

The Role Of Regions In Building The
Political System In The Federal States
(Kurdistan Region Of Iraq As A Model)

دور المناطق في بناء النظام السياسي في الولايات
الاتحادية (إقليم كردستان العراق نموذجاً)

الكلمات الافتتاحية :

دور المناطق ، بناء النظام السياسي ، الولايات الاتحادية ، إقليم كردستان
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Abstract: Because Iraq is a federal state, that is, it is one of the complex states of the political system, and the regions in this form of states are characterized as independent units with authority, and they are ruling units that have an independent authority that allows them to exercise certain authority over their citizens within a certain geographical scope, and the competencies of each of the federal authorities are determined and the authorities of the federal regions by the federal constitution, which regulates the relationship between the federal government and the regions governments, and the regions in the federal state give up part of their internal sovereignty in favor of the federal government and retain the other part, and also give up their external sovereignty in favor of the federal government, and the laws issued by the federal authorities or decisions within the scope of their constitutional competence that are binding at the level of the federal state, and the laws and decisions issued by the authorities of the regions within the scope of their

constitutional competence are binding at the level of the federal region only. The federal authorities exercise competencies of a sovereign nature, especially in the areas related to the external affairs of the federal state, in terms of representing (the state abroad, practicing diplomatic work, entering into international agreements, declaring war and peace and joining international organizations). Therefore, it was necessary to conduct a study of (the Role of Regions in Building the Political System in the Federal

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States), in order to show the role of (Kurdistan Region) in this (as a Model), where the problem between the federal government and the regional government lies in the lack of commitment to the constitution as the government is trying federalism is to limit the authority of the regional government through its attempts to bypass the constitution, retreat from federalism, and tighten its grip on state institutions. The legitimacy of federation depends on the ways in which the federal system defines borders and authority is distributed. When federation works to meet these demands, it reinforces the belief among some that the community has self-determination and is able to exercise complete sovereignty. The Kurdistan Region enjoys the constitutional right and the system of institutions in the region based on (constitutional independence, legislative independence, executive independence, judicial independence, and financial independence). It plays a major role in building the political system; this is as a result of the role played by those regions in establishing the basics of the establishment of the state, as well as the authorities' exercise of their authority (legislative, executive, and judicial)

1. Introduction

Iraq is a federal state, according to what was stated in the "Constitution of the Republic of Iraq of (2005)", in force, meaning that it is one of the complex states of the political system, and the region is distinguished in this form of state in that it is independent units with powers, as in the Kurdistan region, which are governing units that enjoy independent authority that allows them to exercise certain competencies over their citizens within a specific geographical area, and the competencies of each of the federal authorities and the authorities of the region are determined by the federal constitution that regulates the relationship between the federal government and the governments of the federal region, and the regions in the federal states cede It gives up part of its internal sovereignty in favor of the federal authorities while retaining the other part, and also relinquishes its external sovereignty in favor of those authorities, and the laws or decisions issued by the federal authorities within the scope of their constitutional jurisdiction that are binding at the level of the federal state, including the federal regions, and what is issued On the authority of the competent regions, in terms of laws and decisions, within the scope of their constitutional jurisdiction, so they are binding at the level of the federal region only.



The federal authorities exercise sovereign competencies, especially in areas related to the foreign affairs of the federal state, in terms of representing the state abroad, practicing diplomatic work, ratifying international treaties, charters and instruments, entering into international or regional agreements, bilateral or collective, as well as declaring a state of war and peace. emergencies, and joining international organizations.

1.1. The Importance Of Study And It's Gap

Article (1) of the “Constitution of the Republic of Iraq of (2005)” stipulates: “The Republic of Iraq is a single federal, independent and fully sovereign state in which the system of government is republican, representative, parliamentary, and democratic, and this Constitution is a guarantor of the unity of Iraq”⁽¹⁾.

The statement of the status of the federal regions in building the political system of states can be clearly demonstrated by taking the Kurdistan Region as a model of the subject, as the form of the federal political system in Iraq was affected by the peculiarity of the presence of the Kurdistan Region with its legislative, executive and judicial institutions, as well as the political practices of managing good governance in the region. Before the year (2003), which influenced the way the political system was built in Iraq, in addition to taking the composite form of the state to be in line with the reality of change and new political openness, which was adopted in building the constitutional rules that were included in the “Constitution of the Republic of Iraq of (2005)”.

Thus, we find that there is a conceptual gap in studies specialized in the field of political science and related to (analyzing the role of regions in building the political system in federal states), especially when taking the Kurdistan Region as a model to infer a statement and analyze the main topic.

1.2. The Problem Of Study

The problem of the study is to determine the role played by the regions in building the political system in the federal states, and of course this matter can only be demonstrated by defining a model for the study to be



the case under study, and this is what will be adopted when studying the Kurdistan Region.

1.3. The Aims Of Study And It's Questions

The study aims to achieve the following objectives:

- a. Determining how to distribute competencies between the federal government and the Kurdistan Region, as well as diagnosing the aspects of independence in the exercise of the region's institutions to manage the political system in the Kurdistan Region, in addition to defining its competencies and powers in accordance with the effective constitution.
- b. Explain of the role played by the Kurdistan Region in building the political system in federal Iraq by stating the pillars upon which the political system is based, and in return the challenges and obstacles facing it.

The study attempts to answer the set of questions below, which together form the study's questions, as follows:

- a. How were the competencies and powers distributed between the federal government and the Kurdistan Region? And what are those competencies and powers enjoyed by the Kurdistan Region in accordance with the constitution in force? How did the region exercise its functions in accordance with its constitutional powers?
- b. What are the aspects of independence in the exercise of the region's institutions to manage the political system in the Kurdistan Region?
- c. What is the role played by the Kurdistan Region in building the political system in federal Iraq based on the pillars on which the political system in federal Iraq is based?

1.4. Study Hypothesis

The study starts from the hypothesis: "The Kurdistan Region has a fundamental role in building the political system in federal Iraq".

1.5. Study Approach



In line with the specificity of the subject of the study tagged “The Role of Regions in Building the Political System in the Federal States (Kurdistan Region as a Model)”, the “analytical descriptive approach” will be relied upon, as it describes the various scientific phenomena and problems, and solves the problems and questions that fall within the circle of scientific research, and then the information is analyzed related to the phenomenon under study, so that an appropriate explanation and results can be given for that phenomenon.

Also, this scientific method enables the researcher to put different phenomena in comparisons between similar phenomena, so that differences and similarities between those phenomena can be established, which are the most important features and characteristics that distinguish this method from other scientific approaches, and greatly enhance its uses in scientific research.

Also, a group of sources described as primary sources will be relied upon, such as laws, decisions, judicial rulings, and instructions.

1.6. Study Design

For the purpose of covering the study of the subject “The Role of Regions in Building the Political System in the Federal States (Kurdistan Region of Iraq as a Model)” from all its axes, it has been divided into (Six) main topics: (Introduction), (The Political System In The Kurdistan Region-Iraq And Its Constitutional Basis), (The System Of Government In The Kurdistan Region-Iraq According To The Existing Legislation), (The Kurdistan Region And The Process Of Building The Political System In Iraq), and (Conclusion).

2. What Is The Political System?

The “Political System” is the system of government, i.e. the manner and mechanisms by which the political and constitutional institutions authorities are administered and those institutions (authorities) are the legislative, executive and judicial institutions authorities, and those are the institutions authorities of the state, but the political system, It is broader and more comprehensive than the system of government and the state, because there are many political activities that are practiced outside those



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official institutions authorities, such as, for example, the activity of political parties and interest groups, and among those groups are associations, trade unions, and other components, (elements), that are among the mediating institutions as they are it stands as a mediator between the state and the citizens, and these institutions are part of the political system, but they are not part of the state, in addition to the prevailing culture, social relations, and the existing economic system, and all of these activities contribute to the formation and determination of what the existing political system is in this or that country.⁽²⁾

And the “democratic political system” is a group of governmental and non-governmental political institutions, or it is a form of political authority, and it consists of several parts, (formal and informal) institutions, that are interrelated with each other, and these institutions interact with the (internal and external) environment, in a way that leads to the survival and continuity of the system.⁽³⁾

The aim of the regime is: to remain in power or to maintain the political system for as long as possible, which is of course a legitimate goal, i.e., to achieve political stability and for this, this regime must interact with the environment surrounding it, in a way that leads to its continuity and the achievement of political stability.⁽⁴⁾

The “Political Systems” may be synonymous with the forms of government, as it is the basic and exclusive form for the exercise of power in a particular political group, and therefore the political studies that started from this concept revolved around the descriptive aspects of the exercise of power within the framework of the state, and how to organize power in terms of defining the state and its pillars. The form of the state, (simple or compound), the form of government, (monarchy or republic), the types of government (parliamentary or presidential), and the means of building power in terms of organizing elections, the legal system for elections, the appointment system, or exercising power and assuming it through inheritance, and a study of the state’s legal functions in terms of legislation, implementation, and the judiciary.⁽⁵⁾

There is a problem in differentiating between the “State” and the “Political System.” The “System” as an abstract concept, is a whole



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consisting of interrelated parts that change in one of them leads to a change in the rest of the parts and the whole system; therefore, talking about “Social System” includes “System.” The “Political System”, to refer to a group of mutual actions between individuals, which form a set of fixed roles, and there is a distinction between the “Political System” and the “Governance System”, as the “Governance System” refers to “the totality of institutions among which the mechanism of political determination is distributed.” This includes the institutions and structures of formal and constitutional authority.” As for the “Political System”, it includes elements that are more comprehensive than that political system, as it is: “the sub-system of the social system that is concerned with the distribution of values within society, or exercises the function of power and coercion over the rest of the other systems”⁽⁶⁾.

There is a set of roles and functions performed by specific elements of the “Political System”, which are (monofunctional elements, meaning that their function is exclusively political, such as political parties, and multifunctional elements, so the political function is only one of several functions that are practiced, such as syndicates and federations).⁽⁷⁾

“Political Systems” differ among themselves in several aspects and characteristics. And that depends on the prevailing style of government in it, therefore; most studies of political systems are concerned with classifying political systems according to several criteria, among the most important of these criteria: (the criterion of number, the criterion of the nature of the ruling elite, the criterion of ideological affiliation, the criterion of legitimacy, and the monetary criterion).⁽⁸⁾

The structure and distinguishing characteristics of “political systems”; It requires an understanding of political systems based on the idea of separation of powers, or on the basis of the exercise of sovereignty). Integration or unification of the elements that make up society to enhance the elements of the state's strength and then ensure its interests and achieve its goals, to match political life as it is practiced with the official legal and political rules, i.e. legitimizing the political process and then the political system itself, achieving justice and equality among citizens).⁽⁹⁾



While the political system represents one of the prevailing systems in society, there is alongside it the social system that is the origin of those systems, and there is the geographical system- the surrounding environment- the cultural system and the economic system, and at a time when those systems in turn are elements and components of the political system and interact within it as a system integrated, but the latter is characterized by several features and characteristics, the most important of which are:

- a. **Overhead:** This is because he possesses the supreme authority, and thus the legislation issued by his concerned institutions is characterized as binding.
- b. **Relative Autonomy:** the relations and interaction processes within it are governed by special legal and political rules that are semi-stable and permanent to some extent.
- c. **Effectiveness:** The political system is considered more influential than- and in- all other systems in society, due to its possession of political power, and therefore its ability to organize the energies of society.
- d. **Interaction:** The political system interacts with all other systems prevailing in society, meaning that while it affects other systems, it is affected by them.
- e. **Inclusiveness:** The political system is the broader framework within which many elements and components interact, foremost of which is the state, political parties and interest groups, as well as social, economic, cultural and geographical systems. This means that the political system is the most comprehensive and largest system, as its elements and components form sub-systems.⁽¹⁰⁾

There are types of "Political Systems" that do not depend in the first place for their emergence or practice on elections, which are supposed to be established for various reasons, and among these systems: (the individual system, the minority rule system, the revolutionary and coup system of government, and the mixed system of government), and there are many forms of government systems It differs from one country to another, and this difference has led to the emergence of three political systems, which are (the council system in which the legislative authority



dominates and the executive body emerges from it, the presidential system that is based on the principle of rigid separation of powers, and the parliamentary system that is based on the duality of the executive authority, and the separation Flexibility between the authorities and cooperation among them).⁽¹¹⁾

The “Political System” is not just structures, institutions, and constitutional texts, but rather it represents a set of interacting and interlocking patterns related to (the process of harmonizing the decision-making process with those in charge of it, and the satisfaction and conviction of individuals on those decisions), and this is through the process of formulating those decisions in (the framework of political institutions or within the framework of consensuses and agreements) between political decision-makers, and there are several parliamentary systems that have common characteristics, and among the common characteristics there are two important characteristics on which the “Parliamentary System” is based and characterized by them, namely (the duality of executive power and the separation of powers).⁽¹²⁾

3. The Political System In The Kurdistan Region- Iraq And Its Constitutional Basis

Before the uprising of the people of Kurdistan in (1991), and the formation of the Kurdistan Regional Government-Iraq in (1992), the Kurds suffered from various forms of violation of rights, but soon the situation after the uprising witnessed a remarkable development, with the issuance of special laws in the region that were put into practice, as these laws constituted a historical turning point and the beginning of a transformation for the better, by issuing the “Constitution of the Republic of Iraq of (2005)” which considered “The Republic of Iraq is a single federal”⁽¹³⁾, and recognized the Kurdistan Region-Iraq as a federal region, and as a result this region is part of the federal Iraqi state, on the basis of free choice based on the distribution of power and sovereignty⁽¹⁴⁾.

What distinguishes the federal system in Iraq is that the system preserved the unity of the national fabric at a time when it recognized Kurdistan as a region enjoying its (legislative, executive, and judicial) powers, when the “Law of Administration for the State of Iraq for the



Transitional Period of (2004)” stipulated: Kurdistan as the official government of the territories that were administered by the aforementioned government on March 19, 2003 located in the governorates of Dohuk, Erbil, Sulaymaniyah, Kirkuk, Diyala and Nineveh. The term Kurdistan Regional Government contained in this law means the Kurdistan National Council, the Council of Ministers of Kurdistan and the regional judiciary in the Kurdistan region”⁽¹⁵⁾, and thus created a balance in obtaining the legitimate rights of the Kurds, and this was confirmed by the “Law of Administration for the State of Iraq for the Transitional Period of (2004)”.

the “Law of Administration for the “Law of Administration for the State of Iraq for the Transitional Period of (2004)” stipulates that “The system of government in Iraq shall be republican, federal, democratic, and pluralistic, and powers shall be shared between the federal government and the regional governments, governorates, municipalities, and local administrations. The federal system shall be based upon geographic and historical realities and the separation of powers, and not upon origin, race, ethnicity, nationality, or confession”⁽¹⁶⁾.

like that; The “Constitution of the Republic of Iraq of (2005)” stipulates that “The Republic of Iraq is a single federal, independent and fully sovereign state in which the system of government is republican, representative, parliamentary, and democratic, and this Constitution is a guarantor of the unity of Iraq”⁽¹⁷⁾.

There is a set of competencies stipulated in the “Constitution of the Republic of Iraq of (2005)”, some of which are exclusive to the federal government, and some of them are exclusive to the Kurdistan Region, and some of them are common to both, and we will present in what follows (The Exclusive Competencies Of The Kurdistan Region-Iraq, and The Common Competencies Of The Kurdistan Region- Iraq):

3.1. The Exclusive Competences Of The Kurdistan Region- Iraq

The “Authorities” in Iraq were divided so that the competences of the federal authority are limited exclusively in the federal constitution. It follows that the competences of the federal units are the basis and the competences of the federal authorities the exception.



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The “Constitution of the Republic of Iraq of (2005)” specified the exclusive competences of the regions, through the text of the Article (121) thereof, as follows:

“First: The regional powers shall have the right to exercise executive, legislative, and judicial powers in accordance with this Constitution, except for those authorities stipulated in the exclusive authorities of the federal government.

Second: In case of a contradiction between regional and national legislation in respect to a matter outside the exclusive authorities of the federal government, the regional power shall have the right to amend the application of the national legislation within that region”.

Third: Regions and governorates shall be allocated an equitable share of the national revenues sufficient to discharge their responsibilities and duties, but having regard to their resources, needs, and the percentage of their population.

Fourth: Offices for the regions and governorates shall be established in embassies and diplomatic missions, in order to follow cultural, social, and developmental affairs.

Fifth: The regional government shall be responsible for all the administrative requirements of the region, particularly the establishment and organization of the internal security forces for the region such as police, security forces, and guards of the region”⁽¹⁸⁾.

3.2. Common Competencies Of The Kurdistan Region- Iraq

Article (114) of the “Constitution of the Republic of Iraq of (2005) specified the “Competencies” of the regions that share with the federal government, as follows: “The following competencies shall be shared between the federal authorities and regional authorities:

First: To manage customs, in coordination with the governments of the regions and governorates that are not organized in a region, and this shall be regulated by a law.

Second: To regulate the main sources of electric energy and its distribution.



Third: To formulate environmental policy to ensure the protection of the environment from pollution and to preserve its cleanliness, in cooperation with the regions and governorates that are not organized in a region.

Fourth: To formulate development and general planning policies.

Fifth: To formulate public health policy, in cooperation with the regions and governorates that are not organized in a region.

Sixth: To formulate the public educational and instructional policy, in consultation with the regions and governorates that are not organized in a region.

Seventh: To formulate and regulate the internal water resources policy in a way that guarantees their just distribution, and this shall be regulated by a law⁽¹⁹⁾.

4. The System Of Government In The Kurdistan Region-Iraq According To The Existing Legislation

Governance institutions in the Kurdistan Region-Iraq were not organized according to a special constitution for the region. This is because it was not approved and ratified; because of the difficult political and administrative conditions that the region went through at the beginning of its inception, it proceeded to expedite the formation of these institutions and the conduct of their work by setting legislation regulating their various aspects, in order to cover the resulting administrative vacuum following the withdrawal of political and administrative institutions by the Iraqi government, but; although the Kurdistan Region-Iraq does not have its own constitution, despite the approval of the "Constitution of the Republic of Iraq of (2005)" on the right of the region to draft its own constitution, through the text of the Article (120) thereof, which stipulates: "Each region shall adopt a constitution of its own that defines the structure of powers of the region, its authorities, and the mechanisms for exercising such authorities, provided that it does not contradict this Constitution"⁽²⁰⁾, there are regular legislation issued by "the Parliament of the Kurdistan



Region- Iraq” that undertakes this constitutional task, organizes the governing institutions in the region, and defines their tasks and powers and the nature of the relationship between them, and these legislation, although they are ordinary legislation, they regulate issues of a constitutional nature, and from these legislation “Law No. (3) of (1992), Law on the Council of Ministers of the Kurdistan Region amended “Law No. (3) of (1992), Law on the Council of Ministers of the Kurdistan Region- Iraq Amended”⁽²¹⁾, And “Law of the Presidency of the Kurdistan Region- Iraq No. (1) for the year (2005) ⁽²²⁾, And “Law No. (1) of (2005), Law on the Presidency of the Kurdistan Region- Iraq” ⁽²³⁾ (with its six amendments), the latest of which is “Decision No. (11) of (2009), The Sixth Amendment to the Internal System of the Parliament of Kurdistan- Iraq, No. (1) of (1992)”⁽²⁴⁾.

The executive authority in the Kurdistan Region- Iraq is characterized by duality in composition, just like the executive authority in “Parliamentary Systems”, as it consists of two organs; (The Presidency Of The Kurdistan Region, and The Council Of Ministers), this is in terms of form, as follows:

4.1. The President Of The Kurdistan Region- Iraq

Each “Political System”, usually, has a “President” who embodies the unity of the people and the country, speaks in his name in political and international forums, and looks after the interests of citizens. As the supreme head of the executive authority, and is considered an essential pillar for the stability of the political situation and the progress of society, and since the previous internal conditions in the Kurdistan Region-Iraq were not ready and conducive to completing the process of electing the leader of “the Kurdish Liberation Movement” under “Law No. (2) of (1992)”, which was A substitute for the position of the “President” of the region, at the time, which necessitated the issuance of “Law No. (10) of (1997)” ⁽²⁵⁾, later, and the distribution of its “Authorities” between the “President of the National Council of Kurdistan- Iraq” and the “Prime Minister” of the region, and in view of the great political developments that occurred in the situation in Iraq after the fall of the regime of “Saddam Hussein”, and the approval of federalism as a political system in the “Law of Administration for the State of Iraq for the Transitional Period of



(2004)”⁽²⁶⁾, and the success of the general elections in Iraq in forming the first elected Iraqi “National Assembly”, and the participation of the Kurds in the federal authorities, including “ Presidency of the Republic”, and since the nature of the stage requires unifying the position and effort to achieve the aspirations of the people of Kurdistan-Iraq for freedom, democracy and federalism, which necessitated the creation of the post of President of Kurdistan- Iraq⁽²⁷⁾.

The position of the “President of the Region” was created according to “Law No. (1) of (2005) the Law of the Presidency of the Kurdistan Region- Iraq”⁽²⁸⁾, and the “President of the Region” is the supreme head of the “Executive Authority” in the region,⁽²⁹⁾ and represents the citizens of the Kurdistan Region- Iraq, in general at both levels internal and international, and speaks on their behalf, and undertakes coordination between the various authorities in the region and between them and the federal authorities⁽³⁰⁾.

The “President of the Kurdistan Region- Iraq” based on “Law No. (1) of (2005) the Law of the Presidency of the Kurdistan Region- Iraq” exercises a set of “Athorities” that are (issuing laws enacted by the National Council of the region, and he has the right to object to them, in whole or in part, in part, and return it to the Council for reconsideration, and the Council’s decision in this regard will be final, and issue a decree to hold general elections for the National Council of a region, in the event of its dissolution, or the end of its electoral term, within fifteen days, and issue a decree inviting the National Council of a region to the first session For the electoral cycle within ten days from the date of announcing the final results, and in the event that the invitation to it is not issued, the council meets automatically on the next day of the end of the mentioned period)⁽³¹⁾, and with regard to the last competence, (and in the event that the invitation to it is not issued, the council meets automatically on the next day of The expiration of the aforementioned period), it indicates that if an invitation is not issued by the President of the region to the Parliament of the Kurdistan Region, the new council must meet, automatically, on the day following the end of its electoral term.



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And the “President of the Kurdistan Region-Iraq” (dissolves the National Assembly of Kurdistan-Iraq by decree in the event that more than half of its members resign, or if the quorum for its convening is not achieved within forty-five days from the date of its invitation to convene for its electoral session, or if the council does not grant confidence in the Council of Ministers for three different and successive ministerial formations, or if the electoral system of the Council is changed, and the remaining period for its electoral cycle is six months or less)⁽³²⁾, and here it becomes clear the size of the large role given to the president of the region in monitoring the parliament of the region in his capacity as the legislative authority.

Like that; The “President of the Kurdistan Region-Iraq” has the right (to issue decisions that have the force of law, after consultation and agreement with the President of the National Assembly and the Council of Ministers of the region, when the Kurdistan Region and its political system, public security, or constitutional institutions are exposed to imminent dangers that threaten its entity and the National Council cannot meet Provided that these decisions are presented to the National Council of the region at its first meeting, and if it is not presented to it or presented and the Council does not approve it, it loses its legal status⁽³³⁾). Thus; it becomes clear that the president of the region has a basic competence in parallel with the work of the legislative authority when he has the authority to issue presidential laws in the status of laws, but this competence is conditional on a set of conditions that were mentioned above.

The “President of the Kurdistan Region- Iraq” is limited to (approving death sentences, or commuting them to life imprisonment)⁽³⁴⁾, and also (declaring a state of emergency under a special law. And calling the “Council of Ministers” to meet in an urgent manner; when necessary and discussing the specific issues for which the meeting is held and chairing this meeting. And allowing the entry of federal armed forces into the region; when necessary, with the approval of the National Council of the region. And the president of the region may move forces Peshmerga outside the region with the approval of the National Council of Kurdistan-Iraq)⁽³⁵⁾, In addition to that; The head of the region is the commander-in-chief of the Peshmerga forces of the Kurdistan Region-Iraq. ⁽³⁶⁾ Furthermore it; it is “in



the event of the absence of the head of the region for any reason whatsoever, the head of the Council of Ministers assumes his duties by proxy⁽³⁷⁾, and “If the position of the president of the region became vacant for any reason, his duties would be carried out by the head of the National Council of Kurdistan-Iraq until the election of a new president within (sixty) days from the date the position became vacant”⁽³⁸⁾. Here it becomes clear that the “President of the Region”, in his capacity as the supreme “Chief of the Peshmerga Forces”, has the right to intervene to protect the security of the region from any external aggression, and to fend off dangers in order to defend its borders.

Also, the “President of the Kurdistan Region- Iraq” is the one who (assigns the Prime Minister, after being named by the National Council of Kurdistan- Iraq, to form ministries, within a period of thirty days from the date of his assignment. And to issue a decree accepting the resignation of the Council of Ministers, or the minister, upon withdrawal of confidence From either of them, and issue a decree accepting the resignation of the Council of Ministers, or the minister, and assigning them to continue their duties until the formation of the new ministry)⁽³⁹⁾, and the “President of the Kurdistan Region- Iraq” works on (appointing those with special ranks, based on the nomination of the competent minister, and the approval of the Council of Ministers. And appointing rulers, the chief and members of the Public Prosecution, after their nomination by the Region's Judicial Council. And granting military ranks to officers of the armed forces of the region and the internal security forces. And expel them and refer them to retirement, according to the laws in force, and award decorations and medals according to the law)⁽⁴⁰⁾. Here, the main role of the president of the region is evident in organizing the establishment of the government, and choosing the special grades that are entrusted with occupying higher grades in government institutions.

4.2. Council Of Ministers

In the Kurdistan Region- Iraq there is a “Council of Ministers”, which represents the (second) organ of the “Executive Authority”, and its existence and exercise of its functions and powers are governed by the “Law No. (3) of (1992), Law of the Council of Ministers of the Kurdistan



Region- Iraq Amended”⁽⁴¹⁾, The “Prime Minister” is assigned after being named by the “Kurdistan Region Parliament- Iraq” within a period of (thirty) days from the date of his assignment⁽⁴²⁾.

The “Council of Ministers” is the highest executive body of the region, and it consists of (the president, his deputy, and the ministers)⁽⁴³⁾, and the council undertakes (setting up the general policy of the region and supervising its implementation in accordance with the laws in force after their approval by the National Council of Iraqi Kurdistan, the parliament of the Kurdistan Region- Iraq, proposing and preparing draft laws and submitting them to the National Council of Iraqi Kurdistan for approval, preparing draft regulations and issuing them, preparing the draft general budget for the region, preparing draft development plans for the region, contracting and granting loans with the approval of the National Council for Iraqi Kurdistan, implementing laws, maintaining the security of the region and protecting the rights of citizens, public property and the interests of the people Iraqi Kurdistan, directing and coordinating the work of the ministries and their affiliates, public bodies and institutions and following up their work, supervising the legality of the instructions issued by the ministries, bodies and institutions affiliated to them, issuing administrative and executive decisions in accordance with the laws in force and following up their implementation, and appointing employees and general managers and dismissing them and referring them to retirement in accordance with the law)⁽⁴⁴⁾.

5. The Kurdistan Region And The Process Of Building The Political System In Iraq

The “Democratic Political System” is not just structures, institutions, and constitutional texts, but rather it represents a set of interacting and interlocking patterns related to (the process of harmonization between the decision-making process and those in charge of it, and the satisfaction and conviction of individuals on those decisions) and whether the process of formulating those decisions takes place within (the framework of political institutions, or within the framework of consensus and agreements) between political decision makers.



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It is this compatibility between (the decision-making process and the satisfaction of individuals) that distinguishes the democratic system from other political systems as a legitimate system.

The conditions in which each of these regimes live impose different institutions, mechanisms, and practices in governance, both in terms of the majorities that rule, and the minorities that oppose. The opposition political minority, but under the regimes that adopt consensus, we find the absence of the logic of majorities and minorities, and that everyone contributes to governance, and everyone has the right to oppose, if necessary, and in the event that the interests of one of the groups are endangered.⁽⁴⁵⁾

The “Political Systems” that adopt the theory of power-sharing as a method of governance are not at one degree close to democracy, but rather fall under the democratization systems that adopt political partnership in governance that follow totalitarian and authoritarian regimes, and whose interest focuses on (building the state, recognizing identities, and guaranteeing rights). And then the regimes that adopt consensus with all its institutions and mechanisms, and whose elites enjoy the traditions of consensus marked by (moderation, compromise, and acceptance of the other) leading to the democracy of the political majority based on the existence of a political majority that rules and a political minority that exercises the role of opposition, control, correction, and supervision over the entire political system.⁽⁴⁶⁾

And the “Political Systems” in Iraq that was established after (2003) is one of the systems that took “Political Partnership” as a basis for governance through the participation of the basic components (Shias, Sunnis, and Kurds), after an authoritarian and totalitarian regime that lasted for more than (30) years, for that, and for the sake of Ensuring rights and recognition of identities as a prelude to the application of the “consensual theory” with all its mechanisms, as European countries knew it in previous stages, and some of them are still continuing to apply it in governance, or to shift towards the “Theory of Political Majority Democracy”.⁽⁴⁷⁾



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The circumstances of the emergence and establishment of the new Iraqi political system, represented by the collapse of an old regime with all its crises at the level of power and society, and the building of a new political system under international auspices, left an impact on the reality of the political partnership between the basic components, which was more like a political struggle to share political power, wealth and influence among the political elites. Which was embodied in the legal and constitutional establishment of a system based on the imposition of wills, away from common visions, goals and interests, which continued and cast a shadow over the political process after the writing of the constitution in (2005).⁽⁴⁸⁾

The Kurds contributed undeniably in the period extending from the establishment of the “Transitional Governing Council” on (13/July/2003) until the “formation of the interim government” on (30/June/2004), passing through the writing of the “Law of Administration for the State of Iraq for the Transitional Period of (2004)” and writing the “Constitution of the Republic of Iraq of (2005)”, which established the rules of the political system in Iraq and its administration.⁽⁴⁹⁾

The Kurds have contributed to the “formation of the Transitional Governing Council”, as one of the pillars of the “Group of Seven”, which was gradually formed in the Iraqi opposition conferences after (1998), and the group was initially called the “Group of Four” consisting of (the Supreme Council, the Accord Movement, the Kurdistan Democratic Party, and the Patriotic Union of Kurdistan), and then became the “Group of Six” by adding (the Iraqi National Congress and the Constitutional Monarchy Movement), and in the “London Conference (2002)”, it became called the “Group of Seven” after adding (the Da’wa Party) to it.⁽⁵⁰⁾

In addition to the participation of the Kurds in the membership of the “Governing Council” through (President Masoud Barzani, Jalal Talabani, Mahmoud Othman, Dara Nouredine, and Salah Al-Din Muhammad Bahaa’ Al-Din) by (20%) of the total number of members totaling (25) members,⁽⁵¹⁾ they contributed to its presidency through both (President Masoud Barzani and Jalal Talabani), and that was when a “Rotating Presidency” was elected that assumes the position according to the Arabic



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alphabet of (Nine) members. Their election by the Council itself, from a total of (Fourteen) candidates, and they are (Ibrahim Al-Jaafari, Ahmed Chalabi, Iyad Allawi, Jalal Talabani, Abdul Aziz Al-Hakim, Adnan Al-Bachaji, Mohsen Abd Al-Hamid, Muhammad Bahr Al-Uloom, and President Masoud Barzani).⁽⁵²⁾

In the first meeting of the Council, it issued a "Political Statement" defining its work for the coming period, represented by (providing security for the Iraqis, canceling the consequences of political tyranny, and uprooting Baathist ideology from Iraqi society, and looks forward to the participation of all Iraqis in developing the political life of the country).⁽⁵³⁾

In the Council's meeting on (3/August/2003), the Council discussed the issue of appointing ministers and it was agreed on the points that (the Council follows the principle of consensus in forming the ministry, and not neglecting the aspect of personal competence in nomination), and the formation was presented to the Council for the purpose of approval by secret voting.⁽⁵⁴⁾

Due to the desire of the participating forces and parties (Shia and Kurdish) to establish their rights that have been violated for a long time, so the "Governing Council" was a (legislative and executive authority).⁽⁵⁵⁾

It represented all the diversities of Iraqi society, and the Council was able, during its survival, to play an important role in the field of political and constitutional establishment of the new system, the most important of which was the formation of (an interim government, and writing a permanent constitution for the country).⁽⁵⁶⁾

The first session of the "Governing Council" was held on (13 / July / 2003), and several proposals were put forward for how to write the Iraqi constitution. Kurdish draft.⁽⁵⁷⁾

The "Kurdish Draft of the Constitution of Iraq" goes back to a draft published under the title "The Constitution Draft of the Federal Republic of Iraq" which was drafted by a joint committee of the two Kurdish parties (Kurdistan Democratic Party and the Patriotic Union of Kurdistan) on (23/September/2002), which came with (6) chapters. And (eighty-four) articles, the most important of which are:



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- a. That the “Iraqi Federal Republic” consists of (Two Regional Federations); (Arabic and Kurdish), and (Two Languages); (Arabic and Kurdish) are the (Two Official Languages of the Federation),⁽⁵⁸⁾ provided that the “Arabic Language” is the “Official Language of the Arab Region”, and the “Official Kurdish Language of the Kurdish Region”.⁽⁵⁹⁾
- b. The “Legislative Authority” consists of (Two) councils: (the Federal Parliament, and the Council of Regions)⁽⁶⁰⁾, and the “Council of Regions” was defined by (20) members, representing the two regions (Arab and Kurdish), equally.
- c. Executive Authority: It consists of (the President of the Republic and the Council of Ministers)⁽⁶¹⁾, and the “President of the Republic” is from (One) of the (Two) regions, and the “Prime Minister” is from the other region.
- d. Appointing citizens of the Kurdistan Region to important positions in ministries and federal bodies at home and abroad, especially (Deputy Ministers, Special Grades, and General Directors), according to the proportion of its population to the total population of the “Federal Republic of Iraq”.
- e. The inadmissibility of changing the entity of the “Federal Republic of Iraq” or the “Political System” in it, except with the approval of the “Legislative Authority” of each of the (Two) regions, and otherwise the people of the Kurdistan Region shall exercise the right to self-determination of their own destiny.⁽⁶²⁾

“Law of Administration for the State of Iraq for the Transitional Period of (2004)”, which the Kurds contributed to writing and approving, approved that “The system of government in Iraq shall be republican, federal, democratic, and pluralistic, and powers shall be shared between the federal government and the regional governments, governorates, municipalities, and local administrations. The federal system shall be based upon geographic and historical realities and the separation of powers, and not upon origin, race, ethnicity, nationality, or confession”⁽⁶³⁾.

The design of the federal system in Iraq came in a way that prevents the concentration of power in the federal government. That focus made possible the continuation of decades of tyranny and oppression under the



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previous regime. This regime will encourage the exercise of local authority by local officials in every region and governorate, creating a unified Iraq in which citizens actively participate in governance affairs, guarantee their rights, and make them free from oppression.⁽⁶⁴⁾

The “Executive Authority” according to the “Law of Administration for the State of Iraq for the Transitional Period of (2004)” ; “consists of the Presidency Council, the Council of Ministers, and its presiding Prime Minister”⁽⁶⁵⁾.

With regard to the “Kurdistan Region-Iraq,” the “Law of Administration for the State of Iraq for the Transitional Period of (2004)” specified that the term “Kurdistan Regional Government” mentioned in this law means (the Kurdistan National Assembly, the Kurdistan Council of Ministers, and the regional judiciary in the Kurdistan Region).⁽⁶⁶⁾

The “Law of Administration for the State of Iraq for the Transitional Period of (2004)” recognized the Kurdistan Regional Government as the official government of the lands that were administered by the aforementioned government on (19/March/2003) located in the governorates of (Dohuk, Erbil, Sulaymaniyah, Kirkuk, Diyala and Nineveh),⁽⁶⁷⁾ based on this, the “Kurdistan Regional Government” will continue to carry out its current work throughout the transitional period, except with regard to issues that fall within the exclusive jurisdiction of the federal government, as stipulated in this law, and these functions are funded by the “Federal Government”, and the “Kurdistan Regional Government” maintains regional control over security and police forces, and shall have the right to impose taxes and fees within the “Kurdistan Region”, and with regard to the application of “Federal Laws” in the “Kurdistan Region”, the “Kurdistan National Assembly” is permitted to amend the implementation of any of those laws within the “Kurdistan Region”, but only in relation to the exclusive matters that are within the competence of the federal government ⁽⁶⁸⁾.

The “Constitution of the Republic of Iraq of (2005)” approved that the “The Republic of Iraq is a single federal, independent and fully sovereign state in which the system of government is republican, representative, parliamentary, and democratic, and this Constitution is a guarantor of the



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unity of Iraq”⁽⁶⁹⁾, and “This Constitution is the preeminent and supreme law in Iraq and shall be binding in all parts of Iraq without exception. Second: No law that contradicts this Constitution shall be enacted. Any text in any regional constitutions or any other legal text that contradicts this Constitution shall be considered void”⁽⁷⁰⁾.

The “Federal System in the Republic of Iraq” based on the “Constitution of the Republic of Iraq of (2005)” and it’s made up of a (decentralized capital, regions, and governorates, as well as local administrations)⁽⁷¹⁾, accordingly, the “Kurdistan Region” and its existing authorities recognized a Federal Region⁽⁷²⁾.

The “Federal Authorities” consist of the (Legislative, Executive, and Judicial) authorities, and each of those authorities exercises its functions and functions on the basis of the principle of separation of powers⁽⁷³⁾.

The “Federal Legislative Authority” consists of (the Council of Representatives and the Federation Council), ⁽⁷⁴⁾and “A legislative council shall be established named the “Federation Council,” to include representatives from the regions and the governorates that are not organized in a region. A law, enacted by a two-thirds majority of the members of the Council of Representatives, shall regulate the formation of the Federation Council, its membership conditions, its competencies, and all that is connected with it”⁽⁷⁵⁾, As for the “The federal executive power shall consist of the President of the Republic and the Council of Ministers and shall exercise its powers in accordance with the Constitution and the law”⁽⁷⁶⁾.

Based on the “Constitution of the Republic of Iraq of (2005)”, the Kurdistan Region “shall adopt a constitution of its own that defines the structure of powers of the region, its authorities, and the mechanisms for exercising such authorities, provided that it does not contradict this Constitution”⁽⁷⁷⁾. And “In case of a contradiction between regional and national legislation in respect to a matter outside the exclusive authorities of the federal government, the regional power shall have the right to amend the application of the national legislation within that region”⁽⁷⁸⁾, and “Legislation enacted in the region of Kurdistan since 1992 shall remain in force, and decisions issued by the government of the region of



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Kurdistan, including court decisions and contracts, shall be considered valid unless they are amended or annulled pursuant to the laws of the region of Kurdistan by the competent entity in the region, provided that they do not contradict with the Constitution”⁽⁷⁹⁾.

The authorities of the Kurdistan Region, based on the “Constitution of the Republic of Iraq of (2005)”, have the right to exercise powers (Legislative, Executive, and Judicial), with the exception of what is stated in it regarding the exclusive powers of the federal authorities⁽⁸⁰⁾.

A fair share of federally collected revenues is allotted to the regions and governorates, sufficient to carry out their duties and responsibilities, taking into account their resources and needs, and the percentage of the population in them. Offices are established for the regions and governorates in embassies and diplomatic missions, to follow up on cultural, social and developmental affairs. In particular, the establishment and organization of the internal security forces for the region, such as the police, security, and the regional guard⁽⁸¹⁾.

Thus, it becomes clear that the Kurds contributed to strengthening the stability of the “Political System In Iraq” after (2003), through their basic participation in all “Political Agreements” and what resulted from them (the establishment of the Governing Council, participation in the Transitional Government, participation in Writing and Approving the Iraqi Law of Administration for the State of Iraq for the Transitional Period of 2004, and participating in writing and approving the Constitution of the Republic of Iraq of 2005), in addition to (participating in all Parliamentary Sessions of the Federal Council of Representatives), and (participating in the Executive Authority through their assumption of important positions), (President of the Republic, Deputy Prime Minister, Deputy Speaker of the House of Representatives, Ministers for sovereign portfolios, Ministers in service ministries, other Senior Positions in all state ministries), and (participating in provincial councils in Diyala, Mosul and Salah Al-Din).⁽⁸²⁾

The “Constitution of the Republic of Iraq of (2005)” defined the competences of the regions, and as a general rule in the distribution of competencies between the “Federal Authorities” and the regions, everything that was not stipulated in the “Exclusive Competencies of the



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Federal Authorities” is the prerogative of the (Regions and Governorates) that are not organized in a region, and other powers shared between the (Federal Government and the Regions) are Priority is given to the “Law of Regions” and “Governorates that are not Organized into a Region” in case of dispute between them⁽⁸³⁾.

With regard to the common competencies of the regions with the federal authorities; Priority is given to the law of the regions, according to the “Constitution of the Republic of Iraq of (2005)”, and these terms of reference are represented in (management of oil and gas extracted from the current fields, drawing up strategic policy for the development of oil and gas wealth, management of antiquities, archaeological sites, heritage structures, manuscripts and coins, customs management, Organizing and distributing energy resources, drawing up environmental policy, development policy and general planning, drawing up health policy, drawing up educational and public education policy, drawing up the policy and organization of internal water resources”⁽⁸⁴⁾.

Based on the “Constitution of the Republic of Iraq of (2005)” it dealt with the constitutional provisions of the Kurdistan Region (constitutional recognition of the Kurdistan Region, recognition of the laws and contracts of the Kurdistan Region, the use of language in the Kurdistan Region, Decision of the dispute with the Kurdistan Region regarding the disputed areas).

Based on the “Constitution of the Republic of Iraq of (2005)” in addition to its institutions, the region enjoys (constitutional independence, legislative independence, executive independence, judicial independence, and financial independence).

Governance institutions in the Kurdistan Region-Iraq were not organized according to a special constitution for the region. This is because it was not endorsed and ratified, so he proceeded to expedite the formation of these institutions and the conduct of their work by enacting legislation regulating their various aspects, in order to cover the resulting administrative vacuum following the withdrawal of political and administrative institutions by the Iraqi government.



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Although the Kurdistan Region-Iraq does not have its own constitution, despite the approval of the “Constitution of the Republic of Iraq of (2005)” on the region's right to draft its own constitution, there are regular legislation issued by the Parliament of the Kurdistan Region-Iraq that undertake this constitutional task, and regulate Governance institutions in the region, and define their functions and powers and the nature of the relationship between them, and these legislations, although they are ordinary legislation, they regulate issues of a constitutional nature, and among these legislations is the “Law No. (3) of (1992), Law on the Council of Ministers of the Kurdistan Region amended “Law No. (3) of (1992), Law on the Council of Ministers of the Kurdistan Region- Iraq Amended”⁽⁸⁵⁾, And “Law of the Presidency of the Kurdistan Region- Iraq No. (1) for the year (2005) ⁽⁸⁶⁾, And “Law No. (1) of (2005), Law on the Presidency of the Kurdistan Region- Iraq” ⁽⁸⁷⁾ (with its six amendments), the latest of which is “Decision No. (11) of (2009), The Sixth Amendment to the Internal System of the Parliament of Kurdistan- Iraq, No. (1) of (1992)”⁽⁸⁸⁾.

The system of “Government of the Kurdistan Region- Iraq” is a representative “Parliamentary System”⁽⁸⁹⁾, and “The Parliament of Iraqi Kurdistan is the legislative authority and the reference for deciding the fateful issues of the people of the Kurdistan Region, and its members are elected through general, free, direct and secret balloting”⁽⁹⁰⁾.

based on the observance of the basic “Kurdish Legislation” in its provisions for the general foundations and the necessary requirements for the parliamentary system, and this is one of its most important features (the duality of the executive authority, and the legal nature of the relationship between the Legislative and Executive Authorities)⁽⁹¹⁾.

The “Executive Authority” in the “Kurdistan Region- Iraq” is characterized by “Dualism in Composition”, just like the “executive authority” in “parliamentary systems”, as it consists of two organs; (The Presidency of the Kurdistan Region, and the Council of Ministers)⁽⁹²⁾.

In the “Laws Regulating” the authorities and their work in the Kurdistan Region- Iraq, the “Kurdistan Legislator” sought to adopt (the Principle of Flexible Separation of Powers, and to create a kind of mutual relationship between the legislative and executive authorities) by which the two



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authorities (legislative and executive) are allowed to interfere in each other's work, with the aim of (Achieving Cooperation, Finding Equality, and Balance) between them.

The “Kurdistan Legislator” regulated the relationship of the “Legislative Authority (parliament)” with the “Executive Authority” (the Presidency of the Kurdistan Region and the Council of Ministers), and stipulated a number of mechanisms by which Parliament intervenes and monitors the work of the “Executive Authority”, with the aim of achieving (Cooperation and Balance) between the (Two) authorities, and these mechanisms are represented by (Electing the President of the Kurdistan Region- Iraq, Granting Confidence to the Ministry, Monitoring the work of the Executive Authority, Questioning, withdrawing Confidence, and Raising a General Issue for Discussion).

The “Constitution Draft of the Kurdistan Region- Iraq of (2009)” adopted the parliamentary system, and the “Constituent Committee” tried to ensure the “Constitution Draft of the Kurdistan Region-Iraq of (2009)” the form of the relationship between the (Two) authorities; (Legislative and Executive) in the region, and to codify the principles and foundations (Cooperation, Balance) required and recognized between the (Two) authorities in the (Parliamentary System), and this was evident in a set of the Articles that embodied manifestations of (Interference, Cooperation, and Balance) between the “Legislative Authority” (Parliament) on the one hand and the “Executive Authority” (the Presidency of the Kurdistan Region Council of Ministers) on the other hand.

6. Conclusion

After completing the research on “The Role Of Regions In Building The Political System In The Federal States (Kurdistan Region Of Iraq As A Model)” was reached, as follows:

First: Findings



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1. One of the most important principles established by the “Law of Administration for the State of Iraq for the Transitional Period of (2004)”, which is considered a new precedent in the legislative construction of the political system, is the establishment of (the principle of partnership and the principle of opposition) as legal texts in its texts.
2. The “Political Partnership” is the initial stage for applying the “Consensual Democratic Power-sharing Theory” by providing an opportunity for the parties that were oppressed or excluded from the sphere of influence and power to partner with other components within the framework of the new constitutional and institutional formulas and building the concept of the nation-state.
3. The process of writing the permanent constitution for Iraq came to represent the beginning of the constitutional establishment of the process of balancing power between the three basic components (shia, Sunnis, and Kurds) on the basis of “Political and Social Consensus” around the concepts of (Nation Building, State, Identity, and Sharing of Power and Wealth).
4. The drafters of the constitution tried to adopt the broad coalition in its maximum form in the presidency of the three authorities (the Legislative) and (the Executive), in both parts (the Presidency of the Republic and the Government), influenced by the experience of the Lebanese regime in “consensual democracy”.
5. “Federalism” represents one of the pillars of democracy in Iraq, which is called “consensual democracy”, and this pillar based on “sharing power between the Federal Government and Regional Governments” is based on the text of the “Constitution of the Republic of Iraq of (2005)” which stipulates that the Republic of Iraq is one federal state Independent and fully sovereign, the system of government is republican, representative (Parliamentary) and democratic.
6. The “Constitution of the Republic of Iraq of (2005)” deals with the regions in many places of its articles, and the Kurdistan Region is the only region existing at the time of the promulgation of the constitution, and it has not existed until now, and the constitution referred to it explicitly more than once, as in (constitutional recognition of regions, recognition the new provinces, the law on the formation of regions, the



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- right to form regions, the powers of the regions, the rights of the regions in the constitution, the guarantees of the rights of the regions, the competences of the regions; the constitutional restrictions on the regions, the application of the provinces to federal jurisdiction).
7. The “Constitution of the Republic of Iraq of (2005)” established the rights of the regions in the constitution by emphasizing (the fair share of federal revenues, the formation of offices in embassies and diplomatic missions, ensuring the transfer of labor, goods and capital, the scope of the use of official languages), as for what is related to “Guarantees of the Rights of the Regions” The constitution affirmed the establishment of (the Authority for Guaranteeing the Rights of the Regions, the Federal Revenue Allocation Authority).
 8. The “Constitution of the Republic of Iraq of (2005)” defined the competences of the regions, and as a general rule in the distribution of competencies between the federal authorities and the regions, everything that was not stipulated in the exclusive competencies of the federal authorities is the prerogative of the regions and governorates that are not organized in a region, and other powers shared between the federal government and the regions are Priority is given to the law of regions and governorates that are not organized into a region in case of dispute between them.
 9. The Kurdistan Regional- Iraq contributed to strengthening the stability of the “Political System” in Iraq after (2003), through their basic participation in all “Political Agreements” and what resulted from them (establishing the Governing Council and participating in the Transitional Government), (participating in writing and approving the Law of Administration for the State of Iraq for the Transitional Period of 2004), (participation in writing and approving the Constitution of the Republic of Iraq of 2005), in addition to (participating in all parliamentary sessions of the Federal Council of Representatives and participating in the executive authority through their assumption of important positions i.e. President of the Republic, Deputy Prime Minister, Vice President of the Council of Representatives, Ministers, and other senior positions), and (participation in provincial councils in Diyala, Mosul and Salah al-Din).



10. The problem between the (Federal Government and the Kurdistan Regional- Iraq) lies in non-compliance with the constitution, as the “Federal Government” tries to limit the powers of the “Kurdistan Regional- Iraq”; Through its attempts to delay the implementation of constitutional texts, to back down from the practice of federal agencies, and to tighten its grip on state institutions with a central administration pattern.

Second: Suggestions

1. Amending the “Constitution of the Republic of Iraq of (2005)” in order to enhance the “principle of political partnership” between (political decision-making parties) as well as (federal and regional units), and to overcome the ambiguity surrounding many constitutional texts that have become a cause for disagreement instead of agreement on them.
2. Ratification of the “Constitution Draft of the Kurdistan Region- Iraq of (2009)” in order to enhance the independence of the Kurdistan decision on the basis of the constitution of the region, and the legislation emanating on its basis.
3. Signing a partnership agreement between (the federal government and the Kurdistan Regional Government- Iraq) under the auspices of the United Nations and drafting it in the form of a “law”, and its approval by the federal “legislative authority”, in order to avoid nullifying or violating its paragraphs, provided that it includes confirmation of the activation of constitutional texts, especially Those related to the sharing of competencies between (the federal government and the Kurdistan Regional Government- Iraq).
4. Updating the “Legislation System” in the Kurdistan Region- Iraq in accordance with developments (Political, Economic, and Security) in the region, Iraq, as well as reviewing the “Federal Legislation” in force to match its suitability for the specificity of the Kurdistan Region- Iraq, its constitution, and its regional legislation in force.

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Third: Constitutions, Laws, and Regulations

1. The Law of Administration for the State of Iraq for the Transitional Period of (2004).
2. The Constitution of the Republic of Iraq (2005).
3. Constitution Draft of the Kurdistan Region-Iraq of (2009).

Fourth: Laws, and Regulations



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1. Law No. (1) of (1992), Law on the National Council of Iraqi Kurdistan, Amended.

[https://legislation.krd/law-detail/?name=%20قانون%20رقم%20\(1\)%20السنة%201992%20قانون%20المجلس%20الوطني%20لكوردستان%20العراق](https://legislation.krd/law-detail/?name=%20قانون%20رقم%20(1)%20السنة%201992%20قانون%20المجلس%20الوطني%20لكوردستان%20العراق)

2. Law No. (3) of (1992), Law of the Council of Ministers of the Kurdistan Region- Iraq Amended.

[https://legislation.krd/law-detail/?name=%20قانون%20رقم%20\(3\)%20السنة%201992%20قانون%20مجلس%20وزراء%20اقليم%20كوردستان%2020](https://legislation.krd/law-detail/?name=%20قانون%20رقم%20(3)%20السنة%201992%20قانون%20مجلس%20وزراء%20اقليم%20كوردستان%2020)

3. Law No. (10) of (1997), Law of Suspending Law No. (2) of (1992) on the Law of Election of the Leader of the Kurdish Liberation Movement.

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4. Law No. (1) of (2005), Law of the Presidency of the Kurdistan Region- Iraq.

[https://legislation.krd/law-detail/?name=%20قانون%20رقم%20\(1\)%20السنة%202005%20قانون%20رئاسة%20اقليم%20كوردستان-العراق](https://legislation.krd/law-detail/?name=%20قانون%20رقم%20(1)%20السنة%202005%20قانون%20رئاسة%20اقليم%20كوردستان-العراق)

5. Law No. (16) of (2008) Law of Suspending Law No. (16) of (2008) on the Law Approving the Constitution of the Kurdistan Region- Iraq.

6. Law No. (4) of (2015) the Law Preparing the Draft Constitution of Kurdistan-Iraq for the Amended Referendum.

7. The Internal Regulations of the Parliament of Kurdistan-Iraq No. (1) of (1992) Amended.

8. Decision No. (11) of (2009), The Sixth Amendment to the Internal System of the Parliament of Kurdistan- Iraq, No. (1) of (1992).

[https://legislation.krd/law-detail/?name=%20قرار%20رقم%20\(11\)%20سنة%201992%20قانون%20رقم%20\(1\)%20السنة%201992](https://legislation.krd/law-detail/?name=%20قرار%20رقم%20(11)%20سنة%201992%20قانون%20رقم%20(1)%20السنة%201992)

the margins

(1) See: The text of the Article (1) of the (Section One: Fundamental Principles) of the “Constitution of the Republic of Iraq of (2005)”, Available at the following link:

«<https://iq.parliament.iq/en/wp-content/uploads/2022/01/Iraqi-Constitution.pdf>», Last visited: [20.03.2023, 13:14]

(2) Amin Sharit, Al-Wajeez in Constitutional Law and Comparative Political Institutions, University Press, Algeria, 1999, p.22.

(3) Olivier Duhamel and Yves Mini, The Constitutional Dictionary, first edition, University Institute for Studies, Publishing and Distribution, Beirut, 1996, p.46.



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- (37) See: The text of the Article (14) of “Law No. (1) of (2005), Law on the Presidency of the Kurdistan Region- Iraq, Amended”.
- (38) See: The text of the Article (15) of “Law No. (1) of (2005), Law on the Presidency of the Kurdistan Region- Iraq, Amended”.
- (39) See: The text of the Paragraphs (Twelfth, Thirteenth, and Fourteenth) of the Article (10) of “Law No. (1) of (2005), Law on the Presidency of the Kurdistan Region- Iraq, Amended”.
- (40) See: The text of the Paragraphs (Fifteenth, Sixteenth, and Seventeenth) of the Article (10) of “Law No. (1) of (2005), Law on the Presidency of the Kurdistan Region- Iraq, Amended”.
- (41) See: “Law No. (3) of (1992), Law of the Council of Ministers of the Kurdistan Region- Iraq Amended”.
- (42) See: The text of the Paragraph (12) of the “Law No. (1) of (2005), Law on the Presidency of the Kurdistan Region- Iraq, Amended”.
- (43) See: the text of Article (2) of the “Law No. (3) of (1992), Law on the Council of Ministers of the Kurdistan Region amended”.
- (44) See: the text of Article (8) of the “Law No. (3) of (1992), Law on the Council of Ministers of the Kurdistan Region amended”.
- (45) Tharwat Badawi, Political Systems, Dar Al-Nadhda Al-Arabiya, Cairo, 1972, p.15.
- (46) Azhar Hashem Ahmed, Regulating the Relationship between the Central Authority and the Regional Authorities in the Federal System, First Edition, The National Center for Legal Issues, Cairo, 2014, p.142.
- (47) Luqman Omar Hussein, The Principle of Participation in the Federal State, First Edition, Zain Legal and Literary Press, Beirut, 2011, p.112.
- (48) Hakar Abdul Karim Fendi, Federalism: Concept and Application, first edition, Khani Press, Dohuk 2011, p.25.
- (49) Muammar Mahdi Saleh Al-Kubaisi, Distribution of Constitutional Competencies in the Federal State, First Edition, Al-Halabi Human Rights Publications, Beirut, 2010, p.48.
- (50) Aziz Qader Al-Sumanji, The Iraqi Opposition Train, Dar Al-Hikma, Baghdad, 2009, p.503.
- (51) Ahmed Hashim Al-Dafa’e, Iraq under the American Occupation, Lecturer of the Transitional Governing Council, Dar Al-Talee’ah Al-Hadith, Beirut, (2005), session (16/4/2003).
- (52) Saif Al-Khayat, How did they rule Iraq, papers from the Corridors of the Governing Council?, Al-Safir Institution for Distribution, Baghdad, p.48.
- (53) Abdulrahman Suleiman Al-Zibari, The Judicial Authority in the Federal System, first edition, Zain Law and Literary Library, Beirut, 2013, p.125.
- (54) Al-Khayat, Op. Cit., session (16/4/2003).
- (55) Muhammad Al-Hamawandi, (2001), Federalism, Autonomy, Administrative and Regional Decentralization, Second Edition, Bani Center for Printing and Publishing, Erbil, Kurdistan Region, p.63.
- (56) Al-Dafa’e, Op. Cit., p.53.
- (57) Adnan Al-Bachaji, In the Eye of the Hurricane, Dar Al-Saqi, Beirut, 2013, p.96.
- (58) See: the text of the Article (9) of the (Chapter One: Fundamental Principles) of the “Law of Administration for the State of Iraq for the Transitional Period of (2004)” stipulates:



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“The Arabic language and the Kurdish language are the two official languages of Iraq...”.

And also: the text of the Paragraph (First) of the Article (٤) of the (Section One: Fundamental Principles) of the “Constitution of the Republic of Iraq of (2005)” stipulates: “The Arabic language and the Kurdish language are the two official languages of Iraq. The right of Iraqis to educate their children in their mother tongue, such as Turkmen, Assyrian, and Armenian shall be guaranteed in government educational institutions in accordance with educational guidelines, or in any other language in private educational institutions”.

⁽⁵⁹⁾ Muhammad Omar Mawlood, Federalism and the possibility of its application as a political system (Iraq as a model), first edition, University Institute for Studies, Publishing and Distribution, Beirut, 2009, p.87.

⁽⁶⁰⁾ The Article (٤٨) of the (Chapter one: The Legislative Power) of the (Section Three: Federal Powers) of the “Constitution of the Republic of Iraq of (2005)” stipulates: “The federal legislative power shall consist of the Council of Representatives and the Federation Council.”.

⁽⁶¹⁾ See: the text of the Article (66) of the (Chapter Two: The Executive Power) of the (Section Three: Federal Powers) of the “Constitution of the Republic of Iraq of (2005)” stipulates: “The federal executive power shall consist of the President of the Republic and the Council of Ministers and shall exercise its powers in accordance with the Constitution and the law”.

⁽⁶²⁾ Al-Bachaji, Op. Cit., p.96.

⁽⁶³⁾ See: The text of the Article (4) of the (Chapter One: Fundamental Principles) of the “Law of Administration for the State of Iraq for the Transitional Period of (2004)”.

⁽⁶⁴⁾ See: The text of the Article (52) of the (Chapter Eight: Regions, Governorates, And Municipalities) of the “Law of Administration for the State of Iraq for the Transitional Period of (2004)”.

⁽⁶⁵⁾ See: The text of the Article (35) of the (Chapter Five: The Transitional Executive Authority) of the “Law of Administration for the State of Iraq for the Transitional Period of (2004)”.

⁽⁶⁶⁾ See: The text of the Paragraph (a) of the Article (53) of the (Chapter Eight: Regions, Governorates, And Municipalities) of the “Law of Administration for the State of Iraq for the Transitional Period of (2004)”.

⁽⁶⁷⁾ See: The text of the Paragraph (a) of the Article (53) of the (Chapter Eight: Regions, Governorates, And Municipalities) of the “Law of Administration for the State of Iraq for the Transitional Period of (2004)”.

⁽⁶⁸⁾ See: The text of the Article (54) of the (Chapter Eight: Regions, Governorates, And Municipalities) of the “Law of Administration for the State of Iraq for the Transitional Period of (2004)”.

⁽⁶⁹⁾ See: The text of the Article (١) of the (Section One: Fundamental Principles) of the “Constitution of the Republic of Iraq of (2005)”.

⁽⁷⁰⁾ See: The text of the Article (١٢) of the (Section One: Fundamental Principles) of the “Constitution of the Republic of Iraq of (2005)”.

⁽⁷¹⁾ The Paragraph (Second) of the Article (١١٦) of the (Chapter One: Regions) of the (Section Five: Powers of the Regions) of the “Constitution of the Republic of Iraq of



- (2005)” stipulates: “This Constitution shall affirm new regions established in accordance with its provisions”.
- (72) See: The text of the Article (١١٧) of the (Chapter One: Regions) of the (Section Five: Powers of the Regions) of the “Constitution of the Republic of Iraq of (2005)”.
- (73) See: The text of the Article (٤٧) of the (Section Three: Federal Powers) of the “Constitution of the Republic of Iraq of (2005)”.
- (74) See: The text of the Article (٤٨) of the (Chapter one: The Legislative Power) of the (Section Three: Federal Powers) of the “Constitution of the Republic of Iraq of (2005)”.
- (75) See: The text of the Article (٦٥) of (Two: The Federation Council) of the (Chapter one: The Legislative Power) of the (Section Three: Federal Powers) of the “Constitution of the Republic of Iraq of (2005)”.
- (76) See: The text of the Article (66) of the (Chapter Two: The Executive Power) of the (Section Three: Federal Powers) of the “Constitution of the Republic of Iraq of (2005)”.
- (77) See: The text of the Article (١٢٠) of the (Chapter One: Regions) of the (Section Five: Powers of the Regions) of the “Constitution of the Republic of Iraq of (2005)”.
- (78) See: The text of the Paragraph (Second) of the Article (١٢١) of the (Chapter One: Regions) of the (Section Five: Powers of the Regions) of the “Constitution of the Republic of Iraq of (2005)”.
- (79) See: The text of the Article (١٤١) of the (Chapter Two: Transitional Provisions) of the (Section Six: Final and Transitional Provisions) of the “Constitution of the Republic of Iraq of (2005)”.
- (80) See: The text of the Paragraph (First) of the Article (١٢١) of the (Chapter One: Regions) of the (Section Five: Powers of the Regions) of the “Constitution of the Republic of Iraq of (2005)”.
- (81) See: The text of the Paragraphs (Third, Fourth, and Fifth) of the Article (١٢١) of the (Chapter One: Regions) of the (Section Five: Powers of the Regions) of the “Constitution of the Republic of Iraq of (2005)”.
- (82) Israa Alaa’ Al-Din, the Functions and Authorities of the Regions and Governorates and their Relationship to the Federal Government according to the (2005) Constitution, research presented to the work of the Third Annual Scientific Conference for the College of Political Science: in the Future of Iraq in light of Local, Regional and International Changes”, University of Sulaymaniyah, First edition, Sulaymaniyah, 2013, p.42.
- (83) The Article (115) of the (Section Four: Powers of the Federal Government) of the “Constitution of the Republic of Iraq of (2005)” stipulates: “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 to the law of the regions and governorates not organized in a region in case of dispute”.
- (84) The Paragraph (Second) of the Article (112) of the (Section Four: Powers of the Federal Government) of the “Constitution of the Republic of Iraq of (2005)” stipulates: “The federal government, with the producing regional and governorate governments, shall together formulate the necessary strategic policies to develop the oil and gas wealth in



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- a way that achieves the highest benefit to the Iraqi people using the most advanced techniques of the market principles and encouraging investment”.
- (85) See: “Law No. (3) of (1992), Law on the Council of Ministers of the Kurdistan Region- Iraq Amended”.
- (86) See: “Law No. (1) of (2005), Law on the Presidency of the Kurdistan Region- Iraq, Amended”.
- (87) See: “Law No. (1) of (1992), Law on the National Council of Iraqi Kurdistan, Amended”.
- (88) See: “Decision No. (11) of (2009), The Sixth Amendment to the Internal System of the Parliament of Kurdistan- Iraq, No. (1) of (1992)”.
- (89) The Article (1) of the (Section One: Fundamental Principles) of the “Constitution Draft of the Kurdistan Region- Iraq of (2009)” stipulates: “Iraqi Kurdistan is a region within the federal state of Iraq. Its political system is parliamentary, republican and democratic. It adopts political pluralism and the principle of separation of powers and peaceful transfer of power through direct, secret and periodic general elections”, Available at the following link:
«<https://presidency.gov.krd/krp/docs/KRConstitution-ar.pdf>», Last visited: [26.03.2023, 12:36]
- (90) The Article (40) of the (Chapter One: Parliament of Kurdistan Region- Iraq) of the (Section Three: Powers of Kurdistan Region- Iraq) of the “Constitution Draft of the Kurdistan Region- Iraq of (2009)” stipulates: “The Parliament of Iraqi Kurdistan is the legislative authority and the reference for deciding the fateful issues of the people of the Kurdistan Region, and its members are elected through general, free, direct and secret balloting.”.
- (91) The Article (53) of the (Chapter One: Parliament of Kurdistan- Iraq) of the (Section Three: Powers of Kurdistan Region- Iraq) of the “Constitution Draft of the Kurdistan Region- Iraq of (2009)” stipulates: “In addition to any other competence entrusted to it by virtue of the laws in force in the region, Parliament exercises the following powers:
First: Deciding on the crucial issues of the people of Iraqi Kurdistan by a two-thirds majority of the members.
Second: Approval of open constitutional amendments in accordance with Article 120 / Fourth) of this constitution.
Third:
1. Enacting laws in the Kurdistan Region, including amending and repealing them in all matters except for matters that fall entirely within the exclusive legislative competence of the federal authorities in accordance with Article (110) of the Federal Constitution.
2. Acknowledging the enforcement of federal laws in the Kurdistan Region and amending their application by law, with the exception of laws that fall entirely within the exclusive competence of the federal authorities in accordance with Article (110) of the Federal Constitution, so they shall be applied in the region as soon as they are enforced according to the provisions of the Federal Constitution.=
= Fourth: Taking measures to impeach the President of the Kurdistan Region or his deputy, with the approval of two-thirds of the parliament members, on the basis of perjury, serious violation of the constitution, or high treason.



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Fifth: Granting confidence in the Ministry and its members and withholding it from them. The no-confidence in the prime minister is by a majority of 312 for the members of Parliament and for the minister by an absolute majority of its members.

Sixth: Monitoring the work of the executive authority and holding the prime minister, his deputy and ministers accountable according to the law and the procedures of the parliament's internal system.

Seventh: Approving the general budget of the Kurdistan Region and the final accounts, conducting transfers between its chapters, and approving expenditures that were not mentioned in the budget.

Eighth: Approval of the general plans for development.

Ninth: Imposing, amending, canceling or exempting taxes and fees.

Tenth: Deciding on the validity of membership in Parliament by an absolute majority of the votes of those present, and the decision is subject to appeal within thirty days from the date of its issuance at the Constitutional Court in the region.

Eleventh: Laying down the parliament's by-laws, determining its staff members, estimating its budget, appointing its employees, and determining their salaries.

Twelfth: Formation of permanent and temporary committees and commissions of inquiry.

Thirteenth: Approving the nomination of the members of the Constitutional Court of the Kurdistan Region by an absolute majority of its members

Fourteenth: Approval of the nomination of the heads of the independent bodies and commissions stipulated in Article (107) of this constitution by an absolute majority of its members”.

⁽⁹²⁾ The Article (59) of the (Chapter Two: Executive Power) of the (Section Three: Powers of Kurdistan Region- Iraq) of the “Constitution Draft of the Kurdistan Region- Iraq of (2009)” stipulates: “To be the executive branch of: Presidency of the Kurdistan Region and the Council of Ministers and exercises its powers in accordance with the Constitution and the law”.