34(85-2):35-60.
- Mohamed HS, Ahmed SA. Reviewing of Synthesis and Computational Studies of Pyrazolo Pyrimidine Derivatives. Journal of Chemical Reviews. 2019 Jul 1;1(3. pp. 154-251):183-232.
- Javahershenas R, Khalafy J, Prager RH. The Application of Arylglyoxals in the Synthesis of Pyrrolo [2, 3-d] pyrimidines via Multicomponent Reactions. Journal of Chemical Reviews. 2019 Jul 1;1(3. pp. 154-251):233-42.
- Foda A, Mosallam H, El-Khateeb A, Fakih M. Cinnamomum zeylanicum Extract as Green Corrosion Inhibitor for Carbon Steel in Hydrochloric Acid Solutions. Progress in Chemical and Biochemical Research. 2019 Aug 1;2(3, pp. 83-120.):120-33.
- Shyam T, Ajit A, Jangid R. Optimized Rhodium Dissolution Process Using Aqua Regia. Advanced Journal of Chemistry, Section A: Theoretical, Engineering and Applied Chemistry. 2019 Aug 21;3(2):159-64.
- Chandurkar PW, Shinde TA, Akarte AM, Raichurkar PP. Effect of Trimethoprim Inclusion Complexation with Cyclodextrins on its Antimicrobial Activity. Chemical Methodologies. 2019 Mar 1;3(2. pp. 145-275):211-25.
- Vijayshekar P, Hemanth Sriram Y, Raju M, Karunakar Rao K. Transition metals as efficient catalysts for transesterification of Beta keto Esters under Solvent-free conditions. Asian Journal of Green Chemistry. 2018 Apr 1;2(2. pp. 85-170):132-43.