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**The Parliament of Kurdistan - Iraq: Slow but Steady Coming  
into Existence of a Non-State Parliamentary Institution**

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# Introduction

The scholarly literature on the legislative branch of political systems often disregard the Middle East region and specifically the Gulf countries (Iran, Iraq and the GCC states). The traditional approach, based on the classical political science division of executive authority between presidential, semi-presidential and parliamentary systems, and the focus on the representation criteria makes any analysis of this complex region of a revolutionary republic (Iran), a reconstituted republic (Iraq since 2003), and a group of Arab monarchies with very distinct traditions and governance styles and political cultures, difficult. These countries' governance systems feature a variety legislative practices and different degrees of accountability and balance between the legislative and the executive branches of government, and certainly some work better others, but they do not as a rule enjoy consolidated or semi-consolidated democratic systems. The fact that the Gulf region has remained, broadly speaking, in the grey zone of the hybrid political regimes, without a clear definition of the attributions granted to the legislative/shura/consultative councils, has made this project necessary in order to explore and understand what is the actual role, function and performance of the elected and appointed chambers in this particular region and under what institutional structures do they function.

Scholars attribute to the legislative chambers three main roles within the political systems:

1. Linkage, representation, debate and legitimation;
2. Oversight and control, mainly on the executive branch;
3. Policy making.

Bearing in mind these commonly accepted attributes, the objective of this project is to use comparative elements to analyze the different case studies that compose the Gulf region in the three roles, and to address the following questions:

Which is the primary role of the councils within the political system in the Gulf region? Which grade of autonomy the councils have regarding the executive branches of government?

How influential the councils can be in the policy making process?

What makes a legislative body efficient?

How representative and accountable they are?

What is the perception from the civil society about the role and performance of the councils?

To fill the gap in the literature, this 'Majlis in the Gulf' project gathered a distinguished group of scholars and specialists from within the region, equipped with the necessary methodological and comparative tools, to discuss and assess the role, function and performance of every one of the legislative/consultative chambers in the Gulf region. The project was initiated within the Gulf Studies Center at Qatar University, led by Dr Luciano Zaccara, and supported at its launch by the Konrad Adenauer Foundation (Gulf Office). The project has reached the publication phase of the wide-ranging research

generated by its participants with the support and collaboration of the al-Sabah Programme in International Relations, Regional Politics and Security at Durham University.

The results of the many debates and discussions, and the findings of our team will be captured and disseminated in a new monograph series – *The Shura Councils in the Persian Gulf Sub-region* – jointly published by the Qatar University Gulf Studies Center and the al-Sabah Programme at Durham University. These publications will be available free of charge through the two universities' websites for interested parties to consult and download.

The coordinators of this project and the publications series would like to thank the authors for their participation in this project, as well as the unyielding support of the Gulf Studies Center directors, Drs Mahjoob Zweiri and Abdullah Baabood, and the rest of the team, Arwa Kamal Eldin Gaf Abbas, Farah Anwar AlQawasmi, Ashleen Williams, Amjed Rasheed and Juline Beaujoun. Without them and their input this project and monograph series would not have been possible.

Luciano Zaccara and Anoushiravan Ehteshami  
Doha and Durham

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Mohammedali Yaseen Taha  
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## Introduction

This article delves into the existing legal bases and formal provisions that regulate the parliament of the Kurdistan Region of Iraq (KR-I). Firstly, the formative background of the parliament is described from the perspective of the recent history and constitutional attempts to legalize this emergent institution. Then, the elections and party composition of the successive parliamentary terms, since the establishment of the parliament in 1992 until its completion in 2018, are discussed. Descriptions of the formal structure, functions and powers of the Kurdistan Parliament - Iraq, along with its relationship with other institutional bodies are presented afterwards. The chapter also describes internal dynamics of the parliament and its mechanisms of functioning, in addition to the role of fractions and committees. Sequently, the chapter offers insights into the legislative process and production of the parliament. Given the limitation of research references on the case of Kurdistan Parliament-Iraq, this work is intended as an initial attempt to uncover the case by presenting a broad sketch of the existence of the institution, and the unfolding of the inherent formal arrangements and functions of the Parliament. Thorough research, adapting quantitative and qualitative data, and comparing the parliament's case with other similar cases are required to fill the narrative gaps of this study.

## Legal Bases of the Kurdistan Parliament-Iraq

Due to unsuccessful attempts to establish a regional constitution, the Kurdistan Parliament, along with the region's other political institutions, is functioning in the virtue of the Iraqi constitution in addition to other regulatory and provisional laws that were self-emitted by KRI's regional emergent institutions since the inception of its autonomous government .

The KR-I autonomy has been considered mostly as a *de facto* state, created by the no-fly zone decision in the early 90s until the fall of Baath regime in 2003, when it started to gain more legitimacy within the post-2003 reconfiguration of Iraqi state. The autonomous government of the KR-I was establishment in 1992 and the establishment of the *Kurdistan National Assembly* was among the first acts of institutionalization of the autonomous government. The *Law number one*<sup>1</sup> of the region instituted the one chamber parliament, elected by direct vote every 4 years, on the inspiration of the consolidated democracies. In 2009, the name of the parliament has changed from

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<sup>1</sup> Kurdistan Parliament. (1992). *Yasayi Jimare 1, 1992, Yasayi Helbijardinê Kurdistan* [Law n. 1, 1992, Kurdistan Elections Law] Available at: <https://www.parliament.krd/media/3916/هه-ياساي-1-ژماره-ياساي/كوردستان-نيشتماني-ني-نجومه-ئه-ليژاردني.pdf>.

Kurdistan National Assembly to *Kurdistan Parliament-Iraq*<sup>2</sup> through an amendment to the Iraqi Kurdistan Parliament's bylaw.

After 2003, this institutional arrangement was enforced after the US led coalition and the removal of the Baath party from power in Iraq. The Kurds, as one of the main opposition groups, took part in rebuilding a new Iraq together with other entities of Iraq. After the fall of Baath regime, an interim government was appointed in Iraq that was composed of representatives of different Iraqi ethnic and religious groups<sup>3</sup> who have participated in the committee that drafted the Iraqi constitution. In accordance with the Iraqi Constitution ratified in 2005<sup>4</sup>, Kurdistan Parliament-Iraq has the authority to legislate as a regional parliament within a large array of issues, on the condition that these do not contradict with the Iraqi Constitution<sup>5</sup>. The federal parliament's legislation can be optionally enacted, amended or not adopted by the KR-I; the priority is given to the legislation and laws legislated by the Kurdistan Parliament-Iraq. The Iraqi Constitution recognizes, among others, that the Kurdistan region has the right to exercise legislative powers. In case of a contradiction between regional and national

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<sup>2</sup> Kurdistan Parliament. (2009). [The KR-I Election Law's Fourth Amendment.] Available at: <https://www.parliament.krd/media/2348-pdf>. یاسای-هه-ئێزاردنی-نه-نجومه-نی-نیشتمانی-کوردستان-عیراق-ژماره-2-ی-سالی-2009-یاسای-هه-موارکردنی-چواره-می-

<sup>3</sup> Iraqi interim government was created on June 28, 2004, to govern the country until the drafting of new constitution. It was replaced with the Iraqi transitional government on May 3, 2005.

<sup>4</sup> See for more regarding the arrangements of the Iraqi Constitution in John McGarry and Brendan O'Leary (2005) *Iraq's Constitution of 2005: Liberal consociation as political prescription*, International Journal of Constitutional Law; Nathan J. Brown Senior Associate Carnegie (2005) *The Final Draft of the Iraqi Constitution: Analysis and Commentary Endowment for International Peace*; Dodge, Toby (2005) *Iraq's future: the aftermath of regime change*. Adelphi Papers.

<sup>5</sup> The provisions in the Iraqi Constitution regarding the Region of Kurdistan are as follows:

Article 116: The federal system in the Republic of Iraq is made up of a decentralized capital, regions, and governorates, as well as local administrations.

Article 117: First: This Constitution, upon coming into force, shall recognize the region of Kurdistan, along with its existing authorities, as a federal region.

Article 121: First: The regional powers shall have the right to exercise executive, legislative, and judicial powers in accordance with this Constitution, except for those authorities stipulated in the exclusive authorities of the federal government.

Second: In case contradiction between regional and national legislation in respect to a matter outside the exclusive authorities of the federal government, the regional power shall have the right to amend the application of the national legislation within that region.

Third: Regions and governorates shall be allocated an equitable share of the national revenues sufficient to discharge their responsibilities and duties, but having regard to their resources, needs, and the percentage of their population.

Fourth: Offices for the regions and governorates shall be established in embassies and diplomatic missions, in order to follow cultural, social, and developmental affairs.

Fifth: The regional government shall be responsible for all the administrative requirements of the region, particularly the establishment and organization of the internal security forces for the region such as police, security forces, and guards of the region.

Article 141: Legislation enacted in the region of Kurdistan since 1992 shall remain in force, and decisions issued by the government of the region of Kurdistan, including court decisions and contracts, shall be considered valid unless they are amended or annulled pursuant to the laws of the region of Kurdistan by the competent entity in the region, provided that they do not contradict with the Constitution.

\*see for more: The Constitution of Iraq of 2005 [https://www.constituteproject.org/constitution/Iraq\\_2005.pdf?lang=en](https://www.constituteproject.org/constitution/Iraq_2005.pdf?lang=en).





was created.

The elections for the third term of the parliament took place after the end of the regular and legal four years of the second term in 2009. These elections took place after a major change in the political atmosphere of the KR-I. This was when a significant number of PUK leading members decided to leave the party and founded the new political party *Movement for Change (Gorran)*. This newly founded party won 24% of the parliament seats in the 2009 elections, with KDP and PUK alliance winning 57%. The newly founded *Movement for Change* decided to remain as an opposition party in the parliament. This marked a historical moment when for the first time a political party with such significant presence at the parliament takes the decision to remain in opposition.

For the fourth term, the elections were held on a regular four-year basis in 2013. None of the winning parties could guarantee a 50%+ of the seats and therefore a coalition was needed to form the government's cabinet. After months of discussions, a coalition of all parties and a consensus government was formed. Nevertheless, the political agreement between the parties was shattered and the parliament sessions were suspended in October 2015 because of the dispute over the presidency term (see later in the text).

## Structure, Functions, and Powers of the Kurdistan Parliament-Iraq

### Structure

The formal structure of the Kurdistan Parliament-Iraq resembles the model of the classic parliamentary structures in Western democracies, with some advancements in terms of legalized gender quotas and quota for religious and ethnic minorities.

The first two parliaments constituted 105 seats in the chamber, under the name of National Council of Kurdistan-Iraq, according to Law No. 1 of 1992. In 2009, the law was amended and the name was changed to Kurdistan Parliament-Iraq. The same amendment increased the number of seats to 111, among them 11 seats were allocated for the quota of minorities as follows: five seats for Turkmen, five seats for Assyrians and Chaldeans, and one seat for Armenian minorities. This amendment has lowered the minimum age of candidates from 30 to 25 years old. At the same time, the minimum quota for women was increased from 25% to 30%.

The parliamentary sessions are divided into spring and winter sessions, for a duration of four months. There is a two months legislative break when members focus on matters related to oversight. The presidency of parliament consists of a president, deputy president and secretary of the parliament. The three members of the presidency are elected in a secret vote inside the chamber. The president of parliament calls for sessions and extraordinary sessions and 1/4 of the MPs can also request a session from the presidency.

## Minority Quota Manipulation

The KR-I is home to religious, ethnic and cultural diversity. Along with the Kurds, other ethnic groups such as Chaldo-Assyrians, Turkmen, Armenians and Arabs live in the KR-I. In addition to the Sunni and Shia divisions of Islam, there are other ancient religious groups, such as Christians, Yeazidi, Kakaís, Shabaks, Zoroastrians and Sabis. The Sunni Muslim Kurds are the majority of the region and they hold the majority of the power and positions. The institutional arrangements of the KR-I grant a legal right to the ethnic minorities to hold a secure representation at the parliament due to a quota system. The quota system in KR-I secures 11 seats for the Assyrian-Chaldean, Turkmen and Armenian out of 111 seats of the region's parliament. This system gives a secure representation for these three ethnic groups but the dominant political parties in the KR-I are frequently accused of manipulating the minority quota for their own interest by supporting certain candidates who are usually members of their party within the minorities. This issue needs a closer look and deeper debate in order to understand the way quota system is manipulated by the dominant parties for their own interest. There is also a high demand by the represented and misrepresented parties in the government to amend the election law (Law 1, year 1992, amended) in favor of the minorities to grant them a real representation.

## Parliamentary Committees

There are two types of committees in the Kurdistan Parliament-Iraq: permanent and temporary committees. The permanent committees are due to discuss and prepare reports on draft proposals of the laws related to the committee. The number of permanent committees increased from 19 to 22<sup>7</sup> according to an amendment to the bylaw of parliament in 2014 but decreased again to 15 committees due to the new bylaw of the parliament amended in 2018<sup>8</sup>. Their function is based on the oversight role in keeping the government accountable. For this reason, the creation of the permanent committees goes parallel with the existing ministries: all the 15 committees have a ministry or more to scrutinize when it comes to its oversight function. The committees are expected to play an active role in legislation especially regarding the law drafts related to the specialty of the committee.

The temporary committees are formed according to need in a particular situation when a number of parliamentarians are appointed to cooperate on a specific issue and

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<sup>7</sup> The forth term of Kurdistan Parliament made an amendment to its bylaw increasing the number of the committees: <http://www.perleman.org/files/articles/030714091525.pdf>

<sup>8</sup> The new bylaw is available at: <https://www.parliament.krd/media/3353/بە-كوردستان-پەرلەمانی-یەپەرەوی-1-كوردی-زمانی.pdf>

report the result to the presidency of parliament and other parliamentarians. The proposed temporary committees are formed after they receive the vote of the majority of members.

Each member of parliament, except for the presidency of parliament, is obliged to be a member of at least one committee and at most two committees. The selection of committee members is one of the very first activities of parliament after elections. The committees consist of minimum five members and maximum 11 members. Each committee has a presidency that consists of a president, deputy and a coordinator. The presidency of committee is usually decided upon by a consensus between political fractions of parliament taking their votes into consideration. For the complete list of committee, please see the table 1.

*Table 1. Parliamentary Committees, fifth Parliamentary Term*

1. Committee of legal affairs
2. Committee of finance and economic affairs
3. Committee of Peshmerga, interior, security and local councils
4. Committee of agriculture and irrigation
5. Committee of education, higher education and scientific affairs
6. Committee of health, environment and consumers rights
7. Committee of social affairs, children and family
8. Committee of Municipalities, transportations, reconstructions, resettlement and investment.
9. Committee of rituals and religious affairs
10. Committee of martyrs, genocide affected and political prisoners
11. Committee of industry, trade, energy and natural resources
12. Committee of culture, civil society, sports and youth
13. Committee of integrity, parliament affairs and complaints
14. Committee of relations and diaspora affairs
15. Committee of Kurdistan areas outside Kurdistan administration (disputed areas)

## Functions and Powers of the Parliament: Representation, Legislation and Government Oversight

According to the acting laws in Kurdistan - Election law, presidency law, Kurdistan Parliament's bylaw<sup>9</sup> - , the three main functions and powers of the Kurdish parliament are as follows: representation, legislation and government oversight (see table 2). These functions are interrelated and have the same scope: to represent the constituency in decision-making, which can be seen as the main function of MPs. KR-I is based on a social tribal system and traditionally the individuals appeal more often to the structures of the tribe in order to search for their rights. Reminding that the

<sup>9</sup> During the fourth term of the parliament the bylaw was amended and the new bylaw is active from the fifth term onward.

parliamentary representation did not occur in the region until 1992; after being set up, the institution of the parliament started slowly shifting the tribal practices towards a modern arrangement of application and execution of the individual rights. Still, many rural populations are linked to their MPs through their tribe and through the mediation and clientelism of the tribal leaders. This way, the MPs can be perceived both as representatives of the tribal system and representatives of the individuals that bypass the traditional tribal settings<sup>10</sup>. This arrangement plays a decisive role in the election process as well, being the funnel that determines the number of votes taken by the candidates and parties. In other words, the closer a candidate to the tribal constituency, the higher the probability to be elected and have popular support.

When it comes to gender and minority representation, there is a formal descriptive representation present in the parliament. However, given the low experience of democratic exercise and the intricate tribal-political party system, it is rather intuitive that the main decisions are taken within and between political parties. These quotas are, more often than not, a formal concession to give an appearance of consociational arrangements, rather than the emanation of a genuine democratic practice.

Representation	Representation of the constituency. Debating the major issues of the day.
Legislation	Drafting and examining proposals for new laws. Passing laws. Amendment of laws
Government Oversight	Scrutinize government policy and administration. Check and challenge the work of the Government. Check and approve Government spending (budget). Provide for the formation of a government the designation of the candidate for the office of prime minister to form a cabinet. Granting and taking off the vote of confidence to the cabinet or a minister.

## Legislation: Legislative Process

Drafts of laws and resolutions are proposed from and through an initiative of one of the following venues: 1) at least 10 members of parliament, 2) the Presidency of Kurdistan Region, and 3) the Council of Ministers. Every draft is proposed to the presidency of the unicameral parliament of Kurdistan. Then, the draft is distributed among

<sup>10</sup> The tribal aspect of the Kurdish society is among the most curious reminiscences of the past social constructions. There are no studies related to the relationship between politics and tribes in the Kurdistan Region of Iraq. For this reasons, any account on parliamentary representation can not be informative enough, as there are much more hidden ties and relationships between this social structure and political institutions to be described.

all the MPs. After that, the draft is put on the agenda of the plenary session to pass through the first hearing. The drafts of laws must be proposed either by the presidency, the council of ministers, or at least 10 members of parliament. After the presidency of parliament's approval, the draft of laws will be put on the agenda for the first hearing. The proposed draft is directed by the presidency of the parliament to the related committee. The related committee then comes up with a report after having discussed it in the committee meeting in the presence of the majority of the committee members.

The related committee will be designated by the president of the parliament to prepare the report of the draft, within 10 days, in cooperation with the committee of the legal affairs. There are some drafts prioritized by the president of the parliament; in such cases the report shall be ready within five days. The report will be distributed again among all the MPs to be discussed in the next session as a second hearing. The draft is discussed article by article and the new proposals and suggestions for each article or sub articles are voted by the MPs. At the end, after the whole project is voted and passes, it goes to the president for signature. Within 10 days from the date, the new passed legislation is sent to the president where he may propose a revision on a part or the whole legislation and send it back to the parliament where they make the final decision.

All the sessions are open and accessible to the public through online live-stream, TV, or other means of communication such as Facebook live stream. 1/4 of the MPs can request to have a private exclusive session with no live coverage and this request needs to be agreed by the majority vote, otherwise it is publicly accessible. This is usually done when there are sensitive issues to be discussed<sup>11</sup>. The plenary has a designated spot inside the hall for the public who are willing to attend the session. The whole discussions of all the sessions are registered in a protocol book, which is also available at the parliament library and is easily accessible to the public.

## The Approval of the Yearly Budget

The most important law for any parliament is the annual law of the budget. The initiation of this law is described here as an indicator of the established rules and routines of legislation in the Kurdistan Parliament-Iraq. The proposed budget is prepared by government and the annual account is due for submission before the end of each year<sup>12</sup> to the parliament. The budget proposal is given a priority status and when it reaches to the parliament, the finance committee is designated to prepare their report on the draft and bring it to the session for further discussions. The committees report

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<sup>11</sup> Usually MPs request an exclusive session in cases related to security, because of the sensitivity of the topic.

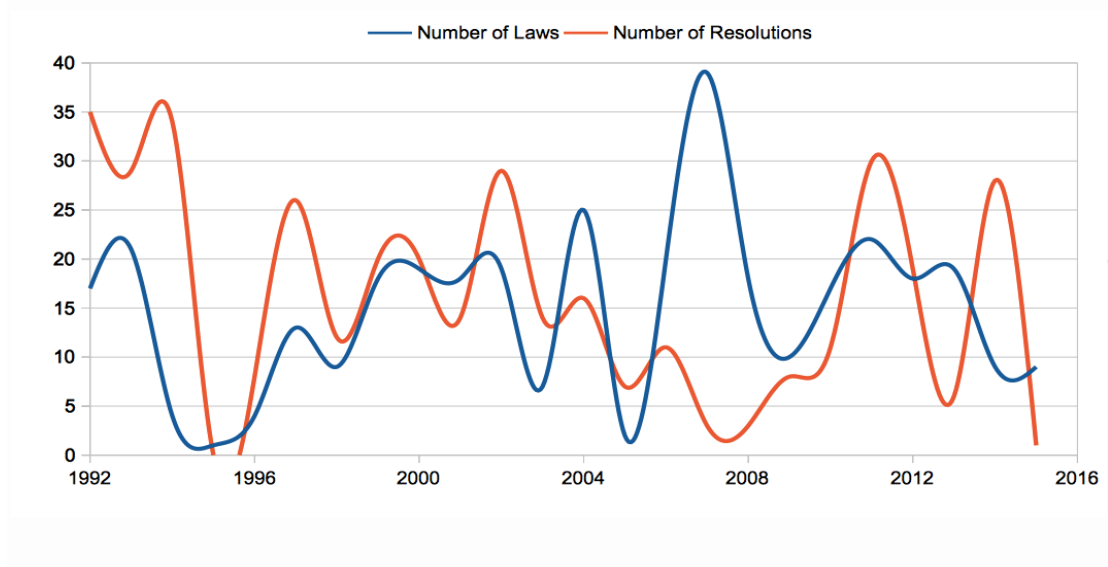
<sup>12</sup> There are large differences between the law and its practical application here. For instance, since the start of the fourth term of the parliament in 2013, there have been no budget proposals by cabinet to parliament. Some of the main reasons of not having any budget proposals reside in: the financial crises; the war against ISIS; the disputes between the region and Baghdad that led to cut of budget and salaries of the region from the central government; the fall of oil prices, etc.

must be prepared no later than three days from the date of the proposal arrival. All the committees have the right to give their comments and insights in accordance to their specialty. The report is distributed among the MPs in order to be studied two days before the session. Fractions discuss the budget proposal among themselves based on their party position. The session on the budget has two focuses: first, discussions on the expenditure and then discussion on the budget proposed law. Parliament also has its budget that is added to the overall budget of KR-I. The Parliament then votes on the project where it requires a majority vote to pass.

### The Legislative Production (1992-2015)

During the first two years of the parliament, the number of passed laws covered the establishment institutions of the Kurdistan Regional Government. With 38 laws and 64 resolutions, these two years were the most active. Although in 1994 the two main parties entered the civil war, the parliament and the MPs decided to continue. The civil war influenced legislation process but it was not completely stopped. In 2005, the second term of parliament was elected and since then, every four years the parliamentary elections are held and the legislation is ongoing (see graph 1). The legislative process was blocked in the first months of the fourth term, causing a legislative void that was replaced by the Council of Ministers through decrees.

**Graph 1: Number of laws and resolutions passed by the Parliament of the Kurdistan Regional Government in the period 1992-2015<sup>13</sup>**



<sup>13</sup> This graph is computed by the authors, based on data available on the website of the Parliament [www.perleman.org](http://www.perleman.org).

## Party Cohesion and Voting Behavior

The parliament consists of different fractions that represent political parties. Members of each fraction are mostly cohesive particularly in legislation voting. Each fraction has a presidency unit. For instance, the presidency of KDP fraction consists of the president of the fraction, deputy president, coordinator and a spokesperson. The fractions abide by the political party disciplines and this is secured through the presidency of fractions that are in continuous contact with their political parties over the issues being discussed at the parliament. Besides, there are constant meetings between the members of fractions and leadership of their political party. Usually, the presidency of the fractions requires its members to act cohesively in order to achieve party goals in certain legislations. There are few cases when members vote against their party, but this usually ends with the interference of the fraction's presidency or a party leaders to solve the issue.

## The function of Oversight and Relations with the Council of Ministers

The oversight function of the Parliament of Kurdistan - Iraq has three stages: parliamentary questioning, parliamentary scrutiny and vote of confidence. Every member of parliament has the right to address written or oral questions to the executive power through the presidency of the parliament (Article 62). The prime minister, any related member of the Council of Ministries, or the addressed minister responds to the questions, within 15 days of the date that the question was addressed (Article 65). The response to the question is disclosed in the next parliament session. In case the questioner is satisfied with the response or in case of their absence and no one else follows it, the issue is considered accomplished (Article 66). Otherwise, in case the response is not satisfying or if the Council of Ministers do not respond in time, the next stage is the parliamentary scrutiny of the government. Parliamentary scrutiny is the request of explanation addressed by the parliament to the executive (Article 67 and 68). The scrutinised member of the Council of Ministers usually appears in the next session and gives his/her explanation regarding that particular issue (Article 69, 2). At the end of session, the explanation of the executive members is voted and if the majority votes go in favor of the explanation, the case is considered closed. Otherwise, in case 2/3 of the votes go against the explanations, the member of the executive considers to be censured with vote of no confidence (Article 70).

## The relationship between the Parliament and the President of Kurdistan

The relationship between the parliament and the president of KR-I is set in the Presidency law Nr. 1 of 2005<sup>14</sup> outlined in 12 articles. After being elected by direct vote, the President takes the oath of office in the Parliament. As part of the legislative process, the laws adapted in the parliament require the approval of the President, within fifteen days. In case the president has a disagreement with a part or the whole of law, he sends it back to parliament. However, the president has no veto powers over law. The Parliament makes the final decision of whether to accept the disagreement and amend the law, or pass it in its original state. In practice, neither the parliament nor the president have challenged each other until this moment during the law making process. Still, the unique source of dispute between some of the parliamentary political parties and the president were focused on the amendment of the presidency law. This dispute was severe enough to lead to the blockage of the parliament, which is still active at the moment of writing this article.

## Parliament and Judicial Systems

Unlike established institutional arrangements in modern political systems, KR-I's institution does not resemble the Constitutional court present in modern democracies, one which would check for the constitutionality of the legislation adapted by the Kurdistan Parliament. The only formal constitutional court that checks the compliance of the KR-I law with the Iraqi constitution is present in Baghdad. This court was contacted in regards to the KR-I legislation only once in 2009, as an initiative by a leader of the Change Movement. The question regarded the act of passing law by the Kurdistan Parliament while its term is concluded. The constitutional court of Iraq considered it a legal act as long as the term was extended by law. It is important to mention the existence of the Shura Council within the Ministry of Justice, which in some cases is asked for interpretations of law, even if this interpretation is neither formalized, nor binding<sup>15</sup>.

## Relations with the Iraqi and Foreign Parliaments

The Kurdistan Parliament-Iraq has formalized and unfolding relations both with the Iraqi federal parliament (Iraqi Council of Representatives) and a large number of foreign parliaments.

Out of 328 seats of the Iraqi Council of Representatives, the Kurdistan representation is between 60 to 65 seats. The relationship between the two parliaments is limited to the constitutional rights of the Kurdistan region. This includes issues such as

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<sup>14</sup> The Presidency Law: <http://perleman.org/files/articles/101207105105.pdf>



the budget project or international treaties and agreements. The MPs from Kurdistan Region to the Iraqi parliament are the ones who mostly carry on this relationship. The Kurdistan Parliament is fully authorized, according to the constitution, whether to accept, refuse or amend any legislation passed from the Iraqi council of representatives to be practiced in KRG or not.

The Kurdistan Parliament is a member in number of inter-parliamentary unions and parliamentary friendship groups. The relationship with the parliaments from other countries is a direct one. International parliaments also realize that the way to contact Kurdistan Parliament is not through Iraqi council of representatives. It receives and sends official delegations from and to the parliaments around the world.

## Political Disputes reflected in the KR-I Parliament

Among many political issues which facing the region internally through its political parties that have challenged the capacities of the KR-I Parliament, we retain important to mention three main issues and disputes. These issues are the KDP-PUK Civil war between 1992 and 2005, the dispute over the presidential mandate from 2013 to 2015, and the Referendum for independence from 2017.

### KDP-PUK Civil War: Parliament suspended between 1992 to 2005

Before moving forward, it is important to mention some historical accounts regarding the civil war that sparked in the early 90' between the two main political parties, KDP and PUK. During the first elections in the KR-I, only two big parties have managed to cross the 7% threshold: KDP and PUK. The results were almost equal percentages, giving KDP and its coalitions a 50.8% of the votes, while PUK with its coalitions took 49.2%. The impossibility of the two parties to share power has resulted into a civil war and division of administration in two competing governorate administrative bodies, based on the territorial coverage of each of the parties: KDP with the center in Erbil and PUK with the center in Sulaymaniyah<sup>16</sup>.

One of the outcomes of the civil war between KDP and PUK was the emergence of an era known as *two administrations*. The two administrations left a great impact, to the extent that some characteristics and practices of this split system are still sensible in the region's system until today. The Washington Peace Agreement was signed in 1998 with the intervention of the US, where the two parties agreed upon ceasefire. The Law Number 16 of 2002 is the law passed by the parliament with the ratification of the Washington ceasefire Agreement between KDP and PUK. Nevertheless, the agreement also was not a final solution and it did not put an end to two administrations and the split of governments. During all this period, the MPs of two sides agreed on several

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extensions of the parliament's first term, which was supposed to be concluded in 1996. In October 2002, the members of parliament from both KDP and PUK entered a transitional parliament term and this lasted until elections of 2005.

The denial of parliamentarians to be a part of the war is among the most prominent parts of this civil war. Members of parliament elected on the lists of both parties remained at the chamber in Erbil, the capital city of the region, without getting involved in the civil war. For more than a decade, the parliament had legislated for the both administrations established in the two rival governorates, that of Erbil and Sulaymaniyah. At the beginning of the civil war, Jawhar Namiq, the president of Kurdistan Parliament, member of KDP politburo, released a statement opposing the civil war between the two parties. Together with other members of parliament from both parties, they went on public protest against the war. This resulted in a 103-day sit-in protest at *Panagiri* hall inside the parliament. Although their protest did not put an end to the civil war, it marks a position of the MPs who continued cooperation and did not stop legislation process.

#### Parliament Closed Doors and Disputes of Presidency: Parliament suspended from 2015 to 2017

Another important political dispute reflected in the KR-I parliament is the issue regarding the presidency term and the possibility to extend the mandate of the President, contrary to the draft of the KR-I constitution. This dispute started in 2013 and reached its peak in November 2015.

The President's term which should have ended in 2013, was extended for two years by a KDP and PUK majority in the parliament. After two years in 2015, the issue was raised in the parliament by four main fractions of Gorran, PUK, Islamic Group and Islamic Union. These four fractions proposed a draft of amendment to the law No. 1 of the year 2005<sup>17</sup>. This created a stark contrast with the KDP whose leader was in the role of President. Although the parliament was in its two months legislation break in July and August, the four main parties managed to form the majority and pass the draft from the first hearing of the parliament session in July 23, 2015. The draft needed a second and final hearing to pass. The four fractions declared the second hearing session to be held on August 19, 2015, which was still during the legislation break. This raised tension among the political parties in the region and divided them into two main fronts of KDP and its allies and all the others. This has provoked a series of public protests against KDP headquarters and offices in a number of cities and towns in Silemani province. This escalated the tension between the parties and KDP accused Gorran to be behind these attacks and that the protests are organized and directed by Gorran leaders to

attack KDP in Silemani province. Later in October 12, the president of parliament was denied entrance to Erbil and the parliament at Pirdê checkpoint on the Kirkouk-Erbil highway. This was followed by suspending the Gorran ministers from the cabinet accusing Gorran Movement for instigating violence and unrest in the political process in KR-I. As a result, the parliament entered a virtual shut down that lasted more than two years.

The issue of presidency remained disputed although the legislative council of the KR-I declared that the president shall remain in his position with all his powers until the next presidential elections are held. This decision of the council was criticized and was considered not neutral by the opposing political parties on top of the Gorran. In September 15, 2017, the parliament was reactivated as a part of the agreement among the members of supreme committee for the independence referendum who represented the major political parties of KR-I.

## The Parliament and the Referendum for Independence, 2017

In June 7, 2017 the President of the region called for an inter-party meeting where majority of the KR-I political parties attended. The outcome of this meeting was forming a committee and setting a date for the independence referendum of Kurdistan. The committee unanimously voted for September 25, 2017 as the date which the independence referendum will be held. Another decision of the committee was to “*hold the efforts together in order to reconvene the Kurdistan parliament*”<sup>18</sup>. However, the decision was criticized specially because the parliament is the place to take such fateful decisions and the committee’s decision will have no legal binding without the parliament’s approval. The Movement for Change (Gorran) and the Islamic Group (KIG) were the only two political parties who boycotted the referendum committee and its meetings. They urged that the “*high priority is to reconvene parliament*”<sup>19</sup>. The following meeting of the committee on June 30, 2017 concluded with a statement<sup>20</sup> that the parliament must be reconvened in two weeks. However, the parliament was only able to hold its reopening session six weeks later on September 15, 2017, more than two years after its closure. Yet, the two opposing parties, Gorran and KIG, refused to take part at the reconvention session. This caused a pressure while the president and the secretary of the board were Gorran and KIG, which made two out of three members of the parliament’s presidency board. Nevertheless, the session was held and led by the deputy president of the parliament from KDP with 73 out of 111 MPs present at the session. The first agenda of the session was the nomination of a secretary for the

parliament's presidency who was nominated by the PUK fraction and was approved unanimously. The next agenda of the session was to pass a resolution which delegated the Kurdistan Independent Higher Elections and Referendum Commission (IHERC) to hold a referendum in the KR-I21<sup>22</sup>

## Conclusion

There are a few conclusions that can be drawn from the overview of the development of the functions of the Parliament of Kurdistan - Iraq. The first conclusion is that this case represents a unique occurrence for the entire history of the Kurdish population in the Middle East and might represent a case to be replicated in an unknown future by other Kurdish groups, living under the flag of other nation states. Since the very first days of its foundation, the Kurdistan Parliament had been functioning as a parliament for a *de facto* independent state, with formal arrangements and functions of an independent state. This is proved also by the fact that both the parliament and all its body of legislative decisions were considered valid and continued after the change of regime in Baghdad.

Second, the Iraqi Council of Representatives is still a work in progress that has gained some elements of a classic parliament, expressed in the formalization of rules and processes. Still, much more institutional practice has to occur, in order for these rules and procedures to get internalized both by political elites and the broad population. The very fact of having its own parliament is a novelty for such a large group of Kurdish population. Intense rubbing between ambitions of modernization and embedded structures of the tribal system are taking place. This process will require more than a few decades and any comparison with parliaments existing elsewhere are of disservice.

Third, each of the four parliamentary terms can be seen as a variation of exercises with the aim to learn self-government and consolidation of power over a territory with an undecided future. The last three terms of the parliament 2005, 2009 and 2013 were the result of different types of consensuses that kept the parliament functioning actively. As soon as the consensus was broken, the parliament faced blockage and halt in its functioning. From this point of view, the first term of Iraqi Kurdistan Parliament represented an exception: during the first term in 1992 there was a fifty-fifty agreement between the main two parties, KDP and PUK. When the two parties entered a civil war in 1994, the parliament decided not to be a part of this and continue its job. Despite the fact that the civil war led KR-I to have two governments at the same time in two different cities - one in Erbil under the rule of KDP and a second government in Sulaymaniyah under the control of PUK - ,this division did not happen to the institution of the parliament, as it remained mostly functioning.

A fourth conclusion is just having the formal prerogatives of an independent, fully fledged parliament is not enough for it to function as one. The activity and results of the Parliament of Kurdistan-Iraq naturally reflect the dynamics and divisions of the society that it represents: this parliament had periods of high activity, altering with periods of inactivity. This institution had frozen periods caused by broken agreements and consensus among the main political parties (KDP and PUK) and their territorial constituencies (Erbil and Duhok vs. Sulaymaniyah). Differently put, the only times when the parliament has been functioning efficiently, were the times when the main political parties had maintained a common agreement and were in peace among each other.

A last conclusion that can be drawn is that, generally speaking, the Kurdistan Parliament can be seen as a piece of a broader puzzle of the region. Despite its ups and downs, this institution has gained sufficient legitimacy inside the territory and plenty of recognition abroad; whenever and whatever its decisions, these are legally applied and binding for the entire KR-I. Thus, all the decisions adopted so far have led to an encompassing economic independence backed up by the parliamentary decisions and agreements, and a rather dense control over the territory and over its social groups. It is just a matter of time and a window of opportunity that the political independence will be officially discussed and declared by this institution. Whenever this decision is made, this parliament will have sufficient legislative legacy and popular support to continue its existence.

Further research is needed in order to have a better understanding about the dynamics and factors at play in the development of this institution. Qualitative and quantitative data are required to further explore the efficiency and effectiveness of this parliament. However, given the geopolitical circumstances, the very fact of proving existence is already a measurable result.