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**AUTHORITIES OF THE GOVERNORATES UNDER THE  
REGIONAL ADMINISTRATIVE DECENTRALIZATION IN  
IRAQ**



**DOCTOR OF PHILOSOPHY  
UNIVERSITI UTARA MALAYSIA**

**2018**

**AUTHORITIES OF THE GOVERNORATES UNDER THE  
REGIONAL ADMINISTRATIVE DECENTRALIZATION IN  
IRAQ**



**A Thesis Submitted to Ghazali Shafie Graduate School of Government, in  
Fulfilment of the Requirement for the Degree of Doctor of Philosophy  
Universiti Utara Malaysia**



Kolej Undang-Undang, Kerajaan dan Pengajian Antarabangsa  
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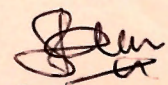
Tajuk Tesis  
(Title of the Thesis) : AUTHORITIES OF THE GOVERNORATES UNDER THE  
REGIONAL ADMINISTRATIVE DECENTRALIZATION IN IRAQ

Program Pengajian  
(Programme of Study) : Ph.D

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## ABSTRACT

Regional administrative decentralization, a type of decentralized system, is the transfer of authority and responsibility from the central government to local administrative units; however, these units can only make administrative decisions but not the laws, just as federalism. In Iraq, based on its constitution and the Law of the Governorates Not Incorporated into a Region No. 21 of 2008 (LGNIR), there are 15 governorates that are practising regional administrative decentralization. Yet, these governorates have been issuing laws and this contradicts the constitution as well as the LGNIR. The objective of this study is to examine the regional administrative decentralization under the Iraqi Constitution and LGNIR with the aim of finding a practical solution to the current problem. This study utilized qualitative approach whereby face-to-face interview was employed. The primary data were collected from five groups of people namely members of the Iraqi Parliament, chancellors of the State Shura Council, heads and members of the governorate councils, heads of the governorate councils' legal department and relevant university lecturers. The constitution and laws of Iraq as well as those from other countries were the other sources of primary data in this study. Most of the secondary data were obtained from academic writings in books and journals. The findings of this study indicate that the contradictory decisions from the Federal Supreme Court, the restrictions placed on the powers of the administrative court (State Shura Council) and the loopholes in the provisions regulating the governorate authorities of the LGNIR have led the governorates to go against the constitution by issuing laws. These findings have facilitated the identification of obstacles that hamper the resolution of the problem and finding of practical solutions. As such, this study recommends that the performance of the Federal Supreme Court must be improved, and the Iraqi Parliament should grant broader powers to the administrative courts and amend the LGNIR.

**Keywords:** Regional Administrative Decentralization, Administrative Decentralization, Decentralization, Iraqi Governorates, Iraqi Governorates Authorities.

## ABSTRAK

Pentadbiran desentralisasi serantau, iaitu satu sistem desentralisasi, adalah pengagihan kuasa daripada kerajaan pusat ke pentadbiran kerajaan tempatan. Namun, kerajaan tempatan hanya boleh membuat keputusan dalam urusan berkaitan pentadbiran dan bukan undang-undang. Ini merupakan amalan federalism. Iraq, berdasarkan perlembagaannya dan Undang-Undang Daerah yang Tidak Diperbadankan ke dalam Wilayah No. 21 Tahun 2008 (LGNIR), mempunyai 15 wilayahwilayah pembahagian pentadbiran yang mengamalkan pentadbiran desentralisasi regional. Walau bagaimanapun, 15 wilayahwilayah tersebut telah melanggar perlembagaan serta LGNIR dengan membuat undang-undang. Objektif tesis ini adalah untuk mengkaji pentadbiran desentralisasi regional di bawah Perlembagaan Iraq dan LGNIR dengan matlamat mencari penyelesaian praktikal untuk masalah semasa. Tesis ini menggunakan pendekatan kualitatif di mana temu bual bersemuka dilakukan. Data primer dikumpulkan dari lima kumpulan responden iaitu anggota Parlimen Iraq, cancellor Majlis Shura Negeri, ketua dan ahli majlis tempatanwilayah, ketua jabatan undang-undang tempatanwilayah dan pensyarah universiti yang berkaitan. Perlembagaan dan undang-undang Iraq serta negara luar adalah sumber data primer lain dalam tesis ini. Kebanyakan data sekunder diperolehi daripada penulisan akademik dalam buku dan jurnal. Dapatan tesis menunjukkan bahawa keputusan bercanggah oleh Mahkamah Persekutuan, sekatan yang dikenakan ke atas Majlis Shura Negeri dan kelemahan peruntukan dalam mengawal selia kerajaan tempatan telah menyebabkan kerajaan tempatan bagi wilayah tersebut melanggar perlembagaan denganwilayah-wilayah ini membuat undang-undang. Penemuan ini telah memudahkan pengenalanpastian rintangan yang menghalang penyelesaian masalah dan mencari penyelesaian yang praktikal. Oleh itu, tesis ini mengesyorkan agaragar prestasi Mahkamah Persekutuan harus dipertingkatkan dan Parlimen Iraq harus memberikan kuasa yang lebih luas kepada pentadbiran kerajaan tempatan dan meminda LGNIR.

**Kata kunci:** Pentadbiran Desentralisasi Regional, Pentadbiran Desentralisasi, Desentralisasi, GovernoratGovernorat Iraq, Pihak Berkuasa overnoratGovernorat Iraq.



## ACKNOWLEDGEMENTS

First, I would like to express my sincere gratitude to Allah (SWA) who gave me the strength to go on up to this level.

Then I would like to express my special appreciation to my supervisor. Dr. Noor Fariyah Binti Mohd Noor for her guidance and patience, throughout the Ph.D. journey. On the other hand, I would like to express my sincere thanks and appreciation to my father and mother for their patience and pain during my study, and I ask them to forgive me. Also, I would like to express my sincere thanks and appreciation to my wife Hiba, who suffered great pains because of my study and I ask her to forgive me. I would also like to express my sincere thanks and appreciation to the Iraqi Cultural Attaché in Malaysia for their cooperation with me and the Iraqi students.



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# CHAPTER ONE: INTRODUCTION

## 1.1 Background

States vary in the way they administer their territories. Multiple factors, which diverge from one country to another, specify how states are run. The political, historical, economic and social perspectives cast their shadow on the administrative approaches applied in every country. Some countries tend to concentrate on strengthening their central governments by allowing these governments to have control over the authorities. This approach is motivated by a political ideology or by fears of the dissolution of multi-sect countries because there are many nationalities and religions inside the country. On the other hand, some countries grant some sort of autonomy to the regional communities within the country to enable them to administer their local affairs. This approach is adopted according to political justification.<sup>1</sup>

The subject of both of the aforementioned approaches must be the administrative function<sup>2</sup> which is under the so-called “administrative regulation in administrative law”. Further, under administrative law, administrative function is distributed between the central government and the local administrative unit councils.<sup>3</sup> Whereas, under

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<sup>1</sup> Salhi Abdul Nasser, “Regional Groups between Independence and Dependence”. (master’s thesis, University of Algeria, 2009-2010):9.

<sup>2</sup> Said Nheely, *Administrative Law. General Principles*. (Syria: AL Baath University, 2012), 11-13.

<sup>3</sup> Elizabeth Linda Yulian, “Decentralization, Deconcentration and Devolution: What Do They Mean?” (paper presented at the Interlaken Workshop on Decentralization, Switzerland, 2004), 1.

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## APPENDICES

### APPENDIX (A) Interview Questions

#### Questions for the Representative Council members

- 1- Is there ambiguity in the wording of the Iraqi constitution and The Law of Governorates Not Incorporated into a Region with regard to the decentralized administrative system?
- 2 - Are there loopholes in The Law of Governorates Not Incorporated into a Region?
- 3- How is the wording of the law before the legislation?
- 4 - Do the governorates have the authority of Issuing laws?

#### Questions for the chancellor of the State Shura Council

- 1 - Do the governorates have the authority of Issuing laws?
- 2 - Does the Constitution grant legislative authority to the governorate councils?
- 3 - Does the Law of Governorates Not Incorporated into a Region grant legislative authority to the governorate councils?
- 4- Is the administrative judicial can control the decisions of the governorate councils?
- 5 - Are the opinions of the Federal Supreme Court about the authority's issuing law by the governorate councils is consistent or not?

#### Questions for the members of the governorate councils and the heads of the legal departments in the governorate councils:

1- Is there ambiguity in the wording of the Iraqi constitution and The Law of Governorates Not Incorporated into a Region with regard to the decentralized administrative system?

2 - Are there loopholes in The Law of Governorates Not Incorporated into a Region?

3 - What is the system applied by the governorate councils?

4 - Do the governorates have the authority of Issuing laws?

**Questions for the Lecturers:**

1- Is there ambiguity in the wording of the Iraqi constitution and The Law of Governorates Not Incorporated into a Region with regard to the decentralized administrative system?

2 - Are there loopholes in The Law of Governorates Not Incorporated into a Region compatible with the Constitution with regard to administrative decentralization.

4 - Does the Law of Governorates Not Incorporated into a Region is implementing the regional administrative decentralization or the federalism?

5 - Do the governorates have the authority of Issuing laws?



## APPENDIX (B) List of Elite Interviews

NAME	AREA OF EXPERTISE	DEPARTMENT	DATE
<b>The members of the Council of Representatives</b>			
Jabbar Abdul Khaliq Abadi	Member of the Council of Representative	The Council of Representative	February 13, 2017
Sadiq al Mahnah (Mahnah)	Member of the Council of Representative	The Council of Representative	February 17, 2017
<b>The chancellor of the State Shura Council</b>			
Abdul Latif Nayef	The State Shura Council	The deputy head of the State Shura Council	March 1, 2017
Mazen Lilo	The State Shura Council	duin the State Shura Council	March 1, 2017
<b>The members of the Governorates</b>			
Hakem Muslim Al- Yasiri	Muthanna Governorate Council	The head of the Governorate Council	March 20, 2017
Ahmed El Marzouk	Muthanna Governorate Council	The head of the legal committee	March 20, 2017
Harith Lahmod	Muthanna Governorate Council	Member of the Governorate Council	March 20, 2017
Hamid Naeem	Dhi Qar Governorate Council	The head of the Governorate Council	March 28,2017
Dia Ahmed	Dhi Qar Governorate Council	The member of the Dhi Qar Governorate Council	March 28,2017
<b>Heads of the legal department of the Governorate Councils</b>			
Saad Abdul Wahid	Babylon Governorate Council.	The head of the legal department in the Governorate.	April 6, 2017
Naqaa Nassif	Dhi Qar Governorate Council.	the head of the legal department in the Governorate	March 28, 2017
<b>Lecturers at universities</b>			
Sadiq Mohammed Ali	Lecturers at a faculty of law and head of the legal department at the University	University of Babylon	February15, 2017
Nabeel Althabhawi	Lecturers at a faculty of law	University of Kufa	Abril 15, 2017