Beat: Politics

The mechanism for dissolving the Iraqi Council of Representatives

calling for early elections

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USPA NEWS - Countries of the world differ in their ways of dissolving Parliament (the legislative authority) before the end of its legal term depending on their constitutions, the nature of the political system, and the extent of the balance between their three authorities (legislative, executive, and judicial).

The right to dissolve means ending the term of parliament before its constitutional term, that is, before the end of the legislative term of the Council. In essence, it is the executive authority's right to dissolve Parliament before the end of the legislative term and to invite voters to elect a new parliament. The basic principle is that it is a legal action taken by the executive authority (the government) to end the life of the Legislative Council before the end of the term for which it was elected to seek the people's opinion on a specific issue whose resolution is of great importance in the course of the country's political life.

It is a dangerous weapon that the executive authority (the government) can use when What you decide to publicize in the face of the legislative body; in other words, it is the act by which the executive authority puts the end of the legal term assigned to it, which results in holding early elections. This is, in principle, the method that will be followed in most countries.

However, this matter is entirely different in Iraq under its 2005 Constitution in force, where dissolution was originally an authority owned by the Iraqi Council of Representatives itself. It is the one who decides whether or not to dissolve, and as an exception, it made it a governmental path, even though this path is still a matter of disagreement among jurists. And the politics of our time.

Perhaps the most important reason for this difference between Iraq and the majority of the countries of the world on this point is, in fact, the desire of the constitution's drafters. After the 2003 war, we sought to weaken the presidential authority and the government as much as possible as a result of the Iraqi people's suffering from the scourges of the previous presidential regime and its tyranny.

Article (64) of the Iraqi Constitution of 2005 clarifies the method for dissolving the Iraqi Council of Representatives by stipulating the following:

(First: to dissolve the Council of Representatives, by an absolute majority, of the number of its members, based on a request from a third of its members, or a request from the Prime Minister and with the approval of the President of the Republic The Council may not be dissolved during the interrogation period of the Prime Minister.

Second: - Upon the dissolution of the House of Representatives, the President of the Republic shall call for general elections within a maximum period of sixty days from the date of dissolution. In this case, the Council of Ministers shall be considered resigned and continue to conduct daily affairs.

This article has sparked significant controversy among commentators of the law, its experts, and politicians. Some of them believe that the dissolution of the Iraqi Council of Representatives can be done through a request submitted by the Prime Minister and the approval of the President of the Republic to his request or a request submitted by a third of the members of the Iraqi Council of Representatives and the approval of the absolute majority. What represents (half of the total members of Council 1). That is, the dissolution takes place either by dissolving the Council itself at the request of its members or the executive authority's request through its president. The President of the Republic approved his request without the need for a vote on the request by the House of Representatives.

Some of them believe that dissolving the Iraqi Council of Representatives is a matter limited to the approval of the dissolution by the Council itself, in other words. This opinion's proponents say there is no way to find a solution except through the House of Representatives alone. In both cases, the Council must approve the request by an absolute majority of its members, regardless of the means of resolution.

We support those with the first opinion, and we see that there are two ways to dissolve the Iraqi Council of Representatives, one of which is purely parliamentary, through the Council voting by an absolute majority on the solution, and the second is the executive. A

disbursement that does not require a vote of approval by the Iraqi Council of Representatives, as it is not reasonable for members of the Council of Representatives to dissolve their membership from their Council and then lose their privileges and allocations that they gained as a result of their membership in the Council of Representatives.

In addition to this, it is tough to imagine the House of Representatives agreeing to dissolve itself, regardless of the party that proposed the dissolution, and to say otherwise and make the matter in both cases dependent on the House's approval of the dissolution is something that is considered contrary to the logic of the rulings, as the House has become in such a state. In this case, he possesses two qualities: his capacity as one of the parties to the dispute and his capacity as an arbitrator. He is the one who decides on the request for dissolution, and we add to that by saying that the majority of the world's countries provide in their constitutions the right of dissolution in two ways, either parliamentary or executive by decision. From the President of the Republic or the Prime Minister.

In any case, we support giving the government the right to dissolve the Iraqi Council of Representatives because it constitutes a safety valve for the government before the House of Representatives, and it also achieves a balance in the right of oversight of the three authorities (legislative, executive, and judicial). Without this right, there is no correct parliamentary system. This right is the only one that enables ministers not to be mere tools subordinate to the Council's authorities, as some jurisprudence attributes the phenomenon of the weakness of the executive authorities (the government) and the predominance in favor of the parliamentary bodies in many systems to psychological factors that influenced the drafters of the constitutions, making them exaggerate in restricting the government's powers, and decide The final word and the preponderance go to the parliamentary assemblies, believing that this would preserve the nation's prestige and authority, and ensure that the executive authority would not be oppressive.

So they looked at the government, as the late Saad Zaghloul said, as the bird looks at the hunter, not the way the army looks at the leader, so it was necessary to achieve a balance between the two powers, This is achieved by granting the executive authority (the government) corresponding influential powers, the most prominent of which is the right of dissolution granted to it vis-à-vis the House of Representatives.

The executive authority (formally the head of state and practically the government) uses the right of dissolution, which ends the mandate of the House of Representatives by calling for new elections.

Let's carefully consider the authority the President of the Republic granted to dissolve the Iraqi Council of Representatives. We will find that this authority is formal on the one hand and is considered actual on the other hand. It is formal in that the President has no right to exercise this jurisdiction except at the request of the Prime Minister, and it is actually in consideration. The final say on the dissolution of the House of Representatives is for the President whenever he supports the dissolution of the House. However, if he rejects the dissolution, the House continues to carry out its duties. In light of the above, we can say that the President of the Republic has actual authority that enables him to support or disrupt government activity. He participates Effectively in choosing the content of the proposed resolution; obtaining his approval on the occasion of any amendment is also necessary.

Perhaps more important than all of the above is the answer to the question that has recently become the talk of the public, politicians, and legal scholars, which is: Can the President of the Republic alone call on the public for early elections for a new House of Representatives, without this being done at the request of the Prime Minister, or without resorting to a request? It is submitted to the current House of Representatives, that is, without being dissolved in the two previous ways referred to in Article 64 of the Iraqi Constitution mentioned above. ..?

We answer this by saying there is no text in the Iraqi Constitution for 2005 permitting or prohibiting this, as the Constitution was silent on regulating this issue. Still, only the second paragraph of Article 64 of the Constitution referred to the right of the President of the Republic, when dissolving the House of Representatives, to hold general elections. In the country within a maximum period of sixty days from the date of dissolution.

What we see, according to our perception, and in the absence of a constitutional text, and to achieve justice, is that it does not prevent calling for new elections in the country, as this may be a popular demand, as the people are considered (the source of powers) who granted legitimacy to the members of the Iraqi Council of Representatives, which in turn granted power to the government from During the vote on its legitimacy, and therefore, the people have the right to push the President of the Republic to call for new elections whenever he loses confidence in the government or the House of Representatives and feels that they are unable to achieve his ambitions and goals that he aspires to in development, economic recovery, and improving the level of Iraqi per capita income and services. The people also have the right to demand holding elections. A new initiative to achieve justice and equality and eliminate all forms of class discrimination and corruption may be in the implementation of a prior political agreement between the parties

representing the people to hold early elections for the House of Representatives.

From all of the above, we see nothing preventing early elections despite the continuation of the Iraqi Council of Representatives session and its term not expiring. When new members are elected, they will replace the old representatives.

We must flexibly interpret the constitution and not be stuck on the rigidity of its texts so as not to allow one side to monopolize the authorities over the other and to make the Iraqi constitution more compatible with the developments and changes taking place in the Iraqi reality. The constitution must keep pace with the changes in the country by flexible interpretation of its texts instead of demanding amendments to its texts, which is impossible to achieve at present due to the complexity of the mechanism it has established for amendment. Then, what prevents us from establishing binding constitutional norms alongside the constitutional texts is that we work to supplement the deficiency in the texts of the Iraqi constitution, similar to other countries that operate according to binding constitutional norms, as is the case in Britain and other countries.

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Editorial program service of General News Agency:
United Press Association, Inc.
3651 Lindell Road, Suite D168
Las Vegas, NV 89103, USA
(702) 943.0321 Local
(702) 943.0233 Facsimile
info@unitedpressassociation.org
info@gna24.com
www.gna24.com