

Legal Mechanisms for Distributing Iraqi Parliamentary Seats, Post 2003: A Suggested Model for Iraq

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Elections are the democratic means by which voters express their choices in choosing their representatives, and what governs these elections is a law in which the established electoral system and the mechanism for converting votes into parliamentary seats, so there are many types of them, the system of proportional representation and the individual system, and there is another system It is the mixed system. As for the Iraqi case, from 2003 until 2019, it followed the proportional representation system as an electoral system and used full proportional representation and approximate proportional representation, as well as St. Lagh as a mechanism for distributing parliamentary seats, but this was subject to many criticisms. Because small parties are not allowed to win elections, therefore the researcher suggested adopting the mixed system of the Iraqi situation in order to achieve fairness in representation and simplicity in calculating votes. Therefore, the research was divided into two topics, the first legislative elections after 2003 and this topic included several paragraphs including (what is the election, types of electoral systems In Iraq, the flaws that accompanied the Iraqi electoral laws) As for the second topic, the title of the electoral system in Iraq was a proposed model, and under this topic several paragraphs were included, including talk about the nature of Iraqi society, a mixed electoral system as a solution to the naked situation Qiya.

Key words: *Parliamentary Seats, Laws, Legislative, Elections*

Introduction

After it was established to use the method of representative democracy instead of direct democracy to exercise the right of citizens to participate in government, the representatives representing these citizens became the ones who contribute on behalf of the citizens in making and making political decisions, but the important question here is how to choose

these representatives, and the answer is by election, and here It is necessary to work on creating a mathematical technical process that includes setting an electoral system that combines the three basic elements for the success of any electoral system, namely justice, that is, the fairness of converting the votes of the voters to seats that represent them. The other element is simplicity, meaning that the electoral system must be M simple in the calculation of votes and Nhoelha to the seats, and the third element is the financial costs, and means an electoral process at the lowest cost and highest results.

The Problem of Research: Are the electoral systems in Iraq after 2003 fair and achieve justice through representation or not? Are there problems that the electoral law suffers from at the level of nomination and distribution of seats as well as voters.

Research Hypothesis: The electoral system in Iraq after 2003 is unjust and has many problems, because it now reflects the representation of political forces, not the representation of social components, as well as the existence of problems at the level of candidates, as well as some of the voters, including (the military voters as well as the votes of overseas voters.)

Research Methodology: The researcher relied on the descriptive approach in explaining the electoral laws as well as the method of systematic analysis to analyze these systems at the level of theoretical reality and its application to the Iraqi case to come up with a model that might work in correcting the course of the political process in Iraq.

The First Topic: Iraqi legislative elections after 2003

First: What is the election and the types of electoral systems?

.1Definition of the election: It is defined as (the process of selecting citizens who meet the legal requirements for the persons on their behalf in the exercise of power) (Taha Hameed Al-Anbuge, 1991)

It is also that method that transforms the votes of the voters into parliamentary seats (Irwa Fakhri Abdel-Latif, 2010), so that the process of achieving democracy without elections is inevitable, but rather the situation has reached the difficulty of differentiating between democracy and election, which caused a problematic issue that is that it is the democratic system that allows free and fair elections? One of the conditions of a democratic system is that there be free and fair elections (Mona Jalal Awad, 2014). It is worth noting that the electoral systems differ from one country to another according to the different political, economic conditions, social structure and political history as well as the transitional stage if any, not even the financial capabilities, and therefore The states based on these circumstances

go to put electoral laws suit and sizes to meet the conditions referred to above, so there are major types of electoral systems, namely:

2. Types of electoral systems in Iraq after 2003: We previously talked about the countries not following a single electoral system, because there is no system that works for all societies, but every country goes to sew the electoral system in its sizes. Thus, there are two types of elections as divided by Maurice Diffria; majority voting and proportional representation (Maurice Deferjeh, 1992). Other systems include mixed systems and parallel systems and the creation of mechanisms for converting votes to seats, i.e. converting election results into parliamentary seats (Andrew Reynolds, et al., 2010). From these mechanisms and sports methods (Saad Mazloun Al-Abdali, 2016) that concerns the laws applied in the Iraqi legislative elections, which Snzla according to the following table (Mustafa Al-Naji, 2019):

Table 1

Constituencies	Mechanism for distribution of seats	Type of election	Number of seats	Legislative elections	s
One circle	The rest is stronger	List (closed) of proportional representation	275	The National Assembly 01/30/2005	1
Multiple districts Each governorate is a constituency	The rest is stronger +	Proportional representation / closed list	275	Parliament elections 15/12/2005	2
Multiple provinces each constituency	Full proportional representation (national average)	Relative representation	Seats (230 in general) (45 compensatory)	Elections 7/3/2010	3
Multiple districts for each governorate	The electoral denominator (the rest is stronger), the compensatory seats are distributed to the winning entities in proportion to their votes	Iraq modified method St.Lag (1.06)	(325) (8 components + 7 compensatory)	Elections to the House of Representatives 4/30/2014	4
Multiple districts Each governorate is a constituency	Partition (7,5,3,1,06)	Adjusted St. Lagh (1,07)	(328) including (8) seats for components	Legislative elections of 2018	5

Second: The Defects that Accompanied the Electoral Laws

The political process in Iraq after 2003 suffered from many problems, whether at the level of organization or representation, or even at the level of seat distribution and many other problems that we will present with setting proposed solutions to them, as follows:

1. The nomination of governors, members of local councils, and special degrees for membership of the House of Representatives, as this problem is one of the biggest problems that the Iraqi election law did not address, as they nominate them for membership of legislative councils at the national level, but at the same time they maintain their job status as governors or members of councils. If they won the elections (Al-Khaleej, 2017), they either leave their original positions or keep these positions and give up membership in the House of Representatives to other people from the same bloc because the votes in the previous electoral laws are collected for the electoral list as a stage A. To me, then the winners are arranged sequentially according to the percentage of the votes they obtained (Independent High Electoral Commission), and here they must resign from their positions as high positions not long before submitting the nomination to membership in the national legislative councils to ensure the principle of non-duplication of employment first, and not to exploit the job position. For electoral purposes secondly.

For example, and not limited to the national legislative elections in 2018, a large number of heads of administrative units (conservatives) nominated themselves to run in the parliamentary elections, namely (the governor of Baghdad, Babil, Basra, Kirkuk, Anbar, Wasit ...) and quite a few councillors. The local council until it came to the fact that the Baghdad Provincial Council out of the total number of its members (69) nominated for elections, about (59) deputies to run in the legislative elections (Wael Neama, 2018), and the researcher believes that this is a partisan tactic that Iraqi political parties used to do after 2005. Therefore, we find that political parties are racing to win local elections and obtain p I have the largest number of seats in it, because this membership is the one that qualifies these people for an important electoral race while he is at the parliament level. This is due to the fact that these people have a higher voting reality than if they were not members of these councils, so membership and its gains are those who obtain votes, so the elections became. The Iraqi locality is a measure of the strength of political parties and their results in the legislative elections that follow, so the researcher suggests the resignation of those with special grades two years before the electoral race in case they want to run for these elections in order to ensure non-duplication of employment and allow independent or non-holders of positions I have to be nominated in these elections, as well as a guarantee of the principle of equal opportunity between the candidates entering the electoral race.

2. Another problem that accompanied the Iraqi elections is the voices of abroad, which are the voices made by expatriates outside Iraq who have Iraqi citizenship, regardless of the period of expatriation, but going to allow voting for citizens abroad is due to several reasons: The first: It is to strengthen the democracy that allows The voter may vote for his candidate wherever he is, and the second: He returns to the countries that were exhausted by the war and suffers from population immigration abroad, so that the number of the displaced became so large that it cannot be underestimated (Andrews and others, 2012). Military, travellers Diplomats, Scholarships Students, Licensed Workers ...) There are citizens who entered other countries illegally or who immigrated to the country for a long time for his own reasons and does not consider returning to his country, and here the countries differ between those that allow everyone to participate and others that are limited to the third group They are citizens who have official duties or have temporarily and formally exited not outside the country (The same source), but the Iraqi case and upon reviewing the election laws from 2005 to 2017, we find that the process of allowing displaced Iraqis to vote is open and unrestricted (The Ministry of Immigration), and the matter is limited to the mechanisms of their election And how to vote, not the conditions of the body A friend, that is why the foreign elections give great votes to the political entities, and these elections became very important for some political parties, so that those who can control foreign relations can obtain more votes, and this problem was raised in the 2018 legislative elections in which fraud and tampering with votes were proven Voters, and this, in turn, prompted the Iraqi parliament to hold an extraordinary session and vote on the decision to cancel the votes of the outside and the voices of the displaced inside Iraq, because it was marked by electoral fraud in a large way (Al-Sharq, 2018), but this was not passed because the Supreme Federal Court vetoed this decision and Parliament were required to cancel the vote, which proved not rigged everyone. So the researcher proposes to cancel the voices abroad and limiting it to state employees or those who have official duties outside the country or informal and out of them legitimately and legally

3. One of the other problems that marred the Iraqi elections and its law is the mechanism for distributing parliamentary seats. It was in the way of proportional representation or the Iraqi-modified method of St. Lagh. The seats are awarded to the list according to the votes obtained, and then the winners are arranged according to his votes and in sequence and up to the last seat. He has the electoral list (Adnan Damen Mahdi, 2019), and the problem here is not with what was mentioned above, but with party figures who can harvest very large votes, which can be converted into dozens of parliamentary seats, and in the end there will be a representation crisis; because some representatives won votes from voters they do not know, but rather here Non-winning candidates get twice the number of votes of deputies who won the votes of the heads of lists, for example in the 2014 legislative elections, we find that the State of Law coalition headed by Mr. Nuri al-Maliki, the Prime Minister at the time, had obtained (1,074,609) votes in Baghdad governorate and obtained according to these votes On

(30) seats, while Mr. Nouri Al-Maliki obtained (721,782) votes (For more information), which is equivalent to (68%) of the total votes of this coalition, at the time that the last deputy in this list won by males and the lowest number of votes Which amounted to about (3,015) votes, and this victory belongs to the president of the list, who won many votes from which he benefited For many of the candidates who did not reach the threshold of the electoral denominator and many examples of that, and ultimately we get to the legislative elections, the situation of the Iraqi elections were figures rather than elections, as well as representatives must find an electoral system that addresses this dilemma and this is taken up in the papers later

4. Military and Internal Security Forces Vote: Article 6 of the International Covenant on Civil and Political Rights attended, discrimination before the law, and that all people are equal before the law. This article also came to protect citizens from any form of discrimination, whether racial or non-racial (Talib Awad, 2014), except There is an important issue, and the army must be far from politics and independent of it, and this dimension is to get rid of the effects of politics on the independence of the army, which leads to diverging tendencies and political trends within the military establishment (Munther Al-Shawi, 2013), which negatively affects the military system and what it requires of unity and harmony Between its classes also that the What is available to the army and other security forces will harm the integrity and transparency of the elections, as it is known that the army is orders of obedience, so this may affect the options of a soldier or a military who is in a lower administrative ladder due to the decisions and indirect orders of the high military leaders (Essam Neama Ismail, 2009), so it must Keeping that away from the Iraqi situation and not allowing the army to vote, because it will polish the army politically and this is not appropriate for the neutrality of the military establishment, with evidence that the special voting elections (the military) will always be the majority of this vote for those who have power, for example, and not limited to, in the 2018 elections topped the list Victory, headed by Prime Minister Haider al-Abadi in the special vote, topped the list of the Kurdistan Democratic Party with more than half of the special vote, while the leader of this party occupies the presidency of the Kurdistan region (Salam Al-Jaf, Zaid Salem, 2018).

In the end, the problems that we mentioned earlier, which were represented in the nomination of special grades, members of local councils and governors, as well as the problem of external and military voices and other problems had a significant impact on the Iraqi electoral culture, but more importantly is the mechanism for distributing parliamentary seats, which is the core of electoral systems and to try to address that will We give a suggested model that it may contribute to solving Iraqi problems and be fair and more representative.

The Second Topic: The electoral system in Iraq (proposed model)

In this topic, we will talk about two paragraphs

First: The Nature of Iraqi Society: Before talking about the model that has been proposed, we must talk about the nature of Iraqi society, because electoral engineering is greatly affected when trying to bring out electoral systems with social divisions and the extent of coexistence between divided social components (Benjamin Reilly), and there are also other important things that are Fear of the rise of extremist currents or the multiplicity of sectarian and ethnic conflicts that may lead to civil wars if there are exclusion and marginalization of these components, therefore the electoral system maker must work to develop an electoral system that works to represent the components first and not to establish the sectarian formation in these circumstances Second (Seddik Siddiq Hamid, 2012), and the researcher believes that there is a problem that may face the electoral system maker, which is the geographical overlap of the components, that is, the administrative unit may have more than one colour, sect or race. Therefore, he must study the nature of society well before setting the electoral system, and this applies somewhat to The Iraqi case, the Arabs number between (75-80%) and the percentage of the Kurds is between (15-20%) and (5%) other components, and the Arabs are also divided into Shiites and Sunnis, the number of Shiites is about (64-69%) As for the Sunni Arabs, they number about (34%) (Hanna Batato, 2005), and there are many other components, which are (Turkmen, Christ, Jews, Yezidis, Shabaks, Sabeans, polytheism). S., Kakai) There is a linguistic diversity represented in (Arabic, Kurdish, Turkmen, Syriac, Armenian, Mandaic, and Judaism) (For more information)

Based on this religious and linguistic pluralism, the electoral system maker needs skill and experience as well as accuracy in preparing this system in order to respect the majority and guarantee the rights of the minority, and this is what we will present in the proposed model.

Second: The proposed electoral system for the Iraqi case.

Given the coloration that Iraq enjoys in its national fabric, therefore it is necessary to work on choosing an electoral system that can achieve political stability first and popular representation secondly. Therefore, we suggest that we apply a mixed election system and we will explain this in the following paragraphs:

1. What are mixed systems: These are the systems that combine two systems in one electoral process, meaning that the majority system follows in addition to the proportional representation system and the voter here can vote for his favourite candidate in addition to the party he prefers (Abdul Aziz Aliwi, 2013), and here we suggest that parliamentary seats be divided According to a specific percentage, for example, it may be (75%) of the seats in the individual majority system and (25%) are in the proportional representation system. The

voter is given the first two cards for the individual election and the second for proportional representation (Osama Subhi Abdul-Zuhairi, 2017), but this may confuse the voter and he may vote for other districts other than His constituency, so we will work to apply mixed systems to case A For an Iraqi.

2. Mixed systems as a solution to Iraqi elections

The percentage of the population in Iraq, according to the statistics of the Ministry of Planning for the year 2018, is about (38,124182) million people, and it consists of 18 governorates, including (130) districts, and this district includes (394) districts with districts (Iraqi Ministry of Planning), as there are various social components in these governorates Sometimes they are mixed in administrative units, so there are two groups:

1. The provinces of the homogeneous majority: In southern Iraq, the majority of the population is from the Shiite Arabs who live in the governorates (Dhi Qar - Karbala - Najaf - Maysan - Qadisiyah - Muthanna - Wasit), in the west (Anbar), which is inhabited by Sunni Arabs, but in the north the homogeneous majority is From the Kurds (Dohuk - Erbil - Sulaymaniyah)
2. The governorates of mixed components: In this group there is no social homogeneity but rather mixed governorates in which more than one component and these governorates are (Baghdad - Mosul - Diyala - Kirkuk - Salah al-Din - Babil), so we will apply two types of electoral systems to these two groups, The administrative units that are located in the first group (the homogeneous majority provinces) that are characterized by social homogeneity in which the individual majority election system is applied in terms of population (Qassem Hassan Al-Aboudi, 2013). That is, the governorate is given a number of seats commensurate with the number of its population, and these seats are distributed over smaller departments and sometimes there are a number Population sufficient to allocate to the constituency I have a seat to suit the constitutional text that gives a seat to every (100,000) people (The Permanent Iraqi Constitution of 2005), and in case we do not reach this number, we merge more than one administrative unit, whether it is (a district or a district) and becomes an electoral district to achieve electoral justice between the electoral districts and achieve a principle of equal opportunity Between the two candidates in terms of the relationship of population density with the votes that are required to win the candidate, and the parliamentary seat wins who gets the majority of the votes in that district pursuant to the individual majority system. This is valid for the provinces with a homogeneous majority (Dhi Qar - Karbala - Najaf - Missan - Qadisiyah - Muthanna - Wasit - Anbar - Duhok - Erbil - Sulaymaniyah) and that the application of the individual majority system is due to the fact that there is a homogeneous component, and therefore we go a long way from the oppression of other components and their non-representation. As for the second group, which is related to the provinces of the mixed components, a proportional representation system can be used

at the electoral district level (governorate) and full proportional representation at the national level to distribute the remaining Voices and vacant seats, Relative representation means distributing parliamentary seats to political parties, each according to its votes, by dividing the number of valid votes by the number of seats in the electoral district and taking out a quotient, and it is called the electoral denominator, so the parties that get the electoral denominator get a parliamentary seat as much as this denominator and the process repeats if Parties had twice this electoral divider (Nazih Raad, 2012). This system can be applied to the provinces of the second group (Baghdad - Mosul - Diyala - Kirkuk - Salah al-Din - Babil); because these governorates are mixed provinces in terms of religious and sectarian diversity and even the national side, for example, Diyala Governorate, Kirkuk Mosul, the most prominent nationalities and doctrines in it (Arabs (Sunnis - Shiites), Kurds, Christ, Sabeans ...) And so it is in Kirkuk, so it is difficult to implement the individual majority system in provinces with mixed components, because it will affect the balance of representation in the parliament and can deprive many components From acting.

As for the third process of this proposed system for elections, it will be in two cases. The first is that either a certain percentage of seats will be placed in the election law as is the case in the 2005 elections, which included (275) seats distributed 230 to electoral districts and (45) compensatory seats (Saad Mazloum Al-Abdali). Remaining votes at the national level, by dividing the total number of votes at the national level by the total number of seats and the national average is issued to us, thus distributing the remaining votes, but according to a mathematical process, which is the division of the votes of the political entity on the national average and subtracting the votes in which the candidates obtained votes according to the following formula:

Entity votes - the votes in which candidates obtained seats = number of seats

National Average

According to this method, there will be justice in allowing small parties to obtain representation at the national level.

Second: It lies in giving the voter the right to vote either for the candidate or the party that he wants at the national level, because there are some supporters of political parties in separate geographical regions, therefore it is difficult to win a parliamentary seat in these districts as well as there are some nationalities and constituencies in electoral districts where the domination of parties Other components. Therefore, it is difficult to win a seat at the local level, so they get representation at the national level in a way that is fully proportional representation.



Conclusion

In fact, Iraq is a recent experiment in the democratic process, especially the electoral process, as this experience was launched after 2003 with the fall of the dictatorial regime and the birth of the democratic system, but in the latter the rule addressed in the majority of the opposition leaders who were outside Iraq, but the citizens of the interior had a share Very small in this experience, therefore, the election laws and administration have become often in line with the visions adopted by the holders of power. Over the course of five legislative and local elections, many problems have arisen regarding the fairness of representation first and not allowing new parties to It is possible to win any second legislative elections, and this in turn led to the abstention of many activists in the field of politics and a move away from political action, because whoever gets the parliamentary seat owns the wealth and also who is close to the power parties, and here the power parties emerged because the government is a consensual coalition These are either governors, members of local councils, party leaders, or ministers, not to mention the method of allocating seats that excludes small parties and is in the interest of large parties until political forces have applied electoral systems and made amendments to them to ensure that they remain and maintain an important position in power, for example. For Saint-Lagh, the Iraqi amended (1,6) and also (1,9) who excluded the smaller parties from the competition, therefore the researcher deliberately proposed an electoral law in terms of the mechanism of distribution of seats that strengthens the deputy's relationship with the voter, not the party's relationship with the deputy, which is the individual majority system and for the purpose of not Minority right to representation is lost. We have proposed the following governorates with a mixture of components in which the election is by proportional representation system and the governorates that enjoy social homogeneity are by individual majority and on the basis of multiple constituencies, so that representation is broad.

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