

## **Institutional-Legal Analysis of the Devolution to Local Management in Iran**

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### **Extended abstract**

#### **1. Introduction**

Devolution in the Islamic revolution was based on transferring the power of decision-making to people and public institutions. Over this period, the specific conditions of civil and political demands led to the creation of local management based on the hierarchy of councils in several constitutional principles, directly and indirectly, and even before ratification of the constitution. Today, after nearly a half century of the approval of the constitution, the local management of Iran is still a centralized organization that is seriously in conflict with the sustainable development and urban prosperity as well as the constitutional principles as an overarching law. Decentralization is applied as a model for determining the processes and ways of the relationship between the national government and local sovereignties. In other words, the realization of local development will not be possible if the power, supervision, and enforcement do not transfer to local institutions and levels. Therefore, moving toward decentralization is based on belief in the right to self-determination and local community participation in public affairs as well as lack of concentration of decision-making and executive powers at the different spatial scales. Besides, decentralization as a program to regulate the relationship between national sovereignty and local management is applied in four dimensions of urban governance: Policy, Planning, Implementation, and Monitoring. In order to regulate the relationship between national sovereignty and local management and determine the type of legislature's vision to decentralization based on the levels of decentralization and its various dimensions in urban management, the research has focused on analyzing the content of related law by creating index in this area. Hence, by a comparative review of the legal duties of the councils in "The Constitution of the Islamic Republic of Iran" and "Law on the

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Organization, Duties and Elections of Islamic Councils and the Selection of mayors”, the paper seeks to analyze the mechanisms and position of decentralization.

## **2. Review of Literature**

Devolution as the highest level of decentralization completely implements all four components of its constituent: local policy, local regulation and planning, delegation of local authority in implementation, and direct monitoring of local affairs. The emergence of devolution implicitly refers to participatory democracy. Participatory democracy requires a responsible accountability mechanism, which is the delegation of power and resources to new political entities and which is not limited to decentralization at the intermediate level. Theories of participatory democracy promote the delegation of power that covers local levels and functional cross section.

## **3. Method**

The content analysis was used as the qualitative method of the research to describe the legal principles through coding and systematic classified procedures. On the other hand, because of specific theoretical framework, directed content analysis approach is chosen as the main method to answer the questions. Therefore, all principles related to the duties of councils and local management in the Constitution of the Islamic Republic of Iran including 7, 12, 100, 101, 102, 103 and 126 as well as 34 sections of Article 71, 5 sections of Article 78, 9 sections of 1 continual Article 78 and 10 sections of 2 continual Article 78 of the “Law on the Organization, Duties and Elections of Islamic Councils and the Selection of mayors” have been scrutinized.

## **4. Results and Discussion**

The comparison between the state of decentralization in the constitution and the council’s law show that the rules address relatively to the all four indicators of concentration assessment. Generally, public participation has been emphasized in the councils of the constitution while two principles in the constitution directly provide the required conditions to delegate executive powers to the local level. However, in council law, it is only within the executive power of the councils as representative of local sovereignty. On the other hand, although the legislator in council law considers that the local regulation and planning is one of the duties of councils, the local regulations in city councils, provinces, and supreme council of the provinces is only limited to financial processes. Also, the emphasis in the duties of council is on budget approval and financial processes. Unlike other indicators, the legislator pays attention to the supervisory role of the councils more than others. In the constitution, in addition to the city councils and provinces, the supreme council of the provinces for the monitoring of macro affairs is predicted. Besides, the council law takes into account monitoring function at all levels of the

council as it focuses more on financial processes of municipalities and related organizations. Therefore, the constitutional approach is more tended towards "local policy" and "local regulation and planning" that provide "devolution" to local management. In contrast, in the "Law on the Organization, Duties and Elections of Islamic Councils and the Selection of Mayors", the legal duties of the councils are limited to the two elements of "regulation and local planning" and "direct monitoring of local affairs".

## 5. Conclusion

Due to the adaptation of the constitution with all components of the decentralization index, the relationship between the national sovereignty and local management in the constitution is a kind of "devolution" and it is dependent on the development of local management and councils. However, the silence on supervisory authority and the mode of the mayor election makes a decline in the Council's power on the decision-making and management of the local affairs. In the legal duties of the councils, decentralization can be found in the form of "delegation". In fact, some local responsibilities have been distributed among central government entities, but there was not any redistribution in decision making power. Besides, management responsibilities were only transferred to lower levels for limited functions. Hence, the lack of adequate consideration of participatory processes in establishing the devolution based on the legislature's vision is neglected between the relationship of the constitution and the council law. In this structure, although the form of power has been defined as decentralized, the mechanism to achieve participatory democracy as a prerequisite for the formation of the process of devolution and delegation of responsibilities and resources has not been foreseen to be able to push the content of power toward decentralization. Finally, what actually happened is the centralization of the structure of power.

**Keywords:** Decentralization, Devolution, Relationships of National Sovereignty and Local Management, Local Councils, Iran.

## References (In Persian)

1. Etaat, J., & Mussavi S. Z. (2011). تمرکززدایی و توسعه پایدار در ایران [Decentralization and sustainable development in Iran]. *Human Geographic Research*, 42(71), 89-106.
2. Iman, M. T., & Nooshadi, M. R. (2011). تحلیل محتوای کیفی [Qualitative content analysis]. *Pazhuhesh*, 3(2), 15-44.
3. Karshenas, M. (۲۰۰۳). نفت، دولت و صنعتی شدن در ایران [Oil, state and industrialization in Iran] (A. A. Saeidi, & Y. Hajiabdolvahab, Trans.). Tehran, Iran: Gam-e-nou.

4. Meidari, A., & Kheirkhahan J. (2004). حکمرانی خوب: بنیان توسعه [Good governance: The foundation of development]. Tehran, Iran: Iran's Parliamentary Economic Research Center.

#### References (In Persian)

1. Barnett, C. C., Minis, H. P., & VanSant, J. (1997). *Democratic decentralization*. NC: Center for International Development, Research Triangle Institute.
2. Fung, A. (2003). Recipes for public spheres: Eight institutional design choices and their consequences. *Journal of Political Philosophy*, 11(3), 338-367.
3. Grote, J. (2008). *Local governance and organized civil society: Concepts and applications*. Paper presented at the CINEFOGO conference —New forms of local governance and civil society, Trento, June 20-21.
4. Heller, P. (2001). Moving the State: The politics of democratic decentralization in Kerala, South Africa and Porto Alegre. *Politics and Society*, 29(1), 131-163.
5. Hooghe, L. & Marks, G. (2003). Unraveling the Central State, but How? Types of multi-level governance. *American Political Science Review*, 97(2), 233-243.
6. Olsen, H. B. (2007). *Decentralization and local governance, module-1: Definitions and concepts*. DEZA [http:// www. deza.admin.ch/ ressources/ resource\\_ en\\_167288.pdf](http://www.deza.admin.ch/ressources/resource_en_167288.pdf).
7. Rondinelli, D. A., Nellis, J. R., & Cheema, G. S. (1983). *Decentralization in developing countries- A review of recent experiences*. Washington, D.C.: The World Bank.
8. Rondinelli, D. A. (1983). Implementing decentralization programs in Asia: A comparative analysis. *Public Administration and Development*, 3, 181-207.
9. Schmitter, P. C. (2002). Participation in Governance Arrangements: Is there any reason to expect it will achieve Sustainable and Innovative Policies in a Multi-Level Context? In J. Grote, & B. Gbikpi (eds.), *Participatory governance* (pp. 51-69.). Opladen: Leske & Budrich,
10. Schneider, A. (2003). Decentralization: Conceptualization and measurement. *Studies in Comparative International Development*, 38(3), 32-56.
11. Schwab, B., Kubler, D., & Walti, S. (2001). *Metropolitan governance and democracy in Switzerland*. Prepared for the Workshops Governance and Democratic Legitimacy.
12. Sintomer, Y. & Maillard J. D. (2007). The limits to local participation and deliberation in the French \_Politique de la ville. *European Journal of Political Research*, 46, 503-529.
13. Sintomer, Y., Herberg, C., & Röcke, A. (2008). *Les budgets participatifs en Europe, Des services publics au service du public*. Paris: La découverte.
14. UNDP (1999). *Decentralization: A sampling of definitions*. Joint UNDP-Government of Germany Working Paper.
15. UN-HABITAT (2004). *The urban governance index: A tool of the quality of urban governance*. Global Campaign on Urban Governance.

16. Yuliani, E. L. (2004). *Decentralization, deconcentration and devolution: What do they mean?*, Interlaken Workshop (Interlaken, Switzerland April 27 – 30, 2004), 6-11.