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THE ELECTORAL LAW IN THE LIGHT OF THE IRAQI CONSTITUTION IN FORCE FOR THE YEAR 2005

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Abstract

The modern civilized state is based on a number of contemporary democratic foundations, in which elections constitute a fundamental axis in the organization of political life according to the principle of peaceful transfer of power, the principle of the sovereignty of the people and the fact that the people are the true owner of authority. Electoral laws are of great importance in the success of the representative process and the achievement of the optimal parliamentary system in each country. The electoral laws are part of an integrated system whose purpose is to maintain the continuity of the electoral process in an orderly manner and in accordance with democratic and modern foundations. After 2003, Iraq witnessed a political and legal transformation. And through the intervention of the military, which resulted in anarchy in the process of establishing a new Iraq, this chaos cast the shadow of the overall political and legislative process in Iraq, the occupation of Iraq by foreign forces coincided with the birth of a new political system built within the framework of. After the year 2003, Iraq went through the process of electing the National Assembly. After 2006, Iraq ran the elections of the First Chamber of Deputies. The second electoral process took place in 2010 and the third in 2014, and then the fourth parliament was elected in 2018. These elections were organized by a group of legislations that were weak in many places. The research is subject to the content of these legislations, with legal evaluation of each.

Keywords: Legislative elections, electoral legislation, the House of Representatives, parliamentary seats, the Iraqi constitution.

Introduction

The relationship between the democratic system and the elections is a close one, because elections are the natural and legitimate means of assuming power in modern democratic regimes, so that democracy can not be hoped unless elections are the means of choosing governors and members of parliaments. In order to ensure the smoothness of the electoral process, and to ensure that it is

transparent and fair, and to ensure that it fulfills the will of the electorate, this process has to be regulated by strict legislative laws, encompassing all modern principles and principles, Organized by constitutions, or provided for in international conventions and treaties. For example, Article 121 of the Egyptian Constitution of 2014 provides that "the laws regulating presidential, parliamentary, local, political and judicial elections and related to the judicial bodies and bodies shall be prepared for the purposes of the Constitution, And the Organization of the rights and freedoms contained in the Constitution, complementary to "and others are considered electoral disputes constitutional disputes related to the Constitutional Court, because of the importance, for example the text of Article (19) of the Lebanese Constitution that" a constitutional council to monitor the constitution of the Constitution Nin and Alaptvi disputes and appeals arising from the presidential and parliamentary elections". The position of the above-mentioned constitutions reflects the great importance of the electoral laws. It is incumbent on contemporary countries to be keen to have a system of electoral laws with international standards and in line with the latest international agreements reached in this regard. Accordingly, the research plan is divided into two sections. In the first section, we define the electoral laws in terms of their concept and content. In the second section we present the laws of the parliamentary elections in Iraq which started after 2003. We concluded this study with a set of conclusions and recommendations related to the subject of the study.

The first topic

Definition of electoral laws

In order to define the electoral laws, it is not possible to be exposed to its concept at the outset, and its contents of the contents and criteria related to the electoral process, which is described in two demands as follows:

The first requirement: the concept of electoral laws

Electoral law is the legislative tool that deals with the organization, the issues related to the electoral process, and the enactment of electoral laws by the ordinary legislator in each country, in the light of the general principles determined by the constitution, and in many cases, for the purpose of obtaining strong and permanent electoral laws, many constitutions stipulate The French Constitution provides for the organization of the elections of the National Assembly by a Basic Law[1]. Basic laws shall be ratified by extraordinary procedures and majority, as set forth in Article 46 of the French Constitution. As for the Egyptian Constitution of 2014, the counting of electoral laws - presidential and parliamentary - are complementary to the Constitution in accordance with Article 121, laws that need to be approved by two-thirds of the members of the Egyptian House of Representatives. It should be noted that the basic laws and laws supplementing the Constitution are ordinary laws issued Whether it is by itself or by the constitutional legislator, and its content is to organize the formation of the public authorities in the state and its functions and how to exercise its function, ie they are related to the constitutional issues in essence, that is to regulate the constitutional question by its nature, Political rights, or political parties, elections of all kinds, which are considered to be sources of constitutional law. There is no model that can be followed to legislate the electoral laws, nor any particular configuration to follow in relation to its contents and structure[2]. In some countries, for example, electoral laws are regulated in a single legislation, while electoral laws vary and vary in other countries, and their multiplicity is based on the type of elections. There is a law for presidential elections, another for the parliamentary elections and a law for local elections. In any case, the electoral law can not contain and should not contain all the rules related to the electoral process. In order to provide the necessary flexibility in the organization of electoral issues, the provisions relating to the administration of elections

should be included in parliamentary legislation, leaving administrative and procedural issues to the rules and administrative regulations. In Iraq, the constitutional legislator of the Constitution of Iraq, 2005, listed a number of general principles and principles governing the electoral law and the electoral process, including the principle of equality in the enjoyment of political rights, as stated in article 20, which stipulated that "citizens have men and women, And to enjoy political rights, including the right to vote, to be elected and to be nominated" [3-4]. It also specified the percentage of parliamentary representation and defined the generality and confidentiality of the general ballot in Article (49) which stipulated that "the House of Representatives shall be composed of a number of members with one seat per 100,000 people representing the Iraqi people as a whole, direct, and taking into account the other components of the people in it"[5]. He also defined the features of the electoral administration and how it was formed and exercised its competencies in the articles organized with regard to the Independent High Electoral Commission, and many other principles and foundations. The intervention of the constitutional legislator in the consolidation of the general principles of the election laws, as they relate to the most important right of political rights is the right to vote, and also because they organize a very important process, namely the assumption of the rulers of power, both executive or legislative[6]. The drafting of electoral laws is a very critical task for legislators to use as clear a language as possible to avoid conflicting signals. It is often prohibited to make major changes to electoral laws if the electoral process is about to begin, with the aim of maintaining political stability and legal certainty. In short, as the UN report states, "the electoral law must be clear, comprehensive and comprehensive"[7-9].

The second requirement: the contents of electoral laws

The electoral laws regulate all aspects of the electoral process from the general basis of the ballot, the manner in which it is exercised, the restrictions on the exercise of election, the guarantees of elections, etc[10]. In addition to the above, they include certain international standards that guarantee the electoral process for the purpose of protecting the exercise of the right to vote, The rights related to the electoral process, and the achievement of the purpose of organizing elections, and on this basis we show these contents in two sections as follows:

Section I: Organization of the foundations and details of the electoral process

After the constitution provides the legal framework for electoral legislation and serves as the basis for holding free, fair, credible and legitimate elections, the role of the electoral law to implement the content of the constitutional rules applies to the electoral process. Either completely or in accordance with some basic principles such as the principle of direct universal suffrage, determining the number of members of the councils, their term of office, etc., and referring the law to the organization of other details[11].

Electoral laws regulate election subjects, including:

- 1 - With regard to the legislative councils, such as the allocation of seats and the duration of service.
2. Legal requirements of political parties (such as the requirements they must meet, the rights and duties of members, funding, coalitions, etc.) and all other conditions of election and candidacy, both individually and party.
3. The organization of the electoral administration, whether administered by an independent body or a joint body by the legislative and executive branches.
- 4 - Organization of judicial supervision in the event of adoption of this option, whether in the Constitution, or in the same electoral law.

- 5- Election systems, voting, counting of votes and the mechanism of distributing parliamentary seats.
6. Key features of electoral authorities (eg structure, organization and powers).
7. How to organize voter registration and voter education.
8. Election campaigns, funding and controls, determining the time and day of elections, the method of counting, and announcing the electoral results.
- 9 - Organizing the process of monitoring elections locally and internationally, and how to deal with the media and coverage of the details of the electoral process.
10. Organize the measures and procedures necessary to protect the electoral process
- 11 - Determination what is the basis of disputes and electoral appeals.

It should be noted, however, that the issue of the distribution of the legislative organization to the details of the electoral process between ordinary and subsidiary laws (regulations, instructions or regulations) is not subject to a general rule but differs from one state to another according to the priority given by the ordinary legislator in this country. . The electoral law itself may refer to some of the sub-matters related to the elections to regulations and instructions issued by the electoral administration concerned with the organization of the elections[12].

Section II: Adoption of international standards in the organization of the electoral process

In order for the election to achieve the desired results, the electoral law must be issued in accordance with the international standards adopted in the legislation of the election laws. The holding of elections in accordance with the international standards contained in the electoral law leads to a democratic and credible election[13]. On the one hand, the electoral law must be written and inclusive of the

majority of electoral issues in order to achieve the transparency and electoral integrity and accessibility of the information by voters. On the other hand, the structure of the electoral laws should be organized hierarchically, as we explained earlier, the constitutional principles and rules at the top of the pyramid the legislative electoral rules that translate these texts and the constitutional rules in its board. Then comes the role of the electoral regulations and instructions which show the other technical details of the electoral process, and stipulate that the provisions of the constitution and the electoral law SAS. On the other hand, it is necessary to guarantee the right of voters to monitor electoral procedures and to provide all necessary and possible means to achieve this. This will have a positive effect on the voters' acceptance of the election results and the safety of their procedures. Election monitoring is the most effective means of holding fair and transparent elections, whether elections are monitored by a national body, such as parties, governmental and non-governmental organizations, or international monitoring by the UN or its affiliated organizations concerned with electoral affairs. Elections and reassuring their results by confronting all actions that constitutes electoral irregularities and crimes. It must also be ensured that the freedom, confidentiality and generality of the elections are not compromised. Elections can not become the backbone of democracy unless they include a fair electoral system based on equality and freedom of elections. This law requires the inclusion of punitive provisions in the electoral law to criminalize prejudice to the electoral process[14]. These provisions may also be a separate law that deals with combating electoral crimes of all kinds. This law shall include the procedures to be followed in the event of electoral irregularities, as well as to determine the judicial body to which the order to adjudicate electoral disputes is concerned.

The second topic

Election laws for the first and second parliamentary sessions in Iraq

The first law of the elections was issued on August 2, 1924, the law for the election of deputies in 1924. It contained 52 articles divided into four chapters. After the transformation of Iraq from the monarchy to the republic, Iraq passed five covenants under the republican system that lasted from 1958 to 2003[15]. As for parliamentary and parliamentary life during the Republican era until 2003, since the parliamentary elections in the monarchy, was elected to the 1980's, where the National Assembly Act was passed, whereby the National Assembly was elected, the first institution to be elected, and the Republican system in Iraq remains. Although it was an elected council, it was not a real parliament. The elections were not free and fair[16]. They had no real and effective powers and were not the will of the people but rather a tool of the ruling party. In the new civil era after 2003, Iraq witnessed the application of a series of electoral laws, foremost of which was the Elections Law, which was the basis of the elections of the first session, and its subsequent amendments[17]. The most important observations and drawbacks of this law and its amendments are as follows:

First Requirement: Election Law No. 16 of 2005

The Coalition Provisional Authority issued electoral law No. 96 of 2004, which adopted proportional representation system and considered Iraq a single circle, the aim of adopting the system of proportional representation was for the purpose of granting each party or list a number of seats proportional to the percentage of votes obtained. Its application with the individual election system, in 2005, the Electoral Law No. 96 was annulled and the Elections Law No. (16) 2005 was legislated to regulate the process of electing the first session of the Iraqi Council of Representatives after the entry into force of the Constitution. This law came as a basis for the decision of the aforementioned CPA Where he was elected as a member of the

electoral system, and he adopted the system of proportional representation. However, he abandoned Iraq as a single constituency. Instead, he was divided into 18 electoral districts, with the number of governorates in Iraq. , With the possibility of giving the voter preference to the candidate one of the list. The Elections Law No. 16 of 2005 provides the basis for the election of members of the Iraqi Council of Representatives. The House of Representatives consists of (275) seats. The law allocated (230) seats distributed among constituencies across Iraq according to the proportion of the population in each governorate or And allocated the remaining 45 seats as compensatory seats for entities that did not obtain any seat on the scale of Iraq according to a special offset formula developed by the Electoral Commission[18]. The mechanism of work of the new law operates according to two basic equations:

Equation 1 / Electoral denominator: Equally equal to the number of votes required for a single parliamentary seat. Equation 2 / If not all seats are allocated to the province as per the above, the remaining seats will be allocated to the entities that have the rest of the stronger or larger one by one and all the allocated seats will be allocated to the province. The compensatory seats have been approved to give small parties an opportunity to be represented in the House of Representatives, thus expanding the representation base to include most segments of the Iraqi people. It should be noted that the electoral law allocated 45 compensatory seats at the national level and not the provinces, ie that candidates, whether lists or individuals, may receive a number of votes that do not qualify them to obtain an original seat of the 230 seats allocated to the provinces, in order not to waste votes They will get a compensatory seat. This law is also applied to the system of multiple districts, where each governorate according to the official administrative boundaries, the electoral district is concerned with a number of seats commensurate with the number of registered voters in the province according to the elections

/ 30 January 2005 / based on the ration card system. This system is implemented in a number of countries, which leads to instability of the number of constituencies or instability of the number of members of the House of Representatives, and this is what was taken by the Iraqi Constitution of 1925 in Article 36 thereof. The law also adopted the open list system, where Iraq defined the list system in the elections that took place on January 30, 2005, while the electoral system in Iraq was taken in the manner of individual election in the royal era as well as in the Republican era for the period 1980-2003. The Iraqi electoral law took the system of proportional representation and the method of the strongest rate of distribution of the remaining seats for the seats allocated to the constituencies of 230 seats, while the distribution of seats compensatory mentioned above on the basis of the national rate, which is extracted by dividing the total valid votes in Iraq On the number of seats in the House of Representatives[19].

The most important criticism of this law is the following:

1 - The law referred to the electoral campaign in brief, leaving many important details without organizing, especially the electoral propaganda because it would preserve the democratic and civilized appearance of the country. Therefore, electoral laws go to prohibit many forms of behavior that may be resorted to by some during the election campaign, For example, the French legislator in the French Elections Act of 1997, for example, devoted various provisions to the organization of electoral propaganda in terms of the place of publicity, the colors of signs, the purpose, the period specified by law and the impartiality of the public authorities with respect to allegiance Elections.

2 - This law also ignored the reference to the financing of election campaigns and leaves them unorganized, although political money is one of the largest sources of political corruption, which needs appropriate legislative control.

3. The law referred to in Article IV, paragraph II, "Elections may be postponed in one or more constituencies if security conditions so require." This text is general and requires at least a detailed statement of the mechanism used in the postponement and who is the party that separates it.

4 - This law did not contribute to political stability, but on the contrary, especially because of the adoption of the system of proportional representation, which increased the political rivalry between the various parties represented in parliament and the result was a coalition government was unable to manage independently in the state as conflicts and conflicts between the government and parliament It is known that under the coalition governments, political opposition can not be obtained with an effective weight. The government adopted a coalition that distributed the ministries to the number of points obtained by each party participating in the elections, thus failing to achieve the majority of trans-sectarian politics.

The second requirement: the election law for the second parliamentary session

The Elections Law No. 16 was amended by the Law of Amending the Elections Law No. (16) For the year 2005 with the number (26) for the year 2009, under which the elections were held on 7 March 2010. The Iraqi Parliament ratified the Elections Law in preparation for holding the parliamentary elections on the 7th of In March 2010, on 6 December 2009, the House of Representatives voted in extraordinary session on a resolution explaining the election law[20]. Among the provisions of this amendment:

First: Article 15 of the law was abolished and replaced by the following:

The Chamber of Deputies consists of a number of seats with one seat per 100,000 inhabitants. According to the latest statistics provided by the Ministry of Commerce, compensatory seats shall be composed of

(5%). The candidacy shall be in the manner of the open list and the number of candidates shall not be less than three, the voter is entitled to vote on the list or one of the candidates listed therein and may nominate individual candidates[21].

Second: Gather the correct votes obtained by the list in the constituency and divide the electoral denominator to determine the number of seats allocated to that list.

Third: The distribution of seats by rearranging the candidates according to the number of votes obtained by each of them. The first winner shall be the highest of votes and so on for the rest of the candidates, provided that the percentage of women is not less than one-fourth of the winners[22].

Fourth: The vacant seats shall be granted to the winning lists which obtained a number of seats according to the percentage of the votes obtained.

As for the decision to interpret the election law, it determined the number of seats allocated to the House of Representatives in line with the provisions of Article 49 of the Constitution[23]. Due to the absence of a modern census, after reference to official statistics of the Ministry of Commerce for 2005, Due to some migrations, the House of Representatives consist of 325 seats. 310 seats are allocated to the governorates according to their administrative boundaries based on the attached table. The number of compensatory seats is 15 seats[24]. We will mention the most prominent observations on this law: as this law in Article III / paragraph IV, provided for the granting of vacant seats to the winning lists that obtained a number of seats according to the proportion of votes obtained, and this will give the opportunity to the large lists to take the right votes Other lists that did not get the electoral denominator. The article (3) of Law Number (26) of 2009 amending the Election Law Law Number (16) for the year 2005 was issued and the judgment was issued on the basis of the provisions of articles 13/93/94 of constitution and article (4) of Federal Court Law

Number (30) of 2005 by agreement on 14/6/2009, where it considered that the distribution of seats vacant after the amendment referred to the transfer of the voter's vote from the candidate who elected him to another candidate did not elected originally against his will, and this contravenes the provisions of article 20 of the constitution, which states that[25] "granting citizens men and women the right to participate in public affairs and enjoy including the right to vote, to vote and to stand for election, and that the constitution guaranteed freedom of expression in article 38 (I) therefore the process of converting the voter's voice - without his will - from the candidate who elected him to another candidate from another list that did not intend to elect a candidate, constitutes an attack on his right to vote and to vote and infringe on the freedom of expression and thus constitutes a violation of the text of Article (20) 38 / I) of the Constitution, where a law contrary to the constitution may not be enacted, and freedom of expression may not be withheld on the basis of the provisions of articles 20 and 38 (I)"[26].

The second problem in this law is that unlike the usual, it has reduced the number of compensatory seats. The 45 seats allocated in the 2005 unedited elections law have been reduced to 15 instead of increased. This is the logic of things because the seats in the House of Representatives Increased (50) seats in the 2010 elections[27].

The amendment also added an item to the special vote in Article 4. It includes:

First: Military personnel from the Ministry of Defense and Interior and all other security institutions and the method of voting according to the procedures especially developed by the Independent High Electoral Commission[28].

Second: The inmates, detainees and detainees shall be subject to the procedures established by the IHEC based on lists submitted by the Ministry of Justice and the Interior within a period not less than 30 days prior to the polling day[29].

It would have been better if the members of the armed forces were prevented from participating in the elections because they are subject to the pressure of their superiors on the one hand and on the other to prevent the entry of politics into the army, which would cause harm to military control. This prohibition existed under the Third Republic of France (1870-1940) and in Iraq until 1952; article 52 of the Elections Act of 1946 stipulates that "the armed forces shall not participate in the elections, including the police ..." [30.]

The third topic

Election laws for the third and fourth parliamentary sessions in Iraq

The rise in parliamentary and political debate ahead of each election, between the enactment of a new electoral law and the amendment of the previous electoral law, as the third parliamentary session approached, the call for a new law, under which the third round elections were held, The approaching date of the elections to the fourth parliamentary session, which invites us to exposure to these laws in two demands as follows[31]:

The first requirement: the election law for the third parliamentary session

The Iraqi Council of Representatives passed a law bearing the title (Law amending the law of the elections of the House of Representatives No. (16) for the year 2005) This declaration came after a difficult labor between the political blocs that constitute the current House of Representatives, almost led to the report to postpone the elections, On the many provisions that existed in the previous law, such as the adoption of the open list and the system of multiple departments and the proportion of women's representation, and the most important spelling of this new amendment:

Article (11) First: The Council of Representatives consists of (328) three hundred and twenty-eight seats distributed (320) three hundred and twenty seats on the provinces according to administrative limits

according to the table annexed to the law and (8) eight seats, including quota (quota) of the components. The nomination shall be in the manner of the open list and the number of candidates shall not be less than three. The voter shall have the right to vote for the list or list and one of the candidates[32].

Article (14) is a new system in the counting of votes, which is the system of St. Lego modified as the distribution of seats on the competing lists according to the amended system of Santelco, as follows:

First, the correct votes shall be divided between the competing lists for the serial numbers (1, 6, 3, 5, 7, 9, and so on) and the number of seats allocated to the electoral district. This shall ensure that women receive at least 25% of the seats. The law contains new provisions, including the organization of electoral crimes (2) as well as election propaganda, as stipulated in the adoption of electronic voting. The instructions issued by the Commission depend on the process of polling, counting and counting. San Telegu was a special system for the distribution of voter votes applied in 1952 in Sweden and Norway. Its purpose was to reduce the drawbacks caused by the disproportion between the number of votes cast and the number of seats obtained. For the purpose of preventing large parties from gaining the votes of small parties the votes of its voters are not enough to win. This system will cause a lot of controversy and dissatisfaction. This system will increase the number of parties represented in the House of Representatives in the reasons for the distribution of other seats, in addition to the large number of votes required for each seat according to this system and the increase in the number of parties and blocs winning in parliament, may find popular and successful in systems that have a long history with elections and democracy, in Iraq, the proliferation of political parties, and the large blocs represented in parliament, and alliances, all increased the

amount of political rivalry, all contributed to the production of governments The weak failed to prove their existence[33].

Among the other defects that the law is silent on, this law is issued the following phrase (the law amending the law of the elections of the House of Representatives No. (16) for the year 2005), while in Article 47 of the abolition of this law and according to the following text (16 of the year 2005 and its amendments), and this is a defect in the wording because the amendment is different from the new legislation, the amendment relates to some provisions of the law is valid and valid for effect and not canceled, while the law of the amendment itself canceled the previous law, Therefore, Law 45 is clearly defined. And also one of the most prominent observations recorded by experts and legal that the election law violated Article 49 of the Iraqi Constitution, which stipulates that "the House of Representatives consists of a number of members by one seat per hundred thousand people of the souls of Iraq," according to data from the Ministry of Planning on the population of Iraq There should be 351 deputies in parliament, but the election law made the seats of Parliament 328, an increase of only 3 seats from the number of deputies of the previous parliament 325, while the share of minorities will be 8 parliamentary seats, which caused the objection of minority representatives to the law at the time of legislation. This law also includes other violations, in which the violation of the will of the real voters, by converting the parliamentary seat to one of the candidates through the following procedures by adopting the drawing method, in the case of equal votes of candidates for the last seat in accordance with Article IV of Article 14 of Law 45 / 2013, and this is far from the fairness and integrity of the elections, and represent the confiscation of voters' votes without their consent[34-35]. The issue of allocating a vacant seat for a political entity or a list that has exhausted candidates to another candidate for a political entity that has not received votes is also a matter of fair elections.

The second requirement: the election law for the fourth parliamentary session

The debate over the postponement of the legislative elections for the fourth parliamentary session has increased as the date approaches. There are many reasons for the postponement, however, the Iraqi Council of Ministers put an end to the controversy and decided that the elections should be held on 15 May, for the first day of Ramadan, the President of the Republic of Iraq issued a decree on 12 May, which sets the date for elections[36].

The House of Representatives did not succeed in enacting a new electoral law, so the intention was to amend the law Number (45) for the year 2013, the first amendment stipulates that:

"Article II of Article (7) shall be amended and a new item shall be added in sequence (IV) and shall be as follows[37]:

Second: The elections of the House of Representatives shall be held for the fourth session on 12/5/2018.

Third: The executive authorities should do the following:

1. Provide the environment for the elections
2. Return of displaced persons to their areas
3. The voting shall be electronic in all regions
4. The parties that are in the elections have armed wings
5. The Ministry of Defense and Interior shall ensure security of the electoral process.

Anyone who is familiar with the above article will not find it difficult to conclude that it is a "settlement", as if it were designed to satisfy the parties that demanded postponement of the elections, otherwise, how can the government within a few months provide a safe environment for elections throughout the constituencies, and how the government can ensure the return of all displaced persons to their areas without actually preparing these areas to receive them. The fourth paragraph, which directs the speech to the government to prevent parties with armed wings from participating in the electoral

process, is considered, first, that the question of whether to participate in the elections is the Independent High Electoral Commission and the government to intervene in its work. Second, most of the political parties in Iraq have wings Armed and fighting on the ground against gangs and advocates, which are of all nationalities and sects of Iraq. The amendment also introduced an amendment to the amended Santelco formula by making it 1.7, which increases the luck of small blocs at the expense of the largest blocs, which is an excessive fragmentation of the number of the House of Representatives numerical system between the distribution of seats of the House of Representatives No. (12) For the year 2018 issued based on To the Law of Election of the Iraqi Council of Representatives No. (45) For the year 2013 (amended) mechanism of the distribution of seats according to the following[38]:

Competing lists are arranged in the electoral district (governorate) according to the correct votes obtained from the top to the lowest (vertically).

The correct votes obtained by the lists are divided on the numbers (1.7 / 3/5/7/9/9 ... etc) until we reach the number of seats assigned to the electoral district (governorate) to get the results of division divided by the number of seats allocated to the electoral district The highest to the lowest (horizontally) in front of each list I participated in the election. A seat is allocated to the list that obtained the highest dividing score. The second seat is assigned to the list that obtained the highest dividing output and so on until all the seats allocated to the electoral district are exhausted under the steps. The distribution of the seats during the list of reordering the candidates according to the number of votes obtained of them, and the first is the winner who gets the highest votes and so on for the rest of the candidates. The Council of Representatives did not change the method of determining the constituencies, as the old text, which is the province of each constituency remained, and it would have been better if the Iraqi

legislator to make one province several constituencies, the subject of determining constituencies in the systems of comparison is of great importance, and a lot of States give jurisdiction over constituencies to impartial bodies and are subject to judicial oversight, as is the case in Germany and the United States of America.

It is worth mentioning that the legislator has violated the requirement of the preparatory certificate for the candidate in Article (2) of the amendment and added item (seventh) to the text of Article (8) to read as follows:

A candidate for membership of the Chamber of Deputies must have a Bachelor's degree or equivalent.

The second amendment came after the Federal Court refused to appeal the first amendment, which was submitted by a number of MPs who do not possess a bachelor's degree. The Iraqi Council of Representatives amended the law once again and allowed those who do not hold a university degree to run within 20% MPs have no bachelor's degree, and this gives a clear picture of the amount of legislative confusion within the Iraqi Council of Representatives. The first of the Council before the amendment was to decide one of two things, either to require the university certificate for the deputies to be adequate education, and to be satisfied with the preparatory certificate, which segments did not get a bachelor's degree[39].

The law also regulates the process of electronic counting and sorting in Article (5) of which stipulates that "the counting and counting process shall be carried out using the electronic results acceleration system." The political parties' agents shall be filled with an electronic copy of the results forms and ballot papers at each polling station.

Although it is mostly considered to adopt electronic systems at any stage of the election, especially counting and counting, as a major electoral reform process, but in fact the House and the Commission were not right when they decided to use electronic counting technology, because this method Was not known to the electorate in

Iraq, did not receive sufficient clarification, and can advise voters to reassure the technology, and once the amendment was published, the views raised that the possibility of penetrating such devices, as well as questioning the source that made and equipped the Commission electronic counting devices.

This has been reflected in the acceptance of the results after their emergence, and reached rejection and challenged by the Council of Ministers to convene an extraordinary session on 24-5-2018, which decided to form a committee to study reports and information on what he called "violations of the electoral process," in light of what "The committee will be formed under the chairmanship of the head of the Supreme Audit Bureau and the membership of the head of the Integrity Commission, the head of the National Security Service, National Security Chariyah, head of the Iraqi National Intelligence Service and head of the Supreme Electoral Security Committee"[40.] The Iraqi Council of Representatives has resorted to a third amendment to the law, which abolished the enemy electronic sorting and decided to adopt the system of counting and sorting the hand of the results of parliamentary elections, held on May 12, 2018, and more, the text of the amendment in Article IV that " The Supreme Judicial Council has nine judges to administer the Council of the Independent High Commission for Elections and takes over the Board of Commissioners instead of the current Board of Commissioners and a judge for each of the offices of the High Commission in the provinces instead of the current directors and the functions of judges assigned upon the ratification of the Federal Supreme Court on the results C. Elections and the members of the current Board of Commissioners and the directors of the provincial offices shall cease to work until the completion of the investigation of the fraudulent crimes referred to by the Council of Ministers' decision.

Indeed, the legal description of this panel of judges is not consistent with the principle of judicial supervision of the elections, because the latter means full supervision of the entire electoral process, while the task of the nine-judge panel is to restore the counting procedures to verify that the voting data match the results

It is worth mentioning that the Commission challenged the third amendment made by the House of Representatives and demanded the Federal Supreme Court to issue a mandate to stop the implementation of its provisions, but the court rejected this matter and responded to the appeal of the law. This has led to the breakdown of the process of announcing the official results and healing the new council for the purpose of forming a government, which introduced the country in the case of legislative vacuum, in which the government exercised its full powers in the absence of parliament, and increased the frustration of voters and lack of confidence in the elections and their results.

The new council will probably draft a new electoral law or amend the existing law. However, it is important to take account of all the weaknesses of previous laws in order to reach a more equitable and acceptable electoral law by all segments of society. This requires consideration of the cultural, social and religious factors in Iraqi society, as well as the political factors and their developments, as these factors have an important role and an effective impact in reaching a fair electoral laws and thus obtaining advanced electoral systems.

Conclusion

At the end of our study of the electoral laws of the Parliament in Iraq, we present the most important results obtained, and conclude with the most important recommendations that we have received through the study of these laws.

First: Results

Through a brief review of the most important electoral laws in Iraq, we find that there are some positives that have been included, but offset by other negatives or many weaknesses have made it resolved in the end and often, the decisions of the Federal Supreme Court in Iraq, And democratic in the state. The Iraqi Council of Representatives did not change its usual legislative policy when it

legislated or amended the electoral laws. These laws kept them hostage to political agreements and abhorrent sectarian quotas. The same policy remained in place to prevent the enactment of any law that would create a political majority and strong opposition. It is also known that the constitution of the Republic of Iraq for 2005 sets the rules for taking the opinion of the people in certain referendums, but this does not prevent the Parliament from begging other ways to ascertain the opinion of the people regarding the matters regulated by the election law, And their affiliations. Until now, the laws of the legislative elections in Iraq is a laboratory of experiences so that we always expect new electoral legislation or an amendment to the old law according to what the opposing parties in the House of Representatives think.

Second: Recommendations

The most important recommendation that can be made in this regard is the recommendation to reform the legal system of the elections as a whole, which are among the most important elements of the election law and therefore we propose the following:

- 1 - The structure of the mandate of the work of the electoral administration, namely the Independent High Electoral Commission, and its composition should be reviewed in a manner that distanced it from the quotas and partisan influence.
 - 2 - Judicial supervision of the elections must be activated in one form or another to provide the greatest measure of justice and integrity in the elections. The president of the Court has established a special tribunal for electoral disputes, which is formed and operates independently of the Commission and far from any political influence, or to amend Article (93) of the Constitution to grant the Federal Court broader powers in relation to the elections.
 - 3 - Trying to legislate an electoral law that is clear and far from complicated to be more reliable voter.
 - 4 - Increasing the constituencies instead of making each governorate a single electoral district, because the latter method has led to the making of some areas without parliamentary representation.
- 1- Encourage individual and independent candidacy by adopting a low electoral denominator that is different from the electoral constituency of electoral lists.

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