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The Framework for Amending the 2005 Iraqi Constitution Under the Supervision of the Executive Authority: A Comparative Study

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Abstract:

The constitution stands above all legal norms and prevails over them. It serves as the foundation upon which legislators rely in enacting ordinary legal rules. It is the source upon which all authorities are established, and through it, the boundaries and controlling powers of these authorities are defined. However, this supremacy does not imply that its provisions must remain fixed and rigid. Rather, public interest may necessitate constitutional amendments—whether by deletion, modification, or addition to its articles—in response to political, economic, or social developments.

This research addresses the concept of constitutional amendment from the perspective of legal scholars. It also examines the mechanism for amending the 2005 Iraqi Constitution by reviewing the relevant provisions within the constitution itself, with a focus on the role of the executive authority—namely, the President of the Republic and the Prime Minister—in the amendment process.

The study also reviews the most significant general principles governing the constitutional amendment process, including the justifications for amendment and its various types. It further investigates the scope of the executive authority and the procedures it follows in the amendment process.

By placing the rules of constitutional amendment under scrutiny, the research reveals overlapping powers on the one hand, and a lack of clarity on the other, which has led to deviations in the state's public policy. This, in turn, has significantly affected the independence of the constitutional process. Despite the necessity of constitutional amendments due to contradictions among certain provisions, the amendment process has become nearly impossible amid political conflicts, unless a genuine political will is present.

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Introduction

The historical development of systems of governance has revealed an undeniable truth: the people are the source of all authority, and the ruler merely exercises power on their behalf. The ruler is no longer considered a deity or a representative of the divine, as was the case under the theory of the divine right of kings. The ruler is no longer above the law, nor does he have the right to exercise arbitrary power over individuals. This realization led nations to rise in revolution and to adopt systems based on the separation of powers. These powers divide authority within the state in order to prevent the dominance or encroachment of one branch over another.

In modern states, the principle of separation of powers constitutes one of the most important pillars of democratic systems, especially contemporary ones. It undoubtedly strengthens democracy and prevents authoritarian rule. Each of the three branches of government exercises its respective powers independently, both in function and structure. However, the nature of this independence does not mean complete isolation of the powers from one another. Rather, there must be cooperation and mutual balance between them, the extent of which varies according to each political system.

The constitution is the highest and most supreme law in the country. Therefore, the constitutional legislator ensured that this document contains written provisions aimed at stabilizing constitutional rules and principles as much as possible. However, this does not mean that the constitution must be rigid or immutable, as changes and evolving visions may necessitate amending its provisions. Moreover, there may also arise a need to add new provisions that are intended to hold superior legal authority.

Research Problem

The problem lies in the fact that the 2005 Iraqi Constitution contains provisions that allow for its amendment. Despite the urgent need for such amendments, the authorities remain unable to incorporate provisions into the constitution that would align the powers of the branches of government and ensure political stability.

Significance of the Study

The significance of this research lies in examining the process of constitutional amendment due to its importance in organizing the authorities and constitutional powers in a manner that eliminates overlap and resolves conflicts between authorities and their jurisdictions, in accordance with political, social, and economic developments. Accordingly, this study will shed light on the scope within which the executive authority—represented by the Council of Ministers and the President of the Republic—operates in the constitutional amendment process, considering that this authority exercises legislative functions based on cooperation and balance between the legislative and executive branches.

Research Methodology

The researcher adopted the descriptive-analytical method by analyzing the constitutional texts related to the process of amending the constitution, as this method is suitable for the nature of the study.

Keywords
Constitutional amendment – Constitutional provisions – Executive authority – Amendment of constitutional provisions – Constitutional document

Structure of the Study

First Topic: The Jurisprudential Perspective on Constitutional Amendments and Their Justifications

First Requirement: The nature of constitutional amendment from a jurisprudential

perspective

Second Requirement: Justifications and types of constitutional amendments

Second Topic: The Authority and Procedures of the Executive Power in Amending the Constitution

First Requirement: The scope of the executive authority in constitutional amendment

Second Requirement: Procedures for amending the constitution

First Topic

The Jurisprudential Perspective on Constitutional Amendments and Their Justifications

In this topic, the researcher will divide the discussion into two requirements. The first requirement is concerned with clarifying the nature of constitutional amendment from the perspective of legal scholars, while the second requirement addresses the main justifications that necessitate the amendment of the constitution, in addition to explaining its types.

First Requirement

The Nature of Constitutional Amendment from a Jurisprudential Perspective

To begin with, the constitution exists to stand above and prevail over all laws due to the subjects it addresses. Thus, the constitution enjoys both material and formal supremacy. The first—material supremacy—has two dimensions: the first is that the constitution establishes the idea that it is the prevailing law of the land, thereby defining and guiding the social and political philosophy of the state. It serves as the legal framework for all state activities that have legal characteristics. The second dimension is that the constitution is the source and foundation of all authorities, and it also defines the competencies exercised by these authorities. The second—formal supremacy—means that the constitution formally prevails, and based on this supremacy, it often sets out procedures and conditions that are difficult to implement in the event of its amendment.[1]

Many constitutional texts have included expressions referring to constitutional amendment and its meaning. In some constitutions, the constitutional legislator used the term "amendment," or employed other terms and expressions that carry similar linguistic meanings. Examples of such terms include: "revision," "modification," "introduction of new provisions," "change," "review," "deletion," etc.[2]

It is important to note that the term "constitutional amendment" appeared with the emergence of written constitutions in 1787, as written constitutions became associated with the U.S. Constitution of 1787. The movement to draft and codify constitutions began and spread from that time. It is worth noting that Cromwell's constitution preceded the U.S. Constitution in codifying its provisions, but it did not last long, as it was abolished with the return of Charles II in 1660. Accordingly, customary constitutions fall outside the scope of amendment, which makes the British Constitution a unique example of unwritten constitutions.[3]

The constitution is the document that contains a set of rules regulating the authorities, their jurisdictions, and mechanisms of operation. The set of rules included in this document cannot exist eternally; rather, necessity may require altering them through

[1] Hamid Hanoon, Dr. *Mabadi' Al-Qanun Al-Dusturi wa Tatwir Al-Nizam Al-Siyasi fi Al-Iraq*. Maktabat Al-Sanhuri, First Edition, Baghdad, 2013, pp. 148-149.

[2] Iraqi Basic Law of 1925. Chapter Nine titled "Amendment of the Provisions of this Basic Law," clearly referring to the process of constitutional amendment.

[3] Ali Yousif Al-Shukri, Dr. *Mabadi' Al-Qanun Al-Dusturi wa Al-Nuzum Al-Siyasiyyah*. Dar Itrak lil-Tiba'ah wa Al-Nashr wa Al-Tawzi', Cairo, 2004, p. 130.

deletion or addition when new circumstances arise that differ from previous ones.[4]

Several constitutional law scholars have provided definitions of the process of constitutional amendment. Some have stated that "the amendment is a proposal to add or change a provision that requires the approval of the legislative assembly."[5]

Terminologically, it is defined as "the process intended to change the provisions, which means altering constitutional articles by adding a new provision not previously addressed by the constitution, in addition to changing some of the provisions already existing in the constitutional document through deletion or addition. This implies a reconsideration of the constitution's articles, in whole or in part."[6]

Constitutional amendment is also defined as any change that occurs to the constitutional document, whether by deleting, adding, or replacing provisions.[7]

Section Two

Justifications for Amending the Constitution and Its Types

The constitution must include provisions that stipulate its amendment so that its articles can keep pace with developments in various sectors, ultimately resulting in provisions through which individuals enjoy security, welfare, and stability. This section must be divided into two sub-sections. The first sub-section addresses the most important justifications that necessitate the amendment of constitutional provisions, while the second sub-section discusses the types of constitutional amendments.

Sub-section One

Justifications for Amending the Constitution

First: To keep constitutional amendments in line with developments in society

Constitutional rules and provisions are nothing but legal rules, and the nature of legal rules implies their capacity for change and development. Therefore, they must keep pace with the developments occurring in society. These provisions are considered a reflection of political, social, and economic conditions. In other words, no state or its system can remain rigid and unchanging in the face of developments and modernity. Accordingly, the constitutional document must contain legitimate provisions and means that must be followed to cope with future changing conditions, so that the need to amend it does not lead to the use of illegal means such as coups and revolutions.[8] Based on this, constitutional amendments must accompany and keep pace with developments, scientific progress, and emerging ideas in society. The wider the gap becomes between the text and its application, the more necessary it becomes for the authority to amend the constitution in a way that aligns with societal changes.[9]

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[4] Al-Shawi, Dr. Mundher. *Philosophy of the State*, 1st Edition, Al-Thakira Publishing and Distribution, Baghdad, 2013, p. 391.

[5] Olivier Duhamel, Yves Mény. *Constitutional Dictionary*, Translated by Mansour Al-Qadi, University Foundation for Studies and Distribution, 1996, p. 313.

[6] Al-Shamri, Mazin Mazhar Awad, "Ta'dil Al-Dustur Al-'Iraqi Al-Nafidh li-'Am 2005." *Majallat Kulliyat Al-Qanun lil-'Ulum Al-Qanuniyyah wal-Siyasiyyah*, vol. 11, no. 43, 2022, p. 522.

[7] Hamza, Ali Mohsen. *The Formal and Substantive Procedures for Amending the Iraqi Constitution of 2005*, Al-Ruwad Al-Muzdahira Publishing House, Baghdad, 2014, p. 96.

[8] Jamal Al-Din, Dr. Jabbar Ali Abdullah. *The Procedures Ensuring the Amendment of the Iraqi Constitution of 2005*, Al-Ma'had Journal, Al-Ameed Institute, Issue 5, 2021, p. 104 ff.

[9] A good example is the Iraqi Constitution of 1970, which was characterized by a socialist tone. With the emergence of a new regime, it became necessary to draft a new constitutional project in 1990. However, this constitution was never applied, and in 2003, with the fall of the former regime, the 1970 Constitution was repealed and replaced by the current 2005 Iraqi Constitution.

Second: To correct legislative shortcomings

An amendment may serve to correct deficiencies or omissions in the constitutional provisions that were overlooked by the constitutional legislator at the time of drafting or that were not within their consideration, due to the emergence of new matters that the constitution failed to address. The practical reality assumes that there is no perfect constitution capable of addressing all cases, regardless of the efforts exerted by the constitutional legislator.[10] This renders the constitution flawed by legislative deficiency, necessitating the filling of gaps and remedying of shortcomings through amendments that are consistent with the newly emerged situations.[11]

Third: Reorganizing and Redistributing Powers

It is well known that the constitution defines the powers and competencies among the branches of government. In federal states such as Iraq, disputes may arise between the region and the federal government, necessitating the redistribution and transfer of powers and authorities between the two parties. The same applies to the relationship between the executive and legislative branches.[12]

Fourth: Changing the System of Government

The need for constitutional amendments may arise as a result of a change in the system of government in a state. For example, a shift may occur from an absolute monarchy to another form such as a parliamentary monarchy, or from a republican system to an imperial one. This makes constitutional amendment a pressing necessity, as it contributes to protecting the system and granting it legitimacy. Consequently, this reflects positively on the people by shielding them from the political instability of the state, especially when constitutional provisions align with and adapt to emerging political developments.[13]

Second Branch

Types of Constitutional Amendments

Constitutions, in terms of the ease of their amendment procedures, are classified into rigid and flexible constitutions. If the procedures for amending the provisions of a constitution are similar to those used for enacting ordinary laws, the constitution is considered *flexible*. However, if some constitutional provisions require special conditions and distinct procedures from those used for passing ordinary legislation, the constitution is deemed *rigid*. Accordingly, constitutional amendments can be classified into two types, as follows:

First: Formal Amendment

In some cases, it becomes necessary to amend the constitution. However, such an amendment requires a set of procedures that are neither arbitrary nor based on individual discretion. Rather, the constitution must explicitly include provisions that specify the mechanism for its amendment. When an amendment is based on these constitutional

[10] Khubaz, Zamil Maher. *Amending the Effective Iraqi Constitution of 2005 Between Theory and Practice*, Journal of Al-Kitab for Human Sciences, Vol. 6, No. 9, Al-Kitab University, Kirkuk, 2023, p. 220.

[11] Hani, Iman Qasim. *Amending the Constitution under the Iraqi Constitution of 2005*, Rafidain University College Journal for Sciences, Issue 31, 2013, p. 103 ff.

[12] Al-Bahri, Dr. Hasan Mustafa. "Hudud Ta'dil Al-Dustur wa Atharuh 'Ala Al-Saltatain Al-Tashri'iyyah wal-Tanfiziyyah." *Majallat Al-Ma'had*, no. 9, Ma'had Al-'Alamin, 2022, p. 134.

[13] Sarour, Dr. Ahmed Fathy. *The Method of Constitutional Reform*, Dar Al-Nahda Al-Arabiya, Cairo, 2006, p. 70.

procedures, it is considered a *formal amendment*. This implies that the constitutional provisions require more stringent conditions and procedures than those applicable to ordinary laws. Therefore, in this case, we are dealing with a *rigid constitution*.[14]

Second: Customary (Informal) Amendment

Although the customary amendment process may not differ significantly from the formal one in terms of requiring constitutional provisions that outline the amendment mechanism, it entails procedures that resemble those used for amending ordinary legal rules. This means that the amendment of the constitution does not follow the formal mechanisms stipulated within the constitution itself. In such cases, the constitution is considered *flexible*.[15]

Second Section

Scope of the Executive Authority and Its Procedures in Amending the Constitution

The researcher will study and clarify the competence of the executive authority in amending the constitution and the procedures followed based on the permanent Iraqi Constitution of 2005. This will be done through two demands: the first addresses the scope of the executive authority in constitutional amendment, and the second deals with the procedures applied in the constitutional amendment process.

First Demand

Scope of the Executive Authority in Amending the Constitution

As previously mentioned, constitutions differ regarding the procedures related to amending constitutional articles. This difference often stems from various political considerations, notably the requirement that amendment procedures align with the nature and system of governance. For example, in parliamentary systems, such considerations must originate from both the government and the parliament. In federal states, the considerations are related to the federal government and its constituent regions or states.

Regarding technical considerations, these relate to the style of constitution drafting by its framers and the resulting solutions. For instance, some constitutions operate under the principle of legal form reciprocity, meaning that the constitution can only be amended by the authority that enacted it. Furthermore, the procedures for constitutional amendments must be similar or identical to those followed in its enactment. Thus, the process of amending the constitution is the prerogative of the constituent authority because it is the authority that drafted the constitution and established its provisions.[16]

It is important to note that constitutional law scholars do not unanimously agree on which authority holds the right and competence to carry out constitutional amendments, nor have they agreed on a clear mechanism for the amendment process. The scholarly opinions can be summarized as follows:

First Approach:

Supporters of this approach recognize giving the people the authority to amend the constitution. They base this on the idea that the written constitution stems from the social contract theory—that is, the constitution is established by all the people. Therefore, the

[14] Legal consensus rejects the absolute prohibition of constitutional amendment, considering it contradictory to the necessities of development, which require constitutional texts to keep up with life. This prohibition also contradicts the principle of the sovereignty of the people and their right to legally amend the constitution. Otherwise, the people may resort to violent means such as revolution or coup. See: Bassiouni, Dr. Abdel Ghani. *Intermediate Text in Political Systems and Constitutional Law*, Vol. 1, Al-Maaref Establishment, Alexandria, 2004, p. 512.

[15] Haykal, Dr. Al-Sayyid Khalil. *Constitutional Law and Political Systems*, Cairo, no publisher, 1983, p. 73.

[16] Sheeha, Dr. Ibrahim Abdul Aziz. *Political Systems and Constitutional Law*, Al-Maaref Establishment, Alexandria, no publication year, p. 88.

constitution cannot be amended without the consensus and the will of the people to do so. This leads to the constitution becoming absolutely rigid, as achieving such consensus is practically impossible.

Second Approach:

Proponents of this view believe that the amendment process is the right of the people or their representatives. Their reasoning is that the constitution is the source of authorities and defines their competencies, so these authorities cannot amend the constitution that created them. However, this does not negate the people's right to amend the constitution, since they are the sovereign. Accordingly, the people have the right to amend, repeal, or even issue a new constitution. Since the people hold absolute authority, sovereignty, and freedom, they may exercise this right either directly or through their representatives.

Third Approach:

Advocates of this approach hold that constitutional amendments must be within the competence of the established authority. Their rationale is that amendments to constitutional provisions can only be carried out through the mechanisms stipulated by the constitution. Moreover, a specific authority must exist for this purpose. Modern constitutional scholars tend to agree with this approach, distinguishing between the original constituent authority (which drafted the constitution) and the constituted authority responsible for making constitutional amendments. The latter is bound by the limits set by the constitution and must follow the prescribed procedures and mechanisms.

Since the Permanent Iraqi Constitution of 2005 is relatively rigid, its amendment depends on following the procedures set forth in the constitution, which help maintain its dignity and supremacy. In truth, the matter of amendment is not easy but not impossible. The constitutional provisions specify two means through which constitutional amendments can be made, which are:

First Means:

Article 126 of the final provisions of the constitution outlines the mechanism for constitutional amendments. This article grants the authority to propose amendments to the executive branch jointly—that is, the President of the Republic and the Prime Minister together. It also grants this authority to one-fifth (1/5)[17] of the members of the Council of Representatives. However, there is no mention of the members of the Federation Council, which, according to Article 48 of the constitution, did not come into existence as one of the two legislative branches. This means that the President of the Republic cannot propose an amendment alone, nor can the Prime Minister do so independently. Both executive authorities must agree for the amendment proposal to be considered valid. This leaves room for disputes and disagreements because the constitution does not specify which executive authority has the predominant role in proposing amendments.[18]

Second Means:

As noted earlier, the role and authority of the Council of Representatives in proposing constitutional amendments does not cease. The constitution permits the Council of Representatives to submit the proposed amendments and vote on them all at once. The amendments must receive an absolute majority (half plus one) of votes. Afterward, these amendments are to be presented to a general referendum for the people to express their opinion.[19]

[17] Al-Bahri, Dr. Hassan Mustafa. *Op. cit.*, p. 139 ff.

[18] Al-Sukaini, Dr. Hussein Ghalib. *Controversial Issues in the Iraqi Constitution*, Al-Ghadeer Printing, Basra, 2008, p. 12.

[19] According to Federal Supreme Court Decision No. 90/Federal/2017.

Some constitutions explicitly prohibit amending the constitution during a specified period determined by the constitutional legislator and stipulated within the core text of the constitution. This aims to ensure the continuity and stability of constitutional provisions over a certain duration. This concept is referred to in constitutional jurisprudence as temporal prohibition. It often occurs when a new regime is established, prompting the constitutional legislator to impose this restriction to guarantee the stability and firmness of the political system. Additionally, it serves other goals pursued by the ruler or ruling party, such as eliminating opposition during the designated period.

The current Iraqi constitution prohibits amending the articles contained in the basic principles (Chapters One and Two) until after the completion of two consecutive electoral terms.

Some constitutions also impose another type of prohibition known as substantive prohibition, whereby certain constitutional provisions cannot be amended under any circumstances or at any time.[20]

The process of amending the constitution is not always strictly bound by the limits set by the constitution itself. This means some constitutions may impose either a temporal prohibition on amendments or explicitly state a substantive prohibition on certain articles. These are explained as follows:[21]

First: Temporal Prohibition

Temporal prohibition refers to preventing any partial or total amendment of the constitution's provisions within a specific timeframe. The primary purpose of this prohibition is to protect constitutional texts from modification or repeal, thereby ensuring constitutional stability.[22]

The current Iraqi constitution of 2005 contains such a temporal prohibition. This prohibition applies to Chapter One, which concerns general principles, and Chapter Two, which concerns rights and freedoms. The constitution enforces a temporal ban covering two consecutive electoral terms, based on Article 126 (second clause). This effectively sets the prohibition period to eight years.[23]

Additionally, the temporal prohibition may not always be limited to a fixed period. Sometimes, its rationale relates to exceptional circumstances that the country is experiencing, such as foreign occupation. An example of this is Article 94 of the 1946 French Constitution, which stipulated that constitutional amendments cannot be made if the homeland, in whole or in part, is under occupation.

Second: Substantive Prohibition:

This refers to the prohibition of amending certain specific constitutional provisions. The constitutional legislator may resort to this prohibition aiming to protect the fundamental pillars of the political system. The Iraqi Constitution of 2005 adopted this type of prohibition based on Article 126 (Fourth Clause), which states the inability to amend some constitutional texts that would reduce the powers of the regions.[24]

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[20] An example of this is the French Constitution of 1791, which imposed a four-year prohibition on proposing amendments. Similarly, the Greek Constitution of 1930 adopted the same principle with a five-year prohibition. See: Bassiouni, Dr. Abdel Ghani, *Op. cit.*, p. 520.

[21] Article (126/Second) of the Iraqi Constitution of 2005.

[22] Another example is the French Fourth Republic Constitution (1946) and the Fifth Republic Constitution (1958), which prohibit any amendment to the republican form of government. The 1923 Egyptian Constitution also banned amendments to the inheritance of the throne and the parliamentary system. See: Bassiouni, Dr. Abdel Ghani, *Op. cit.*, p. 519.

[23] According to the decision of the Supreme Federal Court No. 90/Federal/2017.

[24] For example, the French Constitution of 1791 stipulated a time ban preventing the proposal of constitutional amendments except after four years had passed; likewise, the Greek Constitution of 1930 adopted the same principle and prohibited amendment except after five years. See

Second Section

Procedures for Amending the Constitution

While constitutional provisions require following special procedures to amend the constitution to guarantee stability and ensure firmness, at the same time, they restrict the process of proposing amendments to how ordinary laws are amended. This process passes through three stages before the constitutional amendment becomes effective and binding. These stages are as follows:

First: Proposal of the Amendment

Constitutional jurisprudence differs on the exact meaning of the term "right of proposal" from a linguistic perspective. However, their views largely agree on its technical or legal meaning. Some define it as the act aimed at laying the initial foundation for legislation, including its content and subject matter.

Yet, some jurists criticize this definition because it does not distinguish between the right of proposal and other rights that might share similar purposes. For example, some constitutions grant the head of state the right to alert the parliament about certain issues that require legislative attention, which is different from the actual right to propose amendments.[25]

The constitution must explicitly specify the authority competent to propose constitutional amendments. This power may be assigned to the executive authority. For instance, the 1976 Algerian Constitution granted the President of the Republic absolute authority to propose amendments. Other constitutions, such as the United States Constitution of 1787 and the Iraqi Constitution during the monarchy in 1925, assign this right to the legislative authority.[26]

Some modern constitutions, including the current Iraqi Constitution of 2005, allocate the right to propose constitutional amendments to both the legislative and executive branches. This establishes a broad basis for cooperation and balance between these two authorities, although the Iraqi Constitution imposes stricter amendment procedures on some provisions, especially those contained in Chapters One and Two.[27]

The Iraqi constitutional legislator, in drafting the current constitution, adopted two approaches regarding the authority competent to propose constitutional amendments:

- The first approach grants this authority jointly to the President of the Republic and the Prime Minister, meaning that neither party alone can propose amendments independently.
- The second approach assigns this authority primarily to the legislative authority, requiring that amendment proposals be submitted by at least five members of the Council of Representatives.

However, the political realities impose challenges that require achieving political consensus within the parliament regarding the content of the proposed constitutional amendments before the Iraqi parliament can pass them. The researcher believes that the political reality has demonstrated the difficulty of achieving consensus among political

also Basyouni: Dr. Abdel Ghani, previous reference, p. 520.

25 Article (126/Second) of the Iraqi Constitution of 2005.

26 For example, the ban stipulated in the Constitution of the Fourth French Republic of 1946 and the Constitution of the Fifth French Republic of 1958, which both indicated that the republican form of government could not be amended; likewise, the Egyptian Constitution of 1923 prohibited amending provisions related to the hereditary system of the throne and the form of the parliamentary government. See also Basyouni: Dr. Abdel Ghani, previous reference, p. 519.

27 Abdel Wahab: Dr. Mohammed Rifaat, Constitutional Law, Al-Dar Al-Jamia, Alexandria, no publication year, p. 64.

blocs even on ordinary legislation, which makes agreement on constitutional amendments even harder. Consequently, the constitutional provisions related to amendments might remain merely "ink on paper" in light of this serious issue.[28]

Second: Approval of the Amendment

Approval of the amendment means deciding on its importance and necessity. Here, the parliament's role is to determine this necessity. Most constitutions around the world grant parliament the power to approve amendments, as it represents the people and exercises powers on their behalf.

The current Iraqi constitution aligns with this consensus by requiring that constitutional amendments be approved by the parliament, whether the proposal originates from the executive authority or from at least five members of the legislative authority, based on Article 126 of the constitution. Moreover, the constitution requires a two-thirds majority approval from the members of the Council of Representatives. It also requires the approval of the people through a general referendum.[29]

Additionally, Article 126 stipulates that the President of the Republic must ratify the amendment within seven days. If the president does not ratify the amendment within this constitutionally specified period, the amendment is considered ratified by default according to paragraph five of the same article. Subsequently, the amendment is published in the official gazette to become effective.

Conclusion

At the conclusion of this research, the researcher reached a set of results and recommendations as follows:

First: Results

The researcher concluded the following results:

1. The first step in the constitutional amendment process is the proposal of the amendment. This authority is assigned by the constitution to the executive authority jointly — the President of the Republic and the Prime Minister — and it is also granted to the Council of Representatives through a request submitted by five of its members.

2. Constitutions differ in terms of amendability; some are rigid and difficult to amend, while others are flexible and easier to amend.

3. The main purpose of constitutional amendments is to keep pace with new developments and ideas, as well as to fill gaps and correct flaws in the constitutional document.

4. The current Iraqi Constitution of 2005 is considered relatively rigid due to the complexity imposed by the constitutional legislator on the process of amending its provisions.

5. There exist many gaps and contradictions in the provisions of the current Iraqi constitution.

Second: Recommendations

1. The weaknesses and deficiencies in the provisions of the constitution necessitate making constitutional amendments to the current Iraqi constitution, especially since it was written under the shadow of occupation.

[28] Al-Mufaraji, Dr. Ihsan Hameed; Naamah, Dr. Katran Zgair; Al-Jadah, Dr. Raghad Naji. *General Theory in Constitutional Law and Political Systems in Iraq*, Baghdad, 1990, p. 256.

[29] Asfour, Dr. Saad. *Constitutional Law*
Khalil, Dr. Mohsen. *Political Systems and the Lebanese Constitution*, Dar Al-Nahda Al-Arabiya, Beirut, 1979, p. 578.

2. The executive authority and the Council of Representatives are urged to resort to the people, as they are the true source of authority, to clarify their demands and accordingly proceed to amend the constitutional provisions to meet those demands.

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