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Research Paper

Political System Reform in Iraq Between the Parliamentary System and the Presidential System

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Abstract

The parliamentary system in a highly pluralistic society. Since 2003, Iraq has been subject to a bitter political experience during this period, with the inability of this system to carry out any political and economic reforms that would save the country from the chaos resulting from a series of wars and sieges, and consequently, the loss of democracy.

Perhaps the presidential system, suitable for this pluralism, is capable of establishing a strong government resulting from the direct election of the head of state by the people, enabling him to choose his ministers to implement his reforms.

One of the most important features of the presidential system is that the head of state enjoys constitutional legitimacy comparable to the legitimacy of the parliament, which enables him to get rid of the political deadlocks that exhausted the parliamentary system, so that he is not a hostage to the heads of political blocs. This research includes a balance between the parliamentary and presidential systems in terms of the ability of each to reform the political system and rebuild Iraq.

The system of governance in every country means the mechanism followed in structuring constitutional institutions and sharing in the distribution of powers among them according to the principle of separation of powers and the center of authority. Democratic governance is the one that is truly accountable to the governed, preserving their public freedoms. The parliamentary majority government is considered a representative government of the people, and therefore the elected government replaced the people in their rule through the social contract according to the concept of Jean-Jacques Rousseau to prevent authoritarian rule.

The systems of governance are divided into two main categories:

First: Constitutional Systems

These determine the centers of political power and are of two main types:

First: Political Systems

These distribute powers among constitutional authorities in two main systems:

- **A. The Parliamentary System**

Distributes powers almost equally between the executive and legislative authorities. The prime minister derives his legitimacy from the parliament granting or withdrawing confidence from him. Conversely, the prime minister has the right to dissolve the parliament and make his decisions through the cabinet ¹.

- **B. The Presidential System**

Concentrates powers in favor of the head of state, who is directly elected by the people, so his legitimacy is stronger than that of the parliamentary government. Therefore, the president possesses political power equivalent to the power of the parliament, as the parliament cannot withdraw confidence from him, and conversely, the head of state does not have the right to dissolve the parliament, which establishes a balance of power in the political authority and enables him to make decisions without referring to the parliament ².

1. Georges Burdeau. *La démocratie*. Seuil. p.11.

2. La séparation des pouvoirs. LE BLOG DE JURIXIO

Second: Legal Systems

These establish the rules of the system of governance in two main types:

- **First: The Monarchy System**

It is based on the divine care surrounding the king, where national sovereignty is predominantly hereditary throughout the king's life and not from the people ³.

Hobbes believes that the interests of the king are linked to the interests of the people because the king either rules for the people or the parliament, as in parliamentary systems.

- **Second: The Republican System**

It establishes governance based on popular sovereignty exercised by the government through parliamentary elections, whether in the parliamentary or presidential system.

The parliamentary term is through legislative elections, and the people can directly referendum on important issues, and its results are binding on the president.

Constitutional law organizes the relations between political institutions among themselves on the one hand and between them and individuals on the other.⁴

The success of any political system depends on its outputs, and a system may succeed in one country but not achieve success in another depending on its political, economic, and social characteristics.

3. arabfcts-new.org.

4. acts-new.org.

The Parliamentary System in Iraq

Since the fall of the centralized regime, Iraq has been under the parliamentary system for 17 years, hoping to provide political freedoms and a stable political system capable of rebuilding Iraq, but the results were disappointing because the existing parliamentary system represented political blocs that did not respond to the needs of the people ⁵.

Any political system consists of two main elements: the type of electoral system on the one hand and the size of political pluralism participating in the political process on the other. The parliamentary system did not achieve notable success in Iraq due to the presence of these two elements. This is because political pluralism turned into sectarian or ethnic blocs rather than citizenship-based blocs, resulting in the electoral system for political blocs entrenching sectarian and ethnic affiliation in political life, causing citizen to lose their freedom in the general election based on citizenship. This citizen was forced to elect someone representing his sect or ethnicity. The deputy became a member of his political bloc in parliament rather than for the country.

Four Constitutional Systems of Democracy

1. Assembly System:

Merger between the legislative and executive authorities, and the real authority is in the hands of the parliament, while the government is at its disposal. This system has existed in Switzerland since 1848, in France since 1792, and it is subject to the will of the parliament.

5. ar.facts-new.org

2. Parliamentary System:

Balances between the legislative and executive authorities where the two authorities exchange oversight, considering the flexible separation between the authorities.

3. Presidential System:

Authority shifts to the head of the executive authority, as he is the most representative of the people because he is directly elected by the people without the mediation of an electoral district or party list.

4. Mixed System:

Conflict between the head of state and the prime minister, which usually ends in favor of the president.

The Parliamentary System: Advantages

1. Flexible separation of powers due to mutual oversight between the legislative and judicial authorities. This flexibility helps in the rapid issuance of legislation as the government enjoys a majority in the parliament with a large number of deputies in its membership, so the parliament is keen to keep it and its privileges of power ^{6 7}.
2. Oversight between the legislative and executive authorities is exercised by the parliament's authority to dissolve the government and the president's inability to dissolve the parliament ⁸.

6. Maurice Duverger. *Institutions politiques et droit constitutionnel*. PUF. 1975. p10.

7. Franc Baron. *L'évolution des institutions: les rapports entre pouvoir exécutif et législatif*. republiquefrancaise. 7/7/2018.

8. Political Institutions and Governance. openknowledge.worldbank.org

3. The executive authority has two heads: the head of state with honorary and protocol powers, and the head of government with wide executive powers, so the head of government is the only effective ruler of the government. Therefore, the parliament is more popular among academics and politicians ⁹.
4. The prime minister is chosen by the head of state from the parliamentary majority who selects his government members from it and then presents them to the parliament to gain confidence, so this ruling majority employs the parliament for its benefit.
5. The government is the real legislator because it presents draft laws to obtain the parliament's approval, while the parliament only has the power to submit draft laws to the government to present them to the parliament, which is responsible for approving them. The strength of the parliament lies in approving the general budget.
6. The parliamentary system is suitable for countries with two main parties, where the parliamentary majority party easily forms the government. Power is alternated between them according to the election results. Minor parties play only marginal roles in power. Thus, the government can bear political responsibility for its success or failure. In countries with multiple parties, no party obtains a parliamentary majority, so it is forced to form a coalition government with some minor or major parties, as the case may be. Often, the coalition is unstable due to differing views among its components, forming a weak government that the opposition can withdraw confidence from. The Italian model is considered one of the most unstable parliamentary models, so several countries have moved towards the presidential system and amended their constitutions for this purpose, as in Turkey, or moved towards making the real power with the head of state instead of the prime minister, as in Iran

9. Systeme of government: Parlemtarrisme and presidentialisme. February 2003 cic.nyu.edu

and Morocco. The number of parliamentary countries exceeds 78.

The Parliamentary System: Disadvantages

1. Despite the balance between the legislative and executive authorities, the legislative authority predominates because the budget law can paralyze the government if rejected by the parliament, as in the United States.
2. Sectarian or ethnic representation in parliament instead of citizenship leads to political fragmentation ¹⁰.
3. With the weakness of the prime minister, especially in coalition governments, the prime minister may control the timing of legislative elections when he anticipates winning, even at the expense of parliamentary terms, which supports his political power.
4. In Iraq, political pluralism and its fragmentation have made forming the government difficult, including determining the parliamentary majority, and even resorting to the Federal Supreme Court for this purpose.
5. The problems extend to the distribution of ministerial positions, where quota plays a dangerous role preventing the selection of a homogeneous and competent ministerial team that enables the prime minister to implement his government program easily. Quotas have led to the failure to form the government from the constitution, and the quotas have not been able to complete the current 76 members by the parliamentary majority, violating the term despite more than a year passing since the formation of this government ¹¹.

10. Laura Bgg. Comment la rationalization du par;imentarisme a-t-il echoue. La dissertation. 3/3/2014

11. Ghani Zughri Atiyah Al-Khaqain. In light of the failure of the parliamentary system, what is the best alternative that will address all the bad effects or shortcomings? Gro.aabanna.nm. Failure and weakness in the parliamentary system. Al-Naba Dialogue Forum

6. Those who hoped that the parliamentary system would be more representative of the Iraqi people in 2005 were disappointed because the drafters of the constitution did not achieve their hopes of building a new Iraq. The system was based on components such as sectarian and ethnic blocs and was not able to represent the people based on citizenship. The deputy became a representative of his bloc leader and votes according to his direction, making the prime minister a hostage to the heads of political blocs and unable to make decisions without their approval. Quotas led to the personalization of constitutional institutions and senior positions in the state, and party interests took precedence over the public interest.

Any economic reform has become dependent on the will of those blocs, leading to a lack of transparency and freezing of necessary decisions to achieve economic reform, as happened with the two reform packages of 2015 by the prime minister.

The successive governments have not been able to enable Iraq to exit the rentier oil economy and implement the four laws of 2010. A government factory is still stopped, and 120 oil infrastructure and strategic public sector companies have not been rehabilitated. National agricultural and industrial production has stopped, and producers have turned to trade and importing everything instead of the national product.

Imports have led to the smuggling of hard currency that should be localized to establish development projects and provide job opportunities for citizens.

The general budget has become an operational budget at the expense of the investment budget, with 65% of its allocations being employee salaries annually, revealing how it is spent. There are no final accounts except after four years, and the differences between allocations and expenditures are settled consensually and

in the absence of transparency.

7. The weakening of the rule of law and state authority has led to the rise of armed lobbies outside the state's authority and the exacerbation of the influence of tribes and commercial compradors controlling the national economy, preventing the government from reforming the economy.
8. To achieve economic system reform, it is time to amend the constitution according to Article 142 for the people to referendum on the presidential system to establish a national government representing the people and achieving social justice¹².

The Presidential System

The presidential system is based on the separation between the executive and legislative authorities as follows:

Features

1. The separation of powers is complete so that the head of state cannot call the parliament to convene nor is he allowed to dissolve the parliament, and the parliament cannot withdraw confidence from the government, which gives strength to the parliament against the head of state. However, the US Senate has the authority to declare war until 1919 and ratify treaties. The failure of the US Congress to ratify the Treaty of Versailles in 1919 led to the US not joining the League of Nations, and thus its failure.
2. The executive authority consists of one head, the president, and there is no prime minister alongside him. The president chooses his ministers himself, and they are closer to being assistants to the president. They are directly

12. Malik Jabbar Kazem. Corruption and quotas are among the biggest failures of the parliamentary system in Iraq

responsible to him and not to the parliament, and they are not required to gain the confidence of the parliament, which supports the authority of the head of state¹³.

3. It is not permissible to combine the ministerial position with membership in parliament, which supports the government.
4. The president is elected directly by the people and not by the parliament, so he enjoys a representative status of the people to the same degree as the parliament. He is accountable to the people, not to the parliament. The representative degree of the president is clearer because the people elect the president as president based on citizenship and not as a representative of an electoral district or political list, as happens to members of parliament. Therefore, the president enjoys stronger political influence and constitutional powers than the parliament¹⁴.

This is what Iraq needs today to overcome the weakness that has afflicted the parliamentary system and government since 2003, contrary to what some see as the unsuitability of the presidential system to solve Iraq's problems, for fear of turning into a dictatorship. The reality is that the fear of dictatorship is a preconceived judgment, while the other focuses on the suitability of the presidential system for Iraq¹⁵.

13. Iraqi constitutional studies. Basic principles for the new Iraqi constitution. law.depaul.edu.

14. Duverger. op. cit. p. 165.

15. Saeed Hamdeen. Legal Research Library.

Disadvantages

- There is fear in the presidential system of turning into a dictatorship due to the wide powers of the president and his political influence. This objection is incomplete because the president is restricted to a four-year term that ends when signs of failure and tyranny appear in his behavior ¹⁶. If he achieves political successes, he will win a second four-year term only, which is not extendable. Therefore, the fear of dictatorship is a fear based on preconceived judgment and a phobia of the shadow of the previous regime. On the other hand, several countries have shifted from the parliamentary system after the parliament failed to establish a stable political system, which is the shift from the parliamentary system to the presidential system after the failure of quotas, weak government, corruption, and waste of public money.

Summary

The successive governments have not succeeded in achieving reforms in the parliamentary system after more than twenty years of political and economic failures, and these governments have not been able to harness the huge oil revenues that Iraq obtained, especially when the price of a barrel of oil reached about 110 dollars. The deterioration of education and health services, as well as the deterioration of housing conditions, where Iraq needs one million housing units to provide decent living for a people who do not benefit from their natural wealth. It seems that the failure of reform efforts is not due to the absence of reformers but to the inability of the parliamentary system to reform itself because it has turned into a system for distributing spoils rather than establishing a modern state based on citizenship and love of the homeland. Therefore, working on amending the constitution towards a suitable and wise political system has become a problem in

16. Hamid Al-Kafaei. The presidential system will not solve Iraq's problem.

itself rather than a means of solution. Iraq should not remain a breeding ground for political conflicts that have prevented political stability and reconstruction. Iraq should not reach the lowest ranks in the Transparency International organization alongside Somalia, Afghanistan, Libya, Central Africa, and Congo. The existence of a strong, homogeneous government that is more representative of the people would provide the opportunity for reform and reconstruction, which helps achieve social justice and decent living for an ancient people in their civilization and creativity in their ideas, freeing them from the state of frustration and despair among the people ¹⁷.

17. Theo Fournier. The legitimization of an authoritarian regime. European University Institute. 03/2020.

Research Identity

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About center

Al-Baydar Center for Studies and Planning is a non-governmental and non-profit organization established in 2015 and registered with the NGO directorate in the general secretariat of the council of ministers in Baghdad.

The center seeks to contribute to developing the state and its institutions, by proposing ideas and practical solutions to the main problems and challenges facing the state, including improving public sector management, policies, and strategic planning, using reliable data and best practices. The center engages the relevant authorities in the state with regular meetings to support this objective and utilizes the support of international organizations dedicated to assisting Iraq's development. The center also seeks to support economic reforms, and sustainable development and provide technical assistance to the public and private sectors. The center also seeks to support the development of the private sector to provide job opportunities for citizens through training and upskilling, in a way that reduces dependence on government institutions and contributes to supporting and diversifying the country's economy.

The center aims to utilize the vast amount of potential in Iraq's human resources by organizing programs to prepare and develop promising young people, including leaders capable of proposing, adopting and implementing visions and future plans that advance society and preserve its value-system based on the commitment to a high moral standard and rejection of all types of corruption.

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