Recovering sovereignty, the people are the source of powers

Mohammed Hashem Mohammed Al-Hussainawi
Southern Technical University, Technical Institute, Shatra, Iraq
Mohammed.hashim @stu.edu.iq

Article history:		Abstract:
Received:	March 11th 2024	Restoring people's sovereignty in Iraq in accordance with the constitution constitutes an important milestone in the path of democracy and legitimate rule. The Iraqi Constitution, which was drawn up in 2005 is considered a , basis for distributing powers and defining their powers, giving the highest priority to the will of the people as a source of power . The importance of restoring the sovereignty of the people is evident through the Iraqi Constitution clearly defining the three powers - legislative, executive and judicial - and stipulating a balance between them to prevent abuses. Ensuring the protection of citizens' rights , and through mechanisms such as free and fair elections, the Iraqi people can express their will and choose . representatives to represent them in government institutions
Accepted:	April 8th 2024	
		The Iraqi Constitution guarantees citizens' rights, such as freedom of expression, religion, and assembly, and protects them from government abuse By enshrining the principle of the rule of law and transparency, Iraq's constitutional institutions can fight corruption and tyranny, and promote sustainable economic and social growth. By achieving balance and social justice, restoring popular sovereignty can contribute to enhancing stability and development in Iraq.
		In short, restoring people's sovereignty in Iraq in accordance with the constitution represents a key to building a legal, democratic state that respects human rights and promotes sustainable development and social peace

INTRODUCTION

The development of the idea of sovereignty changed the concept of the constitution, changing from being a grant from the king to the people to the form of a contract that specifies a formula that gives the people more rights and freedoms than before. Then the matter developed into the idea of a constituent assembly and a constitutional referendum based on considering the constitution a right of the people and an expression of their will and restricting their behavior. The rulers are not just an image of the social contract. In conclusion, the matter has changed from the absolute ruler who used to say: "Show me the people. I have been searching for them for a while but have not found them" to the idea that the people are sovereign and the source of authorities and they draw up their constitution of ,their own free will in a way that expresses their historical and cultural identity. In a way that serves its interests restricts its rulers, and determines the nature of its political system, and thus the idea of drafting constitutions was linked to the idea of rights and freedoms

Research importance

This research is of great importance in affirming the principle of people's sovereignty, which is the basic principle upon which democracies are based, as this principle grants the people the right to determine their fate and future through effective political participation , as the research contributes to enhancing the political participation of citizens through their understanding of what popular sovereignty is. And how to practice it, which leads to building more democratic and effective societies.

Research problem

is to understand how to exercise popular sovereignty effectively in light of the various challenges it faces, such as the dominance of political elites or the interference of external powers.
The research seeks to answer the following questions:
- ?What are the basic principles of popular sovereignty

- ?What are the different theories about popular sovereignty

Research aims

The research aims to provide an accurate definition of the concept of popular sovereignty, explaining its basic principles and characteristics.

The research aims to analyze various theories about popular sovereignty, such as social contract theory and general will theory.

The research aims to study the history of the principle of popular sovereignty and its development over time, with a focus on democratic movements and popular revolutions.

Topic first
The concept of sovereignty and its historical rooting

rooting through two demands, which Through this study, we will address the concept of sovereignty and its historical are as follows:

The first requirement: sovereignty

to do with the emergence of nation- The linguistic and terminological meaning of the word "sovereignty" has nothing states, but rather predates the emergence of this concept by decades: since the thirteenth century, the word "sovereign" has been used in Europe to denote the qualities and status of the supreme individual, ruler, or master. The word is of French origin It also includes the adjectives "lord" and "king." In Latin and Italian, it means a superior or superior person , and the term is closely associated with the social and political hierarchy, but in the seventeenth century, after the Treaty of Westphalia in1648 the term acquired an institutional meaning and came to mean "the , existence of an independent, sovereign state". However, this connection between the nation-state and sovereignty differs in its interpretation in terms of defining the subject (person, status, or entity) over which sovereignty should be. The origins of this concept in political thought can be traced back to the French thinker Jean Bodin in the sixteenth century. He defended the king's authority against the revolt of the feudal lords in France (Editors of the Encyclopedia Britannica,2020) This clearly influenced the crystallization of the concept of sovereignty and its practice in the Treaty . of Westphalia in1648 which put an end to the dominance of religious authority in Europe and initiated the emergence , of secular government. With this development, one of the most important principles in international politics to this day emerged. Namely, the principle of territorial integrity, according to which states are legally equal as sovereign participants in an essentially European continental international system(1).

The formulation of the concept of sovereignty as a basic principle in relations between European countries, and thus in the contemporary international system, appeared as an intellectual development that contributed profoundly to the crystallization of the Treaty of Westphalia in1648 We find this principle in the writings of Jean Bodin, who defines the . concept on two levels: the first relates to the subject of sovereignty and the second to the sovereign. . At the first level , he defines sovereignty as "the absolute and permanent power inherent in the commonwealth," while at the second level he defines sovereignty as "the distinctive characteristic of the sovereign is that he is not subject to any dictates from others, that he can enact laws to which others are subject, and that he can amend them." Or modify or cancel it ' and display it as such(1).

Sovereignty is limited not only by God and .Despite this absolute character of sovereignty, sovereignty is not unlimited natural law, but also by the constitutional structure of the type of political system, whether monarchy, aristocracy, or democracy. In addition to these restrictions on sovereignty, the sovereign is bound by contracts and treaties, whether relating to persons living in the Commonwealth or treaties with other states, despite the absence of arbitrators in relations between states(1).

Historically, this intellectual and political development can be considered progressive in that it promoted nationalism and abolished feudalism, but its later use in the context of the struggle for power in Europe shows that the question of sovereignty can have a reactionary aspect as well as its progressive content. After the fall of the Roman Empire , sovereignty was granted to a number of small states in Central Europe. The supranational sovereignty of the Church was replaced by the sovereignty of kings who decided on their chosen Christian religious orientation within a national framework rather than the supranational framework that accompanied the emergence of regional states. Within this framework, the right of each state to decide its internal affairs without external interference was recognized as a legal authority in the recognized field: this is the principle of non-interference of sovereign states, and it is one of the basic principles of the modern international system(1).

The second requirement
the historical rooting of sovereignty

The principles of national sovereignty and territorial integrity on which the disastrous Thirty Years War that preceded the Treaty of Westphalia were based opened the door to two important developments that can be described as an arms race and the accumulation of armaments: the first is the increasing power and influence of the central state, and the second is the formation of great states with enormous military power, which led to an era Napoleon. The beginning of a series of competing coalitions and alliances known as the Wars: Austria, Russia, Prussia, Britain, and France(1).

emerged on the It is against this historical background that 'sovereignty' was invoked in the arrangements that European continent following the redrawing of Europe's geopolitical boundaries in the Napoleonic Wars and the Congress of Vienna of1815 In order to contain the rise of French Revolutionary ideas, the victorious powers sought . to limit the spread of Revolutionary ideas French through the restoration of European monarchies and empires. Thomas Hobbes's treatment of the concept and meaning of sovereignty can be seen as a deviation towards absolutism. Hobbes argued that in a "true" state, a particular person or organization of persons (group) must have absolute power to impose laws, and that this distribution of power would destroy the unity of the state. However, Hobbes's position does not merely represent the idea of a contract. Social. The philosophical link between the state as an institutional entity and sovereignty was also present in the approach of social contract thinkers who accepted that the most institutionalized form of human society is the sovereign state as we know it today. Although there were differences in the way sovereignty was exercised (absolute power according to Hobbes or popular sovereignty according to John Locke and Jean-Jacques Rousseau), these thinkers agreed on the necessity of sovereignty and its regulation through the social contract: absolute power or republican power embodied in the American Declaration of Independence. of1776 and the French Constitution of1791 This issue is further complicated by the dispute over the location of sovereignty: Does . sovereignty lie with the people (the state), represented by Parliament (the legislative authority), or in the state as an institution? Some believe that state sovereignty is embodied in the people and belongs to Parliament. However, this interpretation does not suit, for example, the United States of America, which has a political system based on the sovereignty of the Constitution, which does not grant this sovereignty or supreme authority to the legislative authority . (1)

international politics as they were after Issues of sovereignty and self-determination have never been so central to World War I. The history of the development of the concept of sovereignty after World War II can be viewed as the history of the relationship between the consequences of war and the right of self-determination of peoples (nations and ethnic groups) resulting from the collapse of the major European empires. One of the most important results of this process is the transformation of the nation-state into a central element in evaluating international politics and state relations. The history of international relations and international politics can be defined as the history of the rise of the Westphalian concept of the state, which developed with the concept and phenomenon of sovereignty, whether from a ,practical (realistic) or theoretical perspective. In the heritage of political thought, whether liberal, realist, or Marxist the state occupies a central position in analyzing and understanding the phenomenon of international politics and the emergence and collapse of international systems with their various structures(1).

Legally, a sovereign state must meet four conditions according to the1933 Montevideo Convention: First, it must have .a territorial base that defines its geographical boundaries. Secondly, it must have a settled population on its territory Third, its population must show loyalty to its government. Fourth, the state must be diplomatically recognized by other states Montevideo Convention on the Rights and Duties of States, anonymous). However, these legal standards are not absolute and face a number of political and real-world challenges. Although the State of Palestine is internationally recognized, it does not govern a distinct location and geography. Many countries in Africa, Asia and the rest of the world face challenges in terms of immigration and the integration of populations into their governments. The question here is how many countries must recognize a sovereign state in order to fulfill this legal requirement. Here, political considerations and international and regional balances emerge as important variables in these recognitions. For example, the " Bantustan "/ Transkei state created by the apartheid government in South Africa has only been recognized internationally by the South African state. Meanwhile, there are other politically and legally controversial countries around the world, such as Kosovo, which declared independence from Serbia in2008 and was recognized by 100 countries by the end of 2016 These countries face nationalist groups seeking secession, and recognition of . Kosovo's independence could provide them with Resources to harden its position in the face of the central state(1).

,This political-legal dilemma leads us to ask which groups should have the right to establish their own independent sovereign state and which groups should be described as ethnic and enjoy the right to self-determination. In addition to self-determination, self-determination must take place within the framework of a sovereign state and not within any other framework that constitutes the exercise of the right to self-determination: self-determination on an individual ,basis in a democratic and egalitarian state; Self-determination in a federal state; Self-determination in an independent sovereign state(1).

As the above suggests, the relationship between the emergence of nation-states and sovereignty is an intellectual and political translation of a historical stage that has its own determinants. Perhaps the most prominent of these determinants is the rise of nationalist sentiment. The common characteristics of ethnic groups are considered one of the most important justifications and driving forces for building the national state: In the nineteenth century, the founding of the Italian, German and French states was based on the belief that ethnic groups should establish their own states, and hence there was a close relationship between the state and the right to self-determination of the so-called group. Ethnicity. Thus there is a close relationship between the state and the right to national self-determination of the so-called ethnic group. However, this is not always the case: some ethnic groups, such as the Kurds, have more than one nation-state, while some other ethnic groups, such as India and Russia, have more than one ethnic group and state. This phenomenon shows that the emergence of nation-states as a fabric of political institutional sovereignty does not always coincide with the social and cultural fabric of the state. This phenomenon is further complicated by

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(1) ,Dr. Ruqaiya Al–Musaddeq, Public Liberties and Human Rights, 1st edition (1999 .Casablanca , p ,105.

,the presence of indigenous peoples in countries that are the product of fundamental processes of settler colonial rule such as indigenous peoples in North America and Australia(1)

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The second topic
Restoring the sovereign rights of the people
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address two demands, which we will ,Through this study, which is the impact of constitutional oversight on Parliament :are as follows

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The first requirement
People's sovereignty in the Iraqi constitution
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Popular sovereignty represents the cornerstone of democratic construction, and it is the source of the powers and legitimacy assumed by the various bodies in the state, especially the legislative authority and the executive authority (1).

It is an expression of the belief that the legitimacy of the state arises from the will and consent of its people, who represent the source of its authority. It also means that the government is established according to the will of the "citizens, and remains subject to this will. The Iraqi Constitution stipulates in its fifth article that "sovereignty of the law and stipulates that "the people are the source of powers and their legitimacy, which they exercise by direct public ,secret ballot and through their constitutional institutions." It stipulates in Article 20 that "citizens, men and women ,have the right to participate in public affairs and enjoy... political rights, including the right to vote, electand be 1   nominated

,Despite these texts, the Iraqi constitution did not expand on granting constitutional powers to all citizens or the people but rather made them go to the ballot boxes once every four years, in order to elect a House of Representatives (this was done the first time in2005 ,(through the tyrannical list that confiscated The right to freely choose from the voters so that this council would be the supreme legislative authority in the country, an authority that exceeds the authority of the people who elected it, and who, that is, the people, no longer have any authority over it, as if the constitution says the theory of delegation, and not the theory of representation, as if the people He "delegated" his powers and relinquished" them to the representatives, so that the connection between the representatives and voters is severed" as soon as the elections are held, contrary to the theory of the prosecution, which says that the representatives are the agents of the people and their representatives in carrying out their sovereign powers without this prosecution or agency depriving them of these powers, including monitoring Representatives, holding them accountable, and replacing them if they misbehave in the position of prosecutor and agency[1].

This is what partly explains why representatives of the current session were able to act away from the will of the people, and perhaps against their interests, without regard to public opinion, which does not have any constitutional or legal mechanisms to act in cases in which it senses a parliamentary deviation from the essence of democracy and popular sovereignty. The people were no longer able to do anything but complain and express dissatisfaction and satisfaction, and these were matters that the representatives could tolerate and live with, as long as it did not affect their absolute powers in legislation, and gave the people real authority over them[1].

 Under this limited constitutional vision, the Constitution granted the people only1 the power to elect the House of Representatives and other representative assemblies (Article 49), (2) the power to ratify the Constitution and its amendments (Articles 126, 142, 144), and (3) the power to directly appeal to the The Federal Court regarding issues arising from the application of federal laws, regulations, instructions and procedures issued by the federal authority, as Article 93 stipulates that "concerned individuals and others have the right of direct appeal to the court. [1]"

However, these three resources are not exclusively sufficient to embody the concept of sovereignty and comprehend it for the Iraqi people. This is the most important issue that must be considered when amending the constitution, if the new representatives truly believe in the essence of democracy that gives sovereignty to the people**.**

This is why it has become important, in the next legislative session, for the new parliament to work to restore the sovereign rights of the people and expand the powers of voters, in accordance with constitutional and legal mechanisms that protect democracy and prevent chaos and parliamentary deviation **.**

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The second demand
restoring the sovereignty of the people in the Iraqi constitution
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In a context framed by conflicts over governance and the legitimacy of the ruler, the struggle over sovereignty over political decision-making (choices) and the legitimacy of its producers (the legitimacy of the ruler), which has been the ,main battle open for a few years, between all political forces, with the enormous reach of the party and the palace .and between the centers of influence. The oligarchy that surrounds the Sultanate and exploits its symbolic proximity Conflicts will intensify and develop in scope and form, but this time they will appear in secret and hidden ways, whether from within the institutions constitutionally authorized to manage public policy and political decision or from within their .shores

The basic difference is that the conflict will be managed within the democratic legitimacy of the government, its within the framework according to the equation of democratic reform ,consensual institutions, and its political options

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[1]   ,Dr. Abdel Fattah Sayer Dyer , Constitutional Law, 2nd edition, Dar Al-Kitab Al-Arabi2004 .Egypt , p ,212.

of political stability. This takes into account the new democratic situation in Morocco, the revolutionary and explosive Arab Spring" in the region and the international situation. The international situation has made us understand more" than ever what it means to live in a polycentric world, and what it means for Western capital to benefit economically and politically from following the will of the people.

The international situation has made us understand more than ever what it means to live in a polycentric world, and what it means for Western capital to benefit economically and politically from following the will of the revolutionary peoples in the Global South who want freedom, dignity, and independence, and building political institutions that are not based on conflict, in harmony with Peoples and it stems from their understanding sovereign will, as well as elites with democratic legitimacy who aim to manage public affairs according to the logic of partnership, not the logic of domination.

However, this development led to the various parties to the conflict seeking to maximize the size and scope of the sources of power and political decision-making, and thus wealth and influence, before the expected relative calm (power and wealth) was established and placed within a framework of stability, ensuring that the reform equation would not be overturned[1].

The Constitution regulates the relationship between the rulers and the ruled by establishing controls and guarantees to prevent the rulers from exercising public authority against the will of the people by establishing a legal framework that prevents them from monopolizing power away from the will of the people, because the source of all authority in the state is the people, the legitimate owner of sovereignty, who He grants it and authorizes individuals to exercise this sovereignty on his behalf, in accordance with legal and constitutional controls and frameworks that prevent the exercise of sovereignty from exceeding the limits of these frameworks. In the event that they are exceeded, the people have the right to arrange the appropriate punishment for that, which is the recovery of sovereignty from the rulers, as the people are the owner of sovereignty. . But how to restore this sovereignty is through legitimate means and methods regulated by the Constitution and the law and surrounded by the necessary guarantees to protect it. Since ancient times, the conflict between authority and freedom has gone through different and changing historical stages in which authority has changed. It rose up against freedom at times, and freedom triumphed over power at other times, as freedom left no way to continue its struggle against the tyranny of power and its dictatorship , until it regained its stolen rights[1].

At the forefront of these rights is the right to restore sovereignty, because the authority that follows the means of injustice and tyranny in its rule over its people and violates their public rights and freedoms will undoubtedly defeat the people's efforts to restore their freedom and rights. These methods of injustice and tyranny represent the reasons for restoring sovereignty.

can establish the following rights for the people, in its required amendment ,:

First, the right to popular referendum, which is the most important manifestation of representative democracy. This is now established within its limits and specific cases that I mentioned a little while ago.

Secondly, the right to popular objection, that is, to object to a law issued by the legislative authority. This is not available now.

Third, the right to popular proposal, that the people have the right to submit draft laws or proposals. This right is not available now.

Fourth, the right to re-elect and dismiss an existing representative. This right does not exist now. Rather, the mechanism for replacing representatives and filling vacancies in parliamentary seats approved by the internal regulations of the House of Representatives completely excludes the people from this issue. Fifth, the right to a popular solution. This right is not available now, as the Iraqi people do not have a legal mechanism to demand the dissolution of the House of Representatives.

Sixth, the right to dismiss the President of the Republic or the Prime Minister, and this right is not available now. It is clear that the absence of these rights means that the people have become absent from their affairs and have lost power over the parliament that elected them, and this is a serious confiscation of the most important foundations and principles of the democratic system

It must be pointed out here what was proposed by the former Secretary-General of the United Nations, Kofi Annan, to the General Assembly at its 54th session, that sovereignty is no longer specific to nation-states, which are considered the basis of contemporary international relations. This is a concept that has been established since Jean Bodin1530-1596 proposed the idea of sovereignty. When he said: "The state is the right to rule over the families within it, and the right to manage their common affairs" [1].

Rather, sovereignty has become related to the individuals themselves, as Annan proposed, and has come to mean the basic freedoms of every individual, which are preserved by the United Nations Charter[1].

It is also clear that the people cannot fully exercise their sovereignty unless two other things are achieved : no, real freedom. This requires developing Article37 which stipulates that "human freedom and dignity are protected" and , "the individual is protected from intellectual, political, and religious coercion," and Article38 which stipulates , guaranteeing "freedom to express opinion by all means, freedom of the press, printing, advertising, media, and

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[1] ,Dr. Hannah Arendt, On the Revolution, translated by Atta Abdel Wahab, Center for Arab Unity Studies, 1st edition 2008 , Beirut , p67.

publication, and freedom of assembly and demonstration." Al-Salami" and Article39 which stipulates that "the freedom , to establish or join associations and political parties is guaranteed" and prohibits "forcing anyone to join any party, association, or political entity, or forcing him to continue membership in it," and Article 40, which stipulates "freedom of communications." Postal, telegraphic, telephone, electronic, and other correspondence is guaranteed, and may not be monitored, eavesdropped on, or disclosed, except for legal and security necessity, and by a judicial decision. This is done by legislating laws that protect these freedoms and expand their scope, such as stipulating the free flow of information or the right of access. To, and protect the press from coercion, bias and pressure[1].

Secondly, the actual possibility, not the theoretical one, of selection in the elections for the House of Representatives and other representative councils, by legislating a new election law based on the nomination and individual selection of people , whereby voters choose their representatives and representatives from a list of candidates that includes their names, instead of the names of blocs and lists, The right of the people to elect the President of the Republic and the Prime Minister was added[1]

Conclusion

Restoring popular sovereignty, the source of powers according to the Iraqi constitution, is an important issue that has received great attention from various political and societal actors in Iraq. This issue has been addressed through many studies, articles, and conferences, with the aim of developing visions and practical methods to achieve this goal

Conclusions:

The Iraqi Constitution affirms that sovereignty belongs to the people, and that they exercise it through their elected representatives.

Democratic elections are the primary means of ensuring the representation of the will of the people.

There is a need to enhance the culture of political participation among Iraqi citizens, and encourage them to exercise their right to vote.

Work must be done to reform the current electoral system, ensuring fair representation of all components of the Iraqi people.

It is important to strengthen the independence of the judiciary and ensure its impartiality, to ensure respect for the will of the people and the rule of law.

We must work to spread awareness of the importance of human rights and promote a culture of respect for them.

The necessity of fighting corruption and prosecuting the corrupt, to ensure the exploitation of national resources for the benefit of the people.

RECOMMENDATIONS

people's participation in the political process, including The Iraqi government should take concrete steps to enhance: Enacting legislation that makes it easier for citizens to exercise their right to vote.

Providing the necessary funding to political parties to enable them to exercise their role in the political process.

Support and encourage civil society organizations to enhance the culture of political participation among citizens.

The Independent High Electoral Commission should work to reform the current electoral system, ensuring fair representation of all components of the Iraqi people.

The Iraqi judiciary must strengthen its independence and ensure its impartiality , to ensure respect for the will of the people and the rule of law.

Educational institutions should spread awareness of the importance of human rights and promote a culture of respect for them.

The need to intensify efforts to combat corruption and prosecute the corrupt, to ensure the exploitation of national resources for the benefit of the people.

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