



HISTORICAL ASSESSMENT OF THE PERFORMANCE OF THE LEGISLATIVE AUTHORITY IN IRAQ

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المستخلص

يقدم هذا البحث لمحة عامة عن التطور التاريخي للسلطة التشريعية (البرلمان) في العراق منذ أوائل القرن العشرين حتى التقدم الفينامي الذي حدث بعد سيطرة الولايات المتحدة الأمريكية على العراق . البحث يصف البرلمان خلال الانتداب البريطاني ، وتشكيل أول برلمان عراقي ، والموافقة على القانون الأساسي العراقي في عام 1925 ، وأسباب ضعف دور البرلمان في النظام الملكي على سبيل المثال ، سيطرة الملك على السلطات ، عدم الاستقرار السياسي في العراق ، مساوئ القانون الأساسي ، ومشاكل البرلمان الانتخابية . يصف هذا البحث أيضاً دور البرلمان خلال أنظمة الجمهوريات الخمس في العراق . وأخيراً ، تتناول هذه الدراسة المراحل التي سبقت ظهور البرلمان بعد نظام صدام . بعبارة أخرى ، يناقش هذا الجزء بشكل خاص نظرة عامة على التحول السياسي الذي حدث بعد سيطرة الولايات المتحدة على العراق مثل انتخابات البرلمان العراقي في يناير 2005 ، وصياغة دستور عراقي دائم ، والانتخابات التشريعية في ديسمبر 2005 . وبالتالي ، فإن النقطة العامة لهذه المراجعة هي توضيح لماذا وكيف وإلى أي درجة تفتقر القضايا والتحديات جزءاً ضرورياً في التأثير على أداء السلطة التشريعية . استخدم هذا البحث المنهج الوصفي الاستنتاجي والنهج التاريخي في إجراء البحث . كانت التقارير الحكومية والقوانين هي البؤر ذات الأهمية بالنسبة للمعلومات الأساسية في هذا البحث . المعلومات الاختيارية بشكل أساسي كانت من الأعمال التعليمية ، على سبيل المثال ، الكتب ، المقالات اليومية ، والأطروحات . النتائج كشفت أن العديد من القضايا والتحديات التي رافقت السلطة التشريعية منذ إنشائها أثرت سلباً على أدائها .

Abstract

This research presents an overview of the historical evolution of the legislative authority (parliament) in Iraq since the early 20th century until the political progress that happened after the control American united states (U. S.) of Iraq". "It describes the parliament during the British mandate, the formation of the first Iraqi parliament, Approval of the Iraqi Basic Law in 1925, and reasons weakness of the parliament's role in monarchy e.g., The King's domination over the authorities, political instability in Iraq, disadvantages of the Basic Law, and the electoral problems of the parliament". This research also describes the role of parliament during the five republics systems in Iraq. "Finally, this study discusses the stages that preceded the emergence of the parliament after Saddam regime". "In other words, this section in particular discusses overview of the political transition that occurred after the U. S. control of Iraq such as the elections of the Iraqi parliament in January 2005, the drafting of a permanent Iraqi constitution, and the legislative election in December 2005". "Subsequently, the general point of this review is to clarify why, how and to what degree do issues and challenges assume an imperative part in impacting performance of the legislature". "This research utilized descriptive deductive approach and historical approach in undertaking the research. Governmental reports, statutes and laws were likewise hotspots for essential information in this review". "Optional information was fundamentally from scholastic works, for example, books, diary articles, and theses". The results revealed that many of the issues and challenges that accompanied the legislative authority since its establishment have negatively affected its performance."

Keywords: Historical assessment; Performance; Legislative authority; Iraq

Introduction

"In any democratic political system, parliament is the main institution that plays an important role in the expression of the citizens' wills and resolution of policy conflict. One of its main functions is to enact laws, according to the will of the electorate as well as to ensure accountability while paying attention to the interests of diverse groups (Douglas et al., 2005)

"Iraq has practiced democracy for more than five decades through temporary constitutions, emergency conditions, and special courts". "Each of these constitutions was not issued by the parliament, but by the rulers who were in power. As a result, these constitutions vested the government to those with higher status, enabling them to outperform the authorities of the parliament (Shaaban, 2005: 36)."

"Iraq, during the period of British rule, held parliamentary elections under a League of Nations mandate (from 1920 until Iraq's independence in 1932). Iraq did not have any previous experience with a parliamentary government (Katzman, 2006:

"Democratic institutions such as the parliament are not entirely unknown in Iraq. Under the Hashemite monarchy (1921 to 1958), Iraq adopted a parliamentary modeled after the United Kingdom (hereafter UK) ". " Political parties and the opposition existed; the dissent and disagreement were generally tolerated". " The discussions in the parliament have been often vigorous, the legislators were usually allowed to argue and vote against the government without fear of penalty. Parliament often managed to influence policy, although the palace and the cabinet set the agenda (Dawisha et al., 2003:36-50)

"In the sixties of the twentieth century, Iraq witnessed several coups, including the 1963 coup to overthrow the rule of Abdul Karim Qasim, a counter-coup in November 1963 with Abdul Karim Qasim's efforts to purge nationalistic factions of the government and the Baathist coup in June 1968". "With this coup, a new era started in Iraq. Saddam was the most prominent political figure that entered Iraqi politics in that period, and the ideology of the Baath Party became the dominant ideology on political life until 2003, when Iraq was occupied by the U.S. military". " These conditions helped to strengthen the autocracy of Saddam after 1979". "During Saddam's rule, Iraq enacted the new interim Constitution of 1990, which was different from the 1968 Constitution". "This Constitution came into force with a questionable referendum in 1995. This referendum was questionable because of the enormous power of Saddam on the Iraqi people and it had an indirect relationship with the approval of the Constitution instead of Saddam's term of presidency". "However, there was no real power of the parliament (the National Council) until 1980, when all the legislative, executive, and judicial authorities were under the control of the Revolutionary Command Council (RCC) (Galvani, 1972:7)

"In 1980, parliamentary elections were held for the first time in Iraq". "Considering the rights empowered to the parliament within the Constitution, the parliament was not expected to be functional in practice, because the 1970 constitution granted parliament authorities formality, and entrusted the function of legislating to the RCC". "The most important condition for nomination to this Council was the candidate had to be a believer in the leadership role of the Baath Party (Saleh, 1999:17-35)."

"After the ousting of the Saddam regime in April 2003, Iraq faced political upheaval due to the military intervention of the United States of America (U.S) that led Iraq to a stage of political chaos, insecurity and deteriorating economic conditions. The chaos continued until October

2005". "During that period, the Iraqis participated in a referendum on the shape and content of the political system of their country in the context of a new contemporary constitution, and they voted on the adoption of the federal system and parliamentary government (Atwan,

"Nevertheless, in the confused and hasty circumstances when the Iraqi constitution was written and approved, there were disparate and mutually irreconcilable interpretations in several key areas". "Many of these areas involved the current disputes on absence of laws relating to the organization of political parties and parliamentary elections, but the different parties interpreted the constitution according to their interests in the presence of the passive role of the Supreme Court (Al-Kadhimi, 2013)

"Political crisis continued in the new political system in Iraq after the announcement of the constitution in 2005, due to a variety of political, economic and social factors, e.g., declining economic and social conditions, the escalation of the security crisis, political corruption, and the continuation of foreign interference". "The new political system in Iraq was subjected to a certain degree of rejection based on political and social factors, which sometimes took the form of armed violence employed by political opponents. Turbulent political reality has had a negative impact on the government's and legislative authority performance, (Atwan, 2011: 1)

Research Problem

"Since its emergence in the 20th century, the legislative authority in Iraq has faced many issues and challenges that reflect negatively on its performance in legislation and oversight inside In the Iraqi political system". "Therefore, the analysis of the performance of the legislature requires a systematic historical study, through an examination of these challenges and issues in order to evaluate the success and failure of legislative authority performance

Research Objectives

"The study looked to accomplish the following aims:"

1. "To analyze the key challenges and issues that accompanied the creation of the legislative authority in Iraq during the British Mandate, which influence its functions
2. "To investigate the key challenges and issues that accompanied the creation of the legislative authority in Iraq during the five republican systems"; and

3. "To evaluate the functional performance of the new legislative authority in the post the political transition that occurred after removing the Saddam regime from power by U. S. forces

Research Methodology

"The descriptive deductive approach and historical approach have been embraced. Documentation procedure guided the collected data from the sources and references of books, past studies, magazines, newspapers and university thesis relating to the subject of the present study specifically or by implication". The study also adopted the government documents and data in the reports issued by the centers of research, studies, conferences and regional international organizations concerned with the study of legislative authority in Iraq, where it derived the necessary information and facts that serve the problem of study and verification goals."

Iraqi Legislative Authority During the British Mandate

"Political life in Iraq's modern history is often characterized by foreign interventions, e.g., control of the Ottoman and the British occupation (Qzhang, 1989: 27) ". During the Ottoman domination of Iraq (1534–1918), the legislative power (Parliament) during this period was managed by the application of the Ottoman law (envoys), the first electoral legislation applied in Iraq". "Such law was administered by the legislative authority of the Ottoman Empire in Istanbul, because Iraq was part of this empire during that time". "In that era, the representatives of the three Iraqi provinces (Baghdad, Basra and Mosul), which made up the Council, were appointed regardless of their population". "Notably, this Council did not have legislative competence, especially in the legislation of laws". "This was limited to the Council of agents, which served as the Council of Ministers, under the control of the Ottoman Sultan (Iraqi Organization, 2006: 4) ."

"The First World War played a key role in the development of the entire Middle East. The Ottoman Empire had allied with Germany against the victorious Britain, France, and Russia. Iraq, thus became a battleground, along with other provinces of the empire. Britain sought control over the region and landed an Ottoman army in Basra in 1914; however, it was forced to surrender before reaching Baghdad". "The British did not control the three provinces of Basra, Baghdad, and Mosul until 1918. At that time, there were numerous issues facing the British administration, including the conflicts between villagers and tribes, and the need of merchants and other businessmen to have an effective legal system with laws to protect their interests and courts to enforce the laws (Johnson, 2008: 12) ."

"The British implemented a direct military rule over Iraq in all aspects of life. Thus, the Iraqi National Movement eventually demanded full independence and parliamentary constitutional rule". "Likewise, Iraqis expressed their desire through two separate referendums for independence conducted by the royal governor general in December, 1918 and January 1919, in elected government, Council elections constrained by law, and the need to enact a constitution through a parliament (Shaaban, 2007: 172)."

"During the British occupation, Iraq witnessed the establishment of a parliamentary representation system. In April 25, 1920, the League of Nations issued the mandate decision following the signing of the San Remo Treaty, which determined the British and French areas of influence throughout the Arab region". "According to the Paragraph 4, Article 22 of the first chapter of the League of Nations' Charter, the main allies in the First World War shall recognize Iraq as an independent state, provided the latter accepts administrative advice and assistance from the mandated state until it is able to run its affairs on his own". "The allied countries selected Britain, which accepted the mandate on behalf of the League of Nations, and in accordance with the mandate" conditions. "The first article of the mandate mentioned that "The mandated state should put a basic law for Iraq during three years from the implementation of the Mandate." (Al-Naqshbandi, 2006: 1) ."

"The decision of the allies at the San Remo Conference in April 25, 1920, which included the situation in Iraq under the British Mandate, contributed to the outbreak of the Iraqi revolution on June 30, 1920". "Formally, this revolution forced Britain to declare the end of military rule. Afterwards, Sir Percy Cox was appointed as High Commissioner of Iraq, and consultations began to form a national government under the care and guidance of the High Commissioner (Bill, 1971: 1-2) ."

"Meanwhile, in Iraq, the British Deputy Military Commander issued a statement on June 17, 1920, whereby Sir Percy Cox projected an Iraqi National Conference to be elected by all the people of Iraq and to be essentially entrusted to draft an Iraqi constitution. On November 1920, the British High Commissioner issued a clear statement confirming that all Iraqi people ought to be represented": "The form of government is a matter to be decided by the Iraqi people themselves; such a decision shall not be made without a fully representative conference". " Britain acknowledged the parliamentary shape of the Iraqi state with a statement issued by the British Military Commander on the 10th of November, 1920, stating that "The cabinet of His Majesty, the King of Britain, authorized the formation of an elected parliament aiming at drafting a constitution for Iraq". " This statement is viewed as the first official declaration from Iraq regarding the shape of the Iraqi state (Al -Naqshbandi, 2006:5)

6.1 Establishment of the Iraqi Monarchy System(1958–1921)

"Iraq's long history of non-representative government began with British rule"." During this period, Iraq witnessed important political transformations that contributed to the creation of different political systems, which took over the management of the affairs of the country since 1921 until the present (Constitution of the Kingdom of Iraq, 1926: 383-402) "." A constitutional monarchy continued in Iraq from 1921 to 1958, with the succession of 39 Ministries over 37 years, along with three kings, namely, King Faisal I, then his son King Ghazi, and King Faisal II (Iraqi Organization 2006: 4) ."

"On March 1921, Britain declared the establishment of the Iraqi state in the Cairo Conference held in Egypt. The government was modeled after that of Great Britain a constitutional monarchy with a parliament and a king"." The British chose Prince Faisal bin Hussein, a non-Iraqi member of an influential family in the Arab world, to be the first monarch". "Then in June 1921, the Council of Ministers formally declared him King. Thereafter, a plebiscite gave him a 96% approval rate (Johnson, 2008: 13) ."

"The first official bill of the Iraqi parliamentary government appeared when the Iraqi Council of Ministers issued a decision on July 11, 1921"." This was made upon recommendation by the Chief, Baghdad Sharif Abdul Rahman Al-Naqeeb in a session, which also appointed Prince Faisal Bin Al-Hussein as King in Iraq. The said decision of the Council of Ministers predetermined the Government of Iraq to be a democratic parliamentary constitutional monarchy subject to the law"." The second official initiative of the Iraqi parliamentary system was the speech of the King of Iraq on August 23, 1921 during his inauguration at tower Square, "Burj Al-gashlah" in Baghdad"." In his speech, King Faisal Bin Al-Hussien promised that his first few actions would be focused on the election of a parliament (called the National Assembly) that shall draft the first constitution for the nation on a democratic basis, and endorse the Iraqi-British treaty to determine the form of relations between Iraq and Britain (Al-Naqshbandi, 2006:2) ."

The Formation of the Legislative Authority in Iraq

"The idea of establishing local democratic institutions within the framework of a modern state, and the annexation of Iraq to Britain under Britain's direct rule, are compatible with British interests"." However, the divergence of views among the Ministry of War, the Government of India, and the British authorities in Egypt and Iraq, respectively, was an important consideration at this point"." The latter played a role in the occurrence of several factors, e.g., establishing local democratic institutions, new entrants to the international community, the entry of the U.S. into the First World War, declaration of U.S. president Woodrow Wilson's

Fourteen Points* , the wishes of the Iraqi people, and the drafting of Article 22 of the Charter of the League of Nations mandate and obligations". All these factors contributed to the emergence of the Iraqi state (Fayyad, 1990:168) ."

"Britain was determined to form the parliament due to its legal obligation, on the one hand, and in consideration of its future interests in Iraq, on the other hand. The formation of the parliament was a British interest, as confirmed in Article 18 of the Iraqi-British treaty draft of 1922, which stipulated that "The treaty is not to be ratified by both parties unless it is endorsed by the forthcoming Iraqi parliament (called National Assembly) ". In other words, British efforts for the establishment of the Iraqi parliament were to ensure the endorsement of an Iraqi-British treaty* to secure its presence and interests in Iraq (Al-Naqshbandi, 2006:2)

"Therefore, on October 19, 1922, the Royal Order to hold elections on November 24, 1922 was issued". However, this election faced stiff opposition, which led to its failure for several reasons. These reasons included religious edicts calling for a boycott of the elections by some religious figures, the positions of the national forces and some organizations of the elections, the Kurdish boycott of elections due to the Kurdish issue, tribal demands to assume independent representation in the elections, and refraining from registering in the elections for fear of forced military recruitment (Kamel, 1974: 46) ."

"This election succeeded after it was held again on July 12, 1923. The members of first Iraqi parliament were henceforth elected on February 25, 1924. Henceforth, the delegates identified three tasks of the parliament as follows:"

- a. "To decide on the Iraqi-British Treaty,"
- b. "To enact the constitution; and
- c. "To enact the election law of the new Iraqi parliament."

"In June 1924, the parliament was approved the Iraqi-British treaty, in the presence of 69 out of 100 representatives (37 representatives voted in favor, 8 representatives abstained from voting, while 24 representatives rejected the treaty) ". Hence, the Iraqi- British Treaty took effect". Upon approval of the Iraqi-British treaty by the parliament, it had another mission is the ratification of the constitution of the new Iraqi state (Al-Hasani, 2008: 119-252) ."

"The establishment of the parliament was considered a historic event with a significant impact on Iraq's political, economic and social development, as well as on the lives of its citizens. Considered as the first institution of representative and constitutional taking place in Iraq, this parliament has given the people of Iraq a sense of belonging to a political reference, which crystallized a form of common identity after being under the sprawling Ottoman empire, as well as the Council lays the groundwork for a system of government that lasted until 1958 (Al-Adhami, 1989: 307-308) ."

Approval of the Iraqi Basic Law in 1925

"The process of approving the Basic Law of Iraq (1925) was the second task carried out by the parliament. The King signed the law on March 21, 1925, after which the Law was immediately implemented (Johnson, 2008: 14) ". "This Law established that the government of Iraq must consist of a representative system and a hereditary constitutional monarchy ."

"Prior to its passage, much of the discussion centered on how much of a ruling role the monarch would have". "In the final version, the King was given a great deal of powers, including the rights to confirm all the laws, to call for general elections, to discontinue a session of the parliament or dissolve it, and the right to issue required ordinances to fulfill the treaty obligations without consulting parliament" . "The King also selected the Prime Minister and appointed the other ministers based on the Prime Minister's recommendations (Tripp, 2006: 37-334)."

"The parliament outlined in the Basic Law was divided into two chambers, namely, a Senate appointed by the King and an elected COR". "The representatives were elected every four years, with free manhood suffrage under an indirect voting system. Every group of 250 primary voters selected one secondary elector, who in turn, elected the representative". "It was a British-style parliamentary system, e.g., the cabinet was responsible for the COR and can be forced to resign by a vote of no confidence (Constitution of the Kingdom of Iraq, 1926: 383-402) ."

"Furthermore, legislation could be proposed by any representative, with the support of at least ten others". "However, the parliament did not have the power to enact legislation on financial matters, as the British retained control over finances under the Treaty". "Given that King Faisal was greatly influenced by his British sponsors, this Basic Law gave Britain a great deal of indirect power over the country. In all, ten general elections were held under the constitutional monarchy from 1925 to 1958". "Within the course of this period, there were 50 sets of Cabinet members appointed due to frequently changing governments resulting from the political instability of the country (Johnson, 2008: 15) ."

"The Iraqi Basic Law of 1925 included two key principles: Firstly, establishing a democratic government by linking the formation and survival of the ministry with the approval of an elected legislative authority. Secondly, adopting the principle of separation of powers (Hissou, 1984: 50-60) ". "The Basic Law originally contained 123 Articles, including the introduction and ten chapters. Eventually, the number of Articles increased to 125 after the addition of the three amendments, which lasted until 1958". "The Basic Law described the Iraqi government and the Iraqi regime in the institution of the monarchy. In relation to this, the terms of reference and the relationship among them according to the foundations and

principles of the regime can be considered democratic (Constitution of the Kingdom of Iraq, 1926: 383-402) ."

"In addition to the work of parliament as the supervisory authority for the work of the executive power, it has the constitutional right (Article 54) to ask questions to the Ministers for the purpose of clarification and interrogation. Recognized as the Constitution of the year in 1925, the principle of control over the Constitutionality of laws adopted judicial supervision in this area, because Article 81 of the Basic Law provides that "constitute the supreme court to try ministers, accused of political crimes or crimes related to their functions in public and to prosecute the rulers of the Court of Cassation, and decide matters relating to the interpretation of this law and other laws for approval of its provisions"(Constitution of the Kingdom of Iraq, 1926: 383-402) ."

"Thus, the Iraqi Basic Law of 1925 can be likened to a Western democratic Constitution. It included rules of modern parliamentary democracy, ensured fundamental rights of individuals, and established the foundations of a parliamentary democratic Constitution clearly highlights the role and functions of parliament in the political system."

6.4 The Weakness of Parliament in Monarchy System

"The constitutional life in Iraq under the Constitution of 1925 suffered from several problems that were behind the weakness of the role and functions of parliament. Such problems are discussed below:"

6.4.1 The king's Domination over the Authorities

"One of the most important problems is that the Constitution 1925 grants the King a broad range of powers, for example, the authority to select and dismiss the ministry without the consent of a majority in the parliament, the authority to choose prime ministers who are not members of the COR, and the dismissal of the Prime Minister, which is inconsistent with the principle of non-responsibility (King) ." All of these powers demonstrate the King's dominance (Rashid, 2006:144). However, it must be understood that the King acquired such authorities due to the support of British colonialism to him. The colonialism, the British were behind the creation of the first Constitution, forming the political system of Iraq, the principle of power sharing, and mechanism of forming the Iraqi institutions (Al-Naqshbandi, 2006:4) ."

"During this period, the parliament was not successful in Iraq because of a series of challenges (e.g., weakness of its role and performance), and as such, the executive branch is always flexing its authoritarian power over the parliament". The parliament was not even accepted

by the ruling elites who tried to disable it many times. E.g., former Prime Minister Nuri Al-Sa'id attempted to disable the parliament because its sessions had 10 opponents of some 134 members. The parliament was also disabled from 1925 to 1958, during which it was unable to withdraw or withhold the confidence from the government even for a one time (Jabr, 2007)

"Some researchers believe that the Basic Law of 1925 did not achieve the balance between the three authorities, given that the executive branch dominated the legislative and judicial authorities". In 1943, the Basic Law was amended and several powers of the King were added, including the authority to dismiss the ministry, despite the fact that the Basic Law held the government responsible in front of the parliament and not in front of the King (Jamil, 1983:19) ". Others believe that despite the fact that Iraq's Basic Law ensures the separation of powers, there was an overlap between these authorities because of the requirements of the political circumstances during that period (Researchers group, 2006: 25-26)."

6.4.2 Political Instability in Iraq

"Political instability in Iraq and the emergence of political disorders ultimately affected the performance of parliament. These were heightened due to the manipulation of the Basic Law, the rule of special laws, and ease of martial law declaration". "These can be identified by the following facts: one of the negative outcomes of the government was declaration of martial law for 16 times during the monarchy rule, a Sixteen parliament founded during this period, only one completed its constitutional period, also formed in that era Fifty-nine Ministry, and the fact that the ministries were headed by a Twenty-one minister. For example, Prime Minister Nuri Al-Sa'id headed over 14 ministries, while Jamil Al-Madfaai was presided over seven ministries (Al-Zubaidi, 1979) ". Martial law was imposed from September, 1924 until January, 1952. The country was subjected to Martial law for 3,992 days out of the total 10,267 days of its existence 39% (Al-Hassani, 1988: 153-350)."

"There were also several factors that contributed to the political instability, and these included the ones listed below:"

1. "On September 1933, King Faisal, who had become a unifying symbol in Iraq, died while he was out of the country seeking medical treatment". "He was succeeded by his son, King Ghazi, who was inexperienced and largely uninterested in political events (Spencer, 2000: 63-83)."
2. "King Ghazi died in an automobile accident in April 1939. His son, who became King Faisal II, was still a young child, so a cousin, Amir Abdul Allah, was appointed regent."

3. "There occurred a severance of diplomatic relations between Iraq and Germany, and the country, then offered full support to the Allies during the World War II."
4. "There were six military coups between 1937 to 1941, including Bakr Sidqi led coup on October 1936, and that led by Rashid Ali Al-Kaylani in April, 1941 (Johnson, 2008: 18)."

6.4.3 The Disadvantages of the Basic Law

"One of the more important points that can be observed from the 1925 Constitution was that its Articles were drafted in a very prosaic style. Hence, it was possible for it to address many of the things discussed by ordinary legislation" (Al-Jeddah, 1998: 40-131). "Meanwhile, the emergence of the new Iraqi regime was not the result of the will of the Iraqi people; rather it was a result of the British movement to establish their presence and ability to control Iraq". As a result, Iraq was forced to sign an agreement with Britain in 1924, one which explained the general guidelines of the new state. This agreement stipulated in the third Article that the fundamental law to be drafted by the parliament would not violate any of the provisions of the Treaty of 1922. As a result, the majority of the members of the parliament did not discuss the details and only attempted to modify the Law". However, most of the proposals to amend paragraphs in the Basic Law made by members of the parliament were refused. After this, the parliament voted to approve drafted the Constitution (Alawi, 2005: 107-108)."

"The Constitution 1925 was not a grant from the King, because at that time, he no longer had the power in his hands. As a result, the drafted Constitution was not a true contract between the Authority and the people". "It was also not drafted through a legitimate parliament, because its task of drafting the Constitution was severely restricted by the treaty of 1922. Furthermore, the first draft of the 1925 Constitution was formulated back in 1921". This meant that the first draft was created three years before the establishment of the parliament. For this reason, the 1925 Constitution was imposed on the power and the people, and only gained legitimacy after the acceptance of the citizens (Mirza, 2004:133)."

6.4.4 Electoral Problems of the Parliament

"At that time, Iraq still had no previous experience with a democratic form of government, despite the fact that parliament elections were held under British rule in accordance to mandate the League of Nations from 1920 until Iraq's independence in 1932, and during the monarchy of the Muslim Hashemite dynasty from 1921 to 1958 (Eisenstadt & Mathewson, 2003)."

"The falsification of elections in that period was a natural occurrence in the parliamentary history of Iraq, e.g., Tawfiq Al-Suwaidi headed the government three times during the monarchy, and said that in the first parliamentary elections of 1925, the elections ended by simply choosing candidates after obtaining approval of their appointment from the King, the Interior Minister, the British Chancellor, and Presidential Minister (Jamil, 1983:19) ". "Over and above this, women were deprived of the right to vote until the 1952. The method of election was done in two phases to the year 1952. Without a doubt, voters in the second phase were susceptible to the influence of the government (Hissou, 1984: 50-60) ."

"The weakness of the parliament was not only due to the dominance of the executive branch, but also due to the nature of the legislative authority (parliament) and the lack of modern political parties (Rashid, 2006:144) ". "Parliament, since founding it in 1925, was comprised purely of the elite". "There were no true representatives of workers and peasants, despite the fact that the majority of the population of Iraq was composed of these two classes. Instead, the majority of members of both the COR and the Senate was feudal heads, landlords and capitalists, who supported the ministry as long as the latter committed to the protection of the former's interests (Al-Hasani, 2008: 119-252)."

"Iraq at this stage was characterized by having a few men dominating the government, a King who was often subject to the will of the British, and people who suffered from disease, ignorance, underdevelopment, and poor economy". "All of these factors formed an important incentive that motivated people to work towards changing this system. The events that unfolded on July 14, 1958 marked the beginning of a new stage in Iraq's history". "This was the abolition of the monarchy and the declaration of the republican regime in Iraq (Abdul Zahra, 2009: 20)."

"From the above historical rundown of the parliamentary life in the monarchy system, it is apparent that the Iraqi parliamentary institution has rapidly grown since the establishment of the State, yet it has remained under restriction, which prevented it from undertaking its actual roles in promoting the advancement, rehabilitation, and progress of the Iraqi society (as is the case in the parliamentary institution of other countries) and despite the negative issues that accompanied the parliamentary institution during the monarchy". "However, this phase formed the core of the first constitutional representative institution, contributing to the establishment of a culture of parliamentary democracy to the Iraqis a culture that can influence the future of parliament as a legislative and a supervisory institution."

0.7 Iraqi Parliament During the Republic System

"After the change from a monarchy to a republic, Iraq witnessed the rise and fall of five republics from 1958 until 2003". The parliament history during this time is briefly discussed below."

7.1 The First Republic(1963–1958)

"The First Republic began after the revolution of July 14, 1958, which led to the collapse of the monarchy". The Republicans abolished the Basic Law of 1925, or the so-called First Constitution, and all existing institutions under this Law, including the parliament (Council of Nations and its two bodies, the Senate and COR) (Al-Ani& Al-Harbi, 2005: 194-195)."

"On the same day, a military coup replaced Iraq's deeply unpopular monarchy with a Republic. Coup leader General Abdul Karim Qasim quickly marginalized his rivals, setting the precedent of autocratic rule after Iraq's post-monarchical leadership. However, while Qasim's revolutionary government initiated sweeping reforms on behalf of Iraq's long-exploited lower class, he did nothing to build a stable government, or national institutions in a country long split along ethnic sectarian lines (Robert, 2011: 10)."

"On July 27, 1958, an interim Constitution to replace the Basic Law was announced. As a result, Iraq opened temporary constitutional conventions, which lasted until 2005 (Abdul Zahra, 2009: 20) ". "From 1958 to 1963, elections to create a legislative authority (parliament) representing the people were non-existent". "The 1958 Constitution assigned the legislative power to the Council of Ministers by virtue of Article 21, which stipulated that the Council of Ministers was to be entrusted with the legislative authority under the endorsement of the Sovereignty Council, which consisted of the Republic Presidency of a President and two Vice Presidents (Article 2) " (Al-Naqshbandi, 2006: 5).

"The political system implemented after July 14, 1958 was not a presidential system because the Council of Sovereignty entrusted with the functions of the presidency did not have any real powers". It was also not a parliamentary system because the system did not yet have a proper acquired power through force (Al-Ani, 1986: 33-39)."

"In conclusion, the form of the political system that followed the July 14, 1958 military coup was based on the legitimacy of a revolution". This has led to the emergence of a non-parliamentary government, in which the Prime Minister is the decisive force". This is because the Council of Ministers now has the legislative and executive branches without the presence of a parliament either through election or appointment."

7.2 The Second Republic(1966-1963)

"On February 8, 1963, military units led by Qasim's opponents took over key government sites, including radio stations and the Ministry of Defense building. Qasim was then executed without trial (Spencer, 2000: 63-83)". "It was the Ba'ath Party that organized the coup, thus gaining power to establish the National Council of the Revolutionary Command (NCRC) as the highest decision-making body (Tripp, 2006: 37-334)."

"Two months after the coup on February 8, the coup leaders forwarded the 1963 Constitution (April 4, 1963), in a move that aimed to legitimize the acts and decisions of the NCRC". "The 1963 Constitution stipulated that "the Parliament is the institution who undertakes the legislative authority." Article 62 of the same Constitution stipulated the way the Parliament must be formed, the number of its members as well as the procedures of holding and calling for elections. It was also proposed that the National Revolutionary Council, together with the Council of Ministers, must assume legislative authority (Al-Naqshbandi, 2006: 5)."

"Following that short-lived phase, Abdul Salam Aref led a coup against the leaders of the former coup, his Ba'athist comrades, whom he overthrew on November 18, 1963". "Thereafter, Abdul Salam Aref ruled Iraq single-handedly from 1963 until 1966". "On April 22, 1964 he issued a new Constitution, which consisted of 17 Articles that dealt mostly with the management of power in Iraq, the powers of the President of the Republic, and membership of the NCRC". "On April 29, 1964, the Second Interim Constitution of Iraq was promulgated, which included 106 Articles, making it the broadest constitutional document since the start of modern Iraqi history". "However, there was no ratification of the Constitution made by the people, and it was promulgated based solely on the signatures of the President, the Prime Minister, and his Cabinet (Al- Jeddah, 1998: 83-84)."

"The task of the legislative authority in the Second Interim Constitution was granted to two bodies, namely, the National Council for the Leadership of the Revolution and the Council of Ministers. However, this division was canceled by an amendment made in the Constitution of 1964, which stipulated that the task of legislation was the sole responsibility of a new Council called the Al-Shura Council (Shendel, 1978: 192)."

"In 1965, the military nature of the regime was changed". "The NCRC was dissolved, and a civilian cabinet began to exercise legislative power". "Despite this movement, the National Defense Council retained overall control over the cabinet. Abdul Al Rahman Al-Bazzaz became the first civilian Prime Minister in July, 1958". "His reform program called for rational socialism, stability, the rule of law, an end to political arrests, the permission of free political expression, and the reinstatement of the parliamentary system". "Political parties

were still outlawed, although Al-Bazzaz claimed that elections would begin again in the future (Farouk & Sluglett, 1987: 97-377)."

7.3 The Third Republic(1968–1966)

"President Abdul Salam Aref died in a helicopter crash on April 1966, and power once again shifted from him to his brother Abdul Rahman Aref, who was elected by the Council of Ministers and the NCRC". "These two Councils were neither elected nor appointed by Abdul Salam Aref (Batatu, 1992: 377) ". "This period lasted from 1966 to 1968 without any constitutional change; likewise, a parliamentary government was not practiced during this period (Al-Naqshbandi, 2006:5)."

7.4 The Fourth Republic(1979-1968)

"In July 1968, army officers associated with the Ba'th party seized power over the course of two coup uprisings led by Ahmed Hassan Al-Bakr and his deputy, Saddam (Bertelsmann Stiftung, 2012: 3) ". "The political system in Iraq from 1968 to 1979 was characterized by the dominance of one leading the party. From 1979 to 2003, the system changed to one that was ruled by one person and family". "Here, one person controlled the legislative executive and judiciary branches of government, despite the presence of several check-and-balance institutions". "Furthermore, these institutions were not elected by the people and existed solely because of their partisan character, e.g., the RCC and the Council of Ministers (Kamel, 2004: 126)."

"After issuing the Constitution of September 21, 1968, all the power was concentrated in the hands of the so-called RCC". "By the end of 1970, the Council had issued more than three thousand resolutions. Unfortunately, it took no heed of any authority except that of the Ba'th, the formality authority. For more than three decades, this unelected Council controlled Iraq and its people (Hashim, 2003:184-279)."

"In 1970, the Government issued a new interim Constitution, which contained Article 67". "The Constitution 1970 directed the parliament (called National Council) to announce and hold general elections in 1980 for the selection of its members. However, a decade after the issuance of the 1970 Interim Constitution, the parliament remained without real powers, as the RCC was still the highest authority in the country (Deeb, 2003: 131)."

"Nevertheless, Iraq's 1970 Constitution established a unicameral parliament state; it also stated that the parliament (National Council) was to consist of 250 members, representing an equal percentage of the population". "However, all parliament Representatives required prior

government approval. As a result, the parliament was reduced to a "puppet" legislature during that period (Douglas et al., 2005) (Also, see Iraq Interim Constitution 1970, 1971:2-13)."

"The 1970 Constitution remained in force until the overthrow of Saddam in 2003. In other words, this Constitution was implemented for 33 years, despite a movement to promulgate a contemporary Constitution in 1990. Article 42 of the 1970 Constitution remained the core law in Iraq, as this was the Article that empowered the unelected RCC to issue laws and decrees with the full force of law". In this sense, it was the Council that ruled Iraq until the fall of the regime in 2003 (Al-Jeddah, 1998: 129-131)."

"The political and constitutional structure established by the 1968 Ba'ath Coup lasted until 1990 without undergoing substantial change". For example, the parliament was elected in accordance with the 1968 Constitution. "The RCC was established in order to make laws and to elect the President by a two-thirds majority". The Secretary-General of the Ba'ath Party Regional Command would also hold the office of the President of the RCC, as well as that of the President of the Republic. In addition, the RCC had all the power, and became the only authority in legislative, executive, and judicial branches". In 1990, the legislative structure changed as the Ba'athist government delegated legislative functions to a non-representative parliament. As a result, the parliament functioned as a rubber stamp for laws created by the RCC, an executive Council made up of the elite members of the Ba'ath party and controlled personally by Saddam (Bangio, 1998: 58)."

7.5 The Fifth Republic, 1979–2003 (Saddam's Rule)

"On July 1979, Saddam, a Ba'athist leader, succeeded in the removal president Ahmed Hassan Al-Bakr from the authority after forcing him to resign and placing him under house arrest". On 1980, the military might of Iraq was put on display on the world stage during its war with the larger nation of Iran. After eight years, the war caused enormous financial strain on the Iraqi economy". "In August 1990, Saddam invaded yet another neighbouring country, Kuwait, and annexed it as its 19th province. Then U.S. president George H. W. Bush Sr., in collaboration with North Atlantic Treaty Organization (NATO) and its 29 allies, and under authorization from the U.N. Security Council, launched military attacks to evict Iraq from Kuwait."

"After Kuwaiti occupation and its subsequent liberation in 1991, the Security Council in the U.N imposed further economic sanctions on Iraq, prohibiting any trade with the outside world". "The only exception is the UN- sponsored Oil-for-food program OFFP, which has led to a very devastating impact on all aspects of Iraqi life". The Relations between the U.S. and Iraq

since the conclusion of the first Gulf War in 1991 remained poor". Fearing that Saddam was developing weapons of mass destruction in violation of U.N. Sanctions, the U.S. Congress passed the Iraq Liberation Act of 1998, which stated: "It should be the policy of the United States to support efforts to remove the regime headed by Saddam from power in Iraq." (Hafedh et al., 2007: 10) ."

"Iraq's economic activities experienced a boost during this period, and it climbed to the summit of third world countries in terms of per capita income". It also reached a high level of education, increasing number of experts and skilled workers, advanced technology and abundant reserves of foreign currency". "However, such growth was a result of the continuous efforts for over half a century, and began to decline rapidly due to the entry of the Baathist regime in a number of major wars (Hamid, 2005) ". For example, the results of the invasion of Kuwait during Saddam regime were devastating for Iraq". At that time, 100,000 Iraqi citizens died and about 1.5 million other citizens were displaced. Iraq lost around USD 170 billion, according to statistics (Farouk & Sluglett, 1987:377) ". In addition, Iraq lost tens of thousands of children because of economic sanctions imposed by the UN, which resulted in malnutrition and lack of health services (Idriss, 2009:35). The economic sanctions left the entire infrastructure, oil industry, institutions, and the economy of the nation in shambles". The country spent most of its annual national revenue on military for more than a quarter of a century (Hafedh et al., 2007:8)."

"Meanwhile, Saddam used his control over the party and its security apparatus to ensure his monopoly of power and assume control of the country, both as president and as chairman of the RCC (Bertelsmann Stiftung, 2012:3) ". This period is considered a continuation of the previous period because the Ba'ath Party has dominated Iraq since the rule of Ahmed Hassan Al-Bakr. During this period, the parliament (National Council) Law No. 229 of 1970 was cancelled and replaced by Law No. 55 of 1980, whereby both the Election Law and the parliament Law were combined, the authority of legislation was entrusted the parliament, and the selection of members of the Council was made through free election. It should be noted that the Ba'ath Party dominated the parliament, as most members were elected from within the party". Furthermore, the state of emergency under the Assembly's session was extended for any period that the Government deemed suitable". Furthermore, most observers of the legislative process in Iraq during the same period stated that this was an artificial process due to the domination of the ruling Ba'ath party. In other words, the RCC led by Saddam enjoyed broad legislative and parliamentary powers as it drew laws, according to the will of the ruling Ba'ath party (Al-Naqshbandi, 2006: 5-6)."

"Sometimes the legislative authority under the Saddam regime was also exercised by the parliament (National Council) ". " It consisted of 250 members who were elected every four years, under the condition that all members should first be members of the Ba'ath party"". This Council was established in 1980. Its last session after electing new members was in 2000. Its powers were limited to proposing draft-laws submitted to the RCC, which was at the head of the pyramid, preceded by Saddam the exclusive decision-maker". "The parliament was entitled to approve or reject unanimously, according to Saddam's desire, without giving opinions in a free discussion (Al-Fatlawi, 2006: 1-29)."

"Based on the above mentioned, In the era of the five republics, there were no general elections and parliamentary Councils until 1980, when the first general elections were held to elect the members of the first parliament". "The second, third, and fourth election rounds were conducted in 1984, 1988 and 1999, respectively". "During these elections, the candidates represented the ruling party, and its supporters disqualified all other parties and independent candidates". " Thus, these elections lost their pluralistic nature, which is one of the most important foundations of any election. In other words, the elections did not represent the will of the people (Radi, 2005) ". "Even though the parliament seemed to have the right to prepare the draft laws with the exception of issues related to military, finance and public security, the RCC still reserved the right to reject and modify all drafts prepared by the parliament". " Furthermore, even if the parliament insisted on its draft, it was only accepted in a common session of the RCC and parliament with a two-thirds majority". We note here that any such challenge to the authority of the RCC never occurred (Bengio, 1998: 58)."

"The true democracy has been absent from the scene during the rule of the Baath Party, illustrated through some points, e.g., there is no opposition parties in the parliament, all decisions made by the RCC, the Council represents the image of false democracy ". " During 1979-2003, any Iraqi citizen did not nominate himself to the position of President of the Republic, e.g., in a referendum in 1999, the former Iraqi president Saddam won 99.99 % of the vote, and this is clear evidence of the lack of credibility of the referendum, especially since there are armed opposition lead the struggle against the authority in the South (Marshes) and the north (mountains) of Iraq. In addition, the Ba'ath Party under the Saddam regime kept the government highly centralized. Generally, the government prevented active public participation and selected members of a single political party (excluding from the Baath Party) to manage legislative functions. (Douglas et al, 2005)."

"In mid-July 2005, Saddam was tried by a CPA court, where Saddam was charged with crimes against humanity for the massacre in (Dujail village) in Salahaddin Province 35 miles north of Baghdad due to Saddam exposure to a failed assassination process in that village ". " Hussein, who was subsequently convicted on nearly all counts (displacement, detention,

torture, and execution of nearly 150 people in Dujail village), was sentenced to death by hanging and was executed in December 2006, thus ended the Baath era in Iraq (Katherine, 2008: 119)."

"Based on the foregoing, the five Iraqi republic regimes have never experienced dealing with parliament as an institution despite the constitutional stipulation on the establishment of a Legislative Council ". " This Council has several functions, including the power of passing laws, regulations, and international treaties and agreements. However, the Revolutionary Command Council (RCC) assumed all the powers of the legislature, which deprived Iraq of a real democratic process during this period."

7.6 Iraqi Parliament Post Saddam Regime

"The period after 2003 has seen several stages, was instrumental in the formation of the new parliament, these stages are as follows:"

7.6.1 The Political Transition in Iraq

"After the September 11 terrorist attacks in New York and Washington, D.C., the United States and some of its allies, e.g., Britain waged a war to topple the Hussein regime ". "This war was based on Iraq posing a threat to the national security of the United States as well as to regional and international peace and security. The invasion in 2003 succeeded in bringing Hussein down (Hafedh et al., 2007: 477-478)."

"After the collapse of the Saddam regime in April 2003, the United States set up an occupation structure with the ulterior motive that the immediate sovereignty would be in the favor of the major factions and once that is done, it would fail to produce democracy ". " On May 2003, President Bush, who was seeking strong leadership in Iraq assigned Ambassador L. Paul Bremer to head a CPA recognized " by the United Nations. "As an occupation authority, Bremer discontinued the tentative political transition and appointed by the Iraqi Governing Council (IGC) consists of 25 members as a non-sovereign Iraqi advisory body on the 13th July, 2003 (Frederick, 2010: 2) ". "The IGC was the second largest administrative body in Iraq during the U.S. occupation. " The Council was observed to have a very weak role in the management of the internal affairs of the country during that particular period, because the Council's authority was once an advisory capacity and is subject directly to the authority of the Governor Bremer (Abdullah, 2006:117)."

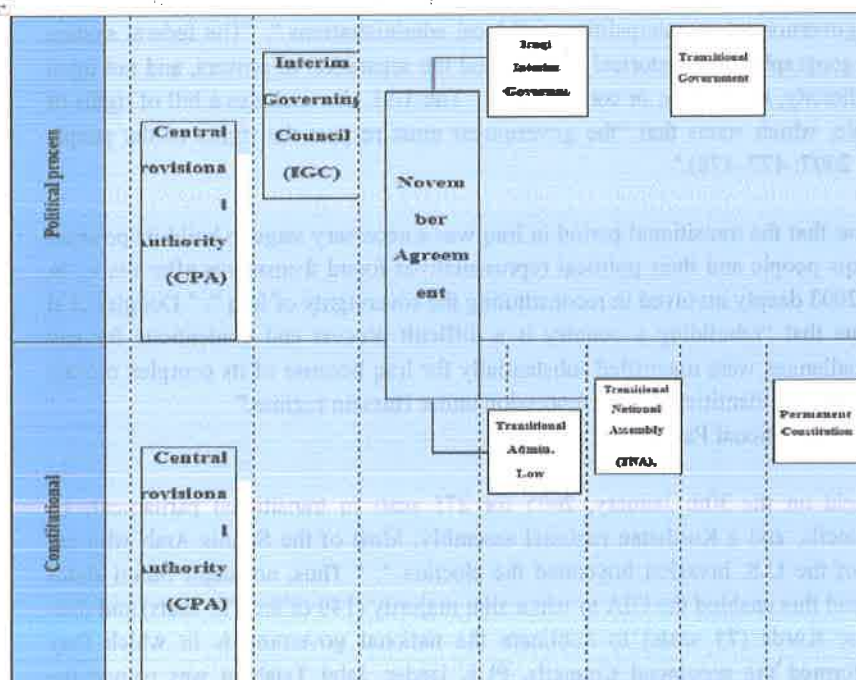
"The United States-led forces remained in Iraq under the authority of the United Nations. " The Security Council Resolution 1546 which was adopted on June 8, 2004, creates the Multi National Force-Iraq and giving it "the authority to take all necessary measures to contribute

to the maintenance of security and stability in Iraq" working with the IIG (Human Rights Watch, 2005:2)."

"The first steps on the Iraqi political and constitutional process were taken with the November Agreement of 2003 between the CPA and the IGC ". "This agreement included a timeline on the transfer of sovereignty from the CPA to the Iraqi Interim Government (IIG) in June 2004 ". "Prior to this date, a Transitional Administrative Law (TAL) was established on 8 March 2004 which became take effect after the establishment of the Interim government. The TAL laid out further steps toward a contemporary constitution (Heuvel, 2009:25)."

The November Agreement 2003 and TAL set out the timelines for the constitution and the political process in the interim period. An overview of the interim period and the political and constitutional processes is shown in Figure 1 (Heuvel, 2009:26) .

Figure 1: Overview Interim Period in Iraq



"After about a year of occupation, the United States handed sovereignty to an appointed IIG on June 28, 2004, a date considered the handover of sovereignty to the IIG ". " The interim government was headed by Prime Minister Iyad Allawi, who was the leader of the INA, which is a secular, non-sectarian faction ". "Allawi was a Shiite Islamist, but many INA leaders were Sunnis; some of them were former members of the Baath*Party. The president of this interim government was Ghazi Al-Yawar, a Sunni tribal figure that spent many years in exile in Saudi Arabia (Frederick, 2010:2)."

"During this transitional period, the TAL represented the most important legal, social, and economic document prepared by the GC that represents the Iraqi people; some of the powers were granted to GC under the resolutions of the UN Security Council 1483 and 1011 (Latif, 2012:66) ". "In other words, the TAL represents the supreme law of the land. It stipulates on the following: First, the legal system shall be based on civil and Islamic law under the IIG". Second, 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 is based upon geographic and historical realities and the separation of powers, and not upon origin, race, ethnicity, nationality, or confession ". " The TAL also includes a bill of rights of the Iraqi people, which states that "the government must respect the rights of the people (Hafedh et al., 2007: 477–478)."

"However, it is clear that the transitional period in Iraq was a necessary stage to build its political system, so Iraqis people and their political representatives found themselves after the U. S. occupation in 2003 deeply involved in reconstituting the sovereignty of Iraq ". " Douglas et al (2005) confirms that "rebuilding a country is a difficult process and contentious for any country; the challenges were magnified substantially for Iraq because of its complex mosaic of ethnic and religious identities and the repression under Hussein regime." Elections of the Transitional Parliament

"Elections were held on the 30th January, 2005 for 275 seats in transitional parliament, 18 provincial Councils, and a Kurdistan regional assembly. Most of the Sunnis Arab who are still resentful of the U.S. invasion boycotted the election ". " Thus, no major Sunni slates were offered, and this enabled the UIA to win a slim majority (140 of the 275 seats) and then joined with the Kurds (75 seats) to dominate the national governments in which they subsequently formed the provincial Councils. PUK leader, Jalal Talabani was named the president while Ibrahim Al-Jafari became the Prime Minister ". "Although the government had a Sunni-Arab as the parliament speaker; deputy president; deputy prime minister; Defense Minister; and five other ministers, yet they failed to draw Sunni popular support (Katzman, 2007:18). Furthermore, the Iraqi groups that took the most active interest in the

January elections were those best positioned ". " These groups include the Shiite Islamist parties, the Kurds and established secular parties as shown in the Table 1 ."

Table 1: Election Results (January, 2000)

| Slate/Party | Seats |
|--|-------|
| United Iraqi Alliance UIA (Shiite Islamist); Sadr formally joined list for a Dec. Vote (Of the 128: SCIRI-30; Da'wa-28; Sadr-30; Fadila-15; others-25) | 140 |
| Kurdistan Alliance (PUK and KDP) | 75 |
| Iraqis List (secular, Allawi); added some mostly Sunni parties for Dec. vote | 40 |
| Iraq, Concord Front (Sunni). Main Sunni bloc; not in Jan. vote | ----- |
| Dialogue National Iraqi Front (Sunni, Saleh Al-Mutlak) Not in Jan. vote | ----- |
| Iraqi National Congress (Jalab) Was part of the UIA list in a Jan. 05 vote | ----- |
| Iraqis Party (Yassal, Sunni); Part of Allawi list in Dec. vote | 3 |
| Iraqi Turkomen Front (Turkomen, Kirkuk-based, pro-Turkey) | 3 |
| National Independent and Elites (Jan) Risala (Mission, Dec) pro-Sadr | 3 |
| People's Union (Communist, non-sectarian); on Allawi list in Dec. vote | 2 |
| Kurdistan Islamic Group (Islamist Kurd) | 2 |
| Islamic Action (Shiite Islamist, Karbala) | 2 |

Source: Katzman, K(6 :2007) .

"The most prominent party was the Shiite Islamist "United Iraqi Alliance" (UIA), which has 228 candidates from 22 parties that are primarily the Supreme Council for the Islamic Revolution in Iraq (SCIRI) and the Islamic Da'wa Party (IDP) ". " The first candidate on this slate was SCIRI Leader, Abed Al-Aziz Al-Hakim; the seventh was IDP Leader Ibrahim Al-Jafari. Shiite Cleric Moqtada Al-Sadr, who denounced the election as a United States-led process, yet 14 of his supporters, was at the UIA party and eight of them won seats ". "The two main Kurdish parties, the Patriotic Union of Kurdistan and the Kurdistan Democratic Party together offered 165 candidates ". " The interim Prime Minister, Iyad Allawi in 2004 filed a six party, 233 candidates for the "Iraqi List" led by his Iraqi National Accord party (INA) (Katzman, 2006:2)."

"The Sunni Arab (20% of the overall population), perceiving electoral defeat and insurgent intimidation also boycotted the elections and thus, won only 17 seats spread over several lists ". " The Sunni Iraqi Islamic Party (IIP) filed a 275-seat slate but withdrew in December 2004. Accordingly, the hardliner, the Iraqi Muslim Scholars Association (MSA) preferred to be close to the insurgents and called for a Sunni boycott election due to the fact that most of the Sunni parties were resentful of the U.S. invasion of Iraq and they cast doubt on the legitimacy of the election (Katzman, 2006:2-3)."

"The UN Special Representative, Lakhdar Brahimi played a crucial role in the establishment of an interim government during the leadership dialogue and discussions among the CPA, the GC and other Iraqi parties. Although, the interim government lasted only until the elections on October 30, 2005, the CPA was ended and Bremer left Iraq at this stage (Aziz, 2005:11)."

"On May 3, 2005, the transitional government was formed instead of the interim Iraqi government, which was unable to cope with the problems of the new phase of the country because of its limited powers ". " One of the priorities of the transitional government was to prepare for the establishment of an elected four-year Iraqi government, write a draft constitution, and vote on it (Al-Saadi & Khayat, 2013)."

Drafting the Permanent Iraqi Constitution

"Drafting the Iraqi constitution was one of the most difficult processes faced by the Iraqis as a result of the construction phase of the democratic system which is considered new according to the foundations and principles of the constitution (Kadhim, 2007:9) ". " Aware of the importance of the constitution for the future of the Iraqi people, all Iraqi ethnic groups were eager to participate in writing the constitution to guarantee their future. Even the Sunnis, who decided to boycott the General parliament Election, decided to participate in writing the contemporary constitution. Both the IIP and the Association of Muslim Scholars in Iraq, which represented the religious decision to Iraqi Sunnis refrained from boycotting the election and participated in writing the constitution (Wong, 2005)."

"Furthermore, the task of writing the constitution in accordance with Article 60 of the TAL was given to the elected parliament in January 2005 which states that the parliament shall write a draft of the permanent constitution of Iraq ". " This parliament shall carry out this responsibility in part by encouraging debate on the constitution through regular general public meetings in all parts of Iraq and through the media, receiving proposals from the citizens of Iraq as it writes the constitution. Based on this, the parliament formed a committee consisting of 55 members of the parliament, most of whom were Shiites Arab and Kurds with only two Sunni Arab members to write the draft of the constitution (Jabbar, 2009:262)."

"The Constitution-drafting committee faced a major problem of low representation of the Sunni Arab members and this threatened the constitution in two ways. First, the constitution would be considered illegitimate in the case of non-participation of major ethnic groups in Iraq (Sunni Arab, Shiite Arab and Kurds) ". "Also, the Sunnis Arab did not participate in the election. Second, the constitution could fail in the general referendum because of the condition of the Article 61 of the TAL that considers "the general referendum to be successful and the draft constitution ratified if a majority of the voters in Iraq approve and if two-thirds of the voters in three or more governorates do not reject it" (Allawi, 2007: 431-432) ". Because the Sunni Arab makes up the majority of the population in more than three provinces, they determine the success or failure of the referendum in the case they failed to participate in the election ". " To solve the problem, the U.S. called for the participation of the Arab Sunnis in the constitution committee. Due to this, 25 new Arab Sunni members were added to the constitution committee ". " 15 of them had voting rights, whereas the other 10 members only had a consolation position (Stansfield, 2007: 186)."

"Finally, the draft was put to a referendum on the date stipulated in the TAL on the fifteenth of October, 2005. According to the official results, the draft was approved by 78.59% of the voters. Even though, the result was strongly challenged by many Iraqi politicians, especially the Sunni Arab politicians (Morrow, 2006:3), still the constitution was declared approved by the majority of the voters despite the objections to the results of the referendum. Thus, the first task of the transitional government of drafting and approving was completed ". " The remaining tasks are how to hold the parliamentary elections, establish a parliament and construct a permanent four-year government."

The Legislative Election of Parliament

"On December 15, 2005, each province contributed a predetermined number of seats in the parliament, a formula adopted to attract Sunni participation, for the elections for a four-year national government in accordance with the schedule laid out in TAL. (230) seats represent (18) province of Iraq, and the rest (45) "compensatory" seats were allotted for entities that would have won additional seats on the national level. Later, 361 political "entities," including 19 multi-party coalitions, competed. As shown in Table (2) voters chose lists representing their sects and regions, and the Shiites and Kurds emerged dominant (Frederick, 2010: 3)."

"Despite the continued violence during the elections in Iraq, the turnout in the elections was considered good with 58.32% voters participating in the voting (International parliamentary union- IPU, 2010)."

"Election results were announced on January 20, 2006. The National Alliance won 128 seats, and responsibility of forming the government became the prerogative of the coalition, which won the majority (Ahmed, 2008: 18)."

Table 2: Election Results (December, 2005)

| Slate / Party | Seats |
|--|-------|
| ULA (Shiite Islamist); Sadr formally joined list for a Dec. Vote (Of the 138: SCIRI-30; Da'wa-28; Sadr-30; Fadila-15; others-25) | 128 |
| Kurdistan Alliance (PUK and KDP) | 59 |
| Iraqis List (secular, Allawi); added some mostly Sunni parties for Dec. vote | 23 |
| Iraqi Concord Front (Sunni). Main Sunni bloc; not in Jan. vote | 44 |
| Dialogue National Iraqi Front (Sunni, Saleh Al-Mutlak) Not in Jan. vote | 11 |
| Iraqi National Congress (Jalabi). Was part of the ULA list in a Jan. 05 vote | 0 |
| Iraqis Party (Jaafari, Sunni); Part of Allawi list in Dec. vote | --- |
| Iraqi Turkomen Front (Turkoman, Kirkuk-based, pro-Turkey) | 1 |
| National Independent and Elites (Jari/Bisabasi (Mission, Dec) pro-Sadr | 2 |
| People's Union (Communist, non-sectarian); on Allawi list in Dec. vote | --- |
| Kurdistan Islamic Group (Islamist Kurd) | 5 |
| Islamic Action (Shiite Islamist, Karbala) | 0 |
| National Democratic Alliance (non-sectarian, secular) | --- |
| Rafidain National List (Assyrian Christian) | 1 |
| Liberation and Reconciliation Gathering (Sunni, secular) | 3 |

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"Although, the parliament was inaugurated on the 16th March, 2006, however, the political infighting caused the Shiite to block ULA and then replace Ibrahim Al-Jaafari with another figure, Nuri Al-Maliki from the Da'wa party, as the Prime Minister (because because the former prime minister disagreed with some of the Kurdish leaders with regards to securing Kirkuk as part of Iraq). On 22nd April, 2006, the parliament approved Jalal Talabani (from Kurdistan Alliance) to continue as the president. His two deputies were Adel Abed Al-Mahdi of the Islamic Supreme Council of Iraq and Tariq Al-Hashimi, the leader of the Sunni-based Iraqi Concord Front (Tawafuq). In addition to the selection Mahmoud Al-Mashhadani (From National Dialogue Council) as parliament Speaker (Katzman, 2009:2)."

"Based on the aforementioned condition, the Iraqi Council of Representatives is a more effective institution than its predecessors were in all the historical periods of Iraq, despite all the setbacks that came with the political processes in the post-Saddam era. This conclusion is supported in terms of the conduct of elections, the manner of selecting the House of Representatives members, and the enactment of laws."

Conclusion

Since its establishment as a state in 1921, parliament has not seen real and effective practice to its functions within the political system. However, there were some functional roles and effective practices of the parliament that differed from one period to another, e.g., Iraq's monarchy brought great freedom to parliament for the exercise of its functions within the government, and many texts emphasized the parliamentary foundations guaranteed by the Iraqi Basic Law of 1925, but application of these texts had been very difficult, because of the dominance of the King and government on the parliament. As well as, it should be noted that since July 14, 1958 up to the fall of Saddam regime in 2003, all legislative bodies (parliament) have been under the control of un-elected Councils, e.g., in the Fifth Republic, the RCC led by president Saddam Hussein enjoyed broad legislative and executive powers as it enacts laws according to the will of the ruling Ba'ath party

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