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AMENDMENT OF CONSTITUTIONS OF IRAQ AND INDIA: AN ANALYSIS

تعديل الدستورين العراقي والهندي : دراسة تحليلية

Keywords: Amendment, Constitution, Iraq, India, analysis, rigid, flexible, permanent, Article .

الكلمة المفتاحية : تعديل، دستور، العراق، الهند، تحليل، جامد، مرن، دائم، مادة.

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Abstract

Noting is permanent but the change is permanent, it is pertinent to everything of the world. Constitutions of the nations are not special cases to it. A Constitution confined once ought not stay as it until the end of time. It must be amendment as per needs and conditions of the nation. Constitution is the law of land, so it must be adoptable to each age of the nation, it is conceivable through revise capacity of the Constitution with proper techniques. Iraq and India, both are autonomous, rule-based, delegate, republic and Parliamentary nations. Previous it is ruled by their Constitution from most recent 14 years of the beginning of the Constitution. While, later additionally oversee by their Constitution from 1950 till date .

Amendatory Clause of the Indian Constitution made it living and dynamic one with in excess of 444 Articles, 12 Schedules and 22 Part, experiencing 102 amendments, though, no single amendment held to the Iraqi Constitution inside 14 years of the beginning of the Constitution. Henceforth, here endeavor is made to center correcting arrangements of the two nations with their wordings, attributes, systems and obstacles in their ways with couple of proposals.

Introduction

The Problem :

To achieve the aim of research, the researcher makes analysis study of Iraqi and Indian Constitution following points of provisions:
(1) To compare the amending provisions of Iraqi and Indian Constitution.
(2) To find out differences of amending power and procedure in Iraqi and Indian Constitution.
(3) To highlight the controversial amendments held to the Constitutions.

Importance of the Study:

Amendment to the Constitution brings some of the time enactment in the life of individuals though at some point this power has been used for political increases just which antagonistically influences the general population. The significance of research is additionally to delight the reality alongside outline that alterations ought to dependably be acquainted in the Constitution with give bliss to the native of the nation to their greatest advantage likewise been ensured.

Plan of the Study:

The research has divided in to three subjects, first subject dealing with introduction and this subject content one requirement its meaning of amendment, while second topic dealing with embodying provision for amending power in the Iraqi Constitution and third topic emphasis on embodying provision for amending power in the Indian Constitution this topic has divided on three requirements: first requirement, whether amending power is an instrument of growth of the Constitution experience of Iraq and India, second requirement, certain recognized methods of constitutional amendment, third requirement is dealing with attempts to amend the Iraqi Constitution and hurdles in it and lastly fourth topic dealing with conclusion and suggestions.

Methodology:

The present study has adopted analytical study, the researcher will make analysis study of amending of Constitutions for both Iraq and India.

First Topic: Introduction

A Constitution is the fundamental law of the land of every country. It is a record which characterizes the position and intensity of three organs of the State, to be specific, the executive, the legislative and the judiciary. Truth be told, the reason for a Constitution isn't only to make the organs of the state yet in addition to restrain their position. Normally, such a basic report as a Constitution ought not experience excessively visit and simple amendments to undermine the certainty of natives .

Arrangement for revision of the Constitution is made so as to defeat the challenges which may experience in future to working of the Constitution. No age has restraining infrastructure of knowledge nor has it a directly to put shackles on future ages to shape the apparatus of the administration as indicated by their necessities. Keeping this view mind designers of the Indian and Iraqi Constitutions fused revising arrangements in their separate Constitutions .

India is known as universes larges popular government, which is came in to presence on 26 January 1950, though Iraq has additionally vote based system which last one came in to drive on 15 October 2005. Both are free, government, delegate, parliamentary and republic nations. Henceforth to asses altering arrangements of the two esteemed fit by analyst to examine existing arrangements in the particular Constitutions, to investigation them, to propose suggestion to them two, to maintain a strategic distance from over the top use and abuse of amending force .

First Requirement: Meaning of Amendment

The amending provision is progressively important in the advanced world which is developing always and there is high weight on Constitutions for alteration or deserting. It is in this manner, suitable that the word alteration is comprehended to incorporate a wide range of progress. In like manner speech revision signifies, "Improvement" or "a slight amendment ". At the point when the word amendment is utilized in connection to the Constitution, it implies modification, correction, repeal, expansion, variety or cancellation of any of the arrangement of the Constitution through Constitutional procedure .

Based on above, it is proper to consider perspectives on legal scholars and implications gave in the lexicons of the word amendment. As per Herman Finer, "to correct is to de constitute and reconstitute"[(1)]. In times when there had been no composed Constitutions deciding the type of nations, there could be no juristic criteria to plainly recognize amendment and alteration of the Constitution. Alteration of the Constitution has, be that as it may, expected a distinct importance and has advanced as an idea in the substance of composed Constitutions. The quintessence of a composed Constitution lies in its method of alteration. A Constitution which doesn't contain arrangement for its correction with the improvement, development and extension of the network is the most mad equate and defective "deed of organization"[(2)]. The lexicon importance of the word revision is given when all is said in done detect as: 1) the demonstration of altering or the State or being corrected. 2) an amendment of or expansion to a movement, charge Constitution and so forth[(3)]. This is a general lexicon meaning however which is distraught in giving clear image of the word revision in connection with Constitution. So another confirm source which give practically precise importance of the word correction may state to Wikipedia, as indicated by it, "an alteration is a formal or authority amendment made to a law, contract, Constitution or other authoritative report. It depends on the action word to correct, which intends to amendment.

Alterations can include, expel, or refreshes portions of these assertions. There are regularly utilized when it is smarter to amendment the report than to compose another one(4). Aside from above point by point definition understood Merriam Webster lexicon had additionally given the significance of the word revision in the way 'lawful meaning of amendment :'

1- *Demonstration of changing: particularly: a modification in wording (revisions to mind the deformity in the arguing)*
2- *An modification proposed or put into impact by parliamentary or constitutional methodology(5).*

According to overall word references meaning alteration are only an amendment, which is law of life. Subsequently the Constitution of a country must be receptive to the amendments. It is genuinely said 'nothing is permanent but change is permanent .'

Henceforth to be receptive to the outward amendments, a Constitution must have the substance of work ability and this can be accomplished through a correcting Clause. An unamend Constitution is the most exceedingly bad oppression all things considered. This framework establishes for the revision proviso in the vote based Constitutions.

First Section: Necessity of Amending Provision in the Constitution

Age hasn't imposed business model of intelligence nor has it a directly to put shackles on future ages to form the hardware of government as per their necessities. In the event that no arrangement were made for the revision of the Constitution, the general population would have a plan of action to additional Constitutional technique like upheaval to amendment the Constitution(6). A Constitution must not be static or so unbending but rather it ought to develop, changing as per the mores and requirements of the general population to meet for the coming circumstances .

The composers of the Constitutions of Iraq and Indian considered perspectives of legal advisers and political scholars that

worried upon the requirement for revising a Constitution to fulfill the needs of the changing occasions or necessities of development and advancement of the country. Thomas Jefferson had said(7), "I am assurance not a supporter of continuous and untried amendments in laws and Constitutions… . However, I know additionally that laws and foundations must run connected at the hip with the advancement of human personality. Organizations must… . keep pace with the occasions". Aptly be portrayed what the need of correction arrangement in the Constitution is .

As per Quick and Garien: … . A Constitution which does not contain arrangement for its revision with the improvement development and extension of the network which it is planned to administer, would be a most deficient and blemished deed of association. It would be esteemed to fall secretly and without any desire for reconstruction.... A Constitution might be contrasted with a living being. It isn't in the idea of a living creature to remain drearily the equivalent from year to year and from forever. Similarly as with individual units so with countries, amendment is one of the laws of life. The Constitution of a country is the outward and noticeable indication of its national life, to the throbs of which it fundamentally reacts. The vitality inside any sound natural structure must discover vent in amendment(8).

Without a doubt, a Constitution that does not accommodate a formal strategy for alteration leaves space for illegal and frequently vicious strategies for amendment which may result in peril to the advancement of the country and individuals too. C.J. Friedrich appropriately said that, "a well-drawn Constitution will accommodate its own correction so as to hinder, with respect to as could be allowed, progressive amendments"(9).

Constitution and laws can't bear to stay unamend on two scores: first, amendment is fundamental for advancement; and second, refusal to amendment would prompt vicious transformation and the demolition of majority rule government itself. Thus, to accomplish the main score and to stay away from the second. Constitutions of Iraq and India consolidated alteration arrangements in their individual

Constitutions, since it is the procedure of correction which comprises the genuine Constitution.

Second Topic: Embodying Provision for Amending Power in the Iraqi Constitution

The Constitution of Iraq is the fundamental law of Iraq. The principal Constitution came into power 1925. The present Constitution of Iraq was drafted by a board of trustees of the Iraqi Transitional Government(10). The concurred content was put a in to force in October 2005. It was affirmed by 79% of voters and 15 out of 18 Governorates in public referendum. That occurred on 15 October 2005 .

In an understanding before the in forcemeat, the biggest Sunni Arab biggest part of the Iraqi Islamic Party consented to help a 'yes' vote as long as the primary parliament chose under the Constitution consented to think about corrections. This understanding composed into Article 142 of the Constitution is at pursue:Art-142(11).

"First: The Council of Representatives shall form at the beginning of its work a committee from its members representing the principal component of the Iraqi society with the mission of presenting to the Council of Representatives within a period not to exceed four months, a report that contains recommendations of the necessary amendments that could be made to the Constitution, and the committee shall be dissolved after a decision is made regarding its proposals.

Second: The proposed amendments shall be presented to the Council of Representatives all at once for a vote upon them, and shall be deemed approval with the agreement of the absolute majority of the members of the Council.

Third: The Articles amended by the Council of Representatives pursuant to item "second" of this Article shall be presented to the people for voting on them in a referendum within a period not exceeding two months from the date of their approval by the Council of Representatives.

Fourth: The referendum on the amended Articles shall be successful if approval by the majority of the voters, and if not rejected by two-thirds of the voters in three or more governorates.
Fifth: Article 126 of the Constitution shall be suspended and shall return into force after the amendment stipulated in this Article have been decided upon".

For the amending the Constitution arrangement with its system is likewise given in segment six titled as 'Last and Transitional Provisions' of the Iraqi Constitution under Article 126. Be that as it may, Article 142 sub-Clause fifth suspended Article 126 which is lethargic yet and Article 142 is in the image as it were .

The job of Constitution ought to be as an underwriter of the solidarity and power of the State. Therefore any Constitution ought to emerge from the requirements and requests of the general population and it ought to contain what they want. In any case, in the event of Iraq there is feeling among a portion of the general population that their Constitution is forced on them as affected by U.S. impedance .

The U.S. try in Iraq was not first. It was gone before by other comparable attacks, outstandingly in Germany and Japan following the Second World War. In Germany and Japan, the U.S. effectively amendment the legislatures from autocracies to majority rule governments. A few components of these two encounters emerge: the Constitutions were drafted by indigenous individuals under the supervision of the U.S. powers, the Constitutional legacy, experience, and history of two countries were not completely ignored, and the social textures of the two social orders were not neglected[(12)].

Because of absence of solidarity among the ideological groups and boards Article 142 of the Constitution isn't filling its need in appropriate way and left as irresolute trade off. As ahead of schedule as conceivable tradeoff is the need of hour for the advancement of the country since correction keeps Constitution living and dynamic one as indicated by requirements of the general population.

Third Topic: Embodying Provision for Amending Power in the Indian Constitution

The revising strategy of India is motivated by the techniques of U.S.A., Canada, Australia, South Africa, U.K., Switzerland and Ireland .

What Article 368 of the Constitution of India approves to be done is revision of the arrangements of the Constitution. This Article altered by the need and conditions after the beginning of the Indian Constitution .

The amendment content of Article 368 of the Indian Constitution as it currently exists(13), read: "Article 368- (1)Notwithstanding anything in this Constitution, Parliament may in exercise of its constituent power amend by way of addition, variation or repeal any provision of this Constitution in accordance with the procedure laid in this Article.

(2) An amendment of this Constitution may be initiated only by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House by a majority of the total membership of that House and by majority of not less than two thirds of the members of that House present and voting, it shall be presented to the President who shall give his assent to the Bill and thereupon, the Constitution shall stand amended in accordance with the terms of the Bill, provided that if such amendment seeks to make any amendment to:

a- Article 54, Article 55, Article 73, Article 162, or Article 142, or (these provisions are related to related to election and manner of election of President, extent of executive power of the Union and State also and High Courts for Union Territories).

b- Chapter IV of Part V, chapter V of Part VI, or chapter I of Part XI or (these provisions are related to Union Judiciary, High Courts of States and Legislative relations between Center and States).

c- Any of the lists in the Seventh Schedule.

d- The Representation of States in Parliament, or

e- The provisions of this Article, the amendment shall also require to be ratified by the legislatures of not less than one-half of the States by resolution to that effect passed by those legislatures before the Bill making provision for such amendment is presented to the President for assent.
(3)Nothing in Article 13 applies to any amendment made under this Article.
(4)No amendment of this Constitution (including the provisions of Part III) made or purporting to have been made under this Article whether before or after the commencement of Section 55 of the Constitution (42nd Amendment) Act, 1976, shall be called in question in any Court on any ground[14].
(5)For the removal of doubts, it is hereby declared that there shall be no limitation whatever on the constituent power of Parliament to amend by way of addition, variation or repeal the provisions of this Constitution under this Article[15].

The establishing fathers and moms of the Constitution hence concocted a one of a kind procedure of revision of the diverse arrangements of the Constitution, which is brilliant mean of unbending nature and adaptability. Such uniqueness not found in some other Constitution of the world. Opined upon it, K.C. Where commented, "this assortment in the revising procedure is astute however it is once in a while fixed"[16].

First Requirement: Whether Amending Power is an Instrument of Growth of the Constitution?: Experience of Iraq and India.

Constitution for each nation is 'grand standards' methods tradition that must be adhered to. It has expectations and desires of individuals. It has its underlying foundations ever of and it adapt to past present and future. The political awareness in man is liable to unending development. Subsequently, the Constitution of a state is obligated to a developing procedure. The Constitution is an

examination. The amendment of the Constitution it might be somewhat isn't past the speed of the political awareness in a people .

The U.S.A. Constitution is known as world's initially composed Constitution which has received in 1787. It has likewise amendatory Clause. What works today as the Constitution of the U.S.A. is an adjustment of it through in excess of twenty six alteration realized to make express the developing needs of the general population(17).

The Constitution of India is in spite of the fact that a voluminous record viewed as most expand on everything about, it has come to over One hundred twenty two correction Bills (really embedded ninety eight revision to the Indian Constitution) amid simply somewhat more than six decades if its life. In the event that it is contrasted and Iraq, at that point it is discovered that after the beginning of the Constitution of Iraq inside 13 years (from 2005 to 2018) there were no any revision held to the Constitution, though, in the event of India from the initiation of the Constitution till next 13 years (from 1950 to 1961) it has presented eleven corrections .

Subsequently, it demonstrated that correcting arrangement is an instrument of development of the Constitution in the event of India. In any case, it isn't valid with Iraq .

The correcting procedure fills in as a compelling instrument to control and amendment the development of the apparatus when in threat of implosion. So at whatever point, an event emerges either to deflect a Constitutional emergencies, or to address another political difficulty, or to meet a crisis, or to handle a quick issue, the issue can be alluded at one to the amendatory clause(18). The amendatory Clause is a gathering to take insight of every single Constitutional protest. It is an ombudsman of the constituent power. India is tasting sweetness of the products of effective revisions which were premonitions of establishing father and moms of their Constitution. In Iraq it appears to be so difficult because of unbending nature and absence of solidarity among the general population.

Second Requirement: Recognizing Certain Methods of Constitutional Amendment

At the worldwide dimension, the ability to amendment and the strategy to alter, profoundly vary from state to state. For the most part, revisions can be made by the accompanying strategies -:

(1) By common administrative procedure, with or without confinement, and this nature of "with or without limitation" may lead the principal strategy to be separate into four further sub-techniques :

a) By the conventional course of enactment by supreme lion's share or by exceptional lion's share .

b) By a fixed majority of individuals for the thought of the proposed revision and an exceptional lion's share for its entry[(19)].

c) By disintegration and general decision on a specific issue .

d) By most of two Houses of Parliament in joint session as for the situation in the Constitution of South Africa .

(2)By a prevalent vote, choice or plebiscite, as in Switzerland, Australia, Ireland, France, Denmark and Japan .

(3)By an understanding in some structure or other of both of most of all the combining units as in Switzerland, Australia and U.S.A[(20)].

(4)By making of an uncommon body impromptu .

(5)Some Constitutions forces express constraints on the ability to amendment as U.S.A., Brazil, and France… etc.

(6)Some Constitutions give that the proposition to correction of the Constitutions will contain no other proposition; as Brazil .

(7)The Constitution of a particular country may give not exclusively to fractional however for all out amendment, that is, the complete reworking of the Constitution[(21)].

Thus, all these are perceived techniques for amendments wins everywhere throughout the world impacted by some of them India has built up its own. There is not really another government Constitution which gives an arable model, joining unbending nature and adaptability in a way exemplified the arrangements gave under Indian Constitution[(22)].

Third Requirement: Attempts to Amend the Iraqi Constitution and Hurdles in it:

Under a tradeoff facilitated before the in force it was concurred that the primary Parliament that should have been chosen according to another Constitution would establish a Constitutional Review Committee with a view decide if the Constitution ought to be corrected .

When the Constitution was affirmed requests for its amendment were made. The principal reaction was from the Sunni individuals from the Constitution Committee who dismiss the Constitution, remaining that they had not concurred the terms and calling for inner help to square it. In February 2006, envisioning the arrangement of a board of trustees to survey the Constitution, an informal Sunni gathering of scholastics and lawmakers enunciated requests including: unwinding of Article 142; suspending the usage of federalism; giving focal government responsibility for assets, revoking De-Bathification, and keep any area attaching Kirkuk(23).

In spite of the fact that the Iraqi Parliament had built up a board of trustees to audit the Constitution, it didn't gather. In September 2006 another board was built up, however this was at that point unlawful on the grounds that slip by of timespan as endorsed in the primary section of Article 142 .

In November 2008 Prime Minister Nuri Al-Maliki joined the reprimanding the Constitution and focused on the requirement for its amendment. He said "the Constitution was drafted quickly and in climate when the portion framework was overpowering"(24). Be that as it may, it additionally not productive and wind up vain .

In 2011 the second biggest gathering in the Parliament Al-Iraqia participated in requiring the correction of the Constitution. Their reasons were diverse to Al-Maliki: they wished to control his forces. Just the Kurdistan locale, the gatherings of Massod Barzani and Jalal Talabani, keep on calling for full adherence to the Constitution and they made their interest in the present overseeing alliance restrictive on maintaining. Step by step circumstance turns

out to be increasingly turbulent yet no legitimate foundations have been to alter the Constitution .

In 2015 there was dissent against the administration of Iraq and to correct the Constitution inclusion was given in English news paper titled as "Iraqi President concurs Constitution amendment"[25].

It is in a word was given us :

Iraqi president Foud Massoum on Wednesday in supported altering the Constitution, reacting to protestors requests to amendment an arrangement of government buried in defilement and bungle .

"we concur for the need to alter the Constitution yet we should not contrast on the esteem and significance of the record which the general population voted in favor of"[26].

It indicates feeling of president looking towards the Constitution as consecrated and not contemplating will and wishes of individuals to amendment the major report as per the need and conditions to meet the circumstance. From 2005 till date what over endeavors made to alter the Constitution found ineffective because of different reasons.

First Section: Hurdles

In spite of analysis and requests, the Iraqi Constitution was not amendment. There were numerous components behind it as individual .

It has demonstrated difficult to discover a technique to amendment the most dubious issues. For instance, no alteration can contact the forces of the routines when all is said in done and the Kurdish locale specifically[27].

However, the greater part of the issues that Iraq is seeing today are a direct result of the battle between the focal government and the Kurdish administrative substance and the manner by which the Prime Ministers keeps on ruling Iraqi legislative issues.

Another factor which has frustrated the alteration procedure is the sharp divisions and contrasts among the Iraqi political squares and gatherings[28]. Unexpectedly all the clashing gatherings allude to the Constitution when they need to help their requests, since it is so

obscure and ambiguous, the Constitution can be utilized to help contradicting requests. Besides, the Articles that characterize the personality of Iraq are exposed to correction in light of the fact that the Constitution declares an Arab personality for Iraq .

As indicated by Article 142 of the Constitution of Iraq, a submission on the amendment Articles is possibly called fruitful if larger part of the voters in a national dimension endorse it. It is ineffective if two third of the voters from at least three areas dismiss it. This implies even 15 territories acknowledge the alteration and two third of other three areas dismiss it, at that point the amendment are not acquainted with the nation's Constitution(29). On the opposite side, the Iraqi Constitution holds no perfect a particular objective as far as the outside strategy. Truth be told, the outside strategy is slighter in contrast with the residential arrangement as far as hugeness in the Constitution. Maybe it is consequently that Iraq is tormented by home clashes influencing alterations .

The Constitution declares that the amendments must win the entire endorsement of the Constitutional Reform Committee, at the end of the day, these conditions have made the procedures of survey and revision of Constitution exceptionally troublesome.

1. Common and Uncommon Features of Amendment in Iraq and India:

By an investigation of the amendatory Clauses in two composed Constitution of Iraq and India certain remarkable highlights are normal and phenomenal to the Constitutions as pursue:

a) A Definite Procedure :

The Constitution must be the sole core value for its elucidation as likewise of translation of the strategy for its amendment. The Constitutional system has, consequently to be translated, in a few regards, uniquely in contrast to that of the customary laws .

The amendatory Clause fundamentally endorses system; and henceforth it might be known as a procedural thing(30). The strategy set up by law is a confinement of the suggested power. A composed

Constitution dependably restrains the administration; and a composed amendatory Clause dependably restricts the Constitution. It limits constituent power likewise provided that such power is excessed in discrediting of the recommended technique, the alteration will end up illegal. Due this foundation it is discovered that Iraqi and Indian Constitution had given composed clear amendatory Clause to particular which is normal to both .

b) Bar to Amend Certain Provisions :

A amendment of the things restricted to be objects of correction even with the forbiddance, will be unlawful; however the disallowance when evacuated by alteration the entire Constitution wind up open to revision .

In India, however the content of the Constitution does not contain any such explicit bar on changing any of its arrangements, such an impediment exuded from a catena of notable choice of Indian Apex court in 1973 by resting essential structure hypothesis. As indicated by it parliament can amendment any arrangement on Indian Constitution subject to fundamental standards of the Constitution which is mind offspring of Indian Supreme Court .

If there should be an occurrence of Iraq additionally the content of the Constitution does not contain any such explicit bar on revising any of its arrangements and till date no single alteration held to the Constitution. Henceforth, higher legal executive has likewise no state to bar certain arrangements of the Constitution, so this an exceptional component to India and Iraq .

c) Power and Procedure :

It is the basic component to Iraqi and Indian Constitution the two has furnished power with system to correct their particular Constitutions. If there should arise an occurrence of Iraq Article 142 and 126 and in the event that if India Article 368 is there .

d) Rigidity and Flexibility :

As indicated by correcting system, Constitutions can be separated as unbending or adaptable. A few Constitutions of the world called unbending where revision of the Constitution is so troublesome or ends up incomprehensible like Iraq. Where a choice

on the revised Articles are possibly called effective if greater part of the voters in a national dimension affirm it. It is fruitless if 66% of voters from at least three states dismiss it(31). The Article is broken into three phases; reestablishing the previous status. Directing enumeration of the prior and current populace, and holding choice .

Indian amendatory Clause gave under Article 368 of the Constitution is interesting mix of unbending nature and adaptability. It is brilliant mean of both because of the premonition of composers of the Constitution.

Fourth Topic: Conclusion and Suggestions :

The constitution is a key archive. It is called as a law of land. It is an archive which characterizes the position and intensity of the three organs of the State, specifically, the Executive, the Legislature and the Judiciary. Normally, such a basic report as a Constitution ought not experience excessively visit and simple amendments, as that would undermine the certainty of the natives in the standing idea of the Constitution. It requires re-look towards the corrections which were held to the Indian Constitution inside 65 years of its life it has experienced 102 amendments independent of voluminous and gritty arrangements. It ought to be regarded and treated uniquely in contrast to conventional law. Tension was communicated by Dr. B.R. Ambedkar (Chief Architect of Indian Constitution) at the season of Fourth Amendment held to the Constitution .

In Iraq after the beginning of its Constitution till date inside 13 years of its initiation no single alteration embedded to it. It's a case of inflexibility .

It ought to be comprehended while a Constitution is a dynamic report. It ought to develop with developing country and should suit the changing needs and conditions of a developing and evolving individuals. This must be remembered by government officials and resident of Iraq .

Both Iraq and India are free nations; the arrangement of administration of both is popularity based, government, agent, Parliamentary and republic .

Consequently, it is proposed to Iraqi councils that, if the Constitution remains as a hindrance to portray transforms, it might, under extraordinary weight be decimated. In this way, to stay away from it, as ahead of schedule as conceivable to take such activities to expel clashes and accumulate confidence and agreement for advancement of Constitution as preeminent law of land .

It is additionally proposed to Indian governing body don't utilize altering power much of the time which may result into harsh to the Constitutional ethos. To protect the holiness of the Constitution.

Lastly we may suggest some points:

1- *Amendment ought to be made in future, considering the bigger point of view of Indian culture.*
2- *Self-forced confinements might be forced by Parliament while practicing the ability to revise the arrangements of the Constitution*
3- *On the off chance that President thinks fit that the revision is against the protected rationality, power ought to be given to the President to retain his assent.*
4- *Revision is a vital instrument for making Constitution parallel to improvement in the public arena. The unbending techniques mulled over for change of Iraqi Constitution make obstacle in correcting Constitution as a result of the way that not a solitary amendment has been occurred till date. It is presented that some adaptability in the correcting arrangement ought to be acquainted all together with make the Constitution living and dynamic one.*
5- *Articles 142 of Iraqi Constitution is additionally another arrangements for revising the Constitution which can be practice just once in entire existence of the Constitution. It is presented that there is no rationale to hold this arrangement.*

6- Under Article 126 of Iraqi Constitution for sanction of alteration the consent of President inside seven days is made obligatory. The range of seven days for giving consent by President ought to be raised for further more period.

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تعديل الدستورين العراقي والهندي : دراسة تحليلية

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ملخص البحث

لا شيء يبقى على حاله إلا التغيير فهو ذو صلة وثيقة بكل شيء في العالم حتى دساتير الأمم. ليست حالات خاصة عنه، فالدستور لا يجب أن يكون محدداً دائماً. بل يجب تعديله حسب احتياجات وظروف الأمة. الدستور هو قانون الأرض، لذلك يجب أن يكون قابلاً للتطبيق لكل عصر في الأمة، يمكن رؤية هذا من خلال مراجعة الدستور وقدرته بالإجراءات المناسبة. فالعراق والهند، كلاهما مستقل ذاتياً، ومبني على تمثيل القانون بحكم جمهوري وبرلماني. فكان يحكم دستورهم آخر 14 عاماً. بينما لاحقاً يشرف على دستورهم من عام 1950 حتى الآن.

جعل البند التعديلي من الدستور الهندي فعالاً بما يزيد عن 444 مادة و 12 جدولاً و 22 جزءاً، والتي شهدت 102 تعديلاً، على الرغم من عدم وجود تعديل واحد للدستور العراقي خلال 14 عاماً منذ بداية الدستور. ومنذ ذلك الحين، يتم السعي على تنظيم البلدين من خلال التركيز على سماتهم وانظمتهم والعقبات الموجودة في طريقهم بالإضافة إلى المقترحات.

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