



Identifying Legislative Priorities related to Amendment of Laws Conflicting with Administrative Decentralization for the Purpose of implementing Article 45 of Law 21 2008 and Determining Enactment of Possible Federal and Local Legislation in This Respect

Objectives

- Identify the legislative role of the Provincial Councils.
- Identify legislative priorities for the amendment of the federal laws in the light of the legal needs specified in the National Legal Workshop.
- Draw up a legislative plan containing needed local and federal legislation to facilitate implementation of Article (45) of Law No.(21) of 2008, as amended.

Provincial Council's Legislative Authority

- Provincial Council—is the legislative and monitoring power in the province and shall have the right to issue local legislation within the boundaries of the governorate so that it can carry out its affairs on the basis of the principle of administrative decentralization and in a manner that would not contradict the Constitution and federal laws, which fall within matters of exclusive federal authority. (Article 2/First) of Law No. (21) Of 2008 , as amended

Provincial Council's Legislative Authority

- This article has emphasized on:
- The legislative competence/jurisdiction of the provincial councils considering it a legislative power.
- The right to issue local legislation of all legislative levels (Law-Regulation-Instructions)
- Expansion of legislative authority, excluding the federal authorities' exclusive competences provided for in Article (110) of the Constitution.

Provincial Council's Legislative Authority

- The Provincial Council's authority as stipulated in Article (7) of Law No.(21) of 2008
- (Amended)
- Third: Issue local laws, instructions, bylaws, and regulations to organize the administrative and financial affairs so that it can conduct its affairs based upon the principle of administrative decentralization in a manner that does not contradict the provisions of the Constitution and federal laws.
- The emphasis in the second clear statement is on the Provincial Council's legislative authority within the provisions of Law (21) of 2008, as amended.

Provincial Council's Legislative Authority

- Article (115) of the Permanent Iraqi Constitution
- (All powers not stipulated in the exclusive powers of the federal government belong to the authorities of the regions and governorates that are not organized in a region. With regard to other powers shared between the federal government and the regional government, priority shall be given, in case of dispute, to the law of the Regions and Provinces not Incorporated into a Region.

Provincial Council's Legislative Authority

- This constitutional article has emphasized on:
- The Provincial Council has the absolute right to issue local legislation (local laws). The only exception is the exclusive powers of the federal government stipulated in Article (110) of the Constitution.
- The issuing of a local legislation within the shared powers provided for in Article (114) of the Constitution where priority is given to the local law in case of dispute between the Federal Government and Provincial Council over shared powers.

Provincial Council's Legislative Authority

- **Decisions of the Federal Supreme Court are final and binding for all authorities**
- **Article (94) of the Permanent Iraqi Constitution**
- **Decision No. 16 of 2008**

Provincial councils not incorporated into a region shall have the right to enact laws for imposing, collecting and spending local taxes and/or enacting laws for imposing and collecting fees, fines and value added taxes in a manner that enable them to manage their affairs in accordance with the principle of administrative decentralization .

Provincial Council's Legislative Authority

- **Decision No. 6 of 2009**

(...Deriving from Article 115 of the Constitution, we find out that **priority shall be given** to the Law of the Regions and Provinces not Incorporated into a Region in case of dispute unless the Law of Provinces not Incorporated into a Region contradicts the constitution with regard to other powers shared between the federal government and the regional government. We also understand that any law enacted by the Provincial Council shall not be considered as amendment to a federal law or deeming it as null and void.

Provincial Council's Legislative Authority

- **Decision No. (39) of 2012**

Emphasis on the provincial council's authority to enact legislation (laws) in accordance with the provisions of al-Anbar Provincial Council's Decision No. (172) of 2012 on issuing secure driving cards for non-registered vehicles in return for 30000 dinars as a duty. Although the provincial councils have the legal authority to enact local legislations(laws) , they have to coordinate with the provincial executive authorities represented by the Governor , the executive directorates and the civil society organization to exchange views about the legislation that can better serve the interests of the provinces and identify the mechanisms and stages of legislation in their internal regulations/by-laws .The provincial councils should also strengthen the local legal systems to include the preparations for drawing up, formulating and studying of local draft laws to make sure they do not contradict the Constitution and the laws which govern the federal competences stipulated in Article 110 of the Constitution.

Identifying Legislative Priorities

Steps that have been previously taken:

- Preparing a list of the legislation organizing the ministry's work
- Studying and analyzing all the conflict with administrative decentralization and Article (45) of law no. (21) of 2008
- Holding a national workshop on laws conflicting with administrative decentralization

Laws Organizing the Ministry's Work

Laws restricting powers to federal level

Transform to the local level to be delivered to the Governor as a highest executive official in the province or to the heads of executive departments

Laws enhancing decentralization and do not need amendment

Unified Pension law no. 9 of 2014

Laws organizing the technical aspects of the ministry's work

Illiteracy Eradication law no.23 of 2011
Drugs law no. 68 of 1965

Identifying the Legislative Order of Priorities

Inter-ministerial shared federal legislation list

1	The Civil Service Law No. (24) of 1960	2	The Personnel/Staff Law No. (25) of 1960 (Amended)	3	The State and Public Sector Employees Discipline Law No. 14 of 1999(Amended)
4	The State and Public Sector Employee' Salaries Law No.(22) of 2008	5	The Indemnification Law No. (12) of 2006	6	The Government Debts Collection Law No. 56 of 1977
7	The Creation and Merger of the Administrative Formations and Amendment of their Inter-linkage Law No.(12) of 2011	8	Appropriation Law No. (12) of 1981(Amended)	9	Travel and Delegation Law No. 38 Of 1980
10	The Sale and Lease of the State Properties' Law No. (21) of 2013	11	The Notary Public Law No. 33 of 1998 (Amended)	12	The Dissolved Revolutionary Command Council's Law No. (378) of 5/31/1987
13	The Dissolved Revolutionary Command Council's Law No. (418) of 6/15/1987	14	The Dissolved Revolutionary Command Council's Law No.(571) of 3/8/1987		

Study of Amendment Order of Priorities

Serial Number	Legislation Title (Identification of Amendment Priority)	Justifying Reason for Identification of Priorities

Identifying Federal Legislations Order of Priorities

List of Work legislation of the Ministry of

1		2		3	
4		5		6	
7		8		9	
10		11		12	

Study of Amendments Order of Priorities

Serial Number	Legislation Title (mentioned in the above-mentioned List)	Legal Article or Item (Identifying Amendment Order of Priorities)	Justifying Reasons for the Identification of Priorities

Proposed Federal Legislation for the Enhancement of Administrative Decentralization And Article (45) of the Amended Law No. (21) of 2008

Serial Number	Type of Legislation (Law-Regulation-Instruction)	Issuing Authority	Content of Proposed Legislation	Remarks

Identifying the Titles of the Local legislations (Laws) for the Enhancement of Administrative Decentralization and Article (45) of the Amended Law No. (21) of 2008

Serial Number	Title of legislation	Issues to be addressed within the local legislative framework
1		
2		
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THANK YOU

