



Obstacles against Legislative Reformation of the Election Process in Iraq

Inst. Dr. Yasir Hussein Ali- Imam Ja'afar Al Sadiq University

College of law Yasser.h@sadiq.edu.iq

Abstract

Elections is the heart of democracy. There is no democratic system without integral, transparent elections with an elective reformation which includes partial or total reform within the legal framework of the elections to improve the way of expressing public needs in the results of the elections. Any reformation project in any state faces a group of obstacles which limit its success. The topic of the currnt study is the political obstacles. Reform opportunities depend on the available legal tools and the political framework used to call for reform. This study concluded the most important obstacles and ways of treating them on the legislative, political, and public levels. The results of the study aims at solving the crisis situation of the election system.

Keywords: political will, political blocs, political reform, political parties, legislative authority, political stability, electional reform.

Introduction

Political obstacles are hard to neglect when investigating reform of the legislative framework regulating the election process in Iraq or in any other country because they affect the interests of the political parties. The crisis of election reform and its impact on the political reform results from several reasons. The political will of many parties of the political descion making totally refuse negotiation about authority although they approve the gist of periodical elections and they publicly adopt the reform process. Moreover, internal conditions of conflicting political parties affects, directly and indirectly, their role in the election process.

Importance of the Study

Tis study aims at investigating the political obstacles which represent a challenge to the legislative reform of the laws regulating the election process and which lead to a free, integral elections. However, the political atmosphere should be supportive to the reform starting from voting for laws inside the

parliament up to accepting the results of the election with their direct impact on the political and party life in addition to their public acceptance.

Problem of the Study

The problem of the study is represented by the importance of the legal framework of the elections which goes beyond being a procedural means for organizing election results towards the political importance in organizing political institutions by defining the form of government, its political and governmental stability, the nature of party systems, and the internal structure of party blocs within the Parliament. In light of these changes, political challenges stand as an obstacle to the reform process which leads to several questions including the following: Does the continuous change of the election system make it a means for political reform in the long run? How does political will within the House of Representatives affect or block the passage of reform laws? Does election reform affect partisanship? The current study tries to answer these questions by using an analytical descriptive methodology.

Lack of Political Will to Reform

Elections are a means of evaluating the performance of members of Parliament, therefore elections are a means of pressure on the performance of members of Parliament to work for the public interest. Furthermore, electoral reform is the real key to achieving other reforms, starting with institutional reform, and it is the top of democratic guarantees. Talking about any reform is meaningless if it is not preceded by a real will. Therefore, so we will discuss the manifestations of the absence of political will, its impact on the reform process, and overcoming this absence in the next section.

Manifestations of a Lack of Political Will to Reform

The legal control of the election process alone does not achieve its integrity and credibility if it is not accompanied by a sincere political will that imposes and achieves the impartiality of the bodies empowered with the authority to set, approve, and implement the provisions contained in the electoral law and other laws that constitute the legal framework for the election process. Therefore, the credibility and integrity of the electoral process depends primarily on the will of the authority. It is not a matter of legal texts alone no matter how their provisions are raised and their requirements are completed - even though legal texts are the decisive mechanism in controlling the conduct and safety of elections and their results (Li'roosi, 2012: p.63).

There are many reasons for this some of which are due to the fact that the process of enacting electoral laws is based on the dimensions of the political blocs that, before every election, try to make the electoral system a guarantor of their survival in power. During the last stage, the electoral laws hindered the rotation of the ruling elite including the fact that no one yearns to change what is known to what is unknown. Those responsible for preparing any legal framework for elections must have a firm conviction of the correctness and integrity of the way that framework operates. Furthermore, such a conviction does not prevent citizens, or even political parties, from having different opinions about the content of the legal framework. Among those reasons also is that in most cases those who manage to amend and rearrange the legal framework for elections are the winners. Beneficiaries of the current law are the ones who do not encourage any amendments to be made.

Elections are the best form of democratic development and the only way to not only advance this development but also to maintain and secure it, the thing which cannot be available without a periodic review for the evaluation and

reform of the electoral system. It just a cosmetic change (Bourge, 2005: p.13). On the other hand, the electoral law is not a typical machine for the production of democracy. Rather, it is an organizational material whose final outputs vary according to the quality of political and electoral awareness that controls it. This is why the absence of political will for legislative reform takes many manifestations, which we summarize as follows:

First: Political blocs compete in parliament

The personal and partisan interests of the blocs and parties (positions, deals, the desire to stay, and the search for new and updated tools and influences), which were found on the political scene and in power, are seen by local public opinion as constituting (46%) of the parties and blocs' interest and their personalities. These forces are now looking for influences, money, or position that can enhance the role of the bloc or the individual (the responsible) in the continuation of the political game (Alqaiyem, 2003: p.155). The political parties in Iraq did not adopt the institutional behavior of the state because of the ideological discourses of the parties, and the fact that the formulation of a number of their decisions in dealing with the most sensitive issues by 'float' is formulated according to the currents, sects, national origins, their locations, and partisan interests. In contrast to the contexts of state action in which everyone is helped in order to keep the wheel turning. Its efforts remained limited to achieving its immediate interests, not thinking about the interests of the country (Alubaidi, 2007: p.42-45). Therefore, the Iraqi parliament is not based on parties that unite their orientations and positions, principles, values, and goals agreed upon and united in their positions. Rather, it is a mobile bloc, each led by an individual who may not agree with others. Each of them is independent of his entity and represents only one character. He is an independent figure in Parliament. He may not fully agree with the members of his bloc except by affiliation. Moreover, the adoption of the consensus government formula made the parliamentary blocs joint in the government, including representatives in it,

which resulted from the absence of political programs and the absence of the opposition (Sulaiman & Noori, 2008: p.10-11). The phenomenon of falsification has emerged among the blocs of the parliament because political action is frequented by controversial blocs, political stubbornness, and the absence of political competition (Alanbaki, et.al., 2014: p.121).

Second: Lack of trust among political blocs

The conditions that Iraq went through before and after 2003 led to a large gap between the blocs represented in the House of Representatives. The lack of trust between them represents a serious challenge in the House of Representatives addressing the most important issues that require legislative intervention. The lack of trust between political parties represents, in essence, a natural state in political science and this is due to the fact that each party has an ideology through which it sets out to formulate its policies and programmes, which is something that most parties in the world have known. However, it is unnatural that each party has a specific orientation to manage the higher interests of the state without paying attention to the risks that will befall the country if each party insists on its approach. The issue of mistrust between the political blocs amounts to the preoccupation of parliament members with the exchange of corruption charges. This pace has reached a stage that threatens the parliament's entity to the extent that every draft law presented by the Council of Ministers has become a source of doubt along with the intentions of its sponsors. That is why we see that the bills that occupy an important and priority position in the legislation either move at a slow pace to legislate them or they do not reach a commendable result, such as the draft law of the Federal Supreme Court which sparked widespread controversy which impeded its passage and going to vote on amending the applicable court law. For example, the Iraqi Council of Representatives, in its fourth session in session No. (45) on March

18, 2021, voted by a majority of its members to amend the Federal Court Law (Order 30 of 2005) to resolve an explosive controversy on the subject in a session attended by 204 deputies out of 329 when the Kurdish deputies boycott and representatives of minorities and after the political blocs failed to agree to the new Federal Court draft law which has been in the council's inclusion since the second parliamentary state, and was presented for a vote in session No. 40 on March 4, 2021. On the other hand, the mutual accusations between deputies in corruption cases reached a watershed in citizens' confidence in the parliament's ability and success in passing anti-corruption laws.

Third: Party loyalty

The Parliament should include equal members in rights and duties and no one has power over another. However, the practical reality often refers to the lack of independence or impartiality of the representatives which is a result of their submission to the dictates and partisan influences of the leaders of parties and blocs when voting on bills. The representatives themselves look at their role in different ways. Some consider themselves servants of their parties without taking into account and defending the public interest until the role of the party or bloc leader has become a cornerstone in the work of members within the House of Representatives (Abu Tbeekh, 2010: p.38). Others prefer their benefit over the public's by changing the affiliation or moving the representative from one political bloc or entity to another, i.e. the political movement of the representative, which is represented by the representative rushing to join the arms of the majority party, thus changing its color and political identity from independence to partisanship and vice versa and wasting the will of the voters (Sari, 2005: p.194). Changing political affiliation is a moral crime and a betrayal of the trust of voters which is not befitting a person who has the honor of representing the people (Baz, 2015: p.117). This situation was called the phenomenon of super-liquidity. It became one of the phenomena that characterizes the Iraqi political process which normalizes political and party

alliances with the ease of changing the position and affiliation according to the change of political and material interests (Nahi, 2007: p.1).

Fourth: Frequent absence of deputies from council sessions

The phenomenon of the repeated absence of the representative expresses his disavowal from carrying out his legislative and oversight role. Moreover, it indicates a fragility in political convictions and a lack of respect for the will of the voters. Absenteeism may be intended to disrupt the sessions of the House of Representatives, which requires the presence of the absolute majority of the number of members of the House to hold them (Article (59) of the Constitution of the Republic of Iraq in force of 2005 stipulates “First- The quorum for the sessions of the Council of Representatives is achieved in the presence of the absolute majority of its members.”), and to disrupt the legal quorum binding for voting (Article (59) of the effective 2005 Constitution of the Republic of Iraq stipulates: “Second - Decisions are taken in the sessions of the Council of Representatives by simple majority, after a quorum is achieved, unless otherwise stipulated.”). It may happen that it is forbidden to see the percentage of absenteeism recorded in the sessions of the House of Representatives represents another challenge to the credibility of the House and its legislative performance. For example, Madarak, which specializes in following up on the legislative process, recorded facts that show that the way the Council deals with the issue of members' absenteeism represents a failure in managing the legislative process. It indicated that the council did not publish the absences of members in any local newspaper during the duration of the sessions, and only published the absences on the council's website, contrary to what was stated in the bylaws (Article (18) of the bylaws of the House of Representatives of 2007 stipulated that: “First: attendance and absence shall be published in the regular bulletin of the House of Representatives and in one of the newspapers”).

Furthermore, the Council did not take the necessary measures to hold the absent member accountable and the Presidency did not present the issue of the non-response of the deputies whose absences exceeded more than ten intermittent sessions before the Council.

Fifth: Lack of political culture

The weak political culture and experience, lack of qualifications such as certification and specialization, novelty of the democratic experience, and the weakness of its mechanisms such as the election law and political money have led to the rise of personalities who lack political experience. Besides, some of them was introduced by quotas which clearly reflected on the role of Parliament and became an arena for political struggle instead of being an institution that receives proposals and draft laws to be approved in accordance with constitutional mechanisms (Sa'eed, 2019: p.334). The insight into issues of political culture for members of the House of Representatives finds sub-cultures built on the basis of partisan differences based on hypotheses of coercion and subject to fanatical intellectual premises at a time when the process of democratic building of culture within the Iraqi society is supposed to grow and raise the values of dialogue and intellectual and political tolerance and encourage the values of belonging and citizenship if it is the basic tools for building a political community on the basis of the community's agreement on the shape of the political process, with the commitment of the ruling parliamentary elites with their decisions to achieve general goals that go beyond subsidiary interests (Hasan: p.7).

One of the results of not reaching democratic awareness that most political entities are simple and narrow and their goal is to serve the interest of a particular sect, nationalism, or a particular religion. The culture of subjugation and subordination exists. This is linked to the weak cultural level, the lack of political experience, and that the Iraqi citizen and all the talk about national

identity and national belonging are nothing but means of propaganda that are conjured up in the election season.

Elements of Political Reform

Electoral laws must adapt to the changes that occur over time in order to meet the new needs and to cope with the emerging political demographic and legislative trends. Accordingly, reforms and changes may be limited to marginal aspects without prejudice to the essential issues of the law unless this is through a process of real and comprehensive transition towards democracy or as a necessary result of a real political crisis that acts as a motivation for reform. The electoral reform process in countries emerging from conflict situations and in transition may be affected by the results of that conflict which could be reflected in the holding of elections pursuant to arrangements determined through an internal peace agreement that provides for the adoption of a specific system from the outset (Raynolds et.al.: p.37).

Based on the above, we can say that it is not enough to understand all the legal aspects of the technical rationale related to the electoral reform process and its consequences. Rather, those in charge of the reform process must understand all the political aspects of the process and its results in relation to the general political atmosphere in a way that enables concerted efforts and a union of political wills to adopt the reform process in form and content. This can be achieved through the following parameters:

- 1- Achieving more political openness between the blocs, i.e. opening more channels of understanding and cooperation among them, not on the basis of narrow interests only, but also of the higher interest.
- 2- Building a contributing political culture based on the idea of accepting the other and accepting the principle of difference and tolerance and rejecting

hatred, because the citizen's belief in the political process and its impact on his future and the presence of a political awareness in him that politics is a peaceful process between certain political programs that have nothing to do with a particular sect or social affiliation is the solution and the way to give meaning to Politics (Ababakir, 2013: p.271-272).

- 3- Ensuring opportunities for representatives to be informed of draft laws because the time available to a member of the House of Representatives to review the draft law submitted by the government or the proposed law submitted by parliamentary committees is illogical and insufficient to review the provisions accurately and provide feedback (Act (37) of the rules of procedure of the House of Representatives). The fact that the representative is not informed of the draft law in a reasonable time before it was presented for discussion prompts him in many cases to study the texts of the draft during the session, and sometimes he records his observations and expresses them in a hurry which makes the session and the discussions that take place in it not to reach solutions as much as it means from an arena of controversy far from the principles of proper legislation.
- 4- The candidate for membership in the House of Representatives should have the necessary academic achievement and general culture which gives him the ability to understand, absorb, and debate during the sessions (Khaleel, 2014: p.394).
- 5- Political reform must be managed by elites who really carry the idea of reform. It is embodied in a program of work and priorities in which the political parties define their reform agendas according to a clear strategy for change that establishes for a moment a break with the mistakes and problems of the previous stage and establishes a national political project for a post-reform phase (Almaiyyali).
- 6- Developing the programs of political forces and blocs as one of the important means in developing political life and parliamentary capabilities

within the country. The higher the disciplined and organized party performance, the higher the efficiency of performance in Parliament and vice versa. The reality of the internal environment of the political forces has led to the lack of effectiveness within Parliament. Some parties still suffer from the absence of democracy and the expression of opinion within the party system under the pretext of party discipline, in addition to the dominance of certain personalities over the parties, their exclusion to others, and their sole decision-making. These are all factors that lead to poor parliamentary performance. Many political parties lack flexibility, change, review their political discourse, and analyze the political situation in the country (Ali, 2013: p.198-199).

To sum up, electoral reform is the essence of parliamentary reform, including political reform, especially as it affects various electoral fields such as rights, freedoms and political participation (as a manifestation of democratic transition), good governance through fair elections, legitimacy through legitimate elections, and the exchange of power in order to renew the elite in political institutions. It also aims at reducing the corruption of official institutions.

The Influence of the Party System on the Electoral Process

Legal and political jurists agree on recognizing and expressing the essential place that political parties occupy in organizing and expressing government (Abood, 2019: p.57). The democratic system cannot be imagined without parties because they maintain the democratic system and achieve the goals of its followers and this is done through elections, whether parliamentary, local or presidential. It is also the basic criterion for knowing the political and popular

weight of political parties and organizations and the extent of their influence in political life (Alfarah, 1998: p.6). The following section explains this effect.

The Impact of the Electoral System on the Party System

The nature of political parties varies according to the nature of the electoral system adopted. The electoral system may be conducive to highlighting the presence of political parties in society or to reducing the number of political parties. Some electoral systems encourage holding elections according to the lists of political parties because the electoral system prohibits non-parties while some other systems help individual candidates only by making the electoral system available to all citizens who are eligible to vote. This type obscures the presence of political parties in the political system (Rabee', 2003: p.32). In addition, some electoral systems encourage the formation of political alliances among themselves. On the other hand, there are other systems that lead parties to distance themselves from each other and this effect can be demonstrated as follows:

The effect of proportional representation on political parties

Constitutional jurisprudence often links the proportional system with party pluralism. Proportional representation leads to a system of multiple and independent parties because proportional representation itself explains the plurality of parties to which it leads (Doferjeah, 2014: p.104-107). The proliferative effect that proportional representation may have on the party system appears in two results: first, the splits that occur within the already existing parties, and second, the emergence of new parties.

As a result, the parliamentary seats won by each political party are affected by the electoral system. Under this system, seats are allocated to political parties that are proportional to their electoral strength. In the proportional representation system, each party participating in the elections obtains a number of seats equal to the percentage of votes obtained by the

number of seats, so it is sometimes possible for many parties to emerge although they do not have a popular base or real political principles or programs (Alshimmary, 2014: p.209). The electoral system also affects the internal structure of the parties. The proportional system works to strengthen and consolidate the party apparatus for large parties. Each party works hard to publicize and clarify its political program and influence the mass arena to get more voters and more seats in the parliament (Alugaily & Ali, 2019: p.354).

This effect can be extracted from the voting experiences on the basis of the list which explains the adherence of political entities to the closed list system to ensure partisan quotas within a single list by distributing party candidates within a single list according to the sequence, especially if we know that the electoral system takes the distribution of seats among the winning lists According to the sequence of the names of each list's candidates in the electoral district in addition to pushing the parties to form a coalition among themselves, and providing these parties with the opportunity to include the names of some candidates who may not have wide support within their constituency if the voting method is otherwise (Ubaid & Alwan: p.7).

Furthermore, the electoral system adopted affects the nature of competition between parties on the basis of their electoral programs. The existence of parties characterized by a high degree of political organization and partisan commitment, unlike the parties that do not exist except during electoral campaigns, leads to a different electoral program. The electoral program is considered a guide to action and the plan that the candidate sets to clarify its goals during its membership in the Council. It presents this plan to the voters to win their votes through the goals and demands set in the program linked to the nature of parliamentary work. It seems that the living example of the

proportional representation system encouraging pluralism is the Iraqi experience. The proportional representation system contributed to the emergence of the phenomenon of excessive partisan pluralism. Accordingly, number of political parties registered with the Department of Parties and Political Organizations in the Independent High Electoral Commission in the 2018 elections exceeded (204) political parties with a (7178) total number of candidates (Official website of the Independent High Electoral Commission), which, according to the Iraqi experience, had a negative impact on the political process for the following reasons:

- 1- The instability of the voting system in Iraq has had direct effects on political parties on the level of representation in the House of Representatives in addition to the parties' weak performance, and this is what led to the dispersal of the opposition and the dominance of the power parties over the elected parliament which led to the weakening of the parliament's status.
- 2- The adoption of this system in Iraq led to a lack of governmental parliamentary stability as a result of consociationalism. The system was also affected by the political situation which became subject to pressures exerted by political parties whether on the Electoral Commission or on the election law itself.
- 3- This system does not lead to a parliamentary majority capable of forming a government, which requires the participation of parties to form a weak government. Moreover, the government coalition leads to ministerial crises that destabilize the ruling authority. This measure was not new because the process was repeated with each election cycle.

We think that countries that suffer from the phenomenon of excessive pluralism and that are going through political and social conditions that do not allow them to change their electoral system can stop the phenomenon by determining a certain discount rate that the competing parties must pass to be

able to enter Parliament. This measure can reduce the phenomenon of hyper-pluralism in two ways: First, conditional access to the Parliament based on the voting percentage and second, forcing small parties who are close ideologically or in their political program to ally themselves or join one of the other parties.

The impact of majority representation on political parties

The effect of the electoral system on the number of parties was the subject of Maurice Duverger's study. He believes that with the social and national factors that shape the party system, a key technical factor is the electoral systems. Furthermore, he believes that the reflection of the majority voting system in one round on political parties leads to partisanship because the (relative) majority is sufficient to win in this system. Therefore, political parties with similar tendencies will be crushed if they do not unite in one bloc from the first round. Voting in two rounds leads to a flexible plurality of parties because the presence of a second round allows each party to test its luck in the first round. If a particular party does not win, it agrees with the closest party in terms of political vision while its votes are in its favour. Thus, this system leads to the preservation of the plurality of parties through simple withdrawal or concession in favor of the other. Among the effects of majority systems on the internal structure of political parties, political systems that are characterized by a high degree of centralization in governance. The type of proportional electoral system according to the closed list come at the forefront of systems that encourage the establishment of strong, coherent, and disciplined political organizations, unlike electoral systems based on multiple constituencies electoral system such as the first-past-the-post system or the open list system in proportional representation.

It must be noted that the plurality of parties is not determined by the electoral system only, but is determined by factors related to social construction,

economic formation, the prevailing political culture in society, the constitution, or the parliamentarians themselves. The influence of the electoral system is clearly visible in the number of parties and their political weight in parliament (Albadran, 2014: p.18). Perhaps this explains the decrease in the number of parties participating in the early elections of members of the Iraqi Council of Representatives for the fifth parliamentary session in which voting will take place on June 10, 2021 within the framework of Law No. (9) of 2020 which adopted the system of majority representation and individual nomination. The number of candidates for the upcoming elections has reached (3523) individual candidates: (1634) candidates nominated by (267) participating parties and (42) registered alliance submitted (1002) candidates (Act (15) of the Iraqi Parliament Elections Law No. (9) of 2020). This is a much lower number than the number of candidates who competed in the previous elections which exceeded (7178) candidates from (320) political parties.

We believe that the reason for this decrease in the number of candidates is due to the nature of the electoral system (one non-transferable vote) according to which voting is for individual candidates and not for coalitions or parties. In the absence of a formula for calculating seats (Saint Legault), the parties pushed to reduce the number of candidates in order not to scatter the votes of their voters. Many parties presented only one candidate in each electoral district although some districts allow them to nominate five candidates to compete for district seats in addition to the agreements between parties and coalitions about their candidates in the electoral districts to ensure winning.

The Impact of the Party System on the Electoral Process

The existence of the political party has become a feature of the democratic system of government and a symbol of its effectiveness and development to the extent that contemporary political jurisprudence agrees that there is no democracy without political parties (Abdullah, 1998: p.65). This is because the political party performs vital and important functions at all levels (Alwakeel,

2015: p.181). The existence of political parties is also an urgent necessity required by the nature of contemporary democratic systems (Alsa'ad, 2011: p.18).

If political parties have this essential role in contemporary political systems, they must play an influential role in the success of the electoral process by presenting candidates to compete and reach the parliament or through their influence on the position of the electorate. In the last stage, it will be the use of members of the legislative authority to achieve its electoral program and objectives in general. Accordingly we will address these effects in turn in the following sections.

The Influence of Parties on the Selection of Candidates

Although most contemporary electoral laws do not limit the nomination process for seats in parliament to political parties where any candidate can apply for candidacy without having to fall under the party's banner or need to support it, the practical reality forces the candidate to resort to party lists because political parties possess huge financial and moral capabilities that an independent candidate may not have. The success of the candidate often requires cash and electoral propaganda that the independent person may not be able to afford which prompts him to join parties in order to gain the support of the party and the votes of its supporters and members (Alwakeel, 2015: p.71). Among the factors that highlight the extent of the success of the political party in performing its functions is the organization and accuracy of selecting the party's candidates for various positions including parliamentary seats (Alkhateeb, 1983: p.93) and proceeds to fight the electoral battles through the material and moral support of its candidates.

The importance of political parties in the nomination process is demonstrated by evaluating the position of the candidates who entered the election process on a personal basis, i.e. outside the party lists, and comparing it with the position of the party candidates who received financial support and electoral propaganda from the party's organs and the support of the huge number of party supporters and members. The results shows that a person who runs outside the lists of political parties and blocs rarely guarantees victory. In this regard, we refer to the position of the Sadrist bloc regarding candidacy for the early elections in 2021. The Sadrist bloc submitted its list of candidates to run in the elections to the Independent High Electoral Commission on (24/4/2021), i.e. (7) days before the date of closing the door for nomination for the elections and the list was included (63) candidates. Then, on the last day for candidate registration (1/5/2021), another list was submitted that included (35) candidates. This mechanism was smart because the candidates were presented in two stages after most coalitions presented their candidates. It is explained that this time was to evaluate the position of candidates from outside the bloc. The results show that a person who runs outside the lists of political parties and blocs rarely guarantees victory.

The laws of the Iraqi Council of Representatives elections allow candidacy for membership of the Iraqi Council of Representatives outside the lists of political entities or political parties, and it is not required that the candidate belong to one of the political parties, under the term (single list) (Act (1) of the Iraqi Parliament Elections Law No. (45) of 2013 and its amendments). By looking at the results of the 2018 Iraqi Parliament elections, it clearly proves to us the extent of the influence of political parties on the selection and success of candidates. The total entities that participated in the 2018 elections were 23 coalitions, 45 political parties, and 19 individual lists. After the results of the elections appeared, it became clear that no individual candidate won the elections (The candidate Qusay Abbas Muhammad Hussein, an independent

Shabak candidate from Nineveh Governorate, won the 2018 elections for the share of the Shabak component). In fact, all the seats in Parliament have gone to the candidates of political parties (The official website of the Independent High Electoral Commission). This shows us that although the law in Iraq does not limit the right to choose candidates for membership of the House of Representatives to political parties, the practical reality proves conclusively that the political party is in control of the electoral process in Iraq.

The Influence of Parties on the Electorate

Political parties have an influence on the electorate. The parties become mediators between the voter and parliament and play an important role in determining candidates. The importance of parties increases in the success of the candidates in the elections by providing them with electoral propaganda. Electoral propaganda is a set of actions carried out by a party or candidate with the aim of giving a good image to the electorate through an electoral program with the intent of forming a unified public opinion that represents a specific political direction for the party and its supporters (Mohammed, 1998: p.640).

The parties finance the electoral campaigns of the candidate they have chosen in addition to providing the electoral campaign. Through the conduct of the electoral process, the parties seek to spread the party's ideas and goals, try to attract a large number of voters, and work to convince them of the party's beliefs and principles.

Although the importance and methods of propaganda vary from one country to another due to the different political, economic, and social systems of each country; the candidate's ability to reach the voter varies according to his financial and political capabilities. An independent candidate is not a party

candidate - as we stated earlier - and the ruling party differs in its capabilities from the opposition parties (Almukhtar, 2007: p.52).

Accordingly, political parties manage the electoral campaign in two ways. First by presenting its candidates to the public and explaining its electoral program to it to gain its trust and support. Usually, this type of electoral propaganda takes place in the well-established democratic countries in which the voter votes to be convinced of the party's electoral program and not just because of his conviction or knowledge of the party's candidate (Altaiyari, 2019: p.223). Second, the voter does not attach much importance to the programs of political parties, and votes merely because he is convinced or knows the party's candidate. We believe that the reason for this is the realization of these parties that a large proportion of the electorate does not fall within their interest in viewing the electoral programs of the parties and making comparisons between them because the candidate's personality here is considered by the majority of voters and the decisive factor in the party winning the seat of this or that constituency. Moreover, the electoral programs usually carry hopes and promises of reform and meeting the requirements of voters, but they remain mere promises since there is no control over the implementation of the electoral program after winning, and those who do not adhere to it are held accountable.

The Influence of Parties on the Work of the Legislature

The role of political parties does not stop when choosing candidates and influencing the electorate. Rather, they have another role after the end of the electoral process and the emergence of election results and the success of the candidates they nominated and supported until they became members of Parliament. Furthermore, this influence extends to directing and influencing these members in their parliamentary work. The representative does not enjoy complete freedom and independence in the exercise of his work as a representative representing all the people in their various sects. Rather, the

representatives work according to the desire and direction of the party that nominated them and supported them and not as the representative deems fit for the people. On 4/16/2016, the Change Movement announced in the Iraqi parliament the removal of MP 'Tafeka Ahmed' from the ranks of the movement and its parliamentary bloc indicating that the decision came as a result of her departure from the Kurdish consensus in the House of Representatives. Likewise, on April 21, 2016, the Kurdistan Islamic Party announced the removal of MP 'Adel Nouri' from the Islamic Union bloc in the House of Representatives as a result of the MP's failure to withdraw from the ranks of the sit-in representatives (Ahmed, 2018: p.175). Political parties tend to stifle the freedom of the representative to express his opinion in Parliament by forcing him to vote as the party deems and recommends not as the representative sees and believes is correct. Moreover, the reason that drives a member of the legislature to obey the orders, directives, and policies of the party and work to preserve the interests of the party is his desire to be re-elected to Parliament again. Thus, the party's position on the draft law is imposed on the deputy absolutely leaving him no room for choice or expressing his opinion unless it is within the party's position (Sharaf, 2001: p.231). A British MP put it this way: "I have heard in the House of Commons great speeches that have changed my mind, but not a single speech that has changed my voice." (Abo Al'ainain, 2006: p.330). We conclude that the process of voting on laws is not a democratic issue as we imagine it at first sight, so that every deputy expresses his opinion about the content of the project freely and independently. The public interest is the focus of its discussions and its maintenance is the goal and duty of every deputy. However, the law is originally made by the party which has the majority and then that bill is discussed by the party's supporters in the legislature and approved by the party's decision. Then that bill is discussed by

the party's supporters in the legislative authority and approved by the party's decision whereby the deputy is satisfied with what the party leader decides.

Reform the Party System

The democratic system cannot be imagined without parties because they work on the continuity and permanence of the democratic system. Different opinions surround the framework of a political organization that seeks to gain power and achieve its goals. Freedom of action and party organization are usually referred to in the text of constitutions (Alaboodi, 2013: p.108). When the Constitution of the Republic of Iraq was issued in 2005, the party system was reconsidered. After Iraq was governed by a one-party system, the term political parties and associations was adopted (Act 39 of the Constitution of the Republic of Iraq of 2005).

The goal of the political reform adopted by the political system after 2005 is to start a new democratic phase based on the constitutional and legal construction that most encourages the practice of real pluralism that satisfies all Iraqi political parties (Alzaidi, 2014: p.153). The party law represents the centerpiece of the party system in any country. It is the law that establishes the basic foundations of party pluralism and its role in enriching political life (Hussein: p.383). Therefore, it should be taken into account that the legislation related to parties should not be isolated from those legislation related to the electoral process. Iraq has witnessed the implementation of a set of party-related laws (Societies Law No. (1) of 1960, Political Parties Law No. (30) of 1991, Associations Law No. (13) of 2000, Coalition Provisional Authority Order No. (97) of 2004, Political Parties Law No. (36) of 2015), the latest of which was Law No. (36) of 2015 out of which we conclude that both the 2005 constitution and the Political Parties Law have allowed the freedom to establish political parties (Act 4 of Political Parties Law No 36 of 2015), and the freedom to join or withdraw from them (Act 5 of Political Parties Law No 36 of 2015), and to establish a party on the basis of citizenship. They prohibited discrimination

based on party affiliation and founding parties on the basis of extremism, terrorism, racism, intolerance, or adopting the ideas or curriculum of the dissolved Baath Party. With the practical application of the Parties Law, problems arose that called for a comprehensive amendment to it through the commission's request to make 12 amendments to different articles. It is clear how the Political Parties Law plays a role in impeding the electoral reform process from achieving and developing the goals of reform by providing an opportunity for the excessive participation of political parties in the elections which resulted in the spread of the phenomenon of partisan inflation in the House of Representatives. No article of the Parties Law has been amended, knowing that there is an article in the Parties Law that, if actually implemented, deprives many parties of political participation, which is the presence of an armed wing for some of them.

Conculsion

Results

We conclude from the discussion that in all the electoral laws under which the four parliamentary elections were held, the political situation in Iraq has not transcended an important political issue. In other words, the political forces have sought and are still seeking power and the acquisition of the identity of the state without regard to the principle of the peaceful transfer of power. Perhaps the state of instability that greatly pressured the political system and forced the government that emerged from the 2018 elections to submit its resignation and demand early elections in the light of a new electoral law that goes beyond the stage of the proportional system with its various applications in the parliamentary electoral experiments due to the frustration in the government and political performance under it and the shift towards the majority system in the hope of achieving the desired political stability.

On the other hand, we conclude that the majority of political parties in the Iraqi arena carry narrow identities and affiliations due to the emergence of a large number of political parties linked to armed militias through the approval of the Independent High Electoral Commission in Iraq to grant them a license to establish and then participate in the elections of the Iraqi Council of Representatives and obtain a number of seats through which it was able to play an important role in determining the course of action of the legislative and executive institution.

Recommendations

- 1- Reform through the introduction of the majority system: The majority system paves the way for limiting the hegemony and influence of the political parties that have controlled politics for the past 17 years, quoting each other and making the representatives linked to the people and not to the party leaders due to the knowledge that links the winning candidate with the people of his city. Furthermore, the majority system is a stabilizing factor in Parliament and facilitates the process of forming a government. In this regard, we see that this hypothesis stands in contrast to the first one. If the process of forming a government was difficult and complicated in the past, even though the major winning parties had more than one common denominator in terms of common interests, what would the scene be like if the parliament was mostly elites and independents who did not share common visions and similar political and historical contexts.
- 2- Reducing party domination by reducing the influence of political parties and curbing their financial and military influence on the opinions and attitudes of voters because the candidate, whether independent or partisan under the system of multiple electoral districts, is based on his competence and integrity. Hence, the parties will be keen to support the technocratic candidate in the elections and they may restructure themselves again and try to remove the corrupt elements from them, a matter that also depends

on the extent of people's evaluation and moral accountability of political parties.

- 3- Activating the adoption of the principle of citizenship in the formation of parties. The law approved this adoption because it states that a party is established on the basis of citizenship and in a manner that does not contradict the provisions of the constitution. It is not permissible to establish a party on the basis of racism, terrorism, infidels, sectarian, ethnic or national fanaticism. It is forbidden to establish a party that adopts or promotes the thought or method of the dissolved Baath Party. This is a positive approach and was supposed to ban all other forms of political organizations based on non-citizenship.
- 4- Stress the registration procedures of entities and parties. As far as principles of registering parties is concerned, the Political Parties Law in Iraq required the establishment of any party to submit a written application bearing the signature of the party representative (for registration purposes) to the Parties Department. These procedures are very easy in the formation of new parties and contribute to strengthening the phenomenon of the increase in the number of parties and allow a few groups to establish the party without facing difficulties. In other means, they are parties made up of a very limited party staff structure which lack a popular support base. Furthermore, the law contained a set of activities and behaviors that would lead to the permissibility of dissolving the political party, and some of these cases involve a great deal of danger that were supposed to be placed within the cases of obligatory rather than permissible dissolution.
- 5- Criminalization of extremist and loyally affiliated parties abroad. The law must include a regulation to ban the political party, especially the political parties that pursue fanaticism or infidels or call for ethnic cleansing similar to the prohibition of the Baath party contained in the constitution.

6- Modifying the structure of the political parties department. The Political Parties Law No. (36) of 2015 included the creation of the Department of Political Parties and Organizations Affairs in Act (17). Although the establishment of a department that specializes in all political party affairs was considered a remarkable legislative development, the Iraqi legislator's act of linking this department to the Independent High Electoral Commission was critical. It is assumed that the commission will be an independent and impartial body. Linking it in the process of establishing political parties will destroy its bias.

According to all of the above, electoral reform is necessary as a tool to improve the electoral system, which casts a shadow over the political system because the corruption of the electoral system leads to the corruption or degeneration of democracy which leads to political instability. The corruption of the electoral process is one of the causes and factors that pave the way for the deterioration of the situation, the outbreak of unrest, the spread of chaos, and the exacerbation of crises. The simple explanation of what is happening is that the people demand the fulfillment of just aspirations that have resulted or sealed by the changes and developments. Since the Parliament is the natural source of all legislation and the primary responsible for approving every legal reform, it is necessary to play its role in the task of change and development with the aim of reform and responding to popular demands.

Bibliography

- Nahi, A. A. (2007). Political forces in Iraq and the political process. *Journal of Iraqi Affairs*.
- Baz, B. A. (2015). *Electoral crimes of members of Parliament*. Alexandria: Dar Al-Fikr Aljami'y.

- Sari, G. S. (2005). *The electoral system in the light of the judiciary of the Supreme Constitutional Court: An original and analytical study*. (2nd ed.). Cairo: Dar Al-Nahdha Al-Arabia.
- Abbood, H. N. (2019). Factors affecting the legislative electoral process and its results - Lebanon and Iraq as a model. A PhD dissertation in law. Islamic University in Lebanon, College of Law.
- Li'roosi, R. (2012). Effective electoral engineering is a real introduction to parliamentary development. *Journal of Political and Law Notebooks*.
- Ahmed, R. A. (2018). Legislative deviation - Iraq as a model. A PhD dissertation in law. Islamic University in Lebanon, College of Law.
- Bourge, R. S. (2005). Reshape the status quo. *Journal of Democracy, Pyramids Center*.
- Albadran, R. G. (2014). The impact of the electoral system on party pluralism (Iraq as a model). *Journal of Electoral Studies, Pyramids Center, Independent High Electoral Commission*. (9, 10).
- Al'ugaili, Z. A. M. & Mohammed Ali, A. R. (2019). The impact of the electoral system on Iraqi political parties after 2003. *Journal of Kufa for Political and Legal Studies*. 12 (40).
- Sulaiman, S. S. & Noori, A. A. (2019). Towards a project to evaluate the performance of Parliament. *Journal of Iraqi Affairs, University of Nahrain*. (17).
- Khaleel, S. K. (2014). The Legislative Authority in Iraq in the Light of the 2005 Constitution - Reality and Future Prospects. *Journal of Political Sciences*. (35).

- Alubaidi, S. (2007). *Spirals of Ordeal - A political-psychological reading of four years of adversity in post-change Iraq*. (1st ed.). Beirut: Arab House of Science Press.
- Al'anbagi, T. H. et.al. (2014). *The Iraqi Parliament, Legislation and Control, or a Conflict of Wills, The Iraqi Strategic Report, 2012, 2013*. Hammurabi Center for Studies.
- Almukhtar, A. A. (2007). The legal organization of political parties and their role in the Yemeni democratic experience: A comparative study. A PhD dissertation in law. University of Cairo.
- Abdullah, A. B. (1998). Political Parties. *Journal of Legal Sciences, Arabic University of Beirut*. 1(1).
- Sharaf, A. A. (2001). Judicial and political treatment of legislative deviation. A PhD dissertation in law. University of Cairo.
- Albirairi, U. A. (2003). *The role of parties in American political life*. Beirut: Zain Legal Publications.
- Rabee', A. H. (2003). *Small parties and the party system in Egypt*. Cairo: Center for Political Studies.
- Abu Tbeekh, G. (2010). Legislative authority in Iraq after (9/4/2003). *Journal of Parlimant*. (1).
- Alsa'ad, G. (2011). The role of political entities in the electoral process. *Journal of the Al-Mustansiriya Center for Arab and International Studies*. (35).
- Alshimmari, F. M. (2014). *Electoral experiences in the world*. (1st ed.). Amman: Dar Osama for Publishing and Distribution.
- Al'abodi, Q. H. (2013). *The effects of the electoral system on the political system, a comparative study of the Iraqi experience*. (2nd ed.). Baghdad: Dar Alsaffar.

- Sa'eed, Q. A. (2019). Obstacles to the performance of the Iraqi parliament after 2003. *Journal of Alfarahidi Arts, University of Tikrit*. 11(3).
- Ubaid, Q. M. & Alwan, A. M. The impact of the electoral system on the performance of the Iraqi parliament, the impact of the electoral system on the performance of the Iraqi parliament. *University of Nahrain*.
- Alqaim, K. H. (2003). Parliament and local governments in Iraqi public opinion. *Hammurabi Journal of Studies*. (5).
- Ali, M. N. (2013). The role of the legislative authority in making public policies in the Republic of Iraq after 2003 - a study of the obstacles. An M.A. thesis in political sciences. Nahrain University, College of Political Sciences.
- Alwakeel, M. I. (2015). *Legal regulation of political parties between theory and practice*. (1st ed.). Center for Arab Studies for Publishing and Distribution.
- Alfarah, M. H. (1998). *1997 Multiparty Parliamentary Elections in Yemen*. (1st ed.). Sanaa: Center of Future Studies.
- Hasan, M. A. The decision-making crisis in the Iraqi parliament. *University of Nahrain*.
- Mohammed, M. F. (1998). *Regulations and procedures for electing members of local councils*. Dar Alnahdha Al-Arabia.
- Abulainain, M. M. (2006). *Legislative deviation and oversight of its constitutionality - an applied study in Egypt*. Dar Abulmajd for Printing.
- Dofirje, M. (2014). *Political institutions and constitutional law*. (2nd ed.). Beirut: University Foundation for Studies, Publishing and Distribution.

Hussein, M. T. Reform and development of the Iraqi parliament - an analytical study. *Journal of Kufa*. 1(36).

Alkhateeb, N. A. (1983). Political parties and their role in contemporary regimes. A PhD dissertation in law. University of Ain Shams.

Alzaidi, W. G. (2014). *Iraqi elections and the financing of political parties*. (1st ed.). Baghdad: Dar Alsanhoori.

Ababakir, Y. M. (2013). *The role of parliamentary elections in the process of democratic transition in Iraq after 2003*. Erbil: Haj Hashim Publishing House.

Altairy, Y. M. (2019). *Constitutional and legal guarantees for general elections*. (1st ed.). National Center for Legal Publications.

The Constitution of the Republic of Iraq 2005 in force.

CPA Order No. (97) of 2004.

Political Parties Law No. (30) of 1991.

Political Parties Law No. (36) of 2015.

Associations Law No. (1) of 1960.

Associations Law No. (13) of 2000.

Iraqi Parliament Elections Law No. 45 of 2013 amended.

Iraqi Parliament Elections Law No. (9) of 2020.

Bylaws of the House of Representatives without number of 2007.

The official website of the Independent High Electoral Commission.
<https://ihec.iq/>.

Abdulhameed, A. T. Obstacles to legislative reform.
<https://www.ssrcaw.org/ar/show.art.asp?aid=709951>.



Almaiya, A. A. Political reform in Iraq: Obstacles and solutions.
<http://mcsr.net/news418>.

Perceptions for studying the mechanisms of intellectual advancement, the quarterly report on the work of the Iraqi parliament for the months of February, March, April/2017. http://www.madarik.net/News_Details.php?ID=244.