

The Bahraini constitutional governmental system “An overview”

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Generally speaking, the parliamentary system in the democratic states is divided into three main systems. This division is based on the organization and relationship between the three branches of the government: the legislative, the executive and the judicial. If these powers of a state are both upon each other in a hierarchical manner this means that this state is adopting the assembly system. A state whose powers are divided in a rigid way, then its system is considered a presidential one. And the state which adopts a flexible principle of powers and the relationship among its governmental powers is based cooperation and interaction this means that it is considered a parliamentary state. So, where does the Bahraini constitutional system belong among these systems?

To answer this question one needs to refer to the Bahraini constitution. Article (32) of the constitution of the Kingdom, 2002, now in force, reads: “the governmental system is based on the principle of separation of powers between the legislative, the executive and the judicial. These authorities should coordinate with each other according to the provisions of the constitutions. They must not abdicate all or any of their powers to each other“. In light of the above stated provision, one can say that the Bahraini constitutional system could be a parliamentary system or a combination of the presidential and the parliamentary systems (i.e. a semi parliamentary system). This assumption is based on the fact that the parliamentary system the mixed system have the same features namely: the executive branch is bilateral and the relationship between the legislature and the executive is based on cooperation and interaction between them. But if we thoroughly examined the provisions of the constitution as a whole one will certainly, say that the kingdom constitutional system is a modified parliamentary system. It equips the king with factual and real powers contrary to the traditional parliamentary system which provides the head of the state with only symbolic and non-factual powers. It should be noted, also, that our constitutional system is not entirely a mixed constitutional system because the mixed system is usually found in states where its head (president) chosen by a secret ballot where as the head of our kingdom, the king, holds his position according to inheritance rules.

Based on this analysis, it is clear, that the governmental system of Bahrain is a semi parliamentary system. We will discuss its features as follows:

I. The Executive branch is bilateral.

In the traditional parliamentary system, the executive branch consists of the head of the state who has no real power and a cabinet (a council of ministers) who hold the real executive power

which entitles it to carry out the executive functions of the state. On the other hand, the Bahraini constitution provides that the executive branch of the kingdom consists of the king and a council of ministers (i.e. the prime minister and a number of ministers). But it should be noted, that the king is not deprived of the factual power. On the contrary. His majesty has ample executive power since this power is divided between him and the council of ministers. (art. 32/b of the constitution) furthermore, the king shares with the national assembly the legislation power according to the provisions of the constitution (art. 32/b of the constitution)

II. The cooperation and mutual supervision between the legislative and the executive branches.

As we mentioned above, the Bahraini constitution has provided that the relationship between the authorities of the state are based on a flexible principle of separation of powers that includes cooperation and mutual supervision between the legislative and the executive authorities. We will discuss these two points as follows.

A. Aspects of cooperation between the legislative and the executive branches.

These aspects can be summarized as follows:

1 – The rule of the executive authority in facilitating the selection of the legislative authority.

The national assembly, as it is stated in the constitution, is composed of two chambers. The council (the consultative council) and the chamber of deputies. The executive authority, one should emphasize, plays an important role in the selection of the members of both councils. The king appoints, by a royal decree, all the members of the shura council. Article (25) of the constitution states that : “the shura council consists of forty members that are appointed by a royal decree”. Article (33/f) of the constitution, also, reads “the king appoints the members of the shura council and dismisses them by a royal decree”.

As far as the chamber of Deputies is concerned, the executive authority has a crucial role in conducting the election process including the determination of its date and the supervision of its process.

2 – The role of the executive authority to invite the national assembly for meeting and its role to adjourn its sessions.

According to the provision of the constitution the national assembly holds its annual session on the second Saturday of the beginning of October. Nevertheless. The king is entitled to call the above named assembly for a meeting prior to this date. Article (42/b) of the constitution states: “the king calls the national assembly to meet by a royal decree...”. Article (71) also states: “the national assembly meets on the second Saturday at the beginning of the month of October, unless otherwise determined by the king to call for a meeting before that date..”

Based upon the above stated provisions, if the date provided in the constrictioin was due and no royal decree was issued to invite the national assembly for a meeting, this assembly should held its meeting in accordance with article (71) of the constitution. Furthermore, the king has authority to call the national assembly to an unusual session. The king is entitled, also, to open the ordinary session of parliament and delivers a royal speech. He may ask the crown prince of whom he trust to dialer the speech on his behalf. Each chamber should form a committee from its members to prepare a draft reply to the royal speech and each chamber shall submit its approval reply to the king. (art. (6a/b) of the constitution)

The king have the right to adjourn the regular and non-regular sessions of the national assembly by a royal decree (art. 74) and the annual ordinary session may not be adjourned before the approval of the budget act (art. 76). In addition, the prime minister can attend the sessions of the shura council and the chamber of deputies. Both chambers may invite senior executive officials to asset them with certain legislative matters.

3 – Participating in the legislative function.

The participation of the executive branch in the legislative process includes: the ability of the executive to propose draft acts. The authority of the king to ratify these approved acts and to issue them. Article (35) of the constitution states: “the king has the right to propose amendments of the constitution and to propose acts. He has the power to ratify and to issue them”. Article (70) also, reads: “a law will not be issued unless it was approved by both chambers”

The deputies and the shura or by the national assembly according to the situations determined by the constitution. The act must be ratified by the king.

In exceptional cases, and contrary to the general rule, the exertive authority may discharge the task of legislation according to a mandatory provision of the constitution as stated in article 32/a. the government is, also, entitled to issue decrees of necessity in light of article (38) of the constitution. It states.: “in case of necessity and of the national assembly was not in session or was dissolved and if the matter was urgent and could not be delayed, the king issue decrees which have the same force of acts of the national assembly provided that it must not violate the provisions of the constitution.

4 – Budget act.

One the important features of cooperation between the legislative and the exertive branches of government is the formation of the budget act. Provisions of the constitution stipulates that the budget bill is to be prepared by the government. And the shura council and the chamber of deputies are responsible to discuss the bill and approve it. And the session of the council may not be adjourned prior to the approval of the budget.

B. Aspects of mutual supervision and interaction between the legislature and the executive.

The Bahraini constitution embodies ample provisions which allows for interaction and mutual supervision between the legislative and the executive branches of the government. That is to say. Any member of the national assembly is entitled to bring written questions to any minister or ministers with compliance with article (91) of the constitution which reads: “it is an absolute right for each member of the shura council or the chamber of deputies to ask written questions to the ministers to clarify matters within their competence”. Moreover ministers are responsible before the chamber of deputy for the work of their ministries..

The named chamber direct an interrogation to any minister concerning any subject related to his minister. This interrogation should be signed by at least five members of this chamber. And as consequence vote of confidence can be casted by at least ten members of the chamber of deputies. The collective responsibility of the council of ministers may arise by a two –third majority of the above named chamber of the grounds that the chamber becomes unable to cooperate with the prime minister. This petition may be raised before his majesty, the king who may decide either to accept it or to dissolve the chamber of deputies (art.67 of the constitution) moreover, the chamber of deputies is entitled to form committees from its members to investigate any matter within its competence (art. 69). Article (68) also, states that “members of the chamber of deputies have the right to express their opinions and wishes to the government concerning public matters”.

On the other hand, the executive authority is constitutionally entitled to dissolve the chamber of deputies. Article (42) of the constitution entitled the king to this right. The king can, also, postpone sessions of the national assembly for a period exceeding not more than two months provided that this right is not to be repeated in the same sitting session. This period shall not be calculated within the specified period for the annual session which must be not less than seven months (art.90).

To conclude, the Bahraini constitutional system adheres neither to the traditional parliamentary system nor to the presidential one. It stands on its own merit and spastic nature since it borrows some of its aspects from the parliamentary system and some other aspects from the presidential system. In other words, the governmental constitutional system in the kingdom of Bahrain is a semi-parliamentary system.