



ISSN 2278 – 0211 (Online)

Attempting New Rules of Democracy: Practicing Equivalent Components Representatives in a Council of Representatives

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Abstract:

The modern Council of Representatives (CoR.) has developed and become a major political organization, which practice politic, beside to other originally legally performs functions such as act legislations, and oversight of government works. One of the most important aspects of this body is the group of individuals known as representatives, who join the Council through elections to perform democratic, which is historical mean "Rule the state by the People; especially: rule of the majority" during all these decades that was the principle. until is change by attempted a new rules of democracy. Contemporary Iraq have and follows one of a modern constitution in the world. This constitution was written by Iraqi political leaders with the help and support from the United Nations, as well as many other organizations, to implement a new rules of democratic by reflecting variety of Iraqi components. Nonetheless, new rules accompanied by many others elements originated a controversial experiment and facing many obstacles. Furthermore, lack of effectiveness and transparency of the Iraqi election system has affected on the functions of the Iraqi CoR. regarding to government accountability, that was a main reason for the failure to investigate in many government scandals and corruption incidents. Two important aspects related to the Iraqi CoR. are discussed in this article. First, this article reviews the Iraqi components and distributed seats in the Iraqi CoR. Second, this article describes the new legal concept of Democracy according to Iraq experiment. The aim of this article is to identify the requirements for providing a legal election system that work to represent all Iraqi components and establishes a foundation of a new rule of democracy that corresponds to the rule of all citizens, not only the rule of majority. Moreover, this article determines the current obstacles that hinder the work of the Independent High Electoral Commission, as well as the factors that empower the rule of law and wise governance. The main problem examined in this article is the inability of the Iraqi election system to apply the Iraqi constitution and to elect appropriate candidates to represent Iraqi components. This article contributes to reinforce the election rules for the benefit and interest of the Iraqi people.

Keywords: Council of Representatives; democratic; majority; constitution; Iraqi components; experimental; obstacles; and election system.

1. Introduction

During the past ten years, the right of all Iraqi components to be represented in the Iraqi Council of Representatives (ICoRs.). has been an important and controversial issue in the Iraqi Constitutional system, with the political parties continuously expressing concern regarding the minimum number of Iraqi components that must be represented in the ICoRs.. Article (49/I) of the Iraqi Constitution of 2005¹ has mentioned the procedure to form ICoRs.. The process results in a number of members in which each seat in the Council of Representatives (CoRs.). must represent a hundred thousand citizens of the population of Iraq. Members are elected through direct and secret ballot, and must represent all groups and sects in Iraq.

The Constitution does not require a specific number of Representatives; it requires the following two conditions be met: The first condition is a single representation per hundred thousand inhabitants of the population of Iraq, and the second condition is the representation of all components of the Iraqi people. The first question is whether or not proper representation is occurring after all these years. In other words, are all Iraqi Components being represented by the ICoRs.? The second question is: Are these the new rules of Democracy or not? Does this method of representation allow for true Democracy in Iraq?

In this article, those two important aspects regarding the Components' Representatives in ICoRs. will be discussed. First, this article will review the Iraqi components and distribution of rules seats in the ICoRs. which can be found in the Iraqi Constitution or in Election law and Election regulation. Secondly, this article will discuss the new legal concept of Democracy according to the Iraqi experiment at the time of this article.

2. The Council of Representatives and Iraqi Components

It would be nice to explain various definitions of the CoRs. system, before we go farther in Iraqi components. The CoRs. or parliaments has many definitions. Nomaan Al-Khatibⁱⁱ defines the CoRs. system “the body that represent the legislative branch in the state, and the CoRs. consists of a group of individuals called representatives or members, whereas they join the CoRs. through “election or secret and direct public ballot.” They may also join the CoRs. through non-democratic means such as assignment and inheritance. The CoRs. is specialist in all legislative tasks and functions according to the principle of separation of powers. Whereas Mohammed Al-Dajani and Munthir Al-Dajaniⁱⁱⁱ define the CoRs. system as “an assembly of elected representatives by the people of the state to exercise control and legislative authorities as stated and specified by the Constitution,” Hanan Al-Qaisi^{iv} defines the CoRs.as “a government organization that has the authority to legislate the law for the community and modify it and cancel it.”

We can consider Iraq as a huge, beautiful garden and all Iraqi components as a various flowers; each one having a different fragrance. There are many aspects to consider as one selects representatives, from ethnic origins/race (Arabic, Kurdish and Turkmens, Shabaki and Caldoachoria), to religion (Muslim, Christian, Sabi, and Yezidis), to gender (males and females).We should also not forget the idea of federations, which has been spread to many citizens in Iraq. Fifteen years ago, the Kurdistan region arose after the first Arab Gulf war at (1991) becoming a region called Kurdistan, and for a short period in 2012 three provinces (Anbar, Salah Al-Din, and Nainawa) talked about becoming a region. However, they did not make a formal request for it. In 2105, Basra province officially request to become a region but that request was rejected for legal reasons. Basra had built their request on the absences of their voice in the central government and the small amount of the money had been received by the Iraq's budget for them. For that reason , Iraqi components has been classified according to provinces also.

Distribution of ICoRs. seats is dependent on all these classifications, and the following figures illustrate the percentages of ethnic and religious groups in Iraq in the Council of Representatives of the second round in 2010.

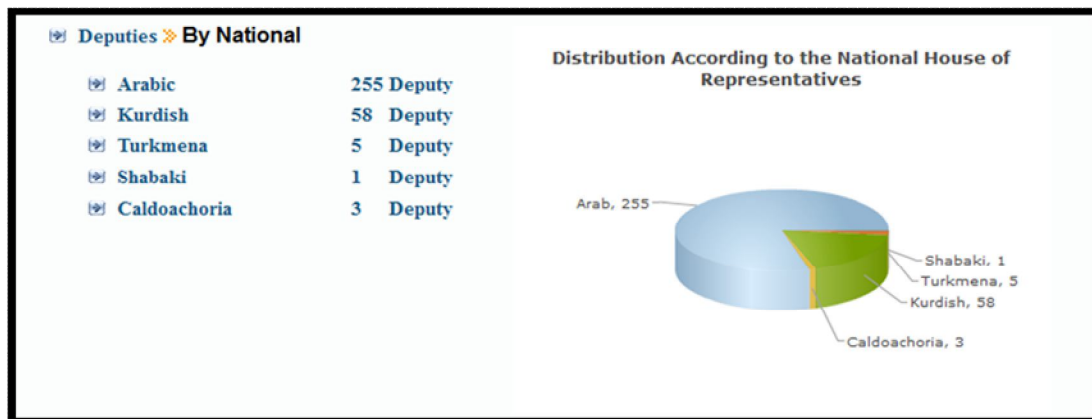


Figure 1: A chart shows the seats of the Council of Representatives of Iraq according to their ethnic origins. Source: Iraqi Parliamentary Monitor^v

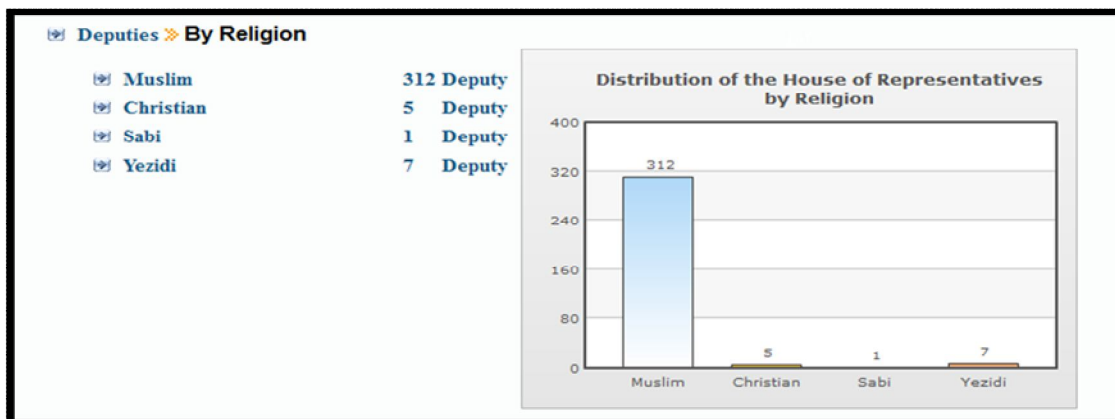


Figure 2: The Charts illustration of the seats in the Council of Representatives according to their religious affiliations. Source: Iraqi Parliamentary Monitor^{vi}

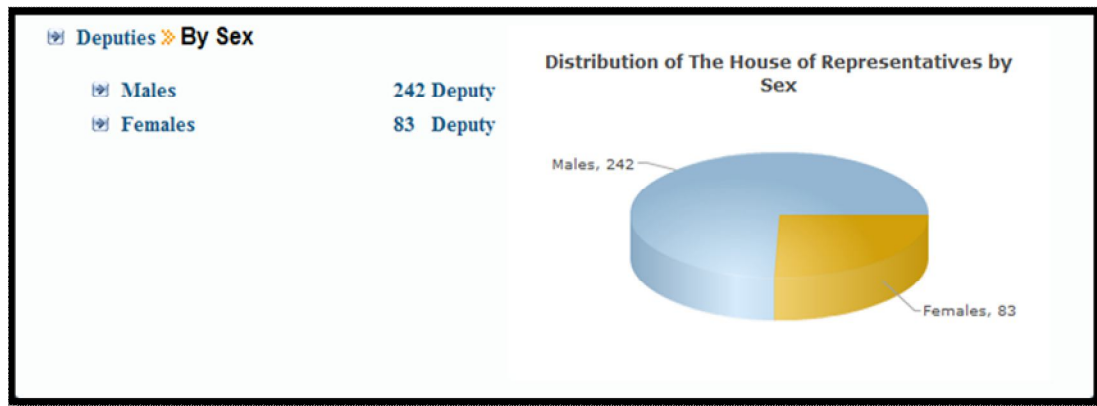


Figure 3: The percentage of women representation in the Council of Representatives in round 2010.
Source: Iraqi Parliamentary Monitor^{vii}



Figure 4: Iraq Provinces

| Deputies By Provinces | |
|-----------------------|-----------|
| Anbar | 15 Deputy |
| Sulaymaniyah | 18 Deputy |
| Arbil | 16 Deputy |
| Mothana | 7 Deputy |
| Basra | 24 Deputy |
| Babel | 16 Deputy |
| Baghdad | 73 Deputy |
| Dohuk | 11 Deputy |
| Diala | 13 Deputy |
| Thi Qar | 18 Deputy |
| Salah Al-Din | 13 Deputy |
| Qadisiyah | 11 Deputy |
| Karbala | 10 Deputy |
| Kirkuk | 13 Deputy |
| Maysan | 10 Deputy |
| Najaf | 12 Deputy |
| Nainawa | 34 Deputy |
| Wasit | 11 Deputy |

Table 1: Members are distributing of the Iraq Council of Representatives. according to Iraqi provinces.

3. The Iraqis' Legal Provisions

There is one Constitutional article relating to the method of how the ICoRs. form and how their members represent the Iraq citizens. Article (49/I) of the Constitution in 2005 stipulates that the CoRs. consists of a number of members, where one seat in the CoRs. represents a hundred thousand citizens of the population of Iraq, representing the whole Iraqi people, and members are elected through direct and secret ballot, and must be considered to represent all groups of citizens. Article (49/III) discusses regulating by the law all the conditions of candidate and elector and all matters associated with the elections. Article (49/IV) discusses that election laws are targeting a percentage of female representation equaling not less than a quarter of the members of CoRs.^{viii}

This Constitutional article is opening the door to the legislation of many laws dealing with matters of election. At the same time, these laws become a tool by the hand of the legislators to control, order, and commend the operation of elections. For example, they had increased the number of the CoRs. from (275) members in (2005) to (328) members in (2013). We will come back to discuss this matters later.

There are three major elections law has been issued after the Iraqi state gets the power in July 30, 2004:

- i. The Election law No. 16 in 2005^{ix}. Article 11 on the quota of females: (one women must be nominated by the party or entity for each three person in their last of nominees).
- ii. The Modification Election law No. 26 Year 2009^x modified law No.16 Year 2005, by deleting and replacing some articles from it. Article 1 adds some seats to some Iraqi groups, in addition to the seats which have been harnessed by election. For the Christians, 5 seats in the provinces of Baghdad, Nenawa, Kirkuk, Dihouk and Erbil. The Yezidis received one seat in Nenawa. Sabi get one seat in Baghdad, and Shabaki has one seat in Nenawa.
- iii. The election law for ICoRs. No.45 Year 2013.^{xi} That law deletes election law No.16 Year 2005 and amendment Law No. 26 Year 2007, and stipulates the same quota for Iraqi components in Article 11 and includes a 25% quota for woman in Article 15.

Election law No. (16) Year 2005 paragraphs 1 and 2 (before modification) caused Iraq to be divided to 18 electoral districts^{xii} equal to the number of Iraqi provinces, by considering one electoral district for each province, and seats shall distribute as the percentage of electors in each province, and according to the records of electors which took place the election of the National Assembly 2005.^{xiii} In 2009, a large change occurred and the election law was modified by law No. 26. The law focused on all Iraqi components, made a new method to add seats according to the rate of population growth (2.8%) per annum for each province and also to accommodate changes in numbers due to migration.

Independent High Electoral Commission (IHEC),^{xiv} which is a professional institute neutral and independent and considered the only election authority in Iraq, is responsible on organizing and supervise the election according to the Constitution of Iraq. It had canceled old producers which had been taken according to old Article 15 of the Act, and in accordance with the provisions of Article (1) of the Act amended the Electoral Act No. 16 of 2009. It repealed Article 15 of the law and replaced it by making the CoRs. consist of a specific number of seats, whereas one seat allocated for one hundred thousand people, this allocation was made according to statistics from the Ministry of Commerce to the provinces for 2005, and to added a rate of population growth equal 2.8% per year for each province.

According to the text of Article (2) of the aforementioned law, each province has one electoral district located in its official border, and this district is associated with the election with accordance to the percentage of population of that province as shown in last statistics of the Public Card System (census). The following chart and table shows the number of representatives for each province in the election round 2005.

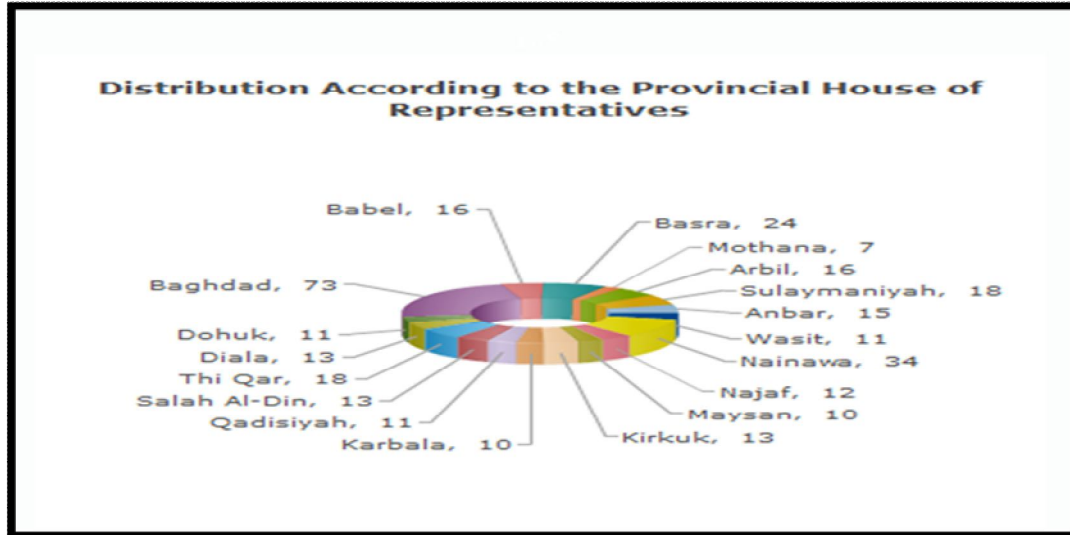


Figure 6: Distribution of members from Iraqi provinces in the Iraq Council of Representatives.
Source: Iraqi Parliamentary Monitor^{xv}

In 2013, the new law of election has been issued under the name “The election law for Iraqi Representative Council No.45 Year 2013.” The most important things in it for this Article are, increasing the seats of the council to 328, deleting the rate of population growth (2.8%) per annum for each province, and a continuance with the quota for the same group above with 8 seats and a 25% quota for women.

The big change was made by a legal challenge, declaring as unconstitutional the text of Article (15/II) of the Electoral Act No. 16 of 2005 in front of the Federal Supreme Court on 15/06/2006. The court issued its decision in the 04/26/2007 as follows: The court decided that Constitutional text of article (15/II) of the Electoral Act No. 16 of 2005 was unconstitutional due to the fact that it is contrary to the provisions of Article (49/I) of the Constitution, which provides that the actions that took place under the current CoRs. Elections remain valid and unchanged.

Hamid Al-Saadi^{xvi} states that it is not acceptable to indicate multiple components of the Iraqi people in the Constitution in terms of nationalities, religions and creeds, as he argued that nowadays it is very difficult to find a country in the world without multiple nationalities, religions and doctrines. This multiplicity in communities is taken for granted in most nations, unless the legislator intended to arrange or protect the rights of specific doctrine or religion, or nationality outside the citizen's rights that must be equal for everyone. In addition to that, the middle of paragraph of Article 45 states “representing all the Iraqi people,” and then: “and takes into account the representation of all components of the Iraqi people.” Regardless of the meanings and concepts of both statements, these issues should not be indicated in the Iraqi Constitution at all, or at least be deleted and eliminate any referring to distinguishing the Iraqi people.

Saleh Al-Abdullah^{xvii} refers to an important issue, which is that the (IHEC) Board had to be guided by the provisions of Article (49/I) of the Constitution that makes the number of members of the CoRs. in each electoral district match the number of people (citizens) and not equal to the number of electors. This is because the text of Article (15/II) of the Electoral Act No. 16 of 2005, became inconsistent with the text of Article (49/I) of the Constitution. Moreover, the member of CoRs. is considered a representative of the public interest of people of Iraq, not the will of the electors only.

While Hassan Al-Ani^{xviii} states that during the preparation of the population and comparing seats granted to them in accordance with the election law, he finds that there are a number of seats that have been dropped unlawfully from the provinces (Nineveh - Salahuddin - Diyala - Babylon).

The Judge Qasim About^{xix} refers to a substantial problem he faced with the IHEC Board in determining the number of members of the ICORs., as well as in the preparation of the registration of voters. Lack of an accurate database in Iraq as well as the lack of an accurate statistics of the population in Iraq since 1977 causes this problem. In addition, Iraq in 2003 has witnessed mobility of the population—both voluntary and forced—due to sectarian conflicts in the country, which increase the complexity of determining the number of members of the CoRs. and increased the difficulty of preparing an accurate record of the voters. Before the election in 2005, the experts of United Nations consulted specialists Iraqis in this regard. Accordingly, the database of the Ministry of Commerce, known through the Public Distribution System (PDS) was selected because it was the only database that gives a good information about the

number of the Iraqi population and their origins, as well as the Iraqi citizens, because they are charged with the distribution of the Public Card System for the purpose of distributing food to qualified Iraqis.

Because the Constitution put a condition that each representative is to represent 100,000 citizens, it means that the number of representatives is proportional with the total number of population. However, the total number of representatives in the election of 2005 equaled 275^{xx} when the population of Iraq equal 27.50 million, whereas in the election of 2010, the number of representative increased to 325 because the population of Iraq increase to 32.275 million. Actually the number of representatives should be 323 but two seats were added to establish a political balance and to satisfy some political entities.^{xxi}

4. The Iraqi Experimental of Elections

In the introduction of this article, we ask two questions. One of them was: Have all Iraqi Components been represented in ICoRs.? That was the first question. And to answer it we have to shed the light on the Iraqi Election during last ten years from 2005 to current day.

Three parliamentary elections have been taken place in Iraq after the war finished in April 9, 2003 in the years 2005, 2010, and 2014. Each one had different rules, so it is important to explain them in detail.

4.1. The Elections of Iraqi Council of Representatives on 2005

The election of 2005 in Iraq had been organized according to the Constitution of Iraq and the election law No. (16) was issued in the same year. The Constitution adopted the election law of direct voting, stating that "the CoRs. consist of specific numbers of members, and those are elected by direct, secret, and public voting"^{xxii}, where the text of election law stipulates that "the election occur through direct, secret and public voting"^{xxiii}, while the Constitution and the election law adopted the proportional representation in order to distribute the seat of the members in the CoRs.

The Constitution stipulates that "the CoRs. consist of specific number of members... and takes into account the representation of all components of the Iraqi people"^{xxiv}, and the text of the law indicates clearly the representation of all components of the Iraqi people. Through our review of the substance of electoral systems, it is evident that a proportional representation for the Constitution has been envisioned. The proportional representation was explained by stipulating that "the seats of the CoRs. are distributed to electoral districts through proportional representation,"^{xxv} and this article indicates the representation of all components of the people of Iraq. The number of seats was defined as 275 that represent the federal executive branch, which was called the CoRs. at a later time. Two hundred thirty of the seats, have been distributed to different electoral districts, where each electoral district represents one province only, while the remaining 45 seats were considered as compensatory seats to the political entity whom is participating in the election and gets the minimum votes (national average of voting), without getting seat in any electoral districts^{xxvi}

The Article 16 continues to express the meaning of this system by stipulating explicitly that the total number of valid votes should be divided according to the number of seats for each electoral district, and according to the population percentage of each district. The resulting electoral denominator represents that which would be adopted in the second stage to distribute the seats for each political entity. The exact number of seats for each political entity is determined by counting the repetitions of obtaining the electoral denominator or not, and there is one political entity to pass the national electoral denominator and obtain the (44331) vote.^{xxvii}

As for the remaining vacant seats, the text of the law stipulates the method of "the remaining stronger,"^{xxviii} should be adopted, so proportional representation for distribution of seats on the list of political entities obtains the electoral denominator. However, the method of "the remaining stronger" for distribution of seats shows clearly the two methods of proportional representation of the remaining seats. The wish of the legislator to represent the parties and small entities with "the remaining stronger" method, rather than the method of "the stronger average," which benefits the interest of major parties. No doubt applying the "remaining stronger" method is successful for the Article of the Constitution mentioned above.

The Iraqi legislator wanted to achieve the interest of small parties and political entities; therefore, the legislator invented the principle of compensatory seats, which are 45 seats in the CoRs. distributed to political entities which does not achieve the denominator in the electoral districts, with a condition to achieve the national average. The law stipulates that the total number of valid votes should be divided to the total number of CoRs. in order to extract the national average, and then divide the number of collected votes of each unrepresented entity on the national average so that to specify the number of seat deserved for each entity, where it would be distributed to those entities that have not been represented in any electoral districts. Then the distribution would be complete to the represented entities by a percentage of their votes from the total number of votes.^{xxix} These council representatives then represent minorities across Iraq, as opposed to representing a majority group of Iraqis from a single province and discrete area.

The studies emphasizes that the Constitution specified a percentage not less than a quarter of the members of the CoRs. to represent women in the CoRs.^{xxx}, and to ensure that the terms of the CoRs. put a female candidate with two male candidates, and the completed lists have assigned women the number three or its multiplications in closed electoral lists according to the issued systems of election which is applied by IHEC.

4.2. The Elections of Iraqi Council of Representatives on 2010

The election of the CoRs. is supposed to happen every four years, on a precise date as specified in the Constitution. The four year cycle is similar to many other democratic systems and is explicitly mentioned in the Iraqi Constitution. But the CoRs. held the election on March 7, 2010 after changing two appointed dates in December, 2010. This meant that Iraqis voted a little more than four years after the last election.

The Iraqi council submitted a Constitutional by connecting two items in Article (54) of the Iraqi Constitution, whereas the first item stipulates that “the electoral term of the CoRs. equal four calendar years, start from the first session, and end at the end of fourth year,” the second item stipulates “the election of the new CoRs. should occur before 45 days from the end of previous electoral term. The studies found the following:

- a) The CoRs. has misled the public interest through the omission of the meaning of the word *calendar*.
- b) The council carries the responsibility of delay in declaring the results of election, and also the delay of agreement between the political entities in the first meeting of the CoRs.

Anwar^{xxxii} refers to other factors that stood behind the delay, perhaps the most important:

- a) The failure of the political blocs in the CoRs. to issue a new election law as a result of their political differences and conflicts between them.
- b) The lack of experience in the CoRs. on issues and matters of a legal nature, and the tendency to maintain the majority of its members for their perceptions of personal and factional interests in the legal aspects of democratic action.
- c) The attempt to take advantage from financial privileges which were granted by the members themselves of the CoRs. for as long as possible.

Despite the law bringing a different election law to the attention of many, the law was not formalized as a new law right away. However, it was changed under No. (26) Year 2009 law Year 2005^{xxxii}, because the Council thought it was better to issue the modified law as a new law because the text of the modified law cancelled the text of the previous law.

The Council decided to hold the election on March 7, 2010, which was properly announced by the (IHEC) Board. The Iraqi people had waited a long time for the election, and the people adopted the same electoral system as the direct voting and proportional representation of seats in the CoRs. The modification of electoral law No. (16) Year 2005 did not changed the electoral system which was adopted in the CoRs. election in 2005.

However, in spite of the adoption of the electoral system, the Constitutional text and the text indicated in the electoral law, the law has increased the number of seats in the CoRs. from 275 to 325 seats and the automatic eligibility list for the seats changed from the rules in the 2005 elections. The election has been conducted according to open lists, which enables voters to see the names of the candidates in, while the 2005 elections had been according to closed-lists. This list includes a number of candidates that does not exceed double the number of seats allocated to the electoral districts.^{xxxiii}

Then the (IHEC) Board of election announced the term “the abandoned entity”^{xxxiv}. Accordingly, the political entity that did not obtained the electoral denominator within its electoral district should be dropped from election. Therefore, the political entities which obtained the electoral denominator would dominate the remaining (vacant) seats of the CoRs. by eliminating the political entities those did not obtain the election merit. The change in the election associated with the allocation of the seats, affected the minor components in Iraq like Yezidis, Sabi, Christians, and Shabak. These components had been granted a quota to be added to the seats of each electoral district. Accordingly, the Christian component was granted 5 seats in the CoRs. for (Baghdad, Erbil, Nenewa, Dohuk, Kirkuk); the Yezidi and Shabak components were granted one seat for each in (Nenewa); the Sabi component was granted one seat in the (Baghdad), and they all competed for these seats under the special lists component in the electoral districts.^{xxxv}

It is worth mentioning that the 12 women of the 83 seats allocated for them according to female allocation in the law were filled without the need to use the allocation system.^{xxxvi} This means that the women were elected by the general populous without help of an allocation system.

4.3. The elections of Iraqi Council of Representatives on 2014

Authorities were given to the (IHEC) Board^{xxxvii} as indicated in Article (4) item (8) of IHEC law No. (11) Year 2005 (modified) and election law of CoRs. No. (45) Year 2013. The distribution system of seats in the CoRs. was issued under No. (14) Year 2014.

The distribution of seats occurs in four steps:

- Step one: Distributing seats according to political lists, as follow:
 - a) Calculating the number of valid votes belongs to each political list in the competition for seats within its election district.^{xxxviii}
 - b) The lists of political entities are ranked based on the number of valid votes obtained, starting from top to bottom.^{xxxix}
 - c) The valid votes obtained by the lists are divided by the number (1.6), and then odd numbers (3,5, 7, 9, 11, etc...)until the results of dividing the equivalent number of seats of each electoral district after the order of these results from top to bottom.
 - d) A seat is allocated for the political list that obtained the highest electoral denominator result. The second seat is allocated for the political list that obtained the second rank of electoral denominator result, and so on, until all seats are allocated for a particular electoral district.
 - e) Tie- Breaker: If two or more political lists tied for receiving the seat, then the (IHEC) Board conducts a draw between them with the presence of representatives from each political list, after that the winner is the political list that win the draw.

- Step two: Distribution of Seats to the Candidates

The names of candidates are organized again within an open list based on the number of votes obtained by each candidate from top to bottom.^{xl} Allocating seats to the candidates is done according to item (1) above. If the number of votes were equal for two candidates or more, then the seats are allocated through tie-breaker or draw, as discussed in (e), above.

➤ Step Three: Counting Women Quota

Allocating seats is performed regardless of the gender. This system grants a percentage of seats not less than 25% (83 seats) for women; however, it could be more than 25% women, if a greater percentage is elected. In case the percentage mentioned above is not obtained in this system for each province, then the following procedure is adopted:

- a) A seat is allocated from the seats obtained by the list of women after each three winners, regardless of who actually won that seat in the election.
- b) If the percentage of women in the list was not achieved according to item (1) above, then the following steps should be done to complete the percentage.
- c) Allocating seats for each women list by dividing the specified seats for the list on three, and neglecting the decimals.
- d) Counting the remaining number of women seats in each list by deducting the number of seats belong to winning women according to item (a) above from women list allocation.

A seat for women should be allocated following two men winners regardless of the number of votes obtained by men. If the required seat number for women is not completed as outlined above, then allocating seats for women from the seats of political lists that obtained two seats from the top to bottom, and replacing the winning candidate by the second seat of the female candidate that obtained the highest number of votes within same political list. If all procedures of this system did not fulfill the required number of seats for women, then the seats of each political list would be allocated for women and from the top to the bottom by achieving the required number according to the planned mechanism of this system. The candidate who obtained the highest number of votes in the political list that obtained one seat in one electoral district would be replaced by a female candidate from the same political list that obtained the highest number of votes among women in the same list.

➤ Step four: Minority components' seats quota^{xii}

The allocation of seats to the minority components of Iraq (Christians, Mandaeans, Yezidis, and Shabak) goes to the political list that obtained the highest number of votes among the competing lists on the seat of the minority component. If two political lists or more from same component equal in the number of votes, then the (IHEC) holds a tie-breaking draw between them to specify the winner with the presence of candidates and representatives of political entities. The winning political entities are granted a seat according to the regulations of third chapter:

- a) Candidates from competing lists are arranged to take the seats of the Christian component^{xiii} according to the number of votes obtained by each candidate, starting from top to bottom, and according to electoral districts to which they belong (Baghdad, Nineveh, Kirkuk, Erbil, and Dohuk), regardless of political entities. The candidate who obtains the highest number of votes among the competing candidates within this electoral district are given the seat, and the other seat is given to the candidate who obtain the highest number votes among the candidates competing for another electoral district, and so on until all the seats of the Christian component are distributed to the candidates and their respective entities to which they belong.
- b) If a single list granted a seat then the candidate of the political list will have the priority to grant a seat belong to the electoral district.^{xiii}
- c) If two single political lists or more are granted a single seat and their candidates are from the same province, then a seat will be allocated for the political list that obtained the maximum electoral denominator. If the results of the denominator are equal, then a tie-breaking draw is held in the presence of candidates from the single political lists or their representatives.

Accordingly, the number of representatives should equal 328, of which 320 seats are distributed to the provinces (electoral districts) as shown in the table below, while the remaining eight seats are to be distributed to other components of the population (Christians, Mandaeans, Yezidis, Shabak) and with accordance to the numbers for each province.^{xiv}

5. The New Rules of Democracy

We asked at the early beginning of this article two questions. The second one was: Are these the new rules of Democracy or not? And to get the answer we must focus attention on two things: First, what is the importance of the CoRs.? Second, what are meaning of new rules of democracy?

The Elected CoRs. in the modern world have been developed to high degree and become a big political organization that can do many political functions such as propose laws, legislations, control and investigating the government, and involve in regional and international affairs.^{xv}The CoRs. is a government institution that is more open to the public compared to other Iraqi government bodies/institutions. Most discussions are held in public and transparent compared to the executive branch and the judicial branch, where the latter two hold discussions in secret and make decisions away from public. Moreover the CoRs. is open to the media, has tools to communicate with and acknowledge people and inform the public about its activities. In other words, the significance of CoRs. for a democratic government is great because one of the bases of democratic government is open, public discussion.^{xvi}In Iraq, most of discussions of the CoRs. are broadcasted to the public on TV channels, in addition to an official website of the CoRs.^{xvii} Democracy is further defined as 1) "Government by the people; especially: rule of the majority 2) "A government in which the supreme power is vested in the people and exercised by them directly or indirectly through a system of representation usually involving periodically held free elections."^{xviii}The term "rule of the majority" that we get from this definition is a key point of this article. The Iraqi Constitution which had been written by help of many peoples and organizations to bring to fruition the idea which

contained “rule of all citizens” not “rule of the majority” and all the election laws were legislated to apply it. But this law cannot be legislated without concurrence of all representatives in the ICoRs.

6. Conclusion

During the past ten years, the right of all Iraqi components to be represented in the ICoRs. has been a very important and controversial issue. The Article (49/I) of the Iraqi Constitution of year 2005 has mentioned the procedure to form ICoRs., that consists of a number of members, where one seat in the CoRs. must represent a hundred thousand citizens of the population of Iraq and the representatives must represent the whole Iraqi people. We have answer two questions. The first one is: Have all Iraqi Components been represented in ICoRs.? The second question is are these new rules of Democracy or not? Two important aspects regarding the Components Representatives' in ICoRs. have been discussed by reviewing the Iraqi components and the rules covering the distribution of seats in the ICoRs. which can be found it in the Iraqi Constitution or in Election law and Election regulation. There are many aspects to classify these components, by ethnic origins (race), or by religion, or by gender, or classification according provinces. Distribution of the ICoRs. seats depends on all these classifications.

The Article (49/III) of the Iraqi Constitution of year 2005 has opened the door to legislate many laws dealing with matter of election, and at the same time, these laws become a tool at the hand of the legislators to control, order, and command electoral operations. There are three major election laws that have been issued after the Iraqi state assumed power on July 30, 2004.

In 2009, a big change was happened and the election law was modified by the law No.26, the law focusing on the all Iraqi components. The reason the big change was made was because some challenged the law and declared it unconstitutional. The unconstitutional nature of Article (15/II) of the Electoral Act No. 16 of 2005 was explored in front of the Federal Supreme Court on 15/06/2006, and the court issued its decision in the 04/26/2007. The court decided that article (15/II) of the Electoral Act No. 16 of 2005 was unconstitutional due to being contrary to the provisions of Article (49/I) and provides that the actions that took place under the current CoRs. Elections remain valid and unchanged.

The main problem facing the(IHEC) Board was determining the number of members of the ICoRs., as well as in the preparation of the registration of voters because of the lack of accurate database in Iraq as well as the lack of accurate statistics on the population in Iraq. We shed the light on the Iraqi Election during last ten years from 2005 to current day. Three parliamentary elections have been taken place in 2005, 2010, and 2014 in Iraq after the war finished on April 9, 2003. Each election used a different formula to garner seats. In the election of 2010, six seats of the 325 were granted to the minority components of Iraq (Christians, Mandaean, Yezidis, Shabak). In the election of 2014, eight seats of 328 were granted to them, in addition to the seats which they won in the elections, which means that the Iraqi Components have been represented in ICoRs. in two ways.

A long time ago, democracy meant a rule of the majority, but that has been changed and is not implemented in the Iraqi model. The Iraqi Constitution which had been written by help of many peoples and organizations brings to the fore the idea of democracy as “rule of all citizens” not “rule of the majority.”

The Iraqi legislature was not successful in keeping the representation of the members in the CoRs. equal to 100,000 people per each member. This article argues, that these details should be omitted from the Constitution because of the fluctuation is causes in the number of seats from election to election (the first election included 275 members; the second round, 325 members; the third, 328 members). Although the number of seats may increase due to the increase of Iraqi population, the studies concludes that the number of seats in the CoRs. must be specified to control the fluctuation of the number of members and reduce the financial obligations that will be borne by the Iraqi state budget to pay for all members of the CoRs.

With regard to the text associated with representing the components of the Iraqi people, the article found that the Iraqi legislators of the 2005 Constitution gave a large benefit to all Iraqi citizens, and the rights of each citizen were granted by law. Nevertheless, the efforts of the Iraqi legislators were not sufficient to represent all Iraqis properly and more work needs to be done to be certain that all Iraqis are sufficiently represented.

7. References

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- ii. Dr. Nomaen Ahmed Al Kateeb, A Brief in Political System, Dir Al Thqahfa for publication, Third Edition, Amman- Jordan, 2006, p.86.
- iii. Mohammed Al-Dijine & Monther Al- Al-Dijine, Political- Theories and concepts, Al-Quds University, First Edition, 2000, p.265.
- iv. Dr. Hunan Al-Qesee, Bilateral Legislative Council in Iraq, Bet Al- Hkmah, Baghdad, 2012, p.34.
- v. The official website of Iraqi Parliamentary Monitor, Available on: <http://miqpm.com/English/index.php?CH=1> (last visit 1/6/2015).
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- viii. Article (49) of the Constitution of the Republic of Iraq for 2005.
- ix. That law was published in the Iraqi official Gazette No.4010 date 23/11/2005.

- x. That law was published in the Iraqi official Gazette No.4140 date 28/12/2009.
- xi. That law was published in the Iraqi official Gazette No.4300 date 02/12/2013.
- xii. Electoral District: it is a specific area that has been allocated a number of seats in accordance with the provisions of the Council of Representatives election law No. (45) in 2013.
- xiii. Article (15 / I / II) of the Electoral Act No. 16 of 2005.
- xiv. Independent High Electoral Commission was established by a decision of the Coalition Provisional Authority (Paul Bremer), Order No. 92 in May 31, 2004 to be the only electoral authority in Iraq.
- xv. The official website of Iraqi Parliamentary Monitor, Available on: <http://miqpm.com/English/index.php?CH=1> (last visit 1/6/2015).
- xvi. Dr. Hamed Al-Saeede, Principle of Constitutional & Political System in Iraq, Nor Al-Een for Printing Co., Baghdad, 2012, p.266.
- xvii. Dr. Salah Al- Abdullah, Right to Elect (Comparative Study), New University office, Alexandria- Egypt, 2013, p.210.
- xviii. This forced some lawyers to send memoranda to the National Assembly and the (IHEC) Board, and the U.S. and British embassies and the UN representation explaining the imbalances in applying the standards, and officially submitted from 09/25/2005 until 07/23/2007, referring to the injustice and incorrect principle where the election was based on. And for more details you can see: Dr. Hassan Al-Anee, Integrity in elections- Assessors & Mechanism in Arabic Country – Research on Iraqi Election, Center of Arabic United Studies, First edition, Beirut- Lebanon, 2008, p.192.
- xix. Judge Qasem Al-Abode, The influence of electoral systems in the political system (a comparative study of the Iraqi experience, Dar ward to the publication and distribution, the first edition, Amman, 2012, p. 74.
- xx. Article 15, Chapter IV of the Electoral Act No. 16 of 2005 stipulates that (First: The Council of Representatives consists of 275 seats .230 seats of which are distributed to the constituencies, and 45 compensatory seats. Second: Each province has an electoral district according to the official administrative borders, which is concerned with a number of seats proportional to with the number of registered voters in the province.
- xxi. Iraqi Gazette Number (4140) in Article 28-12-2009 (First) of the explanatory memorandum issued by Law No. 24 of 2009 which stipulates that article: (First – in compliance with the provisions of Article (49) of the Constitution, and because of the absence of recent census, after referring to the official statistics of the Ministry of Commerce for 2005, plus the rate of population growth (2.8%) per annum for each province, and due to some migration taking place, the Council of Representatives consists of 325 seats.)
- xxii. Article (49 / I) of the Constitution of the Republic of Iraq, Article (1/I) before the Amendment Act No. 26 of 2009 in force.
- xxiii. Article (2) of Iraqi Election Law No. (16) of 2005.
- xxiv. Article 49 / I of the Constitution of the Republic of Iraq.
- xxv. Article 16 of the Iraqi election law No. (16) of 2005 before amended.
- xxvi. Article 17 of the Iraqi election law No. (16) of 2005 before amended.
- xxvii. Al (Rafidain) entity led by a member of her seat and served (the Governing Council) MP Kanna.
- xxviii. The official website of the Office of the Independent High Elections in Iraq on the international information network Article (16/III) of the Iraqi election law No. 16 of 2005 before amended: : www.ihec.iq (last visit 1/6/2015).
- xxix. Article 17 of the Iraqi Election law No. 16 of 2005 before amended.
- xxx. Article (49/IV) of Iraq Constitution 2005.
- xxxi. Dr. Anooer Saeed Al-Huedare, Personalized & Iraqi Election, Paper for Political Thinking in College of Political Science, Baghdad University, 2010.
- xxxii. The official website of the Iraqi Council of Representatives: www.parliament.iq, (last visit 1/6/2015).
- xxxiii. The first section of the system No. 21 for the year 2010, the distribution of seats for elections to the Council of Representatives, issued by the Electoral Commission for elections.
- xxxiv. Political entity is an entity that has been excluded from the distribution of general seats because inability to win the electoral denominator, for more information, see: The first section of the No. 21 for the year 2010, the system of distribution of seats for elections to the Council of Representatives, issued by the Electoral Commission for elections official website of the Office of the Independent High Elections in Iraq: www.ihec.iq, (last visit 1/6/2015).
- xxxv. The second section of the system No. 21 for the year 2010, the distribution of seats for elections to the Council of Representatives, issued by the Independent Electoral Commission for elections.
- xxxvi. Half of the (Coalition of State law) entity, and by five winners in the province of Baghdad, and a winning one in the province of Karbala. The four winners of the (INA) entity, and by winning one in each of the provinces: Baghdad, Najaf and Diwaniya and Maysan. And 2 of (Iraqi List) entity by winning one in each of the provinces: Baghdad and Babylon.
- xxxvii. Board of Commissioners (IHEC) Board: Represent the High Commission. It serves as a "board of directors" in other institutions. Where it is leading and directing the work in the Commission in general. With regard to the way the formation of this board, the Commission Law stipulates the following: "the Board of Commissioners consist of nine members, two of them at least are legally selected by the majority of Council of Representatives after being nominated by a committee of the council, that they are professional, experienced and recognized members, and behave with integrity and independence, taking into account the representation of women". Article (3/II) of the Act with the number (11) for the year 2007. Official website

of Independent Electoral Commission for Elections, available in: <http://www.ihec-iq.com/ar/about-ihec/eddara/index.1.html>, (last visit 1/6/2015).

- xxxviii. Valid votes: total valid votes used in the calculation by the system of election.
- xxxix. Electoral District: A specific area that has been allocated a number of seats in accordance with the provisions of the Council of Representatives election law No. (45) for 2013.
- xl. An Open List: it is a list including the names of candidates declared where should not be less than the three candidates and not double the number of seats allocated to the electoral district.
- xli. Seats allocated for the components: the seats allocated in the Council of Representatives as stipulated in the Iraqi law for components included in Article (11/II) No. (45). For the year 2013
- xlii. Component List: this list represents a political entity competitor in the electoral district for the seat reserved for the component in the Council of Representatives.
- xlili. A single list: it is a list of a single political entity which is entitled to submit one candidate to nominate for election and can be registered with the commission of election.
- xliv. The meaning of public seats is seats specified in Article (11) of Chapter IV of the Law on Elections of the Iraqi Council of Representatives, No. (45) in 2013, after excluding the seats allocated to the components.
- xlv. Dr. Ali Al-Sawee, Future of Parliament in Arabic World, Karegene Institution for World Pace, V3. No.7, Translate & Published Dar Alwaten Co.,2005, p.>>>
- xlvi. Article (53) of Iraq Constitution.
- xlvii. Official website of the Iraqi Council of Representatives, available on: <http://www.parliament.iq/> (last visit 1/6/2015).
- xlviii. Democracy - Definition and More from the Free Merriam-Webster Dictionary and see also https://en.wikipedia.org/wiki/Democracy#cite_note-2(last visit 1/6/2015).