

Investigation of the Supply Chain Strategy Effects on Substantive Legal Framework and Problems of Iraqi Local Authorities` Activity in the Social Sphere.

Evgeny Batyrovich Sultanov^{*1}, Jaafar Haser Abdulrida²

¹ Kazan Federal University, Al-basarh University Republic of Iraq

¹sultanov2007@yandex.ru

²jaafarna124@mail.ru

Abstract- This article considers the legal norms regulating the activities of local governments in the field of social services at the federal, regional and municipal levels of government, the activities of municipal social services to provide social assistance and support and issues relating to the separation of powers between state authorities and local governments in social services. In recent years, many social problems have arisen or worsened, resulting in a decline in the population of Iraq. According to the latest data, August - December 2009, the number of Iraqis decreased by 30.4 thousand people. In comparison with the same months last year, Iraqis have died more than 11.5 thousand. Across the country, the number of deaths on the number of births was 2.6 times. Therefore, an active local social policy in the field of social services is one of the most important tasks of municipal development. It is at the municipal level that it is easier to identify social problems, determine the circle of people in need of social assistance, develop the system of social services, improve the quality of social services provided, thereby increasing the efficiency of social services at the local level.

Keywords- Iraqi Constitution, Social Protection, federal government, local authorities, Municipal level, supply chain strategy.

1. Introduction

Social protection of citizens is one of the main tasks of local authorities. It is closely linked to economic politics of the country as it contains the complex of tasks aimed at reducing poverty and unemployment in the country. For many years, the social protection program in Iraq has been associated with numerous

decisions taken by federal and local authorities and was aimed at the protection and improvement of the living conditions of the population. On this basis numerous laws and acts in this sphere were adopted, such as the laws "On labor and social protection", "On unemployment payments and compensations", "On education", "On public health service" and others. However, political and economic reforms of New Iraq starting from 2003 have made significant changes in the notion of the social protection and significantly expanded the scope of social guarantees of Iraqi citizens.

2. Methods

Iraq pays great attention to the humanization of all Iraqi population groups. All Constitutions of Iraq, including the 2005 Iraqi Constitution in force contained some obvious articles confirming civil rights that grant social security [1]. Many laws were adopted to protect people living below the poverty line, which provided and guaranteed social protection. These guarantees were given to wider segments of the population. Regardless of multiple adopted laws and regulations aimed at social protection, the level of protection remained below desired [2]. So, the necessity to adopt new laws and regulations that would guarantee social protection raised in accordance with the necessities of the times. According to Article 30, p.2 of the 2005 Iraqi Constitution in force the government guarantees and determines the mechanism of state control with the aim of providing social guarantees for the population of Iraq for elderly people, disabled, ill people,

unemployed, homeless, and orphaned children. These laws are aimed at providing these categories of citizens with education, safety, dependence, housing.

(1). However, the authors of the 2005 Iraqi Constitution in force do not state in whose competence it is included – federal or local authorities. Article 10 of the 2005 Iraqi Constitution in force “Social protection of citizens” also assigns them to the functions of the federal authorities. In Article 114 of the 2005 Iraqi Constitution in force “Social protection of citizens” we do not see federal and local authorities in the list of powers of joint jurisdiction. In such a way we can conclude that case management organization connected with the protection are among the powers of provinces and autonomies. As Article 115 of the 2005 Iraqi Constitution in force states: “everything that is not within the competence of the federal government is the authority of autonomies and provinces that are not part of autonomies”. In case of joint jurisdiction of powers, advantages are transferred to the local authorities; in case of contradictions, to the authorities in the autonomy and the provinces that are not part of the autonomy. Federal Law No. 11 “On Social Protection” dated 2014 determines legal grounds for the activity of federal and local authorities as well as rights of the citizens to get the social services. However, the law determines certain powers of federal and local authorities in the sphere of social protection of the citizens. Article 4 of the Law 11 “On social protection” dated 2014 obliges to provide the management of the social protection on a cost accounting basis the management of which is performed through the local and federal authorities jointly. The functions of this management are: the provision of the monetary subsidies to the citizens and families so that they can get social services in the spheres of education, health care, housing and other services. Federal authorities made a number of important decisions in the social sphere. In 2007 they developed a new 4-year national strategy to reduce poverty in the country. We should note that Law No. 11 “On Social Protection” dated 2014 differ from the previous Law No. 12 dated 1980 because the new mechanism for identifying categories of citizens in need of subsidies was developed. In this way it guaranteed that the subsidies would be allocated for those who really needed them. This mechanism was based on the investigation of conditions of citizens in

need in place. Despite these conditions in practice, a number of objective factors were identified that prevented to do this and consisted in the following:

- Lack of social workers in places who investigated the living conditions of people in need;
- the absence of the coordination of federal and local authorities that work in the social protection field as well as unified system of social support;
- The absence of a unified mechanism for determining the categories of people in need of social support and types of this support;
- Conditions necessary for the registration in the social security bureau and the mechanism of the income determination of the families that need social protection. Thus, for example, Article 1 of the Law No. 11 “On Social Protection” dated 2014 determines the categories of citizens in need of social protection as follows:
 - “families and citizens living below the poverty line;
 - unemployed people;
 - Orphans, women, students who have families including the pupils of middle schools, widows and widowers, disabled, divorced women, families of prisoners”.

The legislator has determined the level of poverty as a parameter in determining citizens in need of social protection. This provision was recognized in Article 1 and 12 of this Law. Note that the legislator has significantly expanded categories of citizens in need of social protection in the new law, and besides citizens, mentioned foreigners, and stateless persons living in Iraq [3]. As a result of the confusion of powers between the federal and local authorities appeared the problems connected with the social insurance in the sphere of education, culture, drinking water supply. For example, in Basra city 5000 citizens died because of drinking water pollution and the absence of the control for its quality by the authorities. Local and federal authorities shifted the control of this issue to each other. This became an indicator of the federal government’s policy in the field of social protection and its desire to concentrate power in its hands and unwillingness to share powers with local authorities on this issue. All this led to such a sad result. Such tactic led to the worsening of

the provision of the services also in the sphere of the health care, lack of medical supplies especially for oncology patients, the amount of which is increasing in the result of environmental aggravation in the country and low level of funding from the federal budget that consisted of 90 million dollars aimed at improving the areas of health and education. All this led to the Basra residents' dissatisfaction riots, pipeline shutdown. This made federal authorities take urgent measures aimed at the improvement of the social conditions of the citizens. In such a way we can see that the main problems that local authorities faced in provinces consisted in the absence of a mechanism for the distribution and delimitation of powers in the social sphere between the local government in the province and the federal government. Besides that, the actions of federal authorities largely contradicted the regulations issued by local authorities. At the same time local authorities seek to expand their powers, which would allow performing tasks in the social sphere [4]. The 2005 Iraqi Constitution in force, Article 123 proclaims the creation of the General directorate for protection and guarantees the right of the provinces in the local governments. This article allows transferring powers from the federal authorities to the local ones in accordance with the law. On the basis of this article, Federal law No. 21 dated 2008 "On provinces that are not the part of autonomies" transferred some of the federal authorities' powers in the social sphere to local authorities in the provinces. For example, Article 45 of this law says: "We create the Supreme Committee that coordinates the work of provinces, chaired by the prime minister and the following members: ministers of housing-and-municipal construction, public works, employment and social insurance, education, health care, planning, farming, financing, sport and youth as well as the minister for provincial affairs and the chairmen of the provincial council". The goals of this organization are to gradually, within 2 years from the date of these powers transfer in places to the subordinate to local authorities, preserving the funds allocated to them from the federal budget and wages to employees in accordance with the 2005 Iraqi Constitution in force. The role of the ministries was only to make general strategy and coordinate the work of all establishments [5]. Soon, the first meeting of this committee was held in Karbala in order to

create a mechanism of the powers transfer and the development of the development plan of the social sphere of municipal regions. The coordination committee of the work of provinces demanded to pass a separate budget for the development of the social sphere. Though, even today, many ministries have refused to transfer powers to local governments, despite the decisions taken, among them are the Ministry of Finance and Health Care. Some ministries though having transferred their powers continue to interfere into the work of local authorities. Second amendment of the law No. 21 dated 2008 "On provinces that are not the part of autonomies" transfers to the provinces producing oil the right to leave \$5 from each barrel of oil produced in the province in the local budget under the condition that this money would be used for the social sphere development in the province as well as treatment of oncological patients and citizens who have received diseases due to environmental pollution by the oil industry of the province. A new amendment also gives the right to the border provinces to keep the major part of their profit obtained from the customs duties for the province development. The law says about full transfer of the powers of the ministries providing services for the citizens to the local authorities in the provinces. There are many problems connected with the transfer of powers from ministries to local authorities of the provinces, not only at the level of executive power, but also in the area of legislation that regulates the work of the governments. For example, many federal laws in the field of social protection are in conflict with local laws, e.g. the laws "On Education", "On Health Care" and others.

2.1 Problems of legal regulation of the activities of local authorities in the social sphere

Political changes in Iraq in 2003 and wars led to the adoption of the new Constitution and laws connected with local authorities. All this was a reason for changes affecting all spheres of life of Iraqi society, and above all the social sphere. The consequences of political disruptions and wars negatively influenced the activity of local authorities in the sphere of providing social assistance to citizens, on the quality of this assistance, which could not but affect the

living standards of people. It became obvious that competence given to the local authorities in the sphere of social services providence to the population, first of all, depends on the level of the financing. And the amount of authority is not as important as the sufficient amount of funds is important for the application of these powers. Powers must match the allocated funds. The experience shows that the problem of local authorities financing is one of the most important problems. Decentralized power does not have sufficient funds for the organization of work in places. The problem of financing lies not only in the providence of the financing but also in constant control over the amount of funds allocated, in accordance with the needs of the social sphere. Federal power shall not interfere into the budget allocation and shall only coordinate and control their work. Regardless the fact that the Law No. 21 dated 2008 "On provinces that are not part of the autonomies" and amendments to it gives local authorities wide powers in social sphere, though the problem is that the law does not define a mechanism for obtaining or transferring these powers, especially those that are enlisted in the 2005 Iraqi Constitution in force and the Law No. 21 dated 2008 "On provinces", especially having general status as well as the powers that contradict legislation in force including those additional powers that local authorities want to get and hat currently contradict federal laws [6]. So, it is essential to bring all laws into compliance to determine the mechanism of separation of powers between the federal and local governments in the provinces. Despite the fact that powers in social sphere that allocate local governments in the provinces in accordance with the Article 7 of the 2005 Iraqi Constitution in force and the Law No. 21 dated 2008 "On provinces", local authorities in fact do not get these powers as federal power refuses to transfer them these powers due to the contradictions in legislation or contradictions in powers. Notwithstanding the range of the social aspect, local authorities receive these powers only formally and their role remains nominal in the implementation of the process of local social development. This leads to the confusion of powers between local and federal authorities [7]. Local government became inactive and powers represented by federal authorities in places became a condition for the execution of any decisions at the local level.

All this contradicts the principles of decentralization of local authorities and governments that had their own initiative. This once again confirms the difference between what is written in the law and its operation in practice. The independence of the local authorities in the decisions is first of all connected with the financial independence. It is very difficult for local authorities to solve social issues without appropriate financing. For instance, the costs for power supply were financed centralized from the federal budget that led to the worsening of the power supply quality, the frequent shutdowns of electricity and the population often preferred private electricity providers [8]. There are various organizations in provinces that provide help to the citizens, among others – Youth Employment Center, Unemployment Support Fund, National Investment Agency, National Citizen Subsidy Administration [9]. All of them despite performing their activity on the local level are controlled by the Ministry of Labor and Employment in Baghdad. In our opinion, it would be more rational if the work coordination of the abovementioned agencies was performed by local councils in order to carry out social development programs in the provinces and localities, taking into account the characteristics and needs, the resources of each region, as well as strengthening the authority of local authorities. It would have become the guarantee of the development in the sphere of the social security of the citizens. In equal proportions and fairly distribute the wealth of the regions, especially in "supplier" provinces of Basra, Missan, Dekar, and other oil provinces. Local councils perform their functions in coordination with the municipal government and all institutions related to this sphere [10]. To do this it is necessary to make amendments and improve federal regulatory legal acts, especially the ones that contradict local regulatory legal acts guaranteeing the reforms in the social sphere, such Laws as "On public health", "On environment", "On motherhood and childhood". One of the problems that local authorities face is the absence of professionalism in the social sphere management. During the last two years, many efforts of the federal and local authorities have been applied to eliminate the consequences of the war, the fight against terrorism, the provision of asylum to refugees from those places where military operations were conducted. This distracted local authorities from the

provision of services to other groups of citizens [11]. One of the main problems that raised as a result of the fight against terrorism is the migration of the great number of citizens to the safer regions. Thus the number of the population has changed in the provinces and there was no possibility to clarify the number of citizens in need of help [12].

3. Results

Solving social problems for many years has been limited to providing social assistance to citizens, paying monthly cash benefits to the elderly and disabled [9]. The notion "social security" did not address other aspects of social assistance such as construction of new schools, hospitals, cultural and leisure centers, rehabilitation centers. So we can observe the necessity of such establishments and unfortunately, in current conditions, there is no money to build them. Another problem is the absence of the systems of work and coordination of all establishments providing social support and civil protection. Law No. 11 "On social protection" dated 2014 has no articles that would describe the coordination and regulation of the establishments and organizations of social security. This showed non-effectiveness of the federal authority's work in emergency situations such as the 2013 flood in central and South provinces of Iraq. As well as the humanitarian disaster of 2014 that led to war actions in Musal province. Since 2005 we can observe the politicization of the social sphere.

4. Conclusions

Political parties in their campaigns actively used social slogans to attract the electorate and shortly after that forgot about their promises. At that time, the number of citizens needing social protection was increasing. So, it is necessary to shorten this gap between the number of people in need and decrease of the number of organizations providing social support in provinces, as well as the problem of the absence of modern tools to solve these problems.

- The system of social protection in Iraq as it is now is far from modern standards;
- The absence of the coordination and contradictions between federal and local authorities that work in the social protection field;

- The absence of the modern mechanism for determining the needy categories of citizens;
- The necessity to establish an electronic database where the data on the level of development of all spheres of society will be kept to solve the social problems, especially in the sphere of education and health care;
- strengthening the role of control and supervision bodies, in order to fight corruption in the social sphere;
- The need to create research centers at universities in Iraq and to improve the skills of citizens working in the field of social protection.

5. Acknowledgements

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

References

- [1] See Iraqi Constitution 2005. URL: <http://ar.parliament.iq> (access date: September 11, 2018).
- [2] For example, the Law "On labor and social protection" No. 186, 1980, the Law "On public health service" No. 89 of 1981, the Law "On social protection" No. 11 of 2014.
- [3] See : text of the article (12,1) Federal Law No. 11, 2014 "On social protection". Published on September 25, 2014. Iraqi Parliament. Published laws. URL: <http://ar.parliament.iq>. (access date: 03/05/2017).
- [4] Ahmad Adnan Kadam, *The Distribution of Competences between the Federal Government and Local Declarations in Iraq*, Journal "Lawyer", Baghdad, 2017.
- [5] Makhdi Hassan al-Jaburi, *Relationship between federal authorities and local administration in the field of planning*, "Lawyer" journal, University of Babylon No. 10 of the sixth month 2015, p.44, 2015.
- [6] Abdul Kader Hamid, *The Population`s Right for the Public Engagement*, "Lawyer" journal, Iraq, Babylon, p. 45, 2011.
- [7] Ahmed bin Hamad, *Local Government Crisis (an analytical study of the experience of Iraq)*, master's thesis, management and economy, Baghdad University, Iraq, 2006.
- [8] Salim Hassan Farhat, *Problems of Legal Development in Iraq*, Iraq, Baghdad 2014, p. 11. Abd Alsada Jaafar and Alhvazhi Solim, Financial Independence of the Provinces in the

- Constitution of the Republic of Iraq.205, "Lawyer" journal, Babylon, Iraq, p.504, 2005.
- [9] Hassan Qasim Al-Khalid, *The problems of localization in Iraq, the Master of the University of Kufa and*, Ali Abdul Hadi, Towards an Effective Development Strategy Economic and Social Sciences, Anbar University Economic and Administrative Sciences, vol. IV, No. 9, p. 44.
- [10] Ali Jabar Mnsur ,*Municipal Social Policy: Content, Priorities and Implementation Mechanisms: Municipal Management*, Lawyer" journal. Iraq, Babylon, p.91, 2012.
- [11] Mehdi Safdari , Zeinab Asadi. *Privatization to serve economic development*, UCT Journal of Social Sciences and Humanities Research, Issue 4,pp.16-21, 2013.
- [12] Zikai T. *An Overview of Economical Corruption in USA and Analysis of its Future*, Journal of Humanities Insights. 02(01):43-50, 2018.