Exploring the Key Challenges Affecting Iraqi Parliamentary Institution post Remove Saddam Hussein' Regime

Ammar Saadoon Albadry

Prof. Kamarulnizam Abdullah
College of Law
Government and International Studies
University Utara Malaysia

University of Baghdad, Iraq

Abstract

The parliament in any democratic political system is the main institution that plays an important role in the expression of the citizens' wills and resolution of policy conflict. One of its main functions is to enact laws in accordance with the will of the electorate as well as ensure accountability while paying attention to the interests of diverse groups. Unfortunately, Iraq has not witness any of these from the country's parliament. As a result, this paper explores the key challenging factors affecting the functional role of the Iraqi parliament. The paper identified historical, external and internal challenges among others as the key challenging factors affecting the Iraqi parliamentary functional roles. The paper contributes to the literature by a way of broaden the knowledge in this area of study with a model to examine the key challenging factors of the functional roles of the Iraqi parliament.

Keyword: Challenges, Parliamentary Institutions, Historical approach, Internal, External, Iraq

Introduction

Iraq is one of the countries suited in the Middle –East with a population of nearly 32 million people. Its official religion is Islam. This is indicates that close to 97% of Iraqi people are Muslims, with the Shiite and Sunni Muslims accounting for approximately 60% and 35% of the population, respectively (Akoum, Zbib, & Ahmed, 2007: 477). The remaining 3% consists of Christians (Chaldo-Assyrians and Armenians), Yazidis (ethnic Kurds), and Mandaeans (Gnostics) as well as a small number of Jews, who were forcefully relocated to Israel in the early 1950s. Arabs are the largest ethnic group, accounting for 77% of the overall Iraqi population. This ethnic group is classified into two groups, namely, the Shiite and Sunni Arabs. The Shiite Arabs are geographically concentrated in the south. A large number of Shiite Arabs also reside in Baghdad and have communities in most parts of the country. The Sunni Arabs are geographically concentrated in the Midwest and northwest of the Iraq. The Kurds, who comprise the second largest ethnic group (e.g., approximately 20% of the Iraqi population), are mostly Sunnis.

Furthermore, Iraq operates a parliamentary system of government. But before that, it was one of those countries that have previously practiced the monarchy system of government especially during the British rule though with elements of parliamentary system of government. Officially, the idea of parliamentary institutions in Iraq started in the early 20th century. In fact, during Saddam's rule, Iraq enacts a new interim Constitution of 1990, which was different from the 1968 Constitution. This Constitution came into force with a questionable referendum in 1995. This referendum was questionable because of the enormous power of Saddam on the Iraqi people and it had an indirect relationship with the approval of the Constitution instead of Saddam's term of presidency. However, there was no real parliament power (The National Council) until 1980, when all the authorities (legislative, executive, and judicial) were under the control of the Revolutionary Command Council (Galvani, 1972: 7). In a parliamentary system, parliamentary institution plays an important role such as adequate representation of the people, oversight and legislation.

The system ensures certain degree of cooperation between the parliament and government particularly in policy making (e.g. each side must be willing to bargain and compromise in order to get some policy benefits), the parliament must have some capacity to monitor the government, and the government needs to be willing to comply with parliament enactments (Thomas, 2004:9).

In line with the above, it was hoped that the ousting of Saddam regime in April 2003 would guarantee a peaceful system of government. In 2005, Iraqi people participated in a referendum on the shape and content of the political system of their country in the context of a new permanent Constitution, and they voted on the adoption of the federal and parliamentary system (Abbas, 2012:1). Unfortunately, it is surprise to see that until now Iraq still faced political upheaval, political chaos, insecurity, deteriorating economic conditions and above all, a constitutional crisis. The political crisis continued even after the announcement of the Constitution, because of a variety of internal and external challenges, e.g. declining economic and social conditions, the escalation of the security crisis, and the continuing of foreign interference. The new political system was subjected to a certain degree of rejection based on political and social factors, which sometimes took the form of armed violence employed by political opponents.

One major crisis in the Iraqi constitution is the inability determines and interprets the role of institutions that make up the Iraqi parliament. A critical observation on the Iraqi parliamentary system and its constitution show that there are some key challenging factors affecting the role of Iraqi parliament. It is believed that these challenging factors such as historical, external and internal. There is a need to analysis and evaluate Iraqi parliamentary experience in line with these three key challenges (historical, external and internal) in order to determine the successes and failures of the parliament and its role outcomes. As a result, this paper therefore examines the key challenging factors affecting Iraqi parliament role outcomes. Therefore, the major objective of this paper is to identify and explore the key challenging factors affecting the functional roles of Iraqi parliament with focus on after Saddam Hussein regime. The paper intends to advance a theoretical model to examine the key challenging factors affecting the functional roles of Iraqi parliament with focus on after Saddam Hussein regime.

Literature Review

Overview of the Powers and functions of the Iraqi parliament

After the elections in 2005, the parliament consisted of 275 members, each of whom was elected to a four-year term of service. Pursuant to the provisions for the elections in March 7, 2010, the parliament was expanded to 325 members to reflect an increase in the population of Iraq. At least one-quarter of the members of the House of Representatives (COR) must be female (CIA World Factbook, 2012).

According to the Article 46 of the Iraqi Constitution in 2005, "the legislative branch is composed of the COR and the Federation Council." The Federation Council is non-existent and vaguely outlined in the Article 65 of the Iraqi Constitution as a body of representatives from various regions; however, its authority and structure remains to be determined by the COR (Salman, 2012: 231-247). The Iraqi parliament under Article 61 of the 2005 constitution exercises broad powers. Some parliamentary powers have a political characteristic, and others have a legal characteristic. These powers classified as shown in Figure 1 (Salman, 2012: 232). As indicated in Figure 1, the functional role of the Iraqi parliament include approvals the drafts general budge, Approval of the declaration of war and a state of emergency, electing and dismissal of the President of the republic, ratification of International conventions and Treaties, monitoring the performance of executive authority, appointment of senior officials of the State and enacting federal laws. For instance, the parliament apart from other power bestowed on them, has the power according to Article 61/4, to ratify the process of international treaties and agreements by a law, to be enacted by a two-thirds majority of the members of the COR. Unfortunately, this type of law is yet to be enacted until now. Article 61/5 of the Constitution also gave the parliament the power to ratify the appointments of "the President and members of the Federal Court of Cassation, the Chief Public Prosecutor, and the President of Judicial Oversight Commission by an absolute majority, based on a proposal from the Higher Juridical Council, Ambassadors and those with special grades, based on a proposal from the Council of Ministers, and the Iraqi Army Chief of Staff, his assistants, those of the rank of division commander and above, and the director of the intelligence service, based on a proposal from the Council of Ministers" (Brown et al, 2005:8). Figure 1 provides a brief overview of the functional role of Iraqi parliament.
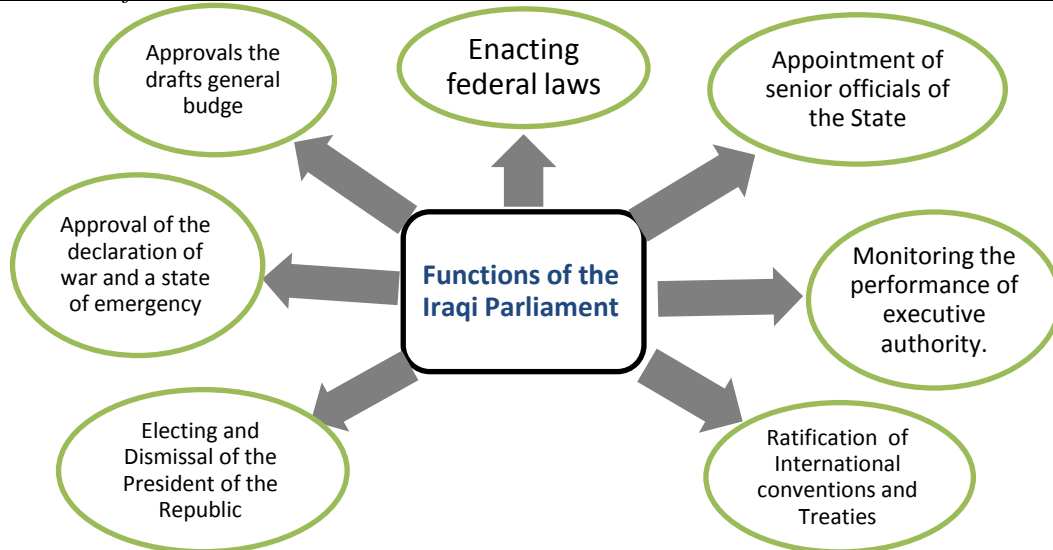
Figure 1: Model Demonstrates the Functions of the Iraqi Parliament

Key Challenging Factors on the Functional Role of the Parliament

This section forms the core discussion on this paper. Although, they may be many challenges factors affecting the functional role of the Iraqi parliament, however, three key challenging factors have been identified in line with the Iraqi parliament functional role which is also supported by the historical institutionalism approach. These three key challenging factors discussed accordingly.

Historical Challenges

These challenges include past experiences, past decisions, decisive Moments and Earlier decisions such as U.S Blunders in Iraq, rushed drafting of the constitution, de-Ba'athification and Disbanding the Iraqi Army, power-sharing and inherited political culture. These factors are the rushed drafting of the Constitution and the accompanying mistakes, along with the role of the US in the issuance of hasty decisions such as disbanding the army, de-Ba'athification, and power-sharing. With the absence of the political culture that could have influenced both the deputy and the citizens, such factors have contributed to continued disruptions that have weakened the functional role of the parliament.

Internal Challenges

In Iraq, the internal challenges are numerous but one internal key challenge is that of constitutional problems which covers other sub-challenges such as the parties' law, election law and Oil and gas law. Besides constitutional problems are also corruption and marginalization of political. The complex constitutional issue which is part of the key factors that are threatening the democratic transformation in Iraq (Dawisha et al, 2003:36-50) is obstructing the functional role of the Iraqi parliament. For example, there is lack of law to regulate political parties and this has led to chaos in party systems. In 2006 and 2010 elections in Iraq, this deficiency reflected negatively on the legislative and supervisory role of the Iraqi parliament as they were unable to function effectively on their functional roles. The Iraqi parliament as it is must as a matter of fact, find a national law that regulates the entire political parties and their activities if they want to function effectively and perform their parliamentary roles in line with the people's mandate. In the midst of constitutional issue is the lack of electoral laws. Even though the Iraqis are given the democracy opportunity with the opportunity to enjoy freedom after the end of Saddam's regime in 2003 still there is lack of political law to sustain the institution. For example, there is lack of electoral laws to govern the election which see that the people's vote count. Every election conducted in Iraq after Saddam Hussein regime has different electoral laws (Hanish, 2011:126) with the election of March 2010 as the most controversial due to the significant change in the electoral law that affected the representation of small and diverse political groups (Hanish, 2011:126).

Following the above is the absence of oil and gas laws governing the nations' oil wealth. The economy of Iraq is a mono-economy dominated by oil.

The oil sector accounts for over 90% of the government revenue and 80% of foreign exchange earnings (Cordesman & Khazai, 2012: 2-9) yet there is no law governing the oil activities in the country. Having laws that governs the oil and gas activities is a crucial and important as it is affecting the affecting the functions of the Iraqi parliament. Recently, most groups in Iraq have accepted the need to create new legal and policy guidelines for the development of the country's oil and natural gas resources so that the parliament can be hold accountable and responsible for oil revenue. However, the Iraqi parliament has yet to consider proposed legislations because of ongoing political disputes (Blanchard, 2008:9). Besides the absence of oil and gas laws, is the lack of formula on how to share and equitably distribute the billions of dollars accruing from the nations' oil wealth. Some believed that the Kurds or Kurdish should benefit more from the oil wealth since they own the oil fields, but on the contrary, Shiites are the biggest beneficiaries while the Sunnis who mostly reside in Iraq's resource-poor center continued hoping for the oil wealth (Beehner, 2006). Unfortunately, the constitution is vague and silent on this, making very difficult if not hard for the parliament to discharge their functional role. This incident has led to the political conflict between the central government and the Kurdish regional government (KRG) over energy contracts and the right to invite and award lucrative contracts to international companies.

Another issue under internal challenge is the high level of corruption among the government officials in Iraq. There is no doubt that in many countries across the globe particularly in the underdeveloped Iraq inclusive, corruption is part of the political-administrative environment. Bribery, embezzlement, and other forms of corruption are known to damage the economy, politics, and society. This negative effect has prompted several countries to put great emphasis on controlling corruption. Whether in politics, administration, or economy, one thing is certain: corruption is spreading like cancer. Corruption has become a pivotal obstacle to political and economic development in country suck as Iraq and has affected the functional role of the parliament (Rieger, 2005:2). Within the context of Iraq, "Iraq has a history of massive corruption. The previous regime bankrupted the country through massive embezzlement of public funds for personal palaces and other conspicuous and wasteful consumption at the expense of the average citizen" (Gunter, 2010:2). It has been recently indicated Iraq is among the worst corrupt countries in the world (Aswat Al-Iraq News Agency, 2010). Corruption has extends to the top of the Iraqi government including the officials. For instance, in May 2009, the Minister of Trade was questioned by the parliament over suspicions of massive corruption in the Public Distribution System (food baskets). According them, The Minister of Trade allegedly paid for large quantities of high-quality imported wheat flour, yet families received insufficient amounts of low-quality domestic flour. Similarly, the Minister of Electricity and several other senior officials in August 12, 2006 were equally charged with accepting kickbacks for assigning contracts to non-existent companies and that Dr. Ziad al-Qattan, general manager of the Ministry of Defense, engaged in $400 million worth of fraudulent defense contracts with Poland (Gunter, 2010:6). All these put together have affected the functional role of the Iraqi parliament as they have failed to effectively function and deliver their responsibilities.

External Challenges

One aspect of external challenges is the security issues which are current frustrating the parliament and the country inclusive. The security issues also include challenges of the neighboring countries (Iran, Turkey, Arabia Saudi, and Syria) and the role of Civil Society Organization (CSOs). The violence that Iraq is witnessing might be the ugliest and the largest in the history of humanity. Dozens of Iraqis fall victims daily. Violence affected the political process, and in many times, it embarrassed the governments that followed the ousting of the regime, as they set to combat armed violence and terrorist acts as a priority in their programs.

It is observed that Iraqi government (Shiites -dominated coalition to power) effort to enforce orders after the collapse of Saddam's regime by U.S. forces in 2003 have proved abortive. For example, the government struggled to enforce order with insurgents (al-Qaeda in Iraq among the most violent) who were targeting civilians as well as security forces but failed to achieve success. However, in 2008 and 2009, the level of violence declined dramatically due to the efforts of moderate Sunni tribesmen (Sahwa) and the security forces in the fight against terrorist groups (Carlson, 2013:3). Also coupled with this was the withdrawal of U.S troops from Iraqi territory and handing over security responsibility to Iraqi forces. Still the incidents of violence in Iraq have increased to the mid-2013, particularly bomb attacks against Sunni and Shiites communities. Observers of the domestic situation in Iraq fear that this security deterioration might last long for an unknown period.

They insist that its continuation would affect the process of building the State of Law, especially if we know that some Iraqi political parties (Arab Sunnis) always hint that they might withdraw from the political process of the government formation and resort to what is called (armed resistance) if they did not have the chance to take part (as they say) in forming a new Iraqi government (Al-Fatlawi, 2006:1-29).

It is crystal clear that after the demise of Saddam's regime, Iraq has witnessed a deteriorating security situation which no doubt has reached the stage of total collapse regardless the substantial improvement in the security situation in the country. This situation has continued to negatively impact on the performance of other state institutions, including the legislative institution (parliament), and as a result of that the ability of parliament has been weakened to carry out its oversight role the actor about the work of the government, this is also reflected negatively on the Council's role in protecting the rights of and freedoms of individuals (Al-Anbugi, 2012).

Declaration of a state of emergency, kidnapping, assassination of MPs and boycott parliament sessions has been the order of the day. For example, Abduction of the MP Taysir al-Mashhadani from the Iraq Concord Front in 2006, Assassination of MP Mohammad Reda from the Kurdistan Alliance in 2006, the killing of MP Mohammed Awad in bomb blast at the Iraqi parliament building in 2007 are among many. For instance, over 44 deputies from the block "united" in the Iraqi parliament announced their resignations in protest against the military operation launched by the Iraqi security forces in December 2013 to break up sit-ins for the Sunni tribes in Anbar province to the government's belief that the stains are a safe haven for al-Qaeda terrorist (Al-Nabaa News Channel,2013). This and other events revealed the weakness of the effectiveness of the performance of the parliament to vote on the laws.

In addition to the above challenge is the Iraq's neighboring countries are one of the important factors that have influenced events in Iraq since the collapse of the Saddam Hussein regime in 2003, and developments in Iraq have had political, economic, and security implications for Iraq's neighbors and the broader Middle East(Blanchard et al. , 2009:7-8). A period of weakness following the fall of the regime tempted Iraq's neighbors, Iran, Turkey, Syria, Saudi Arabia and Kuwait to intervene in the internal politics of Iraq (James et al, 2003:175).Which reflected negatively on the parliamentary institution and its functions in the control and legislation.

Theoretical Background

Institutionalism approach (Historical institutionalism) perspective Institutionalism approach is categorized into two major groups which are referred to as old and new. The old institutionalism approach includes (rational choice, historical, and sociological institutionalism) while the new institutionalism approach also consists of discursive institutionalism (Schmidt, 2006: 1). This study focuses on the Historical institutionalism aspect of the institutionalism approach explain the relevant challenging factors that are affecting the role of institution outcomes with particular focus on the functional role of the Iraqi parliament. The Historical institutionalism will also help the study to explain, interpret and underpin the historical and environmental (e.g. external and internal) challenges that adversely affected the functional role of the Iraqi parliament. It will further help to explain the mechanism of the parliamentary system and evaluation of the parliamentary experience in Iraq in the post Saddam era. The historical institutionalism emphasizes on the real-world empirical questions with particular interest on the historical orientation and the ways of institutions structure and results of political behavior. Past studies in this domain such as Karl Polanyi's classic (Great Transformations) to Theda Skocpol's (States and Social Revolutions) and Philippe Schmitter's (Still a Century of Corporatism)" have been inspired by this approach (Steinmo, 2008:1).

Furthermore, the analytical study Hall and Thelen (2006) on the Institutional Change in Varieties of Capitalism argue that historical institutionalism focuses on how institutions, which are understood as sets of regularized practices with rule-like qualities, organize actions and outcomes. This perspective tends to emphasize sequences on the development, timing of events, and phases of political change. It examines not only the asymmetries of power related to the operation and development of institutions, but also the path dependencies and unintended consequences that result from such historical developments.

Also, similar studies by Thelen & Steinmo (1992: 19); Hall (1986); Ikenberry et al. (1988: 226) have pointed out how historical institutionalists define institutions, "According to institutionalists, institutions can be defined as formal or informal norms, procedures, routines, and conventions in the organizational structure of the polity or political economy. Institutions can range from the rules of a Constitutional order or the standard operating procedures of a bureaucracy to the conventions governing trade union behavior or bank–firm relations.

Historical institutionalists generally associate institutions with organizations and the rules or conventions promulgated by formal organizations". In summary, the major assumption of historical institutionalism is that social science method utilized institutions to find sequences of political, economic, social behavior and change across time". It posits that the actions and outcomes of the functional role of the political environment are determined by their historical institutions which are then influence by other factors such as environment (e.g. external and internal) and historical challenges in the country's political environment. Thus, in this study, it is assumed that historical institutions, environment (internal and external) will significantly influence the role of institution outcomes.
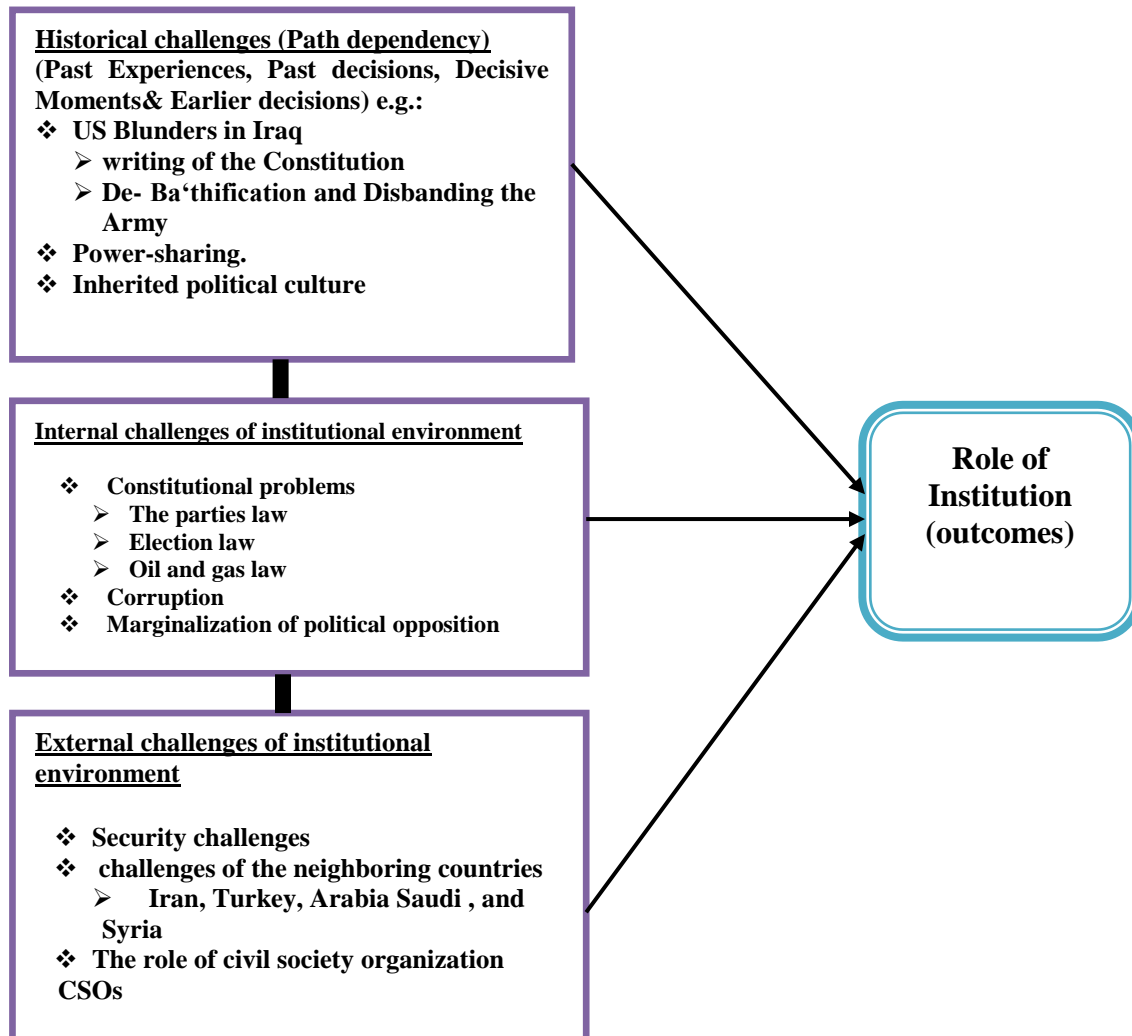
Historical challenges (Path dependency)
(Past Experiences, Past decisions, Decisive Moments& Earlier decisions) e.g.:
❖ **US Blunders in Iraq**
   ➢ **writing of the Constitution**
   ➢ **De- Ba'thification and Disbanding the Army**
❖ **Power-sharing.**
❖ **Inherited political culture**

Internal challenges of institutional environment

   ❖ **Constitutional problems**
      ➢ **The parties law**
      ➢ **Election law**
      ➢ **Oil and gas law**
   ❖ **Corruption**
   ❖ **Marginalization of political opposition**

External challenges of institutional environment

   ❖ **Security challenges**
   ❖ **challenges of the neighboring countries**
      ➢ **Iran, Turkey, Arabia Saudi , and Syria**
   ❖ **The role of civil society organization CSOs**

Role of Institution (outcomes)

Figure 2: Theoretical Models on the Key Challenges Affecting the Functional role of Iraqi Parliament

Conclusion

This theoretical paper explores the functional role of the Iraqi parliament after the post Saddam Hussein regime in Iraq. Its major objective is to identify the key challenging factors affecting the functional roles of the Iraqi parliament after Saddam Hussein. Thus, the paper examined the three key challenges affecting the functional roles of the Iraqi parliament after Saddam Hussein. One major approach that guides the discussion on this paper is the Institutionalism approach with particular emphasis on the historical institutionalism perspective. As posited by the historical institutionalism, country's instructional history affects the functional role of its institution outcomes. It assumes that historical institutions, external and internal factors significantly influence the role of institution outcomes. Thus, historical institutionalism perspective approach explains the relevant challenging factors that are affecting the role of institution outcomes as it applies to the functional roles of the Iraqi parliament. The paper observed and identified three key challenging factors namely historical institutions, external and internal factors affecting the functional roles of Iraqi parliament after Saddam regime.

This was also supported by previous literature that Iraqi parliament are faced with several challenges which have slowed them down from effectively discharging their functional roles at the parliament. It is argued in this paper that these key challenging factors (historical institutions, external and internal factors) are capable of rendering the functional roles of the Iraqi parliament ineffective if not nothing is done. Therefore, the Iraqi parliament must find a way of avoiding these challenging factors in order to effectively discharge their functional roles for the happiness of the citizens and move the country in the path of achieving its economic goals.

This paper extends and broadens the literature in this domain by discussing the key challenging factors on the functional roles of the Iraqi parliament with particular interest in post Saddam regime which other studies failed to discussed. Besides that, the paper also advanced a model to examine the key challenging factors affecting the functional roles of Iraqi parliament with focus on after Saddam Hussein regime. This paper would welcome further inquiry and discussion on the key challenging factors affecting the functional role of institution outcomes especially within the Iraqi parliament perspective. It is assumed that the arguments presented in this paper will spring up further inquiry in this domain and provides empirical evidence on the key challenging factors affecting the functional role of institution outcomes.

Acknowledgments

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