

Legal Oversight Mechanisms For Financing Election Campaigns (An Analytical Study In Iraqi Legislation)

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Abstract

This study deals with the legal and procedural frameworks adopted by the Iraqi legislature to monitor financial expenditures during electoral processes, which are considered a means of peaceful transfer of power. However, its effectiveness is associated to its integrity and equal opportunities among competitors. Political funds forms the greatest challenge to this integrity, as illicit or unregulated money can falsify voters will. Hence the importance of legal oversight and the mechanisms followed by the authority over sources of spending, and this is what forms the importance of studying within the role of oversight to protect the integrity of the electoral fund from the dominance of political funds. The mechanisms of this monitoring were discussed in two topics. The first dealt with the legal system for sources of electoral campaign financing

Topic two is devoted to institutional oversight mechanisms and legal sanctions. The study concluded that the Iraqi legislature, through the election law and the political parties law, imposed strict restrictions prohibiting foreign funding and the use of state resources, while asking political entities to disclose their financial resources and limit expenditures. However, analyses indicate that there is a gap between the legal text and its practical application due to the reliance on cash transactions and the difficulty of tracking indirect sources of financing. This requires strengthening the role of the integrity commission and the financial oversight office alongside the Electoral Commission .

Introduction

Elections are a means of peaceful transfer of power, but their effectiveness depends on their integrity and equal opportunities among competitors. "Political funds" poses the greatest challenge to this integrity, as illicit or unregulated money can falsify the voters will . Hence the importance of legal oversight of the sources and aspects of spending this money. The concept of political funds has emerged at the present time as a result of the development of political mechanisms and their effect on social and economic aspects, due to mass and voluntary activities in the field of political activity, to buy supporters and gain loyalty or fragment the opposition., to achieve the interest of a certain group or a certain country, and it is employed in certain areas, such as legal or illegal areas, to influence political positions In the field of elections in particular, or popular revolutions to change regimes, as happened in the Arab Spring, and has become a means of spreading chaos in any society in which change is intended according to the whims of those who bring about these things.(1)

The theoretical (scientific) importance of this topic lies in the scarcity of specialized studies that combine electoral law and financial law - tax and accounting legislation - especially in Iraq, as it is undergoing a new democratic trail that faces many challenges, which calls for establishing accurate definitions of the controversial terms that face this experience, such as political funds , parallel financing, and disguised propaganda within the context of Iraqi legislation, highlighting the extent to which Iraqi laws comply with international standards related to election integrity, such as United Nations standards and the Convention against Corruption.

The practical and applied importance lies in demonstrating how strict oversight can prevent Iraqi political decisions from being held hostage by external or internal entities and any other agendas, this strengthens state sovereignty and protects national

sovereignty, on the other hand, these mechanisms guarantee independent and emerging candidates an equal chance to compete in front of the blocs and enhancing voter confidence.

The research problem lies in the gap between legal texts—the election law and the political parties law—and their practical application, where election spending has escalated beyond established limits, with some funding sources remaining unclear, to what extent are the current legal mechanisms sufficient and effective in regulating election financing in Iraq? Although the Iraqi legislature imposing strict restrictions on funding sources and spending limits, the reality on the ground is a massive inflation of campaign expenditures that are disproportionate to the financial reports submitted by political entities.

This study aims to examine the elements of the problem through an analytical and descriptive approach to the provisions of the election law and political parties law, as well as the regulatory organizations operating under these two laws, according to the following plan: Topic One: The Legal Framework for Campaign Funding Sources; Requirement One: Election Funding, its Types and Regulations; Requirement Two: International Principles of Transparency in Political Funding; Topic Two: Institutional Mechanisms for Oversight and Legal Sanctions; Requirement One: The Role of the High Electoral Commission and the Financial Control Bureau; Requirement Two: Challenges Facing Oversight and Conclusion.

TOPIC ONE

The Legal Framework for Campaign Funding

Party life in Iraq began with the formation of the Iraqi state in 1920. The first step towards establishing parties was the issuance of the Political Parties Law in 1922 during the monarchy. Political parties during this period were characterized by a degree of pluralism and a lack of clear direction. They were divided into five main groups: conservatives, socialists, reformists, nationalists, Marxists, and religious groups, each of these groups sought to dominate Iraqi party life and, consequently, control the political leadership. These parties continued to operate and organize, drawing on cultural values as their starting point. They focused on attracting students and intellectuals, publishing newspapers and magazines, and developing their internal structures. With the onset of changes on the international stage and the outbreak of World War II, two intellectual currents emerged, competing for political and party leadership in Iraq: the conservatives (later labeled reactionaries) and the modernists (called progressives). The nationalist current also began to play a role alongside the other political parties, until The Ba'ath Party seized control of political and leadership affairs in Iraq, and other parties began to fade away in its face, only the religious opposition parties remained, adopting armed struggle as their method of operation, all these parties were working on organizational and mass mobilization, either in a hierarchical structure from the bottom up or in an authoritarian manner, either in the ruling party or the opposition.(2)

REQUIREMENT ONE

Election financing, its types, and regulations.

With the change in the political system in Iraq after 2003, party life began to operate rapidly and multiple times in a very different political, social and cultural environment, which facilitated its work at times and complicated the matter at other times. Therefore, political parties in Iraq after 2003 went through several stages from an organizational standpoint in order to reach the real party organization and form a strong party

structure based on legal foundations and organizational rules in order to achieve several goals, including:

Reversing the democratic image of the political system by ensuring the existence of political parties and political pluralism,

Organizing the work of political parties in a coordinated manner facilitates the process of dealing with them, their continuity and sustainability

Granting legal legitimacy to the existence of parties, and resolving the debate about their legal legitimacy; Due to the lack of a legislative law regulating the process of political parties.(3)

Ensure the continuity of the electoral process through the presence of organized parties that operate during the pre- and post-election period, and do not operate as electoral blocs only during the election period, a legal system was necessary to operate within this framework. From here, we will discuss the Parties Law and its organization for financing the elections of candidate parties, explaining the sources of funding for those parties in the first branch, and then discussing the Iraqi Council of Representatives elections law and the United Nations UNAMI reports assisting in the Iraqi elections in the second branch.

Branch One – Sources of funding in the Political Parties Law

Law No. (36) of 2015, the Law on Political Parties and Organizations, was enacted by the Iraqi Parliament, this law contained many positive provisions, but at the same time, it contained many negative and vague articles that opened the door to various interpretations, nearly six years have passed since the law's enactment, and two electoral cycles have been held under its provisions. Numerous parties have been formed in accordance with this law—some established before its enactment and others after, Therefore, it is necessary to examine both periods to understand the impact of this law on funding sources and the loopholes it contains.

First - Iraqi Political Parties Before 2015:

The first organization of political parties after 2003 came about according to Resolution (97) of 2004 issued by the Coalition Provisional Authority under the leadership of Paul Bremer. This resolution was considered the political parties law at the time and regulated their operations. In accordance with Resolution No. (92) of 2004, also issued by the Coalition Provisional Authority, which established the Independent High Electoral Commission, both resolutions were based on an integrated vision: that there can be no democracy without political parties. This process had to be regulated within a legal framework. Therefore, under Resolution No. (97) mentioned above, political entities were formed, and under Resolution No. (92) of 2004, they were permitted to participate in elections. However, this faced considerable criticism and reservations, which ultimately influenced the shape of the political process, among the most significant of these reservations are the following:

1. The resolution was issued from a weak environment and did not align with the nature and scale of the political or social situation necessary for establishing a democratic system and a strong state.
2. The absence of a constitutional basis and national oversight of campaign funding sources hinders the independence of political decision-making and protects the electoral process from dubious funding.
3. The lack of parliamentary oversight of expenditures, spending levels, and funding priorities.
4. There is no doubt that public funds were managed by decisions of the occupying authority and are not subject to national accountability, and reliance was placed on the

development fund for Iraq. Elections and parties were financed in implementation of the aforementioned decisions from oil revenues and previously recovered Iraqi funds, which were originally managed by the Coalition Authority and were not subject to transparent Iraqi mechanisms and an effective mechanism.(4)

This resulted, under the pretext of protecting parties and the electoral process, in the entry of foreign private security companies, which were spent on large sums of money without legal or financial accountability due to their enjoyment of immunity. Also, the absence of auditing by the Financial Control Bureau, to resolve it like public institutions in general by Bremer, resulted in weak financial documentation, ambiguity of contracts concluded, difficulty in tracking spending, (5) and the absence of judicial oversight due to immunity. It resulted in weakening the legitimacy of the parties' funding sources, the electoral process, and their funding sources.(6)

After the US invasion of Iraq in 2003, the Iraqi State Administration Law for the Transitional Period of 2004 was approved by the Governing Council. According to the preamble of this law, it aims to establish a mechanism to remove the effects of racist and sectarian policies and practices, address temporary problems, and manage the affairs of Iraq during the transitional period until an elected government is established that operates under a permanent, legitimate constitution. Article 4 states that "the system of government in Iraq is republican, federal (federal)." Democratic, pluralistic, Article 20 states, "Every Iraqi who meets the stipulated conditions in the electoral law may nominate himself for the elections and cast his vote in secret in free and open elections.." Through both articles, he mentioned party pluralism and elections, leaving the matter to the laws regulating them without going into any detail.

The aforementioned law served as a temporary constitution regulating the transfer of power. It did not grant explicit authority over resources or long-term immunities, and was considered more of a political cover than a financial or sovereign document.

In 2008, an agreement was concluded between the United States and the Iraqi government concerning the status of forces. This agreement established clearer judicial and financial mechanisms, replacing the Coalition Provisional Authority orders, and placed parliamentary oversight solely on public funds.(7)

Second - Iraqi political parties after 2015

The Parties Law No. 36 of 2015 came and ended the legislative vacuum in party financing, trying to transfer party work from financial disorganization to legal regulation, but it did not lead to real reform, but rather established the superiority of the major parties by requiring the party to have bank accounts and financial reports, after it had private financing networks and adapted formally to the requirements of the law, although Article (33) and the regulations issued by the Election Commission for the year 2023/2024 divided the funding sources into main sections:

First: Members subscriptions.

Second: Internal donations and grants.

Third; The returns on investing his money according to the provisions of the aforementioned law.

Fourth: Financial aid from the state's general budget in accordance with the criteria contained in this law.

Financing has become a tool for reproducing party elites, and undeclared financing has become a continuous phenomenon despite the legal ban, this financing is linked to political influence with weak scrutiny and weak deterrent penalties, this has resulted in a legal duality: a disciplined legal text on the one hand and an unruly financial reality, which has led to the decline of solid ideological parties into pragmatic parties and temporary party alliances. Financing has become clear as a tool for political survival

rather than a means that represents society, the voices of the protesters rose in demand to expose the financing, hold accountable the parties that depend on political money, and monitor and hold accountable the sources of funding.(8)

One of the important effects that resulted from the lack of monitoring of funding, the funding issue has been linked to political stability and has become a feature of the post-2015 phase, resulting in fragile coalitions, uncontrolled funding, weak consensus governments and the disruption of political reform, therefore, the problem of parties in Iraq in the post-2015 phase is not a legal problem, but the construction of party funding and monitoring.

Branch two -Election law and UN resolutions UNAMI

First-Iraqi electoral law

The Iraqi election law is considered one of the most controversial and transformative laws in the political scene, and the United Nations Assistance Mission for Iraq (UNAMI) has played a pivotal role in formulating its features and guiding its technical and legal paths,(9) the Iraqi parliament passed a fundamental amendment to the law on elections to the House of Representatives and provincial and district councils No. 12 of 2018, the Third Amendment Under Law No. 4 of 2023 was known as the amended "St. Lego" law, and the most prominent points are:

- 1.The single-district system means that each governorate is considered a single electoral district (instead of multiple smaller districts).
- 2.The mechanism of vote counting is the adoption of the St. Legue system, adjusted by an electoral division of 1.7 in favor of large blocs and strong alliances at the expense of independents.
- 3-Counting and sorting combine electronic and manual counting and sorting to ensure transparency and reduce appeals..
4. The women's quota maintains the percentage of women's representation by at least %25 of the seats in the House of Representatives.

This amendment is considered a "double-edged sword" that reflects the conflict between the desire for political stability and the desire for change and broad popular representation, the positives from the point of view of the large blocs:

-Political stability and Prevention of fragmentation of Parliament into dozens of small blocs, which facilitates the process of government formation and strong alliances, on the one hand and on the other

-Reduce the loss of votes in the multi-constituency system, many list votes were wasted, while in the St. Lego system, single-list votes are combined to enhance their chances.

As for the negatives from the point of view of independents and activists, there are many, as it constitutes a means of excluding emerging forces and reduces the opportunities of small parties and independents, moving the same traditional faces and blocs every time.

It is also a way to return to centralization through the "one-district governorate" system, which makes the voter lose the direct link with the candidate of his region (district or sub-district), and makes loyalty to the party more important than loyalty to the voter.

Sainte-Laguë system works by dividing the votes for each list by odd numbers (1.7, 3, 5, 7, etc.). Seats go to the lists with the highest divisors, in the original system, divides on 1, allowing all lists to win seats. The modified Sainte-Laguë system (divided by 1.4) provides a more balanced and equitable representation. However, the current system (divided by 1.7) creates a barrier for independent candidates, as they need a massive number of votes to surpass the combined divisors of the major blocs.(10)

Sainte-Laguë Amendment 1.7 in Iraq was a "political reaction" from the traditional forces to regain the control they partially lost in the 2021 elections, and although it may achieve stability in the formation of the government, it may lead to an increase in the "gap" between the public and the political system as a result of the voter's feeling that his vote goes to the big blocs no matter how he tries to change. (11)

To sum up, the aforementioned law did not address the issue of election financing, who pays to the observers, for candidates, and how much the blocs and candidates spend on election propaganda.

Second-Role of the United Nations Mission

As far as the UNAMI mission is concerned, an oversight body is conducting technical operations to ensure that:

Technical and logistical support(12) through an Electoral Assistance Team, through consultations with the Independent High Electoral Commission, the correct application of the electoral law, the design of the ballot paper, and the management of the results acceleration system.

Reviewing laws and making recommendations, and submitting periodic reports to the UN Security Council and the Iraqi government, related to observations on the distribution of seats of deputies, ensuring the rights of minorities and independents, and filling legal gaps through which fraud can occur.

The nature of the role of UNAMI, in addition to the above-mentioned in the role of monitoring and international legitimacy through its decisions and statements of its representative (formerly Jeanine Plasschaert), which gives the status of international legitimacy to the electoral process, if the mission points out that there is a defect in the law or in its application, this puts great international pressure on the Iraqi government to amend the defect. (13)

UNAMI's role is also embodied in crisis management and mediation, such as the crisis following the 2021 elections (contesting the results), where UNAMI played the role of mediator between the objecting political blocs and commission relying on UN standards in assessing integrity.

In 2024, decisions were issued by the Federal Supreme Court based on legal appeals, which affected the "quota" seats in the Kurdistan region, and UNAMI had an intensive advisory role to ensure that the electoral process there did not collapse(14) . From here, we find that UNAMI considers transparency of political financing the backbone of the integrity of the democratic process, and it is a topic of great interest from the United Nations mission in Iraq (UNAMI) (15), especially with regard to political money, so the international principles that must be followed in the financing of the electoral process will be discussed.

Requirement two- international principles of transparency of political financing

Transparency of political financing is the backbone of the integrity of the democratic process, a topic of interest to the UNAMI mission in Iraq, especially with the challenges related to political money.

The legal basis for the international principles of political financing is based on the United Nations Convention Against Corruption, adopted by the United Nations General Assembly on 31 October 2003 by resolution 4/58

In order to clarify those principles that constitute the legal basis for the work of UNAMI and Iraq's commitment to them, those principles will be dealt with in two sections, each section outlining a principle.

Branch one - principles of the United Nations Convention Against Corruption

It entered into force on December 14, 2005, after the required number of ratifications (30 countries) was met, and Iraq officially acceded to this Convention under Law No. (35) of 2007.

This accession entailed legal obligations before the international community and (UNAMI) mission for Iraq (16). These obligations include:

1. This disclosure constitutes a preventive measure, obligating those responsible for disclosure
2. Prosecuting perpetrators of criminal acts such as bribery, embezzlement, and money laundering, and applying legal provisions through the judiciary.
3. Recovering funds smuggled abroad through international cooperation and extradition agreements..
4. Electoral transparency, a modern term meaning that elections are conducted in good faith, based on a law regulating the process, and without fraud or gross misconduct. This is what the aforementioned Convention stipulates in Article (7), Paragraph 3, regarding the necessity of promoting transparency in the financing of candidacies for public office and in the financing of political parties.(17) This convention has gained international importance, with the United Nations General Assembly declaring December 9th of each year as International Anti-Corruption Day to raise awareness of the dangers of corruption and the convention's role in combating it.(18)

Since Iraq has been a party to this convention since 2007, the United Nations Mission for Iraq (UNAMI) uses legal obligations as leverage during the drafting of laws related to elections and their financing, including the Political Parties Law. UNAMI has insisted on activating the articles of the Iraqi Political Parties Law that require parties to disclose their funding sources and open official bank accounts under state oversight.

The mission has also called for setting a specific spending limit for each candidate in each election cycle to reduce the disparity between wealthy individuals and independent and youth candidates.

UNAMI has also monitored the provision of technical support to the Independent High Electoral Commission (IHEC) to establish specialized units for handling financial complaints and auditing campaign spending receipts. Despite the existence of legal provisions, periodic reports from UNAMI and international organizations often point to gaps in implementation, including the difficulty of conducting transactions outside the banking system.(19) , monitoring of cash funds, and use of state resources (cars, official media) for the benefit of certain groups, which is contrary to the spirit of the international agreement.

UNAMI has based its reports to the Security Council on strict criteria for assessing the electoral environment in terms of financial and spending, and the mission has indicated on several occasions that the absence of real oversight

of the electoral spending ceiling creates a lack of equal opportunities between independent candidates and emerging blocs, making unfair competition.

Monitoring cases of the use of government vehicles , the exploitation of public jobs, or the distribution of promises of appointments and service projects as a tool for electoral propaganda.

UNAMI considers this behavior a direct violation of Article (7) of the Convention against Corruption, because it gives current office holders an illegitimate advantage.(20)

Branch two – Best Practices

There are general legal principles and international norms that have settled in the conscience of the international community and are now used to measure the legitimacy of electoral systems, even if they are not formulated in a specific local legal article, these principles are known as best practices, and UNAMI is often based on these principles,

the principle of equal opportunities is considered one of the general legal principles, so the state must commit to monitoring the financing of the electoral process in a way that does not effectively affect the voter's vote, on one hand, and on the principle of equal opportunities between candidates.

Unlimited spending is unilaterally intended by political blocs, according to international custom, to corrupt the essence of democracy, therefore, the United Nations is pressing, based on this principle, to set electoral ceilings.

Moreover, there is the principle of institutional neutrality, which is an important principle in public international law and requires that public money not be confused with party money.

International custom prohibits the exploitation of the period of electoral silence or the use of state resources, such as official media or employees in electoral propaganda, otherwise we are either in the principle of abuse of power, (21) which is one of the principles of administrative law and means that the administration uses its discretionary power for purposes other than those granted to it by law, to achieve a personal or political interest or for revenge or discrimination, instead of achieving the public interest, even though the administration's decision may be correct on its face and conform to the jurisdiction and form. (22)

International courts such as the European Court of Human Rights consider transparency of funding to be part of freedom of expression, and therefore excessive funding by certain parties for a candidate would affect voters' freedom of expression.

There is a principle prevalent in Europe called the Venice Commission, which has become an international standard. It stipulates that a party whose campaign is financed by foreign entities must have its seat revoked. This principle emphasizes proportionality between the violation and the penalty, furthermore, the body that monitors party finances, such as the Independent Electoral Commission, must be truly independent of the executive authority. (23) In addition, there is the principle of financial traceability, which requires that every sum used in political activity have a documented record—that is, official written proof—to eliminate the need for cash payments, which are untraceable.

These principles fill any gaps in legislation and constitute the third source of international law, known as the general principles of law.

TOPIC TWO

Institutional Mechanisms for Oversight and Legal Sanctions

The United Nations has worked to promote free and fair elections in fully sovereign states, at the request of those states, and as an integral part of its role in strengthening international peace and security. Therefore, international election monitoring is considered a supportive measure for enhancing stability in society and does not constitute an infringement on state sovereignty, as it is only carried out with the state's consent and is not considered interference in its internal affairs. At the same time, it does not constitute international pressure or external interference, but rather is carried out by an international organization at the request of the state itself. The United Nations maintains its neutrality and avoids conflating international monitoring with international pressure. (24)

Furthermore, there are supporting national bodies that play an active and supportive role in national elections. These include the High Electoral Commission and the Financial Control Bureau, which monitor the electoral process, its funding sources, and the penalties that must be applied by the judiciary to violators. Therefore, we will address

the role of each of the aforementioned bodies in the requirement one of this topic, and the challenges facing election oversight in the requirement two.

Requirement one – The Institutional Role of Election Oversight

Accepting election monitoring is a national and sovereign act, and adopting it strengthens state sovereignty and stability, and ensures the proper management of internal affairs. Numerous UN General Assembly resolutions affirm this, including Resolution 180/85 of 2004, which calls for "strengthening the role of the United Nations in enhancing the effectiveness of the principle of holding periodic and fair elections and promoting the establishment of democracy." Similarly, Resolution 189/58 of 2004 emphasizes "respect for the principles of sovereignty and pluralism of democratic systems in electoral processes as essential elements in promoting and protecting human rights." (25) Therefore, this requirement will define institutional election monitoring, its characteristics, and the bodies that conduct it, to highlight the importance of the mechanisms that should be followed. In the branch one, we will examine the role of these institutions, particularly the Financial Control Bureau, in monitoring the financing of the electoral process in branch two.

Branch One - Defining Institutional Election Oversight and its Mechanisms

Various electoral laws, including Iraqi law, do not define international (institutional) election oversight. Legal scholars have defined international election oversight as "the process through which international observers are appointed to inform the international community about the conduct of the electoral process and its compliance with international democratic standards."

The European Union defines it as "a process that provides a comprehensive, independent, and impartial assessment of the electoral process, enhances public confidence in the electoral process, and may contribute to increased voter participation, which in turn reduces the risk of election-related conflicts." (26) Comparing the two definitions, we find that the first definition highlights the international objective of election oversight and does not address the societal objective addressed by the European Union's definition. While election oversight is indeed a process of applying legal standards to ensure the regularity and consistency of the electoral process, its ultimate goal is to achieve fairness and ensure the public feels confident in their choice, thus preventing conflicts and societal instability.

The United Nations adopted the principles of international election observation document in 2005, and a number of international and regional organizations have approved this international document, and this document has become a benchmark for the credibility and professionalism of international election observation . (27).

Oversight is one of the most important means of providing an objective and impartial assessment of the various stages of the national electoral process. thereby enhancing transparency and accountability, as well as strengthening trust among partners in the electoral process, which leads to political stability in the country and the achievement of security and social stability, which is the goal of national elections. From this, we can identify the characteristics that oversight must have in order to determine its mechanisms in accordance with those characteristics;

1. The evaluation of the control over the electoral process must be carried out objectively and impartially, and this is guaranteed by the choice of secret ballot in accordance with the electoral law, and mechanisms and means must be prepared to prove confidentiality through secret ink, the place of choice entered by the voter, and the selection process without influence from various parties.

2. Ensure the integrity of the electoral process and assess the legitimacy, credibility, integrity of the electoral process and the accuracy of its results, so as to encourage acceptance of those results.

3. The detection of electoral fraud sought by any of the participating parties, and these are carried out according to fast and secure electronic formats and mechanisms, to ensure non-fraud, re-voting, in addition to organizing methods of Appeal.

4. Protecting human rights during the election period, through advertisements, awareness bulletins, and preparation for any type of national education and civil society building.

Oversight goes through important stages, the first before voting, and this oversight is characterized by the characteristics of:

1. Update voter records and ensure that there are no duplicate names or names of deceased people.

2. Monitoring election campaigns, monitoring financial spending, preventing the use of state resources for the benefit of a particular candidate, and ensuring the neutrality of the official media.

3. Register candidates and ensure that no candidate is excluded for illegal political reasons.

The second stage is polling day, It is necessary to:

1. Preparing the centers and ensuring the availability of closed and empty boxes, secret ink, and ballot papers.

2. The secrecy of the vote and that the voter casts his vote behind the curtain and with complete freedom.

3. The presence of observers during the opening of boxes, counting votes manually or electronically, and documenting the records in this process.

Then followed by a stage after voting, in which:

1. All results and monitoring of the transfer of funds from sub-centers to central centers to prevent their replacement.

2. Electoral appeals by following up on how the judiciary deals with complaints submitted by those affected.

The importance of monitoring the election process becomes clear from the stages that the election process goes through, through:

1. Giving legitimacy to the winners, and a strong popular mandate without doubt.

2. Oversight provides deterrence, as the presence of observers reduces attempts by employees or beneficiaries to commit fraud.

3. The oversight enables the evaluation of the electoral process, identifying strengths and weaknesses, and providing recommendations for developing electoral laws in future sessions.(28)

Branch Two – The role of the Independent Commission and the Financial Supervision Bureau

The Independent High Electoral Commission (IHEC)(29) plays a pivotal role in the Iraqi political system. It is the sole constitutional body responsible for managing and implementing all electoral processes and referendums. Its logistical role in preparing, conducting, and managing elections includes:

1. Updating the voter registry, ensuring the accuracy of eligible voter data, and developing the biometric voter card system to minimize fraud.

2. Registering political entities and alliances, receiving and approving applications from parties and candidates in accordance with legal requirements.

3. Managing polling centers, equipping stations, training polling staff, and distributing ballot boxes and electronic verification devices.

As for its oversight role, it acts as an evaluator of the electoral process through:

1. Establishing the necessary regulations and instructions to govern election campaigns, such as setting spending limits and prohibiting the use of state resources.
2. Adjudicating complaints and appeals, receiving objections from candidates or voters, and resolving them before referring them to the electoral judiciary.
3. Accrediting observers and granting licenses to local, international, and media observers to ensure the transparency of the electoral process.

Upon announcing and certifying the results, the commission assumes the responsibility of counting and sorting the votes (electronically and manually in some cases) and announcing the preliminary results.

After the end of the appeals period, the final results are announced and sent to the Federal Supreme Court for approval. It should be noted that the structure of the commission has been changed in recent years, to rely on assigned judges instead of partisan quotas, in order to enhance impartiality and integrity.

While the commission manages the logistical and technical aspects,(30) the Federal Financial Control Bureau focuses on the financial and accounting side of the electoral process, to ensure that public money is not wasted or exploited politically, it performs tasks that we can summarize with the following:

First . He audits the budget of the commission and ensures that all expenses spent by the commission, in accordance with the laws and financial instructions in force, and reviews contracts concluded with international companies (such as voting equipment companies or software testing) to ensure the integrity of the contract and the absence of waste .(31)

Second. The final accounts of the parties are supposed to be subject to the control of Financial Supervision Authority, in accordance with Article 6 and Article 9 of the Federal Financial Control Bureau Law No. 31 of 2011(32), and Article 39 of the political parties law(33) . Moreover, an attempt is being made to monitor the financial spending of candidates and blocs, although this role faces great practical challenges in Iraq due to political money, on the one hand, and the method of cash payment, and the office requires the winning candidates to submit a statement of their financial debt before receiving their official duties.

Third. Financial Supervision Authority often works in coordination with the integrity commission to monitor the performance of government ministries and institutions during the election period to prevent the exploitation of state resources for electoral propaganda, or the exploitation of government projects, such as paving roads or distributing aid as propaganda for candidates holding executive positions.

Fourth. After the end of the elections, the bureau issues periodic reports to be submitted to the House of Representatives, including its observations on the financial performance of the commission, and diagnoses any financial or administrative deviations that occurred during the electoral process.

Requirement Two: the challenges facing censorship

Election oversight in Iraq faces a complex set of challenges in which political, security, and legal factors overlap. These challenges constitute fundamental obstacles to ensuring the integrity and transparency of the process, particularly with regard to the financing and oversight process. This is particularly true given the ambiguity of financing sources and the difficulty of proving external financing or the use of political funds, due to reliance on cash circulation outside the banking system, weak procedural mechanisms, and the High Electoral Commission's lack of financial oversight bodies or field audit teams capable of tracking actual spending at the moment it occurs, and exploiting state resources, functional influence, and public resources such as cars, buildings, and

employees in electoral propaganda, which is in-kind funding that is difficult to measure and evaluate legally, and the lack of proportionality in penalties. The researcher believes that the financial penalties stipulated by law do not constitute a real deterrent compared to the political gains achieved from the violation.(34)

The matter does not stop at these challenges, but there are political and security challenges, and these, of course, do not fall within the field of the judiciary as they relate to sovereignty, and other legal challenges related to procedures, and this is the field of judicial application. From here, we divide the requirement into two branches, In the first branch, we address the challenges facing the government during whose term elections are held, and in the second branch, the challenge facing the Election Commission as the body that monitors its procedures.

Branch One – Government Challenges

The government that holds elections during its term faces various challenges, including:

First - Security and political challenges

- 1.The uncontrolled weapon and its impact on local control teams, and the pressure and intimidation it poses in some areas controlled by armed factions or tribal forces, which hinders their freedom to monitor violations.
2. The influence of political money, vote buying and the exploitation of state resources in election campaigns are among the biggest challenges that are difficult for observers to fully track, especially when they are carried out through informal networks.
3. It is difficult to document violations, and political pressures often weaken the ability of judicial authorities to take deterrent measures against large blocs .(35)

Second -Legal and procedural challenges

1. The change of the electoral system and the return of Sainte-Laguë system pose a challenge that has confused the work of observers, which requires retraining of supervisory cadres on the mechanisms of counting and calculating new seats.
- 2.There is an overlap of competencies between the Independent High Electoral Commission, the electoral judicial body and the federal court, which can lead to inconsistencies in decisions on appeals.
3. Although international missions represented by the United Nations and the European Union are welcomed, their role is often limited to observation and technical advice without direct interference or supervision of elections, which reduces their ability to change the procedural reality.

Branch Two - Challenges Facing the Independent High Electoral Commission

Despite the Independent High Electoral Commission's independence, at least in theory, it faces ongoing challenges that affect its public image. These difficulties are reflected on both the societal and technical levels.

First - Societal Challenges

1. Public skepticism regarding the integrity of election results, sometimes leading to low voter turnout.(36)
2. Political tensions between major blocs, which affect the Commission's working environment.
3. The spread of false and misleading news on social media on election day, making it difficult for observers to clarify the facts for the public.

Second - Technical and technological challenges

1. With the increasing reliance on electronic voting and counting devices, observers face the challenge of ensuring the security of the software and preventing hacking or

technical manipulation. This necessitates protecting electronic systems from hacking or technical malfunctions on election day.

2. Updating the voter registry, which results in difficulties in monitoring the accuracy of voter lists and ensuring the absence of duplicate or fictitious names, especially in areas that have experienced displacement or security disturbances. 3. It is difficult for non-governmental organizations to provide observers in all polling stations, which number in the thousands, leaving oversight gaps in remote geographical areas.

Conclusion

At the end of the research, it becomes clear that the electoral process in Iraq is undergoing a delicate transition phase, while the state has succeeded in establishing a sophisticated technical and legal infrastructure, including the biometric system and electronic counting. However, these tools alone are not enough to ensure integrity and transparency, and the real challenge in fact seems to be a structural challenge related to the extent of the ability of regulatory institutions to withstand the pressure of political money, the correlation of the interests of some blocs with external parties, and the impact of those parties on the electoral process. In addition to the technical and artistic aspects related to supervisory bodies such as the Independent Election Commission and the Financial Supervisory Authority, all of this is reflected in the supervisory mechanisms and their seriousness. From this, we find that:

The search results are summarized by:

1. There is a technical and applied gap of modern technologies, this gap reduced the opportunities for traditional manipulation of stuffing boxes on the one hand, but did not prevent indirect forms of manipulation such as pressure on the will of voters outside polling stations.
2. Experience has proved that the integration of local control represented by civil society organizations and international control is the only guarantee to strengthen the eroded popular confidence in the political system, and the Financial Control Bureau often works in coordination with the integrity commission to monitor the performance of government ministries and institutions during the election period, to prevent the exploitation of state resources in electoral propaganda, but it does not have the means to help it track money, especially cash.
3. The electoral judicial body and the federal court remain the last resort for resolving disputes, which requires the complete neutrality of these institutions from political rivalries to ensure the acceptance of the results.

Recommendations

We can identify the recommendations by three axes:

Axis one -concerns the need to amend the election law, explicitly stipulating the maximum of what a candidate or party can spend during the campaign, to ensure equal opportunities and prevent the exploitation of political money, and to put deterrent punitive provisions when using public money, oblige each party or candidate to open one bank account and advertiser dedicated exclusively to the election campaign, and prevent indirect financing from economic entities or civil society organizations supported externally during the election period.

Axis two - concerns institutional oversight, through activating a permanent cooperation protocol between the Independent High Electoral Commission and the Federal Financial Supervision Bureau, to accurately and professionally audit the final accounts of electoral campaigns, establish a joint unit that includes the Integrity Commission and the Central Bank to monitor suspicious financial transfers that coincide with the start of electoral

campaigns, and consider appeals related to illicit financing before announcing the final results, to ensure the exclusion of winners by illegal means.

Axis three– In terms of technical and procedural mechanisms, parties must be obligated to publish periodic reports during the election campaign period, on a website designated by the Independent Election Commission, in which it explains the sources of large donations. Granting legal observer status to competent organizations to monitor spending on advertisements and electoral forums and compare them with the financial reports submitted to the Commission. Establish a legal mechanism to evaluate non-cash donations, such as providing cars or free advertising space, and consider them part of the permissible spending ceiling.

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