

The Form of the Iraqi State under the 2005 Constitution: A Study for the Deviation of the Federal Experience

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According to its permanent constitution of 2005, Iraq adopted a new style of state administration, in which it turned from the extreme centralization that ruled the Iraqi state for nearly three decades to federalism, i.e. from centralization of the authority to division of powers. However, this is a recent experience that was not common among the Iraqi political forces, or even the citizens, which adopted this style. It is the first experience since the establishment of the Iraqi state until the adoption of the style of federal administration. Therefore, it witnessed several deviations that began by the way the state was established and the division style of powers across the different levels of government, and ended by some relationships between these levels and with the federal government. So, we proceeded our work based on the premise that "Iraq adopted the federal system in its permanent constitution, although that system witnessed many exclusive deviations, in comparison with the other federal systems that arose under the same conditions, in which the Iraqi federal system emerged , in general, and the relationship between the formation of the federal state, division of powers and the probability of decision in case of disagreement between these different levels of government, in particular. To verify this hypothesis, we will address, in this research, the following themes: First, the concept of the federal system; Second, the relationship between the federal state's formation and the division of powers; Third, Features of the federal system under the Iraq's 2005 permanent constitution; and Fourth, aspects of deviation of the federal system under the 2005 Constitution.

Key words: *Iraqi State, Constitution, Federal Experience, Political Science*

Introduction

The federal state is a complex state that is based on the division of powers across different levels of government (federal government/ regions). Often, this form of state administration is adopted to overcome the disadvantages of the central administration and its failure to meet the needs and requirements of the citizens. Therefore, States move to adopt another style that guarantees the provision of citizens' services and rights (cultural, religious, linguistic and even economic). So, Iraq, as one of the countries aspiring to change its service - political domains for the Iraqi citizen, adopted the federal experience in its 2005 constitution. This action was the result of the political agreements of the opposition forces outside Iraq, which mostly agreed to adopt a system of state administration based on the federal theory. This was the main topic discussed in the meetings of the political opposition elements in London and Salah al-Din Conferences. In fact, this federal system was adopted as a style of state administration, after the change of the political system in Iraq in (9/4/2003), and codified it in the Iraq's 2005 permanent constitution.

Problem of the research: The problem of the research arises from the following question: Is the federal experience in Iraq, under its permanent constitution, consistent with the federal traditions, especially the relationship between the formation of the federal state and the division of powers for both levels of government (federal government/ regions/ governorates that are not part of a region (Amjad Zain Al-Abideen Teama, 2014).

The hypothesis: In its permanent constitution, Iraq adopted the federal system, although it witnessed many exclusive deviations in comparison with the other federal systems that arose under the same conditions, in which the Iraqi federal system emerged, in general, and the relationship between the establishment of the federal state, division of powers and the probability of decision in case of disagreement between the different levels of government, in particular.

Methodology of the research: The researcher used the institutional approach to describe the institutional structure of the Iraqi federal system, as well as the functional approach and how the imbalance of any part of the political system affects the State as a whole. He addressed that through the problematic relationship between the different levels of government.

First: the concept of the federal system: We will discuss it in the following paragraph:

- 1- The term of federalism: FEDERALISM is derived from the Latin word (FOEDUS), which means treaty or agreement, that is formed between different groups to adopt joint federations. According to Louis Latin Dictionary, the word (FOEDUS) means (LEAGU), which refers to any agreement between two or more parties. In addition, federalism may mean "TREATY", "COMPACT" or "CONTRACT". It may be defined as "a political organization in which governmental activities are divided between regional governments and the central government, in a way that enables each type of government to have the upper hand over some activities.



Consequently, federalism refers to the system of sharing the constitutional power between the different levels of government (i.e. the central /federal government and the regional and provincial governments). It is also known as the union of several countries seeking to relinquish their foreign sovereignty and keep their internal one. Therefore, federalism means sharing powers between two regional units (the central part and the region) aiming to create solidarity, not their intersection and contradiction (Abdul-Jabbar Ahmad, 2013).

As for the establishment of this union, it is not a fixed process, as it depends on the conditions of each country. The size of the state may play a great role in adopting federalism. This can be done through the division of power across different levels of government within the state, as a result of the State's failure to meet their citizens' desires due to applying the style of administrative decentralization. Therefore, applying the old style of administration might lead to inappropriate and inapplicable policies, so adopting the style of federal administration gives citizens a greater chance for exercising the democratic control and formulating policies according to their need (Arend Lijphart, 2015).

Sometimes, federalism may be a solution to the problems of national, religious or ethnic diversity and also a successful way to resolve and manage this diversity, by allowing these components to make their own policy at the local level. Rather, federalism or sectoral autonomy is one of the essential pillars of consociation democracy that helps managing diversity.

In addition to the previous two factors (size and diversity management), there are other factors that enhance the establishment of federalism, such as the political, social and economic interests, mutual history, the external threat or the common enemy or threat that threatens the states and their existence. All these factors drive them to form federations to counter these dangers, and then they relinquish their external sovereignty to the federation while retaining the internal sovereignty and powers that guarantee their autonomy internally (PANCHRISHI DEVSHARMA, 2012).

2- The powers of the federal State

The federal constitution assumes the task of dividing powers between both levels of government (the central government and the regions) according to clear-cut and precise texts. However, these powers are governed by many considerations, which may be historical, social, or cultural (predominantly political to be in line with the rules of the political game). So, the greater the ties, national interests and goals are the broader the powers of the federal government are. And the weaker the above-mentioned ties between the units of the federation are, the greater the powers of regional governments are (as opposed the federal government that gets less powers) (Aqil Muhammad Abdu, 2009).

Therefore, this assumption leads us to a substantial idea saying that the weak ties, often, lead to the formation of the federal state by integration while strong ties between the members of

the constituent units of the Federation lead to the federation formation by disintegration, given that these units have common and joint features like shared vision of living, history and the homeland. Accordingly, there are several ways for the formation of the federation. In addition, there is a correlation between this formation and the powers granted to levels of government (the federal government, the regions), and we will show that in the following paragraphs:

a- The style of emerging and the division of powers: It means the agreement of some countries to establish a federation as a result of the common denominators among them and due to their common belief in their strength together. They have common interests as well as a common identity to establish a federation that allows its members to autonomously take control of its region due to its powers. In addition, these countries can participate in decision-making at the federation level. Examples of the countries that have adopted the federal system in this way are the United States of America, Switzerland and Canada (Yasser Ali Ibrahim, 2003).

b. The style of dissolution as a way for establishing the federation: This method means the dissolution of a unified country into a number of states while keeping their desire to remain connected (14). Also, the federation may be the result of the existence of a unified state that suffers from extreme authoritarian- undemocratic centralization; the product of social contract change; or a response to the claims for democratic life and powers sharing, due to the State's diversity (linguistic, religious, ethnic or national) or great economic differences between States' administrative units (as these units claim for independence. Examples of federal states that have been established according to this way, are the former Soviet Union, Mexico, Argentina, and Brazil (Amjad Ali, 2013).

After 2003, Iraq adopted this style to form the federation. This action was conducted by preparing a new constitution that turns the style of state administration from centralization to political decentralization. This is explicitly stated in Iraqi permanent constitution of 2005.

After referring to how the federal state was established and ways of formation, the following question arises: Is there a relationship between the way of federal state formation, the division of powers and the different levels of government (the federal government and the regions). The following paragraph presents the answer:

Second: The relationship between the formation of the federal state and division of powers

There is a close relationship between the formation of the federal state and division of powers between both levels of government (the federal government and the regions affiliated to this federation). Before discussing this topic, we have to note to the process of division of powers within the federal state, as follows:

- 1- **Exclusively identify the powers of the federal government in the articles of the constitution, without any mention of any other powers as they represent the regions' powers.** This means that unmentioned powers in the federal constitution or the new ones represent the powers of the regions affiliated to this federation (Arend Lijphart, 2006).

This method is valid for the states formed through the merger (i.e. several independent countries join the confederation to be a part of it, while ensuring its autonomy in managing its internal affairs). This encourages all the member states to join this federation. Examples of the countries applied this method, are the United States of America, Australia, Austria, Germany, Malaysia (Hanan Muhammad Al-Qaisi, 2012).

2- Exclusively identify the powers of the regions

This method focuses on the topic of division of the regions' powers, within the Federal Constitution, without identifying the powers of the federal authority. This suggests that the latter has the power with general jurisdiction, while the regions enjoy the special exceptional jurisdiction. This way is applied mostly in the countries that were established as a result of the changing conditions of state administration (turning from the centralized government to division of powers between different levels of government (the federal government and its affiliated regions) due to the claims for democracy and the local needs. This style is called "disintegration" (Luqman Omar Hussein, 2011).

3- Exclusively identify the powers of both levels of government (Federal Government/ regions) within the Federal Constitution

According to this style, the powers of federal government and its affiliated regions within the Federal Constitution are set. However, this is a deficient style as it cannot capture all the powers of both levels, in addition to the constitution's inability to address the new issues that are not mentioned in the constitutional powers of both levels (George Matthew, 2007).

There are other ways of division of powers that include joint and exceptional powers in case of emergencies. As for the joint powers, the Federal Constitution states these powers, which are shared by both the federal government and its affiliated regions. And it is not permissible to be exercised by only one party. Through joint powers, federal states may enable the regions and provinces to exercise some of these powers under the supervision and control of the federal government. Furthermore, these states are the only body that develops the general details while allowing the regions and provinces to set the details during the implementation phase according to the local conditions of each region. According to Ronald L. Watts', the federal government, sometimes, delays some of its federal tasks to create opportunities for the states and its affiliated regions to take care of their own initiatives. As for the federal government's process of managing its functions in the regions, this is done through a small civil service body within



those regions, whose work is limited to its own powers authorized to it. This model is called the "Administrative Federalism", because the tasks assigned to this body are only administrative ones (Ismael al-Ghazal, 1996).

Concerning the state of conflict between the federal law and the law of regions in the joint powers, the priority will be for the federal law.

Finally, we come to a conclusion that the division of federal powers depends mainly on the nature of the federal state formed. So, if it is formed through the integration of several independent countries that relinquish their foreign sovereignty and maintain their internal powers, the process of division of powers will be in the form of identifying the powers of the federal government in the constitution and other powers will be assigned to the regions governments, which form the federation. But, if the state is formed by disintegration or by turning the state administration from centralization or administrative decentralization to federalism (from delegation of powers to constitutional division of powers), the constitution will exclusively set the powers of regions and beyond that will be within the powers of the Federal Government.

The third method refers to the process of identifying the powers of both levels of government (the federal / regions governments). It defines the joint powers in which both parties may participate in managing them, including the emerging and new powers. At this point, we have completed the theoretical framework of this study and we will apply it to the Iraqi case under the Iraqi permanent constitution of 2005 (Fayez Aziz Asaad, 2005).

Third: Features of the federal system in Iraq under the permanent constitution of 2005.

In this paragraph, we will discuss the signs of forming a federation in Iraq after 2003: form of Iraqi federalism and its levels, division of powers between different levels of government (federal government, regions, governorates).

1- Signs of the Iraqi Federation Formation

The idea of federalism is not new. Rather, it was born during Iraqi invasion of Kuwait in 1991. During these events, the decentralized government in Baghdad lost its control on the area of northern Iraq, due to the support of the international forces, led by the United States of America. Subsequently, the Kurdistan Parliament issued, on 4/11/1992, a unanimous decision to adopt the federal style of administration in the northern Iraq. After that, conflicts began between the two major parties in northern Iraq that turned to the armed clash, but this was resolved by USA intervention. Later, both Kurdish parties sought to participate in the international conferences and symposia held by the opposition parties abroad, including the 2002 London Conference, as well as the 2003 Salah al-Din Conference of these two conferences, it is observed that they

focused on the federal option as a style of administration for new Iraq and the overthrow of the political system (Nazih Raad, Political Systems, 2012).

London Conference referred to the nature of the federal system in Iraqi Kurdistan and the necessity of adopting this system as a style of administration in Iraq, while ensuring the peaceful coexistence between different nationalities on the basis of the federation by developing a democratic constitution. In 2003, the international coalition forces entered Iraq. As a result, the political system was changed and the political process was re-mapped through the agreement to transfer power from the Coalition Provisional Authority to the Iraqi government (an agreement held between the Ruling Council chaired by Jalal Talabani and the Coalition Provisional Authority, represented by the civil ruler Paul Bremer, on October 15, 2003). The agreement includes the political process map that called for: firstly, developing a law of the Iraqi state administration for the transitional period by the Ruling Council; secondly, making security agreements for defining the legal status of coalition forces in Iraq; thirdly, selecting the Transitional National Assembly members; and fourthly, re-transferring the power to Iraqis and developing a permanent constitution (Ali El-Shukry, 2010).

According to the above mentioned, we note that the adoption of the federal option was the main theme in the meetings of the opposition parties abroad, most notably the London Conference and Salah al-Din Conference (held in northern Iraq). This is in addition to the entry of coalition forces into Iraq, the change of the political system, and re-mapping of the political process, including the creation of a permanent constitution by the Iraqi people. Thus, in the next paragraph, we will tackle the features of the federal system in Iraqi permanent constitution of 2005 (Yasser Ali Ibrahim, 2012).

2- The form and levels of Iraqi federalism in the 2005 Constitution

The permanent constitution of Iraq, which was put to a vote in 2005, did not explicitly refer to the federal system of government in its first article, which refers to the Republic of Iraq as a unified, independent, and fully sovereign state. Here, it did not explicitly indicate that the form of states is federal, rather, it is unified. Thus, it is possible to identify the form of the state and its administrative system in this constitution by looking at the levels of the administrative system mentioned in this constitution, which state that Iraq consists of "a capital, regions, decentralized governorates, and local administrations" (Hamid Hanoun Khaled, 2010).

It is clear that this classification divides the levels of the federal state into four parts. As for the first level (the capital), the permanent constitution of 2005 states that Baghdad, with its municipal borders, is the capital of Iraq, and it is not permissible to join any other region. As for the second level (the regions), the permanent constitution states that there are two types of regions, namely, the pre-existing regions, including the Kurdistan region, which is considered as a federal region according to the constitution, and supposedly- formed regions to which the Procedural Executive Act of regions refers. This Act also states the procedures associated with

the regions formation and mechanisms of region formation request. However, this Act wasn't enforced and until this very moment, Iraq has only one region (the Kurdistan region), noting that its presence already precedes the Iraqi permanent constitution (Ihsan Hameed Al-Mafraji et al., 2010).

As for the third level (governorates that are not organized into a region), the article no (122) specifies its structure and levels, without mentioning the powers. It states that the structure of governorates consists of a number of counties, districts, and villages. Moreover, the constitution authorizes one or more governorates to be a part of any region, if desired. It also gives them broad administrative and financial powers to have the capacity to manage their affairs according to the principle of administrative decentralization and this was regulated by the Law of Governorates not organized in Region no. (21) Of (2008). As for the fourth and last level (local administrations), the article no (125) states that "the constitution ensures the administrative, political, cultural and educational rights of different nationalities, such as Turkmen, Chaldeans, Assyrians and all other peoples of these, we conclude that Iraq has adopted a four-level system of administration that begins with "the capital", which is not to be organized in any region, according to the legislator. Furthermore, the constitution calls for the enactment of a law for the capital. It also suggests that there are the two types of regions (pre-existing regions and supposedly- formed regions) and the governorates that are not organized in a region, which represent the various administrative units (15 governorates). The legislator also refers to the local administrations, but he didn't specify their nature, how they are formed, or their powers (George Anderson, 2007).

3- Division of powers between levels of government (Federal Government/ Regions/ Governorates)

According to its constitutional articles (110 - 115), the Iraqi permanent constitution indicated the mechanism of division of powers between different levels of government (the federal government/ regions/ governorates), based on the model of exclusively identifying the powers of the federal government within the Iraqi permanent constitution of 2005 as well as defining the joint powers, in addition to conferring all other powers to the regions governments and governorates that are not organized in a region. The following table lists the exclusive powers of the federal authorities as well as the joint powers as stated in the Iraqi permanent constitution of 2005:

Domain	Type of power and authority	Constitutional article
Foreign policy and diplomatic representation	Federal	110

Economic and Trade Policy	Federal	110
Borders	Federal	110
Defense	Federal	110
Fiscal policy and customs	Federal	110
Currency issue	Federal	110
Internal trade regulation	Federal	110
Weights and measures		
Nationality, residence, political asylum	Federal	110
Federal general budget	Federal	110
Water Policy Planning Outside Iraq and its distribution Within Iraq	Federal	110
Statistics and Census	Federal	110
Oil and gas management and extraction	Joint	114
Customs Administration	Joint	114
Electrical energy sources regulation and distribution	Joint	114
Environmental Policy	Joint	114
Development policies- making and general planning	Joint	114
Health policy - making	Joint	114
Public educational policy- making	Joint	114
Internal water policy - making	Joint	114
The remaining or non- stipulated domains	Regions and governorates that are not organized in a region	115

Fourth: Aspects of the deviation of the federal system under the 2005 constitution

Despite the fact that each country has unique political, economic, social, and even historical conditions that affect the nature of federalism followed and codified in its constitution, there are substantial regulative rules and mutual aspects in federations that should not be overlooked. However, Iraqi federalism has gone beyond the common features in most federal experiences. Later, we will mention some of these aspects (Fariq Abhath, 2003–2009).

The researcher suggests that the reason of the deviation from federal traditions is due to the nature of the federal state formation and the conditions surrounding the political process that faced opposition as a result of the application of federalism. Federalism opponents claimed that federalism leads to the division of Iraq, unequal division of wealth as well as oil field risks. Moreover, lack of a political culture, which educates people regarding federalism made things worse (Ismail Elwan Abboud Al-Tamimi, 2018).

Despite the opposition by those political forces, there are supportive forces of this experience, including the Kurdish political forces, as well as the Shiite political forces, in particular the Supreme Islamic Council. This was evident on the London and Salahel- Din Conferences. The researcher suggests that the ruling political forces support this idea due to the Kurdish political forces pressure as they were the political supporters of the Shiite coalition. Therefore, rejection of this experience means the loss of support of an important ally in the government formation. Thus, the majority forces may be threatened to lose its power through the Kurdish forces 'alliance with the Sunni forces. So, most of the Kurdish political forces conditions were accepted and this led to a deviation in the application of the federal system and we are going to discuss this in details in the following aspects of the deviation:

1- In its Article (110), the Iraqi constitution violated the federal traditions that indicate that the nature of forming or managing a federal state plays a role in the division of powers and since the Iraqi state is a unified state and that the federalism establishment process used the style of disintegration, including a change in the state administration terms from the dictatorial to the democratic approach, and from centralization to federalism. According to the federal norms, the powers of the region and the provinces should be exclusively defined and the remaining powers are to be within the powers of the federal government. However, the permanent constitution violated these norms as it refers, in article no. (110) for the exclusive powers of federal authorities while setting the remaining ones to the local government (the regions and governorates that are not organized into a region) (Ronald L. Watts, 2006).

2- There is another form of deviation in the same article above, which refers to the exclusive powers of the federal authorities. There is a clear contradiction with the federal powers in favor of the regions and governorates that are not organized in a region, especially contained in article no. (121), which granted these regions and governorates the powers that enable them to open consular offices in embassies and designate diplomatic missions, to follow its cultural, social and developmental affairs. The above point related to the issues follow-up means giving powers to regions and governorates that are not organized in a region at the foreign level, and this is in contrast to the general principles of the federal system first, and the exclusive powers of the federal authorities, which indicated that the foreign policy and foreign trade are the exclusive powers of the federal authorities (Taha Hameed Hassan Al-Anbaky, 2014).

3- In his book "The Federal Systems", Dr. Ronald L. Watts suggests a serious deviation of the federal system experience in Iraq, as the principal rule applied in most federal systems is that in the event of a dispute between the federal law and the law of units forming the federation (regions), especially in terms of the joint powers, the issue is to be resolved in favor of the federal government. Surprisingly, Iraq has violated this rule in article no. (115) from its permanent constitution by giving priority to the law of regions and governorates that are not organized in a region in case of dispute or contradiction (Nahied Hassan Jaber, 2010).

4-Another form of deviation is clear in the failure of the federal constitution to identify the special powers set for sovereignty or emergencies. These powers allow the federal government to ignore or freeze, under certain circumstances, some of the regions constitutional powers, especially when these regions move towards the policy of Balkanization, disintegration or any special circumstances that threaten the state security. Examples of the countries that applied this form of deviation are India, Malaysia, and Canada (Wasan Saeed Abboud, 2018).

5- Some claim that the style of State- forming disintegration doesn't apply to Iraqi Kurdistan region, as it is an autonomous region and has legislative, executive, and judicial powers under the Self-Government Law of (1970). Also, it exercised these powers from (1991-2004) and therefore it isn't impossible to persuade the Kurds to relinquish some of their previously granted powers. The researcher believes that this claim is illogical, because federal systems are full of political or constitutional asymmetry and that means that some of the constituent units of the federation can capture more powers than other units due its political, economic, or historical differences (Firas Abdul-Karim Al-Sudani, 2005).

Therefore, the researcher suggests that if it is possible to give the Kurdistan region some powers that may not be identical with other regions or governorates that are not organized in a region, given its unique historical, linguistic, and even geographical aspects, which is better than the broad powers assigned to the regions and governorates that are not organized in a region (that will be organized in a region in the future) by the permanent constitution, the state will lose its reputation as well as state work disruption as a result of conflicts and contradictions between the federal government on the one hand, and between regions and governorates that are not organized into a region on the other hand (Sedad Mawlud Saeb, 2018).

6- The Iraqi federalism witnessed another deviation that required the creation of another council in addition to the parliament, whose role was to represent the provinces and defend their rights, especially the regions or small provinces, against the domination of large provinces that enjoyed high representation in the parliament, in a way commensurate with its geographical area and its population Therefore, the Provincial Council was founded to limit the domination of large provinces and preserve the rights of small provinces and regions (Sami Hassan Najm Abdullah, 2014).

However, the Iraqi situation is different, although the permanent constitution, in its article no. (48), states that the federal legislative authority consists of the Parliament and the Federation Council (Amjad Zain Al-Abideen Teama, 2012).

It also specifies the same council in article no. (65), which refers the establishment of a legislative council called (the Federation Council), which includes representatives of the regions and governorates that are not organized in a region, and regulates its formation, membership conditions, powers and all relevant affairs under a law enacted by the majority of Parliament members. However, it is noted that this law has not been enacted yet. The researcher

notes that this parliament, which is supposed to be equal in power with the Parliament (as it is the guardian of the rights of the regions and governorates that are not organized in a region), let the Parliament enact a law that defines its own powers and structure. Therefore, the latter may dominate this council and limit its powers. Rather, it would be better for the constitutional legislator to constitutionally set the regulations of the Provincial Council (the Federation Council) in order to preserve the balance between both councils. Furthermore, the Iraqi constitution of 2005 lifted the supervisory status of this Federation Council by noting that it is a legislative council only. This is inconsistent with the work of the representative councils, which are given the powers of legislation and oversight (Saatar Jabbar Alay, 2019).

7- The Iraqi constitution stated, in its article no. (126), that the legislative authority in any region and the majority of its residents have to approve changing any power that is not within the exclusive powers of the federal government, which means the impossibility of amending the constitution based on national interest, as this may conflict with regional interests. Accordingly, no amendment is permitted. This may extremely weaken the federal government in front of the local governments, in a way that is not consistent with the nature of federal systems as they are based on integration, not disintegration in case of the great dispute between the federal government and the regions (Adel Al-Jubouri, 2010).

8- The Iraqi federal experience witnessed another deviation in the form of the establishment of two administration bases: the first is federalism and the second is the administrative decentralization. However, this decentralization differs, in essence, from administrative decentralization, known in international experiences, as it is based on broad powers. It may approve the higher powers of governorates that are not organized in a region than the powers of the federal authorities, in case of disagreement over cases not yet mentioned in article no. (110), which include the exclusive powers of the federal authorities. Also, it can delegate the powers of the federal government to these governorates that are not organized in a region or vice versa. And, as we know, this is not allowed in the experiences of administrative decentralization (Firas Al-Bayati, 2013).

Conclusion

On April 9, 2003, the Iraqi political system was changed by foreign intervention, and turned towards democracy by developing a new constitution that was put to vote and came into force in 2005. Under this constitution, the Iraqi state turned from the administrative centralization, which wore out Iraq for nearly three decades to federalism, which was established as a response to the call of most of the political forces participating in the Iraqi political process for adopting a new style of state administration based on powers sharing between the different levels of government (federal government/ regions/ governorates that are not organized in a region). However, this experience witnessed many deviations while applying its own style of



federalism. This style wasn't in line with the federal principles and political rules and norms upon which federal states were built. Moreover, there were many deviations that were not commensurate with the way this state was formed, and according to which the powers of the federal government were defined in the permanent constitution and set the remaining powers to the regions and governorates that are not organized in a region. To make things worse, the constitution weakened the role of the federal government by favoring the laws and decisions of the regions and governorates that are not organized in a region in case of disagreement. This was a serious precedent that threatens the existence of the federal state and encouraged independence and disintegration. It also granted powers for the regions and governorates on the foreign level, and this was unlikely in the similar federal experiences. Is it reasonable that the powers of governorates that are not organized into a region (which are administratively decentralized) override the powers of the federal government. It is worth noting that Iraqi experience is a unique situation, as administrative decentralization gains its powers with a mandate from the central government under a set law. And the latter has to supervise these governorates to ensure their commitment to these delegated powers. There are many deviations in this experience that have been referred to in the body of this research, which showed the deviation of the federal experience from the federal traditions, which, in turn, will create challenges that hinder the success of the Iraqi federal experience.

References

- Abdul-Jabbar Ahmad, Federalism and Decentralization in Iraq, Friedrich Ebert Foundation, Jordan, 2013, p. 11.
- Adel Al-Jubouri, Implementation of the Federal System in Iraq between the Requirements of the New Situation and Interests, Federal Research Journal, Afaq Foundation for Iraqi Studies and Research, 2nd edition, Iraq, 2010, pp. 216-219
- Ali El-Shukry, the (Central) Federation, A study of its legal aspects under the Iraqi 2005 constitution, Researches about Federalism, Afaq Foundation for Studies and Research, 2nd edition, Iraq, 2010, p. 107.
- Amjad Ali, The Federal System as a Solution to Conflicts occurred in Multi – Ethnic Societies, Al-Maarif House , Alexandria, 2012, p. 222
- Amjad Zain Al-Abideen Teama, The Future of the Federal System in Iraq, A Study in the International Experiences, Al-Mustansiriya Journal for Arab and International Studies, no. (47), Baghdad, 2014, p. 4.
- Amjad Zain Al-Abideen Teama, The Future of the Federal System in Iraq, A Study in the International Experiences, *ibid* , pp. 21- 22
- Aqil Muhammad Abdu, Salim Najm Khudair, An Analytical View of the Division of Powers Between the Central Government and the Federal Regions in light of the Iraqi Permanent Constitution, Journal of Economic Sciences, no. 23, University of Basra, 2009, p 23.
- Arend Lijphart, Consociational Democracy in Multi- Ethnic Society, translated by Hosni Zeina, Institute of Strategic Studies, Beirut, 2006, pp. 70-72
- Arend Lijphart, Patterns of Democracy, translated by Muhammad Othman Khalifa, El-Matmbouat (publications) Company for Publishing and Distribution, Beirut, 2015, p. 218.
- Equal division of the remaining powers between the regions and governorates that are not organized in a region, in spite of their different nature, is due to the fact that the political forces wanted to keep the Kurds away from getting these powers. Accordingly, this style has been applied to the State administrative departments. For more information, see the Study Group/ Fariq Abhath, Conflict between centralization and Decentralization in Basra (2003–2009), Iraqi Studies, Beirut, Erbil, 2010, p. 192
- Fayez Aziz Asaad, A Critical Study of the Constitution of the Republic of Iraq, Al-Bustan Press and Publication House, Baghdad, 2005, p. 55
- Firas Abdul-Karim Al-Sudani, Iraq: A Future with a Mysterious Constitution, Criticism of the Iraqi Administration Law for the Transitional Period, Ammar Publishing, Amman, 2005, p. 120
- Firas Al-Bayati, Democratic Transition in Iraq after April 9, 2003, Al-Aref Publications, Lebanon, 2013, p. 221
- For more information, see: Procedural Executive Act for Regions Formation, no. 13 of 2008 in Iraq



- George Anderson, Introduction to Federalism, Forum of Federations, Canada, 2007, p. 7
- George Matthew, India : Continuity and Change in the Federation, A Global Speech on Federalism, Part Two, Canada, 2007 p. 24, see also Ronald L. Watts, Federal Systems, *ibid* , p. 51.
- Hamid Hanoun Khaled, Principles of Constitutional Law and the Evolution of the Political System in Iraq, 4th edition, 2010, p. 102
- Hanan Muhammad Al-Qaisi, The Dualism of Legislative Councilin Iraq, A study on the Federation Council, Bayt Al-Hikma/ Al-Hikma House, Iraq, 2012 , p 202
- Ihsan Hameed Al-Mafraji et al., The General Theory of Constitutional Law in Iraq, No. 4 2010, p. 102
- Ismael al-Ghazal, Constitutions and Political Institutions, Izz al-Din Foundation, Lebanon, 1996, p. 105
- Ismail Elwan Abboud Al-Tamimi, Powers of Regions and Governorates that are not organized in a Region, that are related to oil and gas, El- Sanhuri, 2018, p. 48
- Luqman Omar Hussein, The Principle of Participation in the Federalist State (A Comparative-Analytical Study), Zein Legal Publications House, el- Sanhuri, Beirut, 2011, pp. 34-35
- Monzer Al-Shawi, Philosophy of the State, 2nd Edition, Al-Zakira for Publishing and Distribution, Baghdad, 2013, p. 185
- Nahied Hassan Jaber, Federalism in Iraq, Vision and Proposals, Al- Anbar University Journal for Legal and Political Sciences, No. 10, pp. 253 - 254
- Nazih Raad, Political Systems, The Modern Book Foundation, Lebanon, 2012, p. 57
- PANCHRISHI DEVSHARMA, COMPARAT FEDERALISM WITH REFERENCY TO CONSTITUTIONAL MACHINERY FAILURE CEMERGENCY, IN INDI AND PAKISTAN, BRIES LAW, JOURNAL, 2012, P12
- Ronald L. Watts, Federal Systems, Forum of Federations, translated by Ghali Barhouma et al., Canada, 2006, p. 50
- Saatar Jabbar Alay, The Relationship between the Federal State and Decentralization, A study of the nature of the Iraqi situation after 2003, no. 16, Al- Anbar University Journal for Legal and Political Sciences, 2019, pp. 54 – 55
- Sami Hassan Najm Abdullah, Local Administration and its Applications in Iraq and the Comparative Countries, National Center for Legal Issues, Cairo, 2014, p. 224
- Sedad Mawlud Saeb, Challenges of the Federal System in Iraq, Journal of Political Issues, no. 35, Al-Nahrain University, 2018, p. 72
- Taha Hameed Hassan Al-Anbaky, Iraq Between Administrative Decentralization and Federalism, Emirates Center for Strategic Studies and Research, Abu Dhabi, 2014, p. 50
- The Department of Foreign Relations in the Kurdistan Regional Government of Iraq was established in 2006, after the Iraqi permanent constitution of 2005 came into effect and it serves as the region's Ministry of Foreign Affairs. What is really striking is that the number of embassies and diplomatic consular offices in Erbil, until the end of 2009, reached (13) offices and embassies. For more information, see: Mortada Abdul Rehim



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- Al-Hosaini, Kurdistan, The Birth of a State, El-Ganub Center for Studies and Planning, NASL ANDISHEH, Iran, 2012, p. 172
- Wasan Saeed Abboud, The London Conference of Opposition Parties (December 14 - 17) and The Role Of The United States Of America, Al-Ustaz Magazine, Volume (2), Issue (226), 2018, p. 299
- Yasser Ali Ibrahim, Israa Aladdin, Federalism in Iraq after 2003, Journal of Political Issues, no. (34), Al-Nahrain University, 2014, p. 213
- Yasser Ali Ibrahim, Israa Aladdin, Federalism in Iraq after 2003, Current Situation and Future, *ibid* , p. 227